

INTRODUCTION TO LEGAL MATTERS AND TERMINOLOGY

1. A rule made by the Government is called a **Law**. All the rules together are called **the law, the laws** or simply **law**.
2. Anything the law allows is called **lawful** or **legal**. Anything, which the law forbids is **unlawful**, or an **illegality** or **illegalities**.
3. The council of people who make the laws is called **the Legislature** and they are said to **legislate**, and all the laws, they make is called **legislation** or **statutes**.
4. There are different kinds of law. The old law of England, which was the custom of the people of England long before they made written laws, is called Common Law. **Equity** refers to rules based on principles of fairness and justice. In Ghana, we also have our own **customary law**, which like the English Common Law is law, which have developed over the years and are based on the customs practiced by the people of Ghana. **Ghanaian Law** is made up of statutes, common law principles, equity and customary law.
5. The law, which punishes people by fines or imprisonment, is called **Criminal Law**. That is a matter for the police and other law enforcement authorities.
6. The Law, which deals with disputes or palavers about land, money or goods and the like are called **Civil Law**. The process server or bailiff is only involved in the civil process, being responsible for the service of documents at the start of civil proceedings and the service of orders made by the court at the conclusion of proceedings.

RIGHTS AND DUTIES

The Law deals with rights and duties. Anything which one has a just claim to is called a **right**. Anything, which one is bound to do, is called a **duty** or an **obligation**. Any loss or injury caused by one person to another is called a **wrong**.

DEFINITIONS

1. **CIVIL CASE:** A civil cases is called a **suit** or **litigation** or **action**. A matter about which one may bring a civil case is said to be actionable.
2. **CAUSE OF ACTION:** a person cannot bring a civil action for nothing. He must have some reason for summoning the other man, for instance that the other man borrowed money and has not paid it back, or bought goods and has not paid for them. This reason is called a **cause of action** or **ground of action, or right to sue**.
3. **PARTIES:** In a civil case the person who brings the case is called a **Plaintiff**. The other person is called the **defendant**. The Plaintiff is said to **sue** and the defendant is said to be **sued**. A person who makes a demand or claim sometimes called a **claimant**. A person who has got a judgment against another is called a **judgment-creditor**. The man against whom judgment has been given is called the **judgment debtor**.
4. **SUMMONS:** A civil case begins by a **civil summons** never by a warrant.
5. **PLEADINGS:** A written statement which sets out the parties' case and which are exchanged alternately by the parties to one another.
6. **WRIT:** is a document issued by a Court at the instance of the plaintiff for the purpose of giving the defendant notice of the claim made against him and of compelling him to acknowledge service or answer it or to enforce obedience to an order. It is the first step in an action. Under the new rules, no writ shall be filed without a Statement of Claim attached (see rule 6).
7. **REGISTRY:** The registry of the court. The bailiff takes his instructions from the Registrar of the Court.
8. **PROCESS:** This consists of the writ of summons and any other documents such as Motions and Petitions taken in the court of justice for the purpose of giving the court the power to exercise its jurisdiction.
9. **APPEARANCE:** The formal step taken by the defendant in an action after he has been served with the writ.
10. **OATH:** The words a person speaks when he swears in court by God or Allah that he will speak the truth.
11. **AFFIRM:** To make a solemn declaration to tell the truth in court; an alternative to swearing an oath.

12. **ORDER:** This is the order of the court ordering one party to do something or to stop doing something.
13. **AFFIDAVIT:** A written statement sworn before a person having authority to administer an oath by a person called the deponent. It contains several short paragraphs each numbered.
14. **JURAT:** The note at the foot of an affidavit or deposition stating the time, place and person before whom it is sworn.
15. **REAL PROPERTY, REAL ESTATE, REALTY:** Land
16. **PERSONAL PROPERTY:** Property which is not land
17. **OCCUPIER:** One who lives in or uses a house or land
18. **POSSESSION:** A right to occupy, use or enjoy land or any other thing. Sometimes possession means the actual occupation, use or enjoyment of land or some other thing, without the right, in which case the possession is said to be **wrongful**.
19. **AN AGENT:** One who is employed to act for another. The position or job of an agent is called **agency**.
20. **ATTESTED COPY:** Copy certified by someone to be true.
21. **BOND:** Written acknowledgment of debt or contract to pay under seal
22. **BAIL BOND:** Bond signed by a person arrested and his sureties binding to appear in Court; a recognisance.
23. **CERTIFIED COPY:** Copy of a document with a certificate on it signed by a person such as a Registrar, saying it is a true copy.
24. **DEED:** A written document, passing some property or embodying some agreement, which is not only signed by the person or persons making it but also sealed and delivered. A person usually delivers a deed by touching the seal he has placed upon it and saying: I declare this as my act and deed.
25. **EXECUTION (of deed):** signing, sealing and delivering it.

Defendant – The defendant is the person who is sued and must defend against the action.

Petitioner – This refers to a person who files an equitable action, a non adversarial action or who files an appeal.

Explanation: – Most cases are adversarial in which the two parties have opposing interests or claims. There are however cases in which the parties have some common interests and are not adverse to one another or 'enemies' so to speak. The labels plaintiff and defendant do not properly describe or fit such parties. The term Petitioner which is less suggestive of adversity is used instead to describe the filing party. In actions for dissolution of marriage, the initiator of the action is the Petitioner.

Respondent – The respondent is the person who defends against either a non adversarial action or an equitable action (where the initiator is called the Petitioner) or is the party defending against an appeal.

Explanation: – In an action for dissolution of marriage, the party who initiated the action is Kofi, the husband and is known as the Petitioner. The action is for dissolution of his marriage to Mansa hence Mansa is the Respondent i.e. the defending party.

Appellant – The party that appeals a court judgment. This does not depend on who was plaintiff or defendant in the trial court. It refers to the party who has shown his displeasure with the trial court's decision or judgment and has gone on to file at the appellate court for redress.

Abbreviations and Short Phrases

a.k.a. - Also known as.

Explanation: – It is sometimes common to find some people with more than one name. This may be intentional so as to hide the real identity or because of a change in names due, say to marital status.

Example: Angelina Ankonam upon her marriage changes her name to Angelina Aware. Some of her legal documents might show her name as "Angelina Ankonam a.k.a. Angelina Aware".

D.b.a. – Doing Business As.
Many business entities in Ghana are one man/woman companies or enterprises. While they are not legally separate from their owners they operate under different names. D.b.a. is pronounced as three individual letters and not as one word.

Example: Kwaku Atta owns and operates a multipurpose store called Mankessim Supermarket. Amina who ate expired canned fish purchased from the store was taken sick and diagnosed with food poisoning arising from the canned

fish. She sues the offending shop owner as “Kwaku Atta d.b.a. Mankessim Supermarket”.

Et al – And another.

The abbreviation stands for et alius – meaning “and another”. The plural is et alii – meaning “and others”. The short form of the plural version is “et als”, meaning three or more people.

Etc – Et Cetera
And Similar Type Things.

Example: The office contained the usual assortment of chairs, tables, books etc.

In Re – In the Matter of.
In a lawsuit in which there is no adverse party such as Probate or Adoption, where one person is named in the court documents, the caption bears the title; In re (Name of Applicant).

V or Vs or Vrs. – Versus.
It is usually used to designate the opposing party. E.g. Kofi Mintah Vrs. Ama Mensah.

To Wit – That is to say.
The term usually clarifies the phrase immediately before it.

Per Diem – Per day; by the day.

Explanation: – Usually used in finance as for example “the secretary was entitled to ₵GH10 per diem out of station allowance when undertaking the relieving assignments.

Per Se – By itself.

Explanation: – The fact itself, without any further or other explanation is enough.

Example: The fact that an accident has occurred shows negligence per se.

Prima facie – On its face or at first sight.

Explanation: – Just by looking at the item in question, something is obvious and does not require anything outside to make a conclusion. Per se is an absolute certainly, while prima facie only creates a presumption that the item is sufficient, which presumption can be rebutted.

Pro Forma – As a matter of form.

Pro Rata – In Proportion or ‘according to the rate’ – It means the division shall be proportionate. In other words, each person shall share according to the ratio that his or her share bears to the total

Certiorari – Certiorari is an order issued by a Superior Court quashing a decision or order of a lower court or tribunal whose decision or order was made without jurisdiction either because the court exceeded its jurisdiction or lacked jurisdiction in the matter.

Amicus Curiae – L A friend of the court.

Explanation: –

During the trial of cases and especially when dealing with a novel issue, the court may ask the opinion of counsel who are not involved with the case in issue to proffer an opinion as a friend of court. Also in certain jurisdiction in important cases, people who are not parties to the litigation may want to file research notes or briefs to aid the court, hoping to persuade the court to adopt their views. These people are called amicus curiae, and they seek the permission of the court to file their briefs for consideration.

Dictum –

This is a statement that forms part of the judgment of a court, in particular a court whose decisions have value as precedent under the doctrine of stare decisis. It is an authoritative formal pronouncement.

Obiter dictum (dicta (pl)) –

An opinion voiced by a Judge that has only incidental bearing on the case in question and therefore not binding. It also refers to an incidental remark or observation; a passing comment.

The following are the Latin words commonly used in Courtrooms

1. **Ad valorem:** according to the value. It is used for instance, in Customs matters, where customs duty is charged according to the value of the goods. The duty is then said to be ad valorem.
2. **Bona fide:** in good faith.

3. **Contra bonos mores:** against good morals, or manners.
4. **De novo:** anew; afresh
5. **Dies non:** a day on which a Court is not held
6. **Et cetera:** or etc., and the rest; and so on
7. **Exempli gratia:** or e.g. for the sake of example
8. **Ex officio:** because of: or, by virtue of his office or post.
9. **Ex parte:** without notice to the other party.
10. **Id est:** or i.e., that is.
11. **In loco patris:** in the place of a father
12. **In statu quo:** in the former state; "as you were"
13. **Inter alia:** among other things.
14. **Ipsa facto:** by the very act itself; as a consequence.
15. **Onus probandi:** the burden of proof; the duty, which lies on a man to prove his case.
16. **Per annum:** by the year.
17. **Per centum:** by the hundred.
18. **Per Diem:** by the day.
19. **Prima facie:** at first sight.
20. **Pro rata:** in proportion.
21. **Qua:** in the character of; in virtue of being.
22. **Res gestae:** things done. All the events in a transaction, when spoken of together, are called the res gestae.
23. **Res judicata:** means the case has been judged. It is a defence by a person who says that he was summoned before for the same thing.
24. **Sine die:** without a day appointed.
25. **Sine qua non:** an indispensable condition.
26. **Sub judice:** under consideration (by a Court).
27. **Ultra vires:** beyond his (or, their) powers of authority.
28. **Veritas:** truth.
29. **Vice versa:** the terms, or words, being exchanged.
30. **Viva voce:** by the living voice, that is, not in writing.
31. **Fifa:** When a person obtains a judgment and the debtor does not pay, the creditor can go to court and get a warrant or writ of fifa, to seize and sell the debtor's goods.

32. Caveat: (Take heed): a notice entered into books of a Court to prevent certain steps being taken without informing the person who has entered the notice. eg. You may lodge a caveat objecting to a marriage.