## ⚖️ 1️⃣ Plenary Power — “Full Power Within Limits”

### **Meaning**

“Plenary” means full, complete, or entire, but it is **confined to a defined subject** or jurisdiction.
When a judge, legislature, or agency is said to have plenary power, it means they have **the full range of lawful authority** **within the area the Constitution or statute has given them**.

* **Example:**
The Arizona Superior Court has “plenary jurisdiction” over civil and criminal matters (Ariz. Const. Art. 6, § 14). That means it can hear any such case **as long as due process and jurisdictional limits are observed**.
* **Key:** Plenary power is **not absolute**; it exists only within the boundaries the Constitution allows.

**In simple terms:** plenary = “full authority inside the fence line.”

## ⚖️ 2️⃣ Plenipotentiary Power — “Power by Commission or Delegation”

### **Meaning**

“Plenipotentiary” comes from plenus (full) + potens (power).
A **plenipotentiary** officer acts with full power **because another sovereign source delegated it**—through **an oath, commission, or appointment**.

* A judge’s **plenipotentiary power** comes from:
	1. **The People’s delegation** through the Constitution.
	2. **The Governor’s commission or election certificate.**
	3. **The oath of office** (Ariz. Const. Art. 6 § 26; A.R.S. § 38-231).

Once those steps are complete, the judge acts plenipotentiarily—that is, with full authority on behalf of the sovereign (the People).
If any element is missing—no commission, expired term, or unfiled oath—the judge still holds office de facto but not de jure (lawfully), meaning the acts may later be challenged.

**In simple terms:** plenipotentiary = “power borrowed and conditioned on the oath.”

## ⚖️ 3️⃣ When a Judge Acts Under the Constitution

A judge is acting **under constitutional authority** only when:

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| --- | --- | --- |
| Requirement | Source | Why It Matters |
| Lawful appointment or election | Ariz. Const. Art. 6 § 12; A.R.S. §§ 12-121–122 | Creates the office. |
| Proper commission issued | Governor or Supreme Court | Confirms lawful delegation. |
| Oath of office on file | Ariz. Const. Art. 6 § 26; A.R.S. § 38-231 | Binds conscience to constitutional duty. |
| Acting within subject-matter jurisdiction | Art. 6 § 14, Ariz. Const. | Keeps authority within lawful boundary. |
| Acting in good faith and due process | 14th Amendment; Art. 2, § 4 Ariz. Const. | Ensures exercise is constitutional. |

If any of those fail, the judge’s actions are still “color of law” (appear valid) but may be constitutionally defective—this is what courts call **ultra vires** (beyond power).

## ⚖️ 4️⃣ When a Judge Is Not Acting Under the Constitution

A judge is **outside constitutional authority** if:

* They exercise power **without a valid oath or commission**.
* They act **beyond subject-matter or territorial jurisdiction**.
* They deny **due process** or **equal protection** in discretionary rulings.
* They use discretion for personal or political ends rather than lawful adjudication.

In those circumstances, they’re no longer exercising plenipotentiary power (delegated constitutional authority); they’re acting as a private person using public office, and their orders may be void or voidable.

## ⚖️ 5️⃣ Relationship Between the Two Powers

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| --- | --- | --- |
| Aspect | **Plenary Power** | **Plenipotentiary Power** |
| Source | Constitution or statute | Oath + commission from sovereign |
| Scope | Full authority within a defined jurisdiction | Authority derived from lawful delegation |
| Limit | Cannot exceed subject matter | Ceases if oath/commission absent or violated |
| Example | Judge’s control over a civil case | Judge’s lawful right to sit and sign orders |
| Without it | Judge has no power in that subject | Judge acts as a de facto officer, not de jure |

**Together** they create valid constitutional authority:

* **Plenary** defines the scope,
* **Plenipotentiary** defines the source.

If either one is missing, the authority collapses.

## ⚖️ 6️⃣ How You Use This in Practice

1. **First test:** Is the judge exercising power inside jurisdiction?
→ If not, you can raise a jurisdictional challenge (Rule 12(b)(1), Ariz. R. Civ. P.).
2. **Second test:** Does the judge have an oath and commission on record?
→ File your Motion to Require Proof of Judicial Oath and Commission (we drafted).
3. **Third test:** Are rulings made in good faith and with due process?
→ Note violations on appeal or in a judicial-conduct complaint.

### ⚖️ 7️⃣ Summary Phrase for Your Packet

“Plenary power is the complete exercise of authority within the lawful boundaries of jurisdiction; plenipotentiary power is the lawful delegation of that authority through oath and commission. A judge acts constitutionally only when both conditions exist—jurisdiction and delegation joined in good faith under due process. When either is absent, the act is colorable and voidable as ultra vires.”