Legal Terminology

| **Term** | **Description** |
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| Adjournment | Is a temporary postponement to a case |
| Affidavit | A sworn written statement |
| Affirmative Defenses | An affirmative defense to a civil lawsuit or criminal charge is a fact or set of facts other than those alleged by the plaintiff or prosecutor which, if proven by the defendant, defeats or mitigates the legal consequences of the defendant's otherwise unlawful conduct. |
| Alternative Dispute Resolution | Alternate dispute resolutions are another attempt to avoid a formal lawsuit. During this time, paralegals arrange for parties to meet with an independent attorney or other mediator. They also compose and file documentation, forms, and memos associated with arbitration |
| Answer | An Answer is a reply to the allegations set forth in the Complaint. The Defendant can agree, agree in part, or completely disagree with the facts set forth in the Plaintiff’s complaint. In addition, the Defendant can make allegations of their own against the Plaintiff. For instance, a defendant may claim that any negligence on their part is outweighed by the negligence of the Plaintiff. This is referred to in South Carolina law as a comparative negligence defense. |
| Appeal | A request to a higher court to overturn the judgment of a lower one |
| Associate Attorney | An attorney working for a law firm who is not a partner and does not have an ownership interest in the firm. Less experienced attorneys and may be invited to become partners after working for the firm for several years. |
| Award | A decision, usually by an arbitrator, in favor of a plaintiff or defendant, as the case may BE |
| Billable Hours | Hours or fractions of hours that attorneys and paralegals spend in work that requires legal expertise and that can be billed directly to clients. |
| Billing | Like bills issued by doctors, plumbers, electricians and other service providers, bills issued represent work done for you, as well as some operating expenses. Common terms connected with legal billing are "hourly rate," "retainer," and "contingent fee arrangement |
| Billing Intervals | In an hourly billing situation, you should ask what intervals of time the attorney bills in. The common way to break down the hourly rate for billing is to use tenths of an hour (each 1/10 is a 6-minute interval), or quarters of an hour (each ¼ is a 15-minute interval). For example, a 5-minute phone call would either be billed at 1/10 (.10) of an hour, or at ¼ (.25) of an hour, depending on the attorney's "minimum billing interval." The difference could significantly affect your bill, and inquiries should be made at the outset of the representation. Many attorneys record their time by computer entries, and the bill which is generated and sent to the client is a summary. If you want an itemization of your bill, call the attorney's office and request it |
| Brief | A legal document that sets out the legal arguments in a lawsuit |
| Cause of Action | The reason for which a plaintiff files a complaint or suit against someone. This can be negligence, breach of contract, malpractice or defamation, to name a few. A cause of action is divided into elements, and each element must be proved to win the case. |
| Certified Copy | Also known as “certified true copy,” this is a document signed as being a true copy of the original |
| Certify | To testify in writing |
| Civil Action Number | A number assigned to each case by the Clerk s Office. This number must be found on all documents filed in a case to help the Clerk s Office keep a record of all papers in the case. Usually begins with the year, then initials identifying the type of case, the case number and the judge s initials in some instances. An example is 99 – CVD – 00000 (XYZ). |
| Civil Case | Any case that does not involve criminal charges |
| Class Action Lawsuit | Is where two or more plaintiffs join together to bring a case against another |
| Compensatory Damages (or actual damages) | This type of damages refers to the monetary amount needed or awarded to fully compensate the Plaintiff for his injuries and losses. This includes medical bills, future medical bills, lost wages, pain and suffering, mental anguish, etc. |
| Complaint | The complaint must allege that the Plaintiff was injured, that the Defendant was somehow at fault, and that the Plaintiff is entitled to legal or equitable remedy. Once the Plaintiff has filed the complaint with the court and serves the Defendant, the Defendant is required to respond and serve the Plaintiff with an Answer within 30 days. |
| Conflict of Interest | Means that you have competing interests in something that would make it difficult or impossible for you to fulfill your duty impartially |
| Contingency fFe | A legal fee that consists of a specified percentage of the amount the plaintiff recovers in a civil lawsuit. The fee is paid only if the plaintiff wins the lawsuit. |
| Contingent Fee Arrangement | The attorney's fee is contingent upon winning the case. This arrangement is used primarily for personal injury cases |
| Counsel | legal representative: lawyer or attorney |
| Counterclaim | An example would be if the Defendant believed that they were actually the party which was harmed by the Plaintiff. In which case, the Defendant would include in their Answer allegations of wrongdoing by the Plaintiff and damages suffered by the Defendant as a result of that wrongdoing. This is referred to as a Counterclaim. |
| Damages | “Damages are given as a compensation, recompense, or satisfaction to the plaintiff, for an injury actually received by him from the defendant.” Birdsall v. Coolidge, 93 U.S. 64 (1876) |
| Debtor | Someone who owes money to a creditor |
| Decision | The verdict of a court in a case |
| Default Judgment | A judgment entered against a party who does not answer the charges filed against him/her or does not appear in court. Not used in Domestic Cases |
| Defendant | This can be an individual or a corporation who is accused by the Plaintiff, of acting in a negligent manner and that their negligence caused the Plaintiff’s injuries and losses. Once served with the Summons and Complaint filed by the Plaintiff, the Defendant has 30 days to serve an answer on the Plaintiff. |
| Demurrer (dee-muhr-ur) | A formal response to a complaint filed in a lawsuit, pleading for dismissal and saying, in effect, that even if the facts are true, there is no legal basis for a lawsuit. Examples include a missing necessary element of fact, or a complaint that is unclear. The judge can agree and “leave to amend,” giving the claimant the opportunity to amend the complaint. If it is not amended to the judge’s satisfaction, the demurrer is granted. (Some states use a motion to dismiss.) |
| Depose | To testify or give under oath or sworn affidavit. |
| Deposition | Is where a witness testifies under oath and you have pre-trial discovery to determine whether or not the deposition is in fact true |
| Diligence | Reasonable care or attention to a matter; for instance, looking both ways before proceeding after stopping at a stop sign, washing your hands before cooking food in a restaurant or operating in a hospital or checking brakes and other mechanical components on tour buses at regular intervals. Due diligence denotes what a normal, responsible person would do under the same conditions. |
| Discovery | The process, pre-trial, where each party to a case will ask for documentation and information relevant to their case |
| Dismissal | The termination of a case |
| Double Billing | Billing more than one client for the same billable time period. |
| Docket | Docket. A written list of judicial proceedings set down for trial in a court. To enter the dates of judicial proceedings scheduled for trial in a book kept by a court. In practice, a docket is a roster that the clerk of the court prepares, listing the cases pending trial. |
| Evidence | Documents, etc. that prove a claim as to facts |
| Exhibit | Document, evidence, provided to a court to support a claim |
| Fault | To be at “fault” means that you are to blame for something |
| Final Judgment | The decision by the judge that resolves a legal matter unless appealed |
| Fixed fee | A fee paid to the attorney by his client for having provided a specified legal service, such as the creation of a simple will. |
| Flat Fee | For some legal services, the attorney may be able to quote a "flat fee" - A single, onetime charge. The type of fee arrangement usually applies to a preparation of a deed, or a Will, or one court appearance |
| Foreclosure | Occurs when a borrower cannot repay their debts and the creditor forecloses and sells the property – such as a house |
| Forms file | A reference file containing copies of the firm's commonly used legal documents and informational forms. The documents serve as models for Drafting new documents. |
| Good Faith | Is to act honestly and without deception |
| Hearing | A time scheduled when the judge gives the parties an opportunity to present evidence and testimony in support of their claims |
| Heirs | Person entitled by law to inherit the estate of a deceased person |
| Hourly Rate | Is the amount an attorney charges on an hourly basis to perform work for the client. Hourly billing is the most common billing method used by attorneys and often used by Defense attorneys |
| Implied | Means to give the appearance – thus, you have “implied warranty,” which means that you have given the appearance that there was a warranty, even if there was not one |
| Incompetency | To lack legal qualification or fitness to discharge a legal duty |
| Indemnity | To provide an undertaking to secure against loss or damages in the event of certain events – in other words: “compensation.” |
| Injunction | A court order requiring you to stop doing something |
| Judgment | The official decision given by a court |
| Jurisdiction | The court’s authority to hear your case |
| Law Clerk | A law student working as an apprentice with a law firm to gain practical experience. |
| Lawsuit | A lawsuit takes your case from a matter between two parties to a public matter which will be litigated according to the civil statutes and Court Rules of Procedure. A typical personal injury case begins when an individual (the “Plaintiff”) files paperwork with the court that alleges wrongdoing by another person or a business (the “Defendant”). |
| Legal Administrator | An administrative employee of a law firm who manages day-to-day operations. In smaller law firms, they are usually called office managers. |
| Liability | A duty or obligation for which you’re a legally responsible |
| Lien | Is a charge over your property = such as a mortgage |
| Managing Partner | The partner in a law firm who makes decisions relating to the firm's policies and procedures and who generally oversees the business operations of the firm. |
| Motion | A request made to a judge asking him to rule on an issue of law |
| Negligence | A failure to use a degree of care |
| Order | Direction (written or oral) of a court |
| Paralegal | They play an important role in the discovery period, which includes preparing documents and evidence, submitting requests for admission of evidence, and preparing and sending depositions.Paralegals also engage in motion practice, where they prepare to petition the court, on behalf of the supervising attorney, should a case dispute arise |
| Paralegal Duties | The general job duties of paralegals in litigation include:Preparing, organizing, and filing documents and correspondenceConducting research, document searches, and other factual researchUpdating and maintaining internal databasesPreparing witness and matter materials for case preparationOrganizing relevant documents for attorney review and case preparationPreparing for and attending depositionsPreparing and organizing exhibits during depositionsPreparing and filing all court documents |
| Partner | A person who operates a business jointly with one or more other persons. Each is a co-owner of the business firm. |
| Party | A person or company involved in a lawsuit – can be either side of a case |
| Personal Injury Case | A personal injury case is somewhat self-explanatory, but it doesn’t tell the whole story. When you are injured by the negligence of another person or a company, you have a claim against them for your losses. Truthfully, they owe you for what their negligent actions caused. |
| Personal Injury Practice Types | Automobile accidentsEntity medical liabilityIndividual medical liabilityIntentional tortsPremises liabilityProduct liabilityWorkers’ compensationWrongful deathTrial practice |
| Petition | Written application to the court asking the court to take action on a specific matter |
| Plaintiff | This is the injured party, the person who was wronged. Sometimes it is the Personal Representative of someone’s estate, in the case of a wrongful death or survival action. The Plaintiff is the party that files a lawsuit and has the burden of showing that the other party (the Defendant) was negligent, at-fault, and responsible for the Plaintiff’s injuries. |
| Plaintiff | The person who starts/commences a lawsuit |
| Pleadings | Applies in civil cases and are the allegations made by each of the parties to the case |
| Post-Trial Litigation | Litigation often continues long after the trial has ended, usually due to a dispute regarding a monetary award or the decision of the court. Even in cases where both parties accept the court’s decision, there are a number of motions, orders, and hearings that need to take place to close a case. Paralegals ensure all necessary documentation has been completed, signed, and filed with the court. |
| Pre-Suit Litigation | During pre-suit litigation, paralegals are instructed by an attorney to complete a variety of activities, including: scheduling client meetings and maintaining communication with clients; composing and sending demand letters; and researching and collecting evidence for pre-suit investigations |
| Pre-Suit Negotiation | Pre-suit negotiations are an effort between the parties to avoid a formal lawsuit. During this time, paralegals send and receive correspondence regarding the demand letter; schedule meetings between the parties; and maintain communication with the clients regarding the progress of the negotiations. |
| Pre-Suit Preparation | When all other attempts at remediation fail, paralegals help trial attorneys defend the client in a court of law. Paralegals compose and file all necessary paperwork with the courts and serve copies of the paperwork to the other party |
| Proceedings | The process of a lawsuit |
| Punitive Damages | “The purposes of punitive damages are to punish the wrongdoer and deter the wrongdoer and others from engaging in similar reckless, willful, wanton, or malicious conduct in the future.” |
| Retainer | An advance payment made by a client to a law firm to cover part of the legal fees and/or costs that will be incurred on that client's behalf. Like a down payment, it is paid at the beginning of the attorney's representation, usually when the attorney is billing on an hourly basis. The total services and costs are subtracted from the "retainer," against which further work will be performed. You should ask if your attorney requires replenishment of retainers, and also whether the retainer is "refundable" or "non-refundable." Some attorneys feel that any unused portion of the retainer would be earned, because of the attorney's skill in a accomplishing the client's goal. Other attorneys will issue a final bill upon conclusion of a matter, and any unused portion of the retainer will be refunded. |
| Retainer Agreement | A signed document stating that the attorney or the law firm has been hired by the client to provide certain legal services and that the client agrees to pay for those services. |
| Settlement | A settlement in a lawsuit is when an agreement is reached between the parties. Normally, settlements involve the payment by one party (Defendant) to satisfy the claims of the other party (Plaintiff). Once settlement is reached the lawsuit is dismissed.Settlements are often encouraged by the courts in order to protect parties from unnecessary time and expenses involved with a trial. However, sometimes settlement is not possible and the case proceeds to trial. |
| Settlement | Is an agreement or decision in a civil case |
| Statute of Limitations | This is the time period in which a lawsuit must be filed. If an injured party fails to file a lawsuit within the prescribed time period, they lose all legal recourse to sue the individuals who hurt them. Every civil action has a corresponding statute of limitation. |
| Summons | A legal document notifying you that a lawsuit has been initiated against you and how and where you must answer the claim |
| Support Personnel | Employees who provide clerical, secretarial, or other support to the legal, paralegal, and administrative staff of a law firm. |
| Time Slip | A record documenting, for billing purposes, the hours or fractions of hours that an attorney or a paralegal worked for each client, the date on which the work was done, and the type of work done. |
| Tort | From the French word for “wrong,” a tort is a wrongful or illegal act, whether intentional or accidental, in which an injury occurs to another. An intentional tort may also be a crime, such as battery, fraud or theft. Tort law is one of the largest areas of civil law. |
| Verdict | Formal decision by a jury/court on the facts of a case |
| Witness | A person who gives evidence in court under oath or who signs a document to testify/certify that the person who signed the document was who he claimed to be |
| Worker’s Compensation | Paid to a worker who suffers a work related injury or illness |
| Writ | A judicial order |