

# Handbook of Legal Terminology

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## Preface

Reasonable efforts were made to define the words and phrases in this handbook in general terms. However, if the reader desires a precise definition of a term pertaining to a criminal matter or civil action, then please refer to the applicable statute(s) or rule(s).

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**Click a letter, then scroll to term**

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## – A –

### **AB INITIO**

Latin: “From the beginning.”

### **ABROGATE**

To annul, cancel or repeal an order or rule.

### **ABSOLUTE IMMUNITY**

A total exemption from civil liability.

### **ABSTRACT OF RECORD**

1. An impartial summary of the most important parts of the pleadings, testimony, exhibits and other matters from the trial court record of a case on appeal. 2. A legally authenticated copy or summary of a lower court’s proceedings, e.g., a justice court’s certified copy of a judgment or conviction. Compare, TRANSCRIPT.

### **ABSTRACT OF TITLE**

A condensed history of landownership. Compare, DERAIGN.

### **ABUSE OF PROCESS**

A tort claiming that a legal process or procedure has been used for an improper purpose.

### **ACCESSORY AFTER THE FACT**

One who assisted a person who has committed a felony from being apprehended, arrested or convicted.

### **ACCESSORY BEFORE THE FACT**

One who acted or contributed as an assistant or instigator to the commission of a crime.

### **ACCOMPLICE**

One who is implicated in the commission of a crime.

**ACCORD AND SATISFACTION**

Discharge of a claim by full payment or use of instrument.

**ACCOUNTING FOR COSTS**

A clerk's itemized statement of costs incurred in a civil action submitted to the parties as set forth in M.R.C.P. 3(d).

**ACKNOWLEDGMENT**

A formal statement, usually before an authorized official such as a notary public, acknowledging voluntary execution of a document.

**ACQUIT**

1. To render a verdict of not guilty. 2. To release from an obligation or accusation.

**ACTION**

See, CIVIL ACTION.

**ACT OF GOD**

A defense that applies where an injury is attributable solely to a natural cause without any human intervention, which the exercise of prudent care could not have prevented.

**ADDITUR**

An increase by the trial court in the amount of damages awarded by the jury.

**AD HOC**

Latin: "To this." For this particular purpose or occasion.

**AD HOMINEM**

Latin: "To the person." Hostile accusations unsupported by logic or reason.

**ADJUDICATION**

A judgment or decree.

**AD LITEM**

See, GUARDIAN AD LITEM.

**ADMINISTRATION C.T.A.  
(Cum testamento annexo)**

Administration with the will annexed.  
Such is granted where a testator makes a will without naming an executor.

**ADMINISTRATION D.B.N.  
(De bonis non)**

Administration of an estate in the event that an executor or administrator dies, resigns, is removed or becomes incompetent.

**ADMINISTRATION OF ESTATE**

The management and settlement of the estate of a deceased person who has died intestate, or with no named executor, for the main purpose of: ascertaining, collecting, and caring for the non-exempt assets of the estate; ascertaining the debts of the estate in the manner prescribed by statute; paying all just debts that are duly probated; and distributing remaining assets to the heirs.

**ADMINISTRATOR, -TRIX**

One who administers a decedent's estate.

**ADMISSION**

Confession, concession or voluntary acknowledgment made by a party about certain facts, documents, exhibits, etc.

**ADOPTION**

Legal process granting parental status to a party for the purpose of rearing a child whose natural parents are deceased, unfit or unwilling to do so.

**ADULT**

One who has reached the legal age of majority.

**AD VALOREM TAX**

A tax or duty upon the value of the article or thing subject to taxation.

**ADVERSARY**

A party opponent in a civil action.

**ADVERSE POSSESSION**

Acquiring ownership of real property by uninterruptedly occupying or possessing it for a statutorily prescribed period of time.

**AFFIANT**

The person who makes and signs an affidavit.

**AFFIDAVIT**

A written statement confirmed by oath or affirmation.

**AFFIRMATION**

A solemn and formal declaration or assertion that the witness will tell the truth, that an affidavit is true, etc.; given in place of an oath.

**A FORTIORI**

Latin: "With greater force."

**AGENT**

One authorized to act on behalf of a particular entity or person.

**AID AND ABET**

One who incites, encourages, or counsels another in the commission of a crime.

**ALIAS**

Latin: "Otherwise." A name other than a person's legal name.

**ALIAS SUMMONS**

Process issued when the original summons has not been effective; supercedes the original.

**ALIBI**

Latin: "Elsewhere." A defense that places the defendant elsewhere at the time of the crime.

**ALIENATION OF AFFECTION**

A tort claiming that one has intentionally and wrongfully interfered in another's marriage.



**ALIMONY**

A sum of money which a court orders one spouse to pay the separated or former spouse for support, aid and maintenance.

**ALIMONY PENDENTE LITE**

A temporary support order to maintain the status quo during the course of divorce proceedings. Such is now referred to as temporary alimony.

**ALLEGATION**

A formal assertion set out in a pleading.

**AMENDMENT TO  
CONFORM TO THE EVIDENCE**

An amendment of the pleadings to conform to the evidence presented at trial.

**AMICUS CURIAE**

Latin: "A friend of the court."

**ANNOTATIONS**

Summaries of cases interpreting constitutional or statutory provisions.

**ANNULMENT**

A court order declaring that a marriage, contract, or other agreement is void.

**ANSWER**

A legal pleading in which the defendant responds to the plaintiff's claims.

**ANTE**

Latin: "Before."

**ANTENUPTIAL AGREEMENT**

See, PRENUPTIAL AGREEMENT.

**APPEAL**

Procedures allowing a higher court to review alleged errors committed at the trial court level.

**APPELLANT**

One who appeals a decision or judgment to a higher court.

<b>APPELLATE</b>	Of or relating to appeals.
<b>APPELLEE</b>	One against whom an appeal is taken.
<b>APROPOS</b>	Pertinent to time, place or occasion.
<b>ARGUENDO</b>	Latin: “For the sake of argument.”
<b>ARRAIGNMENT</b>	Procedure whereby a criminal defendant comes before the court to hear the charge and to enter a plea.
<b>ARREST</b>	Taking into custody a person to answer accusations of criminal conduct.
<b>ARREST WARRANT</b>	A writ issued by a judge, based upon probable cause, to a law enforcement officer to take into custody the person named in it.
<b>ASSAULT</b>	1. <i>Civil</i> . An intentional and unlawful attempt or threat, either by words or acts, to inflict injury upon another. 2. <i>Criminal</i> . Simple and aggravated assault are defined under Miss. Code Ann. Section 97-3-7.
<b>ASSIGNEE</b>	One to whom an assignment is made.
<b>ASSIGNMENT</b>	Voluntary transfer of rights to property.
<b>ASSIGNOR</b>	One who makes an assignment.
<b>ASSUMPSIT</b>	Latin: “He promised.” An action for the recovery of damages for the nonperformance of an implied contract.

**ATTACHMENT**

Legal process by which property is seized and brought within the custody of the court to secure satisfaction of a judgment.

**ATTESTATION**

The formal authentication of an act or instrument by a subscribing witness or an official.

**ATTRACTIVE NUISANCE**

Doctrine that requires a landowner to exercise reasonable care in maintaining an inherently dangerous instrumentality if such is easily accessible to trespassing children.

**AUTHENTICATION**

Proof of extrinsic evidence as a condition precedent to admissibility to ensure that a matter in question is what its proponent claims it to be.

**AUTOMATIC STAY**

Procedure that automatically delays the execution or enforcement of a civil judgment until the expiration of ten days after the later of its entry or the disposition of a motion for a new trial.

**AUTRE DROIT**

Acting in the right of another.

**AVERMENT**

A formal assertion stating a claim or defense.

## – B –

### **BAD FAITH**

Lack of honesty; intentional dishonest action.

### **BAD FAITH REFUSAL TO PAY INSURANCE CLAIM**

An action against an insurer alleging that the insurer acted without reason and fair dealing in refusing to pay an insured's claim.

### **BAIL**

Security required by the court to guarantee the defendant's presence at trial.

### **BAIL BOND**

A contract between a licensed surety and the defendant for the payment of bail.

### **BAILEE**

One who receives personal property under a bailment.

### **BAILIFF**

A court attendant whose primary duties include keeping order in the courtroom and attending to the jury.

### **BAILMENT**

An express or implied contract for the storage or safekeeping of personal property.

### **BAILOR**

One who delivers personal property under a bailment.

### **BANC**

The place where a court regularly conducts judicial business.

### **BARRISTER**

An English trial lawyer. Compare, SOLICITOR.

<b>BASTARD</b>	An illegitimate person; one born out of wedlock.
<b>BATSON HEARING</b>	Legal proceeding that requires the trial court to determine whether the exercise of a peremptory strike was purposefully discriminatory.
<b>BATTERY</b>	<ol style="list-style-type: none"> <li>1. <i>Civil</i>. Any unlawful and willful use of force or violence on the person of another.</li> <li>2. <i>Criminal</i>. Simple and aggravated assault are defined under Miss. Code Ann. Section 97-3-7.</li> </ol>
<b>BENCH WARRANT</b>	Process issued by the court itself for the arrest of someone.
<b>BEQUEATH</b>	To give personal property to another by a will.
<b>BEQUEST</b>	A gift of personal property by a will; a legacy.
<b>BEST EVIDENCE RULE</b>	Primary proof, as distinguished from secondary; original as distinguished from a copy; applied only to documents, never to testimony.
<b>BEYOND A REASONABLE DOUBT</b>	Proof to the exclusion of every reasonable hypothesis except that of guilt.
<b>BIFURCATED</b>	Latin: “Two-pronged.” A trial or hearing separated into distinct phases, usually as to issues of guilt and punishment, to safeguard against undue prejudice or otherwise ensure justice.

**BILL OF EQUITY**

The initial pleading in former Mississippi chancery practice. See, COMPLAINT.

**BILL OF EXCEPTIONS**

1. An appellate record, especially of a judgment or decision of municipal authorities. 2. A formal statement of objections to be included in the record.

**BINDING INSTRUCTION**

Directions to the jury that if it finds certain conditions to be true, it must find for the plaintiff or the defendant, as the case may be.

**BIND OVER**

To hold an accused for action by the grand jury after a finding at a preliminary hearing that there is probable cause to believe that the accused committed a crime.

**BLOG**

A website where the author writes about subjects such as news, politics, or the legal system; it is displayed in reverse chronological order.

**BONA FIDE**

Latin: "In good faith." Genuine.

**BOUNDARY**

The physical limits of a parcel of real estate as described in a deed; a property line.

**BOUNDARY LINE AGREEMENT**

An agreement by and between adjacent landowners fixing the property line.

**BREACH OF CONTRACT**

A failure without legal excuse to perform any promise which forms the whole or part of a contract.

**BRIEF**

A document presented to the court that contains facts and law supporting a client's position.

**BURGLARY-BREAKING**

Any act or force, however slight, used to unlawfully enter a structure.

**BURGLARY-ENTERING**

The act of unlawfully making one's way into a structure.

**BURDEN OF PROOF**

Standard of requisite proof necessary to prevail on the merits of the case. Criminal law requires proof beyond a reasonable doubt. Civil law ordinarily requires proof by a preponderance of the evidence.

**BURGLARY**

Breaking and entering the dwelling house or inner door of such dwelling house of another, whether armed with a deadly weapon or not, and whether there shall be at the time some human being in such dwelling house or not, with intent to commit some crime therein.

## – C –

### **CALLING THE DOCKET**

The public calling of the list of pending cases at the beginning of a court term for the primary purpose of setting trial dates, entering orders, or hearing preliminary motions.

### **CANONS OF ETHICS**

Standards of ethical conduct governing judges and lawyers.

### **CAPACITY**

The legal qualification or ability to sue or be sued or be brought into court.

### **CAPIAS**

Latin: “To seize.” An arrest warrant, especially if issued from the bench or on an indictment.

### **CAPITAL OFFENSE**

Offense which is punishable by death or life imprisonment.

### **CAPTION**

The heading or introductory part of a pleading, motion or other legal document which shows the names of the parties, name of the court, title of the action, file number, etc.

### **CARELESS DRIVING**

Driving a vehicle in a careless or imprudent manner, without due regard for the width, grade, curves, corner, traffic and use of the streets and highways and all other attendant circumstances.



<b>CARNAL KNOWLEDGE</b>	Sexual intercourse; the slightest penetration by the male's sexual organ of a female's sexual organs.
<b>CASE</b>	A legal dispute brought into court; a lawsuit.
<b>CAUSE OF ACTION</b>	The legal basis for bringing a lawsuit.
<b>CAVEAT ACTOR</b>	Latin: "Let the doer beware."
<b>CAVEAT EMPTOR</b>	Latin: "Let the buyer beware."
<b>CERTIFICATION</b>	1. Order to transfer jurisdiction from youth court to circuit court upon conducting a bifurcated transfer hearing. 2. The act of attesting.
<b>CERTIORARI</b>	A discretionary review of a lower court decision confined to questions of law arising or appearing on the face of the record and proceedings.
<b>CESTUIQUE (QUI) TRUST</b>	Beneficiary of a trust; one having equitable and beneficial interest in an estate, the legal title to which is vested in another.
<b>CESTUIQUE VIE</b>	One whose life measures the duration of an estate, trust, gift or insurance contract.
<b>CHAIN OF CUSTODY</b>	Proving that the integrity of evidence has not been compromised, i.e., no indication or reasonable inference of probable tampering with the evidence or substitution of the evidence, by showing continuous custodial possession.

**CHAIN OF TITLE**

Conveyances or other property transfers, arranged consecutively, from the government or original source of title down to the present holder.

**CHALLENGE FOR CAUSE**

Requesting the court to exclude a prospective juror whose answers and demeanor on voir dire clearly indicate an inability to fairly try the case.

**CHALLENGE TO THE ARRAY**

Questioning the qualifications of an entire panel summoned for jury duty, usually because of some deficiency in the manner in which the panel was selected and summoned.

**CHAMBERS**

The private office or room of a judge.

**CHAMPERTY**

The purchase of an interest in something in dispute in order to maintain or take part in litigation concerning it; illegal in Mississippi.

**CHANCELLOR**

A judge of the chancery court.

**CHANCERY COURT**

Established by the Mississippi Constitution with jurisdiction to hear, among other issues: all matters in equity; divorce and alimony; matters testamentary and of administration; minor's business; cases of idiocy, lunacy, and persons of unsound mind; and real property disputes.

**CHANGE OF VENUE**

The removal of a case from one venue to another for trial.

<b>CHARGE</b>	An accusation of a crime by a formal complaint, information, or indictment.
<b>CHASTE</b>	No previous instances of consensual sexual intercourse.
<b>CHATTEL</b>	An article of personal property.
<b>CHILD</b>	One who has not reached the legal age of majority.
<b>CHILD ABUSE</b>	Causing or allowing the sexual abuse, sexual exploitation, emotional abuse, mental injury, nonaccidental physical injury or other maltreatment upon a child in one's legal custody or care.
<b>CHILD NEGLECT</b>	Neglecting or refusing to provide for the necessary physical, medical, or educational needs of a child in one's legal custody or care.
<b>CHILD SUPPORT</b>	Court-ordered periodic payments of funds for the support of a child.
<b>CIRCUIT COURT</b>	Established by the Mississippi Constitution with jurisdiction to hear all matters civil and criminal not exclusively cognizable in some other court.
<b>CIRCUMSTANTIAL EVIDENCE</b>	Evidence which, without going directly to prove the existence of a fact, gives rise to a logical inference that such fact exists.

**CITATION**

1. Reference to an authority, e.g., a case or statute, that supports the textual statement or from which a quote is taken. 2. Often used as a synonymous term for traffic ticket or summons.

**CIVIL ACTION**

A lawsuit.

**CIVIL LAW**

Substantive and procedural laws pertaining to civil matters.

**CIVIL RIGHTS**

Personal rights guaranteed and protected by the U.S. Constitution or federal law.

**CLAIM**

1. Any demand to recover damages from a governmental entity as compensation for injuries. 2. A right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

**CLAIMANT**

One asserting a claim through a civil action.

**CLEAR AND CONVINCING EVIDENCE**

That weight of proof which produces in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established; evidence so clear, direct and weighty and convincing as to enable the fact finder to come to a clear conviction, without hesitancy, of the truth of the precise facts of the case.

**CLEAR TITLE**

A good and marketable title to real property; a title free from encumbrance, burden, or limitation.

**CLOSING**

Final steps in a real estate transaction where consideration is paid, the mortgage is secured, and the deed is delivered.

**CLOSING ARGUMENT**

Argument before a jury summarizing the evidence presented at trial, along with any reasonable deductions and conclusions.

**CLOUD ON TITLE**

The semblance of an outstanding claim or encumbrance that casts a doubt as to the validity of the record title. A legal recourse is to attain a decree in chancery court that removes the cloud on title.

**CODE**

An authorized collection, compendium or revision of laws systematically arranged into titles, chapters, and sections.

**CODICIL**

A supplement or addition to a will.

**COLLUSION**

A secret agreement between two or more persons for fraudulent or deceitful purposes.

**COMMIT**

1. To order a person to a state institution such as a prison or mental health facility.
2. To engage in a criminal act.

**COMMON CARRIER**

A person or business that carries or transports people or property for money.

**COMMON LAW**

Law derived from the English legal system applicable as precedent in the absence of overriding Constitutional law or legislative enactments.

**COMMON LAW MARRIAGE**

A marriage not solemnized by legal ceremony, but instead created by an agreement to marry followed by cohabitation. Mississippi does not recognize common law marriages contracted after April 5, 1956.

**COMMUNITY PROPERTY**

A statutory mandate requiring an equal division of all marital property upon divorce regardless of the respective contributions or circumstances. Not applicable in Mississippi. Instead, our state applies a system of equitable distribution.

**COMMUTATION**

Reduction in severity of a previously imposed penalty, e.g., commuting a death sentence to life imprisonment.

**COMPARATIVE NEGLIGENCE**

Legal principal, now codified in Mississippi, that permits the jury to diminish personal injury damages in proportion to the amount of negligence attributable to the injured party. Compare, CONTRIBUTORY NEGLIGENCE.

**COMPETENCY**

1. The mental capacity to understand the nature and effects of one's actions. A defendant in a criminal case must have a rational and factual understanding of the proceedings to enter a plea or to stand trial.
2. Evidentiary finding that a witness is legally qualified to give testimony.

**COMPLAINT**

The first pleading which begins a civil action.

**COMPOSITION**

Agreement whereby a creditor accepts the immediate payment of a percentage of the total amount owed as discharge of the entire debt.

**CONCLUSIVE EVIDENCE**

Evidence that is incontrovertible or from which only one reasonable conclusion can be drawn taking all the facts and surroundings into consideration. It is synonymous with manifest, plain, clear, and obvious.

**CONCUBINE**

A woman who lives with a man without the benefit of marriage.

**CONDEMNATION**

Legal process by which real property of a private owner is taken for public use upon the award of due compensation. Compare, EMINENT DOMAIN.

**CONDONATION**

Defense in a divorce proceeding on grounds that the offended spouse either expressly or impliedly forgave, upon a condition of future good behavior, a marital wrong. Merely not leaving the marital domicile or separating from the offending spouse does not constitute a condonation.

**CONFIRMATION OF TITLE**

An action in chancery court to clear title in the ownership of real property.

**CONFLICTS OF LAW**

Differences or inconsistencies between the laws of different jurisdictions.

**CONNIVANCE**

The secret or indirect consent or permission of one person to the commission of an unlawful or criminal act by another; an intentional failure to discover or prevent the wrong.

**CONSANGUINITY**

Kinship; blood relationship; the connection or relation of persons descended from the same stock or common ancestor.

**CONSENT DECREE**

A decree agreed upon by the parties as a way to settle a controversy, or substantial part of it, without further litigation.

**CONSERVATOR**

1. One appointed by the chancery court to manage the estate of a person who is found incapable of doing so for reasons of advanced age, physical incapacity, or mental weakness. 2. A person appointed or qualified by a court to act as general, limited or temporary guardian of a minor's property or a person legally authorized to perform substantially the same functions.

**CONSIDERATION**

The inducement to a contract; the promise, price or other value given to persuade another to enter into the contract.

**CONSORTIUM**

A protected interest arising out of the marriage covenant such as society, companionship, love, affection, aid, services, support, and sexual relations.

**CONSORTIUM, LOSS OF**

A claim for damages as a result of a party's loss of his or her spouse's consortium.



**CONSPIRACY**

When two (2) or more people agree and plan to commit a crime.

**CONSTABLE**

As set forth in Miss. Code Ann. Section 19-19-5, an officer whose responsibilities include preserving the peace, aiding and assisting in executing the criminal laws of the state, and serving process.

**CONTRACT-ACCEPTANCE**

An agreement to the conditions or terms stated in an offer.

**CONTRACT-OFFER**

A proposal to enter into a contract; an offer contains conditions or terms.

**CONSTRUCTIVE CONTEMPT**

See, INDIRECT CONTEMPT.

**CONTEMPT**

Conduct or words disruptive to the orderly administration of justice. See also, INDIRECT CONTEMPT; DIRECT CONTEMPT.

**CONTINUANCE**

Postponement of a court proceeding to a later date.

**CONTRABAND**

Property subject to lawful seizure.

**CONTRA BONOS MORES**

Latin: "Against good morals."

**CONTRACT**

A legally enforceable exchange of promises.

**CONTRIBUTORY NEGLIGENCE**

Defense to negligence action barring recovery if injured person was partially at fault in proximately contributing to the injury. Not applicable in Mississippi. Compare, COMPARATIVE NEGLIGENCE.

**CONTROLLED SUBSTANCE**

Any substance regulated by law as to its possession and use.

**CONVERSION**

The unauthorized exercise of ownership over personal property belonging to another.

**CONVEYANCE**

The transfer of title to property from one person to another; the written instrument which effects the transfer of title.

**CONVICT**

1. To find one guilty of a criminal charge as a result of a trial or plea. 2. A prisoner.

**CONVICTION**

An adjudication of guilt.

**COPYRIGHT**

The right to a particular expression of ideas, such as literature, music, art, etc.; the right to control its reprinting.

**CORPUS**

Latin: "The body." The principal substance of a thing; the principal of a fund or estate, as opposed to interest, income, dividends or the like.

**CORPUS DELECTI**

Latin: "The body of the crime." Essential facts which must be established by the prosecution in a criminal case to prove that a crime has in fact been committed.

**CORPUS JURIS**

Latin: “The body of the law.” A comprehensive collection of the law of a country or jurisdiction.

**CORROBORATING EVIDENCE**

Proof which supplements that already given and which tends to confirm or strengthen it.

**COSTS BILL**

The payment that must accompany the filing of a complaint in a civil action. Unused costs deposits are to be returned promptly to the parties on a case-by-case basis. Compare, ACCOUNTING FOR COSTS.

**COUNSEL**

1. An attorney. 2. To provide legal advice.

**COUNT**

1. *Civil*. Each separate claim in the pleadings. 2. *Criminal*. Each separate charge in an indictment.

**COUNTERCLAIM**

A claim asserted by the defendant in a civil action.

**COUNTY COURT**

A statutorily created court with jurisdiction to hear both civil actions up to \$200,000 and misdemeanor offenses. County courts also serve as special courts of eminent domain.

**COURT OF RECORD**

Courts with inherent powers to correct clerical errors and enter judgments, along with incidental power to fine and imprison for contempt.

**COURT REPORTER**

One who makes a record of judicial proceedings using shorthand, steno-type machines, or electronic recording devices.

**CREDITOR**

One to whom a debt is owed.

**CRIMINAL LAW**

Substantive and procedural laws pertaining to felonies and misdemeanors.

**CROSS-CLAIM**

As set forth in M.R.C.P. 13, any claim by one party against a co-party arising out of the transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein or relating to any property that is the subject matter of the original action.

**CROSS EXAMINATION**

Questioning a witness who has testified for the opposing side on direct examination. Ordinarily the purpose of cross examination is to discredit the witness' perception, memory, narration, or sincerity through the use of leading questions.

**CULPABLE NEGLIGENCE**

Negligence of a degree so great as to be equal to a complete disregard or indifference to the safety of human life.

**CURATOR BONIS**

A guardian or trustee appointed to take care of property.

**CUSTODIAL INTERROGATION**

Questioning initiated by law enforcement officers of a person in custody. "In custody" means that from the "totality of the circumstances" a reasonable person would feel arrested as opposed to being temporarily detained.

## **CUSTODY**

1. Restraint of a person to the extent of constituting an arrest. 2. Care and supervision over a person or thing.

## – D –

### **DAMAGES**

Monetary amount recoverable in a civil action to compensate one who has suffered loss, detriment, or injury.

### **DEADLY WEAPON**

An object or weapon reasonably capable of producing death or serious bodily injury.

### **DEBTOR**

One who owes a debt.

### **DECEDENT**

A dead person.

### **DECISION**

1. The court's findings of fact and conclusions of law. 2. The court's written disposition of a case.

### **DECREE**

An equitable decision or order of a chancery court.

### **DECREE PRO CONFESSO**

An entry of default as provided in M.R.C.P. 55.

### **DEED**

A conveyance of realty; a written instrument transferring title and ownership of real property. See also, QUITCLAIM DEED; WARRANTY DEED.

### **DEED OF TRUST**

An instrument by which legal title to real property is transferred to one or more trustees to secure the payment of money or the performance of other conditions. Compare, MORTGAGE.

**DE FACTO**

Latin: “In fact.” Acting or existing without specific legal authority, but of recognized legal effect or consequences. Compare, DE JURE.

**DEFALCATION**

A misuse of funds, especially as it pertains to public or corporate accounts.

**DEFAMATION**

A false statement that harms another’s reputation. Libel is a written defamatory statement, while slander is a spoken one.

**DEFAULT**

Occurs when a party against whom a judgment for affirmative relief is sought fails to plead or otherwise defend the action.

**DEFAULT, ENTRY OF**

See, ENTRY OF DEFAULT JUDGMENT.

**DEFAULT JUDGMENT**

Judgment rendered as a result of a party’s default.

**DEFENDANT**

1. *Civil*. One against whom a lawsuit is initiated. 2. *Criminal*. One accused of a crime.

**DEFICIENCY JUDGMENT**

A judgment in favor of a creditor for the difference between the amount of the debt owed and the amount received from a judicial sale.

**DELIBERATE DESIGN**

Unlawfully deciding to kill another without a legally justifiable or excusable reason.

**DELINQUENT ACT**

Any act, which if committed by an adult, is designated as a crime under state or federal law, or municipal or county ordinance other than offenses punishable by life imprisonment or death. A delinquent act includes escape from lawful detention, violations of the Uniform Controlled Substances Law, and violent behavior.

**DELINQUENT CHILD**

A child who has reached his tenth birthday and who has committed a delinquent act; a child adjudicated delinquent by the youth court.

**DEMAND NOTE**

A note that becomes due and payable as of the date of execution, no demand being necessary.

**DEMURRER**

1. *Civil*. No longer applicable in Mississippi to civil cases. Such is now understood to mean a motion to strike as set out in M.R.C.P. 12(f). 2. *Criminal*. A defendant's formal objection to an alleged defect in an indictment.

**DE NOVO**

Latin: "Anew."

**DEPONENT**

One who gives a deposition.

**DEPOSE**

To give sworn testimony at an informal proceeding, usually without the presence of a judge; the act of obtaining such testimony.

**DEPOSITION**

Sworn testimony given in accordance to the rules of discovery.



**DEPRAVED HEART**

Acting in a highly dangerous way that shows a lack of care for the safety of human life.

**DERAIGN**

Tracing the history of a land title, beginning with the grant by the government and concluding with the last recorded conveyance of the property. Compare, ABSTRACT OF TITLE.

**DETENTION**

1. The care of children in physically restrictive facilities. 2. The temporary care of juveniles and adults who require secure custody for their own or the community's protection in a physically restrictive facility prior to adjudication, or retention in a physically restrictive facility upon being taken into custody after an alleged parole or probation violation. 3. A brief restraint by law enforcement of one's liberty or freedom.

**DEVISE**

A gift of real property under a will.

**DEVISEE**

One given real property under a will.

**DEVISOR**

One who gives real property by means of a will.

**DICTUM**

A comment or remark in an appellate decision having persuasive or suggestive influence but not binding as legal precedent.

**DIGITAL DISCOVERY**

See, ELECTRONIC DISCOVERY.

**DIRECT CONTEMPT**

Contempt committed in the presence of the judge presiding in court or so near the judge as to interrupt the court's proceedings.

**DIRECT EVIDENCE**

1. Evidence which, if believed, proves the fact without inference or presumption. 2. Evidence not circumstantial, e.g., eyewitness testimony.

**DIRECT EXAMINATION**

Questioning of one's own witness at trial who afterwards is subject to cross examination. Ordinarily direct examination precludes the use of leading questions. Compare, CROSS EXAMINATION.

**DISABILITY**

1. Any physical, mental or neurological impairment which severely restricts a person's mobility, manual dexterity or ability to climb stairs; substantial loss of sight or hearing; loss of one or more limbs or use thereof; or significantly diminished reasoning capacity. 2. Incapacity because of injury to earn the wages which the employee was receiving at the time of injury in the same or other employment, which incapacity and the extent thereof must be supported by medical findings.

**DISCOVERY**

Procedures whereby each party, to avoid unfair surprise at trial, may discover beforehand certain information accessible to the opposition. Examples of discovery in civil cases includes depositions, written interrogatories, production of documents or things, and admissions.

**DISCOVERY CONFERENCE**

A conference held by the court in a civil action for the purpose of: fixing the issues to be tried; establishing a plan and schedule of discovery; setting limitations upon discovery, if any; and determining such other matters, including the allocation of expenses, as are necessary for the proper management of discovery in the case.

**DISMISSAL**

Procedure that concludes a civil action prior to a trial on the merits. A voluntary dismissal is ordinarily without prejudice. An involuntary dismissal, unless otherwise specified in the court order, is ordinarily with prejudice.

**DISMISSAL ON CLERK'S MOTION**

Procedure that allows clerk, upon proper notice to the attorneys of record, to move for the dismissal of a civil action in which there has been no action for twelve months. A subsequent dismissal by the court is without prejudice.

**DISMISSAL WITH PREJUDICE**

A dismissal that operates as an adjudication upon the merits of the case. Such precludes a refiling of the claim.

**DISMISSAL WITHOUT PREJUDICE**

A dismissal that does not operate as an adjudication upon the merits. Such does not preclude a refiling of the claim.

**DISORDERLY CONDUCT**

Offensively disruptive behavior constituting a breach of the public peace and safety.

**DISTRIBUTION**

Apportionment and division of an intestate's estate to the rightful heirs after payment of the estate's debts and charges.

**DIVERSION**

Unauthorized use of funds.

**DIVERSION PROGRAM**

See, PRETRIAL INTERVENTION PROGRAM.

**DIVORCE**

Legal termination of a marriage.

**DOCKET**

A chronological log of activities maintained by the clerk on each civil action or criminal case.

**DOMESTIC ANIMAL**

An animal that is customarily owned or used by people.

**DOMESTIC DOCUMENT**

An official record, or entry in it, kept within the United States or any state, district, commonwealth, territory, etc.

**DOMICILE**

One's primary place of abode and to which, upon a departure therefrom, there is a present intention of returning.

**DOUBLE JEOPARDY**

Constitutional protections prohibiting: a second prosecution after acquittal; a second prosecution after conviction; and multiple punishments for the same offense. In Mississippi, jeopardy attaches when a jury is empaneled and sworn, or for a non-jury trial, when the first witness is sworn.

**DRUG**

Any substance recognized or designated as a drug by law. Such would include controlled substances and over-the-counter medicines.

**DUE PROCESS**

Rules of procedure necessary to ensure a fair and just trial.

**DURANTE VIVA**

Latin: "During life."

**DWELLING HOUSE**

A structure where one lives or where one intends to live.

## – E –

### **EASEMENT**

A right or interest in real property for use of a particular purpose, e.g., a right of way. It may be created by grant, implication, or prescription.

### **EJECTMENT**

A civil action to recover possession of land and damages from one in unlawful retention.

### **EJUSDEM GENERIS**

Latin: “Of the same kind.”

### **ELECTRONIC DISCOVERY (E-DISCOVERY)**

Discovery of data and information stored electronically.

### **ELECTRONIC FILING (E-FILING)**

Documents filed in an electronic format.

### **ELECTRONIC MAIL (E-MAIL)**

Electronic communications conveyed to an addressee by means of a computer or like device.

### **EMINENT DOMAIN**

Power of a governmental entity, subject to the award of due compensation, to take the real property of a private owner for public use. Compare, CONDEMNATION.

### **EN BANC**

A case heard by the full court.

### **ENJOIN**

To issue an order that requires or prohibits certain conduct.

### **ENLARGEMENT**

An order for cause shown enlarging the period of time an act is required or allowed to be done.

**ENTRAPMENT**

Law enforcement inducing a person to commit a crime even though such person was not originally predisposed to do so. Entrapment is an affirmative defense.

**ENTRY OF DEFAULT JUDGMENT**

A default entered by the clerk when a party against whom a judgment is sought has failed to plead or otherwise defend the action. Such precedes a default judgment.

**EQUITABLE ESTOPPEL**

Doctrine that forbids one who, by words or conduct, induced another to detrimentally rely upon a material fact from later taking a contrary position.

**EQUITY**

That system of justice which was administered by the high court of chancery in England. Courts of equity proceed according to equitable rules and principals not available to courts of law, e.g., the clean hands doctrine, laches, etc.

**ESCAPEE**

One who escapes from lawful incarceration, confinement or custody.

**ESCHEAT**

Reversion of property to the state when a person dies without any heirs.

**ESCROW**

Conditional delivery of something to a third party to be held until the occurrence of some event or the performance of some act.

**ESTATE**

The total interest one has in real and personal property.

**ET ALIA (ET AL.)**

Latin: "And others."

**ET SEQUENTES (ET SEQ.)**

Latin: “And the following.”

**ET UXOR (ET UX.)**

Latin: “And wife.”

**ET VIR**

Latin: “And husband.”

**EVICTIO PROCEEDING**

Civil action to remove the tenant from the premises.

**EVIDENCE**

Proof such as testimony and tangible objects offered during a trial or hearing for the purpose of proving or disproving some fact. See also, CIRCUMSTANTIAL EVIDENCE; CONCLUSIVE EVIDENCE; CORROBORATING EVIDENCE; DIRECT EVIDENCE; EXPERT TESTIMONY; HEARSAY; OPINION TESTIMONY BY LAY WITNESSES; PHYSICAL EVIDENCE.

**EXCLUSIONARY RULE**

Rule that excludes from the prosecutor’s case-in-chief the admissibility of evidence directly or derivatively obtained by exploitation of an illegal search or seizure.

**EX CONTRACTU**

Latin: “From a contract.” Rights and claims arising from a contract.

**EXCULPATORY**

Tending to clear or excuse from fault or guilt.

**EX DELICTO**

Latin: “From a wrong.” Rights and claims arising from a tort.

**EXECUTION**

1. *Civil*. A writ issued for the purpose of enforcing a judgment. 2. *Criminal*. Imposition of the death penalty.



<b>EXECUTOR</b>	One named in a will whose duty is to carry out its provisions.
<b>EXEMPLI GRATIA (E.G.)</b>	Latin: “For example.”
<b>EXHIBIT</b>	A document or other tangible evidence produced during a trial or hearing.
<b>EX MERO MOTO</b>	Latin: “On the court’s own motion.” A phrase often occurring in grants, charters, etc.
<b>EX OFFICIO</b>	Latin: “By virtue of the office.”
<b>EXONERATE</b>	To relieve of liability; to excuse.
<b>EX PARTE</b>	Latin: “By one side.” Proceeding in which only one party is being heard.
<b>EXPERT TESTIMONY</b>	Testimony relating scientific, technical, or other specialized knowledge by one qualified to do so.
<b>EX POST FACTO</b>	Latin: “After the fact.”
<b>EXPUNGE</b>	To erase, as authorized by law, information contained in a record.
<b>EX RELATIONE (EX REL.)</b>	Latin: “By or on the relation of.” Often connotes legal proceedings instituted by the attorney general or other appropriate person in the name of the state on information and at the instigation of a private individual.

**EXTENUATING CIRCUMSTANCES**

Unusual circumstances supporting a position for leniency. Compare, MITIGATING CIRCUMSTANCES.

**EXTRADITION**

Summary procedure for the surrender of a fugitive to the authorities of the offended jurisdiction.

**EYEWITNESS**

One who actually saw a particular event as it took place.

## — F —

### **FACSIMILE**

An exact copy or reproduction of something.

### **FAILURE OF SERVICE**

Inability to serve a copy of the summons on a defendant.

### **FALSE ARREST**

An arrest not authorized by law.

### **FALSE IMPRISONMENT**

When one holds or imprisons another unlawfully or when one causes another to do so.

### **FALSE PRETENSES**

Knowingly making a false representation of a material fact thereby obtaining something of value without compensation.

### **FAMILY MASTER**

A qualified person appointed to hear certain referred cases involving support and paternity matters.

### **FEE SIMPLE**

Absolute ownership of real property, usually with unconditional powers of disposition.

### **FELONY**

An offense punishable by death or confinement in the penitentiary; an indictable offense. Compare, MISDEMEANOR; INFAMOUS CRIME.

### **FEME COVERT**

A married woman.

### **FEME SOLE**

An unmarried woman.

**FIAT**

Latin: “Let it be done.” A short order or warrant of a judge or other competent authority directing some legal act to be done.

**FIERI FACIAS**

Latin: “Cause to be done.” Directing an execution to be levied on the goods of a judgment debtor.

**FILE**

1. To deliver a document to the clerk for filing into the official record. 2. The official record of a case kept and preserved as provided by law.

**FILING FEES**

Fees paid to the clerk of the court upon initiating a civil action.

**FILING OF JUDGMENT**

Delivery of the judgment to the clerk for filing into the official record.

**FINE**

A monetary punishment or penalty.

**FINIS**

Latin: “The end.”

**FLAGRANTE DELICTO**

Latin: “While the offense is blazing.” Caught in the act of committing the offense.

**FORECLOSURE**

To shut out; a termination of the borrower’s rights in property covered by a mortgage.

**FOREIGN CORPORATION**

A corporation created under the laws of another state, government or country.

**FORENSIC**

Describing a discipline readily applicable to evidentiary matters, e.g., forensic medicine, forensic chemist, forensic pathologist, etc.

**FORFEITURE**

1. The failure to recognize and assert a right. 2. A divestiture of specific property without compensation as the consequence of some default or act forbidden by law.

**FORGERY**

To falsely make or materially alter a document with intent to defraud.

**FORUM**

A place where issues are litigated and resolved; a jurisdiction; a court.

**FRAUD**

Knowingly misrepresenting a material fact to induce another to detrimentally act upon it in the manner reasonably contemplated.

**FRONTAGE**

That portion of real property abutting a street or road.

**FUGITIVE**

One who flees from justice upon being charged with a criminal offense. Compare, ESCAPEE.

**FUGITIVE WARRANT**

A warrant for the arrest of one who has fled to another state to avoid prosecution.

**FULL FAITH AND CREDIT**

U.S. Constitutional requirement that each state fully recognize and enforce all legitimate and final judgments of other states and federal courts.

## **FUTURE INTERESTS**

An existing interest in real or personal property, ordinarily freely transferable, in which the privilege of possession or enjoyment is future and not present.

## – G –

<b>GARNISHEE</b>	One upon who a writ of garnishment is served.
<b>GARNISHMENT</b>	Statutory process of enforcing a judgment by attaching monies or property owed to the defendant, such as employment wages.
<b>GENERAL VERDICT</b>	A verdict requiring no special form.
<b>GIFT</b>	A voluntary transfer of property.
<b>GIFT CAUSA MORTIS</b>	A gift made in prospect of imminent death.
<b>GOOD FAITH</b>	Honest and trustworthy action.
<b>GOVERNMENTAL IMMUNITY</b>	Exemption from civil liability of a governmental entity absent its consent.
<b>GRAND JURY</b>	Impaneled group of men and women convened to determine whether probable cause exists to return an indictment. Compare PETIT JURY.
<b>GRANT</b>	To agree to; to make a concession; to convey, especially real property.
<b>GRANTEE</b>	One to whom a grant is made.
<b>GRANTOR</b>	One who makes a grant.

**GRANTOR/GRANTEE INDEX**

Index to property titles in which the records are kept by reference to grantor's and grantee's names.

**GRATUITOUS**

Without valuable or legal consideration.

**GRAVAMEN**

The principle or most important part of a complaint or argument.

**GROSS**

1. Total amount, e.g., gross earnings. 2. Flagrant or shameful.

**GROSS NEGLIGENCE**

Negligence of a degree so great that it shows a reckless disregard for the safety or rights of others.

**GUARDIAN**

Legally recognized custodian of the person or property of another with prescribed fiduciary duties and responsibilities under court authority and direction.

**GUARDIAN AD LITEM**

A representative of the court appointed to assist in properly protecting the best interests of a child or incompetent person by means of investigations, recommendations, and reports.



## – H –

### **HABEAS CORPUS**

Latin: “To have the body.” Procedure for setting at liberty persons illegally held. Miss. Code Ann. Section 99-39-3 has abolished its use for post-conviction proceedings. As such, it is now generally only brought by a prisoner claiming to be held without having been convicted.

### **HABENDUM CLAUSE**

A clause in a deed defining the extent of ownership in the thing granted. Such is usual in a mineral deed.

### **HARMLESS ERROR**

Error of insufficient prejudicial effect to warrant a reversal. Such is apparent if a fair minded juror, even if the error were rectified, could only have arrived at a verdict of guilt.

### **HEARING**

A legal proceeding before the court in which testimony is presented, e.g., preliminary hearing, plea hearing, suppression hearing, trial, sentencing, etc.

### **HEARSAY**

“A statement that: (1) the declarant does not make while testifying at the current trial or hearing; and (2) a party offers in evidence to prove the truth of the matter asserted in the statement.” M.R.E. 801(c).

### **HEAT OF PASSION**

Unlawfully acting in a state of violent and uncontrollable rage.

**HEIR, HEIRESS**

One who inherits or receives property from another who has died; such person may be male (heir) or female (heiress).

**HOLIDAY**

See, LEGAL HOLIDAY.

**HOLOGRAPHIC WILL**

A last will and testament entirely in the handwriting of the maker and signed at the end; valid in Mississippi even when made without witnesses.

**HOMESTEAD EXEMPTION**

Statutory right of householder to hold exempt from seizure or sale, under execution or attachment, a certain value and acreage of the personal residence.

**HOMICIDE**

The killing of one human being by another.

**HOUSE ARREST**

The confinement of a person convicted or charged with a crime to that person's residence under the terms and conditions established by the department of corrections or court.

**HUNG JURY**

A jury which after extensive deliberations cannot agree upon a verdict.

**HYPOTHECATE**

To guarantee a debt by pledging one's property as security.

## – I –

**IBIDEM (IB., IBID.)**

Latin: “In the same place.”

**IDEM (ID.)**

Latin: “The same.”

**ID EST (I.E.)**

Latin: “That is.”

**IMPEACHMENT**

An attack upon the credibility of a witness.

**IMMUNITY**

Exemption from liability. See also, ABSOLUTE IMMUNITY; QUALIFIED IMMUNITY; GOVERNMENTAL IMMUNITY.

**IN CAMERA**

Latin: “In chambers.” A judicial act done outside the presence of the public or jury.

**INCARCERATION**

Confinement to a jail or prison.

**IN CURIA**

Latin: “In the court.”

**INDEFEASIBLE**

That which is irrevocable; something which cannot be defeated or voided; usually applied to ownership of an estate or right.

**INDICTMENT**

Formal charge of a felony returned by a grand jury.

**INDIGENT**

Poor; without funds.

**INDIRECT CONTEMPT**

1. Any contempt other than a direct contempt. 2. An act done beyond the presence of the court which is calculated to impede, embarrass, obstruct, defeat or corrupt the orderly administration of justice.

**IN ESSE**

Latin: "In being."

**IN EXTREMIS**

Latin: "In the extreme." One who is near death and with no hope of recovery.

**INFAMOUS CRIME**

An offense punishable by death or confinement in the penitentiary; a felony.

**IN FORMA PAUPERIS**

Latin: "In the manner of a pauper." One who for reasons of poverty is relieved from paying fees and costs of a lawsuit or appeal.

**INFORMATION**

Formal charge of a felony issued by a prosecutor. Such is permissible if the defendant validly waives the indictment.

**INFRA**

Latin: "Below." Compare, SUPRA.

**INHERITANCE**

Property received by will or by law from someone who has died.

**IN HOC**

Latin: "In this." In this respect.

**INJUNCTION**

An order issued by a court that requires someone to do or not to do something.

**IN LIMINE**

Latin: "At the threshold." A motion in limine seeks a ruling at the beginning of a trial to exclude the use of certain evidence.

**IN LOCO PARENTIS**

Latin: "In place of the parent."

**IN PARI DELICTO**

Latin: "In equal fault."

**IN PERSONAM**

Latin: "Against the person." The power of a court to hear claims for or against a particular person. Compare, IN REM.

**IN POSSE**

Latin: "In possible existence."

**INQUEST**

A legal inquiry into the circumstances of the death of a human being; generally held before a court of law or an official legally empowered to hold such inquiries.

**IN RE**

Latin: "In the matter of."

**IN REM**

Latin: "Against the thing." The power of a court to hear claims involving a particular thing or property. Compare, IN PERSONAM.

**IN SITU**

Latin: "In place." In its original site or place.

**INSOLVENCY**

The condition of being unable to pay one's debts.

**INTELLECTUAL PROPERTY**

Property originating from human intellect and the property rights obtained therein, such as copyright, patent, and trademark.

**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

A tort claiming that one has intentionally acted in an extreme and outrageous way and has caused another to have emotional distress.

<b>INTER ALIA</b>	Latin: “Among other things.”
<b>INTER ALIOS</b>	Latin: “Among other persons.”
<b>INTERLOCUTORY</b>	Provisional; temporary; not final.
<b>INTERNET</b>	The computer network of federal and non-federal interoperable packet switched data networks.
<b>INTERPLEADER</b>	Procedure that permits a stakeholder of money or property to join potential claimants to avoid double or multiple liability.
<b>INTERROGATORIES</b>	Written questions served upon an opposing party to be returned with sworn answers.
<b>INTERVENOR</b>	One who by right or permission intervenes in a civil action.
<b>INTERVENTION OF RIGHT</b>	Procedure that gives one claiming an interest relating to the property or transaction of a civil action the right to intervene to protect such interest.
<b>INTERVENTION, PERMISSIVE</b>	See, PERMISSIVE INTERVENTION.
<b>INTER VIVOS</b>	Latin: “Between the living.” From one living person to another.
<b>INTESTATE</b>	Without a will.
<b>IN TOTO</b>	Latin: “In the whole.” Entirely.

**INVASION OF PRIVACY**

A tort claiming that one has intentionally intruded on another's right to privacy or seclusion; intentionally used another's likeness or photograph for business purposes without permission; intentionally and publically disclosed private information about another without permission; or intentionally and publically represented another in a false light.

**INVEIGLE**

To lure or entice.

**INVITEE**

One who enters premises at the express or implied invitation of the owner.

**INVITEE, BUSINESS**

One who enters and remains on a business's property by express or implied invitation of the business owner.

**IPSO FACTO**

Latin: "By the fact itself."

**IPSO JURE**

Latin: "By the law itself."

**ISSUANCE**

Sending out orders or papers relating to the business of the court.

## – J –

### **JOINDER**

Procedure that permits one to join claims or persons to an action. Such allows for the efficient administration of justice by eliminating piecemeal litigation and balancing the rights of all persons whose interests are involved in an action.

### **JOINT TENANCY**

Co-ownership of property by two or more persons with the right of survivorship. The deed or other instrument must clearly indicate the intent to create a joint tenancy with the right of survivorship, and not as tenants in common.

### **JUDGMENT**

A final decision or order from which an appeal may be taken; the final determination of an action.

### **JUDGMENT NISI**

A judgment that becomes final upon compliance with certain statutory procedures, e.g., a judgment nisi ordering the forfeiture of bail.

### **JUDGMENT NOTWITHSTANDING THE VERDICT (JNOV)**

A judgment that sets aside the verdict.

### **JUDICIAL NOTICE**

A court accepting into evidence, without requiring proof, an adjudicative fact not subject to reasonable dispute.

### **JUDICIAL SALE**

A court ordered sale.



**JURAT**

Clause written at the bottom of an affidavit stating when, where and before whom the affidavit was sworn.

**JURISDICTION**

The power of the court to hear and decide a particular matter.

**JUROR**

A member of a jury.

**JURY COMMISSIONER**

An official responsible for selecting potential jurors.

**JURY INSTRUCTIONS**

Instructions given to the jury of the law pertaining to the case.

**JURY PANEL**

See, PANEL.

**JURY TAX**

Costs collected by the clerk or sheriff, as set forth in Miss. Code Section 9-7-133, as a fund for the payment of jurors.

**JUSTICE COURT**

Established by the Mississippi Constitution with limited criminal and civil jurisdiction, essentially misdemeanor offenses and small claims.

– **K** –

**KICKBACK**

Remuneration in return for unlawfully soliciting business.

**KIDNAPPING**

To seize or inveigle forcibly with intent to confine or imprison.

**KILL**

To terminate a life. Compare, MURDER.

## – L –

### **LACHES**

Equitable defense barring recovery if a party has inexcusably delayed in asserting a right or claim which thereby resulted in undue prejudice.

### **LANDLORD**

1. As used in Mississippi's Residential Landlord and Tenant Act, the owner, lessor or sublessor of the dwelling unit or the building of which it is a part, or the agent representing such owner, lessor or sublessor. 2. One with legal standing to sue the tenant for breach of the rental agreement.

### **LAND PATENT**

A governmental conveyance of public land to a private individual.

### **LARCENY**

Stealing the personal property of another. Grand larceny applies if the value of the property stolen is \$1000.00 or more. Petit larceny applies if the value of the property stolen is less than \$1000.00. *See* Miss. Code Ann. §§ 97-17-41 and -43.

### **LAWSUIT**

A case or controversy brought before a court.

### **LEAD COUNSEL**

The lawyer who is principally in charge of a case.

### **LEASE**

An agreement to rent real or personal property, usually for a specified time; creates a legal relationship known as

	landlord and tenant or lessor and lessee.
<b>LEAVE OF COURT</b>	Permission of the court necessary to proceed in way that otherwise would be prohibited or limited by the rules of procedure.
<b>LEGACY</b>	A disposition of personal property by will.
<b>LEGAL</b>	Of or relating to the law.
<b>LEGAL HOLIDAY</b>	Days declared a legal holiday under Miss. Code Ann. Section 3-3-7 or as otherwise provided by law. The courthouse is officially closed on such days.
<b>LEGATEE</b>	One who receives personal property under a will.
<b>LESSEE</b>	Someone who leases or rents property, real or personal, from another. Compare, TENANT.
<b>LESSOR</b>	One whose property, real or personal, is rented or leased to another. Compare, LANDLORD.
<b>LETTERS OF ADMINISTRATION</b>	A formal document issued by the chancery court authorizing one to act as the administrator of a decedent's estate.
<b>LETTERS OF CONSERVATORSHIP</b>	A formal document issued by the chancery court authorizing one to act as the conservator of an estate.
<b>LETTERS OF GUARDIANSHIP</b>	A formal document issued by the chancery court authorizing one to act as the guardian

**LETTERS ROGATORY**

of a minor or specified ward of the court.

Procedure to obtain testimony from a witness residing in a foreign jurisdiction.

**LETTERS TESTAMENTARY**

A formal document issued by the chancery court authorizing one to act as the executor of a decedent's estate.

**LEVY**

1. To impose a tax. 2. Legal process of satisfying a judgment by the seizure and sale of property.

**LEX**

Latin: "The law."

**LEX LOCI**

Latin: "The law of the place." The local law or custom.

**LIBEL**

A written defamatory statement. Compare, DEFAMATION.

**LICENSE**

1. Permission by the applicable governing authorities to engage in certain activity or conduct upon meeting specific criteria. 2. Permissive use of land by which the owner allows another to come onto the owner's land for a specific purpose.

**LICENSEE**

One who enters and remains on another's property for one's own benefit, with the owner's consent or permission.

**LIEN**

A claim against property to secure a debt or other obligation.

**LIENHOLDER**

One holding a claim against property to secure a debt or other obligation.

**LIFE ESTATE**

An estate in which the duration is limited to a specified person's lifetime, usually the possessor. Compare, PER AUTRE VIE.

**LIMITATION OF ACTIONS**

A time limit set by law within which certain legal actions must be brought.

**LINEUP**

A police identification procedure in which the suspect is presented alongside others of similar general appearance and stature. Compare, SHOWUP.

**LIS PENDENS**

Latin: "A pending lawsuit." A notice of lis pendens is filed of record to warn the public that certain property is involved in litigation.

**LITIGANT**

A party in a civil action.

**LITIGATION**

The lawsuit process.

**LIVESTOCK**

Animals, such as cattle and swine, produced for profit.

**LUCID INTERVAL**

A temporary restoration of sanity.

## – M –

<b>MAGISTRATE</b>	An informal term describing one authorized by law to perform judicial functions.
<b>MAKE A RECORD</b>	To preserve for appellate review an argument or proof.
<b>MALFEASANCE</b>	An act by a public official that is positively wrong or unlawful. Compare, MISFEASANCE, NONFEASANCE.
<b>MALICE</b>	Intentionally acting wrongfully without having a valid reason or excuse.
<b>MALICE AFORETHOUGHT</b>	Deliberate design.
<b>MALICIOUS MISCHIEF</b>	When one intentionally and maliciously damages or destroys another's property.
<b>MALICIOUS PROSECUTION</b>	A tort claiming that one has intentionally instituted a civil or criminal action against another without a reasonable basis for the action.
<b>MALPRACTICE</b>	Failure to provide the degree of care, skill and diligence expected of a minimally competent and reasonably prudent professional of the same specialty.
<b>MALPRACTICE, LEGAL</b>	Failure by an attorney to provide the degree of knowledge, skill, and diligence expected of a minimally competent and reasonably prudent attorney practicing in the same community.

**MALPRACTICE, MEDICAL**

Failure by a physician to act with the same degree of attention, skill, ability, and caution expected of a minimally competent and reasonably prudent physician practicing in the same medical specialty or general field of medicine.

**MANDAMUS**

Latin: “We command.” An order issued by a higher court commanding an inferior tribunal, corporation, board, officer, or person to fulfill a specific responsibility.

**MANDATE**

1. A judicial, legislative, or executive command or directive. 2. A formal issuance by an appellate court of its decision.

**MANUFACTURE OF A  
CONTROLLED SUBSTANCE**

To unlawfully produce or prepare a controlled substance.

**MENS REA**

Latin: “Guilty knowledge.” With criminal intent.

**METADATA**

Literally, data about data; information about the data sought and its type.

**MINUTE BOOK**

An official record of all significant court proceedings kept by the clerk.

**MIRANDA WARNINGS**

Warnings required to be given by law enforcement when subjecting a suspect to custodial interrogation, i.e., “You have the right to remain silent, . . . .”



**MISDEMEANOR**

A criminal offense punishable by a maximum possible sentence of confinement for one year or less, a fine, or both. Compare, FELONY.

**MISFEASANCE**

Performing a legal duty in a wrongful manner. Compare, MALFEASANCE, NONFEASANCE.

**MISJOINDER**

The improper joining of a party in an action.

**MISSISSIPPI UNIFORM  
POST CONVICTION  
COLLATERAL RELIEF ACT  
(§ 99-39-1 et seq.)**

Exclusive and uniform procedure to review objections, defenses, claims, questions, issues or errors which could not be or should not have been raised at trial or on direct appeal.

**MISTRIAL**

A trial declared invalid by the court because of a fundamental error in the proceedings or the inability of the jury to reach a verdict.

**MITIGATING CIRCUMSTANCES**

Facts and conditions which do not constitute a justification or excuse for an offense but which may be considered as reducing the degree of blame or fault.

**MITIGATION OF DAMAGES**

A doctrine that requires an injured party to take reasonable precautions to limit damages resulting from a tort or breach of contract.

**MITTIMUS**

Latin: “We send.” A writ to commit an offender to prison or to direct the transfer of records from one court to another.

**MODUS OPERANDI (M.O.)**

Latin: “Manner of operation.”

**MOOT**

A legal controversy rendered pointless because of a subsequent event; a theoretical or hypothetical issue.

**MORTGAGE**

A lien on real property to secure the performance of some obligation which is discharged upon payment or performance as required. Compare, DEED OF TRUST.

**MORTGAGEE**

One to whom the obligation on a mortgage or deed of trust is owed.

**MORTGAGOR**

The maker of a mortgage or a deed of trust; the one who owes the obligation on a mortgage.

**MOTION**

A formal application to the court seeking an order or relief.

**MOTION DAY**

A day designated by a court to hear motions.

**MOTION FOR JUDGMENT  
ON THE PLEADINGS**

A request for judgment based solely on the face of the pleadings.

**MOTION FOR MORE  
DEFINITE STATEMENT**

A request that a vague or ambiguous pleading to which a response is permitted be made more definite and specific.

**MOTION FOR ORDER  
COMPELLING DISCOVERY**

A request that the court force an opposing party to cooperate in discovery.

**MOTION FOR RELIEF FROM  
JUDGMENT OR ORDER**

A request to correct clerical mistakes in judgments or orders, or to seek relief from a final judgment, order or proceeding from errors such as fraud, newly discovered evidence, misrepresentation, etc.

**MOTION FOR SECURITY OF COSTS**

A request by the clerk or a party which, if granted, requires the plaintiff to deposit monies with the court to be used to pay the costs of the action if the plaintiff should not prevail.

**MOTION TO DISMISS FOR  
FAILURE TO STATE A CLAIM  
UPON WHICH RELIEF CAN BE  
GRANTED**

A request to dismiss a case on the basis that the plaintiff would not be entitled to relief even if all the facts alleged in the complaint were proved true.

**MOTION TO STRIKE  
(FROM PLEADINGS)**

A request that the court delete from a pleading any insufficient defense or material which is redundant, immaterial, impertinent or scandalous.

**MOTION TO SUPPRESS**

A request in a criminal case to keep certain facts or evidence from being brought out at trial.

**MOTION TO TERMINATE  
OR LIMIT EXAMINATION**

A request made by a party or the deponent during the taking of a deposition that the court end or restrict an examination that is being conducted in bad faith or in a manner calculated merely to annoy, embarrass or oppress.

**MULTIPLICITY OF ACTIONS**

Multiple litigation against a single defendant involving the same legal issue.

**MUNICIPAL COURT**

A statutory court with jurisdiction to hear and determine, without a jury, all cases charging municipal ordinance violations and state misdemeanor laws made offenses against the municipality.

**MURDER**

Murder is defined under Miss. Code Ann. Section 97-3-19(1). Generally, it is a deliberate or depraved killing of a human being without legal excuse or justifiable cause. Compare, KILL.

## – N –

### **NE EXEAT**

Latin: “Let him not go out.” A writ prohibiting a particular person from leaving the jurisdiction of the court.

### **NEGLIGENCE**

A failure to act as a reasonably prudent person would act under similar circumstances.

### **NEGLIGENCE, GROSS**

Negligence of a degree so great that it shows a reckless disregard for the safety or rights of others.

### **NEGLIGENCE PER SE**

Negligence as a matter of law.

### **NEXT FRIEND**

An adult who, in the absence of an appointed guardian, sues on behalf of an infant or incompetent person.

### **NIL**

Latin: “Nothing.” A thing of no value.

### **NO BILL**

Opinion of the grand jury that evidence is insufficient to warrant the finding of an indictment. Compare, TRUE BILL.

### **NO FAULT**

A method of resolving disputes without considering the issue of fault.

### **NOLLE PROSEQUI**

Latin: “I am unwilling to prosecute.” A formal dismissal of a criminal indictment. Such, though, does not bar a subsequent indictment for the same offense.

**NOLO CONTENDERE**

Latin: "I will not contest it." A plea whereby the defendant neither admits nor denies guilt, but instead accepts a judgment of guilt by choosing not to contest the allegations underlying the charge. Mississippi does not allow nolo contendere pleas in felony cases.

**NOMINAL DAMAGES**

A small and trivial sum awarded for a technical injury due to a violation of some legal right.

**NONADJUDICATION**

Withholding adjudication of guilt of an eligible defendant pursuant the statutory requirements.

**NON COMPOS MENTIS (N.C.M.)**

Latin: "Not of sound mind."

**NONFEASANCE**

Failing to perform a legal duty.

**NON-JOINDER**

Failure to join a party needed for a just adjudication.

**NON SEQUITUR**

Latin: "It does not follow." An unwarranted or illogical conclusion.

**NONSUIT**

A plaintiff's voluntary dismissal of a lawsuit prior to an adjudication on the merits.

**NOTARY PUBLIC**

A bonded public officer who may administer oaths and affirmations, receive the proof or acknowledgment of all instruments of writing relating to commerce and navigation, and such other writings as are commonly proved or acknowledged before notaries.

**NOTICE**

Notification to a party or witness as required by law.

**NOTICE TO QUIT**

A written notice by the landlord demanding the tenant to quit the premises.

**NULLA BONA**

Latin: “Nothing collected.” A form of return by a sheriff or constable upon an execution when a judgment debtor has no seizable property within the jurisdiction.

**NUNC PRO TUNC**

Latin: “Now for then.” To supply omissions in the record of what had previously been done, but for reasons of mistake or neglect had not been entered.

## — O —

### **OATH**

A sworn pledge, e.g., an oath to tell the truth prior to giving testimony.

### **OBJECTION**

Protocol for requesting the trial court to rule on the admissibility of a particular question, statement, or exhibit.

### **OFFENDER**

One charged or convicted of a crime under the laws of the State.

### **OFFENSE**

A violation of a criminal law.

### **OFFER OF JUDGMENT**

A formal offer to take an adverse judgment conditioned upon certain specified terms.

### **OPEN ACCOUNT**

A type of credit extended through an advance agreement by a seller to a buyer which permits the buyer to make purchases without a note of security and is based on an evaluation of the buyer's credit.

### **OPEN PLEA**

A plea in which the State does not make any recommendation regarding sentencing.

### **OPINION TESTIMONY BY LAY WITNESSES**

Testimony by a non-expert that is rationally based on the perception of the witness, helpful to a clear understanding of the testimony, and not based on scientific, technical, or other specialized knowledge.

### **ORDER**

A formal command of a court, usually in writing.



**ORDINANCE**

A municipal law.

**ORE TENUS**

Latin: “By word of mouth.” Orally.

**OUTRAGEOUS CONDUCT**

Conduct which exceeds all possible bounds of decency.

## – P –

### **PANEL**

A group of jurors chosen to serve in a specific court; those selected to hear a trial of a certain action; denotes either the whole body of persons summoned for a particular court term or those selected at random.

### **PAR**

Latin: “Equal.”

### **PARITY**

An equitable term denoting equality in amount, status or character.

### **PARAMOUR**

A lover to whom one is not married.

### **PARAPHERNALIA**

1. Personal belongings. 2. Any type of equipment or accessory utilized for illicit drug use.

### **PARENS PATRIA**

Latin: “Parent of the country.” Doctrine that refers to a State’s sovereign power to act in protecting its more vulnerable citizens, such as children or incompetent adults.

### **PARISH**

In Louisiana, the equivalent of what in Mississippi would be a county.

### **PAROLE**

The conditional release of a prisoner.

### **PAROL EVIDENCE RULE**

An evidentiary rule which forbids the introduction of oral evidence to modify the terms of a written contract.

### **PARTITION**

The court supervised division of real or

	personal property.
<b>PARTY</b>	One who is directly involved in a lawsuit, e.g., plaintiff, defendant; appellant, appellee; petitioner, respondent; etc.
<b>PARTY WALL</b>	A wall constructed on a property line.
<b>PATENT</b>	Right held by patent holder that protects against the infringement of a particular invention or discovery.
<b>PATERNITY SUIT</b>	A court proceeding to prove the father of an illegitimate child.
<b>PAUPER'S OATH</b>	An affidavit seeking a waiver of costs and security for reasons of poverty.
<b>PENDENTE LITE</b>	Latin: "While the action is pending."
<b>PER AUTRE VIE</b>	For or during a period measured by another's life.
<b>PER CAPITA</b>	Latin: "By the head." Share and share alike. A per capita distribution is an equal division of an estate among descendants who enjoy the same degree of kinship to the decedent. Compare, PER STIRPES.
<b>PER CURIAM</b>	Latin: "By the court." A per curiam opinion is one that speaks in unison for all members of the court.
<b>PEREMPTORY CHALLENGE</b>	Requesting the court to exclude a prospective juror for reasons that are non-discriminatory. Each side is afforded a limited number of peremptory challenges.

<b>PERJURY</b>	To deliberately make false statements under oath.
<b>PERMISSIVE INTERVENTION</b>	Procedure that permits, within the discretion of the court, one to intervene if asserting a claim or defense with a common question of law or fact in the civil action.
<b>PER SE</b>	Latin: "By itself."
<b>PERSONAL PROPERTY</b>	Property that is not realty.
<b>PERSONAL RECOGNIZANCE</b>	Release of a defendant charge with a criminal offense without any condition relating to, or a deposit of, security.
<b>PERSONALTY</b>	Personal property.
<b>PERSONA NON GRATA</b>	Latin: "An unacceptable person."
<b>PER STIRPES</b>	Latin: "By roots or stocks." By representation. A per stirpes distribution is where a class or group of individuals or distributees take the share which their "stock" (deceased ancestor) would have been able to take in a per capita distribution.
<b>PETIT JURY</b>	The jury selected to hear the trial of a criminal or civil case. Compare, GRAND JURY.
<b>PHYSICAL EVIDENCE</b>	Tangible proof, e.g., document, x-ray, weapon, etc.; also called real evidence.
<b>PLAINTIFF</b>	One who initiates a legal action.

<b>PLEA</b>	1. <i>Civil</i> . Obsolete; replaced in civil practice by a motion or answer. 2. <i>Criminal</i> . A defendant's formal response to a criminal charge.
<b>PLEA BARGAIN</b>	A negotiated plea between the prosecuting entity and the defendant but subject to the court's approval. Compare, OPEN PLEA.
<b>PLEAD</b>	To answer or respond to an indictment; to answer an allegation.
<b>PLEADINGS</b>	The process by which parties to an action alternately present written statements of their contentions of the case.
<b>PLEA IN ABATEMENT</b>	In civil practice, the same as a motion. See, MOTION.
<b>PLURIES SUMMONS</b>	A third summons issued when the original and alias summonses have been ineffective.
<b>POLLING THE JURY</b>	Procedure in which each juror is asked by the court if the verdict rendered is that juror's verdict.
<b>POST CONVICTION RELIEF</b>	See, MISSISSIPPI UNIFORM POST CONVICTION COLLATERAL RELIEF ACT.
<b>POST-NUPTIAL</b>	Latin: "After marriage."
<b>POST-RELEASE SUPERVISION</b>	A conditional suspension of a prison sentence as set forth in Miss. Code Ann. Section 47-7-34.

**POWER OF ATTORNEY**

A document empowering another person to act as one's legal representative or attorney.

**PRECEDENT**

An appellate decision that carries authoritative weight in deciding later cases involving similar legal issues.

**PREJUDICIAL ERROR**

An error which warrants the appellate court to reverse the judgment of a lower court; reversible error.

**PRELIMINARY HEARING**

A hearing conducted pursuant to Rule 6 of the Mississippi Rules of Criminal Procedure for determining whether there is probable cause to believe that a felony has been committed and probable cause to believe that the defendant committed it. A defendant who has been indicted by a grand jury is not entitled to a preliminary hearing.

**PRENUPTIAL AGREEMENT**

A premarital contract that operates in the event of divorce or death. Such are enforceable in Mississippi provided there is fairness in execution and full disclosure.

**PREPONDERANCE OF THE EVIDENCE**

Evidence which is of greater weight than that offered against it; more probable than not.

**PRESENTENCE REPORT**

A written report submitted to the court prior to sentencing that consists of an offender's criminal, educational, and social history. It also contains other pertinent information, such as victim impact statements.

<b>PRESENTMENT</b>	An instruction presented by a grand jury for an indictment to be drawn.
<b>PRESIDING JUDGE</b>	The judge who directs, controls or regulates the proceedings in a court.
<b>PRESUMPTION OF LAW</b>	A presumption that the law expressly directs to be made from particular facts in the absence of contrary evidence.
<b>PRETERMITTED HEIR</b>	A child born after the making and publishing of a will but who is still entitled to a share of the testator's estate.
<b>PRETRIAL CONFERENCE</b>	A conference held by the judge and attorneys prior to trial for the purpose of considering various ways to expedite or resolve the case.
<b>PRINCIPAL</b>	1. <i>Civil</i> . One who authorizes another to act as an agent. 2. <i>Criminal</i> . One who is primarily responsible for a crime.
<b>PROBABLE CAUSE</b>	Standard for issuing an arrest warrant or search warrant upon reasonably trustworthy information regarding criminal activities or contraband.
<b>PROBATE</b>	The act or process of proving the validity of a will and disposing of the estate.
<b>PROBATION</b>	A period of time whereby a defendant is not incarcerated but must abide by certain terms and conditions imposed by the court. See also, SUPERVISED PROBATION; UNSUPERVISED PROBATION.

<b>PROCEEDING</b>	The form and manner of conducting judicial business.
<b>PROCESS</b>	Formal procedures a court uses to acquire or exercise jurisdiction over persons or property, e.g., a summons or subpoena.
<b>PROCESS SERVER</b>	One employed to deliver a summons, subpoena or other document.
<b>PROOF OF SERVICE</b>	Evidence that process has been returned.
<b>PROPERTY</b>	Something, such as land or an item, which one has the right to own, possess, and use.
<b>PRO SE</b>	Latin: “For himself.” Self-representation; representing oneself without the assistance of an attorney.
<b>PRO TANTO</b>	Latin: “For so much.”
<b>PROTECTIVE ORDER</b>	1. <i>Domestic relations</i> . An order issued by the chancery, circuit, or county court to bring about the cessation of abuse of the petitioner, any minor children, or any person alleged to be incompetent. 2. <i>Discovery</i> . An order issued by the court to protect a party or witness from discovery abuses.
<b>PRO TEMPORE (PRO TEM.)</b>	Latin: “For the time being.”
<b>PROXIMATE CAUSE</b>	A necessary element in proving negligence that is comprised of two distinct concepts: “cause in fact” and “foreseeability.”



**PUBLIC OFFICIAL**

One who is elected or appointed to any office or position where the salary or fee of such office or position is paid by the State or any political subdivision.

**PUNITIVE DAMAGES**

Damages awarded to punish the wrongdoer.

## – Q –

### **QUAERE**

Latin: “A query.” Questions; doubt.

### **QUALIFIED IMMUNITY**

Exemption from civil liability for public officials acting within the course and scope of their employment.

### **QUANTUM**

Quantity; amount.

### **QUASH**

To annul or make void.

### **QUID PRO QUO**

Latin: “One thing for another.” A fair exchange.

### **QUIET AND CONFIRM TITLE**

Decree validating the title to real property.

### **QUITCLAIM DEED**

A deed that conveys, without warranty, whatever title, interest, or claim the grantor may have in the described real property. Compare, SPECIAL WARRANTY DEED.

### **QUO WARRANTO**

Latin: “By what authority.” A statutory mechanism for trying, among other things, a person’s right to political office.

## – R –

### **REAL PROPERTY, REALTY**

Land and generally anything affixed to land or erected upon it.

### **REASONABLE SUSPICION**

A particularized and objective basis for suspecting criminal activity sufficient to justify an investigatory stop.

### **RECEIVER**

One appointed by the court to take and manage the property or money which is the subject matter of litigation.

### **RECESS**

A short break ordered by the court during the course of the trial.

### **RECKLESS DISREGARD**

When one knows that a risk of emotional distress probably would result from one's conduct, and then disregards that risk and the harm that may occur as a result.

### **RECKLESS DRIVING**

Driving a vehicle in such a manner as to indicate either a wilful or a wanton disregard for the safety of persons or property.

### **RECORD**

1. The act of filing a written instrument. 2. A complete transcript of all trial proceedings, along with any pleadings and exhibits. Compare, ABSTRACT OF RECORD.

### **RECOUPMENT**

See, COUNTERCLAIM.

**REDACT**

To remove text from a document, such as personal information; to edit.

**REDEMPTION**

The buying back or repurchasing of something, e.g., the redemption of property by paying off the mortgage.

**REDIRECT EXAMINATION**

Questioning of one's own witness at trial after the opposing side has finished its cross-examination.

**REFORMATION OF INSTRUMENTS**

The correction or modification of written documents to make them conform to the original intent of the parties.

**RELEASE**

1. The discharge of a particular right or claim. 2. Procedures under Rule 8 of the Mississippi Rules of Criminal Procedure governing the release of a defendant from custody pending trial.

**REMAINDER**

A future interest in a life estate or estate for years.

**REMAND**

To send back for further action consistent with the accompanied directives or instructions, e.g., a remand for new trial.

**REMITTITUR**

Latin: "It is sent back." A court order reducing the amount of damages awarded by the jury.

**REPLEVIN**

An action brought to recover possession of goods unlawfully taken.

<b>REPORTS</b>	Published judicial cases arranged according to jurisdiction, court, period of time, subject matter or case significance.
<b>RES</b>	Latin: “A thing.” The thing over which a court exercises in rem jurisdiction.
<b>RESCIND</b>	To abrogate, annul, or cancel, especially as to contracts.
<b>RESIDENCE</b>	The place where one presently lives. Compare, DOMICILE.
<b>RES IPSA LOQUITUR</b>	Latin: “The thing speaks for itself.”
<b>RES JUDICATA</b>	Latin: “A thing adjudicated.” A doctrine that precludes parties from relitigating the same controversy.
<b>RESPONDEAT SUPERIOR</b>	Latin: “Let the master answer.” A doctrine holding employers liable for the negligence of its employees.
<b>RESPONDENT</b>	The party against whom a petition is filed.
<b>RETAINER FEE</b>	An advanced payment to an attorney for legal representation.
<b>RETURN</b>	Documentation delivered to the court showing execution of process.
<b>REVIEW</b>	To carefully consider a legal or factual issue.
<b>RULE AGAINST PERPETUITIES</b>	A common law rule that invalidates interests in real estate that vest too remotely in time.

**RULE OF SEQUESTRATION  
(THE RULE)**

The practice of excluding witnesses from the courtroom prior to the time for them to testify.

## – S –

### **SANCTION**

A judicial disciplinary action.

### **SCIENTER**

Latin: “Knowingly.”

### **SCIRE FACIAS**

Latin: “Cause it to be known.” A writ requiring the surety to show cause why a judgment nisi should not be made final.

### **SEARCH WARRANT**

An order issued by a judge upon probable cause directing an officer to search a specified place for a specified thing.

### **SELF DEFENSE**

Justifiably protecting oneself or others against an assault.

### **SENTENCE**

Punishment imposed by the court upon a criminal defendant who has been convicted.

### **SEPARATE MAINTENANCE**

Decree granting an allowance for the support of the spouse and any children during a period of separation.

### **SEQUESTRATION**

1. The isolation of the jury or witnesses during a trial. 2. Authorized seizure of property pertinent to a lawsuit to prevent its removal, concealment, or transfer.

### **SERVICE OF PROCESS**

The delivery of a summons, subpoena, etc., by an authorized person; official notification of a legal action or proceeding.

### **SET-OFF**

See, COUNTERCLAIM.

<b>SETTLEMENT</b>	An agreement that resolves the claims and issues between the parties.
<b>SETTLEMENT, STRUCTURED</b>	An agreement where one agrees to pay sums of money to another over a specified period of time.
<b>SHOW CAUSE</b>	Procedure that affords a person the opportunity to give a satisfactory reason why the court should not make final a particular judgment, e.g. a show cause hearing on a judgment nisi.
<b>SHOWUP</b>	A police identification procedure in which the suspect is presented alone. Compare, LINEUP.
<b>SINE DIE</b>	Latin: “Without date.”
<b>SINE QUA NON</b>	Latin: “That without which the thing cannot be.” An indispensable thing or condition.
<b>SITUS</b>	Latin: “Place.”
<b>SLANDER</b>	A spoken defamatory statement. Compare, DEFAMATION.
<b>SOCIAL GUEST</b>	One who goes onto and remains on another’s property at the property owner’s invitation to enjoy hospitality or an event.
<b>SOCIAL MEDIA</b>	Formats for users to communicate electronically.
<b>SOFTWARE</b>	Computer programs such as operating systems and applications.



**SOLICITOR**

An English legal practitioner. Compare, BARRISTER.

**SPECIAL COMMISSIONER**

A non-lawyer appointed by the court to conduct a judicially ordered sale or partition of real or personal property.

**SPECIAL MASTER**

A qualified person appointed, upon written consent of the parties or a showing that an exceptional condition requires it, to perform a specified act. Such would include a referee, an auditor, an examiner, a commissioner, or a special commissioner.

**SPECIAL VENIRE**

The list of jurors summoned for a capital case.

**SPECIAL VERDICT**

A verdict requiring a special written finding upon each issue of fact.

**SPECIAL WARRANTY DEED**

A deed where grantor specially warrants to defend title only to those claims of grantor and those claiming through grantor. Compare, QUITCLAIM DEED.

**SPECIFIC PERFORMANCE**

An equitable remedy for a breach of contract compelling the performance of the terms of the contract.

**STALKING**

Any person who willfully, maliciously and repeatedly follows or harasses another person, or who makes a credible threat, with the intent to place that person in reasonable fear of death or great bodily injury.

**STARE DECISIS**

Latin: “To stand by the thing decided.”  
Doctrine that a settled principal of law should be followed by the courts to preserve continuity in the rule of law.

**STATUS OFFENSE**

Conduct subject to adjudication by the youth court that would not be a crime if committed by an adult.

**STATUS QUO**

Latin: “The situation that currently exists.”

**STATUTE**

A law enacted by the legislature or Congress.

**STATUTE OF FRAUDS**

Statutory requirement that certain contracts be in writing and signed, e.g., the sale of lands.

**STATUTE OF LIMITATIONS**

See, LIMITATION OF ACTIONS.

**STAY**

The halting of a judicial process by court order.

**STIPULATION**

An agreement between attorneys on opposite sides of a case allowing a certain fact to be established in evidence without the necessity of further proof.

**SUA SPONTE**

Latin: “Of one’s own will.” Without prompting or suggestion; voluntarily.

**SUB JUDICE**

Latin: “Under judicial consideration.”

**SUBLEASE**

A lease whereby the tenant rents an interest in the leasehold property to a third party; creates a legal relationship known as sublessor and sublessee. Compare, LEASE.

**SUBPOENA**

Process requiring a witness to appear and give testimony at a deposition, hearing or trial.

**SUBPOENA DUCES TECUM**

Process requiring a witness to produce certain documents, records, or other tangible evidence at a deposition, hearing or trial.

**SUBROGATION**

One's right to sue on the claim of another.

**SUBSCRIPTION**

Signature on a legal document.

**SUI GENERIS**

Latin: "Of its own kind."

**SUI JURIS**

Latin: "Of one's own right." Full legal capacity.

**SUMMARY JUDGMENT**

A judgment made on the pleadings where there is no genuine issue of material fact requiring a trial and the prevailing party is entitled to a judgment as a matter of law.

**SUMMONS**

Legal notification of a lawsuit as set forth in M.R.C.P. 4 or as otherwise required by law.

**SUPERSEDEAS**

Latin: "You must desist." A stay of legal proceedings pending an appeal, e.g., a supersedeas of a money judgment.

**SUPERVISED PROBATION**

A conditional suspension of a prison sentence as set forth in Miss. Code Ann. Section 47-7-33.

**SUPRA**

Latin: “Above.” Compare, INFRA.

**SURETY**

One who is liable for the debt of another in the event of default, e.g., a bail bondsman.

**SUSPENDED SENTENCE**

A prison sentence that a defendant does not have to serve upon successful completion of probation.

## – T –

### **TALESMAN**

A bystander summoned by the court for jury service.

### **TAX TITLE**

Title to land purchased at a tax sale.

### **TENANCY BY THE ENTIRETY**

Co-ownership of property by husband and wife with the right of survivorship. The deed or other instrument must clearly indicate the intent to create a tenancy by the entirety with the right of survivorship, and not as tenants in common.

### **TENANCY IN COMMON**

Co-ownership of property by two or more persons without the right of survivorship. Compare, JOINT TENANCY.

### **TENANT**

One who rents property from another.

### **TENANT AT WILL**

One who rents property from another without a fixed term.

### **TENDER**

A monetary offer, usually to settle a claim.

### **TERMINATION OF PARENTAL RIGHTS**

Procedure, as set forth in the “Mississippi Termination of Parental Rights Law,” for the termination of all parental rights regarding a child.

### **TERM OF COURT**

Time during which the court legally conducts business. Compare, VACATION.

### **TESTAMENTARY**

Pertaining to a will.

<b>TESTATOR, TESTATRIX</b>	A person who has made a will; one who has died having left a will; may be a testator (male) or testatrix (female).
<b>TESTIMONIUM CLAUSE</b>	A part of a document, usually a deed, which gives the date on which the writing was executed and by whom.
<b>TESTIMONY</b>	Spoken evidence given under oath or affirmation.
<b>TITLE</b>	The right to, or ownership in, real or personal property; the document which is evidence of this right. See also, CLEAR TITLE; TAX TITLE.
<b>TORT</b>	Latin: “Twisted.” A negligent or intentional act that causes harm for which there is liability.
<b>TORTFEASOR</b>	One who commits a tort; a wrongdoer.
<b>TRADEMARK</b>	A word, phrase, symbol or design which identifies a product as belonging to its owner.
<b>TRANSCRIPT</b>	The official verbatim record of legal proceedings.
<b>TRANSFER OF VENUE</b>	The transfer of a case from one venue to the proper county of venue.
<b>TRAUMA</b>	Any injury to the body caused by external violence; a wound.
<b>TRESPASS</b>	An unlawful act against another’s property.

**TRESPASSER**

One who commits a trespass; one who goes onto and remains on another's property without the property owner's permission or consent.

**TRUE BILL**

A grand jury's endorsement upon a bill of indictment when sufficient evidence is found to warrant a criminal charge. Compare, NO BILL.

**TRUSTEE**

One who holds property in trust for the benefit of another.

**TRUSTY STATUS**

A prisoner status, as defined by the classifications board of the Mississippi Department of Corrections, having certain benefits and privileges.

**TURNKEY**

A jailor, especially one in charge of the keys; an officer who is primarily assigned to the custody of prisoners.

## – U –

### **ULTRA VIRES**

Latin: “Beyond the power.” Transcending legal power or authority, especially if by an officer of a corporation.

### **UNDUE INFLUENCE**

Exerting influence or control over another to the extent of destroying free agency or voluntary consent.

**UNLAWFUL ENTRY AND DETAINER** A summary remedy to rightfully restore possession of real property.

### **UNSUPERVISED PROBATION**

A conditional suspension of a prison sentence under the supervision of the judge.

### **USURY**

A higher rate of interest charged on loans or accounts than allowed by law.



## — V —

<b>VACATION</b>	The period between terms of court.
<b>VENDEE</b>	A purchaser.
<b>VENDOR</b>	A seller.
<b>VENIRE</b>	Technically, a writ summoning persons to court to serve as jurors; commonly used to refer to the entire group of jurors summoned.
<b>VENIRE, SPECIAL</b>	See, SPECIAL VENIRE.
<b>VENIREMEN</b>	Members of a panel of jurors.
<b>VENUE</b>	The particular geographical area, such as a county, in which a court with jurisdiction may hear and determine a case. See also, CHANGE OF VENUE; TRANSFER OF VENUE.
<b>VERDICT</b>	A formal decision or finding by a jury. See also, GENERAL VERDICT; SPECIAL VERDICT.
<b>VICTIM</b>	1. One who has been harmed by a wrongful act. 2. As set forth in Miss. Code Ann. Section 99-43-3, a person against whom the criminal offense has been committed, or if the person is deceased or incapacitated, the lawful representative.
<b>VOID</b>	Of no legally binding effect.

**VOIDABLE**

Capable of being declared void.

**VOIR DIRE**

French: “To speak the truth.” The preliminary examination by the court and attorneys as to the qualifications of jurors or witnesses.

**VULNERABLE PERSON**

One who is not able to lead a normal daily life or is not able to take care of oneself due to a mental, emotional, physical, or developmental state, or as a result of aging or brain damage.

## – W, X, Y, and Z –

### **WAIVER**

Intentional relinquishment or abandonment of a known right.

### **WILD ANIMAL**

An animal that is not customarily owned or used by people.

### **WAIVER OF IMMUNITY**

1. Statutory provision that waives the immunity of the state and its political subdivisions from certain tort claims. 2. A formal relinquishment of the right against self-incrimination, especially as to testimony before a grand jury.

### **WAIVER OF PROCESS**

Procedure whereby a party to lawsuit waives service of process as allowed by law.

### **WARRANTY DEED**

Conveyance of clear, good title to real property, which especially has the effect of embracing all of the five covenants known to common law, to wit: seizin, power to sell, freedom from encumbrance, quiet enjoyment and warranty of title, including defending title against any claims.

### **WILL**

A properly executed document that directs the distribution of real and personal property of an estate to the heirs.

### **WILLFUL, WILLFULLY**

Intentionally doing, or failing to do, an act.

### **WITNESS**

One who testifies under oath in a legal proceeding.

**WRIT**

A court order requiring performance of a specified act, or giving authority and commission to have it done.

**WRIT OF ERROR CORAM NOBIS**

Latin: “The error before us.” A device allowing the court to correct its own judgment upon the discovery of substantial factual errors.

**YOUTH COURT**

Statutorily created court with exclusive original jurisdiction in all proceedings concerning: a delinquent child; an abused or neglected child; a child in need of supervision; and a dependent child.

**ZONING**

A municipal action which defines or restricts the acceptable use of real property.