

## **COMMON TERMS**

### ***Alternate juror***

A juror chosen to replace any juror excused during the trial. This juror will sit in on the trial, and if not needed, will be excused at the start of the jury deliberations. Jurors are usually only excused during the trial when there is an emergency.

### ***Appeal***

A complaint to a higher court that an injustice was done or that a mistake was made in the trial of the case. The higher court is asked to correct or reverse the decision of the trial court. The higher court determines whether the trial court correctly applied the law to the facts.

### **Approach the bench**

A request by the judge or attorneys for a private discussion with the judge at the bench about an issue of law or procedure which is necessary to the proper presentation of evidence to the jury.

### **Beyond a reasonable doubt**

The standard of proof in criminal cases. A reasonable doubt does not mean any doubt, only a doubt based on reason after consideration of the evidence.

### **Burden of proof**

The degree to which a party must prove its case. The burden is different in criminal and civil cases.

### **Civil case**

A lawsuit between persons or other entities in their private capacity or relations; the plaintiff usually seeks money damages.

### **Clear and convincing**

A standard of proof used in civil cases. Clear and convincing evidence is a greater degree of proof than preponderance, but a lesser degree of proof than required in criminal cases.

### **Counsel**

Another term for an attorney sometimes used to refer to all the attorneys collectively.

### **Court**

Term often used in place of "judge", since the judge acts for the court system, not as an individual. In superior court and some family court matters the term includes the assistant judges.

### **Criminal case**

A case in which the State of Vermont charges a person or other entity with having committed a crime; the prosecutor usually seeks imprisonment, probation or a monetary fine.

### **Cross-examination**

The questioning of a witness by an attorney other than the one who called that witness to testify.

### **Defendant**

Person or other entity against whom a lawsuit is brought in a civil case; a person charged with a crime in a criminal case.

### **Deliberate**

To weigh, consider, and discuss the evidence given in a trial in order to reach a verdict.

**Deposition**

The sworn testimony of a witness taken outside of court, written down and used during the trial. A deposition is often used when a witness is not able to be in court personally.

**Direct examination**

The questioning of a witness by the attorney for the party who called that witness to testify.

**Evidence**

The sworn testimony of witnesses, physical exhibits, a view of the scene (such as a construction site), or other matters that the judge permits the jury to consider when reaching a verdict.

**Motion to strike**

A formal request to the judge not to allow testimony to be considered as evidence after it has been spoken by a witness. The judge will instruct the jury to disregard what was said if the motion is granted.

**Objection overruled**

The judge denies an objection. Sometimes the judge will overrule an objection by saying "we'll take the answer" or some similar phrase. The matter offered in evidence becomes evidence.

**Objection sustained**

The judge grants an objection and the matter offered in evidence are not allowed into the case.

**Party**

The State of Vermont in a criminal case, the plaintiff in a civil case and the defendant in a criminal or civil case.

**Plaintiff**

Person or group starting a lawsuit in a civil case.

**Preponderance of the evidence**

A standard of proof used in civil cases. The preponderance of the evidence means that the fact is more likely than not to have happened.

**Presumption of innocence**

A defendant is presumed to be innocent in a criminal case and may only be found guilty if the state presents enough evidence to overcome this presumption.

**Prosecutor**

Person who brings a charge on behalf of the state in a criminal case - usually a state's attorney.

**Sequester**

To keep members of a jury together at all times and apart from their normal contacts so that there is no chance that they will see or hear anything about the case on trial until they have reached a verdict.

**Testimony**

Evidence given by a witness under oath.

**Verdict**

The formal decision made by a jury on the questions given to the jury regarding the trial of a case. The verdict is always unanimous.

**Witness**

A person whose testimony is received in the case. Usually this is a person who tells about what he or she has seen, heard or knows about the facts in the case.