

Common Legal Terms

A

Adjudicate: To hear or conduct a trial, try and make a judicial decision.

Adjudication: In Child in Need of Assistance (CINA) cases, the Adjudication Hearing is where the Court determines, based on allegations and evident produced by the Tribal Prosecutor's Office, whether the child at issue is in need of the Court's assistance, usually due to neglect, abandonment, or abuse.

Affidavit: A voluntary written statement of facts made under oath before a notary public.

Affirm: When an Appellate Court rules that the lower court judgment is correct.

Allegation: The assertion, declaration, or statement of a party to an action, made in a pleading, setting out what the party expects to prove; what a party claims to be true.

Amend: To change or modify.

Answer: A paper submitted by a Defendant or Respondent in which they respond to the allegations of the Plaintiff or Petitioner. An answer either admits or denies each of the allegations.

Appeal: A proceeding to have a case examined by a higher court to see if a lower court's decision was made correctly according to law.

Appellant: A party appealing a lower court decision, usually seeking reversal of the decision.

Appellate Court: A Court having the authority to hear an appeal of the lower court decision.

Appellee: A party against whom an appeal is filed.

Arraignment: A Court proceeding informing a person accused of a crime of the charges against the person.

Associate Judge: A public official who helps decide legal matters in Court.

Attorney: A person who is licensed to give legal advice or to act as a representative for another in a court proceeding; a lawyer.

B

Bail: Usually cash or a bond that is required to release a person being held in jail on charges. The purpose of bail is so the Defendant will appear in Court at a future time. A person who post bail may forfeit the cash or bond if the Defendant fails to appear in Court as directed. *See "Bond"*.

Bench: The Judge's seat or the Judge, himself/herself.

Bond: A financial obligation, sometimes referred to as a bail bond, on behalf of a Defendant to ensure they will appear in Court at a future date.

Brief: A written or printed document submitted to the Court in a trial or on appeal to support their arguments, a brief is required on appeal.

Burden of Proof: A party's duty to show or prove facts. The term can mean either the burden of providing certain evidence or the burden of persuading a judge or jury of a certain proposition. Generally, the Plaintiff or Petitioner has the burden of proving his or her case.

C

Case Caption: In a pleading, or court filing, it is the heading which shows the names of the parties, name of the Court, Case Number, and title of document being submitted.

Case File: A complete collection of every document filed with the Court in a specific case.

Cause of Action: A legal claim made against another person or entity.

Certified Copy: Copy of a document signed and certified as a true copy of an original by the Clerk of Court or other authorized person.

Chief Justice: The presiding Judge of a Tribal Court, appointed by the Tribal Council.

Child in Need of Assistance (CINA): any delinquent, dependent, or neglected child.

Child Support Guidelines: A set of guidelines used by Meskwaki Nation Child Support services and the Sac & Fox Tribe of the Mississippi in Iowa Tribal Court based on a shared income model which utilizes the income of both the Custodial and Non-Custodial Parent to calculate adequate support for the children.

Civil Procedures: The rules and standards courts and litigants must use and follow in civil cases.

Clerk of Court: A Court Officer who oversees administrative aspects of the Court system, including managing the flow of cases. Clerk of Courts assist the public, litigants, and attorneys with matters relating to the court process. They cannot give legal advice.

Community Service: An obligation the Court imposes on a person to work without pay on behalf of the community.

Complaint: An initial pleading in an action formally setting forth the facts and reasons of which the claims and demand for relief are based.

Concurrent Sentences: Multiple sentences imposed on a single Defendant to be served over the same time.

Confidential Information: Personal information in a Court file or document that should be excluded from public access.

Conservator: A person whom the Court appoints to manage the financial affairs or daily life of another person who is a minor or have physical or mental limitations.

Contempt of Court: Willful refusal to follow a court order or direction.

Contested Action: An action which involves disagreed upon issues of fact or law, a claim that is opposed.

Continuance: A postponement or rescheduling of a court proceeding to a later time.

Conviction: A legal finding or determination that a person is guilty of a crime.

Counterclaim: A claim brought by a Defendant against the Plaintiff in an existing case.

Court Costs: The charges or fees associated with a lawsuit or court proceeding that can include filing fees, service charges, copying expenses, transcript expenses, etc. The losing party may typically be ordered to pay the court costs on behalf of the winning party.

Cross Examination: Questioning of a witness by opposing counsel; opposite of direct examination.

D

Decree: A decision or order of the Court- the word is typically used in reference to decisions and orders issued in Dissolution matters.

Default or Default Judgment: A default in a legal action occurs when one party fails to plead, appear or otherwise defend within the time allowed.

Defendant: The party being sued, the party against whom a claim has been made.

Deliberations: The process of jury members discussing the facts of a case after the trial has ended and before reaching a verdict.

Delinquency: These are a type of juvenile case that involves acts committed by a minor that would typically be considered criminal if committed by an adult.

De Novo: Start anew, a new trial.

Discovery: The procedures used to discover and obtain facts and information to be used at trial.

Dismissed WITH Prejudice: When an action is dismissed in such a way that the Plaintiff is prohibited from filing a suit again on the same claim.

Dismissed WITHOUT Prejudice: When an action is dismissed in such a way that the Plaintiff may re-file the same suit on the same claim again.

Disposition: The result of a judicial proceeding by withdrawal, settlement, order, judgment, or sentence.

Dissolution of Marriage: The termination of a marriage and restoring the parties to the state of unmarried persons.

Docket: A document which summarizes a case, also the Court's Calendar.

Domestic Abuse or Domestic Violence: When a family member or party found to be within a certain relationship assaults, batters, harasses, stalks, or intimidates another person whether or not the person alleged to have committed the domestic violence has been arrested, charged, or convicted.

Double Jeopardy: When a person is prosecuted or sentenced twice for the same crime.

Due Process: A term that means the conduct of legal proceedings in a manner that protects and enforces the rights of individuals, including notice to all parties and the right to a fair hearing before an impartial Judge.

E

Evidence: Any demonstration of a fact that tends to prove or disprove the alleged fact. Evidence can take many forms such as a statement of a witness, an object, photograph, etc.

Exhibit: A paper or article submitted in a Court or produced during a trial or hearing and formally made a part of the record as evidence.

Ex Parte: A Latin phrase meaning on one side only. The phrase typically is used when one party communicates with the Court without the other party being present.

Extradition: When one state or country surrenders to another jurisdiction a person accused of a crime or convicted of an offense.

F

File: To submit a document or record to the Court to be included in a court file.

Filing Fee: A required fee paid to the Clerk of Court when beginning a lawsuit. Some documents in certain legal proceedings also must be accompanied by a filing fee.

G

Garnishment: A Court Order where a debtor's money or property held by a third party are attached and applied to the payment of the debt.

Guardian Ad Litem: A person appointed by a Court to look after and represent the interest of another person, usually a child, in Court.

Guardian: A person who has the legal duty and power to take care of the person and property of another who because of the person's age, incapacity, or disability is considered incapable of administering his or her own affairs.

H

Habeas Corpus: Latin term for "you have the body". A petition to bring a person before a Court or a judge, most frequently used to ensure that a person's imprisonment, detention, or commitment is legal.

Hearsay: Second-hand evidence not arising from personal knowledge of the witness from repetition of what the witness has heard others say.

I

Inadmissible: That which under the rules of evidence cannot be admitted or received as evidence.

Injunction: A Court Order prohibiting a threatened or continued act.

Interlocutory: Temporary; not final.

Intestate: Without making a Will

J

Judgment: The final decision of a Court that finally resolves a dispute between parties to a lawsuit.

Jurisdiction: The extent of the authority and power of a Court to preside over a case and interpret and apply the law.

Jurisprudence: The philosophy of law; the science which deals with principles of law and legal relationships.

Juvenile Court Officer (JCO): JCOs work with youth who are accused of committing a delinquent act. They monitor the youth and track progress with treatment, restitution, and community service, as well as make recommendations to the Court.

L

Legal Advice: Advice about the decisions a person should make to improve the person's legal case. *Only attorneys can give legal advice.*

Legal Information: Facts about the law and the legal process; general information about Courts, procedures, and terminology.

Litigant: A party to a lawsuit.

Litigation: The process of resolving a dispute over legal rights in Court.

M

Malice: A wrongful intention or a desire to do evil.

Mandate: A judicial command issued by a Court or Judicial Officer.

Mediation: The process of a third party (mediator) assisting opposing parties in a lawsuit to resolve their dispute without going to Court.

Money Judgment: A decision or Order from a Court that states one party is entitled to receive an amount of money from another party.

Moot: Not actual, theoretical or hypothetical. Usually in reference to a Court's refusal to consider a case because the issue involved has been resolved prior to the Court's decision.

Motion: An application to the Court to request that something be done or for a specific ruling in a case.

N

Negligence: Failure to do or not do something which a reasonable person would do or not do under the circumstances.

Notary Public: A person authorized by the State to verify the identity of a person signing a document. A document is considered *notarized* when it contains a notary public's signature and seal.

Notice of Appeal: A filing required to appeal a ruling made by a lower court.

Notice: To give notice is to make the other party aware of a legal action or filing of a document.

Nunc Pro Tunc: A Latin term meaning "now for then". Usually referring to a Court that is correcting an Order or something it has done previously.

O

Oath: A pledge to speak the truth.

Objection: A statement by an attorney opposing a specific question, testimony, or admission of evidence in a trial or deposition.

Opinion: A formal written statement or decision by a Judge or Justice of the Law bearing on a case, usually as a resolution of an appeal.

Order: A written direction or command delivered by a Court or Judge.

Ordinance: A formal law or regulation that addresses specific issues or concerns within a community.

Original Notice: A document filed in Court to begin a lawsuit. The notice of the filing of a lawsuit served on a Defendant or Respondent, stating a time in which an answer or response must be filed with the Court.

Overrule: The Court's denying of a motion or objection.

P

Party: A person, corporation, or association, who is a Plaintiff or Defendant in a case.

Perjury: The act of lying while under oath.

Petitioner: Person who filed a petition in Court to begin a lawsuit.

Petition: A written application to the Court, usually the first pleading in a lawsuit, requesting a remedy available under law, also called a *complaint*.

Plaintiff: A person who initiates a civil lawsuit.

Pleading: A general term of a formal document in which a party to a legal proceeding sets forth or responds to allegations, claims, denials, or defenses.

Plea: The Defendant's statement of "guilty" or "not guilty" in answer to the charges against the Defendant.

Presentence Investigation Report: A report, typically prepared by a Probation Officer, which presents pertinent information needed by a Judge to sentence a person convicted of a crime. The report includes information such as the Defendant's criminal history, characteristics, family, and financial circumstances, as well as the harm to the victim, the victim's family, and the community, and finally any mitigating circumstances relating to the Defendant's potential for probation, etc.

Pretrial Conference: A meeting of the Judge and attorneys to set a trial schedule and discuss which issues may be presented during the trial, evidentiary questions that may arise, witnesses to be called to testify, and often settlement possibilities.

Probable Cause: Is a standard of proof- a requirement of a reasonable ground to suspect that a person is committing or has committed a crime.

Pro Se: Representing yourself in a legal action within an attorney, serving as one's own attorney.

Protective Order: An Order from the Court instructing a person to stop abusing, harassing, or contacting another person for a period of time. Also referred to as a *restraining order*.

Q

Quash: To vacate, annul, or terminate.

R

Remand: To send a case back from an Appellate Court to the lower court from which it came, for further proceedings.

Replevin: To recover personal property from someone who has no legal right to possess the property.

Reply: A Plaintiff's response to a Defendant's answer when the answer contains a counterclaim.

Respondent: The party who has been sued by a Petitioner in a lawsuit and must respond to the claims in the Petition.

Restitution: A fair remedy under which a person is restored back to his or her original position prior to loss or injury. Can also be used to describe a Defendant's monetary obligation, including victim restitution, fines, court costs, surcharges, and fees.

Restraining Order: An Order from the Court instructing a person to stop abusing or harassing another person for a period of time.

Reverse: The act of an Appellate Court setting aside or overturning the decision or ruling of a lower court.

S

Seize: To take legal possession of someone or something.

Self-Represented Litigant: A party to a lawsuit who proceeds without the help of an attorney. *See Pro Se.*

Sentence: The punishment a Court orders for a Defendant after the Defendant's conviction.

Service: Officially notifying a person of a legal document, such as a complaint, to assure that the opposing party is aware of the action and is given an opportunity to respond.

Sovereignty: The supreme political authority of an independent nation.

Sovereign Immunity: A government's immunity from being sued in its own Courts without its consent.

Stipulation: A voluntary agreement between both parties on an action as to any matter pertaining to the proceedings or trial.

Subpoena: A written legal notice compelling a person to appear in Court to testify as a witness. *Subpoena duces tecum* is a notice to compel a person to appear and bring specified documents, records, or items.

Summons: A writ or process commencing the Plaintiff's action and requiring the Defendant to appear and answer.

Suppress: To prevent something from being seen, heard, or said. To keep evidence from being offered by a party from being used in a trial.

Sustain: The Court's acceptance of a motion or objection.

T

Termination of Parental Rights (TPR): These are cases that involve severing the legal ties between parent and child.

Testimony: Spoken evidence from a witness, given under oath at a trial or in a deposition.

Transcripts: A copy of the record of a trial, hearing, or other proceeding that a court reporter prepares.

Tribal Prosecutor: An attorney who represents the Tribe in Tribal Court and is responsible for prosecuting criminal and/or civil cases, as well as violations of the Tribe's Constitution, ordinances, and resolutions.

Tribal Public Defender: An attorney who represents people who are unable to afford an attorney in Tribal Court.

U

Uniform Citation: A citation that a law enforcement officer issues instead of making an arrest.

V

Verdict: The determination of a jury on the facts and, usually, the legal consequences of those facts.

Vulnerable Adult: A person eighteen years of age or older who is unable to protect himself/herself from abuse, neglect or exploitation by others because of a mental or physical impairment.

Vulnerable Elder: A person sixty years or older who is unable to protect himself/herself from abuse as a result of a mental or physical condition or because of a personal circumstance that increases risk of harm to the person.

W

Warrant: A writ or Order that a Judge has signed authorizing a law enforcement officer to make an arrest, conduct a search, or to perform some other designated act.

Witness: One who testifies to what they have seen, heard, or otherwise observed under oath.

Writ: An Order issuing from a Court and requiring the performance of a specific act, or giving authority and commission to have it done.