

LEGAL DICTIONARY

It's easy to get lost in a sea of legal jargon, We are providing to you this easy-to-understand plain English definitions of common legal terms. This has been formatted for easy printing and referencing at your FREE consultation or at any time during your legal process. We hope this helps!

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[-A-](#)

Abstract of Title: A chronological summary of all official records and recorded documents affecting the title to a parcel of real property.

Accomplice: 1. A partner in a crime. 2. A person who knowingly and voluntarily participates with another in a criminal activity.

Acknowledgment: 1. A statement of acceptance of responsibility. 2. The short declaration at the end of a legal paper showing that the paper was duly executed and acknowledged.

Acquit: To find a defendant not guilty in a criminal trial.

Action. In the legal sense, a formal complaint or a suit brought in court.

Additur: An increase by a judge in the amount of damages awarded by a jury.

Adjudication: Giving or pronouncing a judgment or decree. Also the judgment given.

Ad Litem: A Latin term meaning for the purposes of the lawsuit. For example, a guardian "ad litem" is a person appointed by the court to protect the interests of a minor or legally incompetent person in a lawsuit.

Administrative Agency. Governmental body responsible for administering and implementing a particular legislation, such as laws governing traffic safety or workers' compensation. These agencies may have rulemaking power and judge-like authority to decide disputes.

Administrative Hearing. Proceeding before an administrative agency which consists of an argument, a trial, or both. Rules governing the proceeding, including rules of evidence, are generally less strict than in civil or criminal trials.

Administrator: Person appointed by a court to administer a deceased person's estate. The person may be male (in which case, he would be referred to as the "administrator") or female (in which case, she would be referred to as the "administratrix").

Admissible evidence: Evidence that can be legally and properly introduced in a civil or criminal trial.

Adversary Proceeding. Legal proceeding involving parties with opposing interests, with one party seeking legal relief and the other opposing it.

Affiant: A person who makes and signs an affidavit.

Affidavit: A written statement of facts confirmed by the oath of the party making it, before a notary or officer having authority to administer oaths. For example, in criminal cases, affidavits are often used by police officers seeking to convince courts to grant a warrant to make an arrest or a search. In civil cases, affidavits of witnesses are often used to support motions for summary judgment.

Agreement: Mutual assent between two or more parties; normally leads to a contract; may be verbal or written.

Aid and Abet: To actively, knowingly or intentionally assist another person in the commission or attempted commission of a crime.

Allegation. The claim made in a pleading by a party to an action setting out what he or she expects to prove.

Alternative Dispute Resolution: Settling a dispute without a full, formal trial. Methods include mediation, conciliation, arbitration, and settlement, among others.

Amicus Curiae. (Latin: "friend of the court.") Person or organization that files a legal brief with the court expressing its views on a case involving other parties because it has a strong interest in the subject matter of the action.

Appeal. Request to a superior or higher court to review and change the result in a case decided by an inferior or lower court or administrative agency.

Appearance: 1. The formal proceeding by which a defendant submits to the jurisdiction of the court. 2. A written notification to the plaintiff by an attorney stating that he or she is representing the defendant.

Appellate Court. A court having jurisdiction to hear an appeal and review the decisions of a lower or inferior court.

Arbitration: A form of alternative dispute resolution in which the parties bring their dispute to a neutral third party and agree to abide by his or her decision. In arbitration there is a hearing at which both parties have an opportunity to be heard.

Arbitrator: A person who conducts an arbitration.

Arraignment: A proceeding in which an individual who is accused of committing a crime is brought into court, told of the charges, and asked to plead guilty or not guilty. Sometimes called a preliminary hearing or initial appearance.

Arrest: To take into custody by legal authority.

Assault. A willful attempt or threat to harm another person, coupled with the present ability to inflict injury on that person, which causes apprehension in that person. Although the term "assault" is frequently used to describe the use of illegal force, the correct legal term for use of illegal force is "battery ."

Assumption of the Risk. When a person voluntarily and knowingly proceeds in the face of an obvious and known danger, she assumes the risk. A person found to have assumed the risk cannot make out the duty element of a negligence cause of action. The theory behind the rule is that a person who chooses to take a risk cannot later complain that she was injured by the risk that she chose to take. Therefore, she will not be permitted to seek money damages from those who might have otherwise been responsible.

Attorney-Client Privilege. Client's privilege to refuse to disclose and to prevent any other person from disclosing confidential communications between the client and his or her attorney.

Attorney-in-Fact: A private person (who is not necessarily a lawyer) authorized by another to act in his or her place, either for some particular purpose, as to do a specific act, or for the transaction of business in general, not of legal character. This authority is conferred by an instrument in writing, called a letter of attorney, or more commonly a power of attorney.

Attorney of Record: The principal attorney in a lawsuit, who signs all formal documents relating to the suit.

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Bad faith: Intention to mislead or deceive; conscious refusal to fulfill some duty. Implies active ill will, as opposed to negligence. Bad faith is not bad judgment; it requires conscious wrongdoing.

Bail: Money or other security (such as a bail bond) provided to the court to temporarily allow a person's release from jail and assure their appearance in court. "Bail" and "bond" are often used interchangeably.

Bail Bond: An obligation signed by the accused to secure his or her presence at the trial. This obligation means that the accused may lose money by not properly appearing for the trial. Often referred to simply as bond.

Bailiff: Court officer responsible for keeping order in the court, custody of the jury, and custody of prisoners while in court.

Bankruptcy: Refers to statutes and judicial proceedings involving persons or businesses that cannot pay their debts and seek the assistance of the court in getting a fresh start. Under the protection of the bankruptcy court, debtors may be released from or "discharged" from their debts, perhaps by paying a portion of each debt. Bankruptcy judges preside over these proceedings. The person with the debts is called the debtor and the people or companies to whom the debtor owes money to are called creditors.

Bar: 1. Historically, the partition separating the general public from the space occupied by the judges, lawyers, and other participants in a trial. 2. More commonly, the term means the whole body of lawyers.

Bar Examination: A state examination taken by prospective lawyers in order to be admitted and licensed to practice law.

Battery: The unlawful use of force resulting in the injury of another. Battery always includes assault. See assault.

Bench: The seat occupied by the judge. More broadly, the court itself.

Bench Trial or Non-jury Trial: Trial before a judge and without a jury. In a bench trial, the judge decides questions of law and questions of fact.

Bench Warrant: An order issued by a judge for the arrest of a person.

Beneficiary: Someone named to receive property or benefits in a will. In a trust, a person who is to receive benefits from the trust.

Bequeath: To give a gift to someone through a will.

Bequests: Gifts made in a will.

Best Evidence: The most direct evidence possible, such as producing an original document to prove that the document exists and what it states. A copy of a document or testimony by a witness would be "secondary evidence." The best evidence rule prohibits the introduction of secondary evidence unless best evidence cannot be obtained, so long as the party seeking to introduce the secondary evidence is not at fault in making the best evidence incapable of being obtained.

Beyond a Reasonable Doubt: The standard in a criminal case requiring that the jury be satisfied to a moral certainty that every element of a crime has been proven by the prosecution. This standard of proof does not require that the state establish absolute certainty by eliminating all doubt, but it does require that the evidence be so conclusive that all reasonable doubts are removed from the mind of the ordinary person.

Bill of Particulars: A statement of the details of the charge made against the defendant.

Binding Authority: Law that controls the outcome of a case. For example, a decision on the same point of law by a higher court in the same state must be followed by a lower court in that state. See precedent.

Bind Over: To hold a person for trial on bond (bail) or in jail. If the judicial official conducting a hearing finds probable cause to believe the accused committed a crime, the official will bind over the accused, normally by setting bail for the accused's appearance at trial.

Booking: The process of photographing, fingerprinting, and recording identifying data of a suspect. This process follows the arrest.

Breach of Contract: Failure, without legal excuse, to perform all or some of the promises made in a contract.

Brief: Written document, usually prepared by an attorney, submitted to the court about a case, containing summaries of the facts of the case, relevant laws, and an argument showing how the laws support that party's position.

Burden of Proof or Standard of Proof: Degree of proof required in a specific kind of case to prevail. In the majority of civil cases, it is proof by a preponderance of the evidence.

Bystander: In products liability law, a person who neither buys nor uses a product, but who nevertheless is injured by the product and may have a cause of action.

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Calendar: List of cases scheduled for hearing in court.

Capacity Defense: Broadly, describes a defendant's lack of some fundamental ability to be held accountable. For example, in Pennsylvania, persons under 7 years of age are presumed incapable of negligence.

Capital crime: A crime punishable by death.

Caption: The heading on a legal document listing the parties, the court, the case number, and related information.

Case Law: Law established by previous decisions of appellate courts, particularly the Supreme Court.

Casualty: A loss of property due to fire, storm shipwreck or other casualty, which is allowable as a deduction in computing taxable income.

Cause: A lawsuit, litigation, or action. Any question, civil or criminal, litigated or contested before a court of justice.

Causation: The act by which an effect is produced. See also "legal cause" and "proximate cause."

Cause of Action: Fact or facts that give someone the right to seek a remedy through the court because the facts of the case apply to a certain law sought to be enforced.

Caveat: A warning; a note of caution.

Certification: 1. Written attestation. 2. Authorized declaration verifying that an instrument is a true and correct copy of the original.

Certiorari: (Latin: "To be informed of.") Writ issued by a superior or higher court to a lower court requiring the lower court to produce a certified record of a case tried there so that the superior court can examine the lower court proceedings for errors. See record.

Challenge: An objection, such as when an attorney objects at a hearing to the seating of a particular person on a civil or criminal jury.

Challenge for Cause: Objection to the seating of a particular juror for a stated reason (usually bias or prejudice for or against one of the parties in the lawsuit). The judge has the discretion to deny the challenge. This differs from peremptory challenge.

Chambers: A judge's private office. A hearing in chambers takes place in the judge's office outside of the presence of the jury and the public.

Change of Venue: Moving a lawsuit or criminal trial to another place for trial.

Charge to the Jury: The judge's instructions to the jury concerning the law that applies to the facts of the case on trial.

Chief Judge: Presiding or Administrative Judge in a court.

Circumstantial Evidence: Evidence not based on actual personal knowledge or observation of the fact in dispute, but, rather, evidence of other personal knowledge or observation which allows a jury to infer the existence or nonexistence of the fact in dispute. An example of direct evidence of who was at fault for a car accident would be a witness who actually saw the accident. An example of circumstantial evidence in this case, would be a witness who drove by after the impact and saw the defendant's car in the wrong lane.

Citation: 1. A reference to a source of legal authority. 2. A direction to appear in court, as when a defendant is cited into court, rather than arrested.

Civil Actions: Noncriminal cases in which one private individual or business sues another to protect, enforce, or redress private or civil rights.

Civil Action: Action brought to enforce private rights. Generally, all actions except criminal actions.

Civil Law: Body of law concerned with private rights and remedies, as contrasted with criminal law. Compare with criminal law.

Civil Procedure: The rules and process by which a civil case is tried and appealed, including the preparations for trial, the rules of evidence and trial conduct, and the procedure for pursuing appeals.

Claim Petition: In cases where a worker is injured on the job, the injured employee files a claim petition to seek initial compensation. This occurs when there has been a Notice of Denial - no workers' compensation payments have been made or medical benefits have not been paid.

Class Action: A means by which one or more individuals are able to sue for themselves and as representatives of other people. A class action requires: an identifiable group of people with a well-defined interest in the facts and law of the suit; too many people in the group for it to be practical to bring them all before the court; and the individuals bringing suit are able to adequately represent the entire group.

Clear and Convincing Evidence: Standard of proof commonly used in civil lawsuits and in regulatory agency cases. It governs the amount of proof that must be offered in order for the plaintiff to win the case.

Clemency or Executive Clemency: Act of grace or mercy by the president or governor to ease the consequences of a criminal act, accusation, or conviction. It may take the form of commutation or pardon.

Closing Argument: The closing statement, by counsel, to the trier of facts after all parties have concluded their presentation of evidence.

Codicil (kod'i-sil): An amendment to a will.

Co- Defendant: A defendant joined together with one or more other defendants in the same case.

Collateral Source Rule: The rule ensures that compensation awarded to a plaintiff in a lawsuit will not be reduced if the plaintiff receives compensation for the same injury from another source, such as insurance. Under the rule, a defendant tort-feasor is unable to benefit from the fact that the plaintiff received money from another source, such as insurance, because of the defendant's tort.

Commit: To send a person to prison, asylum, or reformatory by a court order.

Common Law: Law deriving its authority from usage and customs or judgments of courts recognizing and enforcing such usages and customs. Generally, law made by judges rather than by legislatures.

Commutation: The reduction of a sentence, as from death to life imprisonment.

Comparative Negligence: Comparing the plaintiff's contributory negligence to the defendant's negligence. Pennsylvania's Comparative Negligence statute states that when a plaintiff is guilty of contributory negligence and that negligence was not greater than the defendant's negligence, the plaintiff's damages will be diminished in proportion to his negligence in causing the accident.

Compensation: Something that makes up for a loss. In workers' compensation cases, it refers to payment to unemployed or injured workers or their dependents.

Complaint: In the legal sense, the document a plaintiff files with the court which contains allegations and damages sought. A complaint generally starts a lawsuit.

Complainant: The party who complains or sues; one who applies to the court for legal redress. Also called the plaintiff.

Compromise and Release: In workers' compensation cases, this occurs when a lump sum payment of money is paid by the insurance carrier to an injured worker to resolve the case. This lump sum is in lieu of the weekly compensation benefits the injured worker is receiving and may or may not include future medical benefits.

Conciliation: A form of alternative dispute resolution in which the parties bring their dispute to a neutral third party, who helps lower tensions, improve communications, and explore possible solutions. Conciliation is similar to mediation, but it may be less formal.

Concurrent Sentences: Sentences for more than one crime that are to be served at the same time, rather than one after the other. See also cumulative sentences.

Condemnation: The legal process by which the government takes private land for public use, paying the owners a fair price.

Consecutive Sentences: Successive sentences, one beginning at the expiration of another, imposed against a person convicted of two or more violations.

Conservatorship: Legal right given to a person to manage the property and financial affairs of a person deemed incapable of doing that for himself or herself. (See also guardianship. Conservators have somewhat less responsibility than guardians.)

Contempt of Court: Willful disobedience of a judge's command or of an official court order.

Continuance: Postponement of a legal proceeding to a later date.

Contract: A legally enforceable agreement between two or more competent parties made either orally or in writing.

Contingent Fee Agreement: An agreement between an attorney and his or her client whereby the attorney agrees to represent the client for a percentage of the amount recovered. This fee agreement is frequently used in personal injury actions.

Contributory Negligence: Broadly, carelessness on the plaintiff's part. More precisely, conduct which falls below the standard of care established by law for the protection of one's self against unreasonable risk of harm.

Conviction: A judgment of guilt against a criminal defendant.

Corpus Delicti: Body of the crime. The objective proof that a crime has been committed. It sometimes refers to the body of the victim of a homicide or to the charred shell of a burned house, but the term has a broader meaning. For the state to introduce a confession or to convict the accused, it must prove a corpus delicti, that is, the occurrence of a specific injury or loss and a criminal act as the source of that particular injury or loss.

Corroborating Evidence: Supplementary evidence that tends to strengthen or confirm the initial evidence.

Counsel: Legal adviser; a term used to refer to lawyers in a case.

Counterclaim: Claim brought by a defendant in a lawsuit against the plaintiff.

Court Administrator/Clerk of court: An officer appointed by the Court or elected to oversee the administrative, non-judicial activities of the court.

Court: Refers to a specific court, such as The Supreme Court of Pennsylvania, or may also refer to a judge.

Court Costs: The expenses of prosecuting or defending a lawsuit, other than the attorneys' fees. An amount of money may be awarded to the successful party (and may be recoverable from the losing party) as reimbursement for court costs.

Court Reporter: The person who stenographically records and transcribes testimony during court proceedings or related proceedings such as depositions.

Criminal Law: Criminal law declares what conduct is criminal and prescribes punishment to be imposed for criminal conduct. The purpose of criminal law is to prevent harm to society.

Cross-Claim: Claim brought by a defendant in a lawsuit against a co-defendant in the lawsuit.

Cross-Examination: The questioning of a witness produced by the other side.

Cumulative Sentences: Sentences for two or more crimes to run consecutively, rather than concurrently.

Custody: Detaining of a person by lawful process or authority to assure his or her appearance to any hearing; the jailing or imprisonment of a person convicted of a crime.

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Damages: Money payment recovered in the courts for an injury or loss caused by an unlawful act or omission or negligence of another.

Decedent: A deceased person.

Decision: The judgment reached or given by a court of law.

Declaratory Judgment: Judicial adjudication of the rights of the parties in a lawsuit made to clarify the parties' legal positions.

Decree: An order of the court. A final decree is one that fully and finally disposes of the litigation. An interlocutory decree is a preliminary order that often disposes of only part of a lawsuit.

Defamation: That which tends to injure a persons reputation. Libel is published defamation, whereas slander is spoken.

Default: A failure to respond to a lawsuit within the specified time.

Default Judgment: A judgment entered against a party who fails to appear in court or respond to the charges.

Defendant: In civil law, the party defending a lawsuit ; the party against whom the plaintiff seeks to recover damages from.

Demurrer: Defendant's claim that even if the allegations in a complaint are true, they are not sufficient to impose any liability on the defendant.

De Novo: A new. A trial de novo is a new trial of a case.

Deposition: Testimony of a witness taken under oath, but not in a courtroom. May be used to discover evidence prior to trial or to preserve testimony for use in court at a later time.

Deponent: The person who testifies at a deposition.

Descent and Distribution Statutes: State laws that provide for the distribution of estate property of a person who dies without a will. Same as intestacy laws.

Dicta: Plural of "obiter dictum." A remark made by a judge in a legal opinion that is irrelevant to the decision and does not establish a precedent.

Directed Verdict: Now called Judgment as a matter of Law. An instruction by the judge to the jury to return a specific verdict.

Direct Evidence: Generally, eyewitness evidence. Compare with circumstantial evidence.

Direct Examination: The first questioning of witnesses by the party on whose behalf they are called.

Disability: In the legal sense, lack of legal capacity to perform some act. Used in a physical sense in connection with workers' compensation acts and is a composite of (a) actual incapacity to perform employment tasks and the wage loss resulting therefrom and (b) physical bodily impairment which may or may not be incapacitating.

Disbarment: Form of discipline of a lawyer resulting in the loss (often permanently) of that lawyer's right to practice law. It differs from censure (an official reprimand or condemnation) and from suspension (a temporary loss of the right to practice law).

Disclaim: To refuse a gift made in a will.

Discovery: The pretrial process by which one party discovers the evidence that will be relied upon in the trial by the opposing party.

Disfigurement: A technical term in workers' compensation cases for a serious and permanent scar to the head, neck, or face.

Dismissal with Prejudice: Final judgment against the plaintiff which prohibits bringing an action on the same cause of action in the future. In contrast, "dismissal without prejudice" allows the plaintiff to sue again for the same cause of action.

Dismissal: The termination of a lawsuit. A dismissal without prejudice allows a lawsuit to be brought before the court again at a later time. In contrast, a dismissal with prejudice prevents the lawsuit from being brought before a court in the future.

Dissent: To disagree. An appellate court opinion setting forth the minority view and outlining the disagreement of one or more judges with the decision of the majority.

Diversion: The process of removing some minor criminal, traffic, or juvenile cases from the full judicial process, on the condition that the accused undergo some sort of rehabilitation or make restitution for damages.

Docket: A list of cases to be heard by a court or a log containing brief entries of court proceedings.

Doctrine of avoidable consequences or mitigation of damages: Imposes a duty on victims of a tort to take reasonable steps to minimize their damages after an injury has been inflicted.

Domicile: The place where a person has his or her permanent legal home. A person may have several residences, but only one domicile.

Double Jeopardy: Putting a person on trial more than once for the same crime. It is forbidden by the Fifth Amendment to the U.S. Constitution.

Dram shop: A drinking establishment where alcoholic beverages are served to be drunk on the premises.

Dram Shop Act: In Pennsylvania, this statute imposes liability on drinking establishments, like bars and restaurants, for harm resulting from the establishment's service of alcohol to visibly intoxicated persons.

Due Process of Law: The right of all persons to receive the guarantees and safeguards of the law and the judicial process. It includes such constitutional requirements as adequate notice, assistance of counsel, and the rights to remain silent, to a speedy and public trial, to an impartial jury, and to confront and secure witnesses.

Duty: In negligence cases, a "duty" is an obligation to conform to a particular standard of care. A failure to so conform places the actor at risk of being liable to another to whom a duty is owed for an injury sustained by the other of which the actor's conduct is a legal cause. See reasonable man doctrine.

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Elements of a Crime: Specific factors that define a crime which the prosecution must prove beyond a reasonable doubt in order to obtain a conviction. The elements that must be proven are (1) that a crime has actually occurred, (2) that the accused intended the crime to happen, and (3) a timely relationship between the first two factors.

Eminent Domain: The power of the government to take private property for public use through condemnation.

Emotional Distress: Mental anguish.

Employee Verification Form: In a workers' compensation case, it's a bi-annual report of earnings to be completed by the injured employee. The form is required to be returned to the insurance carrier within 30 days of receipt or benefits may be stopped.

En Banc: All the judges of a court sitting together. Appellate courts can consist of a dozen or more judges, but often they hear cases in panels of three judges. If a case is heard or reheard by the full court, it is heard en banc.

Enjoining: An order by the court telling a person to stop performing a specific act.

Entrapment: A defense to criminal charges alleging that agents of the government induced a person to commit a crime he or she otherwise would not have committed.

Equal Protection of the Law: The guarantee in the Fourteenth Amendment to the U.S. Constitution that all persons be treated equally by the law. Court decisions have established that this guarantee requires that courts be open to all persons on the same conditions, with like rules of evidence and modes of procedure; that persons be subject to no restrictions in the acquisition of property, the enjoyment of personal liberty, and the pursuit of happiness, which do not generally affect others; that persons are liable to no other or greater burdens than such as are laid upon others, and that no different or greater punishment is enforced against them for a violation of the laws.

Equitable Remedies: Remedies that do not include monetary settlements. Examples include injunctions and restraining orders.

Equity: Generally, justice or fairness. Historically, equity refers to a separate body of law developed in England in reaction to the inability of the common-law courts, in their strict adherence to rigid writs and forms of action, to consider or provide a remedy for every injury. The king therefore established the court of chancery, to do justice between parties in cases where the common law would give inadequate redress. The principle of this system of law is that equity will find a way to achieve a lawful result when legal procedure is inadequate. Equity and law courts are now merged in most jurisdictions.

Error: In the legal sense, a mistaken interpretation of facts or application of the law that can prove grounds for an appeal.

Escheat (es-chet): The process by which a deceased person's property goes to the state if no heir can be found.

Escrow: Money or a written instrument such as a deed that, by agreement between two parties, is held by a neutral third party (held in escrow) until all conditions of the agreement are met.

Estate: An estate consists of personal property (car, household items, and other tangible items), real property, and intangible property, such as stock certificates and bank accounts, owned in the individual name of a person at the time of the person's death. It does not include life insurance proceeds unless the estate was made the beneficiary) or other assets that pass outside the estate (like joint tenancy asset).

Estate Tax: Generally, a tax on the privilege of transferring property to others after a person's death. In addition to federal estate taxes, many states have their own estate taxes.

Estoppel: A person's own act, or acceptance of facts, which preclude his or her later making claims to the contrary.

Et al: And others.

Evidence: Proof of a probative matter presented at trial for the purpose of inducing belief in the minds of the jury or judge. Evidence comes in a variety of forms, including testimony, writings, tangible objects, and exhibits.

Exemplary Damages or Punitive Damages: Compensation greater than is necessary to pay a plaintiff for a loss. These damages are awarded because the loss was aggravated by violence, oppression, malice, fraud or wanton and wicked conduct on the part of the defendant. Such damages are intended to punish the defendant for his evil behavior or make an example of him or her.

Exempt Property: In bankruptcy proceedings, this refers to certain property protected by law from the reach of creditors.

Exceptions: Declarations by either side in a civil or criminal case reserving the right to appeal a judge's ruling upon a motion. Also, in regulatory cases, objections by either side to points made by the other side or to rulings by the agency or one of its hearing officers.

Exclusionary Rule: The rule preventing illegally obtained evidence to be used in any trial.

Execute: To complete the legal requirements (such as signing before witnesses) that make a will valid. Also, to execute a judgment or decree means to put the final judgment of the court into effect.

Executor: A personal representative, named in a will, who administers an estate.

Exhibit: A document or other item introduced as evidence during a trial or hearing.

Exonerate: Removal of a charge, responsibility or duty.

Expert: A witness who may give an opinion in court based on the particular competence of that witness.

Ex Parte: On behalf of only one party, without notice to any other party. For example, a request for a search warrant is an ex parte proceeding, since the person subject to the search is not notified of the proceeding and is not present at the hearing.

Ex Parte Proceeding: The legal procedure in which only one side is represented. It differs from adversary system or adversary proceeding.

Ex Post Facto: After the fact. The Constitution prohibits the enactment of ex post facto laws. These are laws that permit conviction and punishment for a lawful act performed before the law was changed and the act made illegal.

Extenuating Circumstances: Circumstances which render a crime less aggravated, heinous, or reprehensible than it would otherwise be.

Expungement: Official and formal erasure of a record or partial contents of a record.

Extradition: The process by which one state or country surrenders to another state, a person accused or convicted of a crime in the other state.

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Fact Question: Issues in a trial or hearing concerning facts and how they occurred, as opposed to questions of law. Fact questions are for the jury to decide, unless the issues are presented in a non-jury or bench trial, in which case the judge would decide fact questions. Questions of law are decided by a judge. Findings of fact are generally non-appealable, while rulings on questions of law are subject to appeal.

Family Allowance: A small amount of money set aside from the estate of the deceased. Its purpose is to provide for the surviving family members during the administration of the estate.

Family Practitioner: A physician who has a general health care practice and no specialization.

Felony: Crimes of a graver or more serious nature than misdemeanors.

Fiduciary: A person having a legal relationship of trust and confidence to another and having a duty to act primarily for the others benefit, e.g., a guardian, trustee, or executor.

File: To place a paper in the official custody of the clerk of court/court administrator to enter into the files or records of a case.

Final Receipt: In a workers' compensation case, it's the form presented by the insurance carrier for the injured employee's signature so that benefits will stop upon return to work.

Final Judgment: The written ruling on a lawsuit by the judge who presided at trial. This completes the case unless it is appealed to a higher court. Also called a final decree or final decision.

Finding: Formal conclusion by a judge or regulatory agency on issues of fact. Also, a conclusion by a jury regarding a fact.

First Appearance: The initial appearance of an arrested person before a judge to determine whether or not there is probable cause for his or her arrest. Generally the person comes before a judge within hours of the arrest. Also called initial appearance.

First Party Benefits: In insurance law, first party benefits include medical benefits, income loss benefits, accidental death benefit, funeral benefit, and extraordinary medical benefits. In Pennsylvania, the only required coverage is \$5,000 in medical benefits.

Fracture: A break or crack in a bone.

Fraud: False and deceptive statement of fact intended to induce another person to rely upon and, in reliance thereof, give up a valuable thing he or she owns or a legal right he or she is entitled to.

Full Tort Option: In Pennsylvania, purchasers of motor vehicle insurance can choose "full tort," which gives the insured the unrestricted right to seek money damages for all injuries sustained in an accident caused by another driver, including economic loss, pain and suffering and other non-monetary damages. Compare with limited tort option.

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Garnishment: A legal proceeding in which a debtor's money, in the possession of another (called the garnishee), is applied to the debts of the debtor, such as when an employer garnishes a debtor's wages.

General Jurisdiction: Refers to courts that have no limit on the types of criminal and civil cases they may hear.

Good Time: A reduction in sentenced time in prison as a reward for good behavior. It usually is one third to one half off the maximum sentence.

Grand Jury: A body of persons sworn to inquire into crime and if appropriate, bring accusations (indictments) against the suspected criminals.

Grantor or Settlor: The person who sets up a trust.

Gross Negligence: Intentional failure to perform a manifest duty in reckless disregard of the consequences to another person's life or property. There is no clear distinction between gross negligence and willful negligence.

Guardian: A person appointed by will or by law to assume responsibility for incompetent adults or minor children. If a parent dies, this will usually be the other parent. If both die, it probably will be a close relative.

Guardianship: Legal right given to a person to be responsible for the food, housing, health care, and other necessities of a person deemed incapable of providing these necessities for himself or herself. A guardian also may be given responsibility for the person's financial affairs, and thus perform additionally as a conservator. (See also conservatorship.)

-H-

Habeas Corpus: A writ commanding that a person be brought before a judge. Most commonly, a writ of habeas corpus is a legal document that forces law enforcement authorities to produce a prisoner they are holding and to legally justify his or her confinement.

Harmless Error: An error committed during a trial that was corrected or was not serious enough to affect the outcome of a trial and therefore was not sufficiently harmful (prejudicial) to be reversed on appeal.

Health Maintenance Organization (HMO): A type of managed health care system that contracts with medical facilities, physicians, employers, and sometimes individuals to provide medical care to a group of people known as "members." Generally, members of HMOs don't have any significant "out-of-pocket" expenses because the medical care is most often paid for by an employer at a fixed price per patient.

Hearing: A proceeding usually without a jury.

Hearsay: Statements by a witness who did not see or hear the incident in question but heard about it from someone else. Hearsay is usually not admissible as evidence in court.

Hemorrhagic Stroke: Occurs when an artery in the brain tears or bursts, causing blood to spill out.

HMO Negligence: Generally, a type of medical malpractice that can be defined as the carelessness of an HMO, acting through its physicians, in making treatment decisions for a member that results in injury to that member.

Homeowner's Insurance: Policy that insures individuals against any, some, or all of the risks of loss to personal dwellings or the contents of personal dwellings or the personal liability pertaining to personal dwellings.

Hostile Witness: A witness whose testimony is not favorable to the party who calls him or her as a witness. A hostile witness may be asked leading questions and may be cross-examined by the party who calls him or her to the stand.

Hung Jury: A jury whose members cannot agree upon a verdict.

Hurt on the Job: In order to establish a right to workers' compensation benefits, there must be an employment relationship during which an accident or an injury arises in the course of employment and is related thereto, and includes aggravation, reactivation, acceleration or death resulting from the injury.

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Immunity: Grant by the court, which assures someone will not face prosecution in return for providing criminal evidence.

Impaneling: Selecting a jury from the list of potential jurors.

Impeach: Attacking the credibility of a witness.

Impeachment of a Witness: An attack on the credibility (believability) of a witness, through evidence introduced for that purpose.

Incarcerate: To confine in jail.

Inadmissible: That which, under the rules of evidence, cannot be admitted or received as evidence.

In Camera: In a judge's chambers; in private.

In Camera Inspection: Judge's private inspection of a document prior to his or her ruling on its admissibility or use at trial.

In Camera Proceedings. Trial or proceeding in a place not open to the public, usually in a judge's chambers.

Indemnify: To restore the victim of a loss, either in whole or in part, by payment of money or repair or replacement of the thing lost.

Independent Executor: A special kind of executor, permitted by the laws of certain states, who performs the duties of an executor without intervention by the court.

Indeterminate Sentence: A sentence of imprisonment to a specified minimum and maximum period of time, specifically authorized by statute, subject to termination by a parole board or other authorized agency after the prisoner has served the minimum term.

Indictment: A written accusation by a grand jury charging a person with a crime.

Indigent: Needy or impoverished. A defendant who can demonstrate his or her indigence to the court may be assigned a court-appointed attorney at public expense.

Information: Accusatory document, filed by the prosecutor, detailing the charges against the defendant. An alternative to an indictment, it serves to bring a defendant to trial.

Informed Consent: Person's agreement to allow something to happen, such as a medical procedure, that is based on full disclosure of the facts necessary to make an intelligent decision.

In Forma Pauperis: In the manner of a pauper. Permission given to a person to sue without payment of court fees on claim of indigence or poverty.

Infraction: A violation of law not punishable by imprisonment. Minor traffic offenses generally are considered infractions.

Inheritance Tax: A state tax on property that an heir or beneficiary under a will receives from a deceased person's estate. The heir or beneficiary pays this tax.

Initial Appearance: In criminal law, the hearing at which a judge determines whether there is sufficient evidence against a person charged with a crime to hold him or her for trial. The Constitution bans secret accusations, so initial appearances are public unless the defendant asks otherwise; the accused must be present, though he or she usually does not offer evidence. Also called first appearance.

Injunction: Writ or order by a court prohibiting a specific action from being carried out by a person or group. A preliminary injunction is granted provisionally, until a full hearing can be held to determine if it should be made permanent.

In Propria Persona: In court's it refers to persons who present their own case without lawyers. See Pro Se.

Instructions: Judge's explanation to the jury before it begins deliberations of the questions it must answer and the applicable law governing the case. Also called charge.

Intangible Assets: Nonphysical items such as stock certificates, bonds, bank accounts, and pension benefits that have value and must be taken into account in estate planning.

Intentional Infliction of Emotional Distress: - Intentionally causing severe emotional distress by extreme or outrageous conduct.

Interlocutory: Provisional; not final. An interlocutory order or an interlocutory appeal concerns only a part of the issues raised in a lawsuit.

Interrogatories: Written questions asked by one party in a lawsuit for which the opposing party must provide written answers.

Intervention: An action by which a third person who may be affected by a lawsuit is permitted to become a party to the suit. Differs from the process of becoming an amicus curiae.

Inter Vivos Gift: A gift made during the giver's life.

Inter Vivos Trust: Another name for a living trust.

Intestacy Laws: See descent and distribution statutes.

Intestate: Dying without a will.

Intestate Succession: The process by which the property of a person who has died without a will passes on to others according to the state's descent and distribution statutes. If someone dies without a will, and the court uses the state's interstate succession laws, an heir who receives some of the deceased's property is an intestate heir.

Invitee: A person is an invitee on land if he enters land by invitation; his entry is connected with business being conducted on the land by the possessor of land; and the possessor of land is benefited by the entry.

Irrevocable Trust: A trust that, once set up, the grantor may not revoke.

Irritable Bowel Syndrome: A condition of abnormally increased spontaneous movement (motility) of the small and large intestine, generally stress can contribute to this condition.

Ischemic Colitis: An inflammation caused by interference with the blood flow to the large intestine. This lack of blood flow leads to death of tissue.

Issue: (1) The disputed point in a disagreement (between parties in a lawsuit). (2) To send out officially, as in to issue an order.

-J-

Joint and Several Liability: Refers to a plaintiff's ability to sue one or more defendants separately or all together at his or her option. Permits a group of defendants to be held both individually and collectively liable for all damages suffered by the plaintiff. The plaintiff can recover the entire amount of damages from one defendant, even if all of the defendants are liable.

Joint Tenancy: A form of legal co-ownership of property (also known as survivorship). At the death of one co-owner, the surviving co-owner becomes sole owner of the property. Tenancy by the entirety is a special form of joint tenancy between a husband and wife.

Judge: Workers' compensation judges are appointed and are representatives of the Pennsylvania Department of Labor and Industry. They conduct hearings in an administrative proceeding for workers' compensation cases.

Judgment: Official decision of a court resolving the issues in a legal action and stating the rights and obligations of the parties. See also decree, order.

Judgment Notwithstanding the Verdict (n.o.v.): An order by the trial judge entering a judgment in a manner contradictory to the jury's verdict. This is granted only when the verdict is unreasonable and unsupportable.

Judicial: Pertaining to a judge.

Judicial Notice: The procedure by which a judge recognizes the existence of the truth of a certain fact having bearing on the case without the production of evidence because such fact is established by common notoriety. For example, if the accident happened on Thanksgiving, the judge can take judicial notice that the accident happened on a Thursday.

Judicial Review: The authority of a court to review the official actions of other branches of government. Also, the authority to declare unconstitutional the actions of other branches.

Jurisdiction: The legal right by which judges exercise their authority.

Jurisprudence: The study of law and the structure of the legal system.

Jury: Persons selected according to law and sworn to inquire into and declare a verdict on matters of fact. A petit jury is an ordinary or trial jury, composed of six to 12 persons, which hears either civil or criminal cases.

Jury Commissioner: The court officer responsible for choosing the panel of persons to serve as potential jurors for a particular court term.

Justiciable: Issues and claims capable of being properly examined in court.

-K-

-L-

Lapsed Gift: A gift made in a will to a person who has died prior to the will-makers death.

Larceny: Obtaining property by fraud or deceit.

Law: The combination of those rules and principles of conduct promulgated by legislative authority, derived from court decisions and established by local custom.

Law Clerks: Persons trained in the law who assist judges in researching legal opinions.

Lawsuit or Suit: Generally, a court action brought by one person, the plaintiff, against another, the defendant, seeking compensation for some injury or enforcement of a right.

Leading Case: Case regarded as having determined the law on a particular point, thus becoming a guide for later decisions.

Leading Question: A question that suggests the answer desired of the witness. A party generally may not ask one's own witness leading questions. Leading questions may be asked only of hostile witnesses and on cross-examination.

Legal Aid: Professional legal services available usually to persons or organizations unable to afford such services.

Legal Cause: Substantial factor in bringing about the harm. See also proximate cause.

Legal Fiction: Assumption of a fact that may or may not be true made by a judge to decide a legal question.

Leniency: Recommendation for a sentence less than the maximum allowed.

Letters of Administration: Legal document issued by a court that shows an administrator's legal right to take control of assets in the deceased person's name.

Letters Testamentary: Legal document issued by a court that shows an executor's legal right to take control of assets in the deceased person's name.

Liability: An obligation that one is bound in law to perform; usually involves the payment of money damages.

Liable: Legally responsible.

Libel: Published words or pictures that falsely and maliciously defame a person. Libel is published defamation; slander is spoken.

Liberal construction: Judicial interpretation of the law whereby the judge expands the literal meaning of the statute to meet cases that are clearly within the spirit or reason of the law. Compare with strict construction whereby the judge adheres to the literal meaning of the words.

Licensee: In civil law, a person who enters land with consent, but nothing more.

Lien: A legal claim against another person's property as security for a debt. A lien does not convey ownership of the property, but gives the lien holder a right to have his or her debt satisfied out of the proceeds of the property if the debt is not otherwise paid.

Limine: A motion requesting that the court not allow certain evidence that might prejudice the jury.

Limited tort option: In Pennsylvania, purchasers of motor vehicle insurance can choose "limited tort," which restricts their right to seek money damages for an accident caused by another driver. Under limited tort, the insured can only seek money damages for economic loss, including medical bills. The insured is prohibited from seeking damages for pain and suffering, except under certain limited circumstances. Compare with full tort option.

Limited Jurisdiction: Refers to courts that are limited in the types of criminal and civil cases they may hear. For example, traffic violations generally are heard by limited jurisdiction courts.

Litigant: A party to a lawsuit. Litigation refers to a case, controversy, or lawsuit.

Living Trust: A trust set up and in effect during the lifetime of the grantor. Also called inter vivos trust.

Loss of consortium: Damages awarded to a family member (usually a spouse) for loss of companionship.

-M-

Magistrate: Judicial officer exercising some of the functions of a judge. It also refers in a general way to a judge.

Malfesance: Commission of a wrongful act; evil doing; wrongful conduct.

Malicious Prosecution: An action instituted with intention of injuring the defendant and without probable cause, and which terminates in favor of the person prosecuted.

Mandamus: A writ issued by a court ordering a public official to perform an act.

Manslaughter: The unlawful killing of another without intent to kill; either voluntary (upon a sudden impulse); or involuntary (during the commission of an unlawful act not ordinarily expected to result in great bodily harm). See also murder.

Material Fact: Generally, a fact essential to a case or a defense without which said case or defense could not be supported.

Mediation: A form of alternative dispute resolution in which the parties bring their dispute to a neutral third party, who helps them agree on a settlement.

Medical Malpractice: Broadly, a claim brought against a health-care professional based on professional negligence wherein the health-care professional violates the applicable standard of care and an injury results.

Member: In relation to health care, a member is a person who belongs to a health care plan, like an HMO

Memorialized: In writing.

Mens Rea: The "guilty mind" necessary to establish criminal responsibility.

Mental Anguish: Mental suffering. In some cases, damages may be awarded for mental anguish even though no physical injury is present.

Miranda Warning: Requirement that police tell a suspect in their custody of his or her constitutional rights before they question him or her. So named as a result of the *Miranda v. Arizona* ruling by the U.S. Supreme Court.

Misdemeanor: Crimes less serious than felonies. In Pennsylvania, the punishments associated with misdemeanors vary according to degree. A misdemeanor of the first degree may be sentenced to a term of imprisonment of not more than five years. A misdemeanor of the second degree may be sentenced to a term of imprisonment of not more than two years. A misdemeanor of the third degree may be sentenced to a term of imprisonment of not more than one year.

Misfeasance: Improper performance of a lawful act.

Mistrial: An invalid trial, caused by fundamental error. When a mistrial is declared, the trial must start again from the selection of the jury.

Mitigating Circumstances: Those which do not constitute a justification or excuse for an offense but which may be considered as reasons for reducing the degree of blame.

Mitigation of Damages or Doctrine of Avoidable Consequences: Imposes a duty on victims of a tort to take reasonable steps to minimize their damages after an injury has been inflicted.

Mittimus: The name of an order in writing, issuing from a court and directing the sheriff or other officer to convey a person to a prison, asylum, or reformatory, and directing the jailer or other appropriate official to receive and safely keep the person until his or her fate shall be determined by due course of law.

Moot: A moot case or a moot point is one not subject to a judicial determination because it involves an abstract question or a pretended controversy that has not yet actually arisen or has already passed. Mootness usually refers to a court's refusal to consider a case because the issue involved has been resolved prior to the court's decision, leaving nothing that would be affected by the court's decision.

Motion: An application made to a judge for the purpose of obtaining an order directing some act to be done in favor of the party presenting the application.

Moving Party: The party presenting the motion. Compare with non-moving party.

Murder: The unlawful killing of a human being with deliberate intent to kill. Murder in the first degree is characterized by premeditation; murder in the second degree is characterized by a sudden and instantaneous intent to kill or to cause injury without caring whether the injury kills or not. (See also manslaughter.)

-N-

Negligence: In its broadest sense, carelessness. More precisely, conduct which falls below the standard of care established by law for the protection of others against unreasonable risks of harm. In order to prevail in a negligence action, the plaintiff must prove, by a preponderance of the evidence, the following four elements: (1) that the defendant owed the plaintiff a duty of care; (2) that the defendant breached that duty; (3) that the defendant's breach of his or her duty of care caused the plaintiff's injury; (4) that the plaintiff suffered injury.

Negligence per se: Conduct, either by act or omission, that may be declared and treated as negligence without argument or proof of negligence, usually because the conduct violates a statute. A finding of negligence per se satisfies the plaintiff's burden of proof that the defendant's conduct was negligent. However, the burden remains on the plaintiff to establish that his injuries were proximately caused by the statutory violation.

Next Friend: One acting without formal appointment as guardian for the benefit of an infant, a person of unsound mind not judicially declared incompetent, or other person under some disability.

Nisi Decree: Interim decree or order that will eventually become final unless something changes or an event takes place.

Nonfeasance: Failure to perform some act which should have been performed.

No Bill: This phrase, endorsed by a grand jury on the written indictment submitted to it for its approval, means that the evidence was found insufficient to indict.

No-Contest Clause: Language in a will that provides that a person who makes a legal challenge to the will's validity will be disinherited.

No-Fault Proceedings: A civil case in which parties may resolve their dispute without a formal finding of error or fault.

Non-Jury Trial or Bench Trial: Trial before a judge and without a jury. In a bench trial, the judge decides questions of law and questions of fact.

Non-Moving Party: The party to a lawsuit that is not presenting a motion to the court. A non-moving party may or may not contest or oppose the motion. Compare with moving party.

Nolle Prosequi: Decision by a prosecutor not to go forward with charging a crime. It translates "I do not choose to prosecute." Also loosely called nolle pros.

Nolo Contendere: A plea of no contest. In many jurisdictions, it is an expression that the matter will not be contested, but without an admission of guilt. In other jurisdictions, it is an admission of the charges and is equivalent to a guilty plea.

Notice: Formal notification to the party that has been sued in a civil case of the fact that the lawsuit has been filed. Also, any form of notification of a legal proceeding.

Nuisance: An unreasonable or unlawful use of one's real estate that results in injures to another or interferes with another person's use of his real property.

Nunc Pro Tunc: A legal phrase applied to acts which are allowed after the time when they should be done, with a retroactive effect.

Nuncupative Will: An oral (unwritten) will.

-O-

Oath: Written or oral pledge by a person to keep a promise or speak the truth.

Obiter Dictum: Remark by a judge in a legal opinion that is irrelevant to the decision and does not establish precedent . Often used in the plural, dicta.

Objection: In a trial, a reason stated on the record by an attorney that a matter or proceeding is illegal. Making objections in open court is important for purposes of making a record for appeal.

Occupational Disease: An illness resulting from long-term employment in a particular type of work, such as those employees exposed to asbestos, who later develop cancer.

On a Person's Own Recognizance: Release of a person from custody without the payment of any bail or posting of bond, upon the promise to return to court.

Opening Statement: The initial statement made by attorneys for each side, outlining the facts each intends to establish during the trial.

Opinion: Written statement by a judge or court of the decision in a case which describes the law applied to the facts of the case and the reasons for the decision.

Oral Argument: An opportunity for lawyers to summarize their position before the court and also to answer the judges' questions.

Order: Written direction or command made by a court or judge, and not included in a judgment. See also decree.

Ordinance: Commonly, a regulation passed by a municipal legislative body.

Original jurisdiction: The first court to which a legal dispute is referred.

Out-of-Court Settlement: An agreement reached between a plaintiff and a defendant to resolve a lawsuit privately and without a judge's authorization or approval.

Overrule: A judge's decision not to allow an objection. Also, a decision by a higher court finding that a lower court decision was in error.

-P-

Pardon: A form of executive clemency preventing criminal prosecution or removing or extinguishing a criminal conviction.

Parens Patriae: The doctrine under which the court protects the interests of a juvenile.

Parole: The supervised conditional release of a prisoner before the expiration of his or her sentence. If the parolee observes the conditions, he or she need not serve the rest of his or her term.

Party: A person, business, or government agency actively involved in the prosecution or defense of a legal proceeding.

Partial Disability: In a workers' compensation case, this refers to any disability that is less than total. Workers' compensation benefits are generally measured by earning power in this situation.

Patent: A government grant giving an inventor the exclusive right to make or sell his or her invention for a term of years.

Peremptory Challenge: A challenge that may be used to reject a certain number of prospective jurors without giving a reason.

Perjury: Intentional false statement of material importance made under oath; lying under oath.

Permanent Injunction: A court order requiring that some action be taken, or that some party refrain from taking action. It differs from forms of temporary relief, such as a temporary restraining order or preliminary injunction.

Person: Generally, a human being. Legally, a "person" may statutorily include a corporation, partnership, trustee, legal representative, etc.

Personal Property: Tangible physical property (such as cars, clothing, furniture, and jewelry) and intangible personal property. This does not include real property such as land or rights in land.

Personal Jurisdiction: The power of a court over a person. Compare with subject matter jurisdiction.

Personal Recognizance: In criminal proceedings, the pretrial release of a defendant without bail upon his or her promise to return to court. See also own recognizance.

Personal Representative: One who stands in the place of another.

Person in Need of Supervision: Juvenile found to have committed a status offense rather than a crime that would provide a basis for a finding of delinquency. Typical status offenses are habitual truancy, violating a curfew, or running away from home. These are not crimes, but they might be enough to place a child under supervision. In different states, status offenders might be called children in need of supervision or minors in need of supervision.

Petition: A formal request that the court take some action; a complaint.

Petitioner: The person filing an action in a court of original jurisdiction. Also, the person who appeals the judgment of a lower court. The opposing party is called the respondent.

Petition to Terminate, Modify or Suspend Benefits: In a workers' compensation case, this is the petition filed by the employer/insurance carrier in an attempt to modify, suspend or terminate an injured employee's compensation.

Plaintiff: In civil law, the person who brings an action or starts a lawsuit.

Plea: In a criminal proceeding, it is the defendant's declaration in open court that he or she is guilty or not guilty. The defendant's answer to the charges made in the indictment or information.

Plead: In civil law, a defendant's formal answer to a plaintiff's complaint.

Plea Bargaining or Plea Negotiating: The process through which an accused person and a prosecutor negotiate a mutually satisfactory disposition of a case. Usually it is a legal transaction in which a defendant pleads guilty in exchange for some form of leniency. It often involves a guilty plea to lesser charges or a guilty plea to some of the charges if other charges are dropped. Such bargains are not binding on the court.

Pleading: A document filed in a court that pertains to a case.

Pleadings: The written statements of fact and law filed by the parties to a lawsuit.

Polling the Jury: The act, after a jury verdict has been announced, of asking jurors individually whether they agree with the verdict.

Possessor of Land: A person who occupies land and intends to control it. Most often, it is the owner of the property.

Pour-Over Will: A will that leaves some or all estate assets to a trust established before the will-maker's death.

Power of Attorney: Written document authorizing one person to take certain legal actions on behalf of the person giving the power of attorney.

Precedent: Decision by a court that provides an example or authority for later cases involving a similar question of law. See binding authority.

Preliminary Hearing: Another term for arraignment.

Pre-Injunction: Court order requiring action or forbidding action until a decision can be made whether to issue a permanent injunction. It differs from a temporary restraining order.

Preponderance of the Evidence: The amount of evidence needed for a plaintiff to win in a civil action. A preponderance of the evidence is the greater weight of the evidence or the more convincing evidence in comparison to the evidence offered in opposition. A plaintiff can win by a preponderance of the evidence even if plaintiff's evidence merely tips the scales in plaintiff's favor.

Presumptively Capable of Negligence: Pennsylvania law places minors in three categories based on age. Minors under 7 are conclusively presumed incapable of negligence. Simply put, under the law, they cannot commit torts. Minors between 7 and 14 are presumed incapable of negligence, but the presumption is rebuttable or disputable, and the presumption grows weaker as the child nears his or her 14th birthday. Minors over 14 are presumptively capable of negligence. Simply put, under the law they are presumed as being able to commit torts. The burden is on the minor to prove incapacity.

Pre-Sentence Report: A report to the sentencing judge containing background information about the crime and the defendant to assist the judge in making his or her sentencing decision.

Presentment: Declaration or document issued by a grand jury that either makes a neutral report or notes misdeeds by officials charged with specified public duties. It ordinarily does not include a formal charge of crime. A presentment differs from an indictment.

Pretermitted Child: A child borne after a will is executed, who is not provided for by the will. Most states have laws that provide for a share of estate property to go to such children.

Pre-Trial Conference: A meeting between the judge and the lawyers involved in a lawsuit to narrow the issues in the suit, agree on what will be presented at the trial, and make a final effort to settle the case without a trial.

Prevailing Party: Generally, the winning party in a lawsuit.

Prima Facie: Literally means "at first sight" or "on the face of it." "Prima facie evidence" is evidence that is good and sufficient on its face. A plaintiff makes out a "prima facie case" when he or she presents "prima facie evidence," which means that the plaintiff is permitted to prevail on that evidence alone, unless the defendant can put forth sufficient evidence to overcome it.

Prima Facie Case: A case that is sufficient and has the minimum amount of evidence necessary to allow it to continue in the judicial process.

Primary Care Physician (PCP): A physician that is employed by or contracts with a managed health care system like an HMO that coordinates all of the member's medical care. A PCP is usually a family practitioner. PCP's are also known as "gatekeepers" because they control a member's access to medical care within a health plan.

Privileged Communication: Statement protected from forced disclosure in court because the statement was made within a "protected" relationship such as attorney/client. See attorney-client privilege.

Probable Cause: A reasonable belief that a crime has or is being committed; the basis for all lawful searches, seizures, and arrests.

Probate: The court-supervised process by which a will is determined to be the will-maker's final statement regarding how the will-maker wants his or her property distributed. It also confirms the appointment of the personal representative of the estate. Probate also means the process by which assets are gathered; applied to pay debts, taxes, and expenses of administration; and distributed to those designated as beneficiaries in the will.

Probate Court: The court with authority to supervise estate administration.

Probate Estate: Estate property that may be disposed of by a will.

Probation: An alternative to imprisonment allowing a person found guilty of an offense to stay in the community, usually under conditions and under the supervision of a probation officer. A violation of probation can lead to its revocation and to imprisonment.

Procedural Law: Generally, the body of law establishing the method or procedure of enforcing rights or obtaining redress for invasion of rights. Compare with substantive law which establishes rights.

Process Serving: The method by which a defendant in a lawsuit is notified that a plaintiff has filed a suit against him.

Products Liability: Area of the law involving the liability of manufacturers and sellers of dangerous or defective goods or products.

Promulgate: To officially announce.

Property Damage Liability Coverage: Automobile insurance coverage required under Pennsylvania law that provides money to pay claims if your car damages the property of another person.

Pro Bono: (Latin: "for the good") Used to describe the provision of services free of charge.

Pro Bono Publico: For the public good. Lawyers representing clients without a fee are said to be working pro bono publico.

Pro Se: A Latin term meaning "on one's own behalf"; in courts, it refers to persons who present their own cases without lawyers.

Prosecutor: A trial lawyer representing the government in a criminal case and the interests of the state in civil matters. In criminal cases, the prosecutor has the responsibility of deciding who and when to prosecute.

Proximate Cause: The proximate cause of an injury is the primary or moving cause that produces the injury and without which the accident could not have happened, if the injury is one which might be reasonably anticipated or foreseen as a natural consequence of the wrongful act.

Public Defender: Government lawyer who provides free legal defense services to a poor person accused of a crime.

Punitive Damages or Exemplary Damages: Compensation greater than is necessary to pay a plaintiff for a loss. These damages are awarded because the loss was aggravated by violence, oppression, malice, fraud or wanton and wicked conduct on the part of the defendant. Such damages are intended to punish the defendant for his evil behavior or make an example of him or her.

Purchaser: In products liability law, a person who buys a product.

-Q-

Quash: To vacate or void a summons, subpoena, etc.

Question of Fact: See fact question.

Question of Law: An issue involving the application or interpretation of the law which is within the province of the judge. Compare with question of fact.

-R-

Reasonable Care: The standard of care in negligence cases; the duty to act reasonably so as to avoid harming others.

Remand: The decision of an appellate court to send a case back to the trial court with instructions on how to correctly decide the case; often used with the term “reversed.” Reversed means that the appellate court overturned the trial court’s decision.

Remedies: Relief that the plaintiff receives from the defendant in a lawsuit. Often this will include monetary damages or equitable relief (i.e. injunctions).

Respondent: The party that won at trial.

-S-

Search Warrant: A written order issued by a judge that directs a law enforcement officer to search a specific area for a particular piece of evidence.

Secured Debt: In bankruptcy proceedings, a debt is secured if the debtor gave the creditor a right to repossess the property or goods used as collateral.

Self-Defense: Claim that an act otherwise criminal was legally justifiable because it was necessary to protect a person or property from the threat or action of another.

Self-Incrimination, Privilege Against: The constitutional right of people to refuse to give testimony against themselves that could subject them to criminal prosecution. The right is guaranteed in the Fifth Amendment to the U.S. Constitution. Asserting the right is often referred to as taking the Fifth.

Self-Proving Will: A will whose validity does not have to be testified to in court by the witnesses to it, since the witnesses executed an affidavit reflecting proper execution of the will prior to the maker’s death.

Sentence: The punishment ordered by a court for a defendant convicted of a crime. A concurrent sentence means that two or more sentences would run at the same time. A consecutive sentence means that two or more sentences would run one after another.

Sentence Report: A document containing background material on a convicted person. It is prepared to guide the judge in the imposition of a sentence. Sometimes called a presentence report.

Sequester: To separate. Sometimes juries are separated from outside influences during their deliberations. For example, this may occur during a highly publicized trial.

Sequestration of Witnesses: Keeping all witnesses (except plaintiff and defendant) out of the courtroom except for their time on the stand, and cautioning them not to discuss their testimony with other witnesses. Also called separation of witnesses. This prevents a witness from being influenced by the testimony of a prior witness.

Service: The delivery of a legal document, such as a complaint, summons, or subpoena, notifying a person of a lawsuit or other legal action taken against him or her. Service, which constitutes formal legal notice, must be made by an officially authorized person in accordance with the formal requirements of the applicable laws.

Settlement: An agreement between the parties disposing of a lawsuit.

Settlor: The person who sets up a trust. Also called the grantor.

Severall Liability: Liability separate and distinct from the liability of another which is sufficient to support a lawsuit without reference to anyone else's liability.

Severance of Actions: Judicial proceeding separating the claims of multiple parties and permitting separate actions on each one or some combination of them.

Service of Process: Providing a formal notice to the defendant that orders him to appear in court to answer plaintiff's allegations.

Show Cause Order: Judicial direction to appear in court and present reasons why the court should not take a proposed action.

Sidebar: A conference between the judge and lawyers, usually in the courtroom, out of earshot of the jury and spectators.

Slander: False and defamatory spoken words tending to harm another's reputation, business, or means of livelihood. Slander is spoken defamation; libel is published.

Small Claims Court: A court that handles civil claims for small amounts of money. People often represent themselves rather than hire an attorney.

Social Host Liability: The liability of a person (the "social host") who furnishes free alcoholic beverages to another (the "guest"), when the guest subsequently sustains injuries or causes injury to a third person because of his intoxication.

Sovereign Immunity: The doctrine that the government, state or federal, is immune to lawsuit unless it gives its consent.

Special Jurisdiction: Power of a court to deal with only a limited type of case.

Specific Loss: In a workers' compensation case, this is the compensation payable for loss (amputation) or permanent loss of use of members of the body, complete loss of hearing in one or both ears, loss of vision in one or both eyes, and disfigurement.

Specific Performance: A remedy requiring a person who has breached a contract to perform specifically what he or she has agreed to do. Specific performance is ordered when damages would be inadequate compensation.

Spendthrift Trust: A trust set up for the benefit of someone who the grantor believes would be incapable of managing his or her own financial affairs.

Spoilation: Generally, the destruction of evidence.

Stack or Stacking: In Pennsylvania automobile insurance law, purchasers of insurance have the option to "stack" uninsured and underinsured motorist coverage. If you choose "stacking," this means that you can add the coverage together for each vehicle you have insured, at least under the policy. (An issue presently exists as to whether you can "stack" coverages under separate policies of insurance.) For example, if you have two vehicles, with \$100,000/\$300,000 (meaning \$100,000 available per person, and \$300,000 available per accident) in uninsured or underinsured motorist coverage, you can "stack" the coverages and have available \$200,000/\$600,000 in coverage.

Standard of Care: In the law of negligence, the degree of care which a reasonable, prudent or careful person should exercise under the same or similar circumstances. If the standard falls below that established by law for the protection of others against unreasonable risk of harm, the person may be liable for damages resulting from such conduct.

Standard of Proof or Burden of Proof: Degree of proof required in a specific kind of case to prevail. In the majority of civil cases, it is proof by a preponderance of the evidence.

Standing: The legal right to bring a lawsuit. Only a person with something at stake has standing to bring a lawsuit.

Stare Decisis: Policy of the courts to not overturn precedents; adherence to precedents.

Status Offenders: Youths charged with the status of being beyond the control of their legal guardian or are habitually disobedient, truant from school, or having committed other acts that would not be a crime if committed by an adult. They are not delinquents (in that they have committed no crime), but rather are persons in need of supervision, minors in need of supervision, or children in need of supervision, depending on the state in which they live. Status offenders are placed under the supervision of the juvenile court.

Statute: Generally, a law created by a legislature.

Statute of Limitations: The time prescribed by statute in which a plaintiff can bring a lawsuit.

Statutory Construction: Process by which a court seeks to interpret the meaning and scope of legislation.

Statutory Law: Law enacted by the legislative branch of government, as distinguished from case law or common law.

Stay: Court-ordered suspension of a judicial proceeding.

Strict Construction: Judicial interpretation of the law whereby the judge adheres to the literal meaning of the words. Compare with liberal construction which expands the literal meaning of the statute to meet cases that are clearly within the spirit or reason of the law.

Strict Liability: Doctrine that holds defendants liable for harm caused by their actions regardless of their intentions or lack of negligence. Often applied to manufacturers or sellers of defective products in products liability cases.

Stroke: Damage to a part of the brain when its blood supply is suddenly reduced or stopped. This stoppage in blood flow can occur as the result of a blood vessel becoming blocked or bursting inside the brain. The part of the brain deprived of blood dies and can no longer function.

Stipulation: An agreement by attorneys on both sides of a civil or criminal case about some aspect of the case; e.g., to extend the time to answer, to adjourn the trial date, or to admit certain facts at the trial.

Strike: Highlighting in the record of a case, evidence that has been improperly offered and will not be relied upon.

Sua Sponte: A Latin phrase which means on one's own behalf. Voluntary, without prompting or suggestion.

Subject Matter Jurisdiction: The court's power to deal with the general subject matter involved in a case. For example, a bankruptcy court judge has no subject matter jurisdiction to hear a divorce case.

Subornation of Perjury: Procuring someone to make a false statement under oath.

Subpoena: Command to appear at a certain place and time to give testimony on a matter.

Subpoena Duces Tecum: Command to produce some document or paper.

Subrogation: Substitution of one person for another, giving the substitute the same legal rights as the original party. For example, an insurance company may have a right of subrogation to sue anyone whom the person it compensated had a right to sue.

Substantive law. The body of law that creates, defines and regulates right. Compare with procedural law which prescribes the manner to enforce rights or obtaining redress for invasion of rights.

Sue: The act of bringing a lawsuit.

Suit or Lawsuit: Generally, a court action brought by one person, the plaintiff, against another, the defendant, seeking compensation for some injury or enforcement of a right.

Summary Judgment: A decision made on the basis of statements and evidence presented for the record without a trial. It is used when there is no dispute as to the facts of the case, and one party is entitled to judgment as a matter of law.

Summons: Formal document beginning a civil action or special proceeding which is a means to gain jurisdiction over a party. Also, a document directed to a sheriff or other authorized person ordering him to serve the person named on the summons who must appear at a certain place and time to respond to the action.

Supplier of Goods: In products liability law, all parties in the chain of supply of a product for profit, including manufacturers, sellers, and dealers.

Supplemental Agreement: In a workers' compensation case, this is the form signed by the injured employee when there has been a change in disability status.

Support Trust: A trust that instructs the trustee to spend only as much income and principal (the assets held in the trust) as needed for the beneficiary's support.

Suppress: To forbid the use of evidence at a trial because it is improper or was improperly obtained. See also exclusionary rule.

Surety Bond: A bond purchased at the expense of the estate to insure the executor's proper performance. Often called a fidelity bond.

Survival Action: A survival action is brought by the administrator of a deceased person's estate in order to recover loss to the estate resulting from a tort. A survival action continues in the decedent's personal representative a right of action which accrued to the decedent at common law because of a tort. A survival action, unlike a wrongful death action, is not a new cause of action. Where death is caused by negligence, both a survival action and a wrongful death action may be brought.

Survival Statutes: Statutory law that provides for a legal action to continue after the death of a person involved in the action.

Survivorship: Another name for joint tenancy.

Sustain: A court ruling upholding an objection or a motion.

-T-

Tangible Personal Property Memorandum (TPPM): A legal document that is referred to in a will and used to guide the distribution of tangible personal property.

Temporary Relief: Any form of action by a court granting one of the parties an order to protect its interest pending further action by the court.

Temporary Restraining Order: A judge's order forbidding certain actions until a full hearing can be held. Usually of short duration. Often referred to as a TRO.

Technical Errors: Errors committed during a trial that have not prejudiced the losing party's rights and therefore are not grounds for reversal on appeal.

Testamentary Capacity: The legal ability to make a will.

Testamentary Trust: A trust set up by a will.

Testator: Person who makes a will (female: testatrix).

Testimony: Evidence delivered by a witness at trial either orally at trial or in the written form of an affidavit or deposition.

Third Party: A person, business, or government agency not actively involved in a legal proceeding, agreement, or transaction.

Third Party Benefit: In insurance law, third party benefits refer to the amount of available coverage that the at-fault party has in bodily injury and property damage.

Third Party Lawsuit: In workers' compensation law, when an injury is caused by the act or failure to act of a party other than the employer, that party is the "third party," and the injured worker may file a lawsuit against that party. An example of a third party lawsuit in workplace injury would be a products liability suit against the manufacturer of a defective tool.

Third Party litigation: When a lawsuit is brought against a defendant and that defendant wants to add another party to the suit, the original defendant may file a "third party complaint" which results in a third party litigation or lawsuit.

Third-Party Claim: An action by the defendant that brings a third party into a lawsuit.

Thrombotic Stroke: Occurs when a blood clot forms in an artery and blocks blood flow to the brain.

Tipstaff: Court-appointed officer whose duty it is to serve the judge in a variety of ways while court is in session. See bailiff.

Title: Legal ownership of property, usually real property or automobiles.

Tort: In civil law, generally, a wrong or injury committed against a person or property. A tort does not include breach of contract.

Tort-Feasor: One who commits a tort.

Tortious: Having the quality of a tort; the wrongdoer.

Total Disability: In a workers' compensation case, this is the compensation paid when an injured employee is totally impaired due to a work-related injury. Benefits at the total disability rate are generally two-thirds of wages up to a maximum compensation rate

Transcript: Official written copy of proceedings in a case, including hearings, depositions, and trial. Usually made by a court reporter.

Traumatic Brain Injury: An insult to the brain caused by an external physical force that may produce a diminished or altered state of consciousness that results in an impairment of cognitive abilities or physical functioning and/or a disturbance of behavioral or emotional functioning.

Trespasser: In civil law, a person who enters land without invitation, permission or privilege.

Trial: The judicial examination and determination of issues between the parties to an action.

Trial Calendar: List maintained by the clerk of court or the trial judge of cases awaiting trial, which includes trial dates, names of attorneys representing parties, and other such information.

Trial Court: The first court to hear the case, as opposed to an appellate court which hears appeals of decisions made in trial courts.

Trust: A legal device used to manage real or personal property, established by one person (the grantor or settlor) for the benefit of another (the beneficiary). A third person (the trustee) or the grantor manages the trust.

Trust Agreement or Declaration: The legal document that sets up a living trust. Testamentary trusts are set up in a will.

Trustee: The person or institution that manages the property put in trust.

-U-

Underinsured Motorist Coverage: In Pennsylvania, optional insurance that provides protection to purchaser of said coverage and relatives living in his household who suffer injury caused by the negligence of another driver who does not have enough insurance to pay for all losses and damages. Underinsured motorist coverage can be stacked.

Undue Influence: Abuse of position of trust or authority in order to induce a person to do or refrain from doing something to the advantage of the person exerting the influence.

Uninsured Motorist Coverage: In Pennsylvania, optional insurance that provides protection to purchaser of said coverage and relatives living in his household who suffer injury caused by the negligence of another driver who does not have insurance to pay for losses and damages. Uninsured motorist coverage can be stacked.

Unlawful Detainer: A detention of real estate without the consent of the owner or other person entitled to its possession.

Unsecured: In bankruptcy proceedings, for the purposes of filing a claim, a claim is unsecured if there is no collateral, or to the extent the value of collateral is less than the amount of the debt.

User: In products liability law, a person who uses goods.

Usury: Charging a higher interest rate or higher fees than the law allows.

-V-

Vacate: To set aside or void an order or decision of a court.

Venire: A writ summoning persons to court to act as jurors, Also refers to the people summoned for jury duty.

Venue: Broadly, the geographical area where a court has authority to hear a case because it has personal jurisdiction and subject matter jurisdiction. The venue is usually the same area where the incident leading to the trial occurred. A change of venue may occur if negative publicity or other factor would make it difficult to find unbiased jurors.

Verdict: The jury's decision in a case. A general verdict is the jury's finding either for the plaintiff or the defendant. A special verdict is a statement by the jury of facts it has found in response to questions submitted by the judge.

Vicarious Liability: The liability of one person for the torts of another.

Void: Having no binding effect or legal force; null.

Voit Dire: Process of questioning potential jurors so that each side may decide whether to accept or oppose individuals for jury service.

-W-

Waiver: Knowing and voluntary relinquishment of a right. Compare with release.

Waiver of Immunity: A means authorized by statute by which a witness, before testifying or producing evidence, may relinquish the right to refuse to testify against himself or herself, thereby making it possible for his or her testimony to be used against him or her in future proceedings.

Warrant: Most commonly, a court order authorizing law enforcement officers to make an arrest or conduct a search. An affidavit seeking a warrant must establish probable cause by detailing the facts upon which the request is based.

Will: A legal declaration that disposes of a person's property when that person dies.

Willful Negligence: Intentional performance of an unreasonable act in disregard of a known risk, making it highly probable that harm will be caused. Willful negligence usually involves a conscious indifference to the consequences. There is no clear distinction between willful negligence and gross negligence.

Without Prejudice: A claim or cause dismissed without prejudice may be the subject of a new lawsuit.

With Prejudice: Applied to orders of judgment dismissing a case, meaning that the plaintiff is forever barred from bringing a lawsuit on the same claim or cause.

Witness: A person who testifies to what he or she has seen, heard, or otherwise experienced. Also, a person who observes the signing of a will and is competent to testify that it is the will-maker's intended last will and testament.

Workers' Compensation: Insurance required of almost all employers to help cover their employees' economic loss due to a job-related injury or illness.

Writ: Broadly, a court order requiring the performance of some act or giving authority to have the act done.

Writ of Certiorari: An order issued by the Supreme Court directing the lower court to transmit records for a case for which it will hear on appeal.

Wrongful Death Action: An action brought to recover damages for the death of a person caused by a wrongful act or neglect or unlawful violence or negligence of another; provided that no recovery for the same damages claimed in the wrongful death action was obtained by the deceased during his lifetime. In Pennsylvania, the action may be brought by the decedent's spouse, children, or parents. If the decedent has no spouse, children or parents, the action may be brought by a personal representative in order to recover damages for hospital, nursing, medical, funeral and estate administration costs.

Wrongful Death Statute: Statutory law that provides the means for the representative of a decedent to bring suit alleging that the decedent's death was caused by someone's willful or negligent act and to seek compensation for monetary loss suffered because of the decedent's death.

Wrongful Death Statutes: Laws giving the family members of a deceased a cause of action if the death of their loved one resulted because of another's negligence.

-X-

-Y-

-Z-
