



## LEGAL GLOSSARY

A guide to commonly used legal terms

### A

#### **Absolute Divorce:**

A type of divorce in North Carolina that allows parties to end a marriage and terminate equitable distribution claims. Also referred to as a “simple or no fault” divorce. Either party is entitled to an absolute divorce if they have been living separate and apart for a period of one year; AND, had no intention of resuming the marital relationship; AND, at least one of the parties has lived in North Carolina for at least six (6) months before the divorce complaint is filed. Parties may enter into another marriage after the divorce is final.

#### **Acceptance of Service:**

The defendant in a civil action accepts service of the complaint and summons by personal delivery, and will not require the papers to be served upon him or her by the sheriff or other lawful process officer.

#### **Alimony:**

Support paid by one spouse to another designed to enable the dependant spouse to maintain the standard of living experienced during the marriage. Claims for alimony must be made prior to the entry of a final judgment of divorce.

#### **Annulment:**

A court action brought before the court to declare a marriage null and void.

#### **Answer:**

The defendant's response to the plaintiff's allegations filed in a complaint. An item by item, paragraph by paragraph response to the points made in a complaint.

### C

#### **Calendar:**

Printed document listing all the cases scheduled for a court session.

#### **Case Number:**

The number assigned to each civil case by the Clerk of Superior Court. This number must be found on all documents and pleadings pertaining to a case. The number usually begins with the year, then initials identifying what type of case, followed by the case number. Example: 99-CVD-1234. Also referred to as file number, or civil action number.

#### **Cause:**

A lawsuit, litigation, or action. Any question, civil or criminal, litigated or contested before a court of justice.

#### **Civil Clerk's Office:**

The division of the Clerk of Superior Court that handles the filing of documents for all civil cases.

**Civil Court:**

A court that only hears those matters pertaining to civil and domestic cases.

**Civil Procedure:**

The rules and process by which a civil case is tried and appealed, to include preparation for trial, rules of evidence, rules of conduct, and procedure for pursuing appeals.

**Complaint:**

The legal document filed with the Court that begins a civil lawsuit. It states the facts of the case and the course of action the court is asked to take.

**Continuance:**

The postponement of a legal proceeding to a later date.

**Counterclaim:**

A claim made by the defendant in a civil lawsuit against the plaintiff. In other words, a counter lawsuit within a lawsuit.

**D****Decision:**

The judgment reached by a court of law.

**Decree:**

An order of the court that sets forth the Judge's decision.

**Defendant:**

In a civil case, it is the person being sued.

**E****Equitable Distribution:**

The distribution of property acquired during a marriage that is subject to equal or unequal division. The property is referred to as marital property and may include real property, personal property, pensions, retirement, and other deferred compensation rights. Claims for Equitable Distribution must be made prior to the entry of the final order of divorce.

**Evidence:**

Information presented in testimony or in documents that is used to persuade the fact finder (in most cases the judge or jury) to decide the case in favor of one side or another.

**Extension of time:**

When the Court gives an extended time period in which the parties have to do something, i.e. file an answer, produce documents, etc.

**F****Family Court Case Manager:**

A staff member of the Family Court who monitors domestic or juvenile cases as they move through the court system. Case managers are responsible for scheduling cases for hearing, producing court calendars, assisting with referrals to community agencies, and acting as a liaison for the Court.

## **J**

### **Judgment:**

The final disposition in a lawsuit that resolves a legal matter until such time that it is brought before the court for appeal or modification.

## **M**

### **Marital Property:**

All real and personal property acquired by either or both spouses during the course of a marriage to include businesses, pensions, retirement benefits, and other deferred compensation rights.

### **Moving Party:**

The party in a lawsuit who makes a motion before the Court requesting that some action be taken.

## **N**

### **Notice:**

The formal notification to a party involved in a civil case of the date that a legal action or motion is proceeding before a court. The moving party is usually responsible for noticing the opposing party.

## **O**

### **Oath:**

The swearing to the truth of a statement; a written or oral pledge by a person to speak the truth.

## **P**

### **Party:**

Person or business involved in a law suit, can be the plaintiff, defendant, or other named persons.

### **Personal Property:**

Tangible physical property to include cars, clothing, household furnishings, appliances, jewelry and non-tangible property. This does not include land or rights in land.

### **Perjury:**

To knowingly lie under oath.

### **Plaintiff:**

The person who files the initial complaint in a lawsuit.

### **Pleadings:**

The written documents or statements of fact and law filed by the parties to a lawsuit.

### **Post Separation Support:**

Temporary alimony designed to provide support for the dependent spouse while waiting for a full alimony trial. Claims for alimony must be made prior to the entry of the final order of divorce.

**Pro Se:**

A Latin phrase meaning “on one’s behalf”; refers to a party in a court action who proceeds without the benefit of legal counsel.

**R****Real Property:**

Land, buildings, and other improvements affixed to the land.

**S****Separate Property:**

Property acquired by a spouse prior to marriage, or after the date of separation, or in such a way that prevents it from becoming marital property, such as by a will or gift.

**Service:**

The delivery of a legal document, such as a complaint, summons, or subpoena, notifying a person of a lawsuit or other legal action taken against him or her. Service, which constitutes formal legal notice, must be made by an officially authorized person in accordance with the formal requirements of applicable laws.

**Summons:**

A document issued by the Clerk of Superior Court to be served on and to notify a defendant that an action or lawsuit has been filed against them and that he or she must file an answer in thirty days.

**T****Testimony:**

The verbal evidence given by a witness under oath.

**V****Verification:**

When a party swears before a Notary Public that the contents of a document are true and correct.

**W****With Prejudice:**

A claim being dismissed and the plaintiff is forever barred from bringing another lawsuit on the same claim or cause.

**Without Prejudice:**

A claim or action dismissed without prejudice may be the subject of another lawsuit.