

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.

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

abstract of record Short, abbreviated, yet complete history of a case as found in the record.

abstract of title Chronological summary of all official records and recorded documents affecting title to a parcel of real property.

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.

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

accord Satisfaction agreed upon between parties in a lawsuit which bars subsequent action on the claim.

accord and satisfaction Method of discharging a claim whereby parties agree to give and accept something in settlement of claim.

accused Defendant in a criminal case.

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

acquittal Verdict after a criminal trial that defendant has not been proven guilty beyond reasonable doubt of crime charged. Compare **guilty**.

- action** Case, cause, suit or controversy disputed or contested before a court of justice. **Action in personam** is action against the person. **Action in rem** is action against a thing, usually where property is involved.
- actus reus** (ACK tus REE us) Proof that a criminal act has occurred.
- 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/administratrix** One who administers estate of person who dies without a will, administrator being male, administratrix being female. See **personal representative**. Compare **executor/executrix**. Also, a court official.
- admissible evidence** Evidence which can be legally and properly introduced in a civil or criminal 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** Written statement of fact given voluntarily and 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.
- 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** and **extenuating circumstances**.
- aid and abet** To actively, knowingly or intentionally assist another person in commission or attempted commission of a crime. See **accomplice**.
- alibi** Written defense filed by defendant who claims he/she was at some other place at time of crime and thus did not commit 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 for appeal to Supreme Court for cases heard purely at court's discretion.
- alternative dispute resolution (ADR)** Settling a dispute without 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 volunteers to offer information on a point of law or some other aspect of the case to assist court in deciding matter before it.
- 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 by losing party in a lawsuit that judgment be 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. Sometimes called a **petitioner**.
- appellate court** Court having jurisdiction to hear appeals and review a trial court's procedure.

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

arbitration Form of **alternative dispute resolution** in which parties bring dispute to a neutral third party and agree to abide by his/her decision. A hearing is held at which both parties have opportunity to be heard. Decisions usually cannot be appealed.

arraignment In a criminal case, proceeding in which accused person appears before judge to hear charges filed against him/her and to enter plea of guilty or not guilty. Sometimes called **preliminary hearing** or **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** is an attempt to cause serious bodily injury; to purposely, knowingly or recklessly cause such injury. Compare **battery**.

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

attachment Proceeding in which a creditor secures rights to real or personal property and holds it pending outcome of a lawsuit.

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 character. 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 Refers to 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.

battery Beating or wrongful physical violence. Actual 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 without jury, in which the judge decides the facts.

bench warrant Order issued by judge for arrest of person.

beneficiary Someone named to receive property or benefits in a will. Also, person who is to receive benefits from a trust.

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.

bill Formal written declaration, petition complaint or statement of particular things. 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 particulars Statement detailing charge/s made against defendant.

bind over To hold a person for trial on bond (**bail**) or in jail. If judicial official conducting preliminary hearing finds **probable cause** to believe accused committed a crime, he/she will "bind over" accused, normally by setting bail for 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 legal document listing parties, court, case number and related information.

case law Law based on previous decisions of appellate courts, particularly the Supreme Court. Compare **common law**. See also **statute**.

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 of personal property 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.

certification Authorized declaration verifying that an instrument is a true and correct copy

of the original. Also, the process of transferring a juvenile case to criminal court for prosecution.

certiorari (SIR she oh **RARE** ee) Means of getting appellate court to review lower court's decision. Loser of case will often ask appellate court to issue writ of certiorari, which orders lower court to convey record of case to appellate court and certify it as accurate and complete. If appellate court grants **writ of certiorari**, it agrees to take the appeal. Often referred to as "granting cert."

challenge Objection, such as when attorney objects at **voir dire** hearing to seating of a particular person 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. Compare **peremptory challenge**.

chambers Judge's private office. A hearing in chambers takes place in judge's office outside the of presence of jury and public. See **in camera**.

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 he/she 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, the judge's instruction to the 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 whose terms are held in various counties or districts to which jurisdiction extends.

circumstantial evidence Evidence which merely suggests something by implication; e.g., physical evidence, such as fingerprints, from which an inference can be drawn. Circumstantial evidence is indirect, as opposed to eyewitness testimony, which is **direct evidence**.

citation Reference to source of legal authority. Also, direction to appear in court, as when a defendant is cited into court rather than arrested.

civil actions Noncriminal cases in which one private individual or business sues another for redress of private or civil rights.

civil procedure Entire process by which a civil case is tried and appealed.

class action Lawsuit brought by one or more persons on behalf of a larger group.

clear and convincing evidence Standard of proof commonly used in civil lawsuits and in regulatory agency cases. Governs amount of proof that must be offered in order for plaintiff to win case.

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 Closing statement by counsel to the trier of the facts after all parties have concluded presentations of evidence.

code Collection of laws arranged into chapters, table of contents and index, promulgated by legislative authority.

codicil (KOD I sill) Addition to a will.

cognovit actionem (**KOG** NO vit ACK she **OH** nem) "He has confessed the action." Written confession of action by a defendant. Usually upon condition. Supposed to be given in court. Implies authorization of plaintiff's attorney to sign judgment and issue execution.

collateral Property pledged as security for satisfaction of a debt.

commit To send a person to prison, asylum or reformatory pursuant to court order of **mittimus**.

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. Also called **case law**. See also **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 Reduction of sentence, as from death to life imprisonment.

comparative negligence Legal doctrine by which acts of opposing parties are compared to determine liability of each to the other, making each liable only for his/her percentage of fault. See also **contributory negligence**.

complainant Party who complains or sues; one who applies to court for legal redress. Also called the **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 lower tensions, improve communications and explore possible solutions. Similar to **mediation**, but may be less formal.

concur To agree, act together or consent. Compare concurring opinion under **opinion**.

concurrent sentence Sentences for more than one violation which are served at same time rather than one after another. Three five-year terms served concurrently add up to no more

than five years imprisonment; three five-year terms served consecutively impose a 15-year sentence. See also **consecutive sentence** and **cumulative sentence**.

condemnation Legal process by which government invokes its powers of **eminent domain** and takes privately owned real estate for public use, paying owners just compensation.

confession of judgment Act of a debtor in permitting judgment to be entered against him/her by his/her creditor without institution of legal proceedings.

consecutive sentences Successive sentences, one beginning at the expiration of another, imposed against a person convicted of two or more violations. See also **concurrent sentence** and **cumulative 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.

consent judgment Judgment in which the provisions and terms are agreed to by all parties.

conservatorship Legal right given to a person to manage property and financial affairs of a person deemed incapable of doing so for him/herself. See also **guardianship**. Conservators have somewhat less responsibility than guardians.

consideration Cause, price or impelling influence which induces a party to enter into a contract.

conspiracy Combination of two or more persons formed for purpose of committing some unlawful act.

contempt of court Willful disobedience of judge's command or official court order.

continuance Postponement of 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 Judgment of guilt against a criminal defendant.

copyright Right to literary property, giving authors, composers and other creators sole right to reproduce and distribute their work for a limited period of time.

corpus delicti (COR pus di LICK ty) Body upon which a crime has been committed, e.g., the body of a homicide victim or charred shell of a burned house.

corroborating evidence Supplementary evidence that tends to strengthen or confirm initial evidence.

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

counterclaim Claim made by defendant against plaintiff in a civil lawsuit; in essence, a counter lawsuit within a lawsuit.

court Government entity authorized to resolve legal disputes. Judges sometimes use court to refer to themselves in the third person, as in "the court has read the briefs."

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

court costs Fees and charges required by law to be paid to court or some of its officers for expenses of the litigation. Does not include attorney fees. An amount of money may be awarded to the successful party, recoverable from the losing party as reimbursement for court costs.

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.

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

court reporter Stenographer who records and transcribes a verbatim report of all pro-

ceedings in a court of law.

crime Act or omission defined by law for which a sentence of imprisonment or fine or both is authorized, upon conviction. Crimes are either **misdemeanors** or **felonies**.

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

criminal proceedings All actions for enforcement of the **penal code**.

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 makes a person not legally responsible for his/her acts.

criminal summons Order commanding an 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, not against persons on opposite sides of a lawsuit.

cross-examination Questioning of witness produced by other side.

cumulative sentences Sentences for two or more crimes to run successively rather than concurrently. See also **concurrent sentences** and **consecutive sentences**.

D

damages Money awarded by court to a person injured by an unlawful act or negligence of another person.

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** Deceased person.
- decision** Judgment reached or given by a court of law.
- declaratory judgment** Judgment which, without need for enforcement, declares the rights of parties or the interpretation of law. E.g., a court may be asked to issue a declaratory judgment on the constitutionality of a statute.
- decree** Order of the court. A final decree is one which fully and finally disposes of litigation. An **interlocutory** decree is a preliminary order that often disposes of only part of a lawsuit.
- defamation** Holding up of person to ridicule, scorn or contempt in a respectable and considerable part of a community. May be criminal or civil. Includes **libel** and **slander**.
- default** Failure to respond to a lawsuit within specified time. When defendant does not respond in timely fashion or does not appear at trial, a "default judgment" is entered against him/her.
- defendant** In a civil case, the person being sued. In a criminal case, the person charged with a crime.
- demurrer** (dih MUR rer) Motion to dismiss a civil case because of complaint's legal insufficiency.
- deposition** Testimony of a witness taken under oath in preparation for a trial.
- 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 witnesses by the party on whose behalf they are called.
- directed verdict** Instruction by judge to jury to return a specific verdict. Compare **binding instruction**.
- disbarment** Form of disciplining a lawyer resulting in loss, permanently or temporarily, of his/her right to practice law.
- disclaim** To refuse a gift made in a will.
- discovery** Pretrial process by which one party discovers evidence that will be relied upon at the trial by opposing party.
- dismissal** Termination of 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 filed later.
- dissent** Appellate court opinion setting forth a minority view and outlining the disagreement of one or more judges with the decision of the majority.
- diversion** Process of removing some minor criminal, traffic or juvenile cases from full judicial process, on condition that accused undergo some sort of rehabilitation or make restitution for damages. May take place before the trial or its equivalent, as when a juvenile accused of crime consents to probation without admission of guilt. If he/she completes probation successfully -- e.g., takes a course, makes amends for crime -- then entire matter may be expunged from record.
- 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 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 requirements 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 the convicted or the accused 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, all of 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, (2) that the accused intended the crime to happen, (3) a timely relationship between first two factors. See also **actus rea** and **mens rea**.

embezzlement Fraudulent appropriation by a person for his/her own use or benefit of property or money entrusted to him/her by another.

eminent domain Power of the government to take private property for public use through **condemnation**.

en banc All judges of a court sitting together. Appellate courts can consist of a dozen or more judges, but often they hear cases in panels of three judges. If a case is heard or reheard by the full court, it is heard en banc.

encumbrance Claim against property.

enjoin To require a person, through issuance of an **injunction**, to perform or to abstain from 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 Fourteenth Amendment to U.S. Constitution that all persons be treated equally by the law. Court decisions have established that this guarantee requires courts be open to all persons on the same conditions, with like rules of evidence and modes of procedure; that persons be subject to no restrictions in acquisition of property, enjoyment of personal liberty, and pursuit of happiness, which

do not generally affect others; that persons are liable to no other or greater burdens than are laid upon others; and that no different or greater punishment is enforced against them for violation of laws.

equitable action Action which may be brought for purpose of restraining threatened infliction of wrongs or injuries, and prevention of threatened illegal action.

equity Generally, justice or fairness. Historically, refers to a separate body of law developed in England in reaction to the inability of common law courts, in strict adherence to rigid writs and forms of action, 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. The principle of this jurisprudence is that equity will find a way to achieve lawful results when legal procedure is inadequate. Equity and law courts are now merged in most jurisdictions, though equity jurisprudence and equitable doctrines are still independently viable.

escheat (iss SHEET) Process by which deceased person's property goes to the state if no heir can be found.

escrow Money or written instrument such as a deed which, by agreement between two parties, is held by a neutral third party ("held in escrow") until all conditions of agreement are met.

estate Personal property (car, household goods and other tangible items); real property; and intangible property (stock certificates, bank accounts, etc.), owned in individual name of a person at time of person's death. Does not include life insurance proceeds unless estate was made beneficiary or other assets that pass outside the estate, (e.g., joint tenancy assets).

estate tax Generally, tax on the privilege of transferring property to others after person's death. In addition to federal estate taxes, many states have their own estate taxes.

estoppel Person's own act or acceptance of facts which precludes later claims to the contrary. Arises when one is forbidden by

law to speak against his/her previous actions or deeds.

et al. And others.

evidence Information presented in testimony or in documents, used to persuade a fact finder (judge or jury) to decide a case for one side or the other. See also specific types, including **admissible**, **best**, **character**, **circumstantial**, **clear and convincing**, **corroborating**, **direct**, and **expert evidence**.

ex delicto (ex dee LICK toh) Arising from a wrong; breach of duty. Compare **tort**.

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 and is not present during hearing.

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 are laws that permit conviction and punishment for a lawful act performed before law was changed and act was made illegal. The constitution prohibits these.

exceptions Declarations by either side in a civil or criminal case reserving right to appeal judge's ruling upon a motion. Also, in regulatory cases, objections by either side to points made by other side or to rulings by an agency or one of its hearing officers.

exclusionary rule Rule preventing illegally obtained evidence to be used in any trial. See **suppress**.

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

executor/executrix Personal representative, named in a will, who administers an estate, executor being male, executrix being female.

exempt property In bankruptcy proceedings refers to certain property protected by law from creditors.

exhibit Document or other article introduced as evidence during trial or hearing.

exonerate Removal of charge, duty or responsibility.

expert evidence Testimony relating to scien-

tific, technical or professional matters given by persons particularly qualified by reason of special training, skill or familiarity with subject.

expungement Official and formal erasure of a record or partial contents of a record. Compare **purge**.

extenuating circumstances Circumstances which render a crime less aggravated, heinous or reprehensible than it would otherwise be. Compare **aggravating circumstances** and **mitigating circumstances**.

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

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

F

fair comment Term used in **libel** law applying to statements made by writer in honest belief of truth, relating to official acts, even though statements are not in fact true.

false arrest Any unlawful physical restraint of another's liberty or freedom of movement.

false pretenses Designed misrepresentation of existing fact or condition in order to obtain another's money or goods.

family allowance Small amount of money set aside from estate of deceased to provide for surviving family members during administration of the estate.

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

felony A crime of graver nature than a **misdemeanor**, usually punishable by imprisonment in a penitentiary for more than a year and/or substantial fines.

fidelity bond Bond purchased at expense of estate to insure executor's proper performance. Often called **surety bond**.

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

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

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

fine Money penalty imposed in criminal or civil action.

first appearance Initial appearance of arrested person before judge to determine whether or not there is probable cause for his/her arrest. Person generally comes before judge within hours of arrest. Also called **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, in possession of another, is applied to the debts of the debtor, such as when one's wages are garnished.

general jurisdiction Jurisdiction which extends to all controversies brought before a court. Compare **limited jurisdiction**.

good faith Honest belief; the absence of malice and design to defraud.

good time Reduction in sentenced time in prison as reward for good behavior; usually one-third to one-half off maximum sentence.

grand jury Group of citizens, usually numbering 23, who are assembled in secret to hear or investigate allegations of criminal behavior. Has authority to conduct criminal investigations and to charge a crime by

indictment. Also may have power to issue report, or **presentment**, without charging a crime. Compare **petit jury**.

granting cert See **certiorari**.

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

gravamen (gruh VAY men) Material or significant part 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 whose property or rights are involved in litigation.

guardianship Legal right given to a person to be responsible for the housing, health care and other necessities of a person deemed incapable of providing these necessities for him/herself. Guardian may also be given responsibility for person's financial affairs, and thus perform additionally as a conservator. See also **conservatorship**.

guilty Plea made by accused when he/she confesses crime with which charged. Also, verdict reached when jury votes to convict defendant of crime with which charged. Compare **acquittal**.

H

habeas corpus (HAY be us KOR pus) Writ which commands that a person be brought before a judge. Most commonly, a legal document that forces law enforcement authorities to produce a prisoner they are holding and to legally justify his/her detention.

harmless error Error committed during trial which was corrected or was not serious enough to affect outcome of trial and, therefore, was not sufficiently harmful (prejudicial) to be reversed on appeal. Compare **prejudicial error** and **reversible error**.

hearsay Evidence not within the personal knowledge of a witness but relayed to witness by third party. Generally not admissible in court, although exceptions exist under which it can be admitted.

holographic will Unwitnessed will written entirely by testator in his/her own handwriting.

homicide Killing of one human being by another.

hostile witness Witness whose testimony is not favorable to the party who calls him/her as witness. May be asked **leading questions** and may be cross-examined by party who calls him/her to stand.

house arrest Sentence or type of arrest whereby the convicted or arrested individual is confined to his/her residence except for preapproved trips, including medical appointments, employment, performance of community service, etc. Occasionally used in connection with **electronic monitoring**.

hung jury Jury unable to reach a verdict.

hypothetical question Imaginary situation, incorporating facts previously admitted into evidence, upon which an expert witness is permitted to give an opinion as to condition resulting from situation. Most often asked of medical experts in personal injury suits.

I

immediate cause Spatially and chronologically the last act in a series of acts which causes an 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.

impeach To attack credibility of a witness by testimony of other witnesses or other evidence.

immunity Grant by court in which one will not face prosecution in return for providing criminal evidence. Differs from **sovereign immunity**.

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

in forma pauperis (in FORM uh PAH per us) In the manner of a pauper. Permission given to a person to sue without payment of court fees on claim of indigence or poverty.

in personam (in per SO nam) Procedural term used to designate proceedings or actions instituted against the person. Compare **in rem**.

in propria persona (in PRO pree uh per SO nuh) In court, refers to persons who present their own cases without lawyers. See **pro se**.

in rem Procedural term used to designate proceedings or actions instituted against the thing. Compare **in personam**.

inadmissible That which under rules of evidence cannot be admitted or received as evidence.

incarcerate To confine in jail.

incompetent Person lacking the capacity, legal qualification, or fitness to manage personal affairs or to discharge required duty. Guardian may be appointed to conduct affairs or protect interest of an incompetent.

indemnity Liability or loss shifted from one person held legally responsible to another.

independent executor Special kind of executor, permitted by laws of certain states, who performs duties of executor without intervention by court.

indeterminate sentence Sentence of imprisonment to a specified minimum and maximum period of time, specifically authorized by statute, subject to termination by parole board or other authorized agency after prisoner has served minimum term.

indictment Accusation by a grand jury charging a person with a crime. Compare **charge** and **information**.

indigent Needy or impoverished. Defendant who can demonstrate his/her indigence to the court may be assigned a court-appointed attorney at public expense.

inferior court Usually refers to 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, detailing charges against a defendant. Serves to bring defendant to trial in states without grand juries. Compare **charge** and **indictment**.

infraction Violation of law not punishable by imprisonment, e.g., minor traffic offenses.

inheritance tax State tax on property that an heir or beneficiary under a will receives from deceased person's estate. Heir or beneficiary pays this tax.

initial appearance Initial appearance of an arrested person before a judge to determine whether or not there is probable cause for his/her arrest. Person generally comes before judge within hours of arrest. Also called **first appearance**.

injunction Preventive measure by which a court orders a party to refrain from doing a particular act. A **preliminary injunction** is granted provisionally, until full hearing can be held to determine if it should be made permanent.

instructions Judge's directions to jury regarding law in a case and jury's authority to determine facts and draw inferences from facts in order to reach a verdict. Also called **charge**. Compare **binding instruction** and **directed verdict**.

insufficiency Legally inadequate **answer** to one or more **allegations**, **charges** or **interrogatories** set forth in the **bill of particulars**.

intake Court process whereby a decision is made on how to proceed in a juvenile case.

intangible assets Nonphysical items such as stock certificates, bonds, bank accounts and pension benefits that have value and must be taken into account in estate planning.

integrated bar Organized state bar association to which every lawyer in a state must belong in order to be permitted to practice in that state.

inter alia (IN ter uh LEE uh) Subpoena to produce documents or things that does not require party or witness to testify or attend.

inter vivos gift (IN ter VEE VOHS) Gift made during giver's life.

inter vivos trust Another name for **living trust**.

interlocutory Provisional; not final. An interlocutory order or interlocutory appeal concerns only part of the issues raised in a lawsuit.

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 Proceeding which enables a person to force parties making the same claim against him to litigate the issue between themselves and not with him.

interrogatories Written questions asked by one party of an adverse party for which written answers must be provided. See also **depositions**.

intervention Action by which a third person who may be affected by a lawsuit is permitted to become party to the suit. Differs from the process by which one becomes an **amicus curiae**.

intestacy laws (in TES ta see) See **descent and distribution statutes**.

intestate One who dies without leaving a will. Also, not disposed of by a will, as in an intestate estate.

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

irrelevant Evidence not related or applicable to a matter in issue at a trial and thus not admissible, upon objection.

irrevocable trust (ear REV o ca ble) Trust that, once set up, grantor may not revoke.

issue Disputed point or question to which parties to a case have narrowed their disagreement; a single material point which is affirmed by one side and denied by other. When plaintiff and defendant have reached this point they are said to be "at issue." When defendant has filed an **answer** denying all or part of the **allegations** of complaint, the "issue has been joined" and case is ready to be set for trial. Also, to send out officially (to issue an order).

J

joinder Joining of parties, e.g., as plaintiffs or defendants in a suit.

joint and several liability Legal doctrine which makes each party responsible for an injury liable for all damages awarded in a lawsuit if other parties cannot pay.

joint tenancy Form of legal co-ownership of property (also known as survivorship). At death of one co-owner, surviving co-owner becomes sole owner of property. Tenancy by the entirety is a special form of joint tenancy between husband and wife.

judicial officer In broad sense refers to an officer of a court. In strictest sense refers to an officer who determines causes between parties or renders decisions in a judicial capacity.

judge Elected or appointed public official with authority to hear and decide cases in a court of law. Judge Pro Tem is a temporary judge.

judgment Final disposition of a lawsuit.

Default judgment is judgment rendered because of defendant's failure to answer or appear. **Summary judgment** is judgment given on basis of **pleadings, affidavits** and **exhibits** presented for record, without any need for trial. Used 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 provisions and terms of judgment are agreed on by the parties and submitted to a court for its sanction and approval. *Judgment non obstante veredicto*, or "judgment n.o.v.," i.e., "judgment notwithstanding the verdict," is the judge's decision to decide a case contrary to jury's verdict. May be made in a civil or criminal case. See also **declaratory judgment**.

judicial review Authority of court to review official actions of other branches of government; also, authority to declare unconstitutional actions of other branches.

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 administration of justice or the office of a judge.

judicial day Day on which a court is in session.

Juris Doctor Law degree bestowed on students academically eligible to practice law.

jurisdiction Nature and scope of a court's authority to hear and/or decide a case. Also, territory from which a court is authorized to hear cases.

jurisprudence Science or philosophy of law.

jurist One who is skilled or versed in the law.

jury Certain number of persons selected according to law and sworn to inquire into matters of fact and declare the truth about matters laid before them. See **grand jury** and **petit jury**.

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

justiciable (jus TISH ee uh b'l) Issues and claims properly examined in court.

juvenile Young person who has not yet reached age at which he/she could be treated as adult for purposes of criminal law.

juvenile court Court having special jurisdiction over delinquent and neglected children.

K

kidnapping Unlawful taking and carrying away of a human being 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 of immediate public importance. In Pennsylvania the Supreme Court can do this on its own or upon petition from any party.

knowingly With knowledge; willfully or intentionally with respect to a material element of an offense.

L

lack of jurisdiction Lack of power of a court 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. Popularly called theft.

law Combination of those rules and principles of conduct promulgated by legislative authority, derived from court decisions and established by local custom.

law clerks Persons trained in law who assist judges in researching legal opinions.

leading question Question which suggests 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 an action which would not be allowable without such permission.

legal aid Professional legal services available usually to persons or organizations unable to afford such services.

legislative history Background of action by a legislature, including testimony before committees, written reports and debates on the legislation.

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

letters of administration Legal document issued by court showing administrator's legal right to take control of assets in a deceased person's name.

letters testamentary Legal document issued by court that shows executor's legal right to take control of assets in a deceased person's name.

levy Seizure. Act of appropriating certain property of a debtor for satisfaction of a judgment for payment of money.

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. Does not convey ownership of property, but gives lienholder a right to have his/her debt satisfied out of proceeds of the sale of the property if debt is not otherwise paid.

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

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

limited jurisdiction Refers to courts limited in types of criminal and civil cases they may hear. E.g., traffic violations are generally heard by limited jurisdiction courts. 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. Legal notice that dispute exists which may affect title to a certain tract of land.

litigant Party to a lawsuit.

litigation Case, controversy or lawsuit.

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

locus delicti (LOW cuss deh LICK tye) Place of the offense.

M

magistrate Local judiciary 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. Compare **mala prohibita**.

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

malfeasance Evil doing, ill conduct; commission of some act which is positively prohibited by law.

- malice** Intentionally doing a wrongful act without just cause or excuse, with intent to inflict injury or under circumstances that law will imply as evil intent.
- malicious prosecution** Action instituted with intention of injuring defendant and without probable cause, and which terminates in favor of the person prosecuted.
- mandamus** (man DAY mus) Writ issued by a court ordering a public official to perform an act.
- mandate** Judicial command or order proceeding from court or judicial officer, directing proper officer 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** Officer of the court, usually an attorney, appointed for the purpose of taking testimony and making a report to the 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.
- memorialized** In writing.
- mens rea** (menz REE uh) The "guilty mind" necessary to establish criminal responsibility.
- Miranda rule** Requirement that police tell a suspect in custody his/her constitutional rights before questioning him/her. Named after U.S. Supreme Court case *Miranda v. Arizona* ruling establishing such requirements.
- misdemeanor** Criminal offenses considered less serious than **felonies**. Generally punishable by fine or limited local jail term, but not by imprisonment in state penitentiary.
- mistrial** Trial terminated before a verdict is reached, either because of some extraordinary circumstance, because of fundamental error prejudicial to the defendant (such as an improper drawing of jurors), or because of a **hung jury**.
- mitigating circumstances** Circumstances which do not constitute justification for committing an offense, but which may serve to reduce degree of blame. May help reduce sentence of individual convicted of offense. Compare **aggravating circumstances** and **extenuating circumstances**.
- mittimus** (MIT ih mus) Written precept issued from a court directing sheriff or other officer to convey a person to prison and directing jailer to receive and safely keep that person until he/she is to be delivered by due course of law.
- moot** Moot case or moot point is one not subject to judicial determination because it involves an abstract question or pretended controversy which has not yet actually arisen or has already passed. Usually refers to court's refusal to consider a case because issue involved has been resolved prior to court's decision, leaving nothing which would be affected by court's decision.
- moral turpitude** Immorality. Element of crimes inherently bad (**mala in se**) as opposed to crimes bad merely because of statute (**mala prohibita**). Compare **mens rea**.
- motion** Application for a rule or order made to a court or judge.
- multiplicity of actions** Two or more separate and unnecessary attempts to litigate the same cause of action.
- municipal courts** Courts whose territorial authority is confined to the city or community in which they are erected. They usually have summary jurisdiction over minor offenses and a limited number of misdemeanors. Occasionally also possess limited civil jurisdiction. Pennsylvania has one municipal court, the Philadelphia Municipal Court.
- murder** Unlawful killing of a human being with malice aforethought. First degree murder is characterized by premeditation; second degree murder by sudden and 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 exercise that degree of care which a reasonable person would exercise under the same circumstances. See also **comparative negligence** and **contributory negligence**.

neighborhood justice center In many areas of the country, neighborhood justice centers help parties resolve disputes outside the traditional justice system, through **arbitration**, **mediation** or some other form of **alternative dispute resolution**.

next friend One acting without formal appointment as guardian for benefit of infant or person of unsound mind not judicially declared incompetent, or other person under some disability.

no bill This phrase, endorsed by a grand jury on written indictment submitted to it for its approval, means that evidence was found insufficient to indict.

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 parties may resolve a dispute without formal finding of error or fault.

nol pros Abbreviation of **nolle prosequi**.

nolle prosequi (NAHL ee **PROS** eh KWEE) Decision by prosecutor not to go forward with charge of a crime. Translates, "I do not choose to prosecute." Also called "nol pros."

nolo contendere (NO LO con TEN deh ree) Plea of no contest. In many jurisdictions an expression that a matter will not be contested, but without admission of guilt. In other jurisdictions an admission of charges, equivalent to a guilty plea.

nominal party One joined as a party or defendant 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. See **judgment**.

non prosequitur (non preh SEK wit tur) Judgment entered at request of defendant when plaintiff, at any stage of proceedings, fails to prosecute his/her action or any part of it in due time. Call "non pros" for short.

non pros Abbreviation of **non prosequitur**.

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; a cause or source of annoyance that arises from unreasonably unwarranted or unlawful use by a person of a property.

nunc pro tunc Legal phrase applied to acts allowed after the time when they should be done, with a retroactive effect.

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

O

oath Written or oral pledge by a person to keep a promise or speak the truth.

objection Process by which one party takes exception to some statement or procedure. Objection is either sustained or overruled by the judge.

"on his own recognizance" Release of a person from custody without payment of any **bail** or posting of **bond**. See **personal recognizance**.

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

opening statement Initial statement made in a trial by attorneys for each side, outlining the facts each intends to establish during the trial.

opinion Written decision of an appellate court. A majority or plurality opinion expresses court's decision. A concurring opinion generally agrees with the majority, but usually states different or additional reasons for reaching the same conclusion. A dissenting opinion states the opinion of judges who disagree with the majority. A **per curiam** opinion is an unsigned opinion "of the court."

opinion evidence What a witness thinks, believes or infers with respect to certain facts, as distinguished from personal knowledge of the facts. Generally admissible only when given by an expert witness unless opinion is based on matters common to lay persons.

ordinance Municipal law regulating conduct or defining misdemeanor crimes.

oral argument Opportunity for lawyers to summarize their positions before the court and also answer judges' questions.

order Written or oral command from a court directing or forbidding an action.

ordinance Local law adopted by a municipality.

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 essential to establishment of intent to commit a crime and done to carry out or in furtherance of intention.

P

pain and suffering Term used to describe not only physical discomfort and distress but also mental and emotional trauma, which are recoverable as an element of damage in **torts**.

pardon Form of **executive clemency** preventing criminal prosecution or removing or extinguishing a criminal conviction.

parens patriae (PAH renz PATE ree eye) Doctrine under which a court protects the interests of a juvenile.

parole Supervised conditional release of a prisoner before expiration of his/her sentence. If parolee observes conditions, he/she need not serve remainder of his/her term.

party Person, business or government agency actively involved in prosecution or defense of a legal proceeding.

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, penalties or punitive institutions.

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

pendente lite (pen DEN the LYE the) During actual progress of a suit.

per curiam (per KYUR ee uhm) By the court. Distinguishes an opinion of the whole court from an opinion written by any one judge. Compare **opinion**.

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

perjury Criminal offense of making a false statement under oath.

permanent injunction Court order requiring or forbidding action until final termination of a particular suit. Differs from forms of temporary relief, as **temporary restraining order** or **preliminary injunction**.

"person in need of supervision" Also called **status offender**. Juvenile found to have committed a **status offense** that would provide basis for a finding of delinquency. In different states, status offenders are also known as "children in need of supervision" or "minors in need of supervision."

personal jurisdiction Power of a court over the person of a defendant, in contrast to jurisdiction over the defendant's property.

personal property Tangible physical property consisting of things temporary or movable such as cars, clothing and furniture. Does not include real property such as land or rights in land.

personal recognizance Pretrial release of a defendant without bail upon his/her promise to return to court. Also known as releasing one "on his own recognizance."

personal representative Person who administers an estate. If named in will, person's title is **executor/executrix**. If no valid will exists, person's title is **administrator/administratrix**.

petit jury (PEH tee) Jury for the trial of a civil or criminal case, composed of six to twelve persons. Compare **grand jury**.

petition Filed **pleading** which commences **litigation** in a civil case. Contains **allegations** and a request for relief and/or for recovery of money by **plaintiff**.

petitioner Person filing an action in a court of original jurisdiction. Also, person who appeals judgment of a lower court. Opposing party is called the **respondent**.

plaintiff Person who brings a civil lawsuit. Also called **complainant**.

plea Defendant's declaration in open court in a criminal proceeding that he/she is guilty or not guilty. Defendant's answer to charges made in an **indictment** or **information**.

plea bargaining Process through which an accused person and prosecutor negotiate a mutually satisfactory disposition of a case. Usually a legal transaction in which defendant pleads guilty in exchange for some form of leniency. Often involves guilty plea to lesser charges or guilty plea to some of the charges if other charges are dropped.

pleadings Written statements of fact and law filed by parties to a lawsuit.

plenary action (PLEH nuh ry) Complete, formal hearing or trial on merits as distinguished from voluntary hearing, which is less strict and more informal.

polling the jury Act of 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 a trust established before will-maker's death.

power of attorney Formal authorization of a person to act in the interests of a person

incapable of managing his/her own affairs or property. See **attorney-in-fact**.

praecipe (PRESS ih pee) Any of various legal writs commanding a person to do something or to appear and show cause why he/she should not. Also, written order requesting clerk or prothonotary of a court to issue a writ and specifying contents of writ.

precedent Previously decided case which guides decisions of future cases. Compare **stare decisis**.

precept An order issued by a legally constituted authority commanding a subordinate official to perform some act within the scope of the official's powers.

prejudicial error Error committed during a trial which was harmful enough to affect outcome of trial and which warrants reversal in judgment by appellate court. Compare **harmless error** and **reversible error**.

preliminary hearing In criminal law, hearing at which a judge determines whether evidence is sufficient against a person charged with a crime to warrant holding him/her for trial. Constitution bans secret accusations so preliminary hearings are public unless defendant asks otherwise. Accused must be present and accompanied by legal counsel.

preliminary injunction Court order requiring or forbidding an action until a decision can be made whether to issue a **permanent injunction**. Differs from **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. See **weight of 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 that either makes a neutral report or notes misdeeds by officials charged with specified public duties. Ordinarily does not include a formal charge of crime. Differs from **indictment**.

presumption of innocence Every defendant enters a trial with the presumption that he/she is innocent. Prosecution must prove guilt by competent evidence. Jury's verdict of guilty removes presumption.

presumption of law Rule of law that courts and judges shall 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 estate property to go to such children.

pre-trial conference Meeting between judge and lawyers involved in a lawsuit to narrow issues in a suit, agree on what will be presented at the trial, and make a final effort to settle case without trial.

prima facie case (PREE muh FAH sheh) Case that is sufficient, i.e., has minimum amount of evidence necessary, to allow it to continue in the judicial process.

prima facie evidence Uncontradicted evidence sufficient to bring a case to court and sustain a finding in favor of the side it supports.

prior restraint Restraint on publication before it is published. Prohibited by constitution.

pro bono publico "For the public good." When lawyers represent clients without a fee, they are said to be working *pro bono publico*.

pro se (pro see) Person acting as his/her own attorney, whether or not he/she is a lawyer. Also refers to small claims courts in some jurisdictions. See **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 a person found guilty of offense to stay in the community, usually under conditions and under supervision of a probation officer.

Violation of probation can lead to its revocation and to imprisonment.

proceeding A legal action. The action of conducting juridical business before a court or judicial officer.

procedural law Law which prescribes the method of enforcing rights or of obtaining redress for invasion of rights. Compare **substantive law**.

promulgate To put (a law) into action or force. To make known or public the terms of (a proposed law).

prosecutor Trial lawyer representing the government in a criminal case.

protective order Court order to protect a person from further harassment, service of process or discovery.

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

proximate cause Act which causes an event, particularly an injury, to occur. A person generally is liable for the injury only if the injury was proximately caused by his/her action or failure to act when he/she had a duty to act. May or may not also be the **immediate cause**. An event may have one or more proximate causes.

public defender Government lawyer who provides free legal defense services to a poor person accused of a crime.

punitive Damages on an increased scale awarded to a **plaintiff** over and above what will compensate the plaintiff for ordinary loss, in an effort to punish the defendant or set an example for wrongdoers.

purge Complete removal of arrest, criminal or juvenile record information from a given records system. Compare **expungement**.

Q

quash To vacate or void a summons, subpoena, etc.

quid pro quo "What for what." Fair return consideration.

quo warranto (quo wah RANT oh) Legal action begun which requires a person to show by what authority he/she exercises public office, franchise or liberty.

R

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

ratio decidendi (RAY she oh DES ih DEN dye) The point in a case which determines the judgment.

real evidence Evidence furnished by things themselves, on view or inspection, as opposed to oral testimony of a witness.

real property Land, buildings and other improvements affixed to the land.

reasonable doubt State of mind in which jurors cannot say they feel abiding conviction as to the truth of a charge against an individual. An accused person is entitled to acquittal if, in the minds of the jury, his/her guilt has not been proven beyond "reasonable doubt." See **beyond a reasonable doubt**.

reasonable person Phrase used to denote a hypothetical person who exercises qualities of attention, knowledge, intelligence and judgment that society requires of its members for protection of their own interests and the interests of others. Test of negligence is based on either failure to do something a reasonable person, guided by considerations that ordinarily regulate conduct, would do, or on doing something that a reasonable and prudent person would not do.

rebuttal Evidence disproving other evidence previously given or reestablishing credibility of challenged evidence. Compare **rejoinder**.

recidivism Relapse into former type of behavior, as when an individual relapses into criminal behavior. A habitual criminal is a recidivist.

recognizance Practice which enables accused awaiting trial to be released without posting any security other than promise to appear before court at proper time. See **on his own recognizance** and **personal recognizance**.

record All documents and evidence plus transcripts of oral proceedings in a case.

recusation Plea or exception by which defendant requests that judge hearing his/her trial excuse him/herself from case. Judge may also elect to recuse him/herself from a trial, meaning he/she excuses him/herself from hearing it.

re-direct examination Opportunity to present **rebuttal** evidence after one's evidence has been subjected to cross-examination. See **rehabilitation**.

redress To set right; to remedy; to compensate; to remove causes of a grievance.

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

referee Person to whom a court refers a pending case to take testimony, hear parties and report back to court. A referee is an officer with judicial powers and serves as an arm of the court.

rehabilitation After **cross-examination** a witness whose credibility has suffered may be examined again to improve his/her standing with trier of fact in matters covered by cross-examination. See **redirect examination**.

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

rejoinder Opportunity for the side which opened a case to offer limited response to evidence presented during **rebuttal** by opposing side.

relevant evidence Evidence having any tendency to make existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

remand To send a dispute back to the court where originally heard. Usually it is an appellate court that remands a case for proceedings in the trial court consistent with the appellate court's ruling.

remedy Legal or judicial means by which right or privilege is enforced or violation of right or privilege is prevented, redressed or compensated.

remittitur (reh MID ih dur) Reduction by judge of damages awarded by jury.

removal Transfer of state case to federal court for trial; in civil cases, because parties are from different states; in criminal and some civil cases, because of significant possibility case could not receive a fair trial in state court.

replication Reply made by plaintiff to defendant's plea, answer or counterclaim.

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

reply Response of plaintiff to defendant's argument.

respondent Person against whom an appeal is taken.

rest Party is said to "rest" or "rest its case" when it has presented all the evidence it intends to offer.

restitution Act of giving the equivalent for any loss, damage or injury.

restraining order Order which may be issued upon filing of application for **injunction** forbidding defendant to do a threatened act. See **temporary restraining order**.

retainer Act of a client in employing an attorney or counsel. Also denotes fee client pays when he/she retains an attorney.

return Report to judge by police on implementation of arrest or search warrant. Also, report to judge in reply to subpoena, either civil or criminal.

reverse Action of higher court in setting aside or revoking lower court decision.

reversible error Error sufficiently prejudicial (harmful) to justify reversing judgment of lower court. Compare **harmless error** and **prejudicial 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 from his/her person or immediate presence and against his/her will, by means of force or fear. Differs from **larceny**.

rule of court Order made by a court having competent jurisdiction. Rules of court are either general or special. General rules are regulations by which practice of the court is

governed. Special rules are special orders made in particular cases.

rules of evidence Standards governing whether evidence in a civil or criminal case is admissible.

S

sanction Punitive act designed to secure enforcement by imposing a penalty for its violation.

satisfaction See **accord and satisfaction**.

search warrant Written order issued by a judge that directs a law enforcement officer to search a specific area for a specific piece of evidence.

secondary evidence See **best evidence**.

secured debt In bankruptcy proceedings, a debt in which debtor gave creditor a right to repossess property or goods used as **collateral**. Compare **unsecured**.

self-defense Claim that an act otherwise criminal was legally justifiable because it was necessary to protect a person or property from threat or action of another.

self-incrimination, privilege against Constitutional right of people to refuse to give testimony against themselves that could subject them to criminal prosecution. Right is guaranteed in 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 Court's determination of punishment to be inflicted on a person convicted of crime.

sentencing guidelines Set of guidelines introduced to ensure conformity in sentencing throughout Pennsylvania.

sentencing report Document containing background material on convicted person. Prepared to guide judge in imposing sentence. Sometimes called **presentencing** 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. Sequestered jurors are usually housed in a hotel, have meals together, and are given edited copies of newspapers and magazines, all in an attempt to keep them free from outside influences.

sequestration of witnesses Keeping all witnesses (except plaintiff and defendant) out of courtroom except for their time on the stand and admonishing them not to discuss their testimony with other witnesses. Also called separation of witnesses. Prevents a witness from being influenced by testimony of prior witnesses.

service Delivery of legal document, such as **complaint**, **summons** or **subpoena**, notifying person of lawsuit or other legal action taken against him/her. Constitutes formal legal **notice** and must be made by an officially authorized person in accordance with formal requirements of applicable laws.

settlement Agreement between parties disposing of a lawsuit.

settlor Person who sets up a trust. Also called **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 that a person who has breached a contract to perform specifically what he/she has agreed to do. Specific performance is ordered when damages would be inadequate compensation.

spendthrift trust Trust set up for benefit of someone whom grantor believes would be

incapable of managing his/her own financial affairs.

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

standing Legal right to bring a lawsuit. Only a person with something at stake has standing to bring a lawsuit.

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

state's evidence Testimony given by accomplice or participant in a crime, tending to convict others.

status offenders Youths charged with the status of being beyond control of their legal guardians, e.g., habitually disobedient, truant from school or having committed other acts which would not be a crime if committed by adult. They are not delinquents as they have committed no crime, but rather are **persons in need of supervision**, minors in need of supervision, or children in need of supervision, depending on the state in which they live. Status offenders are placed under supervision of juvenile court.

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

statute Law enacted by legislative branch of government, as distinguished from **case law**. Compare **common law**. Also called statutory law.

statute of limitations Time within which a lawsuit must be brought or an individual must be charged with a crime. Different statutes of limitations exist for different kinds of lawsuits and crimes.

statutory construction Process by which a court seeks to interpret meaning and scope of 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, to admit certain facts at trial, etc.

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

sub judice (sub JOO dih SEE) Under or 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. Not under any legal disability, power of another or guardianship.

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 Substitution of one person in place of another with 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 Order by a judge deciding a case in favor of one side on the basis of pleadings, before a trial and before or after a hearing. A judge issues a summary judgment upon determining there is no factual dispute to be determined by jury. See **judgment**.

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. Jury summons is a notice requiring person receiving it to report for possible jury duty. See **venire**.

sunshine laws Laws forbidding or restricting closed meetings of government bodies. Sometimes provide 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 income and principal (assets held in trust) as needed for beneficiary's support.

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

surety bond Bond purchased at expense of estate to insure executor's proper performance. Often called **fidelity bond**.

survivorship Another name for **joint tenancy**.

sustain Court order allowing an objection or motion to prevail.

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

swindling Obtaining money or property by fraud or deceit.

T

tangible personal property memorandum (TPPM) Legal document referred to in a will and used to guide distribution of tangible personal property.

temporary relief Any form of action by a court granting one of the parties an order to protect its interest pending further action by the court.

temporary restraining order Judge's order forbidding certain actions until a full hearing can be held. Usually of short duration. Often referred to as TRO. Compare **preliminary injunction**.

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

testamentary capacity Legal ability to make a will.

testamentary trust Trust set up by a will.

testator/testatrix Person who makes a will, testator referring to male, testatrix to female.

testimony Evidence given by witness under oath. Does not include evidence from documents and other physical evidence. Compare **evidence**.

theft Popular name for **larceny**.

third party Person, business or government agency not actively involved in a legal proceeding, agreement or transaction.

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

title Legal ownership of property, usually real property or automobiles.

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. The most common tort action is a suit for damages sustained in an automobile accident.

tort-feasor One who commits a **tort**; a wrong doer.

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.

true bill **Indictment** by grand jury.

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 living trust. See **testamentary trust**.

trustee Person or institution that manages property put in a trust.

turncoat witness Witness whose testimony was expected to be favorable but who later becomes an adverse witness.

U

undue More than necessary; not proper; illegal.

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

unsecured In bankruptcy proceedings, for purposes of filing a claim, a claim is unsecured if there is no **collateral**, or to the extent the

value of collateral is less than amount of debt.

Compare **secured debt**.

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

V

vacate To set aside.

venire (veh NI ree; popularly pronounced veh NEER) Writ summoning persons to court to act as jurors. More popularly, used to refer to people summoned for jury duty.

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

verdict In criminal proceedings, decision reached by a jury or judge as to the guilt or innocence of the party being tried.

voir dire (vwahr deer) Process of questioning potential jurors so that each side may decide whether to accept or oppose individuals for jury service.

W

waiver Intentionally giving up right.

waiver of immunity Means authorized by statute by which a witness, before testifying or producing evidence, may relinquish the right to refuse to testify against him/herself, thereby making it possible for his/her testimony to be used against him/her in future proceedings.

warrant Most commonly, a court order authorizing law enforcement officers to make an arrest or conduct a search. **Affidavit** seeking warrant must establish **probable cause** by detailing facts upon which request is based. See also **bench warrant**.

weight of evidence Balance or **preponderance of evidence**.

will Legal declaration that disposes of a person's property when that person dies.

willfully Intentionally, as distinguished from accidentally, carelessly or inadvertently.

with prejudice Applied to orders of judgment dismissing a case, meaning that the plaintiff is forever barred from bringing a lawsuit on the same claim or cause.

without prejudice Claim or cause dismissed may be the subject of a new lawsuit.

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

daytime to work at a job approved by Department of Corrections or the court. After working hours prisoner is returned to confinement.

writ Judicial order directing a person to do something.

writ of certiorari Order issued by Supreme Court directing lower court to transmit records for a case it will hear on appeal. See **certiorari**.

writ of execution Writ to put in force the judgment or decree of a court. 