

Legal Terms

appellee - the party against whom an appeal is taken

appellant – the person who appeals a decision

assumpsit an action to recover of damages caused by the breach of a simple oral or written contract, which was either expressed or implied.

attachment – seize property to satisfy a judgement

certiorari is the order issued by an upper court based on a writ of certiorari to review the decision made by the lower court when the upper court is of the opinion that the proceedings in the lower court contains an irregularity or was not proper.

chancery cases are based on equity or fairness, with rulings by a judge, without a jury, on matters not covered by the rules of common law. Decisions were based on the discretion and flexibility of the court, to consider all of the circumstances in each case. Remedies rather than monetary damages were usually sought. These cases include divorces, land disputes, modification of contracts, estates, dissolution of business partnerships, and other matters.

cognovit judgement - a judgment entered after a written confession

common law - with its origin in the rules of english law as it relates to government and security of persons and property. Decisions are based on prior judicial decisions, using the principle that similar cases should be decided according to consistent rules so similar results are reached.

covenant – a formal agreement between 2 or more persons to do or not do something.

ejectment is a lawsuit brought by the owner of real property to remove a party who is unlawfully occupying the property, & who has tried to claim title to it.

et al and others

eviction action against a non-paying or unsatisfactory tenant

ex rel indicates that the case was brought by the State at the request of a private party who has an interest in the matter.

fiere facias (fi fa) a writ of execution directing a sheriff to take goods or property of someone against whom a judgment has been rendered.

garnishment is a means of collecting a monetary judgment against a defendant by ordering a third party (the garnishee) to pay money, otherwise owed to the defendant, directly to the plaintiff.

guardian ad litem A guardian appointed by the court to represent the interests of the unborn, minors or incompetent persons in legal actions.

habeas corpus a writ ordering a prisoner to be brought before a judge. The civil right to obtain a writ of habeas corpus as protection against illegal imprisonment.

implede add a third party to the proceedings

next friend A person who acts on behalf of another person, who is legally unable to act on his own behalf, such as a minor.

nolle prosequi prosecution dropped

on default failure to do something required by law

plaintiff in error - the party who appeals a decision of a lower court

repatriation to restore citizenship

replevin an action to recover personal property said or claimed to be unlawfully taken

statutory law – created by the enactment of legislation

writ of attachment to seize an asset of property

writ of error A writ commissioning an appellate court to review the proceedings of another court and correct the judgment given if deemed necessary.

writ of mandamus a command from a superior court to compel a lower court, corporation, municipality or individual to perform its duties correctly, or to do or refrain from doing a certain action. Examples: a person can be said to be aggrieved when he is denied a legal right by someone who has a legal duty to do something and abstains from doing it or a writ of mandamus can be issued by an appeals court to compel a lower court to hear a motion.