

LEGAL TERMS AND DEFINITIONS

The following definitions will make it easier for you to understand these common legal words and phrases which will occur frequently during the course of the trial:

Action, Case, Suit, Lawsuit: These words refer to a legal dispute brought into court for a hearing or trial.

Parties: The plaintiff and defendant in the case - also called the “litigants.”

Cause of Action: The legal grounds on which a party to a lawsuit relies to get a verdict against his opponent.

Complaint: The first pleading in a civil case stating facts and demanding relief.

Indictment: The indictment or information is the written document used to inform the defendant that he has been charged with a crime.

Answer: A pleading filed with the court before the trial by the defendant in a civil case in which he answers or denies claims of the plaintiff.

Counterclaim: A “counterclaim” results when the defendant, in his answer to the complaint, claims that he is entitled to damages or other relief from the plaintiff.

Issue: A disputed question of fact which you must decide is referred to as an “issue.”

Pleadings: All the documents filed by the parties before the trial to establish what issues must be decided by the jury.

Deliberations: The discussions of the jury which occur after the judge has instructed you to retire to the jury room and consider your verdict.

Opening Statement: Before introducing any evidence for his side of the case, a lawyer is permitted to tell the jury what the case is about and what evidence he expects to bring in to prove his side of the case. It is not evidence.

Examination, Direct Examination, Examination-in-chief: The questions which the lawyer asks his own client or witnesses called by him.

Cross Examination: The questions which a lawyer puts to the party or a witness on the opposing side. This is designed to test whether the witness is telling the truth.

Deposition: If a party to a lawsuit or a witness cannot be in court because of illness or other inability, his testimony may be written out in question-and-answer form just as it would have been given in court. This testimony is called a deposition and is then read at the trial. Attorneys for both sides are present when a deposition is taken. A deposition

may also be used to deny or contradict a witness' testimony or for the purpose of refreshing a witness' recollection.

Exhibit: Articles such as pictures, books, letters and documents are called exhibits and are given to the jury to take to the jury room while deliberating.

Objection Overruled or Overruled: This term means that the judge ruled that the lawyer's objection is not well taken under the rules for the conduct of the trial. The judge's ruling, so far as you are concerned, is final and may not be questioned.

Objection Sustained or Sustained: When a lawyer objects to the form of a question or the answer a question calls for, the judge may say, "Objection sustained" or merely, "Sustained." This means the evidence sought cannot be admitted or accepted as evidence.

Rest: This is the legal phrase which means that the lawyer has concluded the evidence he wants to introduce at that stage of the trial.

Argument: After all the evidence on both sides of a lawsuit is in, the lawyers are permitted to tell the jury what they think the evidence proves and why they think their side should win. This is usually called an "argument" or "summing up." It is not evidence.

Instructions: After all the evidence is in, and the lawyers have made their arguments, the judge will outline the question to be decided and state the issues the jury must decide. He will outline the rules of law which must guide their deliberations and control their verdict. This is called either the judge's "charge" to the jury or his "instructions." A judge may and sometimes must give an instruction to the jury on some point of law while the trial is in progress.

Record: The record is the official word-for-word copy of the proceedings, taken in shorthand, stenotype, or audio-transcription by an official court reporter. Often the judge or the lawyers may declare that something is, or is not, for "the record" or "in the record."

Jury Panel: The whole number of all prospective jurors, from which the trial jury is chosen.