

DIVORCE DICTIONARY

A

ABANDONMENT - the term used to describe the action of one spouse leaving the marital home without consent. This action is deemed as grounds for divorce in some states or provinces.

ABSENT PARENT - the parent who does not have custodial rights to the child, but is responsible for the partial support of the child and is physically absent from the home where the child resides. This parent is usually referred to as the non-custodial parent.

ACCRUE - to propagate or build upon.

ACTION - the legal term for what is generally referred to as a lawsuit.

ADMINISTRATIVE OFFICER - the official who is appointed instead of a judge to preside over the child.

ADMISSIBLE - any form of testimony or evidence that is allowed into court.

ADULTERY - when one spouse has sexual intercourse with a third party. In some states and provinces this is considered grounds for divorce.

ADVERSARIAL DIVORCE - a divorce where each spouse is unable to come to any agreement.

ADVERSARY - the opposition or the opposing party in a lawsuit. In a divorce, the litigant or adversary will probably be your spouse.

AFDC (AID TO FAMILIES WITH DEPENDENT CHILDREN) - financial support in the form of cash given to a family with children in need of financial help. The grant is offered because the head of the family or the custodial parent is not employed and not receiving child support or assistance from the non - custodial parent.

AFFIDAVIT - a written statement of facts that are made under oath and which must be witnessed and signed by a notary or another official authorized to administer oaths.

AFFIRMATIVE DEFENSE - new facts or legal defenses in response to the opposing spouse's pleading.

AGREEMENT - a verbal or written resolution of disputes.

ALIMONY - financial support paid to one spouse from the other. May be paid in one lump sum or in installments. It can be temporary or permanent. (see spousal support section)

ALIMONY PENDENTE - a pretrial order for spousal support.

ALLEGATIONS - the claims that are made against the other spouse in the lawsuit (action).

ALTERNATIVE DISPUTE RESOLUTION (ADR) - specific methods, including mediation and arbitration, with which couples can obtain a divorce settlement without a trial.

ANNULMENT - a legal action or lawsuit which may result in treating the marriage as if it never took place.

ANSWER - the formal response for a divorce, separation or annulment petition. The response or

answer contains the admission or denial of the allegations made by the petitioner or against the petitioner.

ANTENUPTIAL AGREEMENT - a legal contract signed by two people prior to marriage which states limitations to spouse's rights to property, support, or inheritance if the marriage ends in divorce.

APPEAL - a legal procedure in which the losing party of a divorce (lawsuit) requests that a higher court review the decision.

APPEARANCE - a formal submission to the courts by the defendant (respondent) in response to the a complaint or summons.

APPELLANT - the individual who brings the appeal.

APPELLATE COURT - the court in which a appeal is heard.

APPLICATION - the primary step in all divorce proceedings and court order. (The standard forms are available from the court office.

APPORION - to divide and assign according to a definite rule. The division is not necessarily equal but is fair according to the respective interests of the parties involved.

APPRAISAL - the procedure for determining the fair market value of an asset for equitable distribution in divorce.

APPRAISAL REPORT - a report of the results of an appraisal which begins with the definition of an appraisal problem and leads to a specific conclusion using reasoning and relevant descriptive data.

ARBITRATION - a legally binding, but not a judicial procedure. When a neutral third party makes judgment on a case. This is not permitted in most states or provinces.

ARREARAGES - a term used to describe the amount of money less the court order amount of Support. If a spouse does not pay the full amount of support, the missing amount is considered the arrearages.

ASSETS - cash, property and investments along with anything else that may be of value to a individual or business.

ASSIGNMENT - the release by an AFDC recipient of all rights to support arrearages owed the recipient and of the right to receive current child support as the result of the receipt of AFDC.

ATTACHMENT - the process by which the court seizes the property of a debtor.

AUTOMATIC WAGE DEDUCTION - a court ordered child support system in which the non - custodial parent has the support amount deducted directly from his or her paycheck which is then distributed by the employer.

AWARD - a decision made by a court to compensate a person for something.

B

BAILIFF - the court attendant in charge of maintaining order in the courtroom.

BANKRUPTCY - a legal proceeding in which a person who is financially insolvent requests the federal bankruptcy court to determine his or her debts and use his or her assets to pay those debts. Property in bankruptcy usually is administered for the benefit of the bankrupt person's creditors. Some forms of bankruptcy seek to discharge all debt if there are no assets to distribute to the creditors. Child support obligations cannot be discharged by bankruptcy.

BENCH WARRANT - an order issued by a court for the arrest of a person who has failed to appear in court as ordered. Can also be issued for a witness who has failed to appear in response to a subpoena.

BEST INTEREST OF THE CHILD - a discretionary legal standard that pertains to support, visitation and custody.

BIGAMY - a criminal offense committed when one spouse enters a marriage when the previous marriage has not been terminated.

BILL OF PARTICULARS - the formal title for information attached to a complaint or petition.

BLOOD TEST - the process by which blood is drawn from a child and its parents and tested to determine biological parentage. It involves genetic HLA and DNA testing.

BONA FIDE - truthfully, honestly and without deceit.

BRIEF - a document presented to the court outlining one side's position.

BURDEN OF PROOF - one spouse must prove to the court any claims made against the opposing spouse. The claims must be supported with sufficient evidence.

C

CAPIAS - an arrest warrant ordering the sheriff or another police officer to take a person into custody because he or she refuses to show up to court.

CAPITALIZATION - the conversion of income into value.

CAPTION - the heading of a motion or other document illustrating the names of the plaintiff and the defendant, the name of the court, the court term and the identification number.

CERTIFICATE OF MAILING - a written statement proving to the court that a copy of a certain document was mailed to the person for whom it was intended.

CERTIFICATE OF SERVICE - a written statement proving to the court and completed by a process server that a copy of a document was served to the person for whom it was intended.

CERTIFIED COPY - a copy of the document contained in the court file. It includes a stamped seal confirming that the copy is indeed a true and correct copy of the document contained in the court file.

CHANGE OF VENUE - a change of judges when one side one side feels the present judge is prejudice.

CHART CHILD SUPPORT METHOD - the method used in some legal areas to establish a basis for determining child support. It takes into consideration the gross income of both parents, less special adjustments such as support for children of a previous marriage, and a set amount of money to be allotted monthly for the child. The court has the authority to digress from the said

formula as it decides is necessary in each case.

CHATTEL - personal property.

CHILD CUSTODY - deals with the living arrangements and the legal decision - making concerning the child (see child custody section in your state).

CHILD SUPPORT - the money the non - custodial parent pays to the custodial parent to help pay for the needs of the child.

CHILD SUPPORT GUIDELINES - a series of mathematical formulas that help derive the proper amount of child support that should be awarded.

CHILD SUPPORT WORKSHEET - a court form devised to calculate the child support guidelines.

CITATION - an order from a court requiring a court appearance.

CIVIL COURT - the court which presides over non - criminal cases.

CLAIM - the charge by one spouse against another.

CLEAR TITLE - transferring ownership of an asset without any encumbrances, obstructions or burdens that present any reasonable question of law or fact.

CLERK - the person responsible for keeping court records and procedures in an orderly fashion.

COBRA - Federal Legislation which guarantees that all individuals who are covered by medical insurance have the right to continue coverage for a monthly fee if employment changes or marital status changes.

COHABITATION - two people living together. This can be grounds for terminating support in some states and provinces. Often time a period of cohabitation is written.

COLA - the cost of living adjustment (a COLA offset).

COMMON - LAW MARRIAGE - a marriage in which no formal ceremony took place and no license exists.

COMMON - LAW PROPERTY DISTRIBUTION - the method of dividing property in a divorce according to who holds the title to the property.

COMMUNITY PROPERTY - all income or property that was acquired during the marriage, with exception to gifts or inheritances.

COMPARABLES - a shortened term for competitive property sales, rentals, or operating expenses used for comparison in the valuation process.

COMPLAINT - the initial pleading filed for divorce with specific grounds states. (see legal process section).

CONCILIATION - the attempt to establish an agreement between the divorcing spouses concerning the children and any other areas in which they do not agree.

CONDONATION - when misconduct of a spouse is no longer grounds of divorce due to the act of forgiveness.

CONFLICT OF INTEREST - when any professional is not capable of performing services due to previous relationships or present relationships and/or a situation where confidentiality can be broken.

CONSTABLE - a person who is given the legal right to serve process.

CONSTRUCTIVE ABANDONMENT - the refusal of one spouse to engage in sexual relations with the other spouse. In some states and provinces this is considered grounds for divorce if lasting for a certain length of time.

CONSTRUCTIVE SERVICE OF PROCESS - when the service of process is delivered through other methods such as a newspaper due to the unknown whereabouts of the spouse.

CONTEMPT OF COURT - any deliberate failure to comply with the legal process, including the disruption of the court.

CONTESTED DIVORCE - a divorce where at least one issue has not been settled before court. The court must decide the issue or issues.

CONTINGENT FEE - an agreement which specifies that the attorney does not get paid unless the client wins the case. This type of arrangement is generally not allowed in divorce and custody cases.

CONTINUE - the act of postponing a scheduled court hearing to a later time.

CONVEY - to transfer property to someone by selling it or by other means.

CO-RESPONDENT - the individual who is targeted as the partner in an adulterous relationship.

COST APPROACH - a set of procedures in which an appraiser derives a value indication by estimating the current cost to reproduce or replace the existing structure, deducting for all accrued depreciation in the property, and adding the estimated land value.

COUNT - a statement of facts that clearly defines the complaint.

COUNTER - CLAIM - a pleading filed by the defendant (respondent) against the plaintiff (petitioner).

COURT CLERK - the administrative personnel of the court who handles the filings for court procedures and answers questions concerning them.

COURT ORDER - a written document ordering a person to do something. It is issued by a court and signed by a judge.

COURT TERM AND NUMBER - an identifying date and number that appears on the captions of a papers filed in court. The assignment is made by the clerk.

COURTS OF COMMON PLEAS - the state trial-level courts that have the authority to grant divorce.

COVERTURE - the period of time a woman is married.

CREDITOR - a person to whom money is owed.

CROSS-EXAMINATION - the questioning of a witness of the opposing party in court or at a deposition. The purpose is to test the credibility or pursue advantageous avenues.

CROSS-PETITION - a statement of the reasons for the breakdown of the marriage issued by the respondent. It will be different than that of the petitioner.

CROSS REFERENCE CASE - a separate case involving one parent in common, but in which there are other children from a different mother or father. Either parent can have cross reference cases.

CURABLE DEPRECIATION - items of physical deterioration and functional obsolescence that are economically feasible to cure.

CUSTODIAL PARENT - the parent a child normally lives with, and the one who makes legal decisions concerning the child. There are several different types of custody arrangements. (see child custody section in your state).

CUSTODY - the legal right and responsibility to raise a minor child and to make decisions.

D

DAMAGES - the monetary harm caused by the actions of another person.

DEBTOR - a person who owes money.

DECREE - the final decision made on an action for divorce.

DEED - a written, legal instrument that conveys an estate or interest in real property when it is executed and delivered. There are numerous types of deeds.

DEFAULT ORDER OR JUDGMENT - an order or judgment made based on only the plaintiff's (petitioner's) complaint, due to no response or presence of the defendant (respondent).

DEFENDANT - the spouse who defends against the lawsuit brought against him or her by the other spouse.

DEFERRED ANNUITY - an income stream that begins at some time in the future.

DEFERRED COMPENSATION PACKAGE - this includes all retirement assets (such as a pension, 401K, IRA) and any other saving or postponed income earned during the marriage.

DEPOSITION - the testimony of a witness under oath and reduced to writing. It is also used to question opposing spouse. (see legal process section in your state).

DEPRECIATION - in appraising, a loss in property value from any cause. In regard to improvements, deterioration and Obsolescence. In accounting, an allowance made against the loss in value of an asset for a defined purpose and computed using a specified method.

DIRECT CAPITALIZATION - the capitalization method used to convert an estimate of a single year's income expectancy or any annual average of several years' income expectancies into an indication of value in one step, either by dividing the income estimated by an appropriate rate or by multiplying the income estimate by an appropriate factor.

DIRECT EXAMINATION - the initial questioning of a witness called to the stand by an attorney.

DIRECT PAYMENT - child or spousal support paid directly to the parent who has custody by the parent who does not have custody.

DISBARMENT - the official seizing of an attorney's license to practice law.

DISCOUNTING - the procedure used to convert periodic income and reversions into present value: based on the assumption that benefits received in the future are worth less than the same benefits received now.

DISCOVERY - procedures used to absorb information that pertains to the credibility of the opposing party's case. The term may also be used for the interview procedure between the attorney and the client at the initial meeting. (see legal process and or the attorney section in your state)

DISCRETION OF THE COURT - an area of choice available to a judge to make decisions after reviewing reasonable evidence.

DISMISS - the termination of a case without a final disposition of the matter.

DISSOLUTION OF MARRIAGE - a legal judgment that severs a marriage relationship and returns each person to single status.

DIVORCE - a final decree required to legally terminate a valid marriage.

DOCKET - the calendar schedule of the court.

DOCKET NUMBER - the number assigned by a court to a civil or criminal case. It is used to identify all court actions and it appears on all documents filed with the court in a specific case.

DOMICILE - the place where a person lives and will return if temporarily absent.

DOWER - a wife's common law right to inherit from her husband.

E

EMANCIPATION - the point at which a minor comes of age. The age is typically 18 or 21.

ENCUMBERED - when a lien, mortgage or other restraint is placed against a property.

ENTREPRENEURIAL PROFIT - a market - derived figure that represents the amount an entrepreneur expects to receive in addition to costs; the difference between total cost and market value.

EQUITABLE DIVISION (DISTRIBUTION) - a system of dividing property acquired by spouses during their marriage in connection with a divorce proceeding.

EQUITY - the net proceeds from the sale of a home, minus the fees of the solicitor and the real estate agent and the satisfying of the mortgage.

ESTATE - a right or interest in property or the property of a deceased person.

EVALUATION - a study of the nature, quality, or unity of a parcel of real estate or interests in, or aspects of, real property, in which a value estimate is not necessarily required.

EVIDENCE - documents, testimony or other informational material offered to the court to prove or disprove allegations in the pleadings.

EXHIBIT - an item of evidence presented to the court.

EX - PARTE - court relief that is granted due to the absence of opposing party.

EXPECTANCY - future proceeds from an estate.

EXPERT WITNESS - a professional used to help a judge reach a decision. Experts can include: Appraisers, Counselors, Evaluators, Accountants.

F

FAMILY COURT - a court with jurisdiction over child support , divorce and comparable issues. In Pennsylvania, Family Courts are part of the Court of Common Pleas.

FATHER'S RIGHTS - legal principles and concepts promoting the idea that custody decisions must not discriminate against fathers.

FAULT - BASED DIVORCE - a type of divorce to be granted if one member of the marriage is guilty of some kind of marital misconduct.

FEE SIMPLE ESTATE - absolute ownership unencumbered by an other interest or estate; subject only to the limitations of eminent domain, escheat, police power, and taxation.

FILE - to personally deliver a document to a clerk of a court so that the document can be included in the official records of a case.

FINAL JUDGMENT - relitigation of a matter as the result of a judge's decision. It does not become final for purposes of appeal until the expiration of a certain amount of time.

FOREIGN ORDER - a court order issued by another county, state or nation outside of the jurisdiction in which the custodial parent lives.

FORENSICS - a general term sometimes used by a therapist hired to evaluate a family. The therapists will state in court which parent they feel should have custody of the child. This is know as a Custody Evaluation.

FOUNDATION - the evidence that must be presented before asking certain questions or offering documentary evidence on trial.

G

GARNISHEE - an insurance company, bank, employer or others upon whom a judgment creditor has placed a Writ of Garnishment because that person or entity holds assets due the original debtor.

GARNISHMENT - a support enforcement technique in which the support payment is automatically deducted from the supporters paycheck and delivered to the spouse. This is an enforcement method of paying support. (Garnishment of Wages).

GOOD CAUSE - a standard by which a recipient of welfare is excused from cooperating with the CSE agency because by doing so the recipient and the children could be in danger. A good cause finding usually results from ample documentation of violence and abuse by the non-custodial parent.

GOOD FAITH - absence of intent to commit fraud.

GOODWILL - the value of a business that is beyond the market value of any tangible assets. It includes reputation, prestige, and company name.

GROUNDS - a legal basis for a divorce.

GUARDIAN AD LITEM - an adult, usually appointed by the court, who represents the non - legal interest of a minor child in a divorce. He or she is a trained social worker, counselor or other professional.

H

HABITUAL RESIDENCE - the place where a person resides - 'as of habit ' or permanently, for the purposes of the law.

HARDSHIP - the inability of a parent to support his or her children because of a financial strain.

HEALTH INSURANCE ORDER - a court order that instructs the non - custodial parent to purchase health and dental insurance for the children and to add them to the policy.

HEARING - any proceeding that takes place before a court where testimony is given and arguments are heard.

HEARSAY - something a person claims he or she was told by someone else. Often hearsay cannot be used as evidence in a trial.

HOLD HARMLESS - a phrase used to describe an agreement by which one person agrees to assume full liability for an obligation and protect another from any loss or expense from that obligation.

HOSTILE WITNESS - a witness who shows prejudice during testimony that the party who called him or her will actually do a cross - examination.

I

IMPEACHMENT - the act of proving a witness is not credible due to inconsistent statements or other conflicting evidence.

IN CAMERA - when proceedings are held in the chambers of a judge without the participating parties. This is usually the procedure followed when children testify.

INCOME AND EXPENSE DECLARATION - the form completed by a parent under oath stating that parent's income, assets, expenses and liabilities. The document is used to help determine child support to be paid by the non - custodial parent.

INCORPORATION - part of civil law, making one document part of another. For example, the Agreement becomes part of the Decree in Divorce.

INJUNCTION - a court order preventing someone from doing a particular act which is likely to cause physical, mental injury or property loss of another individual.

INTANGIBLE ASSETS - items of personal property; examples; franchises, trademarks, patents, copyrights, goodwill.

INTANGIBLE VALUE - a value that cannot be imputed to any part of the physical property.

INTERCEPT - a process by which CSE agencies take part of a noncustodial parent's unemployment insurance payments, disability insurance payments, income tax returns and lottery gains to pay child support arrearages owed by the noncustodial parent.

INTERLOCUTORY HEARING - any hearing at which a pretrial or court ruling is requested.

INTERROGATORIES - a group of questions served upon the opposing party to gain knowledge pertaining to the issues in the matrimonial proceedings.

INVENTORY AND APPRAISEMENT - a listing and valuation of properties owned by the parties seeking a divorce.

INVESTMENT ANALYSIS - a process in which the attractiveness of an investment is measured by analyzing ratios.

J

JOINT LEGAL CUSTODY - a form of custody of minor children in which the parents share the responsibilities and major decision-making related to the child. (see child custody section).

JOINT PHYSICAL CUSTODY - a form of custody of minor children in which the parents share the actual physical custody of the child. (see child custody section in your state).

JOINT PROPERTY - property that is held in the name of more than one person.

JOINT TENANCY - a form of joint ownership in which each joint owner has an equal share.

JUDGMENT - the ruling or order of the court.

JUDGMENT OF DIVORCE - a formal written document that states that a man and a woman are divorced. This is prepared by an attorney and presented to the court for the Judge to sign. In some states and provinces, this is recognized as the Divorce Decree or Decree of Dissolution.

JURISDICTION - the power of the court to rule on issues related to the parties, their children and their property.

K

L

LAW GUARDIAN - an attorney that is typically assigned by the judge to represent the child or children in an intense custody battle.

LEASE - a written document in which the rights to use an occupancy of land or structures are transferred by the owner to another for a specific period of time in return for a specified rent.

LEASED FEE ESTATE - an ownership interest held by a landlord with the right of use and occupancy conveyed by lease to others: usually consists of the right to receive rent and the right to repossession at the termination of the lease.

LEASEHOLD ESTATE - the right to use and occupy real estate for a stated term and under certain conditions: conveyed by a lease.

LEGAL CUSTODY - the authority of one parent or both parents to make legal decisions

regarding health, education and welfare of the child.

LEGAL SEPARATION - a legal lawsuit for support while the spouses are living separate and apart.

LEVERAGE FACTORS - considerations made by each parties pertaining to the issues that are being disputed.

LIEN - an encumbrance put on a property owned by a judgment debtor. It prevents the sale, transfer of title or refinancing of the property until the debt is satisfied.

LIQUIDATION VALUE - the price that an owner is compelled to accept when a property must be sold without reasonable market exposure.

LITIGATION - the process of fighting a legal dispute in the court system.

LONG ARM - the means by which a court can get jurisdiction over someone who lives outside the jurisdiction in which the court is located.

LUMP - SUM ALIMONY - a spousal support that is ordered to be paid in a fixed amount. The completion of the payment may be made in installments. (see spousal support section).

M

MAGISTRATE - a person who performs the functions of a judge but does not have the power to issue a court order. Judges sometimes pass work, hearings and trials, to magistrates or masters who then in turn make recommendations to the judge as to the particulars of the case.

MAINTENANCE - the same as spousal support or alimony.

MARITAL PROPERTY - property that is acquired by the spouses during the marriage. It typically does not include any property owned prior to marriage.

MARITAL SETTLEMENT AGREEMENT - a written agreement entered into by the spouses getting divorced stating their rights and agreements pertaining to property, support and custody.

MARKETABLE TITLE - a title not subject to reasonable doubt or suspicion of invalidity in the mind of a reasonable and intelligent person: one which a prudent person guided by competent legal advice would be willing to accept and purchase at market value.

MEDIATION - a non - adversarial divorce procedure where the spouses are assisted in reaching a settlement by a neutral third party that is trained in the divorce process.

MEDIATOR - a neutral person who presides over the mediation process.

MILITARY ALLOTMENT - a deduction from child support from the salary of a noncustodial parent on active duty in the United States military.

MINUTE ORDER - an official record of a court proceeding. It is prepared by the court clerk and is not a judgment.

MISTRIAL - a trial that is terminated due to some kind of error that would declare the trial invalid.

MODIFICATION - an order changing the terms of another order.

MOTION - a written or oral request to the court for some type of action.

MOTION TO MODIFY - a written request of the court to change a previous order regarding child custody, support, alimony or other divorce - related decisions.

N

NO-FAULT DIVORCE - a type of divorce that may be granted even though either spouse has not performed any kind of marital misconduct.

NON-CUSTODIAL PARENT - the parent who does not have physical custody of the child, and who typically is paying child support to the child.

NON-MARITAL PROPERTY - property considered by the courts to belong to one spouse or another and that which is not available for equitable distribution.

NULLITY - a decree indicating that a marriage is null and void.

O

OBJECTION - the verbal response of a lawyer when something inappropriate is happening during a trial or deposition. It is one of many steps involved in protecting the record.

OBLIGEE - the person to whom money or property is owed by a judgment.

OBLIGOR - the person who owes money or property as the result of a judgment.

OBSOLESCENCE - one of the causes of depreciation: an impairment of desirability and usefulness caused by new inventions, current changes in design, improved processes of production, or external factors that make a property less desirable and valuable for a continued use.

OPENING STATEMENT - a lawyer's opening remarks in the beginning of a trial. They are addressed to the judge.

OPINION - a belief held by a person. In court, a witness is restricted to stating facts and are not permitted to give an opinion. They can, however, express an opinion if they are qualified as an expert witness.

ORDER - a court's specific ruling on a disputed issue.

ORDER AFTER HEARING - a written order issued after a hearing and signed by a judge.

ORDER OF EXAMINATION - a court proceeding during which a judgment debtor is questioned about his or her assets. The questioning is done under oath.

ORDER OF PROTECTION - an order assigned by the court to prevent one spouse from doing something. Typically, this is assigned in cases where one spouse is harassing the other. If the spouse refuses to abide by the order, he or she may be arrested and end up in jail.

ORDER TO SHOW CAUSE - a court order requiring a party to a civil action to appear in court on a specific date and time. This is scheduled to explain why the court should not take a particular action in the case.

P

PALIMONY - support paid from one person to another even though they were never married.

PARALEGAL - a trained person who assists a lawyer.

PARENS PATRIAE - a doctrine whereby the state takes jurisdiction over a minor living within its border. It is the basis for deciding what state will assume jurisdiction in a child custody case.

PARENTING CLASSES - organized classes designed to teach parents how to minimize the negative aspects of divorce on their children.

PARTY - a plaintiff or a defendant in a legal proceeding.

PATERNITY - the legal biological relationship between father and child.

PERJURY - the act of lying under oath in court.

PERSONAL JURISDICTION - the power of the court to make orders regarding an individual and have them enforced.

PERSONAL PROPERTY - property that is not real estate.

PETITION - the title given to the first document filed in pursuit of a divorce.

PETITIONER - the person who initiates the divorce by filing the petition.

PHYSICAL CUSTODY - it is in reference to the parent with whom the child resides. Depending upon arrangements, it may be joint or sole custody.

PLAINTIFF - the individual who files the divorce petition, thereby initiating the divorce.

PLEADING - a formal written application to the court which requests action by the court.

POSTNUPTIAL - a written contract between husband and wife that states all of their present and future rights in view of their impending divorce.

PRAECIPE - an order asking the court to act. It is addressed to the clerk of court.

PRAYER - the portion at the end of the pleading which states the relief that is requested of the court.

PRECEDENT - something that has already happened that will influence how future similar events will be viewed by the court.

PRENUPTIAL AGREEMENT - a legal contract signed by two people before they get married. It typically involves limitations on a spouse's rights to property, support, and inheritance upon divorce.

PRESENT VALUE - the value of a future payment or series of future payments discounted to the current date or to time period zero.

PRIMARY CARETAKER - the parent who provides majority of the child's day to day care.

PRIVILEGE - the right a spouse has to make admissions to an attorney or counselor that can not

be later used as evidence.

PRO SE DIVORCE - a divorce in which each spouse represents themselves in court without an attorney.

PROTHONOTHARY - the court clerk in charge of civil filings.

PURPOSE OF AN APPRAISAL - the states scope of an appraisal assignment, i.e., to estimate a defined value of any real property interest, or to conduct an evaluation study pertaining to real property decisions.

Q

QUALIFIED DOMESTIC RELATIONS ORDER - (QDRO) a court ruling stating that a portion of one spouse's pension be awarded to the other spouse as part of the equitable distribution of the marital assets. (see QDRO section in your state).

QUIT CLAIM - to release legal claim. It is a document relinquishing claim, as in a quit claim to the deed to the marital house.

R

RANGE OF VALUE - the range, or confidence interval, in which the final estimate of a property's value may lie.

REAL ESTATE - physical land and appurtenances affixed to the land: land.

REAL PROPERTY - all interests, benefits, and rights inherent in the ownership of physical real estate.

REBUTTAL - an introduction of evidence in response to a matter raised by the opposing party.

RECIPROCITY - the process of cooperation between states and countries to establish and enforce child support orders. Laws and court orders of each jurisdiction are recognized and enforced.

RECORD - all of the testimony and evidence that is used in court to decide a case. What is on record is what the Judge will use to make his or her decision.

RECROSS - the second round of cross - examination that occurs after redirect in a trial.

REDIRECT - the second round of direct examination that occurs in the trial after cross-examination.

REGISTRY - the entity through which the court receives and disburses money, as in child support payments.

REHABILITATIVE ALIMONY - alimony intended to help the exspouse become financial self sufficient.

REIMBURSEMENT - a fixed amount stated in a judgment which would order the defendant to pay back to the government welfare which the government paid on behalf of the child.

RELEASE - a document that frees up a person's right or claimed right to something. It is usually given in exchange for something else, typically another release or money.

REMAND - the act of sending a case back to the judge to be retried because of a significant mistake made by the judge during the first trial.

REPLACEMENT COST - the estimated cost of construct, at current prices, a building with utility equivalent to the building being appraised, using modern materials and current standards, design, and layout, and quality of workmanship, and embodying all the subject's deficiencies, superadquacies, and obsolescence.

REPRODUCTION COST - the estimated cost to construct, at current prices, a building with utility equivalent to the building being appraised, using modern materials and current standards, design, and layout, and quality of workmanship, and embodying all the subject's deficiencies, superadquacies, and obsolescence.

REQUEST FOR PRODUCTION - part of the Discovery process. One attorney asks that the other side produce financial documents he or she feels are necessary to the case.

RESIDENCE - the place where a spouse lives.

RESPONDENT - the defendant in a divorce.

RESPONSE - the formal document filed by the defendant (respondent) to answer the complaint or summons.

RESTRAINING ORDER - a court order restricting a persons actions. They are sometimes issued by one spouse to try to deter the other spouse from committing violent acts.

RETAINER - a fee paid to an attorney to work on a case.

RETAINER AGREEMENT - a written contract between lawyer and client delineating their responsibilities to each other.

RIGHT OF SURVIVORSHIP - the right of joint owners to receive the other's share of property upon the death of the other owner.

RULES OF EVIDENCE - the rules that pertain to the deliverance of evidence in hearings or depositions.

RURESA - Revised Uniform Reciprocal Enforcement of Support Act, an act facilitating interstate enforcement of support orders.

S

SALES COMPARISON APPROACH - a set of procedures in which an appraiser derives a value indication by comparing the property being appraised to similar properties that have been sold recently, applying appropriate units of comparison, and making adjustments, based on the elements of comparison, to the sale prices of the comparables.

SANCTIONS - court-ordered punishment.

SEPARATE MAINTENANCE - an action filed for support between two spouses not living together even though the spouse's are not actively seeking a divorce.

SEPARATE PROPERTY - property considered to be owned by one spouse prior to marriage, which in most states in not up for distribution upon divorce.

SEPARATION - when spouses no longer co-habitate or live together.

SEPARATION AGREEMENT - an agreement on support, child care and property covering the period before divorce but after separation.

SERVICE OF PROCESS - the act of presenting the complaint or summons to the defendant or respondent.

SET ASIDE - to cancel, annul, or revoke a prior judgment of a court.

SETOFF - a debt or financial obligation of one spouse that the court weighs against a debt or financial obligation of the other spouse.

SETTLEMENT AGREEMENT - the written version of the settlement.

SEVERABILITY - the understanding that one clause in a contract is independent of the others.

SOLE CUSTODY - a form of custody in which one parent is awarded both physical and legal custody.

SPLIT CUSTODY - a form of custody in which the actual time of physical custody is split between both parents, which gives both parents the right to make decisions.

SPOUSAL SUPPORT - money paid from one spouse to the other in one lump sum or in installments for a period of time. There are many factors considered. (see spousal support section in your state).

SPOUSE - husband or wife.

STIPULATION - an agreement between the parties or their counsel.

SUBPOENA - a document that is delivered to a person who is not directly involved in the action filed, but is in need for testimony.

SUMMONS - a written notification to the defendant or respondent that an action has been filed against him or her.

SUPPORT - payment for housing, food, clothing etc.

SURREBUTAL - evidence the defendant can present to counter rebuttal evidence.

I

TAX INTERCEPT - the process by which a child support judgment debtor's federal and state income tax refunds are diverted to pay a support arrearage.

TEMPORARY CUSTODY - a spouse's right to have parenting time with his or her child. It includes extended stays and overnights.

TEMPORARY RESTRAINING ORDER - an order of the court prohibiting a party from acting - for example, threatening, harassing, or physically abusing the other spouse and/or the children; selling personal property; taking money out of accounts; denying the other spouse a motor vehicle.

TESTIMONY - statements delivered under oath at a hearing or deposition.

TRANSCRIPT - a written presentation of testimony given at a trial or at a deposition.

TRANSFER - to switch ownership from one person to another.

TRANSITIONAL CHILDCARE - a welfare program by which welfare recipients who stop receiving AFDC due to employment, but who can't afford to pay childcare costs, receive subsidized childcare assistance, usually for one year.

TRIAL - a formal court hearing to decide the disputed issues filed in the complaint or summons.

U

UNCONTESTED DIVORCE - a divorce proceed in which there are no disputes.

URESA(Uniform Reciprocal Enforcement of Support Act) - the statute which enables one state to request assistance from another state in establishing or enforcing a child support order against a parent located in the other state.

V

VALUATION PROCESS - a systematic procedure employed to provide the answer to a client's question about real property value.

VENUE - the county in which the court with jurisdiction will hear the matter.

VERIFICATION STATEMENT - an oath stating that the information in a document is true.

VISITATION - the right of the parent who does not have physical custody to see his or her child.

VISITATION CREDIT - the percentage applied to a child support calculation. It reflects the amount of time a child resides with the noncustodial parent.

VISITATION SCHEDULE - a list of dates stating times each parent may see each child.

W

WAGE ASSIGNMENT OR WAGE WITHHOLDING - a court order requiring the employer of a noncustodial parent to deduct a specific amount of money for child support from the wages of the noncustodial parent (also known as garnishment).

WAIVER - a written document that relinquishes an individual's rights.

WITNESS - a person having knowledge of facts or other information pertaining to a specific situation.

WRIT OF EXECUTION - a court order authorizing the seizure of an asset of a noncustodial parent who owes past due child support. The order usually authorizes the seizure of assets up to the total amount of past due child support owed under the judgment. It is also know as a levy.

X

Y

YIELD CAPITALIZATION - a capitalization method used to convert future benefits to present value by discounting each future benefit at an appropriate yield rate or by developing an overall rate that reflects the investment's income pattern, value change, and yield rate.

Z