

Glossary of Litigation Terms

acquittal -- a finding that the defendant is not guilty of the charges brought by the government. This finding may be reached by the trial judge either in a case tried before the judge or on a motion for judgment of acquittal made by a defendant or the judge in a jury trial. The jury may make such a finding in a case tried before it.

admissible -- a term used to describe evidence that may be heard by a jury and considered by a judge or a jury in civil and criminal cases.

adversary process -- the method courts use to resolve disputes. Through the adversary process, each side in a dispute has the right to present its case as persuasively as possible, subject to the rules of evidence, and an independent fact finder, either judge or jury, decides in favor of one side or the other.

alternate juror -- a juror who is selected in the same manner as a regular juror and hears the evidence in a case along with the regular jurors, but does not help decide the case unless called upon to replace a regular juror.

alternative dispute resolution (ADR) -- a procedure for settling a dispute outside the courtroom or helping to make the trial more efficient, such as mediation, arbitration, or minitrial. Most forms of ADR are usually not binding on the parties and involve referral of the case to a neutral party. ADR is becoming more common in state and federal courts.

amicus curiae -- a Latin term meaning "friend of the court." An *amicus curiae* is a person or organization that is not a party in the case on appeal, has a strong interest in the outcome of the case, and files a brief with the court of appeals called an "amicus brief." This brief may call important legal or factual matters to the court's attention and thus help the court reach a proper decision in the case.

answer -- the formal written statement by a defendant in a civil case that responds to a complaint and sets forth the grounds for defense.

appeal -- a request, usually made after a trial, asking another court (usually the court of appeals) to decide whether the trial court proceeding was conducted properly. To make such a request is "to appeal" or "to take an appeal."

appellant -- the party who appeals a lower court's decision, usually seeking reversal of that decision.

appellate court -- a court that reviews decisions of lower courts. In the federal courts, the primary appellate courts are the U.S. courts of appeals and the U.S. Supreme Court. State courts also have a court of appeals and a high appellate court (usually called the state's Supreme Court).

appellee -- the party against whom an appeal is taken and who seeks to protect the judgment or order of the lower court.

Glossary of Litigation Terms

arbitration -- a form of alternative dispute resolution in which an arbitrator (a neutral decisionmaker) issues a judgment on the legal issues involved in a case after listening to presentations by each party. Arbitration can be binding or nonbinding, depending on the agreement among the parties before the proceeding.

arraignment -- a proceeding in which a person accused of committing a crime is brought into court, told of the charges, and asked to plead guilty or not guilty.

arrest -- a law enforcement officer's detaining a person or otherwise leading that person to reasonably believe that he or she is not free to leave.

attorney-client privilege -- the doctrine that ensures that communications between an attorney and his or her client remain confidential and that the attorney cannot be compelled to disclose them.

bail -- the release of a person charged with an offense prior to trial under specified financial or nonfinancial conditions designed to ensure the person's appearance in court when required.

bankruptcy -- federal statutes and judicial proceedings involving persons or businesses that cannot pay their debts and thus seek the assistance of the court in getting a "fresh start." Under the protection of the bankruptcy court and the laws of the Bankruptcy Code, debtors may "discharge" their debts, perhaps by paying a portion of each debt.

bench trial -- a trial without a jury, in which the judge decides the facts.

brief -- a written statement submitted by the lawyer for each side in a case that explains the legal and factual arguments why the court should decide the case in favor of that lawyer's client.

burden of proof -- the level or quality of proof that a party needs to prove his or her case. In civil cases, the plaintiff has the burden of proving his or her case by a preponderance of the evidence, which means the plaintiff's proof must outweigh the defendant's at least slightly for the plaintiff to win; if the two sides are equal, the defendant wins. In criminal cases, the government has the burden of proof, and that burden is much higher: A verdict of guilty requires the government to prove the defendant's guilt "beyond a reasonable doubt."

case file -- a complete collection of every document in a case.

case law -- the law as laid down in the decisions of the courts; the law in cases that have been decided.

case management -- techniques used to process cases from one stage of the proceeding to another, such as setting deadlines for discovery or scheduling a series of pretrial conferences. Case management calls for different approaches from one case to

Glossary of Litigation Terms

the next and is the primary responsibility of judges, assisted by lawyers and clerks' office personnel.

challenge for cause -- a lawyer's attempt to prevent a prospective juror from sitting on a jury because, in the lawyer's view, the juror's answers to voir dire questions suggest that he or she cannot approach the case impartially. If the judge agrees with the lawyer, the judge will then strike (excuse) the prospective juror for cause.

chambers -- the offices of a judge.

circuit -- the regional unit of federal judicial appeals. Congress has divided the federal judicial system into twelve regional circuits (the eleven numbered circuits and the District of Columbia Circuit). In each circuit is a court of appeals to hear appeals from district courts in the circuit, and a circuit judicial council to oversee the administration of the courts of the circuit.

circuit court -- an informal name for a U.S. court of appeals (also the name of some state trial courts).

civil case -- a lawsuit brought by a party (the plaintiff) against another party (the defendant) claiming that the defendant failed to carry out a legal duty owed to the plaintiff and that the defendant's breach of duty caused financial or personal injury to the plaintiff. Usually, the purpose of bringing the case is to get a court order for the defendant to pay for damages suffered by the plaintiff.

class action -- a lawsuit in which one or more members of a large group, or "class," of individuals or other entities sue as "representative parties" on behalf of the entire class. There must be questions of law or fact common to the class, and the district court must agree to "certify the class," thus allowing the action to proceed as a class action.

clerk of court -- an officer appointed by the court to work with the chief judge and other judges in overseeing the court's administration, especially to assist in managing the flow of cases through the court.

closing arguments -- after all the evidence has been presented in a trial, lawyers' presentations summarizing the evidence and attempting to persuade the jury to draw conclusions favorable to their clients. Closing arguments, like opening statements are not themselves evidence.

complaint -- a written statement by the person (called the "plaintiff") starting a civil lawsuit, which details the wrongs allegedly committed against that person by another person (called the "defendant").

condition -- a court-imposed requirement that a defendant or offender must abide by in order to remain under community supervision by a pretrial services or probation officer, as an alternative to imprisonment. For example, refraining from use of illegal drugs is a

Glossary of Litigation Terms

mandatory condition for everyone under federal supervision; a person who is known to have used illegal drugs in the past may also have regular drug testing as a condition.

contract -- an agreement between two or more persons that creates an obligation to do or not to do a particular thing.

counsel -- a lawyer or a team of lawyers. The term is often used during a trial to refer to lawyers in a case.

count -- an allegation in an indictment charging a defendant with a crime. An indictment may contain allegations that the defendant has committed more than one crime. The separate allegations are referred to as the counts of the indictment.

counterclaim -- a claim filed by a defendant against the plaintiff in response to the plaintiff's original suit. The defendant becomes the counterclaim plaintiff in the case, and the plaintiff becomes the counterclaim defendant (in addition to their being defendant and plaintiff).

court -- an agency of government authorized to resolve legal disputes. Judges and lawyers sometimes use the term *court* to refer to the judge, as in "the court has read the pleadings."

court interpreter -- a court employee who orally translates what is said in court from English into the language of a non-English-speaking party or witness and translates that person's testimony into English.

court reporter -- a person who makes a word-for-word record of what is said in a court proceeding and produces a transcript of the proceeding on request.

courtroom deputy clerk -- a court employee who assists the judge by keeping track of witnesses, evidence, and other trial matters, and sometimes by scheduling cases.

criminal case -- a case prosecuted by the government, on behalf of society at large, against an individual or organization accused of committing a crime. If the defendant is found guilty, the sentence (or punishment) is often imprisonment.

criminal record -- a record listing a defendant's previous arrests and convictions. A copy of the defendant's criminal record, if any, must be given to the defense upon request during discovery.

cross-claim -- in a case with more than one defendant, a claim filed by one defendant (the "cross-claim plaintiff") against another (the "cross-claim defendant"). A cross-claim may allege that any injury to the plaintiff was caused by the cross-claim defendant, who should pay any damages to which the plaintiff is entitled, and/or it may allege a separate but related injury to the cross-claim plaintiff caused by the cross-claim defendant.

Glossary of Litigation Terms

cross-examination -- questions directed to a witness by a lawyer for any other party, after the direct examination of the witness. The questions focus on matters the witness testified to during direct examination and may be designed to test the witness's credibility. Leading questions (those which suggest, by their wording, how the attorney would like the witness to answer) may be asked on cross-examination.

damages -- money that a defendant pays a plaintiff in a civil case that the plaintiff has won, to compensate the plaintiff for loss or injury.

deadlocked jury -- a jury that is unable to agree upon a verdict. A deadlocked jury results in a mistrial.

default judgment -- a judgment against the defendant awarding the plaintiff the relief demanded in the complaint because of the defendant's failure to appear in court. A summons must notify the defendant that failure to appear and defend against the lawsuit in a timely manner will result in the court's entry of a default judgment.

defendant -- (1) in a civil suit, the person complained against; (2) in a criminal case, the person accused of the crime.

deposition -- a frequently used means of obtaining discovery in civil cases, in which the attorney who requested the deposition questions a party, witness, or any person with information about the case, and the person (the deponent) answers under oath.

direct examination -- the initial questioning of any witness by the attorney who calls the witness to the stand, to bring out evidence for the fact finder.

discovery -- (1) in a civil case, pretrial procedures by which the lawyers representing the parties try to learn as much as they can about their opponents' cases by examining the witnesses, physical evidence, and other information that make up the case; (2) in a criminal case, a meeting of the defendant's attorney and the prosecutor in which the defendant's attorney requests disclosure of certain types of evidence against the defendant. The government may then make a discovery request of the defendant.

docket -- a list in chronological order of court proceedings and filings.

en banc -- a French term meaning "on the bench." *En banc* refers to a session in which all of the judges on an appellate court participate in the decision.

evidence -- information in the form of testimony, documents, or physical objects that is presented in a case to persuade the fact finder (judge or jury) to decide the case for one side or the other.

exhibit -- an item of physical evidence (a document or an object).

Glossary of Litigation Terms

expert witness -- a person with specialized training and experience about particular subject matter who testifies in a case to offer an opinion on an issue in the case based on his or her specialized knowledge.

factfinder -- the jury in a jury trial, or the judge in a bench trial, who weighs the evidence in a case and determines the facts.

fact witness -- a person with knowledge about what happened in a particular case who testifies in the case about what happened or what the facts are.

federal courts -- courts established under the U.S. Constitution. The term usually refers to courts of the federal judicial branch, which include the Supreme Court of the United States, the U.S. courts of appeals, the U.S. district courts (including U.S. bankruptcy courts), and the U.S. Court of International Trade. Congress has established other federal courts in the executive branch, such as immigration courts.

federalism -- a principle of our Constitution which gives some functions to the U.S. government and leaves the other functions to the states. The functions of the U.S. (or federal) government involve the nation as a whole and include regulating commerce that affects people in more than one state, providing for the national defense, and taking care of federal lands. State and local governments perform such functions as running the schools, managing the police departments, and paving the streets.

felony -- a crime that carries a penalty of more than a year in prison.

fine -- a form of punishment for a crime, in which the defendant must pay a sum of money to the public treasury.

final decision -- a court's decision that resolves the claims of the parties and leaves nothing further for the court to do but ensure that the decision is carried out.

foreperson -- the juror who presides over the jury's deliberations. The foreperson is either elected by the jurors or selected by the judge, depending on the practice in the particular court.

grand jury -- a group of citizens who listen to the government present evidence of criminal activity by an individual or individuals in order to determine whether there is enough evidence to justify filing an indictment charging the individual or individuals with a crime.

guilty plea -- a criminal defendant's admission to the court that he or she committed the offense he or she is charged with and his or her agreement to waive the right to trial. If the court accepts the plea, the case proceeds to sentencing.

Glossary of Litigation Terms

guilty verdict -- a verdict convicting a criminal defendant of a charge or charges. When a verdict of guilty is returned, the court orders a presentence investigation of the defendant and sets a sentencing date.

habeas corpus -- a Latin phrase meaning "that you have the body." A prisoner may file a *habeas corpus* petition seeking release on grounds that he or she is being held illegally.

hearsay -- evidence that is presented by a witness who did not see or hear the incident in question but heard about it from someone else. Hearsay is usually not admissible as evidence in a trial.

imprisonment -- a term in prison served by an offender as part of a criminal sentence.

indictment -- the formal charge issued by a grand jury stating that there is enough evidence that the defendant committed a crime to justify having a trial. Indictments are used primarily for felonies. An indictment may contain allegations that the defendant committed more than one crime. The separate allegations are referred to as the counts of the indictment.

in forma pauperis -- a Latin phrase meaning "as a pauper." A party unable to pay the filing fees and other costs involved in an appeal may file a motion in the district court asking to proceed *in forma pauperis*. If the motion is granted the party may proceed with the appeal without paying any fees or costs.

information -- a formal accusation by a government attorney that the defendant committed a misdemeanor.

injunction -- a judge's order that a party take or refrain from taking certain action. An injunction may be preliminary, until the outcome of a case is determined, or permanent.

interlocutory appeal -- an appeal from a nonfinal, or interlocutory, district court order, such as an injunction. An interlocutory order is issued during litigation of the case in the district court, not at the end of it. Interlocutory appeals are permitted by statute as an exception to the general policy requiring a final district court decision or order before an appeal is permitted.

interrogatories -- a form of discovery consisting of written questions to be answered in writing and under oath. Interrogatories are submitted to a party in the case by the party seeking discovery.

judge -- a governmental official with authority to preside over and decide lawsuits brought to courts.

judgment -- a final order of the court that resolves the case and states the rights and liabilities of the parties.

Glossary of Litigation Terms

jurisdiction -- (1) the legal authority of a court to hear and decide a certain type of case; (2) the geographic area over which the court has authority to decide cases.

jury -- a group of citizens whose duty is to weigh evidence fairly and impartially and decide the facts in a trial (**petit jury**) or to decide whether evidence against a defendant is sufficient to file an indictment charging him or her with a crime (**grand jury**).

jury instructions -- instructions given by the judge to the jury after all the evidence in a case has been presented, either before or after closing arguments, and before the jury begins deliberations. The instructions cover such matters as the responsibilities of the jurors, how the jurors are to go about deciding the case, and the law applicable to the case.

jury trial -- a trial in which a jury decides the facts.

lawsuit -- any one of various proceedings in a court of law.

leading question -- a question an attorney asks a witness in a trial which, by its very wording, suggests how the attorney would like the witness to answer. Leading questions are permissible during cross-examination but not during direct examination.

mediation -- the alternative dispute resolution method most commonly used in the district courts. Mediation is an informal process in which a mediator facilitates negotiations between the parties to help them resolve their dispute.

misdemeanor -- a criminal offense less severe than a felony, generally punishable by a fine only or by imprisonment of less than one year.

mistrial -- a trial that has been terminated because of some extraordinary event, a fundamental error prejudicial to the defendant, or a jury that is unable to reach a verdict.

motion -- an application to the court for an order of some kind. Some kinds of motions may be filed only within certain time limits, and others may be filed at any stage of a case.

nolo contendere plea -- a plea in which the defendant does not admit guilt, but does waive the right to trial and authorize the court to impose punishment at sentencing. *Nolo contendere* is a Latin term that means "it is not contested." This type of plea is rarely entered. The motivation for entering a *nolo* plea is that unlike a plea of guilty, a *nolo* plea may not be used against the defendant as an admission in a related civil case.

objection -- a lawyer's belief, stated to the judge, that something is wrong with a question posed by opposing counsel, the way opposing counsel phrases a question, or the way a witness answers it. If the judge thinks the objection is valid, he or she will sustain the objection and tell the witness not to answer or tell the jury to disregard the

Glossary of Litigation Terms

answer. If there is no basis for the objection, the judge will overrule it and let the questioning continue.

opening statements -- before the evidence is presented in a trial, lawyers' presentations to the jury summarizing what they intend to present as evidence. Opening statements, like closing arguments, are not themselves evidence.

opinion -- a judge's written explanation of a decision in a case or some aspect of a case. An opinion of the court explains the decision of all or a majority of the judges. A dissenting opinion is an opinion by one or more judges who disagree with the majority. A concurring opinion is an opinion by one or more judges that agrees with the decision of the majority but offers further comment or a different reason for the decision. A *per curiam* opinion is an opinion handed down by an appellate court but not signed by an individual judge.

oral argument -- in appellate cases, an opportunity for the lawyers for each side to appear before the judges to summarize their positions and answer the judges' questions.

order -- a decision or direction made by a judicial authority. Judges issue orders in response to motions.

overrule -- (1) a judge's ruling at trial that a lawyer's objection is without merit, and that the questioning or testimony objected to may continue; (2) a court's decision to set aside the authority of a former decision.

parole -- the suspension of a convict's prison sentence and the convict's release from prison, at the discretion of an executive branch agency and conditioned on the convict's compliance with the terms of parole.

parties -- the plaintiff(s) and defendant(s) in a lawsuit.

peremptory challenge -- an attorney's striking (excuse) of a person from a panel of prospective jurors during jury selection for a trial without stating any reason. Attorneys have the right to a certain number of peremptory challenges in each case. Peremptory challenges may be made for a variety of reasons, including hunches, but may not be based on race or gender grounds.

plaintiff -- the person who files the complaint in a civil lawsuit.

plea -- in a criminal case, the defendant's statement to the court that he or she is "guilty" or "not guilty" of the charges.

plea agreement -- an agreement between the government and the defendant to resolve a pending criminal case by the defendant's entering a guilty plea rather than going to trial. The prosecutor may agree to dismiss or reduce certain charges, recommend a

Glossary of Litigation Terms

certain sentence, or agree with the defendant that a certain sentence is appropriate in return for the defendant's entering a guilty plea and, in some cases, providing information to the prosecutor.

plea bargain -- The process in which the defendant and the prosecutor in a criminal case work out a mutually satisfactory disposition of the case subject to court approval. It usually involves the defendant's pleading guilty to a lesser offense or to only one or some of the counts in a multi-count indictment in return for a lighter sentence than the defendant would have received if convicted of the more serious charges.

pleadings -- in a civil case, the written statements of the parties stating their positions about the case.

precedent -- a court decision in an earlier case with facts and legal issues similar to those in a case currently before a court. Courts are required to follow some precedents. For example, a U.S. court of appeals must follow decisions of the U.S. Supreme Court; a state trial court must follow decisions handed down by that state's highest appellate court (usually the state's Supreme Court). Courts are also influenced by decisions they are not required to follow, such as the decisions of other circuits. Courts also follow their own precedents unless they set forth reasons for changing the case law.

preponderance of the evidence – see burden of proof.

presumption of innocence -- the requirement in a criminal trial that the jury presume that the defendant is innocent of all charges. The judge instructs the jury that, before the defendant can be found guilty, the government must overcome the presumption of innocence and convince the jurors that the defendant is guilty beyond a reasonable doubt.

privilege against self-incrimination -- a person's right to remain silent in the face of accusation or questioning by government agents. Also known as the right to remain silent, the privilege against self-incrimination is contained in the Fifth Amendment of the Constitution. People may invoke the privilege at any time, including immediately after an arrest, at the police station, before the grand jury, or at trial.

pro se -- a Latin term meaning "on one's own behalf." In courts, *pro se* refers to persons who present their own cases without lawyers.

probable cause -- the legal standard defining the amount of evidence or information needed to justify a search or an arrest. The Fourth Amendment requires that arrests and searches made by law enforcement officers be justified by probable cause. An arresting officer has probable cause for an arrest only if there is enough reliable information or evidence to support the officer's reasonable belief that a crime has been committed and that the defendant committed it.

Glossary of Litigation Terms

probation -- a criminal sentence in which the offender is placed under court supervision for a specified period of time, but allowed to remain in the community. While on probation the offender is required to report to a probation officer and comply with other court-imposed conditions.

probation officer -- an officer of the court who is responsible for conducting presentence investigations of offenders and preparing presentence reports, and is responsible for supervising persons on probation and supervised release.

proof beyond a reasonable doubt – see burden of proof.

prosecute -- to charge a person or organization with a crime and seek to gain a criminal conviction against that person or organization.

prosecutor -- the government lawyer responsible for prosecuting criminal defendants. In most state cases, the prosecutor is the district attorney or assistant district attorney. In federal cases, the prosecutor is the U.S. attorney or assistant U.S. attorney (AUSA).

record -- all the documents filed in a case and a written account of the trial proceedings.

recuse -- to withdraw or disqualify oneself as a judge in a case because of personal prejudice, conflict of interest, or some other good reason why the judge should not sit in the interest of fairness.

redirect examination -- questions directed to a witness by the lawyer who conducted the direct examination of the witness. Redirect examination follows cross-examination and focuses on matters that were raised for the first time during cross-examination.

relief -- money damages or any other remedy the plaintiff seeks in a complaint.

remand -- the act of an appellate court sending a case back to a lower court for further proceedings.

removal -- a procedure applicable to most cases in which a federal court has jurisdiction because there is a federal question or diversity (parties who live in different states), but the plaintiff chooses to sue in state court. The federal removal statute allows the defendant to get the case removed to federal court, in part to ensure fairness to out-of-state defendants.

representative party -- a party who sues on behalf of the class in a class action. The claims or defenses of the representative party must be typical of the class, and the representative party must protect the interests of the class.

requests for admission -- a form of discovery in which one party asks another to admit or deny the truth of facts or the genuineness of documents.

Glossary of Litigation Terms

requests for production of documents -- a form of discovery in which one party requests that another make certain documents and other objects available for inspection and copying.

restitution -- payment by an offender of money or services to the victim of a crime for losses suffered as a result of the crime. Restitution must be ordered as part of the defendant's sentence for certain crimes. It may also be ordered as a condition of probation or of supervised release.

reverse -- to set aside a decision or order, on appeal or by the same court, and enter a different decision or order. A reversal is often followed by a remand.

revocation of probation -- a court's order that a probationer or supervised releasee who has violated one or more conditions of probation or supervised release can no longer serve his or her sentence in the community and must be imprisoned.

search warrant -- a written court order authorizing a law enforcement officer to search certain premises for specified items and to seize the items described.

sentence -- a judgment of the court imposing punishment upon a defendant for criminal conduct.

service of process -- bringing a judicial proceeding to the notice of a person affected by it by delivering to him or her a summons, or notice of the proceeding.

settlement -- an agreement between the parties to a lawsuit to resolve their differences among themselves without having a trial or before the judge or jury renders a verdict in a trial.

sidebar (or **sidebar conference**) -- a discussion between the judge and lawyers held out of earshot of the jury and spectators.

state courts -- courts established by various state governments, including county and local courts.

statute -- a law passed by a legislature.

statute of limitations -- a law setting a fixed time period (for example, one year) after which a person cannot sue someone for an alleged injury or a government cannot prosecute someone for a crime. It prevents legal proceedings from taking place long after the injury or crime occurred, when evidence and witnesses may be hard to find.

stay -- the postponement or halting of a judicial proceeding or judgment.

Glossary of Litigation Terms

stipulate -- to enter into a binding agreement on an issue that is not genuinely in dispute. Matters stipulated to in a court case are considered proven, so neither side is required to present evidence on them.

sua sponte -- a Latin term meaning "on its own responsibility or motion." A *sua sponte* order is an order issued by a court without prior motion by either party.

subpoena -- a court order that requires that a person produce documents or appear at a trial, hearing, or deposition, for the purpose of testifying as a witness.

summary judgment -- (Or **judgment as a matter of law**, when the court determines that, after looking at all the evidence in the case, there is no dispute as to the facts.) A party may file a motion asking the court to order summary judgment on some or all claims in the case.

summons -- a document the plaintiff in a lawsuit must file with the court and serve on the defendant, along with a copy of the complaint, to give the defendant notice of a lawsuit.

sustain -- to rule at trial that a lawyer's objection to questioning or testimony is valid. When the judge sustains an objection, the questioning or testimony objected to must stop or be modified.

testimony -- evidence presented orally by witnesses during trials or depositions or before grand juries.

third-party claim -- a claim that a defendant can include in its answer to a complaint, stating that a breach of duty by an entity not a party to the lawsuit gave rise to all or part of the plaintiff's claim. Service of the third-party complaint brings the entity into the suit as a third-party defendant, and the filing defendant becomes a third-party plaintiff.

transcript -- a written, word-for-word record of what was said either in a proceeding, such as a trial, or during some other exchange, such as a telephone conversation.

trial -- the proceeding at which parties in a civil case, or the government and the defense in a criminal case, produce evidence for consideration by a factfinder in court. The factfinder, who may be a judge or a jury, applies the law to the facts as it finds them and decides whether the defendant is guilty in a criminal case or which party should win in a civil case.

uphold -- to allow a lower court's decision to stand as is. It is an action taken by the appellate court after reviewing the lower court's decision. Compare with reverse.

U.S. Constitution -- the document written by the founders of this country, which establishes the basic structure and functions of the federal government, grants certain specified rights, often called constitutional rights, to the American people, and places

Glossary of Litigation Terms

limits on the powers and activities of our federal and state governments. The term "U.S. Constitution" also includes its amendments. The first ten amendments to the Constitution are referred to as the **Bill of Rights**.

verdict -- a jury's decision on the factual issues in a civil or criminal case.

voir dire -- the process by which judges and lawyers select a petit jury from a panel of citizens eligible to serve. They do this by questioning the members of the panel. *Voir dire* is a French term that means "to speak the truth."

waiver -- the act of knowingly, intentionally, and voluntarily giving up a right. For example, a defendant who pleads guilty waives the right to a jury trial.

witness -- a person called upon by either side in a lawsuit to give testimony before the court.

writ of certiorari -- an order by a court to a lower court requiring that the lower court produce the records of a particular case tried so that the reviewing court can inspect the proceedings and determine whether there have been any irregularities.

writ of garnishment -- a means of enforcing a judgment in which the defendant's property (e.g., a bank account, wages, or any debt owed to the defendant by someone else) is to be seized and is in the hands of a third person .

writ of habeas corpus -- a document filed as a means of testing the legality of a restraint on a person's liberty, usually imprisonment. The writ commands the officials who have custody of a prisoner to bring the prisoner before the court, so that the court may determine whether the prisoner is being detained lawfully.