

GLOSSARY

ADDENDUM	Something to be added, especially to a document; a supplement.
ADJUDICATE	To decide judicially.
ADMISSIONS	The acknowledgement or recognition in a pleading by one party of the truth of some matter alleged by the opposite party through a Request for Admissions, the effect of which is to narrow the area of facts or allegations required to be proved by evidence.
AFFIDAVIT	A written, printed, or videotaped declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before an officer having authority to administer such oath.
AFFIRMATION OF MARRIAGE	A judicial proceeding in which a party seeks to confirm or ratify that a valid marriage exists between that party and the other party to the suit.
ANCILLARY PROCEEDING	One growing out of or auxiliary to another action or suit, or which is subordinate to or in aid of a primary action, either law or in chancery.
ANCILLARY PROCESS	Any process which is in aid of or incidental to the principal suit or action; e.g. attachment.
ANNULMENT	A judicial proceeding in which one party seeks to nullify a void or voidable marriage. A voidable marriage is valid until annulled, while a void marriage never was a valid marriage.
ANSWER	A pleading by which defendant in civil suit at law endeavors to resist the plaintiff's demand by stating facts. The defendant may deny the claims of the plaintiff, or agree to them, and may introduce new matter.
APPELLANT	The party who appeals a case from a court to another court having appellant jurisdiction over the case being appealed.
APPELLEE	The party in a cause against whom an appeal is taken. Sometimes also called the "respondent".
ATTACHMENT	The act or process of taking, apprehending, or seizing persons or property, by virtue of a writ, summons or other judicial order, and bringing the same into custody of the court for purpose of securing satisfaction of the judgment ultimately to be entered in the action.
ATTORNEY-IN-FACT	A person, not necessarily a lawyer, to whom authority is given by another to act in his place. The authority to act as an Attorney-In-Fact is given by a document containing a power or letter of attorney.
BILL OF COMPLAINT	The pleading filed in equity actions prior to 1/1/06. <i>See</i> COMPLAINT.

BOND	A certificate or evidence of a debt with a sum fixed as a penalty, which contains a written agreement binding the parties to pay the penalties. It contains a condition, however, that the payment of the penalty may be avoided by the performance by some one or more of the parties of certain acts.
CALENDAR	The court schedule of the list of pending cases.
CHALLENGE FOR CAUSE	A request from a party to a judge that a certain prospective juror not be allowed to be a member of the jury because of specified causes or reasons which would legally justify such person not being allowed to serve as a juror in the case.
CHANCERY	A term used in circuit courts prior to 1/1/06, to identify equity cases in which the party filing suit is seeking an award of something other than money. Prior to 1/1/06, equity cases were referred to as "chancery" cases and filed on the "chancery" side of the court. Senate Bill, effective 1/1/06, merged law and chancery into civil and in essence abolished the "chancery" side of the court. <i>See CIVIL.</i>
CHANCERY DOCKET	Chancery Dockets were maintained prior to January 1, 2006. The chancery docket listed all chancery cases in the sequence in which they were filed and generally referred to pending cases only. Senate Bill 1118 became effective 1/1/06, merging law and chancery and creating one "civil" docket.
CHANCERY ORDER BOOK	Chancery Order Books were maintained prior to 1/1/06. These books contain a copy of all orders (both interlocutory and final) entered in equity cases. They are recorded in the date order in which they were entered in the court, not batched together with other orders in the same case. Senate Bill 1118, effective 1/1/06, merged law and chancery and mandated that civil actions be recorded in a Civil Order Book.
CIVIL ACTION	An action seeking monetary damages or asking for equitable relief. Senate Bill 1118, effective 1/1/06, eliminated the distinction of cases as "law" or "chancery", instead referring to these types of cases as civil actions.
CIVIL CONTEMPT	A type of contempt of court which generally arises from a willful failure to comply with an order of the court such as an injunction as contrasted with criminal contempt which consists generally of contumelious conduct in the presence of the court. <i>See CONTEMPT.</i>
CIVIL DOCKET	A listing of all pending civil actions, whether "legal" or "equitable" in nature. Prior to 1/1/06 and the implementation of Senate Bill 1118 which merged law and chancery, separate Chancery and Law Dockets were maintained.

CIVIL ORDER BOOK	The Civil Order Book contains a copy of all orders (both interlocutory and final) entered in civil cases. The orders are recorded in the date order in which they were entered in the court, not batched together with other orders in the same case. Prior to 1/1/06 and the implementation of Senate Bill 1118, separate Chancery and Common-Law Order Books were maintained.
COMMISSIONER IN CHANCERY	A lawyer appointed by the chief circuit court judge who conducts evidentiary hearings and makes factual findings in circuit court cases referred to him by the circuit court judge who is conducting the trial. The Commissioner in Chancery collects a fee for his services. His findings of fact are subject to challenge before the circuit court judge through the “noting of exceptions” by the objecting lawyer or an unrepresented party, which results in a hearing and re-examination of the evidence by the judge.
COMMON LAW	In general, it is a body of law that develops and derives through judicial decisions, as distinguished from legislative enactments. The “common law” also includes all the statutory and case law background of England and the American colonies before the American revolution.
COMPLAINT	The pleading used to state a party's claim in a civil action, whether legal or equitable in nature. Prior to 1/1/06 and the implementation of Senate Bill 1118 which merged law and chancery, a Bill of Complaint was filed in an equity case while a Motion for Judgment was filed in a case seeking monetary damages. Variations include an amended complaint (amendment to the original complaint), complaint for notary service (party accepts or waives service on affidavit pursuant to Va. Code § 20-99.1:1), complaint for non-resident service (service of process to be made outside Virginia) and a cross-claim (complaint filed by the party being sued in the original complaint).
CONSOLIDATION	Unification of two or more actions. <i>See</i> CONSOLIDATION OF ACTIONS.
CONSOLIDATION OF ACTIONS	The act or process of uniting several actions into one trial and judgment, by order of the court, where all actions are between the same parties, pending in the same court and involving substantially the same subject matter.
CONSTRUE	To put together; to arrange or marshal the words of an instrument. As with a will - to ascertain the meaning of language by a process of arrangement and inference.

CONTEMPT	Any act which is calculated to embarrass, hinder, or obstruct the court in administration of justice, or which is calculated to lessen its authority or its dignity. Contempt can be divided into two categories - civil and criminal. <i>See</i> CIVIL CONTEMPT.
CONTINUANCE	The adjournment or postponement of a session, hearing, trial, or other proceeding to a subsequent day or time; usually on the request or motion of one of the parties. Also the entry of a continuance made upon the record of the court, for the purpose of formally evidencing the postponement.
COSTS	(1) A pecuniary allowance, made to the successful party (and recoverable from the losing party), for his expenses in prosecuting or defending an action or a distinct proceeding within an action. Generally, "costs" do not include attorney fees unless such fees are by a statute classified as costs or are by statute allowed to be recovered as costs in the case. (2) Fees and charges required by law to be paid to the courts or some of their officers, the amount of which is fixed by statute; e.g. filing and service fees.
COUNTERCLAIM	A claim presented by a defendant in opposition to or deduction from the claim of the plaintiff.
CROSS-CLAIM	Claim by party against a co-party arising out of the transaction that is the subject matter of the original action or of a counterclaim; i.e. litigated by parties on the same side of the main litigation.
DE NOVO HEARING	A new hearing or a hearing for the second time contemplating an entire trial in the same manner in which the matter was originally heard. Court hears matter as court of original jurisdiction and not appellate jurisdiction.
DECREE	The judgment of a court of equity. It is the equivalent to an Order (just a different name).
DEMURRER	A pleading by a defendant disputing the legal sufficiency of plaintiff's pleadings. In effect, it is an allegation that "even if the plaintiff's claims are true, he has not stated a claim which is sufficient for the judge to enter an order in his favor for the requested award." It is used to try to get a case dismissed because the legal claims are not sufficient for granting judicial relief.

DEPOSITION	The testimony of a witness taken upon oral examination or by written questions, after notice to the adverse party, not in open court, but in pursuance of a notice to take testimony issued by the party wanting the deposition. The adverse party has the right to attend and cross-examine. Testimony is reduced to writing and duly authenticated, and intended to be used in connection with the trial of an action in court.
DISCOVERY	Procedures by which one party to a lawsuit may obtain information relevant to the case which is held or known by the other party. Discovery methods include: <ul style="list-style-type: none"> · depositions · interrogatories · requests for production of evidence · request for admissions · request for physical or mental examination of a person · subpoena duces tecum
DISMISSAL	An order disposing of an action, suit, etc., without trial.
DOCKET	A record of all cases and actions scheduled to be heard in court, whether or not the matter is actually heard in a court on a particular day.
ENCUMBRANCE TO PROPERTY	Binding claim or liability attached to real property. Encumbrances are generally liens which affect the title to the property or restrictions which affect the physical use of property, such as easements or encroachments.
ENTRY OF ORDER OR DECREE	Signing of order or decree by judge.
EQUITABLE DISTRIBUTION	The distribution of property between husband and wife in a divorce or annulment case. Each party receives so-called "separate property" outright, while "marital property" acquired during the marriage in which <u>both</u> parties have some legal rights or interests are divided between the parties based on the "equities" of the parties (what would be a fair distribution in light of contributions to the marriage, earning capacity, obligations, etc.).
EQUITY	See CHANCERY and CIVIL ACTION.
EXHIBIT	At trial, it is the document or other tangible item which a party seeks to have the judge accept as valid evidence in the case. An exhibit does not become evidence in the case until the judge rules that it is accepted as evidence in the case.
FINAL ORDER	One which either terminates the action itself, or finally decides some matter litigated by the parties, or operates to divest some right; or one which completely disposes of the subject-matter and the rights of the parties.

FREEHOLDER	Any person owning an interest in land in fee, including a person owning a condominium unit.
GARNISHEE	One garnished; a person against whom process of garnishment is issued; one who has money or property in his possession belonging to a judgment debtor, or who owes the judgment debtor a debt, which money, property, or debt is attached in his hands, with notice to him not to delivery or pay over to the judgment debtor the amount claimed in the garnishment summons until the judgment in the suit is entered.
GARNISHMENT	A statutory post-judgment proceeding in which a third party who holds property, money or credits belonging to the judgment debtor is required to surrender such property, money or credits (to the extent of the judgment) to the court or sheriff for application against the judgment awarded against the judgment debtor.
HABEAS CORPUS	A writ commanding the person holding a person in custody to bring the person before the court for a determination of whether the person is restrained of his liberty by due process.
INJUNCTION	A writ (<i>see</i> WRIT) issued by a judge in a chancery case, which is issued at the request of one party and directed to another party, and which either (1) forbids the other party to do some act (or permits his servants or agents to do an act) which he is threatening or attempting to commit, or (2) restrains him from continuing such act, because such act is unjust, inequitable, injurious to the party requesting the injunction, and cannot be adequately redressed by a law action.
INTERLOCUTORY	Temporary, provisional, interim, preliminary.
INTERPLEADER	When two or more persons claim the same thing (or fund) of a third, and he, laying no claim to it himself, is ignorant which of them has right to it, and fears he may be prejudiced by their proceeding against him to recover it, he may join such claimants as defendants and require them to interplead their claims so that he may not be exposed to double or multiple liability.
INTERROGATORIES	A set or series of written questions drawn up for the purpose of being asked of a party, a garnishee, or a witness or other party to be answered under oath.
INTERVENOR	Person who voluntarily interposes in an action or other proceeding with the permission of the court.
ISSUE OUT OF CHANCERY	A factual question that arises in an equity suit because of conflicting evidence. It is an issue of fact rather than an issue of law.
JUDGMENT CREDITOR	The person who wins an award against some other person in a civil suit.

JUDGMENT DEBTOR	The person against whom an award is made in a civil suit.
JUDGMENT LIEN DOCKET	In circuit court, it is a book in which judgments for money are recorded in the sequence in which the order or decree creating the judgment was entered. Space is also provided to show credits paid to reduce the amount of judgment still outstanding and to show when the judgment lien is released (canceled). Upon the recording of a judgment in this book, a lien is created on all real estate owned in whole or in part by the judgment debtor in the city or county over which the circuit court has jurisdiction.
JURISDICTION	The authority of a court or other governmental agency to adjudicate controversies brought before it. <u>CAUTION</u> : It is sometimes used to mean the county, city or town where something occurred, especially in describing venue.
JURY TRIAL	Trial of matter or cause before jury as opposed to trial before judge. In a jury trial, the jury decides issues of facts, but issues of law are decided by a judge.
LEVY	The obtaining of money by legal process through seizure and sale of property; the raising of the money for which an execution has been issued.
MEMORANDUM	A writing designed to record an agreement or a set of facts.
MOTION (generally)	A request made to the judge by a litigant or other person connected with the case for a ruling or order.
MOTION FOR JUDGMENT	The pleading filed in cases seeking monetary damages prior to January 1, 2006. <i>See</i> COMPLAINT.
MOTION TO QUASH	<i>See</i> QUASH. A party uses it when seeking a determination that service of process was not proper and, therefore, the court has no jurisdiction over an improperly served party. It may also be used to stop execution (enforcement) of a judgment where the writ (<i>see</i> WRIT) of fieri facias is defective, judgment has been satisfied, etc.
NONSUIT	An oral or written act by a plaintiff at any time prior to judgment which terminates the case without a decision on the merits. The plaintiff may take an initial non-suit as a matter of right; subsequent non-suits can be taken only with the judge's consent. <i>See</i> Va. Code § 8.01-380 .
NOTICE	Information, such as <u>notice</u> of a hearing or the taking of depositions. Notices are in writing when required by law.
ORE TENUS	Oral. Used as a technical term to describe a hearing or pleading which is orally presented.
PARTITION	The dividing of lands held by joint tenants or tenants in common into distinct portions so that they may hold them severally; which may be compulsory (judicial) or voluntary.

PENDENTE LITE	“Pending the suit” during the actual progress of the suit, during litigation. <u>Pendente lite</u> orders or decree are entered while the suit is pending and are always prior to the final order or decree.
PETITION	A pleading used to initiate a case, especially a case styled “In re”
PLEA IN EQUITY	A pleading in which a party asserts that the entire case can be decided on one very specific set of facts which, if true, would decide the case in that party's favor.
PLEADINGS	The formal allegations by the parties of their respective claims and defenses, for the judgment of the court.
POWER OF ATTORNEY	An instrument in writing whereby one person, as principal, appoints another as his agent and confers authority to perform certain specified acts or kinds of acts on behalf of principal. An instrument authorizing another to act as one's agent or attorney. The agent is attorney in fact and his power is revoked on the death of the principal by operation of law. Such power may be either general (full) or special (limited).
PRAECIPE	A pleading used by a party with notice to other parties to have the case called at “docket call” of the first day of a term of circuit court to get a trial date set by the judge.
PRO SE	For himself, in his own behalf, in person. It is used to describe a person who represents himself in court (without being represented by a lawyer).
PROCESS	Any means used by a court such as a “Capias to Show Cause” or “Witness Subpoena” to acquire or exercise its jurisdiction over a person or over specific property. Means whereby court compels appearance of defendant or property before it or a compliance with its demands which is completed with a notice served on an individual.
PROCESS BOOK	In circuit court, it is a book used to record the issuance of process to a sheriff and recording return of process made by the sheriff.
PRODUCTION OF DOCUMENTS, REQUEST FOR	A discovery request from one party to the other party for such other party to deliver the documents to a particular location for inspection or copying.
PROOF OF SERVICE	Documentation by the person who served the process of how, when, where and on whom process was served.
QUASH	To vacate, annul, make void, abate or overthrow.
RECUSAL	The process by which a judge is disqualified on objection of either party (disqualifies himself or herself) from hearing a lawsuit because of self-interest, bias, or prejudice.
REFERENDUM	The process of referring to the electorate for approval of a proposed new law or amendment to an existing law.

RESTORATION OF MAIDEN NAME	In a divorce action, it is an optional part of the case in which the wife asks and the judge, if he agrees, changes in the divorce decree the wife's married name to her former maiden name. The same result can be obtained in a separate case for change of name.
RULE OF SHOW CAUSE	A court ruling directing the recipient to appear and present to the court such reasons and considerations as one has to offer why the recipient should not be punished for violating a court order or legal process or for contempt of court.
SATISFACTION	The discharge of an obligation by paying a party what is due to him or what is awarded to him, by the judgment of a court or otherwise.
SERVICE OF PROCESS - FEES	Fees charged by persons serving process for serving process. Fees are paid by litigants.
SERVICE OF PROCESS - PERSONAL	Service of a summons or other process made by delivering it in person to the person named in the process.
SERVICE OF PROCESS - PUBLICATION	Service of a summons or other process upon an absent or non-resident defendant, by posting a notice on the courthouse door and, unless dispensed with by the judge, by publishing the same as an advertisement in a designated newspaper, with such other effort to give him actual notice as the particular statute may prescribe.
SERVICE OF PROCESS - SUBSTITUTE	Service of a summons or other process by any means authorized by statute other than by personal service. These include service by publication, posted service, service on alternative individual as authorized by statute.
SERVICE OF PROCESS - WAIVER	A document signed under oath in which a party to be served with process abandons his right to be served with process, which permits the court to proceed with the case for most purposes as if the party had been served.
STIPULATION AGREEMENT	A document in which the parties agree to the correctness of certain statements of fact.
SUBPOENA IN CHANCERY	The form of process used in chancery cases in Virginia prior to 1/1/06. Senate Bill 1118, effective 1/1/06, replaced the Subpoena in Chancery with a Summons - Civil Action as the form of process. The pleadings to be served with the process are attached to the summons.
SUMMONS	Effective 1/1/06 with the implementation of Senate Bill 1118 which merged law and chancery, the summons became the form of process for initiating a civil case in Virginia.
SURETY	One who undertakes to pay money or to do any other act in the event that his principal fails to perform as promised. In criminal cases, the accused is the principal.

TERM DAY	The first day of the period of time prescribed by law during which a court holds session. The docket is set on this day for the session or not set at some other time(s).
TRANSCRIPT	An official copy of the record of proceedings in a trial or hearing. Word-for-word typing of everything that was said "on the record" during the trial. The stenographer (court reporter) types this transcription which is paid for by the parties requesting it.
VENIREMAN	A member of a panel of jurors; a juror summoned by a writ of venire facias.
VENUE	"Venue" designates the particular county or city within which a court with jurisdiction may hear and determine a case. CAUTION: the term "jurisdiction" is used to designate a particular locality for venue purposes.
VOIR DIRE	(French - to see and speak). Questioning of potential jury members by the court, lawyers or parties themselves if not represented by counsel. Voir Dire is intended to determine the suitability of prospective jurors to hear a particular case.
WRIT	An order in writing in the name of the state, issuing from a court of justice, addressed to a sheriff or other officer of the law, or directly to the person whose action the court desires to command, either as the commencement of a suit or other proceeding or as incidental to its progress, and requiring the performance of a specified act, or giving authority and commission to have it done.
WRIT OF CERTIORARI	An order by the appellate court which is used by that court when it has discretion on whether or not to hear an appeal from a lower court. If the writ is denied the court refuses to hear the appeal and, in effect, the judgment below stands unchanged. If the writ is granted, then it has the effect of ordering the lower court to certify the record and send it up to the higher court which has used its discretion to hear the appeal.
WRIT OF FIERI FACIAS	"You cause to be made" - it is a writ of execution commanding the sheriff to levy on (encumber, restrict the ownership) judgment debtor's property and "make" (by sale or otherwise as allowed by law) the amount of the judgment plus costs of executing this process (including costs of conducting the sale).
WRIT OF MANDAMUS	A writ commanding a public official to perform a particular act which is within their public, official or ministerial duty, or directing the restoration of the moving party's rights or privilege of which he was illegally deprived.

WRIT OF PROHIBITION

A writ from a superior court to an inferior court to cease trying a case because the inferior court does not have the authority to try the case.

WRIT OF VENIRE FACIAS

A judicial writ, directed to the sheriff of the county or city, in which a cause is to be tried, commanding him that he “cause to come” before the court (subpoena) on a certain day therein mentioned, the member of potential jurors (veniremen) mentioned in the writ of venire facias.

WRITTEN STATEMENT OF FACTS

For purposes of appeal to the Court of Appeals, it is an alternative to a transcript of the proceeding as a record of the facts, testimony and other incidents of trial so that the Court of Appeals can be informed of those matters at trial which are now important in the appeal of the case.
