



Glossary

Some commonly used legal terms

Amicus Curiae Person or organization not party to a case but permitted by the court to advise it on a particular issue.

Appeal To ask a higher court to reverse the decision of a lower court.

Appellant A party who appeals a lower court's decision, usually seeking reversal of that decision.

Appellate Court A court with jurisdiction to review decisions of trial courts. These courts have the power to review questions of law that arise from judgments made in lower courts. In 40 states, there are two types of appellate courts — intermediate appellate courts and supreme courts. The other states have only one level of appellate court to review trial court decisions (see Supreme Court).

Appellee A party against whom an appeal is taken and whose role is to respond to that appeal, usually seeking to uphold the lower court's decision.

Confirmation The formal approval by a legislature of a person nominated for office (such as a judgeship).

Court-Stripping See Jurisdiction-Stripping

Defendant Party sued in a civil lawsuit or charged with a crime in a criminal prosecution

Impartiality The ability to apply the law to everyone in the same way, not favoring one side or the other.

Judicial Appointment In some states judges are appointed by an executive like a governor or a mayor — with or without confirmation by a legislative body — or appointed by the legislature.

Judicial Activism A term sometimes used when people charge that a judge has overstepped the judicial role by "making the law" based on the judge's policy preferences. The term is often used to attack a judge when someone simply disagrees with the judge's decision, particularly with regard to civil rights.

Judicial Independence The principle that courts and judges should be able to exercise their judicial responsibilities free of improper influences and pressures including the ability of a judge to issue a decision based on the individual facts and applicable law of a case without improper influences such as political considerations, campaign contributions or personal beliefs.

Jurisdiction-Stripping The removal of certain types of cases from a court's jurisdiction by a legislative or executive action, or through a ballot measure, in an attempt to prevent the court from ruling on issues that arise in those cases. Jurisdiction-stripping is sometimes called "court-stripping."

Merit Selection Merit selection is the most commonly used term referring to a method of selecting state court judges through a nominating commission process. The nominating commission recommends candidates to the appointing authority (usually a state governor) for final appointment, which may be subject to legislative confirmation. Additional terms are achieved through retention election or reappointment.

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Nominating Commission In a merit selection system, a nonpartisan or bipartisan panel of lawyers and nonlawyers which solicits applications for judicial vacancies, interviews applicants, evaluates professional qualifications, and recommends a list of suitable candidates to the appointing authority, usually the governor. Some nominating commissions are composed entirely of people chosen by public officials; others also include members chosen by bar associations.

Nomination The formal submission of a candidate for a public office (like a judgeship); nominees must be confirmed by a legislature.

Nonpartisan Election System of judicial selection in which voters elect judges for an initial term of office, after which time they are eligible to run for reelection. Candidates do not run as members of political parties.

Partisan Election System of judicial selection in which voters elect judges for an initial term of office, after which time they are eligible to run for reelection. Candidates run as members of political parties.

Petitioner A party who presents a petition to a court or other official body, especially when seeking relief on appeal.

Plaintiff Party who initiates a civil lawsuit.

Public Financing of Judicial Campaigns In this system, public funds replace private contributions in financing judicial campaigns, in whole or in part. Under a full public financing system, judicial candidates who qualify for public funds receive sufficient financing for their campaigns provided they agree not to accept any private contributions and obey spending limits established by the state. Candidates who do not choose public financing are allowed to raise private contributions and are not subject to spending limits.

Respondent See Appellee

Retention Election Election held at the end of a term in which a judge runs unopposed and must win at least a majority of the votes cast to be retained in office.

Strict Construction The doctrinal view of judicial construction holding that judges should interpret a document or statute according to its literal terms, without looking to other sources to ascertain the meaning.

Supreme Court In most states, and in the federal judiciary, the highest court in the court system is known as the Supreme Court. (In a few states, it is known by another name, as noted below.) It is almost always the "court of last resort," and has the power to review decisions made by all other "lower" courts in the court system. Usually, a supreme court rules on errors in application of the law, errors made in judicial interpretations of the law, or procedural errors; however, it occasionally may be required to review facts. The Supreme Court of the United States hears appeals from cases in the lower federal courts, and sometimes hears cases from state courts, including decisions rendered by state supreme courts.

Note: In New York, the "Supreme Court" is the state's trial court of general jurisdiction, which hears most types of basic cases; the state's highest court is called the Court of Appeals. In Maryland, the highest court is also called the Court of Appeals; there is no court in the Maryland system called the "Supreme Court."

Term of Office The length of time a judge can serve before stepping down or being reappointed or reelected. Some systems provide life tenure, or mandate retirement by a certain age. Judges can sometimes be removed before their terms are over for misconduct or other good cause, and judges in some states can be recalled by the voters. Both of these are highly unusual and extreme measures.

Trial A court's process of resolving a dispute according to the applicable laws and evidence presented. (An appeal can occur after a decision is reached at trial.)

Trial Court Court that hears the original arguments in a case, may include a jury.