

SUPREME COURT, CIVIL BRANCH
NEW YORK COUNTY
60 Centre Street, New York, N.Y. 10007

HELP CENTER – Room 116
646-386-3025

***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 a plaintiff whole for injury or damage, 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 identifies 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, under the law, 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; a respondent’s written response to a petition in a special proceeding; papers submitted in opposition to a motion.

Glossary of Frequently Used Terms

Appearance: The formal 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.

Bond: A guarantee or sum of cash that a court may require a party to post or deposit into court to protect another party from loss that may arise in connection with the litigation or to secure payment of the judgment. Examples include a bond to obtain a preliminary injunction or stay; an appeal bond; a bond to discharge a mechanic's lien; and, in a criminal case, a bail bond.

Calendar: A listing of matters scheduled 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, the case number (index number), and the type of document.

Case File: The court file containing the papers submitted in a hard-copy case.

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

Certificate of Readiness: A document, also known as the "statement of readiness," that must accompany the note of issue when filed with the court. In the Certificate the filer recites the status of pre-trial proceedings showing that the case is ready for trial.

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 the events occurring in court; the County Clerk's listing of documents filed in a case.

Complaint: The initial pleading in an action which sets forth the facts and reasons on which the demand for relief is based and the plaintiff's cause of action.

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 into one resulting in one trial and one judgment.

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

Costs: An additional sum permitted to a successful party when a judgment is entered. **See** CPLR Art. 81 through 84.

Counsel: Lawyer or Attorney.

Glossary of Frequently Used Terms

Counterclaim: Claim asserted by defendant against plaintiff, usually as part of the answer to a complaint.

County Clerk's Office: Main office: Room 141-Basement (60 Centre Street). Office where litigant obtains an index number and files papers to commence action or special proceeding. Court files are maintained in the Record Room, Room 103-B. There is also a Cashier's Office (Room 160, 60 Centre Street) where a request for judicial intervention, note of issue, and jury demand are filed and the associated fees paid and the filing fee for a motion is paid.

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,
Punitive Damages - claimed when plaintiff seeks to punish defendant for outrageous conduct.

Decision: The determination reached by a court on a motion, or that is issued after a non-jury trial and is the basis of the judgment.

Declaratory Judgment: One determining rights of parties without ordering other relief; one that "declares," in a legally binding manner, the rights of the parties.

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 at a deposition.

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 obtain facts known by other parties or witnesses; done through discovery devices authorized by the CPLR.

Dismissal: Termination of a proceeding without consent of a party or parties, as where ordered by the court after a motion by a party;

Dismissal with Prejudice - termination on the merits, which bars another lawsuit for the same claim.

Dismissal without Prejudice - A termination which permits a subsequent lawsuit.

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

Glossary of Frequently Used Terms

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

Electronic Filing (E-Filing): The process of, or system for, the filing of documents with the County Clerk and the court by electronic means. The New York court system has created the New York State Electronic Filing System (“NYSCEF”) through which electronic filing takes place in New York. In New York County Supreme Court, Civil Branch, e-filing is mandatory in new cases (except in matrimonial, Art. 78, Mental Hygiene Law, and election law matters). Unrepresented persons, may, however, opt out of e-filing by filing a form with the clerk.

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 of a court, in a divorce action, to fairly distribute property acquired during marriage by husband and/or wife.

Exhibits: Documents attached to a pleading, affidavit, or affirmation.

Ex Parte Application: An application that may, under the CPLR, be presented to the court for judicial action without advance notice to the adversary. A proposed order to show cause or a certain application for the posting of security for costs (CPLR 8501(a)) are examples of applications of this variety. Filed in most cases in the Ex Parte Office (Room 315, 60 Centre Street).

Finding: The court’s or jury’s decision on an issue of fact.

Forum: A judicial tribunal or a place of jurisdiction.

Frivolous: Used to describe legal arguments, claims, or papers that are completely lacking merit in fact or law. The law permits the court, in some circumstances, to impose costs or sanctions upon an attorney or party who presents such claims or arguments to the court.

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, or who is in possession or custody of property of a judgment debtor, and is subject to a garnishment.

General Clerk’s Office: Room 119 (60 Centre Street) - After motion papers are served in a hard-copy case, a litigant files the court copy here with proof of service. This office operates the Motion Submission Part Courtroom (Room 130).

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.

Glossary of Frequently Used Terms

Index Number: A number issued by the County Clerk that is used to identify a case. The number consists of six digits, followed by the four digits of the year of commencement. The current cost of the number is \$210.

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

Injunction: A court order directing a party to stop doing or to start doing a specific act.

Judgment: A determination of the rights of the parties in an action or special proceeding, often ordering the payment of money or other relief.

Jury: A prescribed number of persons selected according to law and sworn to make findings of fact in a trial. The jury in a civil case in Supreme Court consists of six persons (CPLR 4104).

Jury Instructions: Directions about the relevant law given by the judge to the jury.

Lien: A claim upon the property of another, often as the result of a court judgment or work performed for person against whom the lien is claimed.

Litigant: A person bringing or defending an action or special proceeding.

Long Form Order: An order, usually based on a memorandum decision by the court, often prepared in proposed form 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 or the County Clerk's listing of documents filed with the court. The County Clerk's minute book has been in electronic form for years.

Minutes: A record of court proceedings kept by noting significant events, or the County Clerk's notation of filings made in a particular case.

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 before the date set for presentation to the judge. A motion may also be made orally at a trial or hearing. **See** the pamphlets "How to Make a Motion" and "How to Answer a Motion."

Motion Submission Part Courtroom: Room 130 (60 Centre Street) - Notices of motions are calendared here, and answering or reply papers are to be submitted in this room on the return date. The Courtroom serves as a collection point for motion papers; no judge is present and no arguments take place.

Movant: A person who makes a motion.

Glossary of Frequently Used Terms

Natural Person: An individual (as opposed to a corporate entity).

Note of Issue: A document that must be filed with the court in order to place a matter on the trial calendar. **See also** Certificate of Readiness.

Notice of Entry: A notice informing the recipients that a decision and order, order, or judgment of the court, a copy of which is annexed to the notice, was entered by the Clerk of the court, that is, filed, in the records of the court on a particular date, which shall be set forth in the notice. Service of notice of entry by a party triggers the time within which an appeal must be taken.

Opposition: An answer to a motion.

Order: An oral or written direction of a court. A formal motion on papers will end in an order of the court resolving the motion.

Order to Show Cause: A type of motion which is submitted to the court in proposed form before it is served upon the opposing party. The court sets the return date and other particulars and signs the order, which is served on the adversary along with the papers in support. When appropriate, the court may grant interim relief pending the return date. **See** "How to File an Order to Show Cause" for more details.

Part: A courtroom where specified business of a court is conducted by a judicial officer.

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

Perjury: The act of lying or stating falsely under oath.

Petition: In a special proceeding, a document used to set forth the petitioner's claims seeking reversal of a government official's decision; also used to apply to confirm, modify, or set aside an arbitration award, and in some other situations. **See** CPLR Art. 4, Art. 75, Art. 78.

Petitioner: A person who brings a special proceeding.

Plaintiff: The party bringing a civil action.

Pleadings: Principally, 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 Litigant: A person who acts as his or her own attorney in a case.

Glossary of Frequently Used Terms

Proof of Service: An affidavit by a person who has served legal papers identifying the papers and the person(s) served herewith and describing the manner in which the papers were served; an acknowledgment of service in proper form.

Referee: A person to whom a pending action may in certain circumstances be referred to take testimony, hear the parties, and report to the court, or to make a determination.

Relief: Legal remedy.

Remand: To send a case back, e.g., 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 the county where the items are kept.

Reply: A plaintiff's response to defendant's answer when the answer contains a counterclaim; or an affidavit or memorandum submitted by movant in further support of a motion that responds to the arguments of the opposition.

Request for Judicial Intervention (R.J.I.): A standard court system form completed by counsel or a litigant and served upon the adversary in order to have a case assigned to a judge. **See** "How to File a Request for Judicial Intervention."

Respondent: A person or government agency served with papers in a special proceeding; the adversary of the petitioner in such a proceeding.

Return Date: When a party makes a formal motion on notice, the notice of motion must specify, in accordance with the CPLR, a date when the motion is scheduled to be heard. In the case of an order to show cause, the date is set by the court in the signed order. The date on which the application is noticed to be heard or the date fixed by the court is referred to as the "return date." **See** "How to Make a Motion" and "How to File an Order to Show Cause."

Rule 130: A court rule (Part 130 of the Rules of the Chief Administrator) that provides that every paper served on another party or filed or submitted to the court shall be signed by an attorney or by a party if the party is not represented by counsel. This signature constitutes a certification that the paper has merit.

Sanction: A penalty or punishment imposed 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, in more abbreviated form than the long form order.

Special Proceeding: A variety of lawsuit in which the petitioner seeks a judgment, but the matter comes on with the expedition and simplicity of a motion. Such a matter is commenced by the filing of a petition. **See** CPLR Articles 4 and 78 and "How to Start a Special Proceeding."

Glossary of Frequently Used Terms

Statute of Limitations: A statute that bars actions of a specified kind after the passage of a specified period of time from the date of the wrong alleged.

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 (e.g., stipulation adjourning the return date of a motion).

Stipulation of Settlement: A formal agreement between litigants and/or their attorneys which resolves the dispute.

Subpoena: Legal process which commands a witness to appear and testify;

Deposition Subpoena - requires attendance at a deposition.

Judicial Subpoena - issued by the court, orders a person to attend and give testimony at a trial or hearing.

Subpoena Duces Tecum - requires a person to produce specified documents or records in discovery or at trial.

Suit (Lawsuit): 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, recorded by the court system.

Trial: The formal examination of a legal controversy in court so as to determine the issue; evidence and testimony are produced by the parties and evaluated by the court or jury.

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 division of a court where a party may or must commence or require a case to be tried; the county where an affidavit is signed.

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.

Glossary of Frequently Used Terms

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

With Prejudice: A dismissal or determination of a claim or counterclaim that bars relitigation of the claim.

Without Prejudice: A dismissal or determination that would allow a new lawsuit to be brought on the same facts.

Witness: One who has knowledge of events or relevant facts; one who testifies to what he/she has seen, heard, or otherwise observed;

Expert Witness - One whose testimony is sought due to specialized education, training, or experience.