

Supreme Court of the State of New York - Office for the Self-Represented
60 Centre Street - Room 116

*Glossary of Frequently Used Terms in Connection With
The New York State Supreme Court*

Consult a legal dictionary for additional meanings.

Acknowledgment of Service: an admission of receipt of legal papers, signed by a party or his/her authorized representative.

Action: a civil legal proceeding brought to make plaintiff whole for injury or damage, to protect a right or prevent a wrong.

Adjournment: the postponement of a court date, either by agreement of the parties or by order of the Court.

Adversary: the opposing side in a lawsuit. In an action, a plaintiff is the adversary of defendant.

Affidavit: a written, sworn statement which is signed and notarized at the end.

Affidavit of Service: an affidavit which states the legal paper served, the manner of service, and, if applicable, a description of the person served. See "How to Serve" for forms.

Affirmation: a statement, signed by an attorney or physician, osteopath or dentist, which is certified to be true under the penalties of perjury and which may be served and filed in lieu of an affidavit. See CPLR 2106.

Allegation: the statement of a party to an action, made in a pleading, setting out what the party expects to prove.

Allege: to assert a fact in a pleading

Amend: to change

Annul: to make void, as to dissolve the bonds of marriage

Answer: a defendant's written response to a complaint in an action; papers submitted in opposition to a motion

Appearance: the participation in legal proceedings by a party summoned in an action; an appearance may be made by the service of answering papers or by asserting counterclaims

Application: a request made to a court, whether oral or in writing; often referred to as a motion.

Bond:

Calendar: a schedule of matters to be heard in court, such as a motion or trial calendar.

Caption: the heading of a legal paper, showing the court name, the names of the parties, index number, and the type of document

Case File: the court file containing papers submitted in a case

Cause of Action: grounds on which an action is brought (e.g., claims for property damage, personal injury, breach of contract, etc.)

Certificate of Readiness: a document attesting that the parties in a lawsuit are ready to go to trial

Certified Copy: a document bearing the representation that it is a true copy of the original; such statement must be made by a person responsible for maintaining the original or otherwise authorized to make such representation; (e.g., a Court Clerk can certify that a document is a true copy of an original on file with the Court).

Change of Venue: the removal of a suit begun in one county to another county

Charge to Jury: a judge's instructions to the jury concerning the principles of law they must apply in reaching a decision

Clerk's Minutes: notes, taken by a clerk, of events occurring in court

Complaint: the initial pleading in an action which sets forth the facts and reasons on which the demand for relief is based

Contempt of court: an act or omission tending to obstruct or interfere with the orderly administration of justice or to impair the dignity of the court or respect for its authority

Consolidate: a joining of two or more actions to be tried together.

Contested Action: action in which the allegations of the complaint are in dispute and contradicted by defendant

Costs: an additional sum permitted by the CPLR to a successful party when a judgment is entered. (Section 1901 all Court Acts.)

Counsel: lawyer or attorney.

Counterclaim: claim asserted by defendant against plaintiff for a sum of money

County Clerk's Office: Room 141-Basement(60Centre St) litigant obtains an Index Number and files papers to commence an action or special proceeding. Court files are maintained in the Record Room 103-B.

CPLR: The Civil Practice Law and Rules (CPLR), which contains most of the procedural rules for civil actions and proceedings brought in New York State courts.

Damages: amount of money sought by plaintiff as compensation for loss or injury; compensatory damages - reimbursement for actual loss or injury; exemplary damages - a money award intended to punish for intentional or malicious acts; punitive damages are claimed when plaintiff seeks to punish defendant for outrageous conduct.

Decision: the determination reached by a court, which is the basis of the judgment

Declaratory Judgment: one fixing rights of parties without ordering anything to be done

Decree: a decision or order of the court - a *final decree* fully and finally disposes of the litigation; an *interlocutory decree* is provisional or preliminary and not final

Default: the failure of a litigant to respond to papers which require an answer, or to appear in court for a scheduled trial or hearing

Defendant: the party being sued

Deponent: A person who signs and swears to the truth of an affidavit or testifies under oath

Deposition: sworn testimony of a witness, taken outside the context of a trial or proceeding

Direct Examination: the first interrogation of a witness by the party on whose behalf the witness is called

Discovery (or Disclosure): means by which one party may be informed of or obtains facts known by other parties or witnesses

Dismissal: termination of a proceeding without consent of a party or parties;
d. with prejudice: termination on the merits, which bars another lawsuit for the same claim; *d. without prejudice:* a termination which permits a subsequent lawsuit

Disposition: the resolution of a case by withdrawal of the claim, settlement, order, or judgment

Domicile: place where a person has a permanent home - a person may have several residences, but only one domicile

Equitable Action: an action brought to restrain the threatened commission of a wrongful or illegal act; case in which payment of money damages will not be adequate compensation

Equitable Distribution: the power, in a divorce action, to fairly distribute property acquired during marriage by husband and/or wife

Exhibits: documents attached to a pleading or affidavit

Ex Parte Application: an application made in the absence of, or which has not first been served upon, an opposing party

Ex Parte Office: Room-315 (60 Centre St.) - the office where ex parte applications (e.g. O.S.C) are submitted and processed

Finding: the court's or jury's decision on issues of fact

Forum: a judicial tribunal or a place of jurisdiction

Frivolous: legal arguments or papers which are completely lacking merit in fact or law

Garnish: to attach a portion of the wages or other property of a debtor to secure repayment of the debt

Garnishee: A person who owes a debt to a judgment debtor; a person in possession or custody of property of a judgment debtor

Guardian Ad Litem: person appointed by a court to represent a minor or incapacitated person for purpose of litigation

Hearing: an examination into a matter by a judge, judicial hearing officer or special referee where testimony may be heard, and other evidence submitted.

Index Number: a number issued by the County Clerk, used to identify a case, the current cost of which is \$170.00.

Infant's Compromise: a civil proceeding or motion for obtaining court approval of the settlement of an infant's claim

Injunction: a court order for a party to stop doing or to start doing a specific act

Judgment: a determination of the rights of the parties in an action

Jury: a prescribed number of persons selected according to law and sworn to make findings of fact

Jury Instructions: directions given by the judge to the jury lien: a claim upon the property of another as security for some debt

Legalese: unnecessarily long words or phrases, such as hereinabove, herein below.

Litigant: a person bringing or defending an action

Long form order: an order, usually based on a memorandum decision, prepared by counsel for signature of a judge

Maintenance: the support furnished by one person to another for food, clothing, shelter, and other necessities, particularly where the relation of the parties (such as between parent and child or between spouses) requires such support

Minute book: A court clerk's journal of courtroom proceedings.

Minutes: a record of court proceedings kept by noting significant events

Motion: a request for a court order or ruling. When made on notice, copies of motion papers are served on all parties and proof of service is submitted to the court. A motion may also be made orally at a trial or hearing. See the pamphlets "How to Make or Respond to a Motion,"

" How To Answer A Motion".

Motion support courtroom: Room 130 (60 Centre Street) -Notice of motions are calendared and initially heard here, and answering or reply papers can be submitted in this room on the return date.

Motion support office: Room 119 - after motion papers are served, a litigant files the court copy here with proof of service.

Movant: A person who makes a motion.

Natural person: an individual (as opposed to a corporate entity)

Note of Issue: a document filed with the court placing a matter on the trial calendar.

Notice of Entry: A notice with an affidavit of service stating that the attached copy of an entered order or judgment has been served by a party on another party.

Order: an oral or written direction of a court or judge.

Opposition: an answer to a motion.

Order to Show Cause (OSC) A type of motion which is submitted to the court before it is served upon the opposing party. When appropriate, the court may grant interim relief pending the return date of an OSC. See "How to Make a Motion" for more details.

Part: a court room where specified business of a court is to be conducted by a judicial officer.

Party: a person having a direct interest in a legal matter, such as a a plaintiff or defendant.

Perjury: the act of lying or stating falsely under oath

Petition: in a special proceeding, form used to seek reversal of a government official's decision; also used to confirm, modify, or set aside an arbitration award. See CPLR, Art. 75, Art.78.

Petitioner: A person who brings a special proceeding.

Plaintiff: the party bringing a civil action

Pleadings: complaint or petition, answer, and reply

Poor Person Order: A court order granting a litigant's request that he or she be excused from payment of court costs, due to poverty. If granted, costs such as the Index Number fee and RJI fee are waived.

Preclude: To prevent or stop

Pro se: a person who acts as his or her own attorney.

Proof of service: an affidavit by a person who has served legal papers, describing the manner in which the papers were served; an acknowledgement of service in proper form.

Referee: person to whom a pending action may be referred to take testimony, hear the parties, and report to the court, or to make a determination; a *special referee* is authorized to exercise judicial functions when assigned by the court to (1) to determine an issue (2) to perform an act (3) to hear and report

Relief: legal remedy.

Remand: to send a case back from an appellate court to the lower court for further proceedings

Replevin: an action to recover items wrongfully taken or withheld by another; it must be brought in county where the items are kept.

Reply: a plaintiff's response to defendant's answer when the answer contains a counterclaim; an affidavit submitted by movant in further support of a motion.

Request for Judicial Intervention a/k/a RJI - a form prepared by a litigant and served upon the adversary in order to have a case assigned to a judge. After it is served, the form, with proof of service, is filed with a motion clerk, and the matter is assigned to a judge.

Respondent: a person or government agency served with papers in a special proceeding.

Return date: date when an answer or reply papers are handed to the court.

The return date of an Order to Show Cause is set by the court
Rule 130: A court rule requiring a party to sign all papers submitted to the court; the signature is deemed as a certification that the papers have merit

Sanction: a penalty or punishment exacted as a means of enforcing obedience

to a law, rule or code.

Satisfaction: the discharge of a legal obligation

Short form order: an order prepared by the court

Special referee: *see referee*

Statute of limitations: a statute that declares that no actions of a specified kind may be commenced after a specified period of time after the cause of action arose.

Stay: a judicial order which prevents the doing of an act, usually until a return date or hearing.

Stipulation: an agreement between opposing attorneys or parties concerning some aspect of a legal dispute

Stipulation of settlement: a formal agreement between litigants and/or their attorneys resolving their dispute.

Subpoena: legal process which commands a witness to appear and testify; a **deposition s.** requires attendance at a deposition; a **judicial s.**, issued by the court, orders a person to attend and give testimony at a trial or hearing; a **s. duces tecum**: requires a person to produce specified documents or records at trial.

Suit: a legal action or proceeding.

Summons: a form used to commence a civil action, which must be served with the complaint.

Supplementary proceedings: an inquiry, under court jurisdiction, after entry of judgment, to determine means for enforcing the judgment against a judgment debtor.

Testimony: oral declaration made under oath by a witness or party

Tort: an injury, wrong, or damage against the person or property of another; often as the result of negligence or an intentional act.

Transcript: the official record of proceedings in a trial or hearing

Trial: the formal examination of a legal controversy in court so as to determine the issue.

Undertaking: deposit of a sum of money or filing of a bond in court.

Vacate: to set aside a determination, order or judgment of a court, judge, or administrative law judge.

Venue: a geographical place or court where a party may commence or require a case to be tried; the county where an affidavit is signed.

Verdict: the determination of a jury

Verification: a paper signed and notarized by a litigant who swears that it is true to the litigant's knowledge, and that statements not personally known to the litigant are believed to be true

Wherefore; wherefore clause: The final paragraph in a complaint usually starts out "Wherefore, petitioner demands..." The word, which may be translated: "and this is why" or "as a result of the above" must be followed by an exact description of the relief or damages which plaintiff is seeking.

with prejudice: a dismissal or determination of a claim or counterclaim which bars relitigation of the claim.

without prejudice: a dismissal or determination which would allow a new lawsuit to be brought on the same facts.

Witness: one who testifies to what he/she has seen, heard, or otherwise observed; an expert witness is one whose testimony is sought due to specialized education, training, or experience