

XIII. Glossary of Terms

Affidavit: A written or printed statement made under oath.

Affirmed: The court of appeals has concluded that the lower tribunal's judgment or decision is correct and will stand as rendered by that tribunal.

Appeal: A request that a higher court review the decision of a forum to determine if it was correct. To make such a request is "to appeal" or "to take an appeal." One who appeals is called the "appellant" the other party is the "appellee."

Appellant: The party who appeals a decision.

Appellee: A party who opposes an appellant's appeal.

Brief: A submitted written statement that explains one side's legal and factual arguments.

Case File: A complete collection of every document filed in a case/proceeding.

Case Law: The law as established in previous court decisions. A synonym for legal precedent. Akin to common law, which springs from tradition and judicial decisions.

Clerk of Court: The court officer who oversees administrative functions, especially managing the flow of cases through the court.

Counsel: Legal advice; a term also used to refer to the lawyers in a case.

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."

CM/ECF: The Case Management/Electronic Case Files (CM/ECF) system is the Federal Judiciary's comprehensive case management system for all bankruptcy, district, and appellate courts. CM/ECF allows courts to accept filings and provides access to filed documents online. CM/ECF allows access to case files by multiple parties and offers expanded search and reporting capabilities. The system also offers electronic filers the ability to immediately update dockets, download documents, and print them directly from the court system. As of October 1, 2020, the Federal Circuit has permitted unrepresented parties to file using CM/ECF.

Damages: Money that the court orders one party to pay another. Damages may be compensatory (for loss or injury) or punitive (to punish and deter future misconduct).

De Novo: Latin, meaning "anew." A trial de novo is a completely new trial. Appellate review de novo implies no deference to the trial judge's ruling.

Dismissal with Prejudice: A disposition of the current case that prevents an identical lawsuit from being filed later.

Dismissal without Prejudice: A disposition of the current case that may allow a lawsuit to be brought later.

Docket: A log containing the complete history of each case in the form of brief chronological entries summarizing the court's proceedings.

En Banc: French, meaning "on the bench." All authorized judges of an appellate court sitting together to hear a case, as opposed to the routine disposition by panels of three judges.

Evidence: Information presented in testimony or in documents that are used to persuade the fact finder (judge or jury) to decide the case in favor of one side or the other.

In Camera: Latin, meaning in a judge's chambers. Often means outside the presence of a jury and the public (i.e., in private).

In Forma Pauperis: "In the manner of a pauper." Permission given by the court to a person to file a case without payment of the required court fees because the person cannot pay them.

Injunction: A court order preventing one or more named parties from taking some action.

Issue: The disputed point(s) between parties in a lawsuit; or to send out officially, as in a court issuing an order.

Judgment: The official decision of a court resolving the dispute between the parties.

Jurisdiction: The legal authority of a court to hear and decide a certain type of case.

Mandate: The device by which the court closes an appeal and transfers jurisdiction back to the previous court or agency. Unless the court directs that a formal mandate issue, the mandate consists of a certified copy of the judgment, a copy of the court's opinion, if any, and any direction about costs. An order dismissing a case on consent or for failure to prosecute, or dismissing, remanding, or transferring a case on motion, will constitute the mandate. The date of the order is the date of the mandate. In an appeal dismissed by the court on its own initiative in an opinion, the mandate will issue in the regular course.

Mediation Program: A service offered by some courts to help the parties achieve settlement. The Federal Circuit's mediation program is only available to parties represented by counsel.

Merits: Referring to a judgment, decision, or ruling of a court based upon the facts presented in evidence and the law applied to that evidence.

Moot: Not subject to a court ruling because, for example, the controversy has not actually arisen or has ended.

Motion: A written request by a party for a decision on a matter relating to the case.

Opinion: A judge's written explanation of the decision of the court. An opinion in appellate decisions can take several forms because a case may be heard by three or more judges. If all the judges completely agree on the result, one judge will write the opinion for all. If all the judges do not agree, the formal decision will be based upon the view of the majority, and one member of the majority may write the opinion. The judges who did not agree with the majority may write separately in dissenting or concurring opinions to present their views.

Oral Argument: An opportunity for lawyers and parties to summarize their position before the court and to answer the judges' questions.

PACER: Public Access to Court Electronic Records (PACER) is an electronic public access service that allows users to obtain case and docket information online.

Panel: In appellate cases, a group of judges (usually three) assigned to decide the case.

Per Curiam: Latin, meaning "for the court." In appellate courts, often refers to an unsigned opinion.

Pleadings: Written statements filed with a court describing a party's legal or factual assertions about the case.

Pro Se: Latin, meaning "for oneself" or "on one's own behalf." Representing oneself.

Record: A written account of the proceedings in a case, including all pleadings, evidence, and exhibits submitted in the course of the case.

Remand: Send back the case to the originating forum.

Sanctions: Penalties imposed by the court.

Settlement: Parties to a lawsuit resolve their dispute without a court decision.

Statute: A law passed by a legislature.

Sua Sponte: Latin, meaning "of its own will." Often refers to a court taking an action in a case without being asked to do so by either side.

Temporary Restraining Order: Similar to an injunction, it is a judge's short-term order forbidding certain actions until a full hearing can be conducted. Often referred to as a TRO.

Transcript: A written, word-for-word record of what was said, either in a proceeding such as a trial, or during some other formal conversation, such as a hearing or oral deposition.

Transfer: A process in which the court sends a case to a different court.

Uphold: The appellate court agrees with the lower tribunal decision and allows it to stand.

Venue: The geographic area in which a court may hear a case. A change of venue is a change or transfer of a case from one judicial district to another.

Want of Prosecution: The failure to submit required documents under the rules.