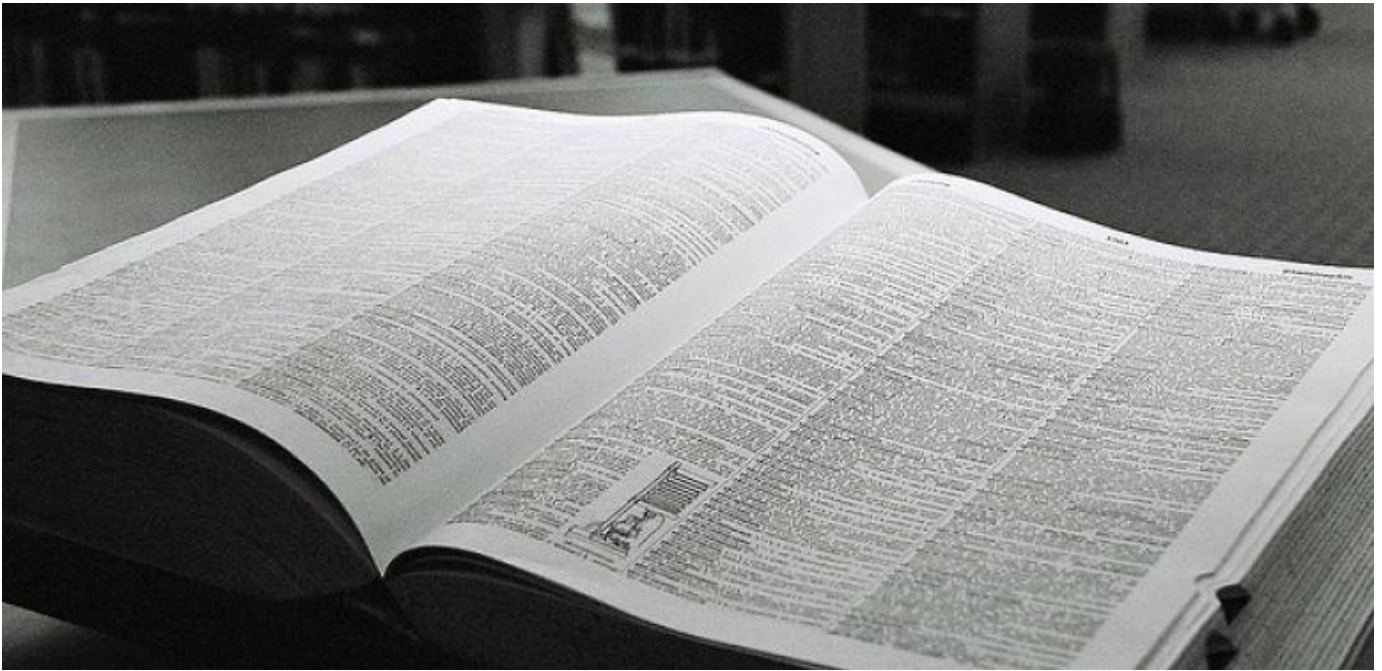


# Free Law Dictionary



This section offers clear English definitions of common legal terms used in the Legal Library. We would like to thank the Maryland's People Law Library and Arkansas Legal Services for much of the following content.

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Select the first letter of the word you want to learn more about from the list above and you will be directed to the appropriate section of the glossary. If you do not find a word here, try one of the following.

- Look at [FindLaw Legal Dictionary](#). *(This dictionary is designed for law students and legal professionals, so it may be harder to understand.)*
- Look at [Law.com Legal Dictionary](#). *(This dictionary is designed for the general public, so it may be easier to understand.)*

## (A)

**ABANDON:** to leave with no intention to return.

**ABANDONED PROPERTY:** property left behind by a tenant on purpose and it appears that the former owner (or tenant) does not intend to come back for the property.

**ABET:** to help someone commit a crime.

**ABSOLUTE DIVORCE:** the final ending of a marriage. Both parties are legally free to remarry.

**ACCELERATION CLAUSE:** a provision in a contract or promissory note that if some specified event (like not making payments on time) occurs then the entire amount is due.

**ACTION:** a lawsuit or proceeding in a court of law.

**ACT:** a law passed by a legislative body; also called a statute.

**ADHESION CONTRACT:** (contract of adhesion) a contract that is unfair and in favor of one party over the other.

**ADMINISTRATOR:** a person appointed by the court to pay the debts of a deceased person and distribute the remaining property according to law.

**ADOPT:** to take on the relationship of parent to the child of another person.

**AFFIDAVIT:** a document in which the signer swears under oath before someone authorized to take oaths (such as a County Clerk or Notary Public) that the statements in the document are true.

**AGENT:** a person who acts on behalf of someone else (also called the attorney-in-fact).

**AGREEMENT:** a verbal or written resolution of disputed issues.

**ANSWER:** the written response to a complaint, petition, or motion.

**ALIMONY:** a payment of support provided by one spouse to the other.

**ANNULMENT:** a court's decision that a marriage is void; it never legally existed. It is available only under certain limited circumstances.

**APPEAL:** a legal action where the losing party requests that a higher court review the decision.

**APPELLANT:** party in a lawsuit who takes an appeal.

**APPELLEE:** party in a lawsuit against whom an appeal is taken.

**ASSIGNMENT:** a transfer to another of all or part of one's property, interests, or rights such as when you let someone take over the rest of your obligations under a lease or contract.

**ATTACHMENT:** The seizing of money or property to satisfy a judgment after trial.

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## **(B)**

**BAIT AND SWITCH:** a dishonest sales practice in which a store advertises a bargain price for an item in order to draw you into the store and then tells the you that the advertised item is of poor quality or no longer available and attempts to sale you a more expensive product.

**BANKRUPTCY:** A court process designed to help consumers and businesses eliminate their debts or repay them under the protection of the bankruptcy court.

**BILL:** a proposed statute, i.e. one that has not yet been enacted into law.

**BONA FIDE:** in good faith, genuine, without fraud.

**BREACH of CONTRACT:** Failing to perform a term of a contract without a legitimate legal excuse.

**BRIEF:** written argument presented to a court for the purpose of "informing" and "persuading."

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## **(C)**

**CASE:** a dispute which has been taken to court; a lawsuit.

**CASE LAW:** decisions of federal and state courts about how laws should be applied in specific fact situations. Opinions are reported in various volumes.

**CAUSE OF ACTION:** a point of controversy; basis of a legal action.

**Caveat Emptor (kah-vee-ott emptor):** Latin for "let the buyer beware." The buyer buys at her own risk.

**CERTIORARI:** a writ issued by a superior to an inferior court, etc. requiring the return of the record and proceedings for review.

**CHARTER:** the fundamental law of a municipality or other local government; analogous to a constitution.

**CHILD SUPPORT GUIDELINES:** Arkansas has child support guidelines which must be followed in awarding child support. The guidelines provide a formula for calculating support based on the number of children in the family.

**CIVIL ACTION:** a legal proceeding in which one person (plaintiff) sues another (defendant) who has caused him injury or loss. The plaintiff seeks compensation from the defendant for his loss.

**CIVIL RIGHTS:** those rights guaranteed by the Bill of Rights, the 13th and 14th Amendments to the Constitution, including the right to due process, equal treatment under the law of all people regarding enjoyment of life, liberty, property, and protection.

**CLOSING:** the final step in the sale and purchase of real estate.

**Codicil: (ka-da-sil):** a written modification to a person's will, which must be dated, signed and witnessed just as a Will would be. It must make some reference to the Will it amends.

**COHABITATION:** living together in the same residence as if the parties were married.

**COLLECTION AGENCY:** a collection agency is a company that a creditor hires to collect an unpaid debt. A creditor can act as their own collection agency.

**COLLUSION:** an agreement between two or more persons that one of the parties brings false charges against the other. In a divorce case, the husband and wife may

agree to use adultery as a ground in order to obtain a divorce more quickly, knowing full well that adultery was not committed. Collusion is illegal.

**COMPLAINT:** the first document filed with the court clerk to start a lawsuit by a person or business claiming legal rights against another.

**COMPLAINANT:** the one who files the suit, same as plaintiff.

**COMMON LAW:** law derived chiefly from the judgments and decrees of the courts, as distinguished from the law created by acts of legislatures.

**COMMON LAW MARRIAGE:** a common law marriage comes about when a man and woman who are free to marry agree to live together as husband and wife without the formal ceremony. Arkansas does not recognize common law marriages.

**COMPLAINT:** a legal paper that starts a lawsuit.

**CONDONATION:** the act of forgiving one's spouse who has committed an act of wrongdoing that would constitute a ground for divorce. Condonation generally is proven by living and cohabiting with the spouse after learning that the wrongdoing was committed. It often is used as a defense to a divorce, however, Arkansas has recently decided not to allow condonation as a defense for grounds to divorce.

**CONSERVATOR:** someone appointed by the court to take care of an incompetent person and/or their property or affairs. *See also incompetent.*

**CONSTITUTION:** the fundamental law of a state or a nation. It creates the branches of government and identifies basic rights and obligations.

**CONTEMPT:** failure to follow a court order. One side can request that the court determine that the other side is in contempt and punish him or her.

**CONTINGENT FEE:** a fee to a lawyer that you pay only if there is a successful result.

**CONTRACT:** a written or oral agreement between two or more parties.

**CORROBORATIVE WITNESS:** a person who testifies for you and backs up your story. If you are asking the court to grant a divorce, you must bring to the hearing a witness who can corroborate your grounds for divorce.

**COUNSEL:** attorney; lawyer.

**COUNTERCLAIM:** the defendant's claim against the plaintiff.

**COVENANTS:** a formal agreement or promise usually found in a lease or contract.

**CREDITOR:** a person or company to whom a debt is owed.

**CRIMINAL ACTION:** a legal proceeding in which the state prosecutes a person who is charged with a public offense. The punishment, set by law, is either a fine, which goes to the state, or imprisonment, or both.

**CROSS-CLAIM:** when one defendant sues a fellow defendant because he or she believes the fellow defendant is liable for all or part of the money the plaintiff claims both defendants owe.

**CUSTODY:** refers to the legal arrangements regarding with whom a child will live and how decisions about the child will be made. Custody has two parts: legal and physical. Legal custody refers to the decision-making authority. If a parent is awarded sole legal custody, it means that they alone can make major decisions for the child including, for example, medical/dental and educational decisions. Physical custody refers to where the child lives on a regular basis. If they choose to settle the case, parents can make any custodial arrangement that is in the best interest of the children. If the court must decide custody, the judge will have to determine what is in the best interest of the children.

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**(D)**

**DAMAGES:** the estimated money equivalent for a loss or injury.

**DEBT:** a sum of money, services or goods owed to another.

**DEBTOR:** a person or company that owes money to another.

**DECISION:** the result reached by a court in resolving a dispute before it.

**DECREE:** in general, it is the same as a judgment. *See Judgment.*

**DEED:** a document that transfers real property or the right to real property.

**DEFAULT:** a party's failure to answer a complaint, motion, or petition.

**DEFAULT JUDGMENT:** a judgment awarded in favor of the plaintiff when the defendant fails to appear.

**DEFENDANT:** the person the case is brought against. The person sued in a civil lawsuit or the person charged with a crime in a criminal prosecution.

**DEVISEE:** a person who receives a gift of real property by a will.

**DISCOVERY:** a way for getting information from the other side or other people. Discovery methods include interrogatories (written questions which one side gives the other side to complete) and depositions (question and answer sessions conducted in person and recorded).

**DISCRIMINATE:** to treat differently, to make a distinction in favor of or against a person or thing.

**DISSENTING OPINION:** explicit disagreement of one or more judges of a court with the decision of the majority of the judges.

**DIVORCE:** the termination of a marriage by legal action.

**DOCKET NUMBER:** number designation assigned to each case filed in a particular court.

**DOMESTIC VIOLENCE:** violence and abuse by family members or intimate partners such as a spouse, former spouse, boyfriend or girlfriend, ex-boyfriend or ex-girlfriend, or date. The violence may include physical, sexual, emotional or financial abuse.

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## **(E)**

**EASEMENT:** the right to use the real property (land) of another for a specific purpose.

**EMANCIPATION:** freeing a minor child from the control of parents and allowing the minor to live on his/her own or under the control of others.

**ESCROW:** an item being held by a third person (a neutral person) who holds it until the fulfillment of some condition.

**ESTATE:** all that a person owns in real or personal property.

**EVICTION:** when the landlord removes a tenant from her home.

**EVIDENCE:** testimony of witnesses and documents which are presented to the court and considered by the court in making a decision.

**EXCULPATORY CLAUSE:** provision or clause which excuses someone from responsibility.

**EXECUTION:** a court enforcement of a judgment, usually by taking and selling a debtor's property. A court order to the sheriff to seize goods the defendant owns.

**EXECUTOR:** a person named in the will and approved by the judge to carry out the instructions of a will.

**EXEMPTIONS:** the debtor's property that may be protected from creditors if a judgment is entered against her.

**EXPERT WITNESS:** a person who is qualified by special knowledge or experience to give an opinion on the matter in dispute.

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## **(F)**

**FAIR MARKET VALUE:** the amount for which an item can be sold on the open market by a willing seller to a willing buyer.

**FILING:** giving the Clerk of Court your legal papers.

**FORECLOSURE:** a court action, when the mortgagor fails to make payments of the mortgage, terminating the mortgagor's rights to the property. The property then belongs to the mortgagee.

**FRAUD:** the use of dishonest means to deprive another of her property.

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## **(G)**

**GARNISHEE:** a person or business (such as an employer) that owes money to the judgment debtor who has received a court order not to release the money.



**GARNISHMENT:** a legal proceeding whereby money or property due to or belonging to one person but in the possession of another person, is used to pay a debt which the first person owes to the plaintiff in the garnishment proceeding. Examples of money that could be garnished are wages or bank accounts.

**GARNISHMENT of PROPERTY:** A procedure whereby the Court has the defendant's bank account seized and the money paid to the plaintiff to satisfy the judgment.

**GARNISHMENT of WAGES:** a procedure whereby a portion of the defendant's wages are deducted regularly and paid to the plaintiff to satisfy a judgment.

**GROUND FOR DIVORCE:** the legal basis for a divorce. The law sets out specific circumstances under which a divorce will be granted. Before the court will grant a divorce, the person seeking the divorce must prove that those conditions exist.

**GUARDIAN:** a person who has been appointed by a judge to take care of a child or incompetent adult.

**GUARDIAN AD LITEM:** a person appointed by the court only to take legal action on behalf of a minor or an adult not able to handle his/her own affairs. Duties may include filing a lawsuit for an injured child, defending a lawsuit or filing a claim against an estate.

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## (H)

**HEIR:** one who acquires property upon the death of another, based on the rules of descent and distribution or by the terms of the will.

**HOLD OVER:** to remain in possession of the home after the lease ends.

**HOLOGRAPHIC WILL:** a handwritten Will.

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## (I)

**In forma pauperis:** (in form-ah paw-purr-iss) the forms filed by a plaintiff who cannot afford court costs. If granted, the judge will allow the lawsuit to continue without the payment of court costs.

**In loco parentis:** (in low-co pah-rent-iss) literally means "in place of a parent." It is a term used for someone who is acting in place of a parent.

**IN RE:** in the matter of.

**INCAPACITY:** lacking the ability to understand one's actions.

**INCOMPETENT:** A person lacking the legal capabilities to manage her own affairs or property. Examples of incompetence include chronic illness or mental illness.

**INHERITANCE:** whatever one receives upon the death of a relative due to the laws of descent and distribution or by the terms of the will.

**INJUNCTION:** a court order directing the defendant to do or not to do a particular thing. Failure to obey an injunction constitutes contempt of court, which is punishable by fine or imprisonment.

**INTESTATE:** (in-tes-tate) When a person dies without leaving a valid will.

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**(J)**

**JUDGMENT:** a court's decision.

**JUDGMENT CREDITOR:** the person who gets the judgment in their favor in a credit collection lawsuit.

**JUDGMENT DEBT:** the amount of money in a judgment award that is owed to the winner by the losing party.

**JUDGMENT DEBTOR:** the person who the judgment is against in a credit collection lawsuit.

**JUDICIAL NOTICE:** act by which a court will recognize the existence of a certain fact without the production of substantiating evidence.

**JURISDICTION:** the authority of the court to hear a case.

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**(L)**

**LAW:** any public order or decision that is binding upon those to whom it is addressed. The law exists in many forms, including, constitutional law, statutory law, decisions, regulations, executive orders, local laws, and ordinances.

**LEASE:** an oral or written agreement, express or implied, which creates a landlord-tenant relationship.

**LEASE OPTION AGREEMENT:** a lease that contains a clause that gives the tenant some power, either qualified or unqualified, to buy the landlord's interest in the property.

**LEGAL SEPARATION:** a court-decree right to not live with your spouse, but with the rights/obligations of divorced persons.

**LESSEE:** the renter of the property (the tenant).

**LESSOR:** the owner of the property (your landlord).

**LETTER of ATTORNEY:** a document authorizing another person to act as one's agent.

**LEXIS:** a computerized full-text legal database.

**LIABILITY:** legal responsibility for one's acts or omissions.

**LIEN:** a charge or claim on property belonging to another, for the satisfaction of a debt or duty.

**LIMITED DIVORCE:** establishes certain legal responsibilities while the parties are separated but does not end the marriage. *See also Absolute Divorce.*

**LIQUIDATED DAMAGES:** a specific sum of money which has been agreed upon by the parties to a lease (or other contract) as the amount of damages to be paid by a party who has breached the agreement.

**LITIGANT:** any party to a lawsuit. It does not include the judge, witnesses or attorneys.

**LIVING WILL:** a living will usually states that if you are terminally ill, then death-delaying procedures shall not be used to prolong your life. It also can authorize a person to make health care decisions for you if you become incapacitated.

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(M)

**MATERIAL BREACH:** a breach (violation, failure to perform) which is important, substantial, not trivial.

**MARITAL PROPERTY:** includes ALL property acquired during the marriage, even if not titled in both names, with some exceptions.

**MEDIATION:** process of alternative dispute resolution in which a neutral third party, the mediator, assists two or more parties in order to help them negotiate an agreement.

**MEMORANDUM OPINION:** brief holding of the whole court with the opinion limited or omitted.

**MINOR:** someone under the legal age, which is generally 18.

**MODIFICATION:** A change in an existing court order or judgment made necessary by a change in circumstances. They are common in divorce judgments because matters concerning the children may need changing.

**MORTGAGE:** a pledge of specific property as security for the payment of a debt. The mortgagor is the person who pledges the property. The mortgagee accepts the pledge.

**MOTION:** a request to the court.

**MUTUAL WILLS:** wills made by two people (usually spouses, but could be "partners") in which each gives his/her estate to the other.

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(N)

**NOTARY PUBLIC:** a person authorized by the state to give oaths.

**NOTICE OF DEFAULT:** a notice to a borrower with property as collateral that he/she is delinquent in payments.

**NOTICE to QUIT:** a written notice given by landlord to tenant, indicating that tenant must move from the premises at a time designated.

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## (O)

**OATH:** a swearing to tell the truth, which would subject the oath-taker to liability for perjury if she knowingly told a lie.

**OCCUPANT:** someone living in a residence or using premises, as a tenant or owner.  
2) a person who takes possession of real property or a thing which has no known owner, intending to gain ownership.

**OPTION:** the right to make a choice; a purchased privilege which gives the holder the power to make the agreement.

**OPINION:** the official written statement of a case, the court's decision and its reasons for reaching the decision it did.

**ORDINANCE:** the local legislation of a city, town, village, or county written by the local legislative body.

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## (P)

**PARTIES:** the plaintiff(s) and the defendant(s).

**PERJURY:** The crime of intentionally lying after taking an oath to tell the truth by a notary public, court clerk or other official.

**PERSONAL PROPERTY:** movable property or possessions, as distinguished from real property.

**PERSONAL REPRESENTATIVE:** usually, the executor or administrator of a deceased person.

**PETITION:** a legal paper that starts a case.

**PLAINTIFF:** the person who started the lawsuit by filing a complaint..

**PLEADINGS:** formal written statements by the parties to a lawsuit indicating their respective claims and defenses which are filed with the court.

**POWER of ATTORNEY:** a document that gives someone authority to act on your behalf on matters that you specify. The person who acts on behalf of someone else is called the agent (also called the attorney-in-fact). The person who has given the authority to the agent is called the principal.

**PRECEDENT:** an example of authority for a later case which is similar or identical.

**PREMISES:** the land, building, or part of a building which is the subject of a lease or grant.

**PRIMA FACIE:** presumed to be true unless disproved by contrary evidence.

**PRINCIPAL:** the person who has given the authority to an agent to act on his behalf.

**PROBATE:** the process of proving a will is valid and then doing what was stated in the Will.

**PROCESS SERVER:** any person over 18, not directly involved in the case, who will deliver the Summons and a copy of the plaintiffs Complaint, and later return to the Court an affidavit that he or she has completed service.

**PRO SE:** pronounced "Pro Say." representing yourself in court without an attorney.

**PROTECTION ORDER:** non-criminal order obtained by abused spouse against abusive spouse.

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## **(Q)**

**QUIET ENJOYMENT:** your right to use and enjoy your home without interference.

**QUITCLAIM DEED:** a real property deed that transfers only the interest in the property in which the grantor has claim to.

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## **(R)**

**REAL PROPERTY:** land or buildings.

**RECONCILIATION:** married people getting back together.

**RECORD/RECORD EXTRACT:** on appeal, the record consists of a transcript of all or a portion of the proceedings in lower courts, including testimony, pleadings, opinions, etc.

**RESCIND:** to annul, cancel, terminate a contract, including a lease, and to restore the parties to the position they would occupy if no contract had been made.

**RESTRAINING ORDER:** a temporary order of a court to keep conditions as they are (like not taking a child out of the county or not selling marital property) until there can be a hearing in which both parties are present. More properly it is called a temporary restraining order (shortened to TRO).

**REMAND:** to send back; return of a case by an appellate court to the trial court for further proceedings.

**RENEWAL of SUMMONS:** an attempt to try again to serve the defendant with the Summons and Complaint

**RES JUDICATA:** the thing has been decided.

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**(S)**

**SECURITY DEPOSIT:** An amount of money given to the landlord that can be used to cover unpaid rent, damages, or cleaning.

**SEPARATION:** the living apart of a married couple.

**SEPARATION AGREEMENT:** an oral or written agreement to live apart, entered into by a married couple.

**SERVICE:** providing a copy of the papers being filed to the other side.

**SERVED:** the defendant has been "served" when he or she personally receives a Summons to appear in court and a copy of the plaintiff's Complaint.

**SETTLEMENT:** resolving the dispute, without a judge's ruling, a mutually acceptable out-of-court agreement between the defendant and the plaintiff.

**SPOUSE:** husband or wife.

**SQUATTER:** someone who settles on the property of another, without legal authority to do so and without the consent of the person who has the right of possession of the property.

**STARE DECISIS:** the doctrine that decisions should stand as precedents for guidance in future cases.

**STATUTE of LIMITATIONS:** law whereby all claims must be filed within a certain period of time [usually three (3) years from the time the claim arose], but some may be filed later and some must be filed sooner. Advice as to whether the Statute of Limitations has "run" (requiring the suit to be dismissed) may be obtained from an attorney. A defendant may ask the judge at trial whether the claim is barred by the statute of limitations.

**SUBLEASE:** when you allow someone else to take over your lease for a certain period of time after which you agree take responsibility for the lease again.

**SUBPOENA:** a form issued by the court requiring someone to appear in court and/or bring documents.

**Subpoena DUCES TECUM:** an order commanding the person on whom it is served to appear at certain proceedings and to bring with him specified documents or other items which are in his possession.

**SUMMONS:** a notice requiring a defendant to appear in court.

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**(T)**

**TENANT:** a person who occupies real property owned by another based upon a lease or other agreement.

**TESTATOR:** a person who has written a will.

**THIRD PARTY CLAIM:** a claim filed by a defendant who feels that some third party (not yet involved in the case) is responsible and owes him or her money that should be used to satisfy any judgment the plaintiff may win from the defendant.

**TRANSCRIPT:** the official record of a legislative, administrative, or court proceeding. It is mainly comprised of the word-for-word testimony of witnesses and



arguments by advocates and presiding officers.

**TRESPASS:** a wrongful entry, whether with force or peacefully, onto the property of another.

**TORT:** injury caused by negligence or wrongful act of another person, which cannot be classified as a breach of contract.

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## (U)

**UNCONSCIONABLE:** when a contract or bargain is so unfair to a party that no reasonable or informed person would have agreed to it.

**UNCONTESTED DIVORCE:** when the defendant is not going to try to stop the divorce and there are no issues for the court to decide about children, money, or property.

**UNDUE INFLUENCE:** the amount of pressure that someone uses to force another to execute a will leaving assets in a particular way, to make a direct gift while alive or to sign a contract.

**USURY:** a rate of interest on a debt that is in excess of the percentage allowed by law. Also called "loan-sharking."

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## (V)

**VENUE:** the county where the case is heard. The proper or most convenient location for trial of a case.

**VERDICT:** the decision of a jury after a trial, which must be accepted by the trial judge to be final. A judgment by a judge without a jury is not called a verdict.

**VISITATION:** the right of a separated or divorced parent to visit a child.

**VOLUNTARY SEPARATION:** the living apart for 12 months of a married couple who agrees to separate. [Back to Top](#)

## (W)

**WARD:** a person (usually a minor) who has a guardian appointed by the court to care for and take responsibility for that person.

**WARRANT of RESTITUTION:** an order of the court requiring that a specific person be restored to his original position.

**WITNESS:** one who is called to court to testify in order to tell what he or she knows about the case. (See, also, "Expert Witness").

**WRIT of ATTACHMENT:** a court order directing a sheriff (or other law enforcement officer) to seize property of a defendant to satisfy a judgment.

**WRIT of POSSESSION:** an order of the court directed to the sheriff, requiring him to enter the property and give possession of it to the person entitled to it by judgment of the court.

**WRIT of SUMMONS:** a form issued by the court directing a party to respond to a complaint, motion, or petition.

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