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ABA American Bar Association. Membership is voluntary.

abandonment A term applying to many different situations. Abandonment of property is the giving up of the dominion and control over it, with the intent to relinquish all claims to the same. Losing property is an involuntary act, while abandonment is voluntary. When used with duty, the term is synonymous with repudiation. Abandonment of a child by its parents may be a criminal offense when accompanied by failure to perform parental duty. Abandonment in marriage dissolution (divorce) means voluntary separation or desertion of one spouse from the other.

abatement To quash or put an end to a nuisance or other activity that is capable of being suppressed.

abet To encourage or incite; in legal usage, the term applies to aiding another in the commission of a crime.

abode A person's home or place of residence.

abrogation Annulment by competent authority.

abscond To leave the jurisdiction of the court in a clandestine manner, or to conceal oneself, in order to avoid law enforcement authorities.

abstract (of judgment) An abbreviated form of the judgment; contains title of court, cause number, date of entry, names of debtor and creditor, amount, and judgment number.

abstract (of record) A history of a case in short, abbreviated form, as found in the record.

accomplice A person who knowingly, voluntarily, and with common intent joins with the principal offender in the commission of a crime.

accord An agreement to accept something different from that to which a person is entitled; operates to extinguish the original obligation.

accusation A formal charge against a person that he or she is guilty of a punishable offense, submitted to a court or magistrate having jurisdiction to inquire into the alleged crime.

accused A person against whom an accusation is made; a person charged with a crime.

acknowledge To avow or admit; to confess; to recognize one's acts and to assume responsibility for them.

acknowledgment (instruments) Formal declaration before authorized official by person executing and instrument, that it is his or her free act and deed.

ACORDS Appellate Court Records and Data System.

acquiesce To give an implied consent to a transaction, to the accrual of a right, or to any act, by silence or without express assent.

acquire To gain by any means; usually by one's own exertions.

acquit To find the defendant not guilty in a criminal case.

acquittal The legal and formal certification of the innocence of a person who had been charged with a crime.

action A generic term for a civil or criminal case; synonymous with *case*, *suit*, *lawsuit*.

ad hoc For this, or for one special purpose.

ad litem For the suit; for the purposes of the suit; *e.g.*, a *guardian ad litem*.

ad valorem According to value, as determined by assessment, invoice, or appraisal.

adduce To present, bring forward, or offer; used with reference to evidence.

adjourn, adjournment The act of discontinuing or postponing a proceeding until another time or place; the court is said to *adjourn* until tomorrow, or to *grant an adjournment*. Similar to *continuance*.

adjudge To pass on judicially; to decide, settle, or decree; to sentence or condemn.

adjudication The giving or pronouncing of a judgment or decree; the final decision by the court.

adjudicatory hearing A juvenile court hearing to determine whether the juvenile committed the offense charged; analogous to a *trial* for an adult.

adjunct Something added to another.

administrative agency A governmental agency; a generic term encompassing "board" and "commission."

administrative law That part of the law that regulates the conduct of public officials; includes adoption of rules by administrative agencies and contested proceedings at the administrative level.

Administrative Office of the Courts (AOC). The statewide office for administering the courts, located in Olympia. Mary McQueen is the current administrator. Prior to 2001, known as Office of the Administrator for the Courts (OAC).

administrator In probate, the term refers to a person who has been appointed by the court to settle the estate of a person who died without leaving a will. The term should not be confused with *executor*, which refers to a person named in a will to settle the estate of the deceased. The term *personal representative* is a generic term referring to either an administrator or an executor.

An administrator of the estate of a deceased person who left a will, but whose will did not name an executor, or named a person who cannot serve as an executor, is known as an *administrator with will annexed*. A Latin term is occasionally used—*administrator cum testamento annexo*, or *administrator CTA*.

A *general administrator* is one who is appointed to administer generally the entire estate.

A *special administrator* is one who is appointed to take temporary charge of the estate until a general administrator is appointed, during the suspension of a general administrator, or the like.

A *special administrator with general powers* is a special administrator with powers enlarged by court order to authorize him to exercise the powers and duties of a general administrator during a will contest, or during an appeal from an order appointing, suspending, or removing the executor or administrator.

A *public administrator* is a public officer who administers an estate when there are no heirs or other persons available to act as an administrator.

administratrix An older term referring to a female administrator; the term is largely obsolete; the term *administrator* is now generally used to refer to all administrators.

admiralty law Law pertaining to maritime contracts, collisions, and torts involving American vessels on the high seas or navigable lakes and rivers.

admissible Pertinent and proper to be considered by the court; used with reference to evidence; evidence that is barred by the rules of evidence is said to be inadmissible.

admonition A warning, usually oral, carrying an implied penalty.

adopt (1) To accept as one's own; e.g., to adopt a statement made by another; (2) to acquire all parental rights with respect to a child (see below).

adoption Legal process by which a child's legal rights and duties toward natural parents are terminated and similar rights and duties towards adoptive parents are substituted.

adversary In litigation, the opposing party, or opposing counsel; as an adjective, refers to the nature of litigation; e.g., *adversary proceedings* or *adversary system* (see below)

adversary system General term for judicial system in which the opposing parties have an opportunity to state their viewpoints and receive a decision by a disinterested third party, whether it is the judge or a jury.

adverse party A party who by the pleadings is aligned on the opposite side.

adverse possession Legal process by which title to real property may be acquired under certain conditions—actual, open, and notorious possession of real property, for a continued period of time, held adversely and in denial and in opposition to the title of another claimant.

advice Viewpoint or opinion; the recommendation given by a lawyer to a client.

advise To give advice (see above), or to give notice.

advised Prepared to give judgment after examination and deliberation, as in *the court took time to be advised*.

advisedly With deliberation, or intentionally.

advisement Consideration, deliberation, or consultation; when a judge *takes a case under advisement*, the judge postpones a decision pending further consideration and research.

advisory opinion An opinion by the court on the constitutional or legal effect of a particular law when no actual case is before the court.

advocate (noun) One who assists, defends, or pleads for another; a lawyer in the role of representing a client.

advocate (verb) To speak in favor of, or defend by argument.

aforsaid Before, or already said, mentioned, or recited.

affiant A person who makes and signs an *affidavit* (see below).

affidavit A written declaration or statement of facts, made voluntarily and confirmed by the oath or affirmation of the person making it, taken before an officer having the authority to administer an oath.

affidavit of prejudice An affidavit filed by a party to litigation, disqualifying a judge for alleged bias or prejudice.

affidavit of service An affidavit intended to certify the service of a summons, writ, notice, or other document.

affirm (1) to give an affirmation (see below); (2) to approve or validate that which was done by a lower court; *i.e.*, an appellate court is said to *affirm* the trial court.

affirmation A formal declaration, used in place of an oath, usually to avoid religious overtones.

affirmative defense A defense (or plea) alleging new facts or other matters that destroy the plaintiff's case, even assuming the plaintiff's complaint to be true.

agenda A list of cases pending with the court, or set for hearing at a particular time and place; also called a court *calendar*.

aggravation An action or circumstance that increases the magnitude of a crime or its penalties.

aggrieved party The party whose rights are directly and adversely affected by a judgment or decree; the term is usually used to refer to the party who has the right to appeal.

agreement A mutual arrangement or understanding among two or more parties that, if legally enforceable, is equivalent to a contract.

aka (a/k/a) Also known as.

alia Latin term meaning *other things*. *Inter alia* means among other things. Example: He argued, *inter alia*, that the contract was invalid.

alias An assumed name, usually to conceal one's true identity.

alibi Elsewhere; in another place; a defendant who claims to have been somewhere else when the crime was committed is said to have an *alibi defense*.

alimony Older term for money to be paid from one spouse to the other for support, either during or at the conclusion of the dissolution of a marriage; the term is largely obsolete and has been replaced by *maintenance*.

allegation The assertion, declaration, or statement of a party to an action, made in a pleading and stating what he expects to prove.

allege To make an allegation; to claim or declare that something is true and that it will be proved at trial.

alleged (adjective) Stated; recited; claimed; asserted; charged.

ambiguous Questionable; capable of at least two different interpretations.

amenable Subject to answer to the law; agreeable to; *e.g.*, *amenable* to settlement.

amend To correct or change for the better, by removing defects or faults; pleadings that have been corrected are said to be *amended pleadings*.

amendment That which is accomplished by amending (see above).

amicus curiae Latin term meaning friend of the court—a third party who is permitted by the court to submit a brief or to assist the court in some other way; often called simply an *amicus*, and a brief submitted by an *amicus* is often called an *amicus brief*.

ancillary Aiding; attendant upon; e.g., ancillary proceeding or ancillary administration (see below).

ancillary administration Administration of an estate in another state or county, when the estate is already being administered in the state or county of the decedent's last residence.

annuity See *legacy*.

annulment A proceeding seeking a declaration by the court that a marriage is invalid, or that no legal marriage existed; the term is largely obsolete and has been replaced by *declaration of invalidity*.

answer Usually the first pleading by the defendant; the formal written statement setting forth the defendant's grounds for a defense against the plaintiff's claims or demands.

AOC See Administrative office of the Courts.

appeal Procedure by which a decision in a case is taken from the trial court to a higher court for review.

appeal bond See *supersedeas bond*.

appeal in forma pauperis See *in forma pauperis*.

appearance Coming into court as a party to a suit, whether as plaintiff or defendant. A defendant need not literally come to the courthouse to *appear*. A defendant may *appear* by simply notifying the plaintiff that he has received the plaintiff's summons and complaint.

appellant The party who appeals to a higher court.

appellate court A court that reviews decisions by lower courts; a court to which an *appeal* is taken.

appellee The party against whom an appeal is taken; also called a *respondent*.

appraisal An estimate of value, typically made by a professional *appraiser*.

AR Administrative Rules, referring to administrative rules for superior court; *i.e.*, Rule 1 is cited AR 1.

arbitration The submission of a disputed matter to a disinterested private party, whose decision is accepted in lieu of a decision by the court.

archives A place or facility where old records and other materials are stored.

argument An effort to establish belief by a course of reasoning; in litigation, the term refers to counsel's own statements, as distinguished from the factual evidence presented.

ARMA American Records Management Association.

arraignment Criminal defendant's first appearance in court, held for the purpose of informing the defendant of the charges, allowing the defendant to plead guilty or not guilty, and setting bail and appointing an attorney if necessary.

arrest To deprive a person of his liberty by legal authority; taking a person into custody for the purpose of holding him to answer on a criminal charge or a civil demand.

arrest of judgment The act of staying a judgment, or refusing to render judgment in an action at law, after verdict, for some matter appearing on the face of the record, which would render the judgment, if given, erroneous or reversible. The term is used primarily in criminal cases.

arrest warrant See *warrant*.

arson The malicious burning of the house or other structure belonging to another.

assault An intentional, unlawful injury to the person of another by force.

assignee A person to whom an assignment is made.

assignment A transfer or making over to another of property, real or personal, in possession or in action, or of any estate or right.

at issue The time in a lawsuit when the complaining party has stated his claim and the opposing party has responded with a denial, and the matter is ready for trial; the case is then said to be *at issue*.

attachment The act or process of taking, apprehending, or seizing persons or property by virtue of a writ, summons, or other judicial order, and bringing the same into custody of the law; the term is used primarily for the procedure by which a creditor may secure a debtor's property prior to final judgment.

attestation The act of witnessing an instrument in writing at the request of the party making the same, and subscribing to it as a witness.

attorney Technically means an agent or substitute, or one who is appointed and authorized to act on behalf of another; in common usage, the term refers to a lawyer, or *attorney at law*; when a power of attorney is given to a nonlawyer, the person receiving the power of attorney is an *attorney in fact*.

attorney of record A lawyer who represents a party in a lawsuit, and whose name appears on the pleadings and in the official court records.

authenticated copy A copy of a document or record, signed and certified as a true copy by the officer in whose custody the original is entrusted; also called a *certified copy*.

authentication The act or mode of giving authority or legal authenticity to a statute, record, or other written instrument, or a certified copy thereof, so as to render it admissible as evidence.

avow In pleading, to acknowledge and justify an act done.

B

bail (verb) To procure release of a person from legal custody and to assume responsibility for his appearance in court or any designated place.

bail (noun) An amount of money determined by the judge and deposited with the court clerk, either by the defendant or a third party, as security to ensure the defendant's next appearance in court.

When the money has been deposited by a third party, such as a bail bondsman, the third party is called a *surety*.

If the defendant fails to appear, he *forfeits* the money to the court, a situation called a *bail forfeiture*.

bail bond A guarantee by a surety that a person will appear at a designated time and place, and a promise to pay a sum of money fixed by the court if the person does not appear as required; a person who gives such a guarantee is often called a *bondsman*.

bailiff A courtroom clerk or attendant, whose duties include keeping order in the courtroom and maintaining custody of the jury.

bankruptcy Procedure in the federal courts (but not state courts), by which a person or business is relieved of certain debts.

bench warrant See *warrant*.

beneficiary One receiving benefit or advantage, or one who is in receipt of financial benefits or profits; usually refers to the person who benefits from, or will benefit from, a trust, a life insurance policy, or the provisions in another person's will.

bequeath To leave personal property to another in one's will.

bequest A gift of personal property by one's will; as distinguished from a *devise*, which is a gift of real property; personal property is said to be *bequeathed*.

bill of particulars In a criminal case, a written statement specifying the facts on which the prosecution intends to rely to prove the crime charged; a form of *discovery* in a criminal case and available to the defendant upon request.

BJA Board of Judicial Administration. State committee of two judges (association president and vice president) from each

court level; reviews legislative initiatives and other proposals to state legislature.

blue laws Any laws prohibiting racetrack betting, athletic contests, the opening of stores and theaters on Sunday, or any other activities usually regulated by individual conscience.

bond A certificate or evidence of a debt; a written promise to pay a certain amount of money if certain conditions are not met.

bond for costs A bond given by a party to secure the eventual payments of the costs of a suit.

bondsman See *bail* and related entries, above.

breach of the peace Disturbance of public order by an act of violence.

brief A written document prepared by an attorney or a party, presenting the law and facts supporting his case.

BTCE Board for Trial Court Education. An AOC committee that manages court education funds.

burden of proof Obligation imposed by law on a particular party to prove the facts at issue; *e.g.*, in a criminal case, the State is said to have the *burden of proving* the defendant's guilt beyond a reasonable doubt.

burglary See *robbery*.

C

calendar A list of cases pending with the court, or set for hearing at a particular time and place; sometimes called an *agenda*.

capacity Legal capacity is the attribute of a person who can acquire new rights, or transfer rights, or assume duties according to the dictates of his or her own will, without any restraint or hindrance arising from status or legal condition. The term is used primarily to describe the ability (capacity) to make a will, or to testify in court.

case Generic term referring to any proceeding pending in the courts; synonymous with *action*, *suit*, *lawsuit*.

cash bond See *bail bond*.

cause of action The legal ground on which an action may be sustained; the basis for a lawsuit.

caveat A warning; literally, "let him beware."

certificate of probable cause A stay to the execution of judgment.

certified copy A copy of a document or record, signed and certified as a true copy by the officer in whose custody the original is entrusted; also called an *authenticated copy*.

certiorari A writ calling up the records of a lower court or of a body acting in a quasi-judicial capacity (commissioners, administrative agencies, etc.), usually to correct errors or irregularities. The writ is obtained upon complaint of a party that he has not received justice, or cannot have an impartial trial in the lower court.

The term was formerly used to describe the procedure by which the appellate courts reviewed certain decisions by the superior court, but in this context, the term has been replaced by *discretionary review*.

challenge A formal exception (objection) to a potential juror.

A *challenge for cause* is a challenge for some particular reason, such as bias or prejudice due to familiarity with one of the parties.

A *peremptory challenge* is a challenge made without specifying any particular reason. Only a limited number of peremptory challenges are allowed.

chambers A judge's private office; proceedings conducted in the judge's office are said to be conducted *in chambers*.

change of venue The transfer of a suit begun in one county to another county for trial. See further explanation under *venue*.

charge (criminal) An accusatory allegation in legal form; a formal accusation that the defendant committed a crime.

charge (to jury) The judge's instructions to the jury concerning the law that governs the case, given at the conclusion of the trial.

chief judge Presiding judge within a court. See further explanation under *presiding judge*.

chief justice The presiding judge of the Washington State Supreme Court, or of the highest court in another jurisdiction.

citation (1) a summons requiring an appearance in court; (2) a reference to an authority in support of a legal argument. In the latter sense, CR 2 is said, for example, to be a *citation* to Civil Rule 2.

cite (1) to require the appearance of a person in court; (2) to read or refer to a legal authority. In the latter sense, for example, to *cite* a case is to refer to that case in an effort to persuade the court to be guided by the decision reached in that case.

civil action (civil case) A personal action instituted to compel payment, or the doing of some other thing that is purely civil; as distinguished from a criminal or domestic case.

civil law All law that is not criminal law, usually pertaining to the settlement of disputes between individuals or other entities.

claim In a civil case, an allegation by the plaintiff, usually stated in the plaintiff's complaint.

claim and delivery An action for recovery of property wrongfully taken and detained.

claim property bond A bond filed by a defendant in an action for replevin or execution, to procure the return of property.

class action An action filed on behalf of other persons similarly situated.

clerical error An unintentional mistake, not involving exercising of discretion, by the clerk, counsel, or the court, usually in a written document.

clerk of court An officer of the court, who is responsible for the clerical part of the court's work—who keeps its records and seal, issues process, enters judgments and orders, provides certified copies, and the like.

clerk's papers The portion of the superior court file that is sent to the Court of Appeals or Supreme Court for purposes of an appeal or discretionary review. Only the documents specified by the parties are copied and sent.

client A person who employs (retains) a lawyer to appear for him in court, or to handle other legal matters.

code A collection or compendium of statutes; Washington statutes are collected in the *Revised Code of Washington*, abbreviated RCW.

codicil A testamentary disposition subsequent to a will, and by which the will is changed but not revoked. A codicil is an addition to a will and must be executed with the same formality as a will; becomes part of will when will is admitted to probate.

cohabitation Term used to describe living or residing together, usually in reference to unmarried persons.

commissioner See *court commissioner*.

commitment A court order that provides authority to hold in custody a person convicted of a crime, or a person determined to be dangerous because of mental illness.

committing magistrate See *magistrate*.

community property Property acquired during marriage and owned by both husband and wife.

commutation Change of punishment from a greater to a lesser degree, such as from death to life imprisonment, or ending a sentence that has been partially served.

comparative negligence Negligence by the plaintiff in a civil action, which decreases the amount of money the plaintiff is entitled to recover.

complainant A party who files a complaint; usually synonymous with *plaintiff*.

complaint (civil) The first pleading by the plaintiff in a civil action.

complaint (criminal) A charge that a person named (or unknown) has committed a specific offense, with offer to prove the fact, to the end that a prosecution may be commenced; the accusatory pleading in courts of limited jurisdiction.

compromise of a minor's claim Settlement reached by the parent or guardian on behalf of a minor; must be approved by the court.

conclusions of law The judge's decisions on disputed issues of law in a nonjury case; as distinguished from *findings of fact*, which reflect the judge's decision on disputed factual issues.

conclusive evidence Evidence that is incontrovertible, either because the law does not permit it to be contradicted, or because it is so strong and convincing as to overbear all proof to the contrary.

concurrent, concurrently At the same time, or running together; usually used in connection with sentences for two or more crimes. See *sentence*.

condemnation The process by which property of a private owner is taken for public use, without his consent, but upon the award and payment of compensation; based upon the government's power of *eminent domain*.

confess To admit as true; to assent to; to concede.

confession (of judgment) The act of a debtor permitting judgment to be entered against him by his creditor, for a specific sum, by a written statement to that effect, without the institution of legal proceedings.

confession (voluntary) A voluntary confession is one made by a person accused of a crime, free from the influence of an extraneous disturbing cause; not influenced by violence, threats, or promises.

conformed copy A copy that exactly corresponds to the original, such as a photocopy; when the original contains signatures but the copy does not, the names are written on the copy (even though not in signature form) to make it a conformed copy.

connectivity One computer communicating or interfacing with another.

consanguinity, collateral Collateral consanguinity is the relationship between people who spring from a common ancestor, but are not in a direct line. The degree is established by counting the generation from one relative up to the common ancestor to the other relative. In such computation the first relative is excluded, the other included, and the ancestor counted only once. Thus brothers are related in the second degree, uncle and nephew in the third degree, and so on.

consanguinity, lineal Lineal consanguinity, or the direct line of consanguinity, is the relationship between persons, one of which is a descendant of the other. The direct line is divided into a direct line descending, which connects a person with those from whom he descends. In the direct line there are as many degrees as there are generations. Thus, the child is, with regard to the parent, in the first degree; the grandchild with regard to the grandparent, in the second; and vice versa as to the parent and grandparent with regard to their respective children and grandchildren.

consecutive, consecutively Successive, succeeding one another in regular order; usually used in connection with sentences for two or more crimes. See *sentence*.

conservatee An adult person who, by reason of advanced age, illness, injury, mental weakness, addiction to drugs, or other disability, or other cause, is unable to properly care for himself or his property, or who is likely to be deceived or imposed upon by artful or designing persons, or for whom a guardian could be appointed, or who voluntarily requests the same, and to the satisfaction of the court establishes good cause therefore.

conservator A person appointed by the court to care for a conservatee and/or the conservatee's property.

contempt, contempt of court A willful disregard for the authority of the court or disobedience of its orders; the court punishes such conduct by exercising its *contempt power*.

continue, continuance The act of discontinuing or postponing a proceeding until another time or place; the court is said to *continue a case* or *grant a continuance*; similar to *adjournment*.

contract A promissory agreement between two or more persons or entities, that creates, modifies, or destroys a legal relationship.

convene To come together or cause to assemble in court; e.g., the court is said to *convene* at 9:30 a.m. and to *reconvene* after lunch.

convict (noun) Informal term for a person who has been found guilty and sentenced to prison.

convict (verb) To find a person guilty of a criminal charge.

conviction The result of a criminal trial that ends in a judgment that the defendant is guilty.

confiscate, confiscation The governmental taking of private property without compensation.

coroner's inquest An examination into the causes and circumstances of a death resulting from violence or under suspicious circumstances, held by the county *coroner* or *medical examiner*.

cost bond A bond given by a party to an action, which acts as an assurance that if the outcome of the case is not favorable, costs will be paid to the prevailing party.

costs An amount of money payable to the prevailing party by the losing party for the expense of prosecuting or defending the action; sometimes includes attorney's fees. Costs are said to be *awarded to* or *recovered by* the prevailing party.

counsel A lawyer; often used in a collective sense to refer to the lawyers for both sides in a case; e.g., an agreement by counsel.

count One part of multiple charges against a criminal defendant; as in, he was charged with *three counts* of burglary.

counterclaim A claim by the defendant against the plaintiff, brought in the action already filed by the plaintiff but distinct from the defendant's defense to the claim by the plaintiff.

Court Management Council State committee of court administrators and clerks to advise AOC on administrative, legislative, and other matters.

Court of Appeals In Washington, an intermediate appellate court, to which most appeals from superior court are taken.

court (1) facility where justice is administered; (2) the judge, as distinguished from the jury or the clerk; as in *the order must be signed by the court*.

court administrator The manager of the non-judicial work of the court.

court commissioner A judicial officer who is lower in rank than a judge, serving as an assistant to the judge and authorized to perform limited judicial functions; similar in function to a *magistrate*.

court of record A court in which proceedings are recorded and made a matter of public record; in Washington, the superior court, the Court of Appeals, and the Supreme Court.

court reporter Person who records and transcribes the testimony of witnesses during trial.

court rules See *rules of court*.

Court, District In Washington, a court of limited jurisdiction, authorized to hear civil cases involving relatively small amounts of money, and criminal cases involving relatively minor crimes; has no authority to affect interests in real property.

Court, Juvenile In Washington, a division of superior court dealing with crimes and other problems associated with persons under the age of 18.

Court, Municipal Court whose jurisdiction is confined to the city or local community; in Washington, jurisdiction is limited to criminal and traffic offenses arising from violation of local ordinances.

Court, Small Claims In Washington, a division of the district court in which parties can file civil claims for small amounts of money; procedures are simplified and lawyers are not allowed.

Court, Superior In Washington, the trial court of general (unlimited) jurisdiction.

Court, Supreme In Washington, the highest court.

Courts of Limited Jurisdiction In Washington, a general term referring to the district courts and municipal courts. These courts are authorized to hear only a limited range of cases, and their proceedings are not transcribed, except by electronic recording.

CR Civil Rules, referring to the rules of civil procedure for superior court; *i.e.*, Rule 5 is cited CR 5.

creditor A person to whom a debt is owing by another person, called the *debtor*.

crime An activity dangerous to the whole of society, as determined by law.

criminal law Body of law defining crimes and the punishments therefore; as distinguished from *civil law*.

cross-claim, cross-complaint A claim by the defendant for affirmative relief against another party in the action; usually means a claim against a co-party, such as a claim by one defendant against another defendant, as distinguished from a claim against the plaintiff. (A claim by the defendant against the plaintiff is usually called a *counterclaim*.)

cross-examination See *examination*.

CrR Criminal Rules, referring to the rules of criminal procedure for superior court; *i.e.*, Rule 4.2 is cited CrR 4.2.

custody In domestic cases, the legal right to take control over, and care of, a child. In criminal cases, the defendant is said to be *in custody* if he is detained on authority or otherwise restrained, so that he is not free to come and go at will.

custody status Custodial status of criminal defendant—in custody, released on bail, or released on own recognizance.

D

DA Data Administration. A way of storing and accessing data in the computer.

damages In a civil action, an amount of money claimed by the plaintiff, or awarded by the court, as compensation for injury or loss.

day (or date) certain A fixed or appointed day or date.

dba (d/b/a) Doing business as; *e.g.*, John Smith, dba Smith Hardware.

de novo Anew; without regard to earlier events. Under some circumstances, a party losing a case in a court of limited jurisdiction is entitled to a *trial de novo* in superior court; likewise, a party losing a mandatory arbitration hearing is entitled to a *trial de novo* in superior court.

debtor A person who owes a debt to another person, called the *creditor*.

decedent A deceased person; usually refers to a person who has died recently, or whose death is the subject of a civil or criminal case.

declaration A solemn statement given instead of an oath, subjecting the speaker or writer to perjury for its violation.

declaration of invalidity A declaration by the court that a marriage is invalid, or that no legal marriage existed. Formerly called an *annulment*.

declaratory judgment A judicial declaration of the legal rights of parties under a statute, contract, or otherwise; often used in connection with a civil action in which the court is asked to determine whether an insurance policy covers a particular loss; a declaratory judgment differs from other judgments in that it does directly require the payment of money or other action by the parties.

decree The judgment of a court of equity or admiralty; usually used to describe a judgment that requires the doing of some act, as distinguished from the payment of money.

default, default judgment The omission or failure to fulfill a duty, observe a promise, discharge an obligation, or perform an agreement. A defendant who fails to appear in response to a summons is *in default*, and the court may thereafter enter a *default judgment* against the defendant.

defendant The party defending or denying; as distinguished from the plaintiff in a civil case or the prosecution in a criminal case.

defense attorney The lawyer who represents the defendant in a civil or criminal case; in common usage, the term is limited to lawyers representing criminal defendants.

deferred sentence See *sentence*.

degree of kindred The degree of kindred is established by the number of generations, and each generation is called a degree.

deliberate (verb) To discuss or consider, in order to reach a decision; the jury *deliberates* before reaching a verdict.

demeanor Physical appearance, including facial expressions, body language, and the like; the jury may consider the *demeanor* of a witness in judging the witness's credibility.

demurrer A older term for a challenge to the sufficiency of the opposing party's pleadings; the term is largely obsolete and has been replaced by a *motion to dismiss for failure to state a claim*.

denial A statement challenging, in a general way, an allegation in a pleading by the opposing party; a defense.

deponent One who gives testimony at a *deposition* (see below).

deposition The sworn testimony of a witness, taken out of court before a private court reporter and reduced to writing for use in court.

deputy clerk A person appointed to act in place of, or on behalf of, the clerk of court; an employee of the clerk's office.

derelict (1) forsaken; abandoned; deserted, as in *derelict property*; (2) neglectful, as in *derelict in one's duties*.

destitute Impoverished; indigent; not possessing the necessities of life and in a condition of extreme want.

detainer Act of withholding from a person lawfully entitled to possession of land or goods, or to the restraint of a person's liberty, against his will; an action in which a landlord seeks to evict a tenant who remains on the property unlawfully is called an *unlawful detainer action*.

detention hearing A hearing in juvenile court to determine whether a juvenile who is in custody should be further detained or released; usually used in connection with the hearing to determine whether the juvenile will be released until the *adjudicatory hearing* (trial).

detention order A juvenile court order detaining the juvenile in custody until further proceedings are held.

devise (noun or verb) A gift of real property by one's will; as distinguished from a *bequest*, which is a gift of personal property.

devisee A person who receives a gift of real property under the will of another.

dictum See *obiter dictum*.

direct examination See *examination*.

directed verdict A determination by the judge that a particular verdict is required as a matter of law; usually refers to a determination that the defendant is entitled to prevail because the plaintiff's evidence is insufficient to support a verdict; the practical effect is to take the decision out of the jury's hands.

DIS Division of Information Systems. State division to supervise state computer systems and development.

DISCIS District Court Information System.

disclaimer The repudiation or renunciation of a claim or power vested in a person, or which he formerly alleged to be his; usually used in the sense of disclaiming property or responsibility under a warranty.

discovery General term referring to various procedures, such as *interrogatories* and *depositions*, by which the parties attempt to learn the facts of a case prior to trial.

discretionary review An *appeal* (see above) in which the higher court is not required to accept the case, but may choose to do so.

dismissal An order or judgment disposing of an action without a trial. A dismissal of the plaintiff's case on motion of the defendant is called an *involuntary dismissal*. A dismissal at the plaintiff's own request is called a *voluntary dismissal*.

dismissal with prejudice A dismissal that bars the plaintiff from filing another action on the same claim or cause. If a case is dismissed *without prejudice*, the plaintiff may start over by filing another lawsuit.

disposition Final result, or termination, of a trial; usually refers to the sentence or other punishment imposed following a criminal or juvenile court case; a *disposition hearing* is a hearing in a juvenile court case, at which the court decides upon the sentence to be imposed.

disqualify To render ineligible or unfit; for example, a judge who is personally acquainted with the parties in a case may choose to *disqualify* himself.

dissolution The act of legally dissolving a marriage or other legal status; in the context of marriage, formerly called *divorce*.

District Court See *Court, District*.

divorce An older term for *dissolution* (above).

DOC Department of Corrections.

docket number The numerical designation assigned to each case by the court.

docket, docketing, docket entry (1) a collection of brief statements called *docket entries*, compiled by the clerk, describing court appearances, pleadings, and other actions taken in a particular case; the activity by the clerk is called *docketing*; (2) a list, or calendar, of cases to be heard, as in the case was *on the docket*.

Doe, John or Jane Fictitious names used to designate a party until his or her real name can be ascertained.

DOL Department of Licensing.

domiciliary administration An administration of a decedent's estate in the state or county of his residence.

domicile Location of a person's permanent home.

DOT Department of Transportation.

double jeopardy Constitutional prohibition against charging a person more than once for the same crime.

driving while intoxicated (DWI) Driving while under the influence of intoxicants or drugs; called driving under the influence (DUI) in some jurisdictions.

DSHS State Department of Social and Health Services.

duces tecum See *subpoena*.

due process Fundamental principles of liberty and justice that lie at the base of all civil and political institutions; in litigation, often used to refer to the right to notice and an opportunity to be heard.

duly In proper form or manner, as in the documents were *duly filed*.

duress Unlawful or unreasonable constraint or influence; as in the papers were *signed under duress*.

DWI or DUI See *driving while intoxicated*.

E

e.g. Abbreviation for *exempli gratia*, a Latin term meaning "for example"; usually used at the beginning of a sentence or phrase.

eminent domain The power of the state to take private property for public use; results in *condemnation*.

en banc On the bench; usually refers to situation in which all judges in an appellate court hear a case simultaneously.

endorsement That which is written on the back of a negotiable instrument, such as a check; also used with reference to writs, insurance policies, certificates of stock, etc.

enjoin To require a party to do something, or refrain from doing something; to grant an *injunction* against.

enter To record an order, judgment, or other decision of the court in the court's records.

equity A body of law, or field of jurisdiction, differing in its origin, theory, and methods from the common law; often used in a general sense to refer to the body of law pertaining to *injunctions* and *restraining orders*.

ER Evidence Rules, the rules governing the admissibility of evidence in all Washington courts; *i.e.*, Rule 403 is cited ER 403.

error coram nobis A writ to correct a judgment in the same court in which it was rendered, on the basis of grounds of fact.

escheat A reversion of property to the State as a result of the lack of any person entitled to inherit the property from the decedent.

et al Latin term meaning *and others*.

et ano Latin term meaning *and one other*.

et seq. Latin abbreviation meaning *and following*. Pages 19 *et seq.* means Pages 19 and the pages following.

et ux Latin term meaning *and wife*.

et vir Latin term meaning *and husband*.

evidence Any proof legally presented at trial, by the act of the parties and through the medium of witnesses, records, documents, concrete objects, and the like, for the purpose of inducing belief in the minds of the court or jury as to their

contention.

examination Questioning of a witness under oath, at trial or during a deposition.

Direct examination is the first questioning of a witness, by the party who calls the witness.

Cross-examination is the questioning of a witness by the opposing party, to test the truth of the witness, or to further explore testimony already given on direct examination.

Redirect examination is the questioning of a witness by the party first calling the witness, after cross-examination, in an effort to neutralize the effects of cross-examination.

Re-cross examination is the questioning of a witness, by the opposing party, in an effort to neutralize the effects of redirect examination.

Rebuttal refers to testimony or other evidence introduced after the opposing party has presented its case, to contradict the evidence introduced by the opposing party.

ex parte A judicial act or proceeding is said to be *ex parte* when it is taken or conducted at the instance and for the benefit of one party only, without notice to the opposing party or other persons; also refers to the department of the court in which such actions and proceedings are conducted.

ex post facto After the fact; a statute is termed *ex post facto* if it purports to affect situations in existence at the time of its enactment.

excerpt A portion of the record in a case, extracted and certified by the clerk for a specified purpose; the record is certified as an *excerpt only*.

execute To fulfill, enforce, or carry out; *e.g.*, to *execute on a judgment* means to enforce the judgment by attempting to collect the money due; to execute a defendant's sentence means to enforce the sentence by sending the defendant to prison, or collecting a fine, as ordered by the court.

execution Technically, the name of a writ issued to a sheriff, authorizing and requiring him to execute the judgment of the court; often used as a general term describing the procedures for enforcing a judgment requiring the payment of money.

execution sale The sale of a debtor's property, after which the proceeds are applied towards satisfying the debt; usually used in connection with execution on a judgment or foreclosure on a mortgage.

executor The person designated in a will as the one who is to administer the decedent's estate; also referred to as *personal representative*.

executrix A female *executor*; the term is largely obsolete and has been replaced by *executor* or *personal representative*.

exhibit A paper, document, or object produced and exhibited during a trial or hearing; if accepted as evidence, it is marked for identification and filed for record.

exonerate To be legally relieved from an obligation.

expert witness A person who testifies as a witness on the basis of a particular professional or technical expertise that will assist the court and jury in understanding the issues in a case.

expungement See *sealing of record*.

extradition The surrender of a criminal by a foreign state to which he has fled or taken refuge from prosecution, to the state within whose jurisdiction the crime was committed, upon the demand of the latter state.

extralegal Outside or beyond the scope of the law.

F

failure of proof Failure to prove a cause of action or defense.

fair and impartial trial A trial in which the accused's legal rights are safeguarded and respected.

false arrest Any unlawful physical restraint of another's liberty, whether in prison or elsewhere.

false pretenses Designed misrepresentation of existing facts or conditions, whereby a person obtains another's money or property.

fdba (f/d/b/a) Formerly doing business as.

fees Charges established by law for certain services or privileges.

felony A crime that is punishable by death or imprisonment in a state prison; generally considered a more serious crime than *amisdemeanor*.

fiduciary A person holding the position of a trustee, or a position analogous to that of a trustee, in respect to the trust and confidence involved in the position, and the good faith and candor that it requires.

file (noun) A record of the court; usually refers to the file folder itself, containing pleadings and related documents.

file (verb) To endorse upon a document the date it is received, and to then place it in the *file* (see above).

filiation action Action in which a man is alleged to be the father of a child, and that he has a duty to support the child; also called *apaternity action*.

findings The result of the deliberations of a judge or jury; *findings of fact* are the judge's decisions as to the factual issues in a nonjury case, as distinguished from *conclusions of law*, which reflect the judge's decisions on issues of law.

fine A penalty or forfeiture of money; a *civil fine* is paid to the opposing party; a *criminal fine* is paid to the court.

first appearance A criminal defendant's first appearance in court; see *arraignment*.

foreclosure A proceeding that bars or extinguishes a mortgagor's right to redeem a mortgaged estate; often used in a general sense to refer to the procedure by which a lender takes possession of property given as security by the borrower.

foreign judgment A judgment from a court in another state or another country.

forfeit To lose, or lose the right to; to incur a penalty, or to become liable for the payment of money as the consequence of a certain act; a criminal defendant who fails to appear in court *forfeits* bail.

forfeiture Something to which the right is lost by the commission of a crime, or fault, or the losing of something by way of penalty.

forfeiture of bond A failure to perform the condition upon which an obligor was to be excused from the penalty in the bond.

forge To fabricate by false imitation; e.g., to *forge* a signature.

forthwith Immediately; without delay; promptly.

fraud An act characterized by deceit, cunning, or misrepresentation.

friend of the court See *amicus curiae*.

fugitive from justice A person who, having committed a crime, flees from the jurisdiction of the court, or departs from his usual place of abode and conceals himself.

G

garnish, garnishment A statutory procedure for the enforcement of a judgment for the payment of money by obtaining (*garnishing*) the defendant's wages, bank accounts, or similar property held in the possession of a third party, such as an employer, savings bank or the like.

garnishee, or garnishee defendant The third party (person or business) to whom a garnishment is directed, in an effort to obtain money owed by that person or business to the debtor.

general administrator See *administrator*.

geriatrics A subdivision of medicine concerned with old age and its diseases.

GR General Rules, adopted by the Supreme Court and applicable to all Washington courts; *i.e.*, Rule 9 is cited GR 9.

grand jury See *jury*.

gross misdemeanor See *misdemeanor*.

guardian A person appointed to take care of the person or property of another, called the ward.

guardian ad litem A person appointed by the court to look after the interests of a minor or incompetent person when his property is the subject of litigation.

guardianship The office, duty, or authority of a guardian; also the area of the law pertaining to guardian and ward.

guilty Having committed the crime charged.

H

habeas corpus The name given to a variety of writs having for their object to bring a person before the court or a judge.

habitual offender, habitual criminal A persistent violator of the law; an incorrigible criminal; such status may result in punishment that is more severe than would otherwise be imposed.

hearing A proceeding where evidence is taken or questions of law presented; often used to refer to a proceeding in which the court considers a *motion*, as distinguished from a full-fledged trial.

hearsay Testimony or other evidence based not upon what the witness knows personally, but upon what others have told him; testimony recounting the out-of-court statements of another person.

heir-at-law A person who receives the estate of his ancestor by descent under the law of succession, as distinguished from an heir who receives the estate under a will or contract.

holographic will A will that is entirely written, dated, and signed in the handwriting of the testator himself, which, in some states, is valid in the absence of witnesses; such wills are not valid in Washington.

hostile witness A witness who manifests so much hostility or prejudice on direct examination that the party who called him is then allowed to cross-examine him; *i.e.*, to treat the witness as if he had been called by the opposing party.

hung jury A jury that cannot agree on a verdict.

hypothetical question A combination of assumed or proved facts and circumstances, stated in such a form as to constitute a coherent and specific situation or state of facts, upon which the opinion of an expert is asked at trial.

I

i.e. Abbreviation for *id est*, a Latin term meaning "that is to say," usually used at the beginning of a phrase or sentence.

IACREOT International Association of Clerks, Recorders, Election Officials and Treasurers. Many Washington clerks are members.

impartial Disinterested; favoring neither; treating all alike; unbiased. Every party is entitled to a trial by an *impartial judge and jury*.

impeach To question or challenge the truthfulness of a witness, by cross-examining the witness, or by introducing evidence to cast doubt on the witness's credibility.

in camera A Latin term meaning in the judge's chambers (the judge's personal office).

in forma pauperis Latin term referring to the right of an impoverished person to proceed with certain actions without the payment of the usual fees and cost.

in lieu of Instead of; in place of; *e.g.*, use of a deposition *in lieu of* testimony.

In re In regard to, or In the matter of; used in pleading captions, such as In re Marriage of Smith.

in rem (1) An act done or directed to no specific person, and consequently against, or with reference to all whom it may concern; (2) with reference to, or relating to, real property; e.g., an *in rem* action.

incarceration Imprisonment; confinement in jail or prison.

incite To arouse, urge, or provoke, e.g., to *incite* a riot.

incompetent The terms *incompetent person*, *incompetent*, and *mentally incompetent* refer to any person, whether insane or not, who by reason of old age, disease, weakness of mind, or other cause, is unable to properly manage and take care of himself or his property and consequently is likely to be deceived or imposed upon by artful or designing persons; the term *incompetent* is also used to describe evidence that is inadmissible

The term *incompetent* is also used to describe a person who, by reason of youth or some other cause, is unable to testify as a witness.

indeterminate An indefinite period of time, due to unknown variables; for example, a person found to be insane may be committed to a hospital for an indeterminate period until he has recovered his sanity. See further explanation under *sentence*.

indictment A finding by a grand jury charging a person with a crime; one of the accusatory pleadings used in superior court.

indigent (noun or adjective) Technically, referring to a person who is entitled, because of poverty, to an attorney and certain other court services at public expense; the term is often used in a general sense to mean impoverished, poor, or needy.

inebriate A person addicted to the use of intoxicating liquor.

inferior court Informal term for courts whose jurisdiction is limited, and whose proceedings are not transcribed. See *courts of limited jurisdiction*.

information A document formally accusing a person of a criminal offense; differs from an *indictment* in that it is presented by the prosecuting attorney, while an indictment is presented by a grand jury.

inheritance That which is derived from an ancestor or as a legacy, or which is transmissible to an heir or offspring; often used in general sense to refer to the portion of an estate to which one heir is entitled.

injunction An order or judgment that requires a party to do something, or to refrain from doing something; as distinguished from an order or judgment that requires the payment of money.

A *temporary restraining order* (TRO) is a form of an injunction, typically granted at the beginning of a proceeding and lasting for only a short time.

A *preliminary injunction* is another form of temporary injunction, typically granted at the expiration of a temporary restraining order and lasting until the court reaches a final judgment on whether a *permanent injunction* should be granted.

instructions See *jury instructions*.

intemperate Habitual or excessive indulgence in intoxicants.

inter alia See *alia*.

interest (1) compensation paid for the use or detention of money, as in *interest on a savings account*; (2) a direct connection with property or some situation; e.g., having an interest in property, or being biased as a witness because of interest.

interested person, interested party In probate, an heir, devisee, child, spouse, creditor, beneficiary, or any other person having a property right in, or a claim against, the estate.

interlineation The act of writing between the lines of an instrument; e.g., when the judge adds something to an order in his own handwriting, the order is said to be changed *by interlineation*.

interlocutory Temporary, or occurring before final judgment; e.g., an *interlocutory order* is a temporary order entered during trial, before final judgment.

interpleader Procedure invoked by debtor when two or more creditors claim the same money or property from the debtor; the debtor may *interplead* the creditors, requiring them to litigate among themselves to determine who has the right to the money or property.

interrogatories A series of written questions submitted to a party or a witness before trial, for the purpose of *discovery*; the answers to the interrogatories may, under some circumstances, be used as evidence at trial.

Interstate Compact on Juveniles An agreement among the states to assure cooperative supervision of delinquent juveniles on probation or parole, and the return of a juvenile from one state to another.

intervenor A third party seeking to join in an action, either with the plaintiff or defendant, or being adverse to both; the procedure is called *intervention*.

intestate In probate, referring to a person who has died without leaving a valid will; such a person is said to have *died intestate*, and his property is distributed according to the laws of *intestate succession*.

involuntary dismissal See *dismissal*.

IRM Information Resource Management. A buzzword describing a particular way of automating data.

irrelevant Not relevant; not relating or applicable to the matters in issue; evidence is irrelevant and therefore inadmissible if it has no tendency to prove or disprove an issue involved in a case.

ISD Information Services Division. Division of AOC that runs JIS. Jack Morris is current director.

issue (1) the disputed point(s) or question(s) to which the parties in a case have narrowed their disagreement; when the complaining party has stated his claim and the opposing party has responded with a denial, and the matter is ready for trial, the issues are said to be *joined*, and the case is said to be *at issue*; (2) to send out officially, as in *to issue an order*.

An *issue of fact* is an issue as to who, what, when, where, or how; it is resolved by the jury or, in a nonjury case, by the judge.

An *issue of law* is an issue as to the law that will govern the outcome of a case; it is always resolved by the judge, on motion or during trial.

item veto The authority of the governor to veto an item in an appropriation bill without affecting other provisions in the bill.

J

jeopardy See *double jeopardy*.

JIS Judicial Information System. Statewide court computer system.

JISC Judicial Information System Committee. A state committee of 14 members, who serve as steering committee for JIS.

J & S Judgment and sentencing. A criminal form.

joined See *issue*.

JSA Judicial Services Administration. Division of AOC, responsible for research, education, training, legislation, and other judicial services. Janet McLane is current director.

JuCR Juvenile Court Rules; *i.e.*, Rule 1.2 is cited JuCR 1.2.

judge pro tem A temporary judge appointed for a particular day or to hear a particular matter; may be a lawyer, court commissioner, or retired judge.

judge, visiting A superior court judge from another county.

judgment The final determination of the rights of the parties to an action or proceeding; the formal, written document reflecting such a final determination; the term is used in both civil and criminal cases.

A *default judgment* is a judgment given because of the defendant's failure to answer or appear.

A *summary judgment* is a judgment given on the basis of pleadings, affidavits, and exhibits, presented without going to trial. A summary judgment is granted when the case involves no issues of fact and one party is entitled to judgment as a matter of law.

A *declaratory judgment* is a judgment that declares the right of the parties, but does not require them to do anything further. See further explanation under *declaratory judgment*.

judgment creditor, debtor A *judgment creditor* is a party in a civil suit who has received a favorable decision and has been awarded money or property, payable to him by the *judgment debtor*.

judgment notwithstanding the verdict (judgment n.o.v.) An order granting judgment for one party in spite of the fact that the jury delivered a verdict in favor of the other party.

Judicial Council State committee of judges, legislators, and bar members. Reviews court-related issues and makes recommendations to Supreme Court and legislature. Operates pursuant to RCW 2.52.

judicial notice Procedure by which the court may recognize a well-known fact as true despite the absence of evidence; *e.g.*, the court will *take judicial notice* of the fact that Tacoma is in Pierce County.

judiciary, judicial system General terms referring to the entire court system; *i.e.*, the third branch of government.

jurat An attestation by a notary public or other official that a document is a sworn statement.

jurisdiction The court's authority to render judgment in a particular case; the power of the court over a particular person or subject matter; a court without such authority is said to *lack jurisdiction* over the parties or the subject matter; *e.g.*, a district court lacks jurisdiction to grant a dissolution of marriage because only the superior courts have jurisdiction to grant a dissolution.

jury A certain number of persons (usually 6 or 12), selected according to law, and sworn to decide issues of fact and declare the truth on the basis of evidence submitted to them.

jury instructions The judge's explanation of the law that governs a case, given to the jury at the conclusion of the trial, often based upon standardized ("pattern") instructions (see *WPI*). Sometimes called the judge's *charge to the jury*.

justice courts An older term referring to what are now called *district courts*.

justice of the peace An older term referring to a judge in a court of limited jurisdiction; the term has been largely replaced by *district court judge*.

Juvenile Court See *Court, Juvenile*.

JUVIS Juvenile Information System.

L

lack of jurisdiction See *jurisdiction*.

larceny The fraudulent taking and carrying away of property without claim of right; theft.

law Rules and principles of conduct established by the constitution, the legislature, or the courts.

LBC Legislative Budget Committee. Audit committee of state legislature. Both houses represented.

LC Lower Courts.

leading question A question by counsel that suggests to the witness the desired answer; leading questions are generally forbidden except on cross-examination.

LEAP Legislative Enforcement and Audit Program.

legacy In probate, a bequest of personal property by last will and testament.

A *specific legacy* is defined as a legacy of a particular thing, specified and distinguished from all others of the same kind belonging to the testator; if such legacy fails, resort cannot be had to other property of the testator.

A legacy is *demonstrative* when a particular fund or personal property is pointed out, from which the legacy is to be taken or paid.

An *annuity* is a bequest of certain specific sums periodically.

(If the fund out of which a demonstrative legacy or an annuity is paid fails, resort may be made to the general assets.)

A *residuary legacy* embraces only that which remains after all other bequests of the will are discharged.

All other legacies are *general legacies*.

legatee A person to whom a legacy is given.

letters of administration In probate, the instrument by which a person is empowered to take charge of the property of an intestate, to collect the credits and pay the debts of the estate.

letters of conservatorship The instrument by which a person (the conservator) is appointed to take care of the person or property of an adult who by reason of advanced age, illness, injury, mental weakness, intemperance, addiction to drugs, or other disability, is unable to properly care for himself or for his property, or who is likely to be deceived or imposed upon by artful or designing persons, or for whom a guardian could be appointed or who voluntarily requested the same and to the satisfaction of the court has established good cause therefore; similar in effect to *letters of guardianship* (below).

letters of guardianship The instrument by which a person (the guardian) is empowered to take charge of the person or property of a minor or incompetent person; similar in effect to *letters of conservatorship* (above).

letters testamentary In probate, the instrument under which the person named as executor in a will is empowered to take charge of the estate, and to proceed to carry out the directions in the will.

lien An encumbrance upon a debtor's property, requiring the debtor to satisfy the debt out of the proceeds in the event that the property is sold; a superior court judgment automatically becomes a lien on the judgment debtor's real property.

life estate Ownership of property, limited in duration to the life of the party holding it, or to the life of another, specified person.

life tenant One who holds a life estate.

lis pendens Literally means a suit pending; usually used to describe a procedure, in litigation involving land, by which the parties give notice to the world of the dispute regarding title.

litigant A party to a civil or criminal action; one who engages in litigation.

litigation A general term referring to civil and criminal cases, at any level of court.

local rules Rules of procedure adopted by each court to supplement the statewide rules adopted by the Supreme Court.

lodge To bring into the custody of the clerk, but without the clerk physically attaching the papers to others in the file.

lodging of transcript The receipt at the clerk's office of the transcript of a trial or other proceeding that is being appealed.

M

maintenance Money to be paid by one spouse to another for support, either during or at the conclusion of the dissolution of a marriage. Formerly called *alimony*.

magistrate A judicial officer who is lower in rank than a judge, serving as an assistant to the judge and authorized to perform limited judicial functions; similar in function to a *court commissioner*.

A *committing magistrate* is a magistrate having the authority to conduct preliminary hearings in criminal cases, and to decide whether defendants should be committed or released until trial.

mandamus A particular kind of writ, directed to a private or municipal corporation, or any of its officers, or to an executive, administrative, or judicial officer, or to a lower court, commanding the performance of a particular act specified in the writ.

mandate The formal notification by the appellate court to the trial court of the disposition of a case on appeal.

manslaughter The unlawful killing of another without malice; the involuntary or unintentional killing of another.

MAR Mandatory Arbitration Rules; *i.e.*, Rule 6.1 is cited MAR 6.1.

matter (issue) of fact See *issue*.

mechanic's lien An encumbrance on property, created by statute in most states, that exists in favor of persons who have performed work or furnished materials in and for the construction of a building, intended to secure for them a priority of payment.

medical examiner See *coroner's inquest*.

mentally deficient Refers to a non-psychotic person mentally retarded from infancy, incapable of managing himself or his affairs with ordinary prudence.

mentally ill Refers to a person with a mental condition such that he needs supervision, treatment, care, or restraint, who may be dangerous to himself or others.

micro Another name for a PC; a small desktop computer.

mini A computer mid-way between a mainframe (big and central) and a PC (small and individual) in storage and computing power.

minor A person under the age of legal competence; under 18 years of age.

minutes, minute entries Memoranda or notes compiled by a courtroom clerk, summarizing the actions taken by counsel and the court.

MIS Management Information System. A generic phrase for a computer system that gives reports useful for management planning.

misdemeanor A crime less serious than a *felony*, not punishable by death or imprisonment in state prison. A *gross misdemeanor* is an intermediate crime, more serious than a misdemeanor but less serious than a felony.

mistrial An order declaring a trial to be invalid because of some fundamental error; when a mistrial is declared, the trial must start again from the beginning.

moot A term describing a case or an issue that is no longer important; *e.g.*, when a party brings a motion to compel answers to interrogatories but the other party supplies the answers before the motion is heard, the motion becomes moot.

motion An application to the court for a ruling or order, usually before or during the trial.

MPR Mental Proceedings Rules; *i.e.*, Rule 5.2 is cited MPR 5.2.

Municipal Court See *Court, Municipal*.

murder The unlawful killing of another person, with malice aforethought.

N

NACM National Association of Court Managers.

NACO National Association of Counties.

ne exeat A writ that forbids a person from leaving the state or the jurisdiction of the court.

negligence The omission to something that a reasonable person, guided by those ordinary considerations that regulate human affairs, would do, or the doing of something that a reasonable and prudent person would not do.

new trial A re-examination of an issue of fact in the same court after one trial and decision by the jury or the court.

next friend A person acting for the benefit of a child or adult, without being formally appointed as a guardian.

next of kin The persons nearest in kindred to the decedent; those who are most nearly related to the decedent by blood; often used in a general sense to refer to those who are entitled to inherit the decedent's estate.

nka (n/k/a) Now known as; *e.g.*, John Doe nka John Smith.

nolle prosequi A formal entry in the record, by a plaintiff in a civil case or the prosecutor in a criminal case, that he *will not further prosecute* the case, either as to some of the counts, or some of the defendants, or in its entirety.

nolo contendere A Latin term meaning *no contest*; a plea by a criminal defendant, having the same effect as a plea of guilty in the present case, but that may not be used as an admission elsewhere; such pleas are not allowed in Washington.

non-bailable Referring to a criminal offense for which bail is not permitted, or is not required.

non prosequitur A Latin term meaning *does not follow up on or pursue*.

nonsuit An older term for a judgment given against the plaintiff when he is unable to prove a case; now more commonly called a dismissal. See *dismissal* for the various ways in which the term is used.

notary public A person with the authority to administer oaths, typically in connection with documents such as affidavits and verifications.

notice Notice that is adequate as a matter of law; such notice as the law requires to be given for a specific purpose or under specific circumstances.

notice of appeal, notice for discretionary review Formal notice to court and opposing party, by losing party, that he intends to seek review in the Court of Appeals or Supreme Court; the first step in an appeal.

n.o.v. See *judgment notwithstanding the verdict*.

nunc pro tunc Now for then; a phrase applied to acts having a retroactive effect; for example, a *judgment nunc pro tunc* is effective as of a specified date prior to the actual entry of the judgment.

O

OAC See Administrative Office of the Courts.

oath (1) any form of attestation by which a person signifies that he is bound in conscience to perform an act faithfully and truthfully; (2) a written or oral pledge to keep a promise to speak the truth.

obiter dictum A statement of opinion by a judge on some point not argued in a case, or not a part of the conclusions necessary to support the judgment; it is not binding on the court in later cases.

objection A statement by counsel, taking exception to testimony, or to the attempted introduction of evidence.

occupational license A driver's license issued to a defendant after his regular license has been suspended or revoked, to be used for a limited purpose such as driving to and from work.

of counsel A term referring to a lawyer who is employed by a party to assist in the preparation of a case, but who is not the principal attorney of record.

official bond An obligation with sureties, given by an officer as security for the faithful discharge of his or her duties.

opening statement The first address of counsel, given at the beginning of a trial.

opinion A formal statement of the reasons upon which a judgment or ruling is based.

opinion, per curiam An opinion by the court as an entity, as distinguished from an opinion attributable to, and signed by, one judge.

order Every direction of a court or judge, made or entered in writing, and not included in the final judgment.

order to show cause See *show cause order*.

ordinance Usually refers to a law enacted by a city or county, as distinguished from a *statute*, which is enacted by the state legislature.

original The first version of a document, as distinguished from a copy.

original jurisdiction Jurisdiction in the first instance; jurisdiction to take cognizance of a case at its inception; e.g., the superior courts have original jurisdiction over marriage dissolutions, while the appellate courts have only appellate jurisdiction over marriage dissolutions.

OSE Office of Support Enforcement, a section of DSHS.

overrule (1) in the trial court, to deny an objection to the introduction of evidence; (2) in an appellate court, to overturn a prior decision.

P

pardon An act of grace, relieving a person from the punishment the law imposes for a crime that he has committed.

parol evidence Oral evidence, given in the form of testimony; often used in connection with contracts, where the question is whether parol evidence will be considered to modify the terms of a written contract.

parole A conditional release from incarceration in the county jail or a state prison; upon violation of the conditions, parole may be revoked and the violator returned to incarceration.

part payment The reduction of a debt or demand by the payment of a sum less than the whole amount originally due.

parties The persons or other entities who take part in the performance of an act, or who are directly interested in any affair, contract, or conveyance, or who are actively concerned in the prosecution or defense of any legal proceeding; in litigation, the persons or entities who are actually named as plaintiffs or defendants.

paternity action Action in which a man is alleged to be the father of a child, and that he has a duty to support the child; also called *affiliation action*.

PC Personal computer.

pecuniary Monetary; relating to money; financial; consisting of money or that which can be valued in money.

penalty assessment An extra assessment imposed on fines, penalties, bail, and forfeitures collected by the courts.

pendente lite Pending, or during the progress of, a lawsuit; an *order pendente lite* is an order that gives temporary relief to one party until the final outcome of the case.

per curiam See *opinion, per curiam*.

per diem Per day, or by the day; a sum of money of so much per day.

per se By himself, or by itself; not to be confused with *pro se* (below).

peremptory challenge See *challenge*.

perjury Making a false statement under oath, a criminal offense.

personal property General term referring to any property that is not *real property*; *i.e.*, that is not land, something growing on land, or a building constructed on land.

personal recognizance Pretrial release of a criminal defendant without bail; the defendant is said to be released *on personal recognizance*.

personal representative (PR) In probate, a general term referring to an *executor* or *administrator*.

personal restraint petition (PRP) Procedure by which a criminal defendant may, under some circumstances, challenge a conviction after the time for appeal has expired.

personal service See *service*.

petit (pronounced and sometimes written petty) Small; minor; insignificant; *e.g.*, petty theft.

petition Written application asking the court to grant a specified remedy; used in place of a complaint in certain actions, such as marriage dissolutions.

petitioner One who files a petition (above).

pink and greens Pink and green sheets used to provide fingerprint information on criminal defendants to Washington State Patrol.

plaintiff A person or entity who commences a civil action by filing a complaint; the party who complains or sues in a personal action and is named as plaintiff on the record, as distinguished from the *defendant*. When the action is commenced by the filing of a petition instead of a complaint, the term *petitioner* is used instead of plaintiff.

plea The first plea by the defendant; usually used with reference to criminal cases, in which the defendant pleads guilty or not guilty.

plea bargaining Process in which the accused and the prosecutor negotiate a mutually satisfactory disposition of a case; if successful, results in *plea agreement*; such agreements are only advisory and are not binding on the court.

pleadings The formal allegations by the parties of their respective claims and defenses for the judgment of the court; usually used with reference to civil cases, in which the pleadings consist of the complaint, answer, counterclaims, and so forth.

polling of jury Procedure by which each juror is asked what his or her own decision (verdict) was.

posse comitatus Latin term meaning the power or force of the county; the entire population of a county above the age of 15, which a sheriff may summon for assistance in certain cases, as to aid in keeping the peace, pursuing felons, and the like.

power of attorney Document authorizing another to act as one's agent or attorney with reference to some matter or transaction, such as a conveyance of real property; the person receiving such authorization is called an *attorney in fact*; the term should not be confused with *attorney at law*, which refers to a lawyer; a lawyer may also act as one's attorney or agent, but does not need a power of attorney to do so.

praecipe A written document, addressed to the clerk of court, asking that a writ be issued; the term is sometimes used to refer to other written requests submitted to the clerk.

prayer The formal request in a complaint or other pleading that the court grant the relief sought; usually found at the end of a complaint or answer.

precedent A previously decided case, furnishing an example or authority for determining similar cases in the future.

prejudice, with (or without) See *dismissal with prejudice*.

preliminary hearing Hearing conducted to determine whether sufficient evidence exists to proceed with criminal charges against a defendant, or to determine other preliminary matters in a criminal case.

preliminary injunction See *injunction*.

presiding judge The judge who is presiding over a particular trial or proceeding; in multi-judge districts, the term is used to refer to the one judge who also has supervisory and administrative responsibilities within the court.

presumption A rule of law requiring the court to draw a particular inference from a particular fact, or from particular evidence, unless and until the truth of such inference is disproved; e.g., a person absent for seven years is *presumed* dead unless the opposing party proves that the person is still alive.

pretermitted heir In probate, one who would have inherited if his ancestor had died intestate, but who was not mentioned in the ancestor's will; thus, an heir who was left out of the decedent's will; the law gives certain protections to pretermitted heirs so that they will still inherit if their omission from the will was unintentional.

pretrial conference An informal conference between the lawyers for both sides, with the judge as a moderator, to clarify and narrow the issues, and to attempt to settle the case without the need for a trial.

prevailing party In litigation, the party who wins; the party who benefits from the judgment or decree; the term is usually used to refer to the party who is entitled to an award of costs.

prima facie evidence Evidence that is good and sufficient on its face; evidence sufficient to establish a particular fact, or group of facts, constituting the party's claim or defense, and which if not rebutted or contradicted, will remain sufficient.

prior conviction As used in superior court pleadings, an allegation that the defendant has previously been convicted of a felony.

pro se For himself; on his own behalf; a party who represents himself in court, without an attorney, is a *pro se party*.

pro tem (or tempore) judge See *judge pro tem*.

probable cause Reasonable cause; having more evidence for than against; a reasonable ground for belief in the existence of facts warranting particular proceedings; the prosecutor must demonstrate probable cause before obtaining a search warrant or an arrest warrant.

probate The formal judicial procedure for proving the validity of a will and distributing the decedent's estate to those who are entitled to it.

probation The allowing of a person convicted of a crime to remain at liberty, subject to certain conditions and under the supervision of a probation officer.

proceeding Generic term, referring to any matter before the courts; usually synonymous with *case, action, suit, etc.*

process A term generally used to refer to the means of compelling the defendant to appear in court, or the means by which

the court compels compliance with its orders; also refers to a writ, summons, or order issued to acquire jurisdiction over a person or property, to expedite the cause or enforce the judgment; occasionally used to mean *due process*.

prohibition, writ of A writ issued from a higher court to a lower court, ordering it to stop certain actions or warning it not to engage in them. See further explanation under *writ*.

promulgate To publish; to announce officially; to adopt; thus, the Supreme Court is said to *promulgate* the Civil Rules and other rules of court.

prosecute, prosecution To pursue an action in court; usually used in reference to criminal cases, which are sometimes called *prosecutions*.

prosecuting attorney The public officer in each county who is responsible for conducting criminal prosecutions on behalf of the state.

prosecuting witness A private person upon whose complaint or information a criminal case is based, and whose testimony is the principal evidence in the case; usually used to refer to the victim of the crime.

proximate cause That which is a natural and continuous sequence, unbroken by any intervening cause, producing an injury or other result, and without which the result would not have occurred.

PRP See *personal restraint petition*.

public administrator See *administrator*.

publication To make public, usually referring to the process of opening a sealed deposition for use in court.

publication, service by See *service by publication*.

purport (noun) Meaning, substance, or legal effect; *e.g.*, the *purport* of an instrument means the substance of it, as it appears on the face of the instrument.

purport (verb) To convey, imply, or profess outwardly; to have the appearance of being, intending, or claiming; *e.g.*, the document *purported to be* Mrs. Smith's will.

putative father The alleged or reputed father of an illegitimate child.

Q

quash To annul or make void; *e.g.*, to *quash* a writ or a search warrant.

quasi Term used to indicate that one subject resembles another, but that there are intrinsic and material differences between them; *e.g.*, when an administrative agency decides contested cases, it is said to be performing a *quasi judicial* function.

quid pro quo Something in exchange for another.

quo warranto, writ of An action or proceeding begun by an information or other pleading, in the nature of a writ, intended to prevent the exercise of power that is not conferred by law.

quorum The number of persons who must be present to make the actions of a group valid.

R

RALJ Rules for Appeal of Decisions of Courts of Limited Jurisdiction; *i.e.*, Rule 2.1 is cited RALJ 2.1.

RAP Rules of Appellate Procedure, governing appeals from the superior court to the Court of Appeals or Supreme Court; *i.e.*, Rule 5.1 is cited RAP 5.1.

RAS/RRS A PC-based Receipt Account System (Version I), developed by AOC. Version II is called Receipt Reporting System and is used by approximately 18 counties.

RCW Revised Code of Washington; the official compilation of statutes enacted by the Washington legislature.

real property Property consisting of land, together with anything growing on the land and any structures erected on the land; as distinguished from *personal property*.

rebuttal The introduction of rebutting evidence; the stage of a trial at which such evidence may be introduced. See further explanation under *examination*.

receiver A disinterested person, appointed by the court to receive and preserve property that is the subject of litigation, and to later distribute the property as directed by the court.

recess A short interval during which the court suspends business but does not adjourn; e.g., the court is said to *recess for lunch*.

reconvene See *convene*.

record (1) as a noun, the official, written history of an action or proceeding; (2) as a verb, to preserve in writing, printing, film, electronic recording, or the like.

recuse, recusal Procedure by which a judge disqualifies himself from hearing a case because of personal acquaintance with the parties, or for some other reason that might suggest bias or prejudice.

redact To edit or revise a statement by removing a portion of it; e.g., the court allowed only a *redacted* statement to be admitted as evidence.

redirect examination See *examination*.

refund To repay or restore; to return money in restitution or repayment.

rehabilitate To invest or clothe again with some right, authority, or dignity; to restore to a former capacity; e.g., after the credibility of a witness has been impeached, the party calling the witness may attempt to *rehabilitate* the witness by offering evidence of the witness's good character, or the like.

remand (verb or noun) (1) to return a prisoner to custody to be kept until proceedings are resumed; (2) to refer a case on appeal back to the lower court.

remedy Broad term referring to the relief that the law allows for a particular kind of harm or injury.

remission A forgiveness or voluntary relinquishment of a claim, without receiving anything in return.

remittitur The returning or sending of a case from an appellate court back to the lower court, so that a new trial can be held (if so ordered), or that judgment may be entered in accordance with the decision of the appellate court, or for any other purpose ordered by the appellate court.

removal from state court Procedure by which a party can seek to have a superior court case transferred to the United States District Court.

render To pronounce, state, declare, or announce; usually used with reference to the court's decision or judgment.

replevin An action brought to recover possession of property taken unlawfully; commenced by issuance of a writ under some circumstances.

replevin bond A bond executed to indemnify the officer who executes a writ of replevin, and to indemnify the defendant or person from whose custody the property was taken, for such damages as he may sustain.

reply Pleading by the plaintiff in response to the defendant's written answer.

res gestae A vague term, usually referring to the facts and circumstances surrounding a more central fact or action that is the subject of litigation.

res ipsa loquitur A Latin term meaning *the thing speaks for itself*; it is a rule of law holding that under some circumstances strongly suggesting negligence, the defendant will be presumed negligent until the contrary is shown.

res judicata A matter adjudged; an issue judicially settled or decided; usually used to mean final and not subject to modification; i.e., a final judgment from which no appeal is taken is *res judicata*.

respondent (1) the party against whom an appeal is taken; sometimes called *appellee*; (2) the responding party in an action commenced by *petition* instead of a *complaint*; in this context, the term takes the place of *defendant*.

restitution Act of giving the equivalent for any loss, damage, or injury; e.g., when a defendant is required to repay the victims

of a burglary, the defendant is required to *make restitution*.

A *writ of restitution* is a writ issued by the superior court and directed to the sheriff, requiring the sheriff to remove a person from a rented residence and to restore the residence to the owner.

restraining order An order in the nature of an injunction; see further explanation under *injunction*.

return A rather vague term, usually referring to proof that an act was carried out; *e.g.*, when the sheriff serves a writ as directed by the court, the sheriff files a *return of service* with the court, stating that the writ was served. A *return date* is a date by which such proof must be filed or otherwise submitted to the court.

reverse To disapprove or invalidate that which was done by a lower court; *i.e.*, when an appellate court disapproves a decision of a lower court, it is said to *reverse* the decision of the lower court.

revoke, revocation To recall or nullify some power, authority, privilege, or the like; *e.g.*, the court may *revoke* the defendant's driver's license.

right of representation In probate, inheritance of succession *by right of representation* takes place when the descendants of a deceased person receive the same share or right in an estate that the deceased person would have received, if living.

robbery Felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear; in general, robbery is a theft carried out face-to-face with the victim, while a *burglary* is a theft carried out by breaking into a building; robbery is usually considered the more serious crime.

rules of court Statewide rules adopted by the Supreme Court, governing practice and procedure in the state courts; in addition, each court may adopt *local rules* to supplement the statewide rules.

S

sanction An odd term because it has opposite meanings; (1) as a verb, it means to approve or concur with; *e.g.*, her employers *sanctioned* her conduct; (2) as a noun, it means a penalty or punishment imposed because of disapproval; *e.g.*, the court may impose *sanctions* if a party refuses to comply with an order of the court.

satisfaction (of judgment or other instrument) The discharge of an obligation created by a judgment, mortgage, contract, lien, or the like; when the defendant pays to the plaintiff the amount awarded by the court, the judgment is said to be *satisfied*, and the defendant is entitled to have the satisfaction of the judgment made a matter of record.

sealed (1) authenticated by a seal; executed by the affixing of a seal; (2) protected against public disclosure; *e.g.*, a *sealed file*.

search warrant See *warrant*.

secure file A file kept in a separate, secure locked cabinet.

seize, seizure To take possession of forcibly, to grab, or to take into one's possession; *e.g.*, in an execution proceeding, the creditor instructs the sheriff to *seize* the debtor's property and sell it.

self-defense The protection of one's person or property against some injury attempted by another.

sentence The judgment formally pronounced by the court following the defendant's conviction in a criminal case, usually referring more specifically to the punishment imposed.

A *concurrent sentence* is a sentence that overlaps with another sentence being served, or to be served.

A *consecutive sentence* is a sentence that runs separately from another sentence; *i.e.*, either before or after the other sentence.

A *deferred sentence* results when the court orders that the imposition of a sentence be postponed for a period of time on condition that the defendant comply with the rules and requirements of probation; if the defendant complies with all such rules and requirements, the court may choose to impose no sentence and dismiss the case.

An *indeterminate sentence* is a sentence for an indefinite time, with the exact time determined by parole authorities.

A *suspended sentence* results when the court imposes a sentence (compare *deferred sentence*, which is not imposed), but then delays execution of the sentence upon certain terms and conditions.

separate maintenance Money paid by one spouse for the support of the other, when the two are not living together as husband and wife.

service, service of process Delivery of a summons, complaint, writ, order, or other document to a particular person by an officer who is authorized to do so; such service is often called *personal service*, as distinguished from *service by publication* (below).

service by mail Service accomplished by mailing the document in question; allowed by court rule under some circumstances.

service by publication Service of a summons or other document upon an absent or nonresident defendant, by publishing the same as an advertisement in a designated newspaper.

set aside To annul, invalidate, void, or vacate; *e.g.*, the court may *set aside* a judgment for lack of jurisdiction.

settlement Conclusion of a dispute; the term usually refers to a compromise reached by the parties, eliminating the need for a trial.

sheriff Chief law enforcement officer of the county; duties include aiding the courts by serving complaints, summoning juries, executing on judgments, holding judicial sales, and the like.

show cause order An order requiring a specified person to appear in court at a particular time and place, to show cause why the court should not take certain action in a case; *e.g.*, a *temporary restraining order* is often accompanied by an *order to show cause*, requiring the defendant to show cause why the court should not grant a *preliminary injunction*.

Small Claims Court See *Court, Small Claims*.

special administrator See *administrator*.

special proceedings A general term referring to civil actions that are subject to special rules or requirements, and thus are not handled like ordinary civil actions.

specific performance An order requiring a party to comply with the terms of a contract.

speedy trial The right of a criminal defendant to have a prompt trial; the exact time limits are set by court rule.

SPR Special Proceedings Rules; *i.e.*, Rule 98.12W is cited SPR 98.12W.

statute Usually refers to a law enacted by the state legislature, as distinguished from an *ordinance*, which is enacted by a city or county.

statute of limitations A statutory time limit, by which a civil or criminal case must be filed; when the time has expired, the statute of limitations is said to have *run* or *expired*.

stay (verb and noun) (1) To halt a judicial proceeding by court order; similar to *suspend*; *e.g.*, to *stay further proceedings pending appeal*; (2) as a noun, the term refers to that which results from a stay or suspension; *e.g.*, the court granted a *stay*.

stipulation A binding agreement between counsel in a pending case, made in writing or in open court.

subpoena A document requiring a person to appear at a specified time and place to give testimony as a witness; a *subpoena duces tecum* directs the person to bring books, documents, or the like.

subscribe To place one's signature on a document; *e.g.*, to *subscribe* an affidavit.

substantive law That part of the law that determines rights and duties; as distinguished from *procedural law*.

succession The acquisition of title to property from someone who dies without disposing of the property by will; as distinguished from the acquisition of title by *testamentary disposition*.

suit A generic term referring to any civil action; generally synonymous with *action*, *lawsuit*, *proceeding*, *etc.*

summary judgment A judgment granted to one party prior to trial, on the basis that the case involves no dispute as to factual matters, and that the party is entitled to judgment as a matter of law.

summary probation Probation without direct supervision by a probation officer.

summons Normally the first document in a civil suit, attached to the complaint and notifying the defendant that an action has been commenced, and requiring the defendant to appear and respond to the complaint by filing an answer to it.

Superior Court See *Court, Superior*.

supersedeas, supersedeas bond A procedure by which the enforcement of the trial court's judgment is postponed while an appeal is pending; a *supersedeas bond* is a bond given by the appellant, assuring that the respondent will be reimbursed for losses in the event that the judgment is affirmed on appeal.

suppress To forbid the use of evidence in court; e.g., the court may suppress evidence that was seized illegally by the police.

Supreme Court See *Court, Supreme*.

surety A person or other legal entity who agrees to pay an obligation by a third party in the event that the third party does not pay it; the agreement is a form of insurance, often called a *surety bond*. See further explanation under *bail* and related entries.

suspend To withhold or postpone, subject to certain conditions; to halt a judicial proceeding by order of the court; to *stay*, as in *staying further proceedings pending appeal*.

suspended sentence See *sentence*.

sustain To maintain, support, or agree with; e.g., when the court agrees with an objection to certain evidence, the court *sustains* the objection; when the evidence is sufficient to warrant a verdict, the evidence *sustains* the verdict.

T

temporary restraining order (TRO) See *injunction*.

term (1) a period of time in which the court will hear cases; e.g., the October term; (2) a penalty imposed; e.g., the court imposed *terms and costs* for the defendant's refusal to engage in discovery; in this sense, the word is usually synonymous with *sanction*.

testacy General term referring to the fact or condition of leaving a will at one's death.

testamentary Relating to probate and more specifically to wills, as distinguished from *intestate*.

testamentary disposition In probate, the disposition of property by will or by deed, to take effect upon the death of the grantor.

testamentary guardian In probate, a guardian named in a person's will.

testamentary trustee In probate, a person appointed as trustee in a person's will, or a person appointed by the court to serve as a trustee of a trust created by a will.

testate Having died, leaving a will; as distinguished from dying *intestate*, or without a will.

testator A person who has died, leaving a will; the term formerly referred only to a man, but it is now generally used to refer to either a man or a woman.

testatrix An older term, referring to a female *testator* (above).

testimony Oral statements given as evidence by a witness under oath; as distinguished from evidence consisting of documents, films, pictures, or the like.

tort A wrongful act or injury, for which the law allows compensation; as distinguished from compensation for breach of contract.

transcribe To create a *transcript* (below).

transcript An official written account of judicial proceedings; usually refers to the written record of testimony given by witnesses at trial or in a deposition.

trial The examination before a competent tribunal, according to the law put in issue in a cause, for the purpose of determining such issue.

trial de novo See *de novo*.

true bill The endorsement made by a grand jury upon a bill of indictment, when the grand jurors find it sustained by the evidence and are satisfied with the truth of the accusation.

U

ultra vires A term describing an act done by a public or private entity that is void for lack of authority to perform the act.

under sheriff An officer who acts directly under the sheriff and performs all duties of the sheriff's office.

unlawful detainer See *detainer*.

V

vacate To nullify or set aside; *e.g.*, the court will *vacate* a judgment that was entered without jurisdiction to do so.

vagrant A person who wanders or goes about from place to place, with no lawful or visible means of support, and who subsists on charity and does not work, though able to do so.

vague Indefinite; ambiguous, not sufficiently specific.

valid Having legal strength or force; executed with proper formalities; *e.g.*, a *valid* search warrant.

validate To test the validity of; to make valid; to confirm.

vehicle General term referring to methods of transportation such as automobiles, trucks, vans, buses, and the like.

venire To come, or to appear in court; sometimes used to refer to a list of persons who have been, or are to be, summoned for jury duty.

venire facias An ancient writ summoning a person for jury duty.

venue The place, usually a county, in which the law requires an action to be filed; if the court transfers the case to another county, the court is said to have granted a *change of venue*.

verdict The formal decision by a jury, reported to, and accepted by, the court.

verification Confirmation of the correctness, truth, or authenticity of a pleading, account, or other document by affidavit or oath; by court rule, some pleadings must be *verified*.

visiting judge See *judge, visiting*.

voir dire To speak the truth; the term is used to refer to the preliminary questioning of a person to determine the person's qualifications to serve as a juror or witness.

voluntary dismissal See *dismissal*.

voucher A receipt, acquittance, or release that may serve as evidence of payment or discharge of a debt, or to certify the accuracy of an account.

W

WAC Washington Administrative Code; a compilation of rules and regulations adopted by administrative agencies in Washington.

WACO Washington Association of County Officials. Lobbying organization for county officials.

waive, waiver To abandon or surrender a claim, privilege, or right; one who *waives* a right is said to *give a waiver*.

wanton Reckless, heedless, malicious, or disregarding of the rights or safety of others.

ward A person, typically an infant, placed under the care of a guardian.

warrant An order from the court authorizing an officer to take certain action; an *arrest warrant* is a written court order, directed to a peace officer or other person named in the order, requiring the arrest of a person suspected of committing a crime; a *search warrant* authorizes an officer to search a person or place; a *bench warrant* authorizes the arrest of a person who has failed to appear in court as required, or has failed to pay a fine or other sum of money required by the court.

Washington Administrative Code See *WAC*, above.

WCCD Washington Council on Crime and Delinquency. Governor's blue ribbon committee on criminal justice.

will The formal expression or declaration of a person's wishes as to the disposition of his property, to take effect upon his death.

willful Intentional; voluntary; not accidental.

with (or without) prejudice As to dismissals, see *dismissal with prejudice*. In other contexts, the term refers to whether further rights or privileges will be affected; *e.g.*, a creditor may accept a sum of money from the debtor *without prejudice*, meaning without affecting the right to collect additional sums in the future; the words *without prejudice* in a judgment ordinarily mean that further proceedings are contemplated, and that the judgment is not intended to affect the parties' right to pursue further remedies.

witness A person who gives testimony under oath at trial, regarding what he has seen or heard.

WPI or WPIC Washington Pattern Instructions; a compilation of standardized ("pattern") jury instructions, recommended by the Washington State Supreme Court; *WPI* refers to such instructions for civil cases; *WPIC* refers to such instructions for criminal cases.

writ A formal court order, requiring the persons named in the order to do, or to abstain from doing, a specified act.

writ of attachment See *attachment*.

writ of certiorari See *certiorari*.

writ of execution See *execution*.

writ of mandamus See *mandamus*.

writ of prohibition See *prohibition*.

writ of replevin See *replevin*.

writ of restitution See *restitution*.

writ of supersedeas See *supersedeas*.

WSAC Washington State Association of Counties. The county commissioners' lobbying organization.

WSACC Washington State Association of County Clerks.

WSBA Washington State Bar Association. Commonly called "state bar." Lawyers practicing in Washington are required to be members.

WSP Washington State Patrol.