

Glossary

Following is a glossary of terms commonly used in the judicial system.

A

abatement of action A suit that has been quashed and ended.

abeyance Incomplete or undetermined state of affairs.

abscond To run away or hide from the jurisdiction of the court in order to avoid legal proceedings.

abstract of record Abbreviated, but complete history of a case as found in the record.

abstract of title Concise chronological history of all official records and recorded documents affecting title to a parcel of land.

Accelerated Rehabilitative Disposition (ARD) Voluntary program established by Pennsylvania's Supreme Court in 1972 for first-time, non-violent offenders whereby offenders undergo a probation supervision program for two years without conviction. If the program is successfully completed, charges against the offender are dismissed.

accessory Person who aids or contributes in commission of a crime, usually by convincing someone to commit a crime or by helping the suspect escape or hide evidence. Usually not present during the crime. Compare **accomplice**.

accomplice Person who knowingly and voluntarily participates with another in a criminal act through aiding, abetting, advising or encouraging offender. See **aid and abet**. Compare **accessory**.

accord and satisfaction Method of discharging a claim whereby parties agree to give and accept something in settlement of claim. The new agreement is called the accord. The satisfaction is the action performed to settle the claim.

acknowledgment Short declaration at end of a legal paper showing paper was duly executed and acknowledged.

- acquittal** Verdict after a criminal trial that defendant is not guilty of charged crime. Compare **guilty**.
- action** A judicial proceeding. An action **in personam** is against a person. An action **in rem** is against a thing, usually where property is involved.
- actus reus** (ACK tus REE us) Proof that a criminal act has occurred. See **elements of a crime**.
- ad litem** (add LYE dem) For the purposes of the lawsuit. E.g., a **guardian ad litem** is appointed to prosecute or defend a suit on behalf of an incapacitated person or a minor.
- additur** (ADD ih tur) Increase by judge in amount of damages awarded by jury.
- adjudication** Pronouncing judgment or decree; the judgment given.
- administrator** One who administers estate of person who dies without a will. See **personal representative**. Compare **executor**.
- admissible evidence** Evidence which can be legally and properly introduced in a trial.
- adversary proceeding** Proceeding having opposing parties; contested. Differs from **ex parte** proceeding.
- adversary system** Trial method used in U.S. and some other countries, based on belief that truth can best be determined by giving opposing parties full opportunity to present and establish evidence and to test by cross-examination evidence presented by adversaries under established rules of procedure before an impartial judge and/or jury.
- affiant** Person who makes and signs an **affidavit**.
- affidavit** Voluntary written statement of facts given under oath. In criminal cases affidavits are often used by police officers seeking to obtain search or arrest warrants. In civil cases affidavits of witnesses are often used to support motions for summary judgment.
- affirmative defense** Without denying the charge, defendant raises extenuating or **mitigating circumstances** such as insanity, self-defense or entrapment to avoid civil or criminal responsibility.
- affirmed** Decree or order at issue is declared valid by appellate court and will stand as rendered in lower court.
- aggravated assault** See **assault**.
- aggravating circumstances** Circumstances occurring in commission of an offense which occur above and beyond the offense itself and which serve to increase offense's guilt or enormity or add to its consequences. May increase sentence of individual convicted of offense. Compare **mitigating circumstances**.
- aid and abet** To actively, knowingly or intentionally assist another person in commission or attempted commission of a crime. See **accomplice**.
- alibi** Proof offered by defendant that he/she was at some other place at time of crime and thus could not have committed crime charged.
- allegation** Statement of **issues** in a **pleading** that a party expects to prove. E.g., an **indictment** contains allegations of a crime against a defendant.
- allocatur** (AL lo CAH tur) "It is allowed." Petition to **appeal**.
- alternative dispute resolution (ADR)** Settling a dispute without a full, formal trial. Methods include **mediation**, **conciliation**, **arbitration** and **settlement**, among others.
- amicus curiae** (uh ME kus KYU ree EYE) Friend of the court. One not a party to a case who, having a strong interest in the outcome, offers information on a point of law or some other aspect of the case.
- answer** Defendant's response to plaintiff's **allegations** as stated in a **complaint**. Item-by-item, paragraph-by-paragraph response to points made in complaint. Part of the **pleadings**.
- appeal** Request to have a decision made by a lower court reviewed by a higher court.
- appearance** Coming into court. Formal act by which a defendant submits to the jurisdiction of a court. Compare **arraignment**.
- appellant** Party who initiates an appeal.
- appellate court** Court having jurisdiction to review decisions of lower courts or administrative agencies.

appellee Party against whom an appeal is taken. Also called a respondent.

arbitration Form of **alternative dispute resolution** in which parties bring dispute to a neutral third party and agree to abide by decision reached. Decisions usually cannot be appealed.

arraignment Proceeding in which an accused person appears before a judge to hear the criminal charges filed against him/her and to enter a plea of guilty or not guilty. Compare **preliminary hearing** and **initial appearance**. See also **appearance**.

arrest To take into custody by legal authority.

arrest of judgment Act of delaying the effect of a **judgment** already entered.

assault Threat to inflict injury with an apparent ability to do so. Also, any intentional display of force which would give victim reason to fear or expect immediate bodily harm. Aggravated assault must include another act which is also criminal, e.g., an attempt to cause serious bodily injury or commit another crime or use of a deadly weapon. Compare **battery**.

at issue Point in a lawsuit when complaining party has stated claim and other side has responded with a denial. Contested points are said to be “at issue.”

attachment Legal seizure and holding of person’s property pending outcome of lawsuit. Also, arrest of person guilty of **contempt of court**.

attempt Effort to commit a crime, carried beyond preparation, but not executed.

attorney-at-law Advocate, counsel or official agent employed in preparing, managing and trying cases in the courts.

attorney-in-fact Private person, not necessarily an attorney, authorized by another to act in his place and stead, either for a particular purpose or for transaction of business in general that is not of legal nature. Authority is conferred by an instrument in writing called a letter of attorney or, more commonly, **power of attorney**.

attorney of record Principal attorney in a lawsuit who signs all formal documents relating to suit.

B

backlog Number of pending cases exceeding the capacity of a court which is engaged in acting on other cases.

bail Money or other security (such as a **bail bond**) given to a court to temporarily secure a person’s release from custody and assure his/her appearance in court. May be forfeited should individual subsequently fail to appear before the court. Bail and bond are often used interchangeably.

bail authority In Pennsylvania the district justice, magistrate, Philadelphia bail commissioner or judge with jurisdiction over the case in question authorized by law to set, modify, revoke or deny bail.

bail bond (often referred to simply as bond) Obligation, signed by accused, to secure his/her presence at trial and which he/she may lose by not properly appearing for trial.

bailiff Court attendant who keeps order in the courtroom and has custody of the jury.

bankruptcy Statutes and judicial proceedings involving persons or businesses who cannot pay debts and seek assistance of court in getting a fresh start.

bar Historically, partition separating general public from space occupied by judges, lawyers and other participants in a trial. More commonly, the whole body of lawyers. A “case at bar” is a case currently being considered.

bar examination State examination taken by prospective lawyers in order to be admitted to practice law.

battered child syndrome Medical and psychological condition of a child who has suffered continuing injuries not inflicted accidentally and thus are presumed to have been inflicted by someone close to the child.

battered woman syndrome Medical and psychological condition of a woman who has been physically, sexually and/or emotionally abused by a spouse or lover. Also called

battered wife syndrome or battered spouse syndrome.

battery Physical contact intended to harm someone. Threat to use force is **assault**; use of it is battery, which usually includes an assault. Aggravated battery is unlawful use of force with unusual or serious consequences, e.g., use of a dangerous weapon.

bench Seat occupied by the judge. More broadly, the court itself.

bench trial Trial with no jury, in which the judge decides the facts.

bench warrant Arrest warrant issued directly by a judge.

beneficiary Someone named to receive benefits from a legal device such as a will, trust or insurance policy.

bequeath To give someone a gift through a will.

bequests Gifts made in a will.

best evidence Primary evidence; best evidence available. Evidence short of this is “secondary.” E.g., an original letter is the best evidence; a photocopy is secondary evidence.

beyond a reasonable doubt Standard in a criminal case requiring the jury to be satisfied “to a moral certainty” that every element of the crime has been proven by prosecution. Does not require state to establish absolute certainty by eliminating all doubt, but does require that evidence be so conclusive that all **reasonable doubts** are removed from the mind of the ordinary person.

bifurcation Dividing the issues in a case so that one issue can be decided before the others. E.g., a divorce will often be granted before custody, support and marital property issues are resolved.

bill Formal written declaration, petition, complaint or statement. E.g., a declaration of wrong a complainant has suffered is a bill of complaint. Also, a draft of a new or amended law presented to a legislature for action.

bill of evidence Transcript of testimony heard at trial.

bill of particulars Statement detailing charge/s made against defendant.

bind over To hold a person for trial on bond (**bail**) or in jail. If the judicial official conducting the preliminary hearing finds **probable cause** to believe accused committed a crime, he/she will “bind over” accused, normally by setting bail for the accused’s appearance at trial.

binding instruction Instruction in which jury is told that if it finds certain conditions to be true, to find for the plaintiff or defendant, as the case may be. Compare **directed verdict**.

black letter laws Informal term encompassing basic principles of law generally accepted by courts or present in statutes of a particular jurisdiction.

blue sky laws State statutes regulating sale of securities.

bond See **bail bond**.

booking Process of photographing, fingerprinting and recording identifying data of a suspect following arrest.

breach of contract Legally inexcusable failure to perform contractual obligation.

brief Written statement prepared by one side in a lawsuit to explain to the court its view of the facts of a case and applicable law.

burden of proof Necessity or duty to prove a fact in a dispute. Not the same as standard of proof. Burden of proof deals with which side must establish a point or points; standard of proof indicates degree to which point must be proven.

burglary Breaking into and entering a building with intent to commit a felony.

C

calendar List of cases scheduled for hearing in court.

calling the docket Public calling of the **docket** or list of **causes** at commencement of a court term.

capital crime Crime punishable by death.

caption Heading on a legal document listing parties, court, case number and related information.

- caselaw** Collection of reported cases that form the body of law within a jurisdiction. Also known as jurisprudence.
- caseload** Total number of cases filed in a given court or before a given judicial officer for a given period of time.
- causa mortis gift** (KAH zuh MOR tis) Gift made in expectation of donor's death and upon condition that donor die as anticipated.
- cause** Lawsuit, litigation or action. Any question, civil or criminal, litigated or contested before a court of justice.
- cause of action** Facts that give rise to a lawsuit.
- caveat** (KA vee OTT) Warning; note of caution.
- cease and desist order** Order of an administrative agency or court prohibiting a person or business from continuing a particular course of conduct.
- certiorari** (SIR she oh RARE ee) Writ issued by appellate court directing lower court to deliver record of case for review. Often referred to as "granting cert."
- challenge** Objection, such as when attorney objects at **voir dire** hearing to seating of a particular individual on a jury. May be **challenge for cause** or **peremptory challenge**. See also **challenge to the array**.
- challenge to the array** Questioning the qualifications of an entire jury panel, usually on grounds of some legal fault in composition of the panel, e.g., racial discrimination.
- challenge for cause** Objection to seating of a particular juror for a stated reason, usually bias or prejudice for or against one party in the lawsuit. Judge has discretion to deny challenge. Also known as challenge to the poll. Compare **peremptory challenge**.
- change of venire** (veh NI ree; popularly pronounced veh NEER) Bringing in a jury from another county to hear a trial, usually because of concerns that pretrial publicity has made empaneling an impartial jury difficult. Compare **change of venue**.
- change of venue** Moving a lawsuit to another place for trial, usually because pretrial publicity has made empaneling an impartial jury difficult. Compare **change of venire**.
- character evidence** Testimony of witnesses who know the general character and reputation of a person in the community in which that person lives. May be considered by jury as either **substantive evidence** as to the likelihood of the defendant to commit crime or as **corroborating evidence** of the credibility of a witness's testimony.
- charge** A formal complaint issued accusing an individual of a crime. Compare **indictment** and **information**. Also, judge's instruction to jury concerning law which applies to the facts of a case. Also called **instruction**. Compare **binding instruction** and **directed verdict**.
- circuit court** Court whose jurisdiction extends over several counties or districts and which holds sessions in all of those areas. Pennsylvania's appellate courts are circuit courts, holding sessions in various locations throughout the Commonwealth.
- circumstantial evidence** Evidence which suggests something by implication, from which an inference can be drawn, e.g., physical evidence, such as fingerprints. Also called indirect evidence. Compare **direct evidence**.
- citation** Reference to source of legal authority. Also, writ issued by a court commanding a person to appear at a specified place and time and do something specified or to give just cause why he/she should not. Also, direction to appear in court, as when a driver receives a citation for a moving or parking violation.
- civil actions** Noncriminal cases in which one private party sues another for redress of private or civil rights.
- civil procedure** Entire process by which a civil case is tried.
- class action** Lawsuit brought by one or more persons on behalf of a larger group.
- clear and convincing evidence** Evidence indicating that which is to be proven is highly probable or reasonably certain. Greater than **preponderance of evidence**, which is generally the standard applied in civil trials, but less than the evidence **beyond a reasonable doubt** required in criminal trials.

- clemency** (also called executive clemency) Act of grace or mercy by president or governor to ease consequences of criminal act, accusation or conviction. May take form of **commutation** or **pardon**.
- clerk of court** Officer appointed by court or elected to oversee administrative, nonjudicial activities of the court.
- closing argument** In a trial, closing statements by counsel to the judge or jury after evidence has been presented.
- code** Complete, systematic collection of laws.
- codicil** (KOD I sill) Addition to a will.
- cognovit actionem** (KOG NO vit ACK she OH nem) “He has confessed the action.” Written confession by defendant of plaintiff’s claim. Usually upon condition. Authorizes plaintiff’s attorney to sign judgment and issue execution.
- collateral** Property pledged as security for satisfaction of a debt. See **secured debt**.
- commit** To send a person to prison, asylum or reformatory pursuant to court order.
- common law** Law arising from tradition and judicial decisions rather than from laws passed by the legislature. Originated in England and has been followed as law in most American jurisdictions. Compare **statute**.
- Common Pleas Court** See **Court of Common Pleas**.
- community service** Sentencing option whereby offender performs volunteer work for government, non-profit or community-based organizations.
- commutation** Form of **clemency** reducing one’s sentence, as from death to life imprisonment.
- comparative negligence** Legal doctrine by which negligence of plaintiff determines amount plaintiff may recover from defendant. Compare **contributory negligence**.
- complainant** See **plaintiff**.
- complaint** Legal document that usually begins a civil lawsuit. States facts and identifies action court is asked to take.
- conciliation** Form of **alternative dispute resolution** in which parties bring their dispute to a neutral third party, who helps reach a solution. Nonbinding. Similar to **mediation**, but may be less formal.
- concur** To agree, act together or consent. Compare concurring opinion under **opinion**.
- concurrent sentence** Two or more sentences served at same time rather than one after another. Three five-year terms served concurrently add up to no more than five years in prison. See also **consecutive sentence**.
- condemnation** Legal process by which government invokes its powers of **eminent domain** and takes privately owned property for public use, paying owners just compensation. Also, act of judicially pronouncing someone guilty. Usually called **conviction**.
- confession of judgment** Act of a debtor in permitting judgment to be entered against him/her by a creditor. Also known as cognovit judgment.
- consecutive sentences** Successive sentences, one beginning at the expiration of another. Three five-year terms served consecutively impose a 15-year sentence. Also called cumulative sentence. See also **concurrent sentence**.
- consent decree** Disposition in juvenile court in which proceedings are suspended and child is continued under supervision in his/her own home under terms and conditions negotiated with probation services and agreed to by all parties concerned. Also, a court decree to which all parties agree.
- consent judgment** See **judgment**.
- conservatorship** See **guardianship**.
- consideration** Inducement for which a party enters into a contract.
- conspiracy** Two or more people joining together for the purpose of committing an unlawful act.
- contempt of court** Willful disobedience of judge’s command or official court order.
- continuance** Postponement of a legal proceeding to a later date.
- contract** Legally enforceable agreement between two or more competent parties made either orally or in writing.
- contributory negligence** Legal doctrine that says if plaintiff in a civil action for negligence was also negligent, he/she cannot

recover damages from defendant for defendant's negligence. Most jurisdictions have abandoned this doctrine in favor of **comparative negligence**.

conviction Act of judicially declaring a criminal defendant guilty. Also called condemnation.

copyright Right to literary property, giving authors, composers and other creators sole control over how that property is used.

corpus delicti (COR pus di LICK ty) Material substance (body) upon which a crime has been committed, i.e., the physical evidence a crime has been committed, e.g., the body of a homicide victim or broken windows in a vandalized building.

corroborating evidence Supplementary evidence that strengthens or confirms initial evidence.

count Each offense listed in a **complaint, information** or **indictment**.

counterclaim Claim made by defendant against plaintiff in a civil lawsuit, especially in opposition to the plaintiff's claim.

court administrator Officer appointed or elected to oversee administrative, nonjudicial activities of the court.

court costs Fees and charges charged legally by the court for expenses of the litigation, e.g., filing fees, jury fees, reporter fees. Also, an amount of money that may be awarded to the successful party, recoverable from the losing party, as reimbursement for the cost of the litigation.

Court of Common Pleas Intermediate original court in some states, including Pennsylvania, that usually has civil and criminal jurisdiction. In Pennsylvania Common Pleas Courts also hear appeals from certain state and most local government agencies and from the minor courts. May also be referred to as trial courts or county courts.

court of record Courts whose proceedings are permanently recorded and which have power to fine or imprison for contempt.

court reporter Person who records and transcribes verbatim reports of all proceedings in court. Also called a stenographer.

crime Type of behavior defined by law as deserving punishment, including imprisonment or fine or both, upon conviction. Crimes are classified as either **misdemeanors** or **felonies**.

Crimes Code Short title for Title 18 of *Purdon's Pennsylvania Statutes*, "Crimes and Offenses."

criminal history record information Information collected by criminal justice agencies on individuals with arrest records. Consists of descriptions and notations of arrests, detentions, indictments or other formal criminal charges, dispositions, sentencing, correctional supervision and release. Also referred to as a prior record or rap sheet.

criminal insanity Mental condition which renders a person unable to determine right from wrong. Defendants criminally insane cannot be convicted as criminal conduct involves conscious intent to do wrong.

criminal summons Order commanding accused to appear in court. May be issued in lieu of arrest warrant for misdemeanors when issuing official believes accused will appear in court without being placed under bail.

cross-claim Claim by codefendants or coplaintiffs against each other.

cross-examination Questioning of witness by opponent in a trial.

cumulative sentence See **consecutive sentence**.

D

damages Money awarded by court to a person for injury or loss suffered by the unlawful act or negligence of another.

de facto In fact. Exercising power as if legally constituted. Compare **de jure**.

de jure (dee JOOR ee) By right; by the law. Exercising power in accordance with the law. Compare **de facto**.

de novo (deh NO vo) Anew. A "trial de novo" is a new trial of a case.

- decedent** Person who has died.
- decision** Judgment reached or given by a court.
- declaratory judgment** Judgment in a civil case that declares rights and responsibilities of the parties or interpretation of the law without awarding damages or requiring action. E.g., a court may be asked to issue a declaratory judgment on constitutionality of a statute or whether an insurance policy covers a given activity. Usually requested by plaintiffs in order to avoid future legal difficulties.
- decree** Order of the court. A final decree fully and finally disposes of litigation. An interlocutory decree settles preliminary or subordinate points or pleas, but not entire case.
- defamation** Harming the reputation of another by making false statements to a third party, thus exposing the individual to ridicule, hatred, contempt or condemnation. May be criminal or civil. Includes **libel** and **slander**.
- default** Failure to fulfill a legal or contractual obligation.
- default judgment** Judgment entered against a defendant who does not respond to a claim or does not appear at trial.
- defendant** In a civil case, the person being sued. In a criminal case, the person charged with a crime.
- demurrer** (dih MUR rer) Motion still used in Pennsylvania to dismiss a civil case because the complaint is legally insufficient. In most states this is now called a **motion to dismiss**.
- deponent** One whose deposition is being taken.
- depose** To testify, bear witness. Also, to examine a witness via **deposition**.
- deposition** Sworn testimony of a witness taken under oath outside of court. Also, the session at which such testimony is recorded.
- descent and distribution statutes** State laws that provide for distribution of estate property when a person dies without a will. Same as intestacy laws.
- direct evidence** Proof of facts by witnesses who saw acts done or heard words spoken, as distinguished from **circumstantial**, or indirect, evidence.
- direct examination** First questioning of a witness by the party who called him/her.
- directed verdict** Instruction by judge to jury to return a specific verdict, usually because one of the parties failed to prove its case. Compare **binding instruction**.
- disbarment** Form of disciplining a lawyer whereby he/she loses, permanently or temporarily, the right to practice law.
- disclaim** To renounce one's legal rights or claims.
- discovery** Pretrial process by which one party reveals, at other party's request, relevant information about the litigation.
- dismissal** Termination of a lawsuit. A "dismissal without prejudice" permits the suit to be filed again at a later time. A "dismissal with prejudice" prevents the lawsuit from being refiled later.
- dissent** Disagreement by one or more appellate court judges with the decision the majority.
- diversion** Process of removing certain minor criminal, traffic or juvenile cases from full judicial process on condition that accused undergo some sort of rehabilitation or training, e.g., job training. If defendant completes probation successfully, the charges may be dropped.
- docket** List of cases to be heard by court. Also, log containing brief entries of court proceedings.
- domicile** Place where a person has his/her permanent, legal home. A person may have several residences, but only one domicile.
- double jeopardy** Putting a person on trial more than once for the same crime. Forbidden by the Fifth Amendment to the U.S. Constitution.
- due process of law** Right of all persons to receive guarantees and safeguards of law and judicial process. Includes such constitutional rights as adequate notice; assistance of counsel; and rights to remain silent, to a speedy and public trial, to an impartial jury, and to confront and secure witnesses.

E

- electronic monitoring** Type of sentencing or arrest wherein an individual is required to wear an electronic device which transmits the individual's whereabouts to a receiver that is monitored for violations. Usually used in connection with **house arrest**.
- elements of a crime** Specific factors that define a crime, which the prosecution must prove **beyond reasonable doubt** in order to obtain conviction. Elements that must be proven are (1) that a crime actually occurred (**actus reus**), (2) that the accused intended the crime to happen (**mens rea**), (3) a timely relationship between the first two factors.
- embezzlement** Fraudulently taking property or money entrusted to one individual by another.
- eminent domain** Power of the government to take private property for public use, after paying the owner reasonable compensation. See **condemnation**.
- en banc** All judges of a court sitting together. Appellate courts often hear cases in panels of three judges. If a case is heard or reheard by the full court, it is heard en banc.
- encumbrance** A claim against property.
- enjoin** To require a person, via an **injunction**, to perform or to abstain from performing some specific act.
- entrapment** Defense to criminal charges alleging that agents of the government induced a person to commit a crime he/she otherwise would not have committed.
- equal protection of the law** Guarantee in the Fourteenth Amendment to the U.S. Constitution that all persons or classes of persons be treated equally by the law.
- equitable action** Action which seeks just, fair, nonmonetary remedy, e.g., an **injunction**.
- equity** Generally, justice or fairness; body of principles that determine what is just or fair. Historically, refers to a system of law developed in England in reaction to the legal inability of common law courts to consider or provide remedy for every injury. The king established a court of chancery to do justice between parties in cases where common law would give inadequate redress.
- escheat** (iss SHEET) Process by which the property of one who has died goes to the state if no heir can be found.
- escrow** Money or documents, (e.g., a deed), which are held ("in escrow") by a neutral third party until all conditions of an agreement are met.
- estate** All properties owned by an individual when he/she dies.
- estate tax** Tax paid on an estate as it passes to the heirs.
- estoppel** Principle that prevents someone from claiming or denying something in court that contradicts what has already been established as fact.
- et al.** And others.
- evidence** Information presented in court to prove or disprove alleged facts. See also specific types, including **admissible, best, character, circumstantial, clear and convincing, corroborating, direct, hearsay** and **expert evidence**.
- ex delicto** (ex dee LICK toh) Arising from a tort; breach of duty.
- ex parte** (ex PART ee) On behalf of only one party, without notice to any other party. E.g., request for a search warrant is an ex parte proceeding since person subject to the search is not notified of proceeding.
- ex parte proceeding** One in which only one side is represented. Differs from **adversary system** or **proceeding**.
- ex post facto** (ex post FAC toh) After the fact. E.g., ex post facto laws permit conviction and punishment for a lawful act performed before law was changed and act was made illegal. The U.S. Constitution prohibits these.
- exception** Formal objection to a court's ruling by either side in a civil or criminal case in order to reserve right to appeal judge's ruling upon a motion. Also, in regulatory cases, objections by one side to points made by the other side or to rulings by an agency or one of its hearing officers.

exclusionary rule Rule preventing illegally obtained evidence from being used in any trial. See **suppress**.

exculpate To free from blame or accusation, particularly in matters of small importance. Compare **exonerate**.

execute (a judgment or decree) To put final judgment of court into effect.

executor Personal representative, named in a will, who administers an estate. Compare **administrator**.

exempt property Certain property protected by law from creditors.

exhibit Document or other article introduced as evidence in court.

exonerate Removal of a charge, duty or responsibility. Also, to clear completely from accusation or blame and any attendant suspicion of guilt. Compare **exculpate**.

expert evidence Testimony relating to scientific, technical or professional matters given by persons particularly qualified by reason of special training, skill or familiarity with the subject.

expungement Official and formal removal of conviction from a criminal record.

extenuating circumstances See **mitigating circumstances**.

extortion Illegally obtaining money or property by force, threat, intimidation, or undue or illegal power.

extradition Process by which one state or nation surrenders to another state or nation a person accused or convicted of a crime in the requesting state/nation.

F

fair comment Term used in **libel** law applying to statements relating to matters of public concern made by a writer in honest belief that they are true, even though they are not.

false arrest Arresting an individual without proper legal authority.

false pretenses Purposely misrepresenting a fact or condition in order to obtain another's money or goods.

family allowance Money set aside from the estate of a deceased to provide for surviving family members during administration of the estate.

family court Court having jurisdiction over family matters such as child abuse and neglect, support, paternity and custody.

felony Serious crime punishable by imprisonment for more than a year or death and/or substantial fines. Compare **misdemeanor**.

fiduciary (fih **DOO** she AIR ee) Person having a legal relationship of trust and confidence with another and a duty to act primarily for other's benefit, e.g., **guardian**, **trustee** or **executor**.

file To place a paper in custody of the clerk of court/court administrator to enter into the official files or records of a case.

finding Formal conclusion by judge, jury or regulatory agency on issues of fact.

fine Money penalty imposed in criminal or civil actions.

first appearance See **initial appearance**.

forcible entry and detainer Summary proceeding for restoring possession of land to one who has been wrongfully deprived of it.

forgery Falsely and fraudulently making or altering a document, e.g., a check.

fraud Intentional deception to deprive another person of property or to injure that person in some other way.

G

garnishment Legal proceeding in which a debtor's money is applied to the debts of the debtor, such as when one's wages are garnished.

general jurisdiction Jurisdiction which covers a wide range of controversies brought before a court. Compare **limited jurisdiction**.

good faith Honest belief; absence of **malice** and intent to defraud.

good time Reduction in time served in prison as reward for good behavior.

grand jury Group of citizens, usually numbering 23, assembled to determine whether

enough evidence exists to charge an individual with a felony. May issue **indictment**, charging the suspect, or may have power to issue **presentment**. Compare **petit jury**.

granting cert See **certiorari**.

grantor Person who sets up a trust. Also called settlor.

gravamen (gruh VAY men) The significant point of a grievance or complaint.

guardian ad litem (add LYE dem) Person appointed by a court to look after interests of a minor or incapacitated person involved in legal proceedings.

guardianship Legal right given to a person to care for an individual or his/her property when that individual is deemed incapable of doing so for him/herself. Also called conservatorship.

guilty Plea made by accused in confessing crime with which charged. Also, verdict reached when jury convicts defendant of crime with which charged. Compare **acquittal**.

H

habeas corpus (HAY be us KOR pus) Writ that orders a person to be brought before a judge, usually to determine whether that individual is being legally detained or imprisoned.

harmless error Error committed during trial which was not serious enough to affect outcome of trial and thus is not grounds for reversal. Compare **reversible error**.

hearsay Evidence not known to a witness personally, but which was relayed to witness by a third party, i.e., secondhand information. Generally inadmissible in court, although exceptions exist under which it can be admitted.

holographic will Will written entirely by testator in his/her own handwriting, usually unwitnessed.

homicide Killing of one human being by another.

hostile witness Witness biased against the examining party or who does not want to

testify. May be asked **leading questions**.

house arrest Sentence or type of arrest whereby an individual is confined to his/her residence except for preapproved trips, such as medical appointments, work, community service obligations, etc. Often used in connection with **electronic monitoring**.

hung jury Jury unable to reach a verdict.

hypothetical question Imaginary situation, incorporating facts previously established, upon which an expert witness is permitted to give an opinion. Most often asked of medical experts in personal injury suits.

I

immediate cause Last event in a series of events which causes another event, particularly an injury, to occur. May or may not also be the **proximate cause**. An event may have more than one proximate cause, but only one immediate cause.

immunity Agreement by court not to prosecute an individual in exchange for that individual providing criminal evidence.

impeach To attack credibility of a witness. Also, to charge with a crime or misconduct, in particular, to charge a public official with a violation of the public trust. Also, to challenge the authenticity or accuracy of a document.

in camera In the judge's private chambers, or in private. A hearing in camera takes place in the judge's office, outside of the presence of jury and public.

in forma pauperis (in FORM uh PAH per us) In the manner of a pauper. Permission given to an indigent or poverty-stricken individual to sue without payment of court fees.

in limine (LIM ih nee) Motion requesting that court exclude certain evidence that might prejudice jury.

in personam (in per SO nam) Procedural term used to designate proceedings or actions involving the personal rights and interests of the parties. Compare **in rem**.

- in propria persona** (in PRO pree uh per SO nuh) See **pro se**.
- in rem** Procedural term used to designate proceedings or actions in determining the status of a thing or the rights of persons with respect to that thing. Compare **in personam**.
- inadmissible** That which under rules of evidence cannot be admitted as evidence.
- incarcerate** To confine in jail.
- incompetent** Person lacking the capacity, legal qualification or fitness to manage personal affairs or to discharge a required duty.
- indemnity** Liability or loss shifted from one person held legally responsible to another.
- independent executor** Executor who administers an estate with little intervention by court. Only a few states allow this.
- indeterminate sentence** Sentence with specified minimum and maximum length, e.g., one to five years in prison. Also, a maximum sentence which may be reduced by a parole board, via statutory authorization, after minimum term has been served.
- indictment** Formal written accusation by a grand jury charging a person with a crime. Compare **charge**, **information**, **presentment**.
- indigent** Poor person. An individual who can demonstrate his/her indigence to the court may be assigned a court-appointed attorney or may not have to pay filing fees and court costs.
- indirect evidence** See **circumstantial evidence**.
- inferior court** Court of special, limited or statutory jurisdiction. May also denote any court subordinate to chief appellate court. See **limited jurisdiction**.
- information** Formal accusation of a crime filed by a prosecutor without a grand jury indictment. Compare **charge** and **indictment**.
- infraction** Violation of law usually not punishable by imprisonment, e.g., minor traffic offenses.
- inheritance tax** State tax on property an heir or beneficiary receives from a deceased person's estate.
- initial appearance** First appearance in court of a person who has been arrested, to hear charges read, be advised of rights and have bail determined. Person generally comes before judge within hours of arrest. Also called first appearance. Compare **arraignment** and **preliminary hearing**.
- injunction** Court order preventing or requiring a specific action. See **preliminary injunction** and **permanent injunction**.
- instructions** Judge's directions/guidelines to jury regarding law which applies to the facts of a case. Also called **charge**. Compare **binding instruction** and **directed verdict**.
- intake** Court process whereby a decision is made on how to proceed in a juvenile case.
- intangible assets** Nonphysical items such as patents, trademarks, copyrights and good will.
- integrated bar** State bar association to which a lawyer must belong in order to practice in that state.
- inter alia** (IN ter AY lee uh or AH lee uh) Among other things.
- inter vivos gift** (IN ter VEE VOHS) Gift made during giver's life.
- inter vivos trust** See **living trust**.
- interlocutory appeal** Appeal made before the trial court's final ruling on the entire case.
- interlocutory order** Any order given before the final order is issued. Usually cannot be appealed until case is fully resolved.
- intermediate punishment** Set of sentencing options more severe than probation, but not as severe as incarceration. Includes, among other options, **electronic monitoring**, intensive supervision, and residential drug and alcohol treatment. May or may not involve housing of offender.
- interpleader** Suit filed by a party holding property who does not know to whom the property should go, to determine who should receive the property.
- interrogatories** Written questions submitted to another party in a lawsuit for which written answers must be provided. Party of **discovery** process.
- intervention** Action by which a third party who may be affected by a lawsuit is permitted to become a party to the suit. Compare **third party claim**.
- intestacy laws** (in TES ta see) See **descent and distribution statutes**.

intestate One who dies without leaving a will.

intestate succession Process by which property of person who has died without a will or whose will has been revoked is distributed to others. Compare **descent and distribution statutes**.

irrelevant Evidence not related or applicable to an issue in a trial and thus not admissible.

irrevocable trust (ear REV o kuh b'l) Trust that, once set up, grantor may not revoke.

issue Disputed point between parties in a lawsuit.

J

joinder Joining parties or claims in a suit.

joint and several liability Legal doctrine which makes any number of members of a party responsible for a liability, at adversary's discretion.

joint tenancy Form of legal co-ownership of property which gives the survivors, when one of the owners dies, the rights to the decedent's shares of the property. Tenancy by the entirety is a special form of joint tenancy between husband and wife. Compare **tenancy in common**.

judge Elected or appointed public official with authority to hear and decide cases in a court of law. A judge pro tem is a temporary or visiting judge.

judgment Final disposition of a lawsuit. **Default judgment** is judgment entered because defendant fails to answer or appear. **Summary judgment** is judgment entered when there is no dispute as to the facts of a case, and one party is entitled to judgment as a matter of law. **Consent judgment** occurs when a judge sanctions an agreement reached between parties. See also **declaratory judgment** and **non obstante veredicto**.

judicial officer An officer of a court; someone charged with upholding the law, administering the judicial system.

judicial review Authority of court to review and declare unconstitutional actions of other branches of government.

Judiciary Act Repealer Act (JARA) Act of 1978 that enacted 42 Pa.C.S., Pennsylvania's Judicial Code.

judicial (juh RID ih kul) Relating to law, judicial proceedings and administration of justice.

judicial day Day on which a court is in session.

Juris Doctor Doctor of Law. Law degree bestowed on those who have successfully graduated from law school.

jurisdiction Court's authority to hear and/or decide a case. Also, territory for which a court is authorized to hear cases.

jurisprudence Study of law and legal system. See also **caselaw**.

jurist One skilled or versed in the law.

jury Group of people selected according to law and sworn to decide questions of fact and render a decision about these matters. See **grand jury** and **petit jury**.

jury commissioner Court officer responsible for choosing the panel of potential jurors for a particular court term.

justiciable (jus TISH ee uh b'l) Of issues and claims which may be properly examined in court.

juvenile Person who has not yet reached age (usually 18) at which he/she can be treated as adult for purposes of criminal law.

juvenile court Court having jurisdiction over cases involving children under a specific age, usually 18.

K

kidnapping Unlawfully taking and carrying away a person by force and against his/her will.

King's Bench power Extraordinary jurisdiction given some high courts, including Pennsylvania's Supreme Court, to assume **adjudication** of any case pending before a lower court which involves issue/s of immediate public importance. In Pennsylvania the Supreme Court can do this on its own or upon petition from any party.

knowingly Willfully or intentionally with respect to a material element of an offense.

L

lack of jurisdiction Court's lack of power to act in a particular manner or to give certain kinds of relief.

lapsed gift Gift made in a will to a person who died before will-maker.

larceny Unlawfully taking personal property with intent to deprive owner of it permanently. Also called theft. Differs from **robbery**.

law Rules established by governing authorities to maintain order in a society.

law clerks Law students who assist judges and attorneys with legal research, writing, etc.

leading question Question which suggests the answer desired of witness. Generally may be asked only of a **hostile witness** and on cross-examination.

leave of court Permission received from a court to take a nonroutine action.

legal aid Professional legal services available for free or for reduced cost to those unable to afford them.

leniency Recommendation by prosecutor to judge for a sentence less than maximum allowed.

letters of administration Legal document appointing the administrator of an estate.

letters testamentary Legal document authorizing executor to settle estate.

levy Seizing property of a debtor for satisfaction of a judgment against him/her. Also, imposition of fine or tax.

liable Legally responsible for.

libel Published words or pictures that falsely and maliciously defame a person. Compare **slander** and **fair comment**.

lien Legal claim against another person's property as security for a debt, lasting until the debt has been paid.

limited action Civil action in which recovery of less than a certain amount as specified by statute is sought.

limited jurisdiction Courts limited in types of cases they may hear. In Pennsylvania these courts include district justice courts, Philadelphia Municipal Court, Philadelphia Traffic Court and Pittsburgh Magistrates Court. Also called minor courts. See **inferior court**. Compare **general jurisdiction**.

lis pendens (liss PEN DENZ) Pending suit. Also, legal notice that a dispute exists which may affect title to a certain piece of land.

litigant Party to a lawsuit.

litigation Lawsuit or process of carrying through a lawsuit.

living trust Trust set up and in effect during lifetime of grantor. Also called inter vivos trust. Compare **testamentary trust**.

locus delicti (LOW cuss deh LICK tye) Place where offense was committed.

M

magistrate Local judicial official having limited original jurisdiction, especially in criminal cases. Also often used to refer to a judge.

mala in se (MAL uh in see) "Evil in itself." Behavior universally regarded as criminal, e.g., murder. Also called *malum in se*. Compare **mala prohibita**.

mala prohibita (MAL uh PRO HIB ih duh) Behavior that is criminal only because society defines it as such, e.g., gambling. Also called *malum prohibita*. Compare **mala in se**.

malfeasance Committing an unlawful act. Often used to describe misconduct by public officials. Compare **misfeasance** and **nonfeasance**.

malice Intent to commit a wrongful act without just cause or excuse.

malice aforethought Mental state required to prove murder.

malicious prosecution Action instituted with intention of injuring defendant and without probable cause.

mandamus (man DAY mus) Writ issued by a court ordering a public official, another court, a corporation, public body or individual to perform an act.

mandate Judicial command or order directing an officer of the court to enforce judgment, sentence or decree.

manslaughter Unlawful killing of another without intent to kill. May be voluntary, i.e., upon sudden impulse, e.g., a quarrel erupts into a fistfight in which a participant is killed; or involuntary, i.e., committed during commission of an unlawful act not ordinarily expected to result in great bodily harm, or during commission of a lawful act without proper caution, e.g., driving an automobile at excessive speed, resulting in fatal collision. Compare **murder**.

master Official appointed by a court to assist with its proceedings. Masters may take testimony, rule on pre-trial issues, compute interest, handle uncontested divorces, etc. Usually must present written report to court.

material evidence Evidence that is relevant and goes to substantiate issues in a dispute.

mediation Form of **alternative dispute resolution** in which parties bring their dispute to a neutral third party, who helps them agree on settlement. Nonbinding. Similar to **conciliation**.

memorial Abstract of a legal record. Also, written statement of facts presented to legislature or executive as a petition.

mens rea (menz REE uh) The state of mind of the defendant that the prosecution must prove in order to establish criminal responsibility. See **elements of a crime**.

Miranda rule Requirement that police advise a suspect in custody of constitutional rights before questioning him/her. Named after U.S. Supreme Court ruling in *Miranda v. Arizona*, 384 U.S. 436 (1966) establishing such requirements.

misdemeanor Criminal offenses generally punishable by fine or limited local jail term, but not by imprisonment in penitentiary. Compare **felony**.

misfeasance Lawful act performed in wrongful manner. Compare **malfeasance** and **nonfeasance**.

mistrial Trial terminated before verdict is reached, either because of some procedural error, serious misconduct during proceedings, or because of **hung jury**.

mitigating circumstances Circumstances which do not constitute justification for committing an offense, but which may reduce degree of blame and help reduce sentence of individual convicted. Also known as extenuating circumstances. Compare **aggravating circumstances**.

mittimus (MIT ih mus) Written court order directing a jailer to receive and safely keep a person until ordered otherwise.

moot Having no practical significance. Usually refers to court's refusal to consider a case because issue involved no longer exists.

moral turpitude Immorality, depravity; conduct so wicked as to be shocking to the community's moral sense.

motion Application to a court or judge for a ruling or order.

motion to dismiss Request to dismiss a civil case because of settlement, withdrawal or a procedural defect. Compare **demurrer**.

multiplicity of actions Two or more separate litigations of the same issue against the same defendant.

municipal court Court whose jurisdiction is confined to the city or community in which it is erected. Usually has summary jurisdiction over minor offenses and a limited number of misdemeanors. Occasionally also possesses limited civil jurisdiction. Pennsylvania has one municipal court, Philadelphia Municipal Court.

murder Unlawful killing of a human being with **malice aforethought**. First degree murder is premeditated, i.e., planned. Second degree murder is sudden, instantaneous intent to kill or to cause injury without caring whether injury kills or not. Pennsylvania and some other states also allow for third degree murder, which is murder committed by a person engaged in commission of a felony. Compare **manslaughter**.

N

negligence Failure to use that degree of care which a reasonable person would use under the same circumstances. See also **comparative negligence** and **contributory negligence**.

next friend One acting without formal appointment as guardian, for benefit of minor or incompetent plaintiff and who is not party to the lawsuit.

no bill Grand jury's notation on written indictment indicating insufficient evidence was found to indict. Compare **true bill**.

no contest See **nolo contendere**.

no-contest clause Language in a will providing that a person who makes a legal challenge to the will's validity will be disinherited.

"no-fault" proceeding Civil case in which claim is adjudicated without finding of error or fault.

nol pros Abbreviation of **nolle prosequi**.

nolle prosequi (NAHL ee **PROS** eh KWEE) "I do not choose to prosecute." Decision by prosecutor or plaintiff not to go forward with an action. Called "nol pros" for short.

nolo contendere (NO LO con TEN deh ree) Criminal defendant's plea, whereby he/she accepts punishment without admission of guilt. Also called no contest.

nominal party One joined as a party or defendant in a lawsuit because the technical rules of pleading require his/her presence in the record.

non compos mentis (non COM pos MENT iss) Not of sound mind.

non obstante veredicto (non ob STANT ee ver eh DICK toh) "Notwithstanding the verdict." Verdict entered by judge contrary to jury's verdict.

non prosequitur (non preh SEK wit tur) Judgment entered when plaintiff, at any stage of proceedings, fails to prosecute his/her action. Called "non pros" for short.

non pros Abbreviation of **non prosequitur**.

nonfeasance Failure to act when duty required. Compare **malfeasance** and **misfeasance**.

notice Formal notification to a party that a civil lawsuit has been filed against him/her. Also, any form of notification of legal proceeding.

nuisance Offensive, annoying, unpleasant or obnoxious thing or practice that interferes with use or enjoyment of a property.

nunc pro tunc "Now for then." Action applied to acts which should have been completed at an earlier date than actually were, with the earlier date listed as the completion date.

nuncupative will (nun KYOO puh tive) An oral will.

O

oath Solemn pledge to keep a promise or speak the truth.

objection Process during a court proceeding whereby one party takes exception to something that has occurred or will occur and requesting immediate ruling by judge.

"on his own recognizance" See **personal recognizance**.

one-day, one-trial jury service Method of jury selection in many jurisdictions which requires prospective jurors to serve for only one day if they are not chosen for a jury or for only the length of a trial if chosen.

opening statement Statements made at the start of a trial by attorneys for each side, outlining each's legal position and the facts each intends to establish during the trial.

opinion Court's written decision of a case. A majority or plurality opinion expresses court's decision. A concurring opinion generally agrees with majority, but usually states different or additional reasons for reaching same conclusion. Dissenting opinion states opinion of judges who disagree with majority. *Per curiam* opinion is an unsigned opinion of an appellate court.

opinion evidence What a witness thinks, believes or infers regarding disputed facts. Generally admissible only when given by an

expert witness unless opinion is based on matters common to lay persons.

oral argument Summary by attorneys before court (particularly appellate court) of positions regarding legal issue being litigated.

order Command, written or oral, from a court.

ordinance Law enacted by a municipality such as a county or city council.

overrule Judge's decision not to allow an **objection**. Also, decision by higher court finding that lower court decision was in error.

overt act Act done to carry out or in furtherance of intention to commit a crime. Compare **actus reus**.

P

pain and suffering Physical and/or emotional distress compensable as an element of damage in **torts**.

pardon Form of **clemency** releasing one from the penalties of a criminal conviction.

parens patriae (PAH renz PATE ree eye) Doctrine under which the government protects the interests of a minor or incapacitated person.

parole Supervised, conditional release of a prisoner before expiration of his/her sentence.

party One who files a lawsuit or against whom a lawsuit is filed.

patent Government grant giving an inventor exclusive right to make or sell his/her invention for a term of years.

penal Of, relating to or involving punishment or penalties.

penal code Code of laws concerning crimes and offenses and their punishment.

pendente lite (pen DEN tee LYE tee) During the progress of a lawsuit; contingent on the outcome of the suit.

per curiam (per KYUR ee uhm) See **opinion**.

peremptory challenge (peh REMP teh ree) Challenge which may be used to reject a certain number of prospective jurors without giving a reason. Compare **challenge for cause**.

perjury Deliberately making a false or misleading statement under oath.

permanent injunction Court order requiring or forbidding action, granted after final hearing has been held on its merits. (Does not necessarily last forever.) Compare **preliminary injunction**.

personal jurisdiction Adjudicative power of a court over an individual.

personal property Any movable physical property or intangible property which may be owned. Does not include real property such as land or rights in land.

personal recognizance Release of a defendant without bail upon promise to return to court as required. Also known as releasing one "on his own recognizance."

personal representative Person who administers legal affairs of another because of incapacity or death.

petit jury (PEH tee) Jury composed of six to twelve persons who hear evidence presented at a trial and determine the facts in dispute. Compare **grand jury**.

petition Written request to a court asking for a particular action to be taken.

petitioner See **plaintiff**.

plaintiff Person, corporation, legal entity, etc., initiating a civil lawsuit. Also called complainant or petitioner.

plea Defendant's formal response to a criminal charge. Plea may be **guilty**, not guilty or **nolo contendere** (no contest).

plea bargaining Mutually satisfactory disposition of a case negotiated between accused and prosecutor. Usually defendant pleads guilty to lesser charge/s in exchange for reduced sentence or dismissal of other charges.

pleadings Written statements by parties to a lawsuit, setting forth or responding to allegations, claims, denials or defenses.

plenary action (PLEH nuh ry) Complete, formal hearing or trial on merits.

polling the jury Asking jurors individually after verdict has been announced, whether they agree with verdict.

pour-over will Will that leaves some or all estate assets to existing trust.

- power of attorney** Legal authorization for one person to act on behalf of another individual. See **attorney-in-fact**.
- praecipe** (PRESS ih pee) Writ commanding a person to do something or to show cause why he/she should not.
- precedent** Previously decided case which guides decisions of future cases. Compare **stare decisis**.
- precept** Writ issued by person of authority commanding a subordinate official to perform an act.
- prejudicial error** See **reversible error**.
- preliminary hearing** Hearing at which judge determines whether evidence is sufficient against a person charged with a crime to warrant holding him/her for trial. Compare **arraignment** and **initial appearance**.
- preliminary injunction** Court order requiring or forbidding an action until a decision can be made whether to issue a **permanent injunction**. Issued only after both parties have had opportunity to be heard. Compare **temporary restraining order**.
- premeditation** Decision or plan to commit a crime.
- preponderance of evidence** Greater weight of evidence, a common standard of proof in civil cases. Jury is instructed to find for the party which has the stronger evidence, however slight that may be. Compare **clear and convincing evidence**.
- pre-sentencing report** Report to sentencing judge containing background information about crime and defendant to assist judge in making his/her sentencing decision. Sometimes called sentencing report.
- presentment** Declaration or document issued by grand jury on its own initiative, making accusation. Compare **indictment**.
- presumption of innocence** Fundamental principle of American justice system that every individual is innocent of a crime until proven guilty in a court of law.
- presumption of law** Rule of law that courts and judges must draw a particular inference from a particular fact or evidence.
- pretermitted child** (PRE ter MITT ed) Child born after a will is executed, who is not provided for by the will. Most states have laws that provide for a share of the estate to go to such children.
- pre-trial conference** Informal meeting between judge and lawyers in a lawsuit to narrow issues, agree on what will be presented at trial and make final effort to settle case without trial.
- prima facie case** (PREE muh FAH sheh) Case that has minimum amount of evidence necessary to allow it to continue in the judicial process.
- prima facie evidence** Evidence sufficient to establish a fact or sustain a finding in favor of the side it supports unless rebutted.
- prior restraint** Restraint on speech or publication before it is spoken or published. Prohibited by constitution unless defamatory or obscene or creates a clear and present danger.
- pro bono publico** "For the public good." When lawyers represent clients without a fee. Usually shortened to "pro bono."
- pro se** (pro see) An individual who represents himself/herself in court. Also called "in propria persona."
- probable cause** Sufficient legal reasons for allowing search and seizure or arrest of a person.
- probate** Process of proving a will is valid and should be carried out. Also refers more generally to law governing estates.
- probate court** Court with authority to supervise estate administration.
- probate estate** Estate property that may be disposed of by a will.
- probation** Alternative to imprisonment allowing person found guilty of offense to stay in the community, usually under conditions and under supervision of a probation officer.
- procedural law** Law which prescribes the method of enforcing rights or obtaining redress for invasion of rights. Compare **substantive law**.
- proceeding** A legal action. Conducting judicial business before a court or judicial officer.
- promulgate** To put (a law) into action or effect. To make known publicly.
- prosecutor** Attorney representing the government in a criminal case.

protective order Court order to protect a party or witness from further harassment, service of process or discovery by the opposing party.

prothonotary Chief clerk of any of various courts in some states, including those of Pennsylvania.

proximate cause Act legally sufficient to result in liability. Act without which an action could not have occurred. Differs from **immediate cause**.

public defender Government lawyer who provides legal services for an individual accused of a crime, who cannot afford to pay.

punitive damages Damages awarded to a **plaintiff** over and above the actual damages, meant to punish the defendant and thus deter future behavior of like nature.

purge To **exonerate** or cleanse from guilt.

Q

quash To vacate, void, nullify.

quid pro quo “Something for something.” Fair return consideration; i.e., giving something of value in return for getting something of similar value.

quo warranto (quo wah RANT oh) Writ used to discover by what authority an individual holds or claims a public office, franchise or liberty.

R

rap sheet See **criminal history record information**.

ratio decidendi (RAY she oh DES ih DEN dye) Principle or rule of law on which a court decision is based.

real evidence Physical evidence that plays a direct part in incident in question, as opposed to oral testimony.

real property Land, anything growing on the land and anything erected on or attached to

the land. Also called real estate.

reasonable doubt State of mind in which jurors cannot say they feel confident that an individual is guilty of crime charged. See **beyond a reasonable doubt**.

reasonable person Hypothetical person who sensibly exercises qualities of attention, knowledge, intelligence and judgment. Used as legal standard to determine negligence.

rebuttal Evidence which disproves evidence introduced by the opposing party.

recidivism (reh SID ih vizm) Relapse into former type of behavior, as when an individual relapses into criminal behavior. A habitual criminal is a recidivist.

recognizance See **personal recognizance**.

record Official documents, evidence, transcripts, etc., of proceedings in a case.

recusal Process by which a judge excuses him/herself from hearing a case.

recusation Plea by which defendant requests that judge hearing his/her trial excuse him/herself from case.

re-direct examination Opportunity to question witness after cross-examination regarding issues brought up during the cross-examination. Compare **rehabilitation**.

redress To set right; to remedy; to compensate.

referral Process by which a juvenile case is introduced to court, agency or program where needed services can be obtained.

referee Person appointed by a court to assist with certain proceedings, such as taking testimony.

rehabilitation Reexamining a witness whose credibility has suffered during cross-examination to restore that witness’s credibility. Compare **re-direct examination**.

rehearing Another hearing of case by same court in which suit was originally heard.

rejoinder Defendant’s answer to the plaintiff’s **reply**.

relevant evidence Evidence that tends to prove or disprove a matter at issue.

relief See **remedy**.

remand To send a case back to court where originally heard for further action. Also, to

send an individual back into custody after a preliminary examination.

remedy Means by which right or privilege is enforced or violation of right or privilege is prevented, redressed or compensated. Also called relief.

remittitur (reh MID ih dur) Judge's reduction of damages awarded by jury.

removal Transfer of state case to federal court for trial.

replication Plaintiff's reply to defendant's plea, answer or counterclaim.

replevin (reh PLEV in) Action for recovery of a possession wrongfully taken.

reply Plaintiff's response to defendant's argument, counterclaim or answer. Plaintiff's second pleading.

respondent See **appellee**.

rest When one side finishes presenting evidence in a trial.

restitution Return of something to its rightful owner. Also, giving the equivalent for any loss, damage or injury.

restraining order Order prohibiting someone from harassing, threatening, contacting or even approaching another individual.

retainer Act of a client in hiring an attorney. Also denotes fee client pays when retaining attorney.

return Report to judge of action taken in executing writ issued by judge, usually written on the back of the writ. Also, the action of returning the writ to court.

reverse Higher court setting aside lower court's decision.

reversible error Error sufficiently harmful to justify reversing judgment of lower court. Also called prejudicial error. Compare **harmless error**.

revocable trust (REV uh kuh b'l) Trust that grantor may change or revoke.

revoke To cancel or nullify a legal document.

robbery Felonious taking of another's property in that person's presence by force or fear. Differs from **larceny**.

rule of court Rules governing how a given court operates.

rules of evidence Standards governing whether evidence is admissible.

S

sanction Penalty for failure to comply with rule, order or law.

satisfaction See **accord and satisfaction**.

search warrant Written order issued by a judge that permits a law enforcement officer to search a specific area for specific items.

secondary evidence See **best evidence**.

secured debt Debt in which debtor gives creditor a right to repossess property or goods (called **collateral**) if debtor defaults on the loan.

self-defense Use of force to protect one's self, family or property from harm or threatened harm by another.

self-incrimination, privilege against Right of people to refuse to give testimony against themselves. Guaranteed by Fifth Amendment to U.S. Constitution. Asserting right is often referred to as "taking the Fifth."

self-proving will Will whose validity does not have to be testified to in court by witnesses to it since the witnesses executed an **affidavit** reflecting proper execution of will prior to maker's death.

sentence Punishment inflicted on a person convicted of crime.

sentencing guidelines Set of guidelines introduced to ensure conformity in sentencing throughout Pennsylvania. Federal government and several other states also use.

sentencing report See **pre-sentencing** report.

separation of witnesses See **sequestration of witnesses**.

sequestration Keeping all jurors together during a trial to prevent them from being influenced by information received outside courtroom.

sequestration of witnesses Keeping all witnesses (except plaintiff and defendant) out of courtroom except for their time on the stand to prevent them from hearing testimony of other witnesses. Also called separation of witnesses.

service Delivery of legal document, such as **complaint, summons** or **subpoena**.

settlor See **grantor**.

sidebar Conference between judge and lawyers, usually in courtroom, out of earshot of jury and spectators.

slander False and defamatory spoken words tending to harm another's reputation, business or means of livelihood. Compare **libel**.

small claims court Court that handles civil claims for small amounts of money. People often represent themselves rather than hire an attorney.

sovereign immunity Doctrine that a government, either state or federal, is immune to lawsuits unless it gives its consent.

specific performance **Remedy** requiring person who has breached a contract to fulfill his/her part of the contract, as opposed to simply paying damages. Ordered when paying damages would be inadequate or inappropriate.

spendthrift trust Trust set up for benefit of someone whom **grantor** believes would be incapable of managing his/her own financial affairs, and to keep money out of hands of creditors.

standard of proof See **burden of proof**.

standing Legal right to bring a lawsuit.

stare decisis (STEHR ee dih SYE sis) Doctrine that courts will follow principles of law laid down in previous cases. Compare **precedent**.

state's evidence Testimony given by accomplice or participant in a crime, given under promise of immunity or reduced sentence, to convict others.

status offenders Youths who habitually engage in conduct not considered criminal if committed by an adult, but which cause charges to be brought in juvenile court and show minor is beyond parental control, e.g., being truant from school.

status offense Act declared to be an offense when committed by a juvenile, e.g., habitual truancy, running away from home, violating curfew.

statute Law enacted by legislative branch of government. Also called statutory law. Compare **common law**.

statute of limitations Timeframe within which a lawsuit must be brought or an individual charged with a crime. Differs for different types of cases/crimes or in different states.

statutory construction Process by which a court seeks to interpret legislation.

statutory law See **statute**.

stay Court order halting a judicial proceeding or the action of halting such proceeding.

stenographer See **court reporter**.

stipulation Agreement by attorneys on both sides of a case about some aspect of the lawsuit, e.g., to extend time to answer, to adjourn trial date.

sua sponte (SOO eh SPON tee) On one's own behalf. Voluntarily, without prompting or suggestion.

sub judge (sub JOO dih SEE) Before a court or judge; under judicial consideration.

sui generis (SOO ee JEN er iss) Of its own kind or class; the only one of its kind.

sui juris (SOO ee JUR iss) Of his own right. Possessing full social and civil rights.

subpoena (suh PEE nuh) Court order compelling a witness to appear and testify.

subpoena duces tecum (suh PEE nuh DOO sess TEE kum) Court order commanding a witness to bring certain documents or records to court.

subrogation Substituting one person in place of another in asserting a lawful claim, demand or right.

substantive evidence Evidence presented to prove a fact in issue.

substantive law Law which creates, defines and regulates rights. Compare **procedural law**.

summary Quickly executed.

summary judgment Judgment made when there are no disputes of the facts of a case and one party is entitled to prevail as matter of law.

summary offense In Pennsylvania a violation of law punishable by imprisonment for up to 90 days and/or a fine not exceeding \$300.

summons Notice to a defendant that he/she has been sued and is required to appear in court. Also, notice requiring person receiving it to report for jury duty or as witness in a

trial. As relates to potential jurors, also called **venire**.

sunshine laws Laws forbidding or restricting closed meetings of government bodies and providing for public access to records.

supersedeas (SOO per **SEE** dee uhss) Writ issued by appellate court to preserve the status quo pending review of a judgment or pending other exercise of its jurisdiction.

support trust Trust that instructs trustee to spend only as much as is needed for beneficiary's support.

suppress To forbid use of evidence at trial because it is improper or was improperly obtained. See **exclusionary rule**.

survivorship Another name for **joint tenancy**.

sustain Court order allowing an objection or motion to prevail.

suspended sentence Sentence postponed by order of the court. Also, decision of court to postpone pronouncement of sentence.

swindling Obtaining money or property by fraud or deceit.

third party Person, business or government agency, etc., not actively involved in a legal proceeding, agreement or transaction, but who is somehow involved.

third-party claim Action by a defendant that brings a third party into a lawsuit. Compare **intervention**.

title Legal ownership of property.

tort Injury or wrong committed on a person or property of another for which remedy can be sought in civil court, except that which involves a contract.

tortfeasor One who commits a **tort**; a wrongdoer.

transcript Official record of all testimony and events that occur during a trial or hearing.

transfer hearing Hearing in juvenile court to determine whether jurisdiction over a juvenile case should remain in juvenile court or be transferred to adult court.

trial de novo A new trial.

TRO **Temporary restraining order**.

true bill **Indictment** by grand jury. Notation on indictment that charge should go to court. Compare **no bill**.

trust Legal device used to manage real or personal property, established by one person (**grantor** or settlor) for the benefit of another (**beneficiary**). A third person (**trustee**) or the **grantor** manages the trust.

trust agreement or declaration Legal document that sets up a trust.

trustee Person or institution that manages a trust.

turncoat witness Witness whose testimony was expected to be favorable, but who later becomes a hostile witness.

T

temporary restraining order Judge's order forbidding certain actions until a full hearing can be held to determine whether injunction should be issued. Often referred to as TRO. Compare **preliminary injunction**.

tenancy by the entirety See **joint tenancy**.

tenancy in common Form of legal co-ownership of property in which survivors, when one of the owners dies, do not have rights to decedent's shares of the property. Compare **joint tenancy**.

testamentary capacity Mental ability an individual must have to make a will.

testamentary trust Trust set up by a will. Compare **living trust**.

testator Person who makes a will.

testimony Evidence given by witness under oath at trial or via affidavit or deposition.

theft See **larceny**.

U

undue More than necessary; excessive.

unlawful detainer Detention of real property without consent of owner or other person entitled to its possession.

usury (YOO seh ree) Charging higher interest rate than law allows.

V

vacate To nullify, render void.

venire (veh NI ree; popularly pronounced veh NEER) Writ summoning persons to court to act as jurors. Also, a group of people summoned for jury duty.

venue (VEN YOO) Geographical area from which a jury is drawn, where a criminal trial is held and where an **action** is brought. Also, the geographical location in which the alleged actions that gave rise to the legal action occurred.

verdict Decision reached by a jury or judge on the facts presented at a trial.

voir dire (vwahr deer) Process of questioning potential jurors.

W

waiver Voluntarily giving up right.

waiver of immunity Means by which witness relinquishes the right against self-incrimination, thereby making it possible for his/her testimony to be used against him/her in future proceedings.

warrant Writ directing or authorizing someone to do something; most commonly, a court order authorizing law enforcement officers to make an arrest or conduct a search.

weight of evidence Persuasiveness of some evidence as compared to other.

will Legal document that sets forth how an individual wants his/her property disposed of when he/she dies.

willfully Intentionally, as distinguished from accidentally, carelessly or inadvertently, but not necessarily maliciously.

with prejudice Judge's decision in a case whereby any future action on the claim is barred in any court.

without prejudice Without loss of rights.

witness One who testifies to what he/she has seen, heard or otherwise experienced.

work release Sentence under which defendant is imprisoned, but is released during day to work at a job approved by Department of Corrections or the court.

writ Judicial order directing a person to do something.

writ of certiorari See **certiorari**.

writ of execution Writ directing sheriff or other officer of the court to enforce a judgment or decree of a court.