Affidavit: A written statement of facts relevant to an issue in a lawsuit, sworn to by the person preparing it, who is known as the affiant.

Alternative Dispute Resolution (ADR): Methods of solving legal disputes without going to court for a trial. ADR typically uses hearings conducted by agreed-upon third parties. Two frequently used means of ADR are arbitration and mediation.

Answer: A reply to charges leveled against someone. In litigation, an answer is a “responsive pleading.” A person who has been sued files with the court an answer to the complaint that initiated the lawsuit.

Appeal: In litigation, the process of a review by a higher court of the decision of a lower court.

Appellant: A party to litigation who brings an appeal. An appeallant challenges the decision of one court by appealing to a higher court.

Appellate Court: A court of appeals, that is, a court where a party to litigation seeks review of, or appeals, the decision of a lower court.

Appellee: The party to litigation against whom the appellant brings an appeal. The appellee won in the lower court.

Arbitration: A formal process of resolving a dispute without going to court. The parties bring the dispute to a third party trained as an arbitrator, or to a panel of arbitrators. The arbitrator has the authority to make a decision that binds the disputing parties.

Arguendo: Literally, “in the course of an argument.” A statement assumed to be true, but only for the sake of argument. Often used in this way: “Assuming arguendo that . . .”

Bench trial: A trial held before a judge without a jury.

Binding Precedent: In case law, a case that provides a rule or rules that other courts, for example, lower courts in that jurisdiction, must follow. An often-used expression is that a rule is binding on the court.

Blackletter law: A specific legal rule, usually a fundamental rule.

Brief: A) A case brief: a summary of a case that law students write to prepare for class.

B) Appellate brief: a document that each party to an appeal files with the court. The brief explains the case and is written to persuade the court to decide for the party whose brief it is.

C) Trial brief: a persuasive document that each party may submit to a trial court at different stages of a trial.
Casebook: A coursebook for your law classes. Casebooks are edited collections of cases relevant to the particular subject matter of a class.

Citations: Precise references, like those used in footnotes, to the sources of authority that support statements, like statements of law, and quotations. Citations tell readers where to find the source.

Civil law: A) The branch of law that deals with private rights, that is, the rights that private individuals claim that others have violated. Civil law in this sense contrasts with criminal law, which deals with wrongs prosecuted on behalf of the public.

       B) A country’s legal system in which all law is based on comprehensive codes enacted by a legislature and the courts function to interpret the codes. Modern civil law systems are historically based on the Napoleonic Codes, with historical antecedents in the codes of ancient Rome.

Code: A collection of statutes that is organized by specific topics, for example, a criminal code.

Common Law: A) Law that initially comes from court decisions, that is judge-made law.

       B) Common law systems: By contrast with a civil law system, in a common law system law comes from court decisions as well as from a legislature.

       C) Historically: The system of law that arose from the English common law courts.

       A common law action is litigation brought under the common law rather than under a statute.

Concurring opinion: An opinion written by a judge who agrees with the majority decision but does so for reasons different from the majority’s.

Coursebook: Books used as the basis for law school classes, often also called “casebooks.” The term “coursebook” is more inclusive, because it encompasses teaching materials that are different from cases.

Defendant: A party who is sued in a civil suit by another party or prosecuted by the state in a criminal action.

Deposition: An oral examination of a party to litigation or a potential witness that an attorney conducts out of court and before a trial, used to acquire information about the case.

Dicta: Statements that a court makes in its opinion that are not legally binding because they do not refer to the facts of that particular case.

Dictum: Singular of dicta.
Discovery: Procedures by which parties to a lawsuit gather information and learn about evidence before the trial. Frequently used discovery methods are depositions and interrogatories.

Dissenting Opinion: An opinion written by a judge that disagrees with the outcome of the majority’s decision.

Diversity jurisdiction: The constitutional authority of federal courts to hear cases involving state law if the parties to the litigation are from different states (“diverse citizenship) and the controversy is in excess of $75,000 ($75,000 and a penny).

Equity: 
A) Generally: Fairness 
B) Equitable remedies: A type of remedy that does not involve money damages but instead involves a court order to a defendant to do or to stop doing a particular act or acts. An often-used equitable remedy is an injunction. 
C) Historically: A system of law from the English chancery courts, which arose to give relief where no relief was available from the common law courts. In this meaning, equity was distinguished from law.

Federal Rules of Civil Procedure: A body of rules that govern the procedures used in the federal trial courts in civil suits.

Floodgates: As used in the law, the expression “open the floodgates” means that a particular decision will lead to an undesirable volume of litigation that will clog the courts.

Holding: The authoritative part of a court’s opinion deciding the issue or issues in a case.

Hornbooks: A text written for law students that summarizes and explains a particular area of law.

Hypothetical: Often used in law classes, a made-up factual situation devised to explore how a particular rule of law applies.

Infra: Latin for below or under. In legal text, often used to mean that a topic will be discussed later in the text, as in “see discussion of possession, infra at page 10.”

Injunction: A court’s order that a defendant do something or stop doing something. An equitable remedy.

Instant case: A phrase that refers to the case at issue, rather than prior or precedent cases. “In the instant case, however, the defendant acted intentionally.”

Inter alia: Latin for “among other things”: “This case is about, inter alia, the parties’ property settlement.”
Interrogatories: Written questions by which one party to litigation elicits information from the other party. Interrogatories are a pre-trial discovery procedure.

Jurisdiction: The authority of a court to decide cases, sometimes determined by the subject matter of a case and sometimes by the geographical area over which the court has authority, and sometimes by both.

Jurisprudence: 
A) The philosophy of law.
B) A body of law, e.g., “New Jersey jurisprudence,” or “this state’s jurisprudence on the subject of contracts.

Law Review: A journal published by a law school, usually edited by law students, that consists of articles of various lengths, usually designated as articles, notes, or comments, written by faculty, practicing attorneys, and students.

Litigant: A person who is a party to a lawsuit.

Overruling: 
A) A court’s decision that it will no longer follow its rule from a prior case.
B) A trial judge’s ruling rejecting an attorney’s objections in court.

Petitioner: A party who originates a lawsuit or an appeal by means of a petition. In an appellate proceeding, a petitioner is usually equivalent to an appellant.

Plaintiff: A party that initiates a lawsuit by filing a complaint with a court.

Pleading: A fundamental litigation document that a party files with a court, such as complaints and answers.

Precedent: A prior decision that becomes an authority that binds courts in later similar cases.

Punitive damages: Extra damages awarded to the plaintiff in a lawsuit, usually for the purpose of punishing the defendant’s especially culpable conduct.

Respondent: The party defending a suit against a petitioner. In an appellate proceeding, a respondent is usually equivalent to an appellee.

Restatement of the Law: A compilation of rules and comments concerning an area of law published by the American Law Institute, a private body of lawyers. Examples are the Restatement of Contracts and the Restatement of Torts.

Reversal: An appellate court decision to set aside the decision of a lower court because the lower court wrongly decided the case.
Settlement: A resolution of a lawsuit by the parties that avoids a trial, or, if a trial has begun, terminates it before a final judgment.

Slippery slope: Lawyers use this term to identify a line of argument designed to show that an apparently reasonable legal principle is open to a progressive series of applications that become undesirable and perhaps horrendous.

Socratic method: In law school, a technique used mainly to teach first-year classes, principally involving questions and hypotheticals rather than lecture.

Stare decisis: Latin for “to abide by decided cases,” meaning that courts must follow the holdings of prior cases in that jurisdiction, and decide similar cases in the same way as the prior decisions.

Statute: A law enacted by a legislature, for example, by Congress.

Supra: Latin for above. Used in legal text to mean that a topic was discussed earlier, as in “see discussion of possession, supra at page 10.”

Tort: A civil wrong, distinguished from breaches of contract in civil litigation and also distinguished from crimes.

Uniform Laws: Codes of statues in particular areas of law that are prepared by a private body, the National Conference of Commissioners on Uniform State Law. A state legislature must enact a uniform law for it to gain any legal effect. A particularly important uniform law in first-year law study is the Uniform Commercial Code.

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