

Superior Court

Glossary of Legal Terms

A

Abstract: A summarized record of the actions taken by a court or other governmental agency.

Abstract of Judgment: A summary of the final decision of a court.

Acquittal: A judgment of a court based on the verdict of a jury or the finding of a judicial officer, that the defendant is not guilty of all offenses in the case.

Active Status: A pending case that is within a court's control for purposes of disposition.

Ad Hoc Vice: An attorney not licensed in California who is allowed to practice only for a single case.

Ad Litem: From the Latin: "For the suit"; for the purpose of the suit.

Adjournment: The act of briefly recessing a court session until another time generally the next court day, or another place.

Administrative Start of Case: For purposes of calculating case processing time, in cases where not actual first appearance before a judicial officer occurs, the case starts at the time the court begins processing the case administratively, including, but not limited to, issuance of notices by mail, first telephone contact in matters resolved by telephone, and appearance by defendant or attorney at clerk's counter.

Admission: The voluntary acknowledgement that certain facts do exist or are true, which are, of themselves, insufficient to be considered confessions of guilt.

Admonish: To advise or clarify; to warn or dictate.

Admonition to Jury: Generally, a statement given by a judge to a panel of jurors advising them of their duty and expected conduct as jurors, the admissibility or nonadmissibility of evidence, and the purpose(s) for which admitted evidence might be considered.

Adoption: The judicial act creating the legal parental relationship when no genetic linkage exists.

Affidavit: The written statement of facts, sworn to under penalty of perjury.

Affirm: To make a solemn declaration; an oath used when, for primarily religious purposes, a person does not want to swear to the truth of something.

Alimony: Spousal financial support ordered by the court.

Allegation: A statement or assertion made without proof.

Amicus Curiae: From the Latin: "Friend of the court"; a person invited to advise a court on a matter of law in a case to which he or she is not a party.

Answer: A written pleading filed by the responding party in a civil case addressing the facts alleged in the complaint.

Appeal: A request to a higher court for review of a lower court ruling. Generally, limited jurisdictional court matters are appealed to a Superior Court. Superior Court matters are appealed to the Courts of Appeal, and Court of Appeals matters are appealed to the State Supreme Court or a Federal Court.

Appellate Court: A court with the primary function of which is to review judgments of trial courts and Administrative agencies (or in the case of the Supreme Court, to review decisions of Appellate Courts).

Arbitration (Contractual): For statistical reporting purposes, the assignment of a civil case to an impartial person, as required by a contract between the parties, for an abbreviated trial-like proceeding that results in a binding decision. Assignment of a case to contractual arbitration removes the case from the court's control.

Arbitration (Judicial): For statistical reporting purposes, the assignment of a civil case to an impartial person appointed by the court for an abbreviated trial-like proceeding. Assignment of a case to judicial arbitration does not remove the case from the court's control. Judicial arbitration starts on the date on which the Notice of arbitration is mailed and ends on the date the arbitrator's award is filed with court or the arbitrator is removed from the case.

Arraign: To bring the accused to a court for the purpose of entering a plea to the charges(s) against him or her.

Arraignment: The first hearing after an arrest in which the accused is given a copy of the complaint, informed of the charges filed, and advised of his or her constitutional rights.

Arrest: The taking of an adult or minor into physical custody or issuance of a citation by authority of law, for the purpose of charging the person with a criminal offense.

Assault: A threat or attempt to do bodily harm that falls short of actual battery; may or may not include physical violence.

Assigned Judge: A judge who provides assistance by performing judicial duties for a court, other than one in which the judge ordinarily serves, as directed by the chairperson of the Judicial Council of California.

At-issuance Memorandum: A document filed by one or more parties in a Superior Court case indicating the case's readiness to be set for trial.

Attachment: The procedure by which a person or a person's property is restrained by court order to secure payment on a judgment.

Attorney of Record: An attorney whose name is in the permanent case record as representing a party in an action.

B

Backlog: The total inventory of cases that have not reached disposition within mandated time frames.

Bail Bond: The document executed to secure the release of a person from custody.

Bail Exoneration: The refund of a bail deposit to the depositor or release of liability to a surety company.

Bail Forfeiture: The retention by court order of a bail deposit for failure to appear in court at an appointed time.

Bail Schedule: A listing of the recommended amount of bail for specific charges. For misdemeanors and infractions, the bail generally refers to traffic fines that are standardized statewide. In criminal cases, the bail generally refers to the amount set at the discretion of the court to secure release from custody.

Bankruptcy: A federal court proceeding started by a person who cannot pay his or her debts and whose remaining property is administered for his or her creditors or distributed among them.

Beginning Pending (cases): For statistical reporting purposes, cases awaiting disposition at the beginning of the current reporting month.

Bench: The total number of judges composing the court collectively.

Bona Fide: From the Latin: "for/in or with good faith."

Bond: An instrument that binds or obligates a person to pay a specified amount of money to another person.

Book (Booking): A process done by law enforcement personnel at the time of arrest that involves fingerprinting and photographing the suspect and collecting personal data.

Brie: A written argument submitted to the court by counsel setting forth facts and /or law supporting his or her client's case.

Burden of Proof: The duty of a party to produce the greater amount of evidence on a point at issue in a case.

C

Calendar: A categorized list of cases to be heard in a court at specific dates and times; to assign a date, time, and court to a case. Calendars are publicly posted in court lobbies.

California Rules of Court: The legal rules that regulate the practices and procedures in state court.

CALJIC: California Jury Instructions for Criminal matters.

Caption: The heading on all pleadings submitted to the court. It states information such as the case name, court, and case number.

Case File: The folder that contains the official court documents for a specific case.

Case Flow Management: The process of effectively managing cases from initial filing through final disposition.

Case ID: A unique identification number assigned to a case.

Case Type: The five major case classifications: felony, misdemeanor, general civil, small claims, and unlawful detainee.

Caseload: The number of cases a judge handles in a specific time period.

Cause of Action: The charges or counts that make the basis for a case.

Caveat Emptor: From the Latin: "Let the Buyer beware."

Certification: A written order by a judge that transfers the jurisdiction of a case to another court.

Certification of Guilty Plea to Superior Court: Referring a case to Superior Court for sentencing after a felony guilty plea.

Certified Copy: An official copy of a particular document from a case file that is notated as a true, complete, and authentic representation of the original document.

Challenge: The right of a party to object to or dispute something.

Challenge for Cause: Reasons given by an attorney to support a request that a potential juror or judge be removed from service on a particular case.

Change of Venue: The transfer of a civil or criminal case from one judicial district to another.

Charge: In criminal law, the formal statement of each accusation against a defendant.

Chattel: An article of personal property.

Citation: An official order from the court notifying a defendant/respondent of the charges being made, and commanding the defendant to appear in court and /or post bail.

Cited: A condition in which a defendant is not in custody but has signed a citation agreeing to appear in court on a specified day.

Citing Authority or Agency: A law enforcement agency, such as the Sheriff, City Police or the California Highway Patrol that has the power to arrest persons for violations of the law.

Civil Case: A broad classification category that includes cases requesting the enforcement or protection of a right, or the redress or prevention of a wrong.

Clerk of Court: An officer appointed by the judges of the court to assist in managing the flow of cases through the court, maintain court records, handle financial matters, and provide other administrative support.

Code of Law: A publication that contains the laws regarding general legal topics: e.g., the Code of Civil Procedure, the Civil Code, the Vehicle Code, the Penal Code, the Health and Safety Code.

Codicil: A supplement or amendment to a Will.

Commitment Order: A court order directing that a person be kept in custody, usually in a penal or mental institution.

Competence Order: An order from a Superior Court finding a defendant mentally competent to stand trial and directing that criminal case processing proceed.

Complaint or First Paper, Civil: For statistical reporting purposes, the first written document filed with the court on behalf of the plaintiff.

Complaint, Criminal: A formal written document filed in court by a prosecutor, law enforcement officer, or other person, alleging that a specified person has committed a specific offense.

Concurrent Sentences: Sentences served at the same time: e.g., concurrent sentences of 10 years and 5 years equal a total of 10 years served.

Confidential Record: Refers to an official record statutorily defined as unavailable for public review. Generally, such records may include adoption, juvenile, mental health conservatorship, and some family law records, and adult criminal probation reports.

Conform Copies: To receive or endorse file copies of an original document.

Consecutive Sentences: Two or more sentences served continuously, one right after another: e.g., consecutive sentences of 10 years and 5 years equal a total of 15 years served.

Conservatee: A person who is unable to care for him or herself and who has a court appointed caretaker.

Conservator: A person appointed by the court to take care of a conservatee and/or property of one who is unable to care for himself.

Consolidation of Actions: The grouping of multiple cases involving the same parties.

Constitution: The fundamental law of our nation that establishes the conception, character, and organization of its sovereign power and the manner of its exercise. Also, the document that contains the guiding rules and principles, the descriptions of the power of the government, and the essential rights of the people of a country or state or other governing collective.

Contempt: An act or omission that obstructs the orderly administration of justice or impairs the dignity, respect, or authority of the court. May be demonstrated in behavior that shows intentional disregard or disobedience of a court order, either of which may be punishable by fine or imprisonment.

Contempt of Court: An act or omission that obstructs the orderly administration of justice or impairs the dignity, respect, or authority of the court.

Contested: A kind of case in which evidence is introduced by both parties.

Contract: An agreement between two or more persons that creates, changes, or eliminates a legal relationship.

Convey: To transfer title to property; to make known or communicate.

Conviction: A determination of guilt based on a plea, a jury verdict or a finding by a judicial officer against a criminal defendant.

Costs: An award of money for expenses in a civil suit.

Counsel: A person qualified to represent clients in a court of law and to advise them in legal matters.

Count: Each distinct statement of cause of action.

Counterclaim: An independent cause of action by one party (either a plaintiff or a defendant) that opposes or offsets a previous claim made by the other party.

Court of Appeals: The intermediate appellate court that reviews decisions of the Superior Courts and exercises limited original jurisdiction.

Court Executive Officer: A person holding executive power in a Court.

Court Reporter: A certified stenographer who transcribes a verbatim record of certain court proceedings and who must provide a written record upon demand.

Court Stamp: An embossed seal press or stamp that prints or embosses a seal on court documents that will reproduce legibly in photocopies and may include the name of the judicial district or state upon it.

Court Trial: A trial in which there is no jury and in which a judicial officer determines both the issues of fact and the law in the case.

Courtesy Notice: A computer-generated notice, generally sent for traffic violations, to advise a defendant of a court appearance, date, bail information, etc.

Cross-Examination: The examination of a witness who represents the other side of a controversy at a trial, hearing, or deposition.

Custody List: A list of the names of people in custody in various detention facilities who have to be transported by the sheriff for a court appearance on a specific day; may also be called "transportation list."

Custody: To put under the restraint and physical control of the court to insure appearance in court or to imprison an accused after a criminal conviction.

D

Damages: An award of money paid by the losing party to the winning party to compensate for losses or injuries incurred. Can be compensatory, i.e., money paid as compensation for the actual cost of an injury or loss; or punitive/exemplary, i.e., an amount of money greater than the actual damages suffered that serves as punishment for willful or malicious acts by a defendant.

De Novo: Trying a matter again as if it had not been heard before; from the Latin for "about the new."

Decedent: In criminal law, refers to the victim of a homicide; in probate matters, refers to a deceased person.

Decision: A judgment or decree that settles a legal issue.

Declaration: A formal document, not necessarily made under oath, setting forth that facts that support a party's legal allegations.

Decree: A court decision that can be either (1) interlocutory, i.e., a preliminary finding before final disposition, or (2) final, i.e., a final judgment in which all issues of a case are settled.

Defamation: The offense of injuring a person's character, fame, or reputation by false and malicious unprotected statements.

Default Judgment: Disposition entered when a person fails to appear in or respond to plaintiff's action.

Default: The failure to appear, to defend, or to follow proper procedure in a lawsuit.

Deliberate: To consider all the evidence and arguments presented in regard to a particular matter.

Deliberations: This is when a jury goes into the jury room to think about and discuss evidence and testimony to reach a verdict in a civil or criminal case.

Delinquent: A minor, i.e., a person under the age of 18 years, who has committed an offense and whose custody is controlled by the court.

Demurrer: The motion to dismiss a lawsuit on the grounds that, although the opposition statements may be true, they are insufficient to prove legal responsibility or obligation.

Deposition: Testimony, either written or oral, given under oath before an authorized third party. A deposition is given outside of court for the purpose of preserving testimony, or obtaining testimony from a witness living at a distance, and to aid in the preparation of pleadings.

Detention: Temporary custody of an adult or juvenile while the court forms a final decision.

Determination: A judgment or decision by a court ending a lawsuit or controversy.

Dictum: A cited case that is relative but not necessary to the case determination.

Direct Examination: Questioning of a witness by the party on whose behalf the witness was called to testify.

Discovery: The gathering of information (facts, documents, or testimony) before a case goes to trial. Discovery may take the form of depositions, interrogatories, or requests for admissions, or it can take place more informally through independent investigation or conversations with opposing counsel.

Dismissal: The disposition that occurs when a court orders discharge without further court hearing. "With Prejudice" bars the right to ever bring a lawsuit on the same claim or cause. "Without Prejudice" disposes of the particular lawsuit before the court but permits a new lawsuit to be brought based on the same claim or cause.

Disqualification: Refers to the disqualification (usually voluntary) of a judge from hearing a case, generally based on any interest that may impair the ability of the judge to decide the case in a fair and impartial manner.

Dissolution: The act of terminating a marriage; divorce.

Diversion: The procedure of postponing prosecution of a criminal offense, either temporarily or permanently, at any time in the judicial process from the time of initial charge until adjudication.

Docket: The permanent, cumulative record of all proceedings of a case as required by law; a list of cases on a court's calendar.

Due Process: Administration of the law that constitutionally guarantees every person the protection of a day in court, representation by an attorney, and court procedures that are speedy, fair and impartial.

E

Eminent Domain: The right of the state to take private property for public use and provide fair compensation to the owner.

En Banc: From the French: "In a group"; generally refers to decision by the full court.

En Banc: "On the bench" or "as a full bench." Refers to court sessions where the entire membership of a court participates rather than the usual number. U.S. circuit courts of appeals, for example, usually sit in panels of three judges, but all the judges in the court may decide certain matters together. They are then said to be sitting "en banc" (occasionally spelled "in banc").

Endorse: To sign one's signature on the back of a document to authorize its content or transfer.

Enjoin: To command either to do or not to do a specific act.

Equitable: (1) Describes civil suits in "equity" rather than in "law." In English legal history, courts of "law" could order only the payment of damages. A separate court of "equity" could order someone to do something or to stop doing something. In American jurisprudence, the federal courts have both legal and equitable power, but the distinction is still important. For example, a trial by jury is normally available in "law" cases but not in "equity" cases. (2) To deal fairly and equally with all concerned. This implies not only a fair or just determination on legal grounds, but also a judgment guided by common-sense notions of fairness and justice.

Estoppel: An act or statement that precludes a person from later making claims to the contrary.

Et Al: From the Latin: "And others"

Evidence: Any type of proof that is legally presented at trial through witnesses, records, and/or exhibits.

Ex Parte: From the Latin: "From one side only"; judicial proceeding performed for one party only.

Execute: To complete all the terms of a contract or will; to sign a document; to kill a person by the authority of the state.

Exhibit: A document or material object produced and identified in court for the purpose of introducing it as evidence in a case. Each of these documents or objects is ordinarily given an identifying letter or number in alphabetical or numerical sequence before it is offered as evidence.

Exonerate Bail: Money or property returned to the defendant or the bondsman by the court.

Exonerate: To clear from blame or to relieve of responsibility.

Expunge: To strike out or erase.

Extradition: The formal process of delivering a person apprehended in one state to the authorities of the state in which that person has been accused or convicted of a crime.

F

Family Law: Matters related to dissolution of marriage, legal separation of the parties, nullity of marriage, child custody and support matters, and domestic violence petitions.

Family Law Court: A type of court that hears matters related to dissolution of marriage, legal separation of spouses, nullification of marriage, child custody and support matters, and domestic violence petitions.

Fiduciary: A person who acts as a trustee or primarily for another person's benefit. As an adjective rather than a noun, fiduciary means something based on a trust or confidence.

Filing: For statistical reporting purposes, the beginning of a court case by formal receipt by the court of a document alleging the facts and requesting relief.

Filing Date: For statistical reporting purposes, the date on which the time standards commence. In criminal cases, it is the date of first appearance; for civil cases, it is the date on which the complaint or first paper was filed with the court.

Filing Fees: Amount of money paid to the court to start a civil case.

Finding: A determination of fact by a judicial officer or jury.

Fine: A sum of money a person must pay as punishment because of an illegal act or omission.

First Appearance: The first hearing before a court having jurisdiction at that stage in a criminal case in which the defendant or his or her attorney appears before a judicial officer.

Forfeiture: The loss of money or property resulting from failure to meet a legal obligation.

Fraud: An intentional deception that financially injures another person(s) in any way.

G

Garnishment: A notice warning a defendant that a third party has been instructed to apply the defendant's property or money to a debt owed to the plaintiff.

Good Cause: A good reason for not attending a court hearing.

Guarantor: One who promises to be responsible for the debt or default of another.

Guardian Ad Litem: A court-appointed adult who represents a minor

Guilty: Found "beyond a reasonable doubt" to have committed a crime.

Guilty Plea: A formal admission to an offense charged in a criminal complaint, information, or indictment.

H

Habeas Corpus Writ: The name of a document used to bring a person before a court or judge for determination as to whether that person is being unlawfully denied his or her freedom; from the Latin for "You have the body."

Hearing: A formal court proceeding with all parties in a case present, but without a jury.

Hearsay: Testimony intended to be proof of the truth of a statement, arising not from personal knowledge or experience of the witness but from repetition of what the witness has heard others say; such testimony is generally not admitted into evidence.

Held To Answer: A finding at a preliminary examination that sufficient evidence exists on the charges made against the defendant to require a trial in Superior Court.

Holding Cell: A cell within a courthouse where prisoners are held in custody before and after their court appearance.

Homicide: The killing of one human being by the act, procurement, or omission of another (not necessarily a crime; see following). Can be (1) excusable, i.e., resulting from a lawful act when no hurt is intended or from an act of self-defense; (2) felonious, i.e., resulting from any wrongful act without any excuse or justification in law; or (3) justifiable, i.e., resulting from an intentional but lawful act such as the execution of a death sentence by an agent of the law (can also apply to self-defense).

I

Immunity: Any exemption from a duty, liability, or service of process.

Impeachment: (1) The process of calling a witness's testimony into question. For example, if the attorney can show that the witness may have fabricated portions of his or her testimony, the witness is said to be "impeached"; (2) the constitutional process whereby the House of Representatives may "impeach" (accuse of misconduct) high officers of the federal government, who are then tried by the Senate.

Impound: To seize and hold in the custody of the law; generally used in reference to objects (as automobiles) or animals rather than people.

In Camera: From the Latin: "In chamber"; a hearing held in judge's chambers or in a court with all spectators excluded.

In Forma Pauperis: "In the way of a pauper"; the official waiver of court costs incurred due to the insolvency of a filer.

In Propria Persona: A case in which a party represents himself or herself without an attorney; same as "in pro per"; from the Latin for "in one's own proper person."

In Testate: To die without making a will or leaving instructions for disposal of property after death.

Incarcerate: To confine to a jail.

Incriminate: To hold another or oneself responsible for criminal misconduct.

Indemnity: An obligation to provide compensation for a loss, hurt, or damage.

Indictment: A formal accusation by a Grand Jury charging a person with a crime.

Indigent: Generally, this term defines a person who is poor, needy, and has no one to look to for support.

Information: A written accusation presented by a prosecuting officer charging a person in Superior Court with a crime.

Injunction: A court order prohibiting a person from doing or continuing to do a specific act.

Innocent: Found to be not guilty of criminal charges; acquitted.

Inquest: A legal inquiry, before a court of law and other officers legally empowered to hold inquiries, usually to determine the cause and circumstances of a death.

Instructions to Jury: Instructions given by a judge to a jury advising what laws apply to that particular case.

Interpleader: The procedure used when two or more persons claim the same thing from a third party through judicial order or settlement.

Interrogatories: Written questions sent by one party in a lawsuit to an opposing party as part of pretrial discovery in civil cases. The party receiving the interrogatories is required to answer them in writing under oath.

Issue: The matter in dispute between two or more persons.

J

Jeopardy: The danger of conviction and punishment faced by a defendant when an indictment/information is filed and a jury is impaneled in a court of jurisdiction.

Joinder: A coupling or joining together of multiple causes or parties into a single suit.

Judgment: In a civil case, an official determination by the court regarding the rights and obligations of the parties to the case following a court trial, a jury verdict, or other resolution of the case. In a criminal case, a sentence.

Judicial Council: Body of judges, legislators, and attorneys whose responsibility is the administration of the state's judicial system by standardizing court administration, practice, and procedure.

Judicial Officer: A person vested with judicial authority. Judicial officers include judges, senior judges, and temporary judges, as well as subordinates such as court commissioners, referees, magistrates and masters.

Jury: A group of citizens selected according to law and impaneled to determine the issues of fact in a case. Can be: (1) grand, i.e., body of citizens who determine whether probable cause exists that a crime has been committed and whether an indictment should be issued; (2) hung; i.e., a jury that is unable to agree on a verdict after a suitable period of deliberation; (3) petit (or trial), i.e., an ordinary jury for the trial of a criminal or civil action; or (4) special, i.e., a jury ordered by the court, on the motion of either party, in cases of unusual importance or intricacy.

Jury Commissioner: The local official responsible for providing lists of qualified prospective jurors to the court.

Jury Roster: A list of all the potential jurors asked to appear before the court for selection; the list of jurors impaneled for a case.

Jury Trial: A trial in which a group of citizens is impaneled to determine the issues of fact in a case.

K

Keeper: An officer appointed by the court to negotiate custody of money or property legally seized in connection with a pending case.

Keeper Levy: A judgment enforcement procedure in which the levying officer takes over the operation of a judgment debtor's business for a limited duration to obtain cash and credit card receipts for payment to the judgment creditor.

L

Letters of Conservatorship: A court document that states that the conservator is authorized to act on the conservatee's behalf. Also called *Letters*.

Levy: To raise, collect, or seize by legal process.

Libel: False and malicious written, printed, or published material that is defamatory and injures the reputation of an individual.

License Hold: The action taken to prevent a driver's license renewal pending settlement of a legal matter.

Lien: A claim that bars the sale or transfer of specific property until payment of a debt or obligation is made.

Lis Pendens: From the Latin: "a pending suit"; jurisdiction of a court over property until final disposition.

Litigants: The parties involved in a lawsuit.

Litigation: A lawsuit.

M

Magistrate: A judicial officer having the power to issue a warrant for the arrest of a person charged with a public offense. Judicial officers exercising magisterial authority include justices of the Supreme Court and Courts of Appeal, and judges of the Superior Courts.

Malfeasance: Performance of an act that should not have been done at all.

Manslaughter: The unlawful killing of a person without any deliberation. Can be voluntary, i.e., the unlawful taking of human life under circumstances falling short of premeditated intent to kill, or involuntary, i.e., the unintentional taking of human life as a result of performing an unlawful act or negligently performing a lawful act.

Master: A judicial officer who acts with limited legal authority as directed by a court or commission – e.g., special masters assigned by the Supreme Court, on the request of the Commission on Judicial Performance, to hear matters related to the removal of a judge.

Mediation: A non-binding process in which a neutral person facilitates communication between disputants to assist them in reaching a mutually acceptable settlement.

Memorandum to set: Document filed by one or more parties in a court case indicating readiness for trial. This document is referred to as the "at-issue memorandum."

Minor: A person who is under eighteen years of age.

Minute Order: The official permanent record of a court proceeding: e.g., what witnesses appeared, what motions were made, and what findings were reached.

Miranda Warning: Refers to a United States Supreme Court decision requiring that at the time of arrest, and before questioning, a person be advised of certain rights against self-incrimination.

Misdemeanor: A crime, other than a felony or an infraction, punishable by payment of a fine or by imprisonment not to exceed one year in the county jail or both. Misdemeanors are generally categorized as follows:

Group A: Includes non-traffic misdemeanor violations of the Penal Code and other state statutes, but excludes Fish and Game Code violations and intoxication complaints.

Group B: Includes non-traffic misdemeanor violations of local city and county ordinances, Fish and Game Code violations, and intoxication complaints.

Group C: Includes violations of Vehicle Code sections 20002 (hit and run, property damage), 23104 (reckless driving, causing injury) and 23152 (driving under the influence of alcohol or drugs).

Group D: Includes all traffic misdemeanor violations that are not included in the Group C misdemeanor category.

Misfeasance: Improper performance of an act that might have been lawfully done.

Mistrial: A trial that has been terminated and declared void due to prejudicial error in proceedings or other extraordinary circumstances.

Modification: A change or alteration.

Moot: An abstract point or question that is not resolved by a judge because it is not disputed by either party or because it has already been resolved out of court.

Motion: An oral or written request made by a party to the court for a ruling or an order on a particular point. A motion to reduce bail is a request to decrease the amount of bail needed to guarantee that the defendant will appear in court when required. A motion to release on own recognizance is a request to release a defendant without bail, dependent upon agreement to appear when the court so orders. A motion to set is an application made to the judge to set a date for a future trial. A motion to quash is a request to make something void or ineffective, such as to quash a subpoena.

N

Negligence: The failure of a person to use that degree of care in a given situation which by law one is obligated to use in order to protect the rights and property of others.

Nolo Contendere: From the Latin: "I do not wish to contest"; a statement of implied guilt that holds true only for a criminal action and cannot be used as an admission of guilt in a civil suit for the same offense.

Nonfeasance: Failure to perform an act for which one is legally responsible.

Nonservice: Status in which a summons or warrant is issued but not served.

Notary Public: A person authorized under civil law to administer oaths, to attest and certify that certain documents are authentic, and to take depositions.

Notice: A written announcement or warning.

Notice of Conditional Settlement: Written notice to a court that removes a case from the court's control pending occurrence of the terms upon which settlement and dismissal of or judgment in the case are conditioned.

Notice of Non-Compliance with or Completion of Conditional Settlement: Written notice to a court that the terms of a conditional settlement either have not been complied with or have been completed. Filing of this notice acts to restore the case to the court's control.

Nullity: The act of legally invalidating marriage; annulment.

Nunc Pro Tunc: From the Latin: "Now for then "; used when an order is issued on one date but is effective retroactively.

O

Objection: A formal protest made by a party regarding testimony or evidence sought to be introduced by the other side.

Obligation: Law or duty binding parties to follow their agreement. An obligation or debt may be created by a judgment or contract, e.g., child support.

Offense: An act that violates the law.

Opinion: A judge's written explanation of the decision of the court in appellate cases. Because a case may be heard by three or more judges in a Court of Appeal, the opinion in appellate decisions can take several forms. If all the judges completely agree on the result, one judge will write the opinion for all. If all the judges do not agree, the formal decision will be based upon the view of the majority, and one member of the majority will write the opinion. The judge(s) who did not agree with the majority may write separately in dissenting or concurring opinions to present their views. A dissenting opinion disagrees with the majority opinion because of the reasoning and/or the principles of law the majority used to decide the case. A concurring opinion agrees with the decision of the majority opinion, but offers further comment or clarification or even an entirely different reason for reaching the same result. Only the majority opinion can serve as binding precedent in future cases.

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

Order: (1) Decision of a judicial officer; or, (2) a directive of the court, on a matter relating to the main proceedings, that decides a preliminary point or directs some steps in the proceedings. May be used for invalidating a prior conviction, e.g., an order issued following a hearing in which a prior conviction is found invalid because certain legal standards were not met during the time of trial and conviction; setting a fee, e.g., an order directing a defendant to reimburse the county for costs incurred for a court-appointed attorney; to show cause, e.g., an order to appear in court to give reasons why an action cannot, should not have been, or has not been carried out.

Ordinance: A regulation established by a local government to enforce, control, or limit certain activities.

Original Jurisdiction: The authority of a court to hear or act upon a case from its beginning as opposed to hearing it on appeal from another court.

Own Recognizance: A condition under which an individual is released from custody upon his or her promise to answer to a criminal charge and is not required to post bail. An OR report is prepared by the probation department that recommends whether or not the defendant should be released on his or her own recognizance.

P

Panel: (1) In appellate cases, a group of judges (usually three) assigned to decide the case; (2) in the jury selection process, the group of potential jurors; (3) the list of attorneys who are both available and qualified to serve as court-appointed counsel for criminal defendants who cannot afford their own counsel.

Pardon: An act of grace by the chief executive of a state or country that releases a convicted person from punishment imposed by a court sentence.

Parole: A conditional release from imprisonment that entitles the person receiving it to serve the remainder of the sentence outside of the prison as long as all conditions of release are met.

Part-Time Judicial Position: An authority judicial position, such as a court commissioner or referee position, to which the appointee or selected official is not expected to devote all of his or her efforts during normal business hours, but instead may engage in other remunerative activity.

Party: One of the litigants. At the trial level, the parties are typically referred to as the plaintiff or petitioner and the defendant or respondent. On appeal, they are known as the appellant and appellee.

Paternity Suit: A suit initiated to establish the paternity of a child born out of wedlock.

Penalty: Punishment for violating a law.

Pendente Lite: From the Latin: "During the suit"; orders made during the actual progress of the lawsuit prior to final disposition.

Pending: The status of a case that has not yet been disposed of by the court.

Peremptory Challenge: A challenge requiring no stated reason by either the defense attorney or the prosecuting attorney toward a potential juror that usually results in that person's disqualification from jury service.

Perjury: A false statement made willfully and knowingly while under oath in a court proceeding.

Personal Injury: A kind of civil case that includes actions for damages from physical injury to persons and property, and actions for wrongful death.

Petit Jury (or trial jury): A group of citizens who hear the evidence presented by both sides at trial and determine the facts in dispute. Criminal juries consist of 12 persons in federal court; civil juries consist of at least six persons.

Petition: A formal, written request presented to the court requesting specific judicial action.

Petitioner: One who presents a petition to the court.

Plaintiff: A person who brings an action; the party who complains or sues in a civil case.

Plea: In a criminal case, the defendant's statement pleading "guilty" or "not guilty" in answer to the charges.

Plea Bargain: Negotiation between the prosecutor and the accused to exchange a guilty plea for conviction of a lesser charge, subject to approval by the court.

Pleading: (1) Written statement filed with the court that describes a party's legal or factual assertions about the case; (2) a written statement in which one party responds to another's allegations to narrow the dispute to one or more specific points of difference.

Points and Authorities: A written legal argument, which includes references to past cases, statutes, and other statements of law, given to support a request for motion.

Polling of Jury: A practice in which jurors are asked individually whether they concur with the verdict as rendered.

Post: From the Latin: "After, "as in "post-trial"; to bring to the attention of the public.

Power of Attorney: A person (the "principal") authorizes someone else (the "agent" or "attorney in fact") to take care of business for the principal. A power of attorney authorizes the agent to do whatever is necessary to manage the principal's assets. A limited or special power of attorney can be drawn up to be more restrictive, by setting time limits for the agent to serve, limiting the agent to particular actions, or authorizing the agent to manage just particular assets. There are general powers of attorney, limited or special powers of attorney, and durable powers of attorney. A general or limited power of attorney ends when the principal becomes incompetent. A durable power of attorney stays in effect if the principal becomes incapacitated.

Pre: From the Latin: "In front of," as in "pretrial."

Precedent: A decided case that furnishes a basis for determining later cases involving similar facts or issues. Judges will generally "follow precedent," meaning that they use the principles established in earlier cases to decide new cases dealing with similar facts and legal issues. A judge will disregard precedent if a party can show that the earlier case was wrongly decided or that it differed in some significant way from the current case.

Preliminary: Introductory, preparatory, preceding, or leading up to the main matter of business, e.g., a preliminary injunction is one that precedes the issuance of a permanent injunction.

Preliminary Examination/Hearing: A proceeding before a judicial officer in which evidence is presented so that the court can determine whether there is sufficient cause to hold the accused for trial on a felony charge.

Pre-Sentence Report: A report prepared by the probation department for reference by the judge when sentencing an accused person, generally describing the defendant's background; financial, job and family status; community ties; criminal history; and any other pertinent information.

Presiding Judge: In a court with multiple judicial positions, the judge who performs the basic administrative functions of managing the court's business.

Pretrial Conference/Hearing: Any appearance of both parties before the court at any time before trial; usually, a proceeding in which the defense and prosecuting attorneys appear to discuss the possibility of a pretrial disposition.

Pretrial Services: Services provided by a local agency in which an investigation of a criminal defendant's background is conducted so a judge may decide whether to release the defendant into the community before trial.

Prima Facie: From the Latin: "From first view"; not requiring further support to establish existence, credibility, or validity.

(Case) A case sufficient on its face, being supported by the necessary minimum evidence and free from obvious defects.

(Evidence) Evidence sufficient to support a certain conclusion unless contradictory evidence is given.

Prior: A term generally used to refer to a previous conviction.

Privilege: An advantage not enjoyed by all; a special exemption against prosecution or other lawsuits.

Pro Bono: Legal services performed for free; from the Latin meaning "for the good."

Pro Tempore: From the Latin: "For the time being" or "temporarily"; referee/commissioner sitting temporarily and provisionally for a judge; same as pro tem.

Probable Cause: A reasonable basis for assuming that a charge or fact is well founded.

Probation: A procedure by which a defendant found guilty of a crime is released without incarceration, subject to conditions imposed by the court.

Conditional: Probation without supervision.

Formal: Supervision of a defendant by a probation officer.

Probation Report: A report prepared by the probation department for reference by the judge when sentencing an accused person, generally describing the defendant's background; financial, job, and family status; community ties; criminal history; and any other pertinent information.

Procedure: The rules for conducting a lawsuit. There are rules of civil procedure, criminal procedure, evidence, bankruptcy, and appellate procedure.

Proceedings: Generally, the process of conducting judicial business before a court or other judicial officer. A proceeding refers to anyone of the separate steps in that process, e.g., a motion, a hearing.

Process Server: A person employed to deliver a summons, subpoena, or complaint.

Process: A legal document that compels a defendant to answer a civil complaint.

Promissory Note: A written document by which one person promises to pay money to another.

Pronouncement of Judgment: The formal issuance by the judge of a judgment in a case.

Proof of Service: The form filed with the court that proves the date on which documents were formally served on a party in a court action.

Proof: Quantity of evidence that tends to establish the existence of a fact at issue.

Prosecuting Attorney: A public officer whose duty is the prosecution of criminal proceedings on behalf of the citizenry; sometimes referred to as "district attorney".

Proximate Cause: That which in natural and continuous sequence, unbroken by any independent cause, precedes an event without which an injury would not have occurred.

Public Defender: Counsel employed by the public, primarily to defend indigent defendants.

Public Record: A court record available for inspection by the general public.

Purge: To eliminate inactive case records from court files.

Q

Qualified Domestic Relations Order (QDRO): An order, decree, or judgment, including approval of a settlement agreement issued by a court and approved by a pension plan, that provides for division of a pension plan to make an equitable property division or payment of child or spousal support.

Qualified Medical Child Support Order (QMCSO): An order, decree, or judgment, including approval of a settlement agreement, issued by a court that provides for medical support for a child of a participant under a group health plan or provides for health benefit coverage to such child.

Quash: To end, to set aside, or to make void.

Quiet Title: An action in which the ownership of certain land is in dispute and submitted to the court for determination.

R

Rebuttal: Evidence presented at trial by one party intended to overcome evidence introduced by another party.

Recess: A brief adjournment in a trial ordered by the judge.

Record: A written account of the proceedings in a case, including all pleadings, evidence and exhibits submitted in the course of the case.

Record on Appeal: A copy of the pleadings, exhibits, orders, or decrees filed in a case in a trial court as well as a transcript of the testimony taken in the case.

Records Retention and Disposal Schedules: A system or plan covering all records kept by a court, which states what may be disposed of and when.

Record Sealing: A request for an order by the court to "seal" the record of a misdemeanor conviction. In order to be eligible, the offense must have been committed before a defendant's 18th birthday and a release of penalties order must have been previously granted. A sealing order involves closing all conviction, charge, and arrest records or any other records related to the matter in question. Once an order is made to seal the record, the misdemeanor is deemed to never have happened in the eyes of the law.

Referee: A person appointed by the court to hear and make decisions on certain limited legal matters: e.g., juvenile or traffic.

Referral: Generally refers to an alternate disposition program: e.g., Children's Protective Services, Drug/Alcohol Rehabilitation.

Referral Order: A court order which refers a case to another court or outside agency for a factual determination necessary before proceeding with the case, but which does not fit the definition of “transfer.” Examples of such referrals are 1) Referral to a probation department to determine a criminal defendant’s eligibility for participation in a diversion program; 2) Referral of a defendant for psychiatric evaluation by a court-appointed physician.

Register of Actions: The official permanent court record of actions of civil cases, including small claims.

Reinstated Bail: Bail previously forfeited, exonerated, or reduced that is now reestablished in its original amount.

Remand: (1) The act of an appellate court sending a case to a lower court for further proceedings; (2) to return a prisoner to custody.

Remanding Order: An order to the sheriff directing that a defendant be held in custody until his or her next court appearance, pending the posting of bail.

Remittitur of Record: The transfer of the records of a case from a Court of Appeal to the original trial court for further action or other disposition as ordered by the appellate court.

Report and Sentence: The proceeding in a criminal case following conviction in which the judge reviews the probation report and imposes sentence on the defendant.

Request for Admission: A method of discovery in which one party formally and in writing, asks the opposing party to admit the truth of certain facts relevant to a case.

Respondent: The person against whom an appeal is made; the responding party in a dissolution, nullity, adoption, or probate matter.

Restitution: The act of restoring or giving the equivalent value to compensate for an injury, damage, or loss.

Restraining Order: A time-limited court order that directs a person to stop doing something until a formal hearing is held to determine an outcome.

Revocation: The act of voiding or canceling something, usually probation or a driver’s license. (Time Limit) A time frame set by law in which certain actions are required to occur unless waived by the plaintiff.

S

Sanction: (1) To concur, confirm, or ratify. (2) A penalty or punishment to enforce obedience to the law.

Satisfaction: Payment of amount of judgment by the losing party.

Sealed Record: A record closed by a court to further inspection by anyone unless further ordered by the court.

Senior Judge: A special category of retired judge who has elected to participate in the Senior Judge Program and serve full-time on assignment by the Chairperson of the Judicial Council, in return for the equivalent of full pay.

Sentence: The formal pronouncement by a court stating the punishment to be imposed on a person convicted of a criminal offense.

Sequester: To separate from, as in to sequester assets or to sequester witnesses during a trial. To keep secluded.

Service of Process: The act of delivery of an order or summons to the intended person.

Settlement: An agreement reached among the parties that resolve the case at any time before court findings or a jury verdict.

Severance of Actions: To separate multiple criminal actions, defendants, causes of action, or cross –complaints for separate trials.

Show Cause: A court order directing a person to appear in court and present any evidence why the remedies stated in the order should not be confirmed or executed. A show cause order is usually based on a motion and affidavit asking for the judge to make certain decisions.

Sine Die: From the Latin: “Without a day”; without assigning a specific day for further hearing.

Slander: Oral defamation of a person’s character or reputation through false or malicious statements.

Small Claims Case: A minor civil case for monetary judgment.

Small Claims Court: All civil cases claiming monetary awards of \$5,000 or less and certain unlawful detainer actions. In such cases, there are no attorneys, no rules of evidence, no juries, and no formal findings.

Spousal Support: Financial allowance from one spouse to the other ordered by the court during separation or dissolution of marriage; alimony.

Statement of Facts: Any written or oral declaration of facts in a case.

Statute: Any written law passed by a state or federal legislative body.

Statute of limitations: A law that sets the deadline by which parties must file suit to enforce their rights. For example, if a state has a four-year statute of limitations for breach of a written contract, and "John" breached a contract with "Susan" on January 1, 2001, Susan must file her lawsuit by January 1, 2005. If the deadline passes, the "statute of limitations has run" and the party (Susan, in the example) may be prohibited from bringing a lawsuit; also expressed as the claim being "time-barred." There are very limited conditions under which a statute may be extended or "tolled."

Stay Order: An order issued by a court halting court proceedings until a further event takes place.

Stipulation: An agreement relating to a pending court proceeding between parties or their attorneys.

Strike: To delete or remove.

Sua Sponte: From Latin: "Of its own will." Commonly used when a judge does something without being so requested by either party in a case.

Subpoena: An official order to attend court at a stated time. The most common use of the subpoena is to summon witnesses to court for the purpose of testifying in a trial. (Duces Tecum) A subpoena that, in addition to compelling the appearance of a witness, commands that specific documents be produced at the time of appearance.

Subrogate: To substitute one person in place of another with reference to a legal claim.

Summary Judgment: A court decision made on the basis of statements and evidence presented for the record without a trial. It is used when there are no factual disputes to resolve in the case. Summary judgment is granted when, on the undisputed facts in the record, a party is entitled to judgment in their favor as a matter of law.

Summons: A notice to a defendant that an action against him or her has been commenced in the court and that a judgment will be taken against him or her if the complaint is not answered within a certain time.

Superior Court: The court of general and limited jurisdiction in each county of the State of California. Superior Courts sit as probate court, juvenile court, family law court, and conciliation court. Superior Courts have trial jurisdiction over all felony cases, and all civil matters and also act as appellate courts by reviewing decisions of limited jurisdictional matters.

Suppress: To stop or put an end to someone's activities. To suppress evidence is to withhold it from disclosure or publication.

Supreme Court: In California, the appellate court of last resort that has final jurisdiction over all appeals within the state, and which exercises limited original jurisdiction.

Surety Bond: An insurance policy taken out by a defendant to ensure bail required for the defendant's release should he or she fail to make court appearances.

Suspend: To postpone, stay, or withhold certain conditions for a temporary period of time.

Suspended Sentence: In criminal law, this means in effect that the defendant is not required at the time the sentence is imposed to serve the sentence.

I

Tenant: A person who rents property.

Testate: A person who has made a will or who has died leaving a valid will.

Testify: To give evidence as a witness under oath.

Third-Party Action: An action taken by anyone who is not a party to a contract, agreement, or other transaction.

Third-Party Claim: An interest or share in property that has been seized by order of a court.

Time Waiver: To relinquish the right to a specified amount of time in which a certain phase of the legal process would normally take place.

Title: The ownership or evidence of ownership of land or other property.

Tort: A private or civil wrong, independent of contract; failure to perform some duty imposed by law or custom, resulting in injury to another.

Tort-Feasor: A person who commits or is guilty of a tort.

Traffic Violations Case: A classification that includes cases involving alleged violations of minor traffic laws, infractions or local ordinances.

Transcript: An official, written, verbatim record of a judicial proceeding.

Trial: The hearing and determination of issues of fact and law, in accordance with prescribed legal procedures, in order to reach a disposition.

Bench: A court trial is one heard and decided by a judge.

Jury: A jury trial is one heard and decided by a jury, which usually consists of twelve people.

Tribunal: A court, administrative agency, or quasi-judicial agency authorized to establish or modify support orders or to determine parentage.

Trustee: (1) A person who, having legal title to property, holds it for the benefit of another; (2) in a bankruptcy case, a person appointed to represent the interests of the bankruptcy estate and the unsecured creditors. The trustee's responsibilities may include liquidating the property of the estate, making distributions to creditors, and bringing actions against creditors or the debtor to recover property of the bankruptcy estate.

Trust Fund: Money, stocks, bonds, or securities held by or under the control of someone for the use and benefit of another.

U

Unlawful Detainer: When a person detains or continues to hold some real property that is no longer rightfully theirs. An unlawful detainer is also the name for a summary civil action in which a landlord seeks to evict a tenant who the landlord claims is no longer entitled to live on the premises.

Uphold: When an appellate court agrees with the lower court decision and allows it to stand.

U.S. Attorney: A lawyer appointed by the President in each judicial district to prosecute and defend cases for the federal government. The U.S. Attorney employs a staff of assistant U.S. Attorneys who appear as the government's attorneys in individual cases.

V

Vacate the Default Judgment: Getting a default judgment removed or erased.

Venire: Most commonly used to describe the whole group of people called for jury duty from which the jurors are selected. From the Latin for "to come" (as in to come, or appear, before the court).

Venue: The geographical limits of a court's jurisdiction. The venue of a Superior Court is a county.

Verdict: The final decision of a jury.

General: A verdict given in a civil case in which the jury finds in favor of the plaintiff or in favor of the defendant.

Special/Directed: In a civil case, a verdict given by the judge after considering the law as it applies to the case and after the jury states its conclusions on a specific factual issue.

Verification: An oral or written statement that something is true, usually sworn to under oath.

Violation: A breach of a right, duty, or law.

Voir dire: The process by which judges and lawyers select a trial jury from among those eligible to serve by questioning them to make certain that they can fairly decide the case; from the French for "to speak the truth."

W

Wage Garnishment: A legal procedure that requires the employer of a judgment debtor to withhold a portion of the judgment debtor's wages to satisfy a judgment.

Waiver: To give up a legal right voluntarily, intentionally, and with full knowledge of the consequences.

Waiver of Rights: A form signed by a defendant and the judge recording which, if any, legal rights are waived by the defendant.

Ward of the Court: A minor whose care and control is held by the court rather than by the parent(s).

Warrant: A written order issued and signed by a judicial officer directing a peace officer to take specific action. Can be: (1) an arrest warrant, i.e., one that commands a peace officer to arrest and bring before the court the person accused of an offense for purpose of commencing legal action; (2) a bench warrant, i.e., a written order issued by the court from the judge or bench commanding a person's arrest because of his or her failure to appear in court; (3) a recall warrant, i.e., a procedure for removing from Department of Justice and state police computers information concerning canceled warrants in order to avoid mistaken arrests; or (4) a search warrant, i.e., an order issued by a judge, based on a finding of probable cause, directing law enforcement officers to conduct a search of specific premises for specific persons or things and to bring them before the court.

Warrant of Arrest: A court order for arrest of a defendant, under affidavit, before defendant's appearance at a specific place or time has been scheduled. Issuance of the warrant by the clerk (not the court order for issuance of the arrest warrant.)

Warrant Bench: A court order for arrest of an already charged defendant because of defendant's failure to appear in court at a specific time and place. Issuance of the warrant by the clerk (not the court's order for issuance of the bench warrant.)

Warranty of Habitability: A promise that goes with the rental of residential property that it will be fit for human habitation, including working plumbing and electrical systems, locking doors and windows, watertight roof, and other health and safety conditions. This promise is by statute, even if the landlord does not include it in the lease or rental agreement.

Will: The written instrument by which a person declares his or her wishes about the disposition of personal property after death.

Witness: A person called by either side in a lawsuit to give testimony before the court or jury.

Writ: A written order or directive issued by a court commanding that certain action be taken. Can be a writ of: (1) attachment, i.e., one that orders that specified property be attached; (2) certiorari, i.e., an order by an appellate court granting or denying a review of judgment; (3) execution, i.e., an order directing the enforcement of a court judgment; (4) habeas corpus, i.e., a writ that orders the release of someone who has been unlawfully imprisoned; (5) mandamus (or mandate), i.e., a writ that orders the performance of any act designated by law to be part of a person's duty or status; or (6) prohibition, i.e., the counterpart of a writ of mandate that orders that further proceedings or other official acts be stopped (usually issued from a higher to a lower court).

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