



Definitions of Legal Terms: Civil and Family Law

A Note on Language



In this toolkit, we will sometimes use the word woman/women and feminine pronouns for simplicity and to recognize the significant impact technology-facilitated violence has on women and girls. We recognize that TFGBV also impacts trans, non-binary, and Two-Spirit people. We hope that all people impacted by TFGBV will find these documents useful.

In civil or family matters where you are representing yourself, coming across legal words and phrases you do not recognize can be confusing and frustrating. Even if you are represented by a lawyer, they may talk about legal proceedings or documents that you do not understand, making you feel lost.

This document provides information regarding legal terms that are referenced frequently in civil and family law matters. For more information on civil remedies for technology-facilitated gender-based violence (TFGBV), see: [Legal Protections for Technology-Facilitated Violence: What Laws Apply to You?](#) Please note that unlike criminal law (see [Definitions of Legal Terms: Criminal Law](#)), the **civil and family law systems vary significantly between provinces and territories**. Certain terms discussed in this document will not apply in your local jurisdiction, and certain legal terms you come across in your civil or family proceeding might not be included.

Definitions of Legal Terms

A B C D E F H I J L M N O P R S T V W

A

Action

An action is a proceeding in **civil court**, such as a **lawsuit**, started by one **party** against another party. An action concludes when a **judgment** is made by the court. If someone starts an action against you, you will need to **respond**.

Acts

In a legal proceeding, an "Act" may refer to a specific piece of **legislation** – that is, a written law. For example, the *Family Law Act* of BC is an Act. See also: **statutes**.

Address for Service

An address for service is the place where legal **documents** can be **served** on another **party**, such as a person's personal address or their lawyer's address. It is often listed on their court documents. Each court will have its own set of rules for how to serve documents to an address for service. It may include a fax number or an email address.

Adjourn / Adjournment

To adjourn means to delay or postpone a **hearing** or **trial**. This could be for a short time, such as adjourning for the rest of the day, or a longer period.

Admissible / Admit / Admitted / Admissibility

Whether **evidence** will be considered by the court will depend on whether it is admissible. There are numerous rules governing the admissibility of evidence in **legal proceedings**. For more information, see [Submitting Evidence in Court](#), [Authentication of Digital Evidence](#), and [Objections to Evidence](#).

Affidavit

Lawsuit An affidavit is a voluntary written statement of facts and **evidence** written by or about an individual that they swear to be true. If you are preparing an affidavit, after you or your lawyer have written your statement, you must find someone who has the authority to take **oaths** and swear to that person that the statements in the affidavit are true. This can include people such as a lawyer, a **notary**, or a **commissioner for taking affidavits**.

The written statement (i.e. the affidavit) is then submitted to the court as evidence. The **party** submitting the affidavit must also send a copy to the other parties of the **lawsuit** or **legal proceeding**.

Affidavit Evidence

Affidavit evidence is **evidence** that is presented as a written statement in an **affidavit**.

Affidavit of Personal Service

An affidavit of personal service is essentially the same as an **affidavit of service**, which is a **document** that is used as **evidence** to show you have **served** (i.e., given a copy of the documents to) the other **party** with documents related to the **lawsuit** or **legal proceeding**.

The main difference is that an affidavit of personal service is evidence of **personal service** (i.e., delivered in person), while an affidavit of service is evidence of **ordinary service** (i.e. delivered by mail, fax, or email).

An affidavit of service is important because **rules of court** generally require copies of certain documents to be delivered to the opposing party. If you do not file an affidavit of service, there is no proof that you delivered the documents (i.e., there is no proof that the other party received your documents). This means that those documents do not hold any legal significance and cannot be used by the court.

Affidavit of Service / Affidavit of Ordinary Service

An affidavit of service is an **affidavit** that is used as **evidence** to prove the delivery, by **ordinary service**, of a **document** to the other **parties** of your **lawsuit** or **legal proceeding**.

In other words, an "affidavit of service" is proof that you delivered a copy of a document related to your lawsuit or legal proceeding to the opposing party by mail, email, or fax. You should use the **address for service** listed on the other party's court documents. The person who delivered the document must be the one who completes the affidavit of service. For example, if you delivered the documents to the opposing party, you have to complete the affidavit of service.

An "affidavit of service" is very similar to an **affidavit of personal service**. The main difference is that an affidavit of personal service is evidence of **personal service** (i.e., delivered in person), while an affidavit of service is evidence of **ordinary service** (i.e. delivered by mail, fax, or email).

Affirmation

Before a **witness** provides their **testimony**, they will be asked to **swear an oath** or make an affirmation where they promise to tell the truth. Some people will simply promise to tell the truth, while others will swear on a religious book or item, such as the Bible or the Qur'an. Depending on the religious book or item, you may have to provide the court with **notice**.

If a witness is providing written **evidence**, they will also be asked to make an affirmation promising their **affidavit** is true

Agreement

A written **document** that outlines how you and the other **party** will deal with issues related to your **family law** matter.

Appeal

An appeal is a request for a higher level of court to review a **decision** made by a lower level of court. Courts will not always grant an appeal; there must be a good reason for an appeal to be allowed, such as if the **judge** made a mistake about the law or the facts of the **case**.

There are strict time limits for when you can file an appeal. You will need to ensure you have made your application to appeal on time.

The possibility of an appeal means that if you believe the decision made at **trial** was incorrect, there is a chance that the decision could be reversed or changed. However, this also applies if you believe the decision was correct: the other party may request an appeal if they believe the decision was incorrect. Additionally, just because a court decides to review a decision, it does not guarantee that the decision will be reversed or even changed.

Application

An application is a request that the court make a certain **order**. If you submit an application, you will have to go to court and explain to the court why you should receive the order you are asking for. The court will then decide if they will grant the order or not.

Interim applications can be made after a **lawsuit** has started to deal with individual issues. They often deal with procedural issues that arise before you go to **trial**. See also: **ex parte application**.

If you are the **party** making the application, you are called the **applicant**. The other party is called the respondent.

Application of Record

An application of record is a binder of all the **documents** that will be referred to when you go to court for an **application** or an **interim application**.

Arbitration

If you have a **lawsuit** or legal issue that you want to pursue, arbitration is an alternative option to going to court. Arbitration is a process where you and the other **party** submit **arguments** and **evidence** to a person called an "arbitrator" who will then decide how the lawsuit should be resolved. Even though arbitration is not the same as going to court, the decision that an arbitrator makes is usually final and legally **binding**.

There are certain advantages to using arbitration instead of going to court. It is usually a faster and cheaper process. Arbitration may be easier for you to navigate because there is a lot of flexibility in the rules. In comparison, courts have much stricter rules which must be followed.

Arguments

An argument is what a **party** or their lawyer tells the court about why their interpretation of the case is correct, to try to persuade the court. They must use **evidence**, facts, and laws (including **legislation** and applicable **case law**) to support their arguments.

B

Balance of Probabilities

The balance of probabilities is the **standard of proof** in civil and family **lawsuits**. If you bring a lawsuit to court, you will generally bear the **burden of proof**, meaning that to be successful, you must prove to the court that your **claim** is true on the **balance of probabilities**. This essentially means that your version of events is more likely true than not. To put it in numbers, you will have to prove that there is more than a 50% chance that your version of events is true.

Binding

A **decision** or **agreement** that is legally enforceable is binding. It creates a legal obligation.

Book of Authorities

A book of authorities is a binder that contains all of the relevant **case law**, **statutes**, **regulations**, **bylaws**, and excerpts from legal texts that you will use in your **case**.

Burden of Proof

The burden of proof is the obligation on someone to prove their **case** in court. If the "burden of proof" is on you, this means that you must prove to the court that you are right about a particular issue. The other **party** does not have an obligation to prove this part of the case.

If the burden of proof is on the opposing party, they must prove that they are right. You do not have an obligation to prove anything. However, even when the burden of proof is on the other party, you will still want to argue that the other party is wrong. This will make it harder for the other party to prove that they are right.

The burden of proof is usually on the individual who begins the **lawsuit**. The **standard of proof** (i.e., the amount of proof required) in both civil and family lawsuits is a **balance of probabilities**.

Bylaw

A bylaw is a rule made by a company, society, or public authority, such as a municipality, which governs its members, affairs, or areas.

C

Case

A case is a legal matter that is dealt with in court. "Case" will sometimes be used interchangeably with **action**, **claim**, **lawsuit**, **litigation**, and **proceeding**.

Case Conference

A case conference is a meeting, overseen by a **judge**, between the **parties** of a **lawsuit**. There are many types of case conferences that have different purposes. In general, they are used to set out the issues for **trial**, determine processes and timelines, and/or serve as an opportunity to **settle** a dispute. In some circumstances, case conferences will be a mandatory part of trial proceedings (such as judicial case conferences in some Small Claims matters), whereas in others they will be optional at the request of a party or both parties. The following are all types of case conferences: Case Planning Conferences; Family Case Conferences; Judicial Case Conferences; Settlement Conferences; Trial Conferences; Trial Management Conferences; and Trial Preparation Conferences.

Case Law

Case law includes previous legal **decisions** issued by **judges**. These previous decisions are also considered part of the **common law** and can be used to help your **case** in court. You can look up case law on databases such as CanLII.

Chambers

Chambers are a type of court that decides certain legal matters. Chambers only hear **legal proceedings** leading up to a **trial**. Most **interim applications** are heard in chambers.

Character Evidence

Character evidence is **evidence** that speaks to an individual's character. For example, information implying that an individual is dishonest is character evidence. Character evidence is generally not allowed in court.

However, character evidence is allowed if an individual's character is directly an issue in the lawsuit, such as in a defamation lawsuit, or as **similar fact evidence**.

Circumstantial Evidence

Circumstantial evidence is **evidence** that, if believed, would help the **judge** or **jury** infer that another fact is true. In other words, circumstantial evidence, unlike **direct evidence**, is evidence that indirectly proves a fact.

Circumstantial evidence can be helpful when one party does not have direct proof that an event happened.

Example: You are trying to prove that X stole your car. If you tell the court X recently lost his car and asked you several times if he could have your car, this is circumstantial evidence. Even if a judge decides that you are telling the truth, your statement does not directly prove that X actually stole your car. However, a judge might infer from this information that X stole your car because his car was recently stolen, and he wanted your car.

Civil Action / Civil Litigation

A civil action or civil litigation is an **action** related to a **civil law** matter.

Civil Courts

Civil courts are the courts that deal with non-criminal matters, such as contract disputes, insurance claims, suing someone, and family matters.

Civil Law

Civil law is law concerned with the private (i.e., civil) rights of individuals or corporations. Civil law does not include criminal matters.

Claim

A claim is when a person asserts a legal right to something. If you think you have a claim, you may have to ask a court to grant your claim. Claims are often made against other people (for example, a claim against another person for money you are legally entitled to).

"Claim" is sometimes used interchangeably with **action**, **proceeding**, **lawsuit**, **litigation**, and **case**. See also: **counterclaim** and **third-party claim**.

Claimant

"Claimant" is the term sometimes used for the person who starts a certain type of **action**. For example, in **family law** matters, a person who brings a **claim** may be called the claimant, rather than the **plaintiff**.

Closing Statement

See **Final Submission**.

Commissioner for Taking Affidavits

A commissioner for taking affidavits is a person who verifies the integrity of legal documents. They can take **affidavits** or administer **oaths**, **affirmations**, or declarations. Lawyers and notaries are commissioners for taking affidavits, but some other people may be a commissioner as well.

Common Law

Common law refers to the law as it has developed through previous decisions by judges in that province or territory.

Condition

A condition is a term of an **order** that requires someone to do or refrain from doing something.

Conduct Order

A conduct order is an **order** made by the court that is meant to help manage people involved in a court process.

Consent Order

A consent order or a desk order is an **order** made by a court when you and the other **party** agree on the terms of the order. For example, if you and your ex-spouse have agreed to particular terms for your divorce. A consent order may be required even when you and the other party agree because court orders are required for certain legal processes (for example, a divorce).

Contempt of Court

If someone doesn't do something that the court **orders** them to do, or if they disobey the rules of the court, they may be found "in contempt of court." Additionally, doing things that interfere with the court's ability to function properly can also be considered contempt of court. An example of this would be if a person continuously lies or misleads the court. The consequences of being found in contempt of court can include fines or arrest.

Corroborating Evidence

Corroborating evidence is **evidence** that supports and strengthens the **credibility** of other evidence.

Example: Witness A says they saw X steal your car and Witness B says the same thing. The evidence of A and B corroborate one another.

Costs

Costs are money that a **party** may receive as compensation for the money they had to spend during a **lawsuit**. This can include the fees for filing court documents, lawyer's fees, and other costs related to the lawsuit. Generally, only the successful party of a lawsuit can receive costs, while the unsuccessful party must pay the costs. How much you can receive as costs will vary from province to province, but you will generally not receive all the money you have spent on your lawsuit as costs.

Counsel

Counsel is another term for a lawyer.

Counterclaim

If someone brings a **claim** or **lawsuit** against you in **civil court**, you can file your own claim against that person in a "counterclaim." If you file a counterclaim against someone, you are essentially starting a claim or lawsuit against the person suing you. A counterclaim does not need to be related to the original claim (i.e., you can bring up new issues) although it often is. A counterclaim is not the same as a **response** to a civil claim. You always have to file a response to a civil claim if someone brings a claim against you, but you do not always have to file a counterclaim.

Counterclaims are important in situations where you want the court to grant you something. For example, a situation where person X is suing you for a car accident and wants you to give him money. If you believe that X was actually the one who caused the car accident and should be paying *you*, you must file a counterclaim. If you do not file a counterclaim, you will not receive any money even if the court decides that X caused the car accident. If you want the court to grant you something, you must always ask for it.

A **family law** example involving a counterclaim would be a situation where you and your spouse want orders against each other. Say your spouse asks the court to grant them an order prohibiting you from going to their workplace. If you simply disagree then you would not need to file a counterclaim. However, if you disagree and think that the court should actually grant an order prohibiting your spouse from going to *your* workplace, then you would need to file a counterclaim. If you don't ask the court for an order, they will not grant it.

The information that you include in a counterclaim is the same as the information that is required in a regular **claim**.

Court Clerk / Court Reporter

The court clerk is the person who helps the judge in the courtroom. This person will record the court proceedings (by transcribing the proceedings), swear **witnesses** in, and record **evidence**.

Court Order

A court order or an order is a decision made by a court that requires someone to do something or refrain from doing something. If the court makes an order against someone, they must follow the directions of the order, or else there may be legal consequences. To obtain an order against someone else you must submit an application. If the other **party** does not follow an order, you can take steps to get the order enforced.

For types of court orders, see **conduct order**, **consent order/desk order**, **emergency intervention order**, **final order**, **injunction**, **interim order**, **no contact order**, **pre-trial order**, and **protection order**.

Court Record

The court record is the record that the court keeps about a court **hearing**. This can include things like **evidence**, court **documents**, **affidavits**, and a trial **transcript**.

Credibility

Credibility is how believable a person is. **Judges** and juries assess a **witness's** credibility by observing them give **testimony** in court and interpreting **evidence** about them. If someone has good credibility, meaning they seem honest and reliable, their evidence is more likely to be believed by the judge or **jury**. If someone has bad credibility, their evidence is less likely to be believed. Depending on how credible a witness is, the court will be more or less likely to give their testimony weight when making a **decision** about the case.

Cross-examination

Every time a witness finishes giving **evidence** in court during **direct examination**, the other party will get an opportunity to ask them questions. This process is called "cross-examination."

The purpose of cross-examination is generally to poke holes in the **witness's** version of events or to otherwise undermine their **credibility**. It gives the other side a chance to inquire as to the facts of the case and potentially cast doubt on the credibility of the witness and test the accuracy of their evidence. The rules for cross-examination are less strict than direct examination, as **leading questions** are allowed.

Crown

Crown is another word for the provincial, territorial, or federal government.

D

Damages

Damages are money that one **party** must pay to another party to compensate for loss or harm. The amount (called the quantum) of damages is decided by a **judge** following their **decision** regarding a **claim**.

Decision

The decision is the conclusion a **judge** comes to at the end of a **proceeding** after both **parties** have had a chance to present their **arguments**, the law, and respective **evidence**. A decision can also be made about a specific proceeding within a **lawsuit**, instead of being a conclusion on the lawsuit as a whole. This is referred to as an interim decision or **interim order**.

The term "decision" is often used interchangeably with **judgment**.

Default Judgment

A default judgment is a **judgment** or **decision** in favour of one **party** when the other party fails to respond to legal proceedings, does not attend court, or otherwise fails to comply with the **rules of court**. A default judgment will not be automatically granted; you must apply for one and you must provide **evidence** as to why a default judgment should be granted in your favour. Default judgments are often overturned, so it may be possible to continue with a legal proceeding even after a default judgment has been made.

To protect yourself from a default judgment, you should always keep track of and meet any deadlines that the court sets so that the opposing party does not have a reason to ask for a default judgment.

Defendant

A defendant is an individual who is being **sued** in **civil court**.

Desk Order

See **consent order**.

Direct Evidence

Direct evidence is **evidence** that, if believed, would help prove a fact without the need for further inferences. Direct evidence, unlike **circumstantial evidence**, is evidence that directly proves a fact.

Example: If you tell the court "I saw X breaking into my car and driving off with it," this would be direct evidence that X stole your car.

If a judge decides that you are telling the truth, then your statement by itself is direct proof that X stole your car. The judge does not need to make any other assumptions or inferences to come to that conclusion.

Direct Examination

Oral evidence is initially presented to the court through a process called "direct examination," where the **witness** answers questions in court. A **party** or their lawyer will question their own witnesses.

The purpose of direct examination is to allow a witness to tell a story in their own words. **Leading questions** are not allowed. After direct examination, the other side will have a chance to conduct a **cross-examination**.

Disclosure

The exchange of information needed to proceed with a **trial** or settle a dispute. Near the beginning of a **lawsuit** or other legal proceeding, the **parties** must disclose relevant **evidence** to one another. To determine what evidence has to be disclosed to the other side, you should consult your provincial or territorial **rules of court**.

Discovery Process

The discovery process is the process through which opposing **parties** in a **lawsuit** can collect information and **evidence** from each other about their understanding of what happened in the **case**. The discovery process allows you to determine the strengths and weaknesses of your **case**, and the other side's case. You might use the information that you have obtained during **trial**. During the discovery process, you will be able to collect **documents** and ask the opposing party questions. Conversely, the opposing party will have a chance to request documents from you and ask you questions. It is important that you are forthcoming and honest during this process. It would be harmful to your case if you were to destroy documents or lie to the other party. Discovery occurs before trial so that both sides can have enough time to analyze the information they have collected.

See also: **document discovery**, **examination for discovery**, **interrogatories**, and **notice to admit**.

Document

A document is very broadly defined. It includes any type of record whether on paper or any other medium. Documents include digital evidence such as photos, videos, and emails.

Document Discovery

Document discovery is the process where opposing **parties** exchange documents that are relevant to the **lawsuit**. Document discovery begins with you making a list of all the documents that are relevant to your **case**. You should then put a copy of all the documents on your list into a binder, using the proper forms. The opposing party is allowed access to any of these documents and, if they wish, can make copies.

As a general rule of thumb, if you have a document that you think would be detrimental to your lawsuit, it is relevant and should be disclosed in your list. Do not destroy documents, even ones that you think are irrelevant. If you destroy documents, the court may decide that those documents would have hurt your case even without viewing them.

Domestic Violence Court

Some provinces and territories have special courts dedicated to cases of domestic violence. These courts are generally aimed at ensuring better intervention and the possibility of rehabilitation for perpetrators. There are domestic violence courts, or plans for such courts, in Alberta, British Columbia, Manitoba, New Brunswick, the Northwest Territories, Nova Scotia, Ontario, PEI, Quebec, Saskatchewan, and the Yukon. There are no specialized domestic violence courts in Newfoundland and Labrador or Nunavut.

E

Emergency Intervention Order

See [protection order](#).

Enforcement

Enforcement is the steps that you can take to make sure that a [party](#) follows the requirements set out in an [order](#).

Evidence

Evidence is information presented to the court by the [parties](#) of a [lawsuit](#) or [legal proceeding](#). Evidence is used to help prove the facts of someone's [case](#). A [judge](#) will consider all the relevant evidence that has been presented by both sides in determining the outcome of the case. For more information about evidence in the legal process, see: Submitting Evidence in Court , Authentication of Digital Evidence, and Objections to Evidence .

See also: [affidavit evidence](#), [character evidence](#), [circumstantial evidence](#), [corroborating evidence](#), [direct evidence](#), [expert evidence](#), [hearsay evidence](#), [opinion evidence](#), [oral evidence](#), and [similar fact evidence](#).

Ex Parte Application

See [without notice application](#).

Examination

An examination is the act of asking [witnesses](#) questions in order to receive their [evidence](#). If you or the other [party](#) are represented by a lawyer, the lawyer will ask the witness questions. If you are self-represented, you will ask the witness questions. See also: [cross-examination](#), [direct examination](#), and [re-examination](#).

Examination for Discovery

An examination for discovery, also called oral discovery, is the process where one [party](#) is allowed to ask the opposing party questions that are relevant to the [lawsuit](#).

This process does not happen in front of a [judge](#) and is not part of the [trial](#). You and the opposing party will decide on a time and place to meet. A person called a [court reporter](#) will also be present to record everything that is said onto a written [transcript](#). The transcript containing the questions and answers can then be used at trial as [evidence](#). However, only the party asking questions can use the answers at trial. The party answering questions is not allowed to use their own answers at trial. Do not waste your time giving lengthy answers that you think will be beneficial to your case – save these for the trial. You will not be able to use these answers in court. All that is required of you during the examination for discovery is to give clear and honest answers.

When you are asking the opposing party questions, you should use it as an opportunity to gather information that you may not have personal knowledge of. You should also get the opposing party's version of the story. If they contradict themselves later on in trial, you can use their previous statement to show that they are unreliable or may be lying.

Examination-in-Chief

See [direct examination](#).

Exhibits

Exhibits are [documents](#) or objects that are presented as [evidence](#).

Expert Evidence / Expert Opinion

Expert evidence is [evidence](#) that an [expert witness](#) gives on issues that ordinary people do not have much knowledge of.

Expert evidence is an exception to the rule that prohibits [opinion evidence](#) from being used in court. Qualified experts with special knowledge of something are allowed to give opinions on things within their expertise. The courts have specific rules about expert evidence, which you will need to familiarize yourself with if you or the other side intends to rely on expert evidence.

Expert evidence is useful in [cases](#) that deal with issues that an ordinary person would not know a lot about. Cases involving medical injuries or complicated technology are often hard for an ordinary person to understand and will require an expert witness to explain these issues to the court.

Expert Witness

A **witness** who gives **expert evidence** relating to a **lawsuit** or **legal proceeding**. Experts are allowed to give their opinion on a fact in issue. Expert witnesses only give opinions regarding issues that require special skills or knowledge to understand.

F

Factum

A factum is a document that explains your argument to the court, including the relevant facts and laws. Factums may be required when you are **appealing** your **case** or if you are filing a **motion**. There are often specific rules about what is allowed to be written in a factum and how long it can be.

Family Law

Family law deals with legal issues related to family matters. This includes divorce, custody, support, protection, parentage, and division of property.

File / Submit

Giving the court your **documents** to keep on file. Documents can be filed in person at the courthouse of your choice, or you can file your documents online through e-filing.

Final Order

A final order is an **order** resulting from the final **decision** of a **lawsuit**. A final order is not subject to any other pending decisions. As the name suggests, a final order is final. It is normally meant to last indefinitely.

Final Submission / Closing Statement

The portion of a **trial** where each side has the opportunity to summarize their **case**. They can also restate the strengths of their case and point out the weaknesses of the other **party's** case. Final submissions are made after all the **evidence** has been presented.

Financial Statement

A financial statement is a **document** that describes your income, assets, and other financial information. Financial statements are often required to be **filed** with the court in **family law** matters where child or spousal support is an issue.

H

Hearing

Any proceeding heard in court where a legal issue is determined.

Hearsay Evidence

Hearsay is a statement made by a person who is not giving testimony to the court, that you want to rely on to prove that what that person said was true. Evidence that is hearsay is generally not **admissible** in court.

Example: Linda told you that she saw Brian run a red light. If you were to testify that Linda told you she saw Brian run a red light, this would be hearsay and would likely not be admissible. Instead, you should call Linda as a witness so that she can testify that she saw Brian run a red light.

To be hearsay, a statement must be offered for the truth of its contents. This means that the reason you are putting this evidence before the court is that you want the **judge** or **jury** to be convinced that what the person said was true.

Example: If you tell the court Linda told you she saw Brian run a red light because you want to prove that Brian ran a red light, hitting your car, you would be relying on this statement for the truth of its contents, making it hearsay. If you tell the court Linda told you she saw Brian run a red light because you want to prove that Linda is a liar (for example, if you know Linda was sleeping at the time Brian ran the red light), this evidence would not be hearsay. You would not be relying on it for the purpose of showing that Brian ran a red light (the truth of its contents), but rather another reason (to show Linda is a liar).

Generally, if a **witness** has firsthand knowledge related to the fact that they are trying to prove, then it will not be hearsay.

There are many exceptions that allow hearsay to be used in court. For more information about hearsay, see Submitting Evidence in Court.

I

Impoverished Status / Indigent Status / Waiving Fees

"Impoverished status" and "indigent status" are old terms that referred to **self-represented litigants** who could not afford court fees. However, you may still see these terms occasionally. People meeting these criteria can apply for an order to have some court fees waived.

Infant

An infant is an individual who has not reached the age of majority. They are sometimes referred to as a child. An infant cannot bring a **lawsuit** or any other **legal proceeding**. They also cannot be the **defendant** of a lawsuit. A **litigation guardian** is required to act on their behalf.

Injunction

An injunction is an **order** that either requires someone to do something or requires that they stop doing something. Injunctions can be **final orders** or **interim orders**.

Interim Application / Interlocutory Application / Chambers Application

An interim application is an **application** made after a **lawsuit** has been started requesting that the court make an **interim order** concerning an issue before the end of your **case**. If you submit an interim application, you will have to go to court and explain to the court why you should receive the interim order you are asking for. The court will then decide if they will grant you an interim order. This decision usually does not result in the **final decision** of a **lawsuit**. However, certain interim applications can result in a final decision.

Interim Order / Interlocutory Order

An interim order is an order that deals with intermediate issues that arise during a **lawsuit** (i.e., something that needs to be decided before the final lawsuit is over) but usually does not result in the **final decision** of the lawsuit. Interim orders are often temporary, pending the final result of a lawsuit. To obtain an interim order, you must submit an **interim application**.

Interrogatories

Interrogatories are written questions that one **party** to a **lawsuit** sends to the opposing party. Interrogatories are used during the **discovery process** to ask the opposing party questions that are relevant to the lawsuit.

You should not (and cannot) ask all of your questions using interrogatories (i.e., written questions). During the discovery process, most questions are asked orally and in person through the **examination for discovery**. However, interrogatories are useful when you have a question that might not be answered properly if asked in person.

For example, if you ask the opposing party "On which days in the year 2019 did you meet with your supervisor?", the opposing party would probably say, "I can't remember." This answer, while completely useless to you, is reasonable as most people cannot recall such specific details. The use of interrogatories in this example would ensure that you receive a useful answer. When you send the opposing party interrogatories, they must do a reasonable investigation to find the answer. This means that if you send interrogatories asking, "On which days in 2019 did you meet with your supervisor?", the opposing party cannot respond that they don't remember. They are required to do a reasonable investigation which would involve checking their calendar or asking their supervisor. Similarly, if the opposing party sends you interrogatories, you should do your best to properly answer the questions.

To send someone interrogatories, you must get permission from the **judge** first. If the other party sends you interrogatories without permission from the judge, you are not obligated to answer. The answers to interrogatories must be written in the form of an **affidavit**.

J

Judge

A person who has been appointed to hear and make decisions on legal matters in a court.

Judgment

The written or oral conclusion of a court proceeding, made by a **judge**. Often used interchangeably with a **decision**.

Jurisdiction

The authority a court has to make decisions about certain people, locations, and subject matters.

Jury

Some **civil cases** are heard before a jury rather than a **judge** alone. A jury is a group of 12 citizens who listen to the **arguments** made by each **party**, listen to the **evidence**, follow the judge's instructions about how to interpret the law, and make the final **decision** in the case.

L

Lawsuit

A lawsuit is a legal dispute that is brought before a court for a decision. The term "lawsuit" is sometimes used interchangeably with **action**, **claim**, **case**, **litigation**, and **proceeding**.

Leading Question

A leading question is a question that has the answer within the question. They are often, but not always, "yes" or "no" questions. For example: "You hit my car on November 3rd, didn't you?" Generally, leading questions are allowed in **cross-examination** but not allowed in **direct examination**.

Legal Proceeding

See **proceeding**.

Legislation

Legislation is written law. Legislation may also be referred to as statutes (or a statute), an Act (or acts), or an enactment (or enactments). The *Family Law Act* of BC is a piece of legislation.

Limitation Period

The limitation period is the amount of time that you are allowed to wait before bringing an issue before a court. The general rule is that you have two years, from the date that you discovered your claim, to bring the claim before a court. There are special circumstances under which the limitation period may be longer than two years.

List of Documents

See document discovery.

Litigant

See party.

Litigation

See action.

Litigation Guardian

A litigation guardian is an individual who acts on behalf of an infant or someone who is mentally incapacitated in legal proceedings. Litigation guardians are typically family members of the individual they are acting for. Sometimes the provincial or territorial Public Guardian and Trustee will be the litigation guardian.

If you are a litigation guardian, you cannot have a stake in the outcome of the legal proceeding. You must be neutral to the proceeding. This means that the outcome of the proceedings must not legally affect you, but you can still be emotionally invested in the proceedings. If the court finds that you have an interest in the proceedings, you will be removed as the individual's litigation guardian.

M

Master

A master is similar to a judge. Masters have the jurisdiction to decide certain legal issues. However, masters generally do not determine the final outcome of a lawsuit and are limited in what kinds of decisions they can make.

McKenzie Friend

A support person who sits alongside a self-represented litigant to provide practical and emotional support during the court process. Their role is to help keep you organized, calm, and focused. This will usually be a trusted family member or friend. They can only be in the courtroom if the judge allows it.

Mediation

Mediation is a process where a neutral "mediator" tries to help you and the opposing party settle a lawsuit. A mediator has no power to decide how your lawsuit should be resolved. A mediator's job is to help you and the opposing party reach an agreement.

Mediation is usually voluntary, meaning that both you and the opposing party have to agree to it.

Mediations do not result in legally binding decisions unless the parties create a legally binding agreement out of the mediation. These types of agreements would have to be authorized by someone with legal authority, such as a lawyer.

Motion

A motion is a request made by one party that the court makes a specific decision or order on an issue related to your lawsuit. Motions are made before the final decision of the case is completed. Examples of motions include requests for extensions of time to file documents, a request for a default judgment, or a temporary order for one party to pay the other child support.

If you are the person making the motion, you are called the moving party and the other party is called the responding party. If you submit a notice of motion, you will have to go to court and explain to the court why you should receive the order you are asking for. The court will then decide if they will grant the order or not.

N

No-Contact Order

A no-contact order is an order made by the court that one person cannot contact another person.

Notary

A professional person who has been granted the authority to certify legal documents, witness the signing of documents, commission affidavits, and administer oaths and affirmations.

Notice of Application

A document that you must file with the court to make an application or an interim application. The notice of application must be served on the parties of the lawsuit or legal proceeding using ordinary service.

Notice of Claim / Statement of Claim

A notice of claim or a statement of claim is a document that you must file with the court to begin an action or lawsuit. There are slight variations in what such documents are called depending on the court, and the province or territory where the claim is being started. The notice of claim must be personally served on the person you are starting the lawsuit against. If you receive a notice of claim, you must file a response.

Notices to Admit

A notice to admit is a request that one party admit that certain facts are true.



Oath

When a witness is sworn in or swears an oath in court, they are promising to tell the truth. They are making this promise based on their religious beliefs.

If a witness does not swear to tell the truth based on their religious beliefs, they must instead affirm to tell the truth.

Objection

When someone raises an objection in court, it means that they are opposed to something the other party is doing. See Objections to Evidence for more information about how to make an objection and what you may object to.

An objection may generally be raised in two situations. First, when one party believes that the other party has asked a witness an improper question. Second, when one party believes that the other party is presenting evidence to the court that they should not be allowed to present. After a party raises an objection, they will have to explain to the judge why they are objecting. The other party may also explain to the judge why they think their question or evidence should be allowed. If the judge agrees with the objection, the other party's question or evidence will not be allowed. However, the judge may disagree with the objection, in which case the other party's question or evidence would be allowed.

Opening Statement

Statements made at the beginning of a trial by both parties. Opening statements are used to give the judge or jury an overview of the case, including the facts that each side is going to prove and the evidence they will present.

Opinion Evidence

When witnesses testify, their evidence is supposed to be about the facts of the case. When witnesses start to talk about their own opinions, it is considered opinion evidence, which is generally not admissible.

Example: A witness testifies "I definitely think X is guilty and should go to prison." This is inadmissible opinion evidence.

This does not mean that a witness is never allowed to include opinion in their testimony. People regularly express opinions without even noticing them. Witnesses are allowed to talk about their "lay opinions." Lay opinion generally means an opinion that an ordinary person would naturally incorporate into their story.

Example: It would likely be acceptable for a witness to say, "Brian was slurring his words, stumbling a lot, and drinking from a large bottle of vodka. He seemed drunk."

While the witness does not know for a fact that Brian was intoxicated, the opinion that the witness reached that Brian seemed drunk is acceptable evidence as these are the kinds of judgments people regularly reach in their day-to-day lives. A reasonable person observing Brian would likely come to the same conclusion based on his behaviour.

Oral Discovery

See examination for discovery.

Oral Evidence

Evidence that is given by a witness to the court orally, instead of through a written statement, is *viva voce* or oral evidence. If a witness is giving evidence through oral testimony, it is usually done through direct examination and cross-examination, a process where the witness will answer questions in court.

Usually, a person giving *viva voce* evidence must physically be present in court. However, a witness may ask permission to give their evidence by live video if they have a good reason for why they are unable to make it to court (for example, if they are out of the country).

Order

See [court order](#). For types of court orders, see [conduct order](#), [consent order/desk order](#), [emergency intervention order](#), [final order](#), [injunction](#), [interim order](#), [no contact order](#), [pre-trial order](#), and [protection order](#).

Ordinary Service

Ordinary service is a form of [service](#) where court documents are delivered to someone by mail, email, or fax. The rules of court set out the [documents](#) that must be served by ordinary service. When you have served a person in this way, you may need to swear an [Affidavit of Ordinary Service](#).

P

Partie non représentée

Une partie non représentée est une partie à une procédure judiciaire qui représente ses propres intérêts devant le tribunal, plutôt que de se faire représenter par une avocate. Si vous êtes non représentée, il est recommandé de consulter le Manuel de droit civil du Conseil canadien de la magistrature et/ou le Manuel de droit de la famille du Conseil canadien de la magistrature, ainsi que les documents de la présente trousse et celle sur la Préservation des preuves numériques. Bien que les personnes non représentées soient souvent appelées «plaigneurs qui se représentent eux-mêmes», cette expression suggère qu'il existe un choix de se représenter soi-même. Cependant, les personnes qui se représentent elles-mêmes n'ont souvent pas le choix et sont obligées de le faire, c'est pourquoi le terme «partie non représentée» peut être plus approprié.

Party

When an individual begins (by filing a [notice of claim](#)) or [responds](#) to a [lawsuit](#) or court proceeding, they are a "party" or a "litigant" to the proceeding.

Personal Service

Personal service is a form of [service](#) where court [documents](#) are physically handed over to another person. Personal service requires documents being served to literally be passed into the possession of the person receiving the documents. Dropping off a document on someone's doorstep is not personal service. Applicable [rules of court](#) set out the documents that must be served by personal service. Although you are responsible for making sure that your documents are served, you cannot perform personal service yourself. Someone else must serve the document for you. Most people use a [process server](#), but you can also ask a friend or family member. That person will then need to swear an [Affidavit of Personal Service](#).

Plaintiff

A plaintiff is the individual who begins a [lawsuit](#), by filing a [notice of claim](#). The individual who is being [sued](#) by the plaintiff is known as the [defendant](#).

Pleadings

[Documents](#) which set out the issues of a [lawsuit](#) that a party is asking the court to render a [judgment](#) on. Pleadings include the facts of the lawsuit that you intend to prove in court and the relevant laws. Pleadings are submitted to the court at the beginning of a lawsuit. Opposing parties of a lawsuit will each have their own pleadings. Your, or the other [party's, notice of claim](#) (or similar originating document, depending on the court and province/territory) will be the first document that you file with the court. The party receiving the notice of claim would then file their [response](#), containing their version of events, which constitutes their pleadings.

Pleadings are very important because the court will only deal with what has been stated in your pleadings.

Example: If you sue a person for crashing their car into your house, your pleadings would state that you want the person to pay for damage to your house. If you also suffered personal injuries, but do not mention these, you will not be allowed to bring up your injuries or seek [damages](#) for them at [trial](#).

Pre-Trial Order

See [interim order](#).

Privilege

Privilege is a right that attaches to certain types of relationships that allows communications arising from those relationships to be protected from [disclosure](#) at [trial](#). If someone claims that a piece of information is privileged, they are saying that they have a right not to tell the court about that information. Privilege only applies to communications (i.e., conversations, emails, and letters), and does not apply to facts.

Example: Imagine a situation where you cannot remember whether you ran a red light on Friday night. Your lawyer then tells you that they found surveillance footage showing that you did run a red light. This conversation with your lawyer is a communication. However, from this conversation you now know that you ran a red light. It is a fact that you ran a red light. Depending on other factors, your communications (i.e., the conversation) with your lawyer could potentially be privileged. Let us assume for the example that the conversation is privileged. This means that you have a right to keep the conversation a secret. If you are asked in court to repeat what your lawyer said to you, you do not have to repeat the conversation for the court. However, if somebody asks you in court whether you ran a red light on Friday night, you would have to answer truthfully and say yes. You do not have a right to stay silent when someone asks you to tell them about a fact that you have knowledge of. Your conversation with your lawyer is privileged, but the fact that you ran a red light is not privileged.

There are many rules that dictate when a communication is considered privileged. Privilege only attaches to certain types of relationships – you cannot claim a communication is privileged just because you expected it would remain private. For more information about privilege, see Submitting Evidence in Court.

Proceeding

A proceeding can refer to either:

1. The entire court process, or

2. A specific process that is within a larger court process.

The term “proceeding” is sometimes used interchangeably with [action](#), [case](#), [claim](#), [lawsuit](#), and [litigation](#).

Process Server

A process server is a professional who you pay to [personally serve](#) court documents for you.

Protection Order

A protection order or emergency intervention order is an [order](#) made by a [civil court](#) that protects individuals from being harmed by family members. What a protection order looks like and the requirements for obtaining one vary between provinces and territories. They are similar to peace bonds under the *Criminal Code*. For more information on protection orders and peace bonds, see [Peace Bonds and Protection Orders for Victims of TFGVB](#).

If a protection order is granted and the other person breaches the conditions of that order, it is a criminal offence. The person may face consequences, such as a fine, probation, or jail time.

Provision

A provision is a section of a statute.

R

Re-examination

Re-examination is an opportunity for a party to ask their [witness](#) questions after they have been [cross-examined](#). Sometimes the cross-examination may result in issues or inconsistencies with the witness's story. The purpose of re-examination is to give a [party](#) a chance to clear up those issues.

Regulation

Regulations are a type of law that outlines the details and applications of a particular [statute](#). The authority to create regulations related to a statute is dictated in the statute.

Remedy

A remedy is something that a [party](#) to [litigation](#) receives when their legal rights have been violated. A common remedy that people ask for are [damages](#) (i.e., money). For the purpose of this toolkit, remedies include possible avenues of legal recourse for victims of TFGVB.

Response / Reply

A response or reply is required when someone starts a [lawsuit](#) or [legal proceeding](#) against you. Once you receive someone's [notice of civil claim](#), you must file a response within a set amount of time. Failure to reply may result in a [default judgment](#) against you. A response may also include a [counterclaim](#) or a [third-party claim](#).

Restraining Order

A [court order](#) to protect one person from another person. This term is sometimes used interchangeably with [protection order](#) and [no-contact order](#) and is similar to a criminal law peace bond. For more information on restraining orders and peace bonds, see [Peace Bonds and Protection Orders for Victims of TFGVB](#).

Rules of Court

Rules of court are guidelines on the procedures that a court, as well as the [parties](#) involved, must follow when dealing with legal matters. Each court has its own rules of court that must be followed.

S

Self-Represented / Self-Represented Litigant

See [unrepresented litigant](#).

Service / Serve / Served

Service is the act of delivering legal documents to an individual. There are certain documents that you must serve on certain individuals in a particular way. There are specific rules on how and to whom a document must be served. Some documents are served personally while ordinary service is allowed for other documents. See also: [ordinary service](#), [personal service](#), [process server](#), and [substituted service](#).

Settlement

A settlement is an out-of-court agreement regarding a [lawsuit](#) or legal issue. Even if you have already started court proceedings, you can still settle the issue with the other party outside of court at any time. You should always try your best to settle a lawsuit since going to court is very time-consuming and expensive. When negotiating a settlement, it is standard practice to label all communications “[without prejudice](#).”

Similar Fact Evidence

Similar fact evidence is **evidence** that someone has previously engaged in behaviour that is very similar to the issue that is being tried. It is an exception to the general rule that **character evidence** is inadmissible.

Example: If the case involves the theft of flowerpots from peoples' front porches, evidence that the defendant has previously stolen flower pots off of front porches would be admissible, as it is highly informative evidence.

Standard of Proof

Standard of proof is the degree of proof required in a certain **case**. For civil law cases, the standard is often on a "**balance of probabilities**." For criminal **trials**, the standard is "beyond a reasonable doubt."

Statutes

Statutes are the laws made by Parliament or the Legislature, such as the BC *Family Law Act*. They are pieces of **legislation** and are sometimes called **Acts**.

Style of Proceeding / Style of Cause

The "style of cause" is the information at the top of every court **document** identifying the **legal proceeding** that the document relates to. In civil cases, the style of cause includes the names of the **parties** along with some identifying information about what court the documents were filed in, the case registry number, and relevant dates. All the court documents of a **lawsuit** will have the same style of cause/proceeding.

Submissions

Submissions are the **documents** that **parties submit** to the court to explain why they think their side of the **case** is correct. It contains their legal **argument** with relevant **evidence** attached.

Submit / File

Giving the court your **documents** to keep on file. Documents can be filed in person at the courthouse of your choice, or you can file your documents online through e-filing.

Subpoena

A subpoena is a **document** that tells someone they must attend court and act as a **witness**.

If you receive a subpoena, you must go to court at the date and time set out in the subpoena. If you do not show up to court, there may be legal consequences such as a warrant for your arrest.

If someone has information that could benefit your **lawsuit**, you will probably want them to be a witness for you. If they refuse to act as a witness, you should issue a subpoena to ensure that they come to court and give **evidence**.

Substituted Service / Alternative Service

Substituted service or alternative service is when it is impractical or impossible for you to **serve documents** in the manner required. In this case, the court may allow you to serve the other **party** in an alternative manner. For example, you may ask to serve a person through their social media account. You will have to apply to be allowed an alternative method of service.

Sue / Sued / Suing

To sue someone is to start a **lawsuit** against them. When you sue someone it will be because they have harmed you in some way, and you are seeking a **remedy**, such as an **injunction** or **damages**.

Swear an Oath / Sworn in

When a **witness** is sworn in or swears an **oath** in court, they are promising to tell the truth. They are swearing on their religious beliefs. If they do not have religious beliefs they may choose to **affirm** to tell the truth instead.

T

Testify / Testimony

A **witness** is testifying (or "giving testimony") when they are orally providing the court with information about the **case** after they have promised to tell the truth by **affirmation** or an **oath**. Witnesses will give their testimony through **direct examination**, **cross-examination**, and (sometimes) **re-examination**.

Third Party

A third party can mean either (a) an individual who did not begin or respond to a court proceeding but is brought into the proceeding by one of the **parties** filing a **third-party claim** or (b) an individual who is not a party to a court **proceeding**.

Third-Party Claim

If someone brings a **claim** or **lawsuit** against you, you can file your own claim against a **third party** (someone unrelated to the lawsuit) in a third-party claim. If you file a third-party claim against someone, you are essentially starting a claim or lawsuit against that person. A third-party claim does not need to be related to the original claim. However, courts will often be hesitant to allow third-party claims that are not related to the original claim.

A third-party claim is often filed if there is another party who might be partly to blame for the damage done. For example, if you are being sued for hitting someone with your car, but you only hit them because another car slammed into you, you might bring a third-party claim against the driver of that other car.

The information that you must include in a third-party claim is the same as the information that is required in a regular claim.

Tort

A tort is a wrongful act (for example, trespassing, defamation, assault) committed by a person that could result in an individual receiving a **remedy**. You may commence a **lawsuit** against someone who has committed a tort against you. For some common torts that may be applicable in cases of technology-facilitated violence, see Legal Protections for TFGBV: What Laws Apply to You?, Legal Remedies for Online Harassment, Stalking, Spying, and Threats, and Legal Remedies for Image-Based Abuse .

Transcript

All **proceedings** are transcribed by a **court clerk** in text or audio format. What is said during the proceeding and entered into the record is recorded. They are not generally publicly available, so if you want a copy of the court transcript you will need to make a request to the court. There are some restrictions on which transcripts can be released and it can be expensive to order them.

Trial

A trial is the **hearing** of a **lawsuit** before a **judge** or (less often) **jury** in court. **Parties** will have an opportunity to present **evidence** and submit arguments. Since a final **decision** on the lawsuit will usually be made, a trial is the last step of a lawsuit.

Trial Brief

A trial brief is a binder of various documents that must be filed with the court and **served** on the opposing **party**. The applicable **rules of court** will set out requirements for trial briefs.

Trial Record

A trial record is a binder of all the documents that will be used at **trial**. The applicable **rules of court** will set out requirements for trial records.

V

Viva Voce Evidence

See **oral evidence**.

W

Weight

After all of the **evidence** from both **parties** to a **case** has been **admitted**, the **judge** will determine how much weight to give each piece of evidence by considering the reliability and trustworthiness of the evidence. Evidence that is given more weight will have a greater impact on the outcome of your case. Evidence that is given little to no weight will not affect the outcome of your case very much.

Without Notice Application

A "without notice" or *ex parte* application is an **application** that is submitted to the court without the opposing **party's** knowledge. This means that you do not need to **serve** the opposing party with a **notice of application** to let them know you are submitting an application. Without notice applications are used in urgent situations when giving notice to the other party would be dangerous or harmful (for example, if giving notice would result in the other party destroying evidence).

If you submit a without notice application, you will have to go to court and explain to the court why you should receive the order you are asking for. The opposing party will not be present in court to represent themselves on a without notice application. It is important that you fully disclose all relevant information, even information that might be detrimental to your application. If you are not honest when presenting a without notice application, any orders made in your favour may be set aside later.

Without Prejudice

When parties in a lawsuit try to **settle** their **case** out of court, the information that they exchange with each other is usually labelled "without prejudice." Information that is exchanged without prejudice cannot be used in court as **evidence**. This allows you to openly exchange information with the opposing **party** during settlement negotiations. Technically, information exchanged in settlement negotiations is **privileged** and therefore should not be relied on as evidence even if it is not labelled "without prejudice." However, labelling it "without prejudice" is standard practice and should be done when possible. If you are communicating orally, just tell the other party early on that your communications are made without prejudice. If you are sending an email or a letter, write the words "without prejudice" somewhere at the beginning of the email.

You should always try your best to settle a **lawsuit** out of court since going to court is very time-consuming and expensive. If you and the opposing party cannot come to an **agreement**, you may have to go to court.

It is important to note that only communications for the purpose of negotiating a settlement can be without prejudice. Simply writing "without prejudice" on every single email you send someone does not mean that they cannot be used against you in court. For example, if you send someone a threatening email, they can still use that email in court even if you add "without prejudice" to the beginning of the email.

Witness

An individual who gives evidence relating to the lawsuit or legal proceeding. Witnesses are usually people who saw something or know something concerning a case.

Witnesses will give evidence to the court either through oral testimony or an affidavit. If a witness is giving evidence through oral testimony, it will usually be done through direct examination and cross-examination, a process where the witness will answer questions in court.

During a trial, there are rules that dictate what a witness is allowed to say. Generally, witnesses are only allowed to tell the court things that they have first-hand knowledge of and cannot talk about their opinions. However, there are many exceptions. See opinion evidence.

Technology-Facilitated Gender-Based Violence (TFGBV) is part of a continuum of violence that can be both online and in-person. If you or someone you know is experiencing TFGBV, you are not alone. You can use sheltersafe.ca to find a shelter/transition house near you or call/text the [Kids Help Phone](https://www.kids-help-phoneline.ca) to discuss options and create a [safety plan](#). You don't need to stay in a shelter to access free, confidential services and support.

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