

GLOSSARY - COMMON LEGAL TERMS

NOTE: The following definitions are not legal definitions. Rather, these definitions are intended to give you a general idea of the meanings of common legal words. For comprehensive Definitions of legal terms, you may wish to consult a legal dictionary "Black's Law Dictionary" is one such legal dictionary which is usually available at most law libraries.

This glossary of common legal terms is also available on-line at:
<http://www.nycourts.gov/lawlibraries/glossary.shtml>



ADDITIONAL ON-LINE RESOURCES:

<http://www.nolo.com/glossary.cfm>

Nolo's on-line legal dictionary.

<http://www.law-dictionary.org/>

Free on-line legal dictionary search engine.

<http://www.law.cornell.edu/wex>

Legal dictionary and encyclopedia maintained by the Legal Information Institute at Cornell Law School.

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Acknowledgment: The act of going before a qualified officer (e.g., Clerk) and declaring the validity of the document. The officer's certification that the declaration was made is known as the acknowledgment.

Acquit: The act of freeing a person from the charge of an offense by means of a decision, verdict or other legal process; to discharge.

Action: A civil judicial proceeding whereby one party asserts a claim against another for a wrong done or for protection or enforcement of a right, or prevention of a wrong; requires a pleading and service of papers on the other party .

Actual Place of Business: Any location that the defendant, through regular solicitation or advertisement, has held out as its place of business (CPLR Sec. 308.6).

Ad Damnum: Clause of a pleading alleging the dollar amount of a claimed loss or injury.

Adjournment: A temporary postponement of the court proceedings until a specified future time.

Adjudicate: To hear or conduct a trial, try and make a judicial decision .

Adversary: An opposing party . The defendant is the plaintiff's adversary.

Adversary System: The system of trial practice in the U.S. and some other countries in which each of the opposing, or adversary, parties has full opportunity to present and establish its contentions before the court.

Affiant: One who swears to an affidavit; deponent.

Affidavit: A sworn or affirmed statement made in writing and signed; if sworn, it must be notarized.

Affinity: Related by marriage; family relation with family of spouse's.

Affidavit of Service: An affidavit intended to certify or prove that service of a writ, notice, or other document has been made.

Affirm: An act of declaring something to be true under the penalty of perjury by a person who conscientiously declines to take an oath for religious or other pertinent reasons; also attorneys are permitted to affirm rather than swear under oath.

Affirmation: A solemn and formal declaration under penalties of perjury that a statement is true, without an oath.

Affirmed: Upheld, agreed with (e.g., The Appellate Court affirmed the judgment of the City Court); also means a challenge to a court decision or order was rejected.

Allegation: The assertion, declaration, or statement of a party to an action, made in a pleading, setting out what the party expects to prove; what a party claims to be true.

Allege: To assert a fact in a pleading, affidavit or testimony.

Alternate Juror: A juror selected as substitute in case another juror must leave the jury panel.

Amend: To change or modify.

Amicus Curiae (“friend of the court”): A non-party to a proceeding whom the Court permits to present his, her or its views.

Annul: To make void or cancel. For example, voiding an invalid marriage.

Answer: A paper submitted by a defendant in which he/she responds to and/or denies the allegations of the plaintiff; the usual response to a complaint or petition.

Appeal: A proceeding to have a case examined by a higher court to see if a lower court's decision was made correctly according to law.

Appearance: The participation in the proceedings by a party summoned in an action, either in person or through an attorney.

Appellant: The party who takes an appeal to a higher court.

Appellee or Respondent: The party against whom an appeal is taken.

Arbitration: The submission voluntarily or involuntarily of a disputed matter to selected persons and the substitution of their award or decision for the judgment of a court or its confirmation by the court as a judgment of the court.

Argument: A reason given in proof or rebuttal to persuade a judge or jury.

At Issue: Whenever the parties to an action come to a point in the pleadings or argument which is affirmed on one side and denied on the other, the points are said to be "at issue".

Attachment: The taking of property into legal custody by an enforcement officer (See specialty section: Recovery of Chattel).

Attestation: The act of witnessing an instrument in writing at the request of the party making the instrument and signing it as a witness.

Attorney of Record: Attorney whose name appears in the court's records or files of a case.

Award: A decision of an Arbitrator, judge or jury.

-B-

Bail: The security given (or posted) to ensure the future appearance of a defendant.

Bar: (a) Prohibit or prevent - to bar the prosecution of an action; (b) The members of the legal profession, attorneys and judges.

Bench: The Judge's seat or the judge, himself/herself, (e.g., the attorney addressed the bench).

Bifurcated Trial: A case in which the trial of the liability issue in a personal injury or wrongful death case is heard separate from and prior to trial of the damages in question.

Bill of Costs: A written statement of the [itemized taxable] costs and disbursements that a successful party may recover from the losing party.

Bill of Particulars: Factual detail submitted by a claimant after a request by the adverse party which specifies, clarifies or explains further the claims and/or facts alleged in a pleading.

Brief: A written or printed document prepared by the lawyers or litigants on each side of a dispute and submitted to the court in support of their arguments - a brief includes the points of law which the person wished to establish, the arguments he or she uses, and the legal authorities on which he or she rests his/her conclusions.

-C-

Calendar: A schedule of matters to be heard in court.

Calendar Call: The calling of matters requiring parties, or their attorneys, to appear and be heard, usually done at the beginning of each court day.

-3-

Caption: In a pleading, deposition or other court paper , it is the heading or introductory clause which shows the names of the parties, name of the court, number of the case on the docket or calendar, etc.

Case File: The court file containing papers submitted in a case.

Cause of Action: A claim and/or the grounds on which a legal action may be brought (e.g. property damage, personal injury, goods sold and delivered, work labor and services).

Certified Copy: Copy of a document signed and certified as a true copy of an original by the Clerk of the Court or other authorized persons (for example, lawyer).

Certificate of Readiness: A document attesting that the parties in a court proceeding are ready to go to trial.

Certify: To testify or affirm in writing.

Certiorari (“to be more fully informed”): A proceeding in the state Supreme Court under Art. 78 of the CPLR to review the decisions or actions of a public official or body, as in a tax certiorari matter, a review of the tax assessed challenge.

Change of Venue: The removal of a suit begun in one county or district to another county or district for trial, though the term may also apply to the removal of a suit from one court to another court of the same county or district.

Charge to Jury: In trial practice, statements made by the court to the jury at the close of the action instructing the jury as to what principles of law are to be applied by the jury in reaching a decision.

Chattel: Item of personal property.

Citation: (a) Summons to appear; (b) reference to a written authority in support of an argument made to the court.

Clerk's Extract: A summary of a trial which is written by a clerk and kept in court records.

Clerk's Minutes: Notes, which are taken by a clerk, of events that occurred in court.

Commissioner of Jurors: A person in charge of calling citizens for jury duty.

Commitment: An order to commit a person to the custody of a sheriff (jail), commissioner of corrections (prison), or mental health facility.

Common Law: The body of law which originated in England and upon which present day U.S. law is based other than statutes and administrative rulings: judge made law.

Compensatory Damages: Reimbursement for actual loss or injury, as distinguished from exemplary or punitive damages.

Complaint: The initial pleading in an action formally setting forth the facts and reasons on which the claims and demand for relief are based.

Condemnation: See eminent domain.

Consanguinity: Related by blood.

Conservator: One who is appointed by a court to manage the affairs of a protected person.

Consolidated Action: Two or more actions involving a common question of law or fact may be joined or consolidated by the court; the actions then are merged, becoming one action with one title, and they result in one verdict and one judgment.

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; refusal to follow a court order or direction.

Consolidate: Joining two or more actions for trial together.

Contested Action: An action which involves disputed issue(s) of fact or law, a claim that is opposed.

Contract: A legally enforceable agreement between two or more persons or parties (oral or written).

Corroborate: To strengthen; to add weight by additional evidence.

Costs: The statutory sum awarded to the successful party when a judgment is entered. (Section 1901 all Court Acts.)

Counsel: Lawyer or attorney.

Counterclaim: (a) In civil actions, a claim brought by a defendant against the plaintiff for damages or other relief. (b) In small claims/commercial claims, a claim brought by a defendant against the plaintiff for an amount not to exceed the maximum monetary jurisdiction allowed in the small claims/commercial claims court.

Court of Limited Jurisdiction: A City Court, District Court or other court that has jurisdiction only over types of actions authorized by law.

Court Reporter: A person who records by shorthand or stenographically takes down testimony during court proceedings and later transcribes into writing.

Cross Claim: Claim litigated by co-defendants or co-plaintiffs against each other and not against a party on the opposite side of the litigation.

Cross-Examination: Questioning by a party or his attorney of an adverse party or a witness called by an adverse party; opposite of direct examination.

-D-

Damages: Monetary compensation for wrong or injury caused by the violation of a legal right. (a) Compensatory damages-Reimbursement for actual loss or injury. (b) Exemplary damages-Monetary award by way of punishment for injury caused by aggravated circumstances or malice, in addition to compensation for the injury. (c) Punitive damages-Monetary compensation awarded in excess of ordinary damages, as punishment for a gross wrong.

Date-Stamp: The stamping on a document of the date it is received.

Decision: The determination reached by a court in any judicial proceeding, which is the basis of the judgment or order.

Declaratory Judgment: One stating the rights of parties, may or may not also order something to be done.

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

Default: A default in a legal action occurs when a defendant fails to plead, appear or otherwise defend within the time allowed .

Defendant: The party being sued, the party against whom a claim has been made .

Deliberation: The process by which a judge or jury comes to a decision or a verdict.

De Novo: Start anew, a new trial.

Deponent: One who testifies out of court under oath to the truth of facts.

Deposition: Sworn testimony of a witness made other than in court.

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

Directed Verdict: An instruction by the judge to the jury to return a specific verdict.

Discovery/Disclosure: A proceeding whereby one party to an action may be informed as to facts known by other parties or witnesses, example depositions.

Dismissal: Termination of a proceeding for a procedure defect or failure to prove a claim.

Dismissal with Prejudice: Action dismissed on the merits which prevents making the same claim or cause of action again.

Dismissal without Prejudice: Action dismissed, not on the merits, which allows the claim to be made again.

Dispose: The act of terminating a judicial proceeding.

Disposition: The result of a judicial proceeding by withdrawal, settlement, order, judgment or sentence.

Dissolution of Marriage: The termination of a marriage and restoring the parties to the state of unmarried persons.

Docket: A document which summarizes a case, also the court's calendar.

Domicile: That place where a person has a true and permanent home - a person may have several residences, but only one domicile, usually the state where a person has their home.

-E-

Easement: Right held by one person to use the land of another for a specified purpose.

Eminent Domain: The power of a municipality to take private property for public use by condemnation, i.e., the legal process by which real estate of a private owner is taken for public use without the owner's consent, but upon the award and payment of just compensation.

Enjoin: To require a person, by writ of injunction from a court of equity, to perform or to refrain from or cease doing some act.

Entry: The formal filing of an order of judgment with the County Clerk.

Equitable Action (Equity Matter): An action which may be brought for the purpose of restraining

-7-

the threatened infliction of wrongs or injuries, and the prevention of threatened illegal action; case in which payment of money damages will not be adequate compensation.

Equitable Distribution: The power to distribute fairly upon divorce all property acquired during marriage by husband and wife or either of them, whether legal title lies in their joint or individual names.

Estop: To stop, bar, or impede.

Estoppel: A rule of law which prevents a person from alleging or denying a fact, because of his/her own previous act leading another person to believe the fact was otherwise.

Et Al.: An abbreviation of et alia meaning and other persons.

Et Ano: And another (person).

Evidence: A form of proof or probative matter legally presented at the trial or hearing of an issue by the acts of the parties and through witnesses, records, documents, concrete objects, etc., for the purpose of inducing belief in the minds of the court or the jury; also presented by affidavits.

Eviction, Warrant of: Legal mandate authorizing an enforcement officer to remove persons and their personal property from their premises (house or apartment).

Examination Before Trial (EBT): A formal interrogation of parties and witnesses under oath before trial; also deposition.

Execution: (a) The performance of all acts necessary to render a written instrument complete, such as signing, sealing, acknowledging, and delivering the instruments; (b) supplementary proceedings to enforce a judgment, which, if monetary, involves a direction to the sheriff to take the necessary steps to collect the judgment.

Exemplification: An official transcript of a document from public records, made in a form to be used as evidence and authenticated or certified as a true copy, (e.g. exemplification of a judgment).

Exhibit: A paper, document or other object produced and exhibited to a court during a trial or hearing and, on being accepted, is marked for identification or admitted in evidence.

Ex Parte: A proceeding, order, motion, application, request, submission etc., made by or granted for the benefit of one party only; done for, in behalf of, or on application of one party only, without notice being given to any other party.

Expunge: The authorized act of physically destroying information, in files, computers or other depositories.

-F-

Fair Preponderance: Level of proof in a civil action; more than half; more convincing.

Fee: A fixed charge for service rendered on behalf of court or for filing a document.

Fiduciary: A person or institution who manages money or property for another, and who must exercise a standard of care in such management activity imposed by law or contract.

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

Fine: A sum imposed as punishment for an offense.

First Paper: Paper instituting the action (e.g., Summons, Motion, Infants's Compromise).

Foreclosure: A legal proceeding that bars or extinguishes a right, such as a mortgagor lien.

Foreperson: A member of a jury, usually the first juror called and sworn, or a juror elected by fellow jurors, who delivers the verdict to the court.

Forum: A judicial tribunal or a place of jurisdiction. A meeting for discussion.

Full Faith and Credit: A requirement of the U.S. Constitution that the records and judicial proceedings of one state shall have the same effect in courts of other states with the same jurisdiction.

-G-

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 a person other than the judgment debtor who has property in his/her possession or custody in which a judgment debtor has an interest.

Guardian Ad Litem: Person appointed by a court to represent the interests of a minor or incompetent person in a legal proceeding.

-H-

Habeas Corpus ("that you have the body"): The name given a writ or petition whose object is to bring a person before a court or judge - in most common usage, it is directed to the official or person detaining another, commanding him/her to produce the body of a person detained so the court may determine if such person has been denied his/her liberty without due process of law.

Hearing: A preliminary examination where testimony is given and evidence presented for the purpose of determining an issue of fact and reaching a decision on the basis of that evidence.

Hearsay: Testimony of a witness who relates not what he/she knows personally, but what others have told the witness, or what the witness has heard said by others; may be admissible or inadmissible in court depending upon rules of evidence.

Hung Jury: A jury whose members cannot reconcile their differences of opinion and thus cannot reach a verdict.

-I-

Impaneling: The process by which jurors are selected and sworn to their task.

Impleader: An addition of another party to an action by the defendant, a “third party” claim.

In Camera: In the judge's chamber out of the presence of the jury, the public and often the attorneys.

Incompetency: Lack of legal qualification or fitness (physical, intellectual or moral fitness) to discharge a legally required duty or to handle one's own affairs or testify in court; also relates to matters not admissible in evidence.

Indemnity: Security against loss or damages, exemption from penalty or liability owned by another party; amount paid as compensation under an indemnity agreement.

Index Number: A number issued by the county clerk, which is used to identify a case - in civil matters there is usually a charge.

Individual Assignment System (IAS): A system, established for all civil actions and proceedings heard in Supreme and County Court, which provides for the continuous supervision of each action and proceeding by a single judge (NYS).

Indorsed Complaint: A statement of the nature and substance of the cause of action, for money only, which indicates the amount of the claim. It may be set forth upon the summons or attached to it.

Infant: An individual who has not attained the age of eighteen (18); child.

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

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

Inquest: A proceeding which usually is a limited non-jury trial for the purpose of fixing the amount of damages where the plaintiff or defendant alone introduces testimony.

In Re (“in the matter of”): Concerning.

In Rem (“against a thing”): Regarding the right or title to property.

Inter Alia: Among other things.

Interlocutory: Provisional; temporary; not final - refers to orders and decrees of a court.

Interpleader: Action by which one having possession of an article or fund claimed by two parties may compel them to litigate the title between themselves, instead of with him/her.

Interpreter: A person sworn at a judicial proceeding to translate oral or written language.

Interrogatories: Written questions propounded by one party and served on an adversary, who must provide written answers thereto under oath.

Intestate: A person who dies without a will.

-J-

Joint Trial: Two or more actions involving a common question of law or fact may be joined by court order for trial - the actions are not merged but remain separate and distinct and may result in one or more verdicts and judgments; different than consolidated actions.

Judgment: A determination of the rights of the parties in an action or special proceeding. A judgment shall refer to and state the result of a verdict or decision, may or may not recite the circumstances on which it is based.

Judgment Roll: A record of the judgment with the supporting papers, costs and fees.

Judicial Hearing Officer (JHO): A person who has served as a judge or justice of a court of record of the Unified Court System, and who no longer is serving in such capacity [except a person who was removed from a judicial position pursuant to Section 22 of Article VI of the Constitution] who hears and decides a legal issue or proceeding.

Jurisdiction: The geographical, subject matter, and monetary limitations of a court’s authority.

Jurisdiction, Personal: Whether a specific person is within the court’s authority to impose a personal liability on him (usually the defendant).

Jurisdiction, Subject Matter: Whether the court has authority over the thing or right claimed by one party against another.

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

Jury (Advisory): A body of jurors impaneled to hear a case in which the parties have no right to a jury trial - the judge remains solely responsible for the findings and may accept or reject the jury's verdict.

Jury Instructions: Directions given by the judge to the jury, at the beginning and end of trial.

-K-

None.

-L-

Laches: The failure to diligently assert a right, which results in a refusal to allow the right to be asserted later.

Legal Age: Eighteen (18) years of age. See CPLR Section 1206.

Legal Aid: System by which legal services are rendered to those in financial need who cannot afford private counsel.

Liability: An obligation to do, to eventually do, or to refrain from doing something; money owed; or according to law one's responsibility for his/her conduct; or one's responsibility for causing an injury or damage to property.

Liber: A book used by the County Clerk for keeping a record of specific documents or events having legal effect. For example, deeds.

Lien: A claim upon the property of another as security for some debt.

Litigant: Party to a legal action.

Long Form Order: An order prepared by counsel for signature of the court (usually based on a memorandum decision).

-M-

Maintenance: The furnishing by one person to another the means of living, or food, clothing,

shelter, etc., particularly where the legal relations of the parties is such that one is bound to support the other, as between parent and child or between spouses.

Material Witness: Person whose testimony on some issue has been judicially determined as relevant and substantial.

Memorandum Decision: A written opinion or decision of a court on a litigated question, giving the court's conclusion on factual and legal issues (this may constitute the order of the court if so stated).

Memorandum Opinion: Memorandum in writing, which is a very brief statement of the reasons for a decision, without detailed explanation.

Military Calendar: To hold in suspense an action that cannot reasonably be tried because a party or witness is in the military service.

Minute Book: A Court Clerk's Journal of Courtroom proceedings.

Minutes: A record of court proceedings kept by noting significant events.

Mistrial: A trial which has been terminated and declared void prior to the reaching of verdict due to extraordinary circumstance, serious prejudicial misconduct or hung jury - it does not result in a judgment for any party, but merely indicates a failure to dispose of the matter.

Moot: An issue already resolved or not necessary to be decided.

Motion: An oral or written request to the court made by a party for a ruling or order.

Movant: The party who initiates the motion.

-N-

Natural Person: Individual (does not include corporate entities).

Negligence: Conduct which falls below the standard established by law for the protection of others against unreasonable risk of harm, the breach of a duty of care.

Non Sequitur ("it does not follow"): Logically it does not follow.

Note of Issue: A document filed with the court placing a cause 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.

Notice of Petition: Written notice of a petitioner that a hearing will be held in a court to determine the relief requested in an attached petition; cover sheet of a petition.

Nunc Pro Tunc (“now for then”): Presently considered as if occurring at an earlier date; effective retroactively.

-O-

Oath: A swearing to the truth of a statement which, if made by one who knows it to be false, may subject one to a prosecution for perjury or other legal proceedings.

Opening Statement: The first address of counsel to a judge or jury prior to offering of evidence.

Oral Proof: Evidence given by spoken words; the oral testimony of a witness.

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

-P-

Palimony: Term has meaning similar to 'alimony' except that award, settlement or agreement arises out of non-marital relationship of parties (i.e., non-marital partners).

Parcel: A tract or a plot of land.

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

Party: Person having a direct interest in a legal matter, transaction or proceeding.

Peremptory Challenge: The challenge which may be used to reject a certain number of prospective jurors without assigning any reason for the rejection.

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

Petition: A formal written request to a court; also used to initiate a special proceeding.

Petitioner: In a special proceeding, one who commences a formal written application, requesting some action or relief, addressed to a court for determination. Also known as a plaintiff in a civil action.

Petit Jury: The ordinary jury for the trial of a criminal case (12 persons)(so called to distinguish it from the larger grand jury). In a civil action, it is 6 persons.

Plaintiff: The party bringing a civil action or making a claim.

Pleadings: Complaint or petition, answer, and reply.

Polling the Jury: A practice whereby the jurors are asked individually whether they agree, and still agree, to the reported verdict.

Power of Attorney: Instrument authorizing one to act legally for another either generally or as to specified matters.

Precedent: Previous judgment or court decision on a same or similar point, serving as a rule or example for guidance in the present action.

Proceeding: The succession of events constituting the process by which judicial action is invoked and utilized pursuant to procedure and brought to completion.

Preclude: To prevent or stop, exclude from evidence.

Process: A legal means, such as a summons, used to subject a defendant in a lawsuit to the personal jurisdiction of the court; broadly, refers to all writs issued in the course of a legal proceeding - what is served to obtain jurisdiction.

Pro Se (aka Self-Represented): Appearing on one's own behalf without an attorney.

Purge: To atone for or correct an offense, to submit to a court's mandate (i.e., to purge oneself of contempt of court).

-Q-

None.

-R-

Recuse: To disqualify oneself as a judge.

Redact: To edit, revise or block out written text.

Referee: A person to whom a claim pending in a court is referred by the court to take testimony, hear the parties, and report thereon to the court, or to make a judicial determination - the referee is an officer exercising judicial powers and is an arm of the court for a specific purpose.

Relief: Legal remedy, such as damages, injunction or declaration of rights.

Remand: To send a case back from an appellate court to the lower court from which it came, for further proceedings.

Remittitur: Legal process by which an appellate court transmits to the court below the proceedings before it, together with its decision, for such further action and entry of judgment as is required by the decision of the appellate court.

Replevin: An action brought for the owner of items of personal property to recover possession of those items when those items were wrongfully taken or are being wrongfully kept.

Reply: A plaintiff's response to a defendant's answer when the answer contains a counterclaim.

Res ("thing"): Subject matter; the thing which the action affects.

Res Judicata ("a thing adjudicated"): A thing judicially acted upon or decided, precludes a contrary decision in the future.

Respondent: One who formally answers the allegations stated in a petition which has been filed with the court. Also known as a defendant in a civil action.

Restore/Reinstate to Calendar: To place back on the calendar as an active case.

-S-

Sanction: A penalty or punishment provided as a means of enforcing obedience to a law, rule or code; also, an authorization or approval.

Satisfaction: Discharge of a legal obligation, as in a "Satisfaction of Judgment."

Seal: To close a case file from public scrutiny - in instances of youthful offenders and acquittal, sealing orders are issued by the court to prevent the public from obtaining information on the cases.

Security for Costs: An undertaking required by a court to cover the payment of costs if the judgment is later rendered against the party giving the security.

Separation: In matrimonial law, a cessation of cohabitation of husband and wife by mutual agreement, or in the case of "judicial separation," under the decree of a court.

Sequester: To separate, set apart, hold aside for safekeeping or awaiting some determination; jurors are sequestered when not permitted to return home until the case is closed; also applies to property.

Service: The exhibition or delivery of a writ, notice, etc., officially notifying a person of some action or proceeding in which that person is concerned.

Short Form Order: An order prepared by the court.

Show Cause: An order, decree, execution, etc., to a person requiring him, her or it to appear as directed, and present to the court such reasons and considerations as one has to offer why a claim against him, her or it should not be granted; alternate means to make a motion.

Sine Die (“without day”): Without a date, as in an action being adjourned sine die.

Small Claims Assessment Review (SCAR): Filing by any person aggrieved by a tax assessment of a one, two or three family, owner occupied residential structure used for residential purposes (including condominiums) (NYS).

Special Master: A special master is an attorney appointed on an ad hoc basis to assist the court in hearing motions (NYS).

Special Proceedings: General term for remedies or proceedings which are not ordinary civil actions. For example, condemnation, expedited actions.

Special Referee (or Referee): The special referee has the authority to exercise judicial functions when assigned duties by the court to determine the following: (a) to determine an issue (binding); (b) to perform an act (disclosure); and (c) to hear and report - matrimonial actions may be included (NYS).

Special Term: A court part set aside to hear motions .

Special Verdict: A special finding of the facts of a case by a jury leaving to the court the application of the law to the facts thus found.

Statute of Limitations: The time limit for asserting a claim set by statute .

Stay: A stopping or suspension of procedure or execution by judicial or executive order.

Stipulation: An agreement by attorneys and/or parties on opposite sides of an action as to any matter pertaining to the proceedings or trial - most stipulations are in writing.

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

Sua Sponte (“of one's own accord”): Upon its own motion, initiation or will; without a prior request.

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

Subpoena Duces Tecum: A subpoena requiring a person to produce specified documents or records in a trial.

Subpoena Duces Tecum, Judicial: An order issued by the court requiring a person to produce specified documents or records in a trial.

Subpoena, Judicial: An order issued by the court to a person to attend court and give testimony.

Subsequent Proceedings: Any proceeding or action taken with respect to a specific case after it has been filed with the court.

Suit: A legal action or proceeding.

Sum Certain: Liquidated damages pursuant to contract, promissory note, law, etc.

Summary Judgment: A determination in an action on the grounds that there is no genuine issue of fact.

Summons: A form used to commence a civil action and acquire jurisdiction over a party.

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

Surety: One who is legally liable for the debt, default, or failure to carry out a duty of another.

-T-

Third-Party Action: A claim asserted by a defendant, styled a third-party plaintiff, against a person, styled a third-party defendant.

Trial Assignment Part (TAP): That part of the court which assigns cases for trial (NYS).

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

Tort: An injury or wrong committed, either with or without force, and either intentionally or negligently, to the person or property of another.

Transcript: The official record of proceedings in a trial or hearing.

Transfer: The removal of a cause from the jurisdiction of one court or judge to another by lawful authority.

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

Trial De Novo: A new trial (See 22NYCRR 28.12).

-U-

Undertaking: Deposit of a sum of money or filing of a bond in court, to secure some actual or potential obligation.

-V-

Vacate: To set aside or undo a previous action or order.

Venire: Technically, a writ summoning persons to court to act as jurors; popularly used as meaning the body of names thus summoned.

Venue: (a) Geographical place where some legal matter occurs or may be determined. (b) The geographical area within which a court has jurisdiction. It relates only to a place or territory within which either party may require a case to be tried. A defect in venue may be waived by the parties.

Verdict: The determination of a jury on the facts and, usually, the legal consequences of those facts.

Verification: Confirmation of the correctness, truth or authenticity of pleading, account or other paper by an affidavit or oath; signature by a party or, in some cases, the attorney.

Voir Dire: A questioning of prospective jurors by the attorneys, and, on application of any party, by the judge, to see if any of them should be disqualified or removed by challenge or examination; may also be a preliminary examination of a witness.

-W-

Waiver: An intentional and voluntary relinquishment of some known right; giving up a claim.

Warrant: A written order directing the arrest of a person issued by an authority - warrants are "issued", "executed" or "canceled".

With Prejudice: The term, as applied to judgment of dismissal, is as conclusive of rights of parties as if action had been prosecuted to final adjudication adverse to the plaintiff.

Without Prejudice: A dismissal "without prejudice" allows a new suit to be brought on the same cause of action.

Witness: One who testifies to what he/she has seen, heard, or otherwise observed under oath unless too young to swear an oath.

Writ: An order issuing from a court of justice and requiring the performance of a specified act, or giving authority and commission to have it done.

-X, Y, Z-

None.

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