

## LEGAL GLOSSARY

Although small claims procedure is designed to be simple and easy to use, you will still come across some legal words and phrases when going through the court system. If you need help, look at our legal glossary to find out what some of these words and phrases mean.

**ACTION** - A lawsuit.

**ADJOURN** - To delay a hearing until a future time.

**ADVERSE PARTY** - Party on the other side of the lawsuit.

**AFFIDAVIT OF NON-MILITARY SERVICE** - Statement that, to the best of plaintiff's knowledge, the defendant is not now in the military.

**AFFIRMATIVE DEFENSE** – A new matter, which assuming the complaint to be true, constitutes a defense to it.

**ANSWER** - A statement by the defendant in response to the plaintiff's complaint.

**APPEAL** - A request that a higher court review and change the final decision in a case.

**ARBITRATION** - A form of alternative dispute resolution where an unbiased person or panel renders an opinion as to responsibility for or extent of a loss.

**BUSINESS DAYS** – Any calendar day except Saturday or Sunday and except the following business days: New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving and Christmas, and that is not a legal or federal legal holiday.

**CALENDAR** - A schedule of cases to be heard in court.

**CALENDAR DAYS** – Any one of the seven days in a week.

**CAPTION** - The heading of a court paper, showing the court, county, names of parties and case number.

**CLAIM FOR MONEY** – A legal action in which a plaintiff argues that a defendant is indebted to the plaintiff for an amount of money.

**CLERK** - An administrative officer of the court.

**COMPLAINT** - The court paper that states why the plaintiff is suing and what plaintiff wants the court to order.

**CONSUMER** – an individual customer buying goods or services primarily for a personal, family or household purpose.

**CONTRACT** - An agreement.

**COUNTERCLAIM** - a claim entered by a defendant as a response to or as a defense against an earlier claim made against the defendant by the plaintiff.

**COURT COMMISSIONER** - An attorney authorized to conduct hearings and initial proceedings.

**COURT TRIAL** – a trial in which the judge serves as the trier of fact.

**CREDITOR** - A person who is owed money.

**CROSS-EXAMINE** - to question a witness for the opposing side in a hearing or trial

**CUSTOMER** – an individual buying goods or services.

**DAMAGES** - The amount of money requested in a lawsuit to compensate the plaintiff for injuries to person or property or for the defendant's failure to perform a contract.

**DEBTOR** - A person who owes money.

**DEFAULT** - Failure to answer a complaint or appear for a hearing.

**DEFENDANT** - The person who is sued.

**DEFENSE** - A reason why a claim in a complaint is not valid.

**DISMISSAL** - A court order terminating a case because the plaintiff has failed to appear in court or state or prove a valid claim.

**DOCKET (see Judgment and Lien Docket)**

**EMANCIPATION** – when a child is no longer legally under a parent's control. In Wisconsin, a child is emancipated when he or she turns 18 years of age or marries.

**EVICTION** - An action by a landlord to remove a tenant from the landlord's property.

**EVICTION DUE TO FORECLOSURE** – An action to remove a tenant whose tenancy is terminated as a result of a foreclosure judgment and sale.

**EVIDENCE** - objects, information or statements that demonstrate or prove something.

**EXAMINE** - to ask questions of a witness or other party to a case in a court of law. Basic Guide to Wisconsin Small Claims Actions Page 14 of 17 SC-6000V, 08/11 Basic Guide to Wisconsin Small Claims Actions Page 14 of 17

**EXECUTION** - A legal procedure in which the sheriff seizes a debtor's property to pay a judgment.

**EXEMPTION** - A law allowing a debtor to keep some property free from the claims of creditors.

**EXHIBIT** - A paper or thing shown to a court during a hearing and used as evidence.

**FEE** - A charge fixed by the law for the service of public officers.

**FORECLOSURE ON RESIDENCE** - residential real property where there is a delinquency or default on any loan payment or debt secured by or attached to the residential real property, including land contract payments.

**GARNISHEE** - In garnishments, the party who owes money to the debtor and is ordered to pay it to the creditor instead.

**GARNISHMENT** - A proceeding after judgment authorizing the creditor to be paid from the debtor's wages or bank accounts.

**GUARDIAN AD LITEM** - An attorney appointed by the court to take legal action on behalf of a minor or an adult not able to handle his or her own affairs.

**HEARING** - the examination of a certain aspect of a case or the trial of a case in a court of law.

**JUDGMENT** - Final determination by the court.

**JUDGMENT AND LIEN DOCKET** - An official list of court judgments.

**JURY TRIAL** - a trial in which the jury serves as the trier of fact.

**LIEN** - the legal right to keep or sell somebody else's property as security for debt.

**NON-CONSUMER** - an individual or business customer buying goods or services for business reasons and not primarily for a personal, family or household purpose.

**NOTARY PUBLIC** - An attorney or other official authorized to certify the signing of sworn documents.

**PARTY** - A plaintiff or defendant in a case.

**PLAINTIFF** - The party who begins a lawsuit.

**PRETRIAL CONFERENCE** - A meeting between the parties, sometimes including a judge or court commissioner, to investigate settlement or narrow the disputed issues.

**PRO SE** - Latin meaning "for oneself," i.e., without the aid of an attorney.

**PROOF OF SERVICE** - that the delivery of a legal document such as a writ or summons was accomplished.

**REPLEVIN** - A lawsuit seeking return of property.

**RETURN DATE** - The initial date at which the defendant must respond, answer, or appear in court. In some counties, the plaintiff must also appear.

**RETURN OF EARNEST MONEY** - An action brought to recover money paid to a seller as a deposit for the purchase of real property.

**RETURN OF PROPERTY (REPLEVIN)** - An action brought to recover personal property being held by someone else.

**SATISFACTION** - A notice from the plaintiff stating a defendant has paid the judgment.

**SELF-REPRESENTATION (see Pro Se)**

**SERVICE** - The delivery of the complaint, summons or other papers filed by one party to another party.

**SETTLEMENT AGREEMENT** - an agreement reached without completing legal proceeding.

**STIPULATED DISMISSAL** - A court order dismissing the suit upon agreement of the parties. If the agreement is not kept, the dismissal may be vacated and a judgment entered.

**STIPULATION** - A legally binding agreement between parties.

**SUBPOENA** - A court order that a witness appear in court.

**SUMMONS** - A court order that the defendant answer the complaint or appear in court at a stated time.

**TORT** - A tort is a wrongful act that injures someone, where the injured person may sue the person/business causing the injury for money damages. The injury may be to a person's body, property, business, reputation, or other interest. The act may be the result of carelessness (called "negligence") or may be intentional. A tort is different from a breach of contract or a crime.

**TRIAL** - a formal examination of the facts and law in before a court of law to determine an issue.

**VENUE** - The county or counties in which a lawsuit may be filed and tried.

From Wisconsin Guide to Small Claims