

Glossary of Legal Terms



*Provided by
The Circuit Court
Fourth Judicial Circuit
State of Illinois*

Dear Citizen,

Hopefully, this glossary of legal terms will serve to simplify the workings of the court system.

This glossary is not meant to be all inclusive, but is an attempt to define in understandable terms, some of the more common legal terminology.

Respectfully,

THE CIRCUIT AND ASSOCIATE JUDGES
OF THE FOURTH JUDICIAL CIRCUIT

A

Acquit- to find a defendant not guilty in a criminal trial.

Administrator – A personal representative for the estate of a person who died without a valid will. The administrator is appointed by the court to handle the duties of managing the deceased person's estate. If a will fails to name an executor, or the named executor is unable to serve, an administrator ("with will annexed") may then be appointed for the estate of a person who died with a valid will.

Affidavit – a written statement of fact, signed and sworn to before a person having authority to administer an oath.

Affirm – the declaration of an Appellate Court that the judgment of a lower court is correct and should stand.

Allegation – the assertion, declaration, or statement of a party to a cause made to the court in a pleading, stating what that party expects to prove.

Answer – a written statement by the defendant in a case, wherein the plaintiffs' claims are admitted or denied.

Appeal – process by which a case is brought from one court to a higher court for review.

Appearance – the formal proceeding by which a defendant submits to the jurisdiction of the court.

Appellate Court – a court that reviews matters brought before it on appeal from lower courts, and having the authority to affirm or reverse lower court decisions.

Arraignment – in criminal cases, a court hearing where the defendant is advised of the charges and is asked to plead guilty or not guilty.

Associate Judge – elected on a merit basis by the Circuit Judges for a four-year term. They may hear all cases except felonies, unless certified by the Illinois Supreme Court. All judges must be licensed attorneys and are considered official of this state. In the Fourth Circuit, all Associate Judges are authorized to hear felony cases.

B

Bail – an amount of money determined by the judge and posted with the court as security to ensure the defendant's appearance in court at a specific time.

Bond – 1) A written and sealed obligation, esp. one requiring payment of a stipulated amount of money on or before a given day. 2) A sum of money paid as bail or surety. 3) Bond can refer to the posting of bail in order to secure the appearance of a defendant in criminal proceedings. In probate proceedings, a bond is generally required of the personal representative of an estate, in order to secure the faithful performance of his or her duties. If the requirements of bond are not fulfilled, the bond can be forfeited.

Burden of Proof – obligation of a party to prove facts at issue in the trial of a case. In criminal cases, the state has the burden of proof.

C

Cause – a suit, litigation or action, civil or criminal.

Challenge for Cause – excusing a juror from a trial for a stated, specific reason, such as the juror knows the parties or witnesses in a case. Each side has an unlimited number of challenges for cause.

Chambers – a judge's private office.

Charge – formal accusation against an individual suspected of having committed a criminal offense. It is not evidence.

Chief Judge – Presiding or Administrative Judge of the Circuit Court.

Circuit Clerk – this elected official is responsible for maintaining the court records, issuing summonses and subpoenas, collecting fines, and carrying out other business activities which support the Circuit Court.

Circuit Judge – a member of the judiciary who is elected to a six-year term of office. He or she must be a licensed attorney. Every six years Circuit Judges must run for retention on a circuit-wide basis. They may hear all types of cases with statewide jurisdiction.

Civil Case – when one person, group of persons, or corporation sues another for personal injury, damages to property, or failure to complete a contract.

Common Law – the system of laws originally developed in England, which are based upon court decisions and customs and usage, rather than on a body of written laws or statutes.

Complaint – (Civil) – initial document filed by the plaintiff in a civil case stating the claims against the defendant.

Complaint (Criminal) – the formal accusation charging that a person has committed an offense. It is not evidence.

Continuance – adjournment of the proceedings in a case from one day or term to another.

Counterclaim – claim presented by a defendant against the plaintiff following the claim of the plaintiff.

Court Administrator – the manager of the administrative, non-judicial affairs of a court, such as budgets, personnel, and court schedules.

Court Officer – a deputy of the County Sheriff assigned to a courtroom to preserve order as well as provide security for those in attendance.

Court Reporter – the reporter records and transcribes a verbatim record, that is, a word by word record of all testimony and all other statements made during court proceedings.

Courtroom Clerk – a member of the Circuit Clerks staff who keeps the files for the court and maintains the judge's trial and motion schedules.

Criminal Case – this is an action brought in the name of the State of Illinois, contending that a crime has been committed.

Cross-Examination – questioning of a witness during a trial, or during the taking of a deposition, by the party opposed to the one who produced the witness.

D

Damages – compensation recovered in the courts by a person who has suffered loss, detriment, and/or injury to his person, property, or rights through the unlawful act or negligence of another.

De Novo – (Latin for "Anew.") A trial de novo is a completely new trial held as if the original trial had never taken place.

Defendant – in a criminal case this is the person charged with committing a crime. In a civil case it is the person(s) or corporation from which the plaintiff wants to collect damages.

Deposition – testimony taken under oath and recorded in an authorized place outside the courtroom.

Direct Examination – questioning of a witness in a trial, or at the taking of a deposition, by the party for whom the witness is testifying.

Disabled Adult – A person who has been found by the court to be unable to fully manage his or her own person or estate. A finding of disability can be based on mental deterioration, physical incapacity, mental illness, and excessive use of intoxicants or drugs, among other conditions. From the time a petition for a finding of disability is filed, until such a finding is actually made, this person is referred to as an “alleged disabled adult”.

Discovery – the pretrial proceedings where a party to an action may be informed about (or “discover”) the facts known by other parties or witnesses.

Due Process – the constitutional guarantee that an accused person receives a fair and impartial trial.

E

Estate - The personal property, accounts, real estate and other assets owned by a person individually at the time of death or upon being declared disabled.

Evidence – any form of proof presented by a party for the purpose of supporting its arguments before the court.

Executor – A personal representative for the estate of a person who died with a valid will. The executor is generally nominated by the deceased person in their will and then appointed by the court upon petition following death.

Exhibit – the paper, document or other physical object received by the court as evidence during a trial.

F

Felony – Illinois classifies crimes based on the seriousness of the crime. A felony is a crime that is considered to be of a more serious nature than a misdemeanor. In Illinois, a felony is a crime that is generally punishable by at least a year in a state prison, as opposed to a misdemeanor being generally punishable by up to a year in the county jail.

G

Grand Jury – a group of citizens sworn to inquire into crime and bring accusations (indictments) against suspected criminals.

Guardian – A personal representative for a living person, or for his or her estate, who has been declared by the court to be disabled and unable to fully manage his or her own person or estate.

Guardian ad Litem – A person appointed by the court to represent the interests of a minor child or a disabled person during court proceedings. The guardian ad litem is often, but not always, a licensed attorney.

H

Habeas Corpus – (Latin for “You have the body.”) A writ of habeas corpus requires a person to be brought before a judge. It is usually used to direct an official to produce a prisoner so that the court may determine if such a person has been denied his liberty without due process.

Hearsay – evidence based on what a witness has heard someone else say rather than what the witness has personally experienced.

Hung Jury – a jury that cannot agree on a verdict.

I

Impeachment of Witness – an attack on the credibility of a witness.

Inadmissible – that which, under the established rules of evidence, cannot be admitted or received in court.

Indictment – written accusation of a grand jury, charging that a person or business committed a crime.

Indigent – meeting certain standards of poverty, qualifying a criminal defendant to a public defender.

Information – an accusation of some criminal offense, in the nature of an indictment, which is presented by a State’s Attorney instead of a Grand Jury.

J

Judgment – a final determination by a court of the rights of the parties in an action.

K

L

Liable – legally obligated to answer, as for one's actions, to an authority that may impose a penalty for failure; responsible to do something.

M

Mandamus – (Latin for “we enjoy”) a writ issued by a superior court commanding the performance of a specified official act or duty.

Misdemeanor – Illinois classifies crimes based on the seriousness of the crime. A misdemeanor is a crime that is considered to be of a less serious nature than a felony. In Illinois, a misdemeanor is a crime that is generally punishable by up to a year in the county jail, as opposed to a felony being generally punishable by at least a year in a state prison.

Mitigating Circumstances – those which do not constitute a justification or excuse for an offense but which may be considered as reasons for reducing the penalties imposed.

Mistrial – erroneous or invalid trial. Usually declared because of prejudicial error in the proceedings. A hung jury, or when the proceedings must be interrupted.

Motions – oral or written requests made by a party to an action and brought before a judge prior to, during, or after a trial.

N

Negligence – absence of ordinary care.

O

Oath – A statement by a person, generally under penalties of perjury, that they agree to tell the truth or that they agree to faithfully perform a designated act. In probate proceedings, an Oath is taken by the personal representative of an estate that he or she will faithfully fulfill the duties of being personal representative. Violation of this oath can result in being held accountable or punished for any resulting loss.

Objection – statement by an attorney in opposition to testimony, or the attempted admission of evidence, and opposing its consideration as evidence.

Overruled – 1) The court's denial of any motion or objection. 2) To overturn or void a decision in a prior case.

P

Parties – persons, corporations, or associations who have brought a lawsuit or who are defendants.

Peremptory Challenge – the right to excuse a juror without specifying a reason. Each side has a limited number of peremptory challenges, after which the attorney is required to furnish a reason.

Perjury – criminal offense of making false statements under oath.

Personal Representative – The person appointed by the court to handle the day to day duties of managing a person's estate. This term includes an executor, an administrator and a guardian.

Petit Jury – a group of citizens sworn to hear testimony and determine facts in a trial.

Petitioner – One who presents (files) a petition to a court against a respondent. Similar to a plaintiff in a criminal or civil case.

Plaintiff – in a civil case, the person(s) or corporation asserting a claim for damages allegedly sustained as result of the conduct of the defendant.

Plea – statement made by the defendant as to his/her guilt or innocence to the charge made against him or her.

Plea Bargaining – process by which the accused and the prosecutor negotiate a mutually satisfactory disposition of the case. Such bargains are not binding on the court.

Pleadings – formal written allegations by the parties of their respective claims and defenses for the judgment of the court.

Preponderance of Evidence – a standard of judging evidence by which the judge or the jury determines whether an issue of fact is more probable than not probable.

Probable Cause – reasonable cause; having more evidence for than against; a reasonable belief that a crime has or is being committed is the basis for all-lawful searches and arrests.

Probate – A court proceeding to declare a will valid or invalid or to otherwise settle the estate of a person who has died, whether or not he or she had a will. Probate can also refer to the court proceeding for declaring a person disabled.

Probation – set of conditions and regulations under which a person found guilty of a criminal offense is allowed to remain in the community, generally under the supervision of a probation officer and custody of the court.

Pro Se- (short form of “in propria persona” which is Latin for “in one’s own proper person”). To act as one’s own attorney in a civil or criminal matter.

Q

Quid Pro Quo – (Latin for “What? For What?”) An equal exchange or substitution.

R

Redirect examination – follows cross-examination and is exercised by the party who first examined the witness.

Remand – a disposition by an appellate court, which sends a case back to the trial court for further proceedings.

Respondent – One who answers in various legal proceedings. Similar to a defendant in a criminal or civil case.

S

Statute – the law as enacted by the legislature.

Statute of Limitations – law that specifies the time within which judicial action must be taken.

Stipulation – voluntary agreement by the attorneys and parties on opposite sides of a case regarding any matter in the trial proceedings, so as to eliminate the need for proof of the matter.

Subpoena – a document issued by the court to compel a witness to appear and give testimony or to procure documentary evidence in a proceeding.

Sustain – when the Court allows an objection to testimony or evidence.

Surety – A person who agrees to be held responsible for the debts or obligations of another person, if that other person cannot be held responsible. In probate proceedings, two sureties are generally required on the bond of a personal representative unless excused by the terms of a valid will.

T

Testimony – the sworn evidence presented by witnesses.

Transcript – the official record of proceedings in a trial, prepared by the court reporter.

U

V

Venire – the entire panel of citizens called for Jury service from which a jury will be picked for a particular case.

Venue – a specific geographical area in which a court with jurisdiction may hear a case.

Verdict – formal decision made by a jury, read before the court, and accepted by the judge.

Voir Dire – (French for “to speak the truth”) The process by which citizens are questioned before being selected to hear evidence as jurors.

W

Ward – A person for whom a guardian has been appointed. A ward can be a minor or a disabled adult.

X

Y

Z

Participants in the trial

Judge – The role of the judge is to insure a fair and orderly trial. He or she sets the trial schedule, rules on questions of law raised by the attorneys, and at the close of the trial, instructs the jury on the law as it applies to that case. Neither by the instructions of law nor by any ruling or remark does the judge mean to indicate any opinion as to the facts or what the verdict should be.

Attorneys – Lawyers are employed by the parties to a case, or appointed by the Court, to advise their clients on the law and all aspects of the trial.

Parties – These are the two, or more, sides to each case. The party beginning the case in a civil action is the plaintiff and in a criminal cases the prosecution. In both types of cases the opponent, against whom the case is brought, is called the defendant. There can be more than one defendant in a case.

Witnesses – These are the experts or other people who have knowledge of the matters being discussed and are called by each side and questioned by the attorneys in order to bring out the evidence.

Jurors – Jurors listen to all the evidence and arguments presented in order to reach a verdict. They are, in effect, the judges of all the disputed issues of fact.

Court Reporter – The court reporter makes a word-for-word record of the proceedings in a trial. If a question should arise as to what was said, or if the case is appealed, a verbatim record, called the transcript, is available.

There are other people present in the courtroom who provide essential services, but are not active participants

Circuit Clerk – This elected official is responsible for maintaining the court records, issuing summons and subpoenas, the collection of the fines and other business activities. The courtroom clerk who is appointed as the representative of the Circuit Clerk normally administers the oath to jurors and witnesses and keeps the record of each trial.

Sheriff – As an elected official, the Sheriff is the County's chief law enforcement officer. The Sheriff serves the summonses and is responsible for providing court security.

Court Administrator – This appointed official and their staff help the Court by performing non-judicial administrative tasks.