

COMMON LEGAL TERMS

Considerable legal terminology is necessarily encountered when reading court cases. The following is a guide to some common and important legal terms.

Trial courts / appellate courts. A *trial court* is the first court to handle a legal dispute. In this court evidence is presented to determine the facts of the case, and the trial judge applies the law to those facts. In an *appellate court* a panel of judges determines whether the court below made any errors in its application of the law and whether those errors warrant a different result.

Plaintiff / defendant. The *plaintiff* is the party who initiates a civil lawsuit. The party against whom a legal remedy is sought is the *defendant*.

Complaint / answer. A *complaint* is the initial court document filed by a plaintiff. It identifies the alleged legal violation and formally requests a legal remedy, such as monetary compensation. An *answer* is a defendant's formal legal response to a complaint. The answer might deny facts alleged by the plaintiff, or it might claim certain legal defenses or privileges.

Cause of action. A *cause of action* is a particular factual occurrence or circumstance that entitles a person to sue. Some cases involve multiple causes of action. For example, in the *Falwell* case, the plaintiff alleged causes of action for libel, invasion of privacy, and intentional infliction of mental distress.

Summary judgment. *Summary judgment* is a common procedure for ending a lawsuit prior to trial. A party to a lawsuit is entitled to summary judgment in his favor if there is no disputable issue of fact and established legal rules clearly dictate that he would prevail at trial.

Appellant / respondent. The party that appeals a court judgment to a higher court is the *appellant*, sometimes also called the **petitioner**. The party against whom the appeal is made is the *respondent*, sometimes also called the **appellee**.

Damages / injunction. The most common form of legal relief sought by plaintiffs is *damages*—an award of money. Another common legal remedy is an *injunction*—a court order that a defendant act, or refrain from acting, in a particular manner.

Judgment of the court. A *judgment* is the final decree of a court—the disposition of the case, the determination of which side “wins.” At the appellate level, the judgment of the court usually is to **affirm** (uphold) or **reverse** (overturn) the judgment of the court below.

Opinion of the court. An *opinion* is an official, written explanation of the reasons behind the court's judgment. Opinions are generally issued for publication only by appellate courts, though some trial courts also issue written opinions. When a panel of appellate judges cannot reach agreement in a particular case, then the prevailing view is stated in a **majority opinion**. The judges who agree with the final disposition of a case, but for different reasons, may write **concurring opinions**. Judges who disagree with the final outcome of the case may write **dissenting opinions**.

U.S. District Court. The main trial court in the federal judicial system is *U.S. District Court*. At least one of these courts is located in every state.

U.S. Court of Appeals. The *Court of Appeals* is the intermediate appellate court in the federal judicial system—the next step up from district court. The nation is divided into twelve geographic *circuits*, each with one of these intermediate courts.

U.S. Supreme Court. The *Supreme Court*, with its nine justices in Washington, D.C., is the top court in the federal judicial system and the final authority on the meaning of the U.S. Constitution.

Writ of certiorari. A *writ of certiorari* is a kind of discretionary order commonly used by the U.S. Supreme Court to indicate which cases the Court will hear on appeal. If the writ is denied, this means the Court refused to hear an appeal, and the judgment of the lower court therefore stands as the final word. If the writ is granted, this means the Supreme Court has decided to hear the appeal, and the court below is ordered to send the case record up to the high court. This is also referred to as granting “cert.”