

LEGAL TERMS AND DEFINITIONS

The following legal terms and definitions are frequently used in court. The purpose of this *Citizens Guide* is to acquaint you with these legal terms to increase your level of understanding of the trial process.

ANSWER

A document (or pleading) filed with the court before the trial by the defendant in a civil case to respond to the plaintiff's claims.

BAILIFF

A court attendant whose duties are to keep order in the courtroom and to have custody of the jury.

CASE, ACTION, LAWSUIT OR SUIT

A legal dispute brought into court for a hearing or trial.

CAUSE OF ACTION

The legal grounds on which a party to a lawsuit relies to get a verdict against an opponent.

COMPLAINT

The first document (or pleading) in a civil case stating facts and demanding relief.

CONTEMPT OF COURT

Any act calculated to embarrass, hinder, or obstruct a court in the administration of justice, or calculated to lessen its authority or dignity. Contempts are of two kinds: direct and indirect. Direct contempts are those committed in the immediate presence of the court; indirect is the term chiefly used with reference to the failure or refusal to obey a lawful order.

COUNTERCLAIM

An answer to the complaint, in which the defendant claims to be entitled to damages or other relief from the plaintiff.

COURT REPORTER

A stenographer who records and transcribes a verbatim report of all proceedings in a court of law.

DEFENDANT

The party against whom a criminal or civil action is brought.

DELIBERATIONS

The discussions of the jury which occur after the judge has instructed them to retire to the jury room and consider their verdict.

DEPOSITION

Testimony of a witness, under oath, given prior to trial in the presence of a court reporter who types up a transcript. This testimony may be read to the jury at the trial. Attorneys for both sides are present when a deposition is taken. It also may be used to deny or contradict a witness' testimony or for the purpose of refreshing a witness' recollection.

EVIDENCE

Testimony or exhibits offered in a judicial proceeding for the purpose of establishing the truth or falsity of an alleged matter of fact.

EXAMINATION

DIRECT EXAMINATION

Questions which the attorneys ask their own clients or witnesses.

CROSS-EXAMINATION

Questions which a lawyer asks the opposing party or witness to test whether the person is telling the truth.

REDIRECT EXAMINATION

Follows cross-examination and is exercised by the party who first examined the witness.

EXHIBITS

Objects, pictures, books, letters and documents which are admitted in evidence.

FINAL ARGUMENT, SUMMATION

After all the evidence is presented by the parties, the attorneys tell the jury what they think the evidence proves and why they think their side should win. This is an "argument" or "summing up." It is not evidence.

GUARDIAN AD LITEM

A person appointed by a court to look after the interests of a minor whose property is involved in litigation.

INDICTMENT

The document informing the defendant that he or she has been charged with a crime.

INSTRUCTIONS

During the trial the judge "instructs" the jury as to its duty and responsibility. After all the evidence is in and the attorneys have made their final arguments, the judge outlines the rules of law which must guide the deliberations and control the verdict of the jury. A judge may, and sometimes must, instruct the jury on some point of law while the trial is in progress.

INTERROGATORIES

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

ISSUE

A disputed question of fact which must be decided.

JURY PANEL

All prospective jurors from which the trial jury is chosen.

OBJECTION

OBJECTION OVERRULED OR SUSTAINED

The judge's ruling that a lawyer's objection is not well taken under the rules for conducting the trial.

(continued)

The judge's ruling, so far as the jury is concerned, is final and may not be questioned.

OBJECTION SUSTAINED OR SUSTAINED

The judge's ruling that a lawyer's objection is well taken under the rules for conducting the trial. The judge's ruling, so far as the jury is concerned, is final and may not be questioned.

OPENING STATEMENT

Before introducing any evidence in the case, a lawyer tells the jury what the case is about and what evidence is expected to be brought in to prove that side of the case. It is not evidence.

PARTIES

The plaintiff and defendant in the case—also called the “litigants.”

PLAINTIFF

The party who institutes a legal action.

PLEADINGS

All the documents filed by the parties before the trial to establish what issues must be decided by the jury.

RECORD

The official word-for-word copy of the court proceedings, taken in shorthand, stenotype, or audio-transcription by an official court reporter. Often the judge or the lawyers state that something is—or is not—“the record” or “in the record.”

REST

A party “rests” when that party has presented all of its evidence.

SEPARATION OF WITNESSES

An order of the court requiring all witnesses to remain outside the courtroom until each is called to testify, except the plaintiff or defendant.

STIPULATION

An agreement by attorneys on opposite sides of a case as to any matter pertaining to the proceedings or trial. It is not binding unless assented (agreed to freely) to by the parties. Most stipulations must be in writing.

SUBPOENA

A process to cause a witness to appear and give testimony before a court or magistrate.

TESTIMONY

Evidence given by a competent witness, under oath; as distinguished from evidence derived from writings and other sources.

VOIR DIRE

“To speak the truth.” The phrase denotes the preliminary examination which the court may make of one presented as a witness or juror, as to his qualifications.

WITNESS

One who testifies under oath to what he or she saw, heard, or otherwise observed. The judge exercises control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment. Evidence Rule 611(A)



LEGAL TERMINOLOGY

A CITIZENS GUIDE

