

Criminal and Civil Procedure Terms

Alternative Service – a method of delivering to an uncooperative defendant

Answer – a defendant's written reply to a plaintiff's petition

Applicant – a party making an application to the court or petitioning for some action

Attachment – a procedure or writ which may be used to bring a person or property into the custody of the court

Notice – an official notice from a court of competent jurisdiction, issued to a defendant after a plaintiff's petition is filed; the summons commands the defendant to answer and appear in court at a specific time

Civil Law – the area of law which defines the personal and property rights of individuals, the rights of an individual to seek redress or to prevent a wrong, and any action other than criminal proceedings

Civil subpoena – a command to appear at a certain time and place to give testimony upon a certain matter

Contempt – proceedings held to determine whether a person has violated a lawful court order and to set punishment if a violation is found

Default judgment – can result when there is a failure to perform some action required by law within the specified time. May be rendered against a party who has failed to answer or appear as directed

Diligent effort – persistent activity, prudence, or care; what is properly expected from a reasonable and prudent person under the particular circumstances

Ex Parte – any proceedings which are held for the benefit of, or on the application of only one party: in the absence of one party

Execution of judgment – most common writ, issued to seize property to satisfy a judgment

Garnishment – a writ and process directed to one who has money or property in his possession belonging to the defendant, ordering the third person not to deliver or pay it to the defendant but to deliver or hold it for the plaintiff or as directed by the court

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Habeas Corpus – a writ that orders that a person be brought before the court to test the legality of his detention by the person to whom the writ is directed

Injunction – a writ issued by a court that demands or prohibits specified actions

Judgment – the final order of a court in a civil suit that settles all disputed issues and determines the rights of the parties concerning the subject matter of the suit, and which is subject to being enforced by a writ.

Jurisdiction – power of a court to lawfully act with regard to persons and/or subject matter

Orders – the directions of a court or judge, a mandate or command

Petition – A document filed by the plaintiff with the clerk of the court which outlines the basis of the complaint against the defendant and the relief requested from the court

Plaintiff – a party in a civil suit; the initiator of the suit or case who files a petition

Possession – a writ employed to enforce a judgment to recover possession of real or personal property (used in eviction process)

Process – all writs and official documents issued by courts in connection with pending suits

Respondent – defendant in a civil suit

Restraining Order – an order to the defendant prohibiting him or her from performing an act prohibited in the order until a formal hearing can be conducted

Return – the endorsement made by a constable or sheriff upon process; writ or notice stating what has been accomplished, and the time and mode of service

Service – the delivery of a writ, notice or injunction, etc. by an authorized person, to a person who is thereby officially notified of some proceeding concerning him or her

Sequestration – an order directing the sheriff or constable to take into his or her possession certain property of which another person has possession until the suit can be decided or as the court directs

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Show cause – a notice to the defendant to either appear in court or prepare a written answer to show cause for failing to respond to a previous order of the court (a.k.a. notice)

Style or format – structure for the clerks of the court to use in office documents

Subpoena Duces Tecum – the process by which a court, at the direction of a party, commands a witness to produce at trial a paper or document (evidentiary item) that is in that witness' possession or control

Tort – any one of various legally recognized private injuries or wrongs; a civil action

Writ – a legal order issued by the court, in the name of the state to compel a person to do something specifically ordered

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