

GLOSSARY

actual service: A type of service of process in which there is in-person delivery of a summons to a defendant in a civil case. Also referred to as **personal service**. See, for comparison, **substituted service** and **constructive service (service by publication)**. See also, **service of process**, **summons**, and **default judgment**.

administrative law: Public law (i.e., law governing the relationship between individuals and the state) that is developed around governmental regulations. See, for comparison, **constitutional law**. See also, **law**, **common law**, **common law system**, **case law**, **executive order**, **constitution**, **ordinance**, and **statute**

adversarial legalism: A legal style, prominent in the U.S., that emphasizes lawyer-dominated litigation for resolving disputes as well as making and implementing public policy. See also, **civil disputes**.

advice and consent: The constitutional requirement (specified in Article II of the U.S. Constitution) that the Senate must confirm judicial and executive nominations made by the president. See also, **nomination**, **confirmation**, **blue slip procedure**, **cloture**, **committee hearing**, **filibuster**, **holds**, **recess appointments**, and **senatorial courtesy**.

affirmative defense: The legal reason (or set of legal reasons) put forth in a civil case by the defendant as to why he is not liable for the plaintiff's damages. See also, **answer**, **tort**, **punitive damages**, and **compensatory damages**.

agenda setting: The process by which courts with discretionary dockets choose the cases they will decide. This is known as the *certiorari* (or cert) process in the U.S. Supreme Court. See also, **writ of certiorari**, **cert pool**, **dead list**, and **discuss list**.

alternative dispute resolution (ADR): Broadly speaking, any means of settling a dispute outside the courtroom. More specifically, negotiation, mediation, or arbitration outside of the courtroom directed at the resolution of a dispute. See also, **arbitration**, **mediation**, and **negotiation (civil case)**.

amicus brief: A legal brief filed by a person or group who is not a direct party to a case (i.e., a third party) but who has a strong interest in the matter at issue in the case. Filed at the *certiorari* stage, an *amicus* brief argues in favor of or in opposition to the granting of *certiorari*. Filed at the merits stage, an *amicus* brief argues in favor of a particular outcome in the court. See also, *amicus curiae* and **legal brief**.

amicus curiae: Latin for "friend of the court." A person or group who is not a direct party to a case (i.e., a third party) but who has a strong interest in the matter at issue in the case and files a legal brief (i.e., an *amicus* brief). *Amicus* briefs can be filed at the *certiorari* stage to argue in favor of or in opposition to the granting of *certiorari*. They are more common at the merits stage, where they are filed to argue in favor of a particular resolution. *Amici curiae* can include, for example, interest groups, members of Congress, state governments, and private individuals. See also, **amicus brief** and **legal brief**.

Anders brief: A legal brief filed by a criminal defendant's court-appointed attorney asking for permission to withdraw from the case on appeal, based on the belief that the grounds for appeal are frivolous. So called because of the U.S. Supreme Court case of *Anders v. California* (1967). See also, **defendant** and *pro se*.

answer: The defendant's formal, written response to a plaintiff's complaint in civil litigation. In the answer, the defendant responds to each paragraph of the complaint by admitting, denying, or indicating insufficient knowledge to admit or deny. An answer may also include an affirmative defense and/or a counterclaim. See, for comparison, **complaint**. See also, **affirmative defense**, **counterclaim**, **reply**, **defendant**, and **plaintiff**.

appeal bond: A type of surety bond that a court requires from an appellant prior to filing an notice of appeal, which stays the execution of the judgment of the lower court. The amount of an appeal bond is typically the amount of the judgment (plus interest and costs). Also referred to as a *supersedeas bond*. See also, **appellant** and **appellee**.

appellant: The litigant appealing the decision of the lower court; i.e., the litigant who lost in the lower court and is seeking a new decision on appeal. Also referred to less commonly as **plaintiff in error**. See, for comparison, **appellee (respondent)**. See also, **defendant** and **plaintiff**.

appellate jurisdiction: The power or authority of a court to review a lower court decision to determine if there were errors in process or procedure. See, for comparison, **original jurisdiction**. See also, **jurisdiction**, **discretionary jurisdiction**, and **mandatory jurisdiction**.

appellee: The litigant against whom an appeal is taken; i.e., the litigant who won in the lower court and would prefer that the lower court ruling remains in effect. Also referred to as the **respondent**. See, for comparison, **appellant (plaintiff in error)**. See also, **defendant** and **plaintiff**.

apprenticeship model: A method of legal training, common in early American legal education, in which an individual typically obtains an undergraduate degree followed by an apprenticeship to a practicing attorney, during which the individual spends a substantial period of time reading the standard legal treatises and commentaries. See also, **proprietary law school**.

arbitration: A form of alternative dispute resolution (ADR) for the resolution of a legal dispute through the active participation of a third party (i.e., an arbiter) in which the decision is legally binding. See, for comparison, **mediation**. See also, **alternative dispute resolution (ADR)** and **negotiation (civil case)**.

arraignment: A legal process in which a judge informs the defendant of the charges against him, the defendant is advised of his rights, and the defendant is asked to enter a plea. See, for comparison, **first appearance** and **preliminary hearing**. See also, **complaint** and **complainant**.

arrest: To take an individual suspected of a crime into custody under the auspices of legal authority (e.g., as by a law enforcement officer). Arrests come under the purview of the Fourth Amendment of the U.S. Constitution. See also, **arrest warrant** and **booking process**.

arrest warrant: An order issued by a judge authorizing law enforcement officers to arrest and bring to jail a person charged with a crime. Arrest warrants come under the purview of the Fourth Amendment of the U.S. Constitution. See also, **arrest** and **booking process**.

Article I courts: Federal courts created by Congress (under the authority granted to it by Article I) to handle specific kinds of cases. Judges on such courts serve for specified terms; examples include the U.S. Court of Federal and the U.S. Tax Court. Also referred to as **legislative courts**. See, for comparison, **Article II courts**, **Article III courts**, and **Article IV courts**.

Article II courts: Federal courts created by the president (under the authority granted to him by Article II) to administer justice in territories occupied by the American military during times of war or civil unrest. The last such court established was the Court of Berlin, which heard only one case involving the hijacking of a Polish plane by two East German citizens. See, for comparison, **Article I courts**, **Article III courts**, and **Article IV courts**.

Article III courts: Federal courts created by Article III (i.e., the U.S. Supreme Court) or by Congress under the authority granted to it by Article III (e.g., U.S. district courts, U.S. courts of appeals). These courts may have limited or general jurisdiction, and judges on such courts have lifetime tenure. See, for comparison, **Article I courts**, **Article II courts**, and **Article IV courts**.

Article IV courts: Federal courts created by Congress (under the authority granted to it by Article IV) to exercise jurisdiction over the U.S. territories of Guam, the U.S. Virgin Islands, and the Northern Mariana Islands. See, for comparison, **Article I courts**, **Article II courts**, and **Article III courts**.

assizes: Periodic courts created by King Henry II that were established to resolve disputes over land and inheritances, with outcomes determined by a panel of twelve freemen as opposed to a judge. These court were self-informing (i.e., did not depend on the introduction and consideration of evidence introduced by others). Also referred to as **courts of assize**. See also, **Magna Carta**.

associate: An attorney who is employed by a law firm with the prospect of becoming a partner in the firm at some point in the future, depending on her demonstrated ability to attract clients and generate revenue for the law firm. See, for comparison, **partner**, **equity partners** and **non-equity partners**. See also, **rainmaker**, **single-tier partnership track**, and **two-tier partnership track**.

attitudinal model: A social science model of judicial decision making in which judges (primarily U.S. Supreme Court justices) are assumed to decide disputes in light of the facts of the case vis-à-vis the ideological attitudes and values of the judges. See, for comparison, **legal model** and **strategic model**. See also, **theory**.

attorney general: The chief legal officer of a political unit (e.g., state), typically (but not always) created by the constitution of that political unit. For example, the U.S. Attorney General is a position created by federal statute and is the official who heads the U.S. Justice Department. See, for comparison, **Solicitor General**. See also, **prosecutor**.

bail: A form of cash or property that a court holds while the disposition of the charges against a criminal defendant are pending in exchange for releasing the defendant from custody. It serves as an incentive for a criminal defendant to show up for all court proceedings. If the defendant does, in fact, show up for all court proceedings then the bail amount is refunded (even if she is convicted). See also, **cash bond**, **deposit bond**, **property bond**, and **surety bond**.

bench trial: A trial heard before a judge without a jury. A criminal defendant may prefer a bench trial if, for example, the crime for which she is being tried is especially gruesome. A civil defendant may prefer a bench trial if, for example, the issues underlying the case are technically complex. See also, ***voir dire***, **trial**, and **sentencing**.

beyond a reasonable doubt: The standard of proof in a criminal case, which requires the jury (or the judge in a bench trial) to be convinced that there is no reasonable doubt that the defendant committed the crime. This standard requires a prosecutor to demonstrate that the defendant is guilty rather than requiring the defendant to prove that she is innocent. See, for comparison, **preponderance of the evidence**. See also, **bench trial**.

billable-hour: A model of compensation for legal services in which clients are charged for the total hours each lawyer spends on their case, with the hourly rate for each lawyer dependent on her experience and expertise. See, for comparison, **contingency fee**. See also, **associate**, **partner**, and **rainmaker**.

bivariate analysis: The statistical analysis of the relationship between two variables, one of which represents the thing a researcher wishes to explain (i.e., the dependent variable) and one which represents a hypothesized explanation (i.e., the independent variable). See, for comparison, **multivariate analysis**. See also, **multiple regression analysis**, **statistical significance**, **dependent variable**, and **independent variable**.

blaming: The second of three stages in the emergence and transformation of a dispute as described by legal scholars William L.F. Felstiner, Richard L. Abel, and Austin Sarat. Blaming occurs when a perceived injurious experience becomes a grievance and the party experiencing the injury attributes that cause of that injury to another party. See also, **naming** and **claiming**.

blue slip procedure: An institutionalized manifestation of senatorial courtesy that permits both home-state senators for a circuit or district court nominee to indicate their support for or objection to a judicial nominee. An objection by a home-state senator can often derail or significantly delay the confirmation process. See also, **advice and consent**, **nomination**, and **confirmation**, **senatorial courtesy**, **filibuster**, and **hold**.

booking process: A series of steps that occurs after a criminal suspect is transported to a police station, which results in an official arrest record and typically involves recording the arrestee's personal information, fingerprints, and photograph. See also, **arrest**, **arrest warrant**, and **prosecutorial discretion**.

boutique law firms: Small, single-specialty practices in which all of the attorneys focus on one particular area of the law. Examples include firms focused on representation for government investigations, elder care and estate planning, and aviation law. See also, **private practice**, **law firm**, **single-tier partnership track**, and **two-tier partnership track**.

Brandeis brief: A type of legal brief filed by a direct litigant or *amicus curiae* that relies primarily on non-legal arguments using social science statistics and similar non-legal evidence. So called because then-attorney Louis Brandeis, who later served as a U.S. Supreme Court justice, filed such a brief when representing the state of Oregon in *Muller v. Oregon* (1908). See also, **legal brief** and *amicus curiae* brief.

business law: Legal work that applies to persons and businesses engaged in commerce, merchandising, trade, and sales. Also referred to as **commercial law**. See also, **personal law** and **public interest law**.

case law: A source of law based on the precedents set by judicial decisions rather than on executive action or legislative statutes. See also, **law**, **common law**, **common law system**, **executive order**, **constitution**, **ordinance**, and **statute**.

casebook method: A method of legal instruction developed by Christopher Columbus Langdell in which students learn the law by reading actual judicial opinions as opposed to abstract summaries of legal rules. See, for comparison, **lecture method** and **text-and-recitation**. See also, **Christopher Columbus Langdell** and **Socratic method**.

caseload pressure hypothesis: The theory that guilty pleas are encouraged by time-conscious judges and attorneys to process court caseloads expediently and, as a result, more efficiently allocate their limited resources. See also, **charge bargain**, **implicit plea bargain**, **innocence problem**, **negotiation (criminal case)**, **plea bargain**, and **sentence bargain**.

cash bond: A method of posting bail in which the full bail amount must be deposited with the court as a condition for pretrial release. It serves as an incentive for a criminal defendant to show up for all court proceedings. If the defendant does, in fact, show up for all court proceedings then the bail amount is refunded (even if she is convicted). See also, **bail**, **deposit bond**, **property bond**, and **surety bond**.

cause of action: The set of facts used to justify a lawsuit to obtain money, property, or the enforcement of a right against another party. See also, **defendant**, **plaintiff**, **judgment creditor**, **judgment debtor**, **punitive damages**, and **compensatory damages**.

cert pool: A mechanism for reviewing *certiorari* petitions at the U.S. Supreme Court in which participating justices combine their law clerks to divide up cert petitions equally such that each clerk has an equal number to review. Established commencing with the 1972 term of the Court, currently all of the justices' chambers except those of Samuel Alito participate in the cert pool. See also, **agenda setting**, **writ of certiorari**, and **law clerk**.

challenge for cause: The request of an attorney during *voir dire* to have a potential juror removed based on the attorney's belief that the individual is biased and, accordingly, represents a threat to the impartiality of the jury. There are no limits on the number of challenges for cause an attorney can put forth. See, for comparison, **peremptory challenge**. See also, *voir dire* and *venire*.

change of venue: Moving a case from one court to another. The U.S. Supreme Court has interpreted the Sixth Amendment as sometimes requiring a change of venue to insure the

impartiality of the jury (e.g., for a sensational case that has received a lot of local media coverage). See also, **forum shopping**, **jurisdiction**, and **removal jurisdiction**.

chaos hypothesis: The belief that juries that are made aware of their power to return a verdict of not guilty (despite believing a defendant is guilty on the basis of the evidence) will be guided by their emotions and personal bias rather than the law, and will be more likely to use their power of nullification than juries that are not aware of that power. See also, **preponderance of the evidence**, **beyond a reasonable doubt**, **verdict-driven deliberations**, and **evidence-driven deliberations**.

charge bargain: A form of plea bargain in which a defendant agrees to plead guilty to a less serious offense than the original offense for which he was arrested. See, for comparison, **implicit bargain** and **sentence bargain**. See also, **caseload pressure hypothesis**, **innocence problem**, **negotiation (criminal case)**, and **plea bargain**.

chattel property: Items other than land and objects permanently attached to land (i.e., property other than real property). Also referred to as **personal property**. See, for comparison, **real property**. See also, **property law**.

Christopher Columbus Langdell: The first Dean of Law at Harvard Law School. Responsible for elevating law to a post-graduate level of study and introducing key innovations into legal education, including the casebook method and the Socratic method. See also, **casebook method**, **lecture method**, **text-and-recitation**, and **Socratic method**.

circuit riding: The practice in which, until 1891, U.S. Supreme Court justices traveled around the country twice a year hearing cases in courts in different geographic areas of the country (i.e., circuit), with each justice assigned to a particular circuit of courts. Though the justices no longer ride circuit, each justice is responsible for a circuit (or two, given that there are 13 circuits and nine justices). The justices' circuit duties can include, for example, issuing stays or injunctions, granting bail, and permitting time extensions to preserve the Court's jurisdiction and/or the rights of the parties. See also, **Article III courts**.

circuit split: The situation that arises when a ruling issued in one court of appeals circuit differs from or contradicts a ruling issued in another court of appeals circuit on the same legal issue. Circuit splits enhance the likelihood of the U.S. Supreme Court granting *certiorari*. See also, **agenda setting**, **writ of certiorari**, and **cert pool**.

civil dispute: A legal disagreement between two or more principle individuals or organizations over, for example, divorce, child custody, failure to pay for services rendered, or defective products. See also, **adversarial legalism**, **torts**, **contracts**, and **property law**.

civil law: A type of law that deals with disputes between private entities such as individuals or corporations, often over private property or monetary damages. See, for comparison, **criminal law**. See also, **civil dispute**, **torts**, **contracts**, and **property law**.

civil law system: A legal system based on a fixed body of written rules typically made by legislators, with judges having little discretion. See, for comparison, **common law system**. See also, **civil law** and ***jurisprudence constante***.

claiming: The third of three stages in the emergence and transformation of a dispute as described by legal scholars William L.F. Felstiner, Richard L. Abel, and Austin Sarat. Claiming occurs when an aggrieved party informs the entity or entities he thinks is responsible of an injury and asks for a remedy. See also, **naming** and **blaming**.

class action: A type of lawsuit in which a named plaintiff (or plaintiffs) is allowed to represent the interests of many people who are in the same situation, though they are not formally named as a party to the case, against a defendant for injuries caused by common actions or inactions. See also, **coupon settlement**, **standing**, **punitive damages**, **compensatory damages**, and **tort reform**.

cloture: A legislative procedure in the Senate used to end debate, including on a judicial nomination; it requires a supermajority of 60 senators to pass. See also, **advice and consent**, **nomination**, **confirmation**, **filibuster**, and **hold**.

codebook: A document containing the complete set of coding rules for each variable included in a dataset. See also, **coding rule**, **operationalize**, **dependent variable**, **independent variable**, **valid measure**, and **reliable measure**.

coding rule: A decision rule that a researcher uses to classify an observation (e.g., a judge's vote in a court case; what kind of plea offer a prosecutor extends to a defendant) with regard to a specified dependent or independent variable of interest (e.g., whether a judge's vote in a court case is liberal or conservative; whether a prosecutor extended a charge or sentence plea bargain offer). See also, **codebook**, **operationalize**, **dependent variable**, **independent variable**, **valid measure**, and **reliable measure**.

commercial law: Legal work that applies to persons and businesses engaged in commerce, merchandising, trade, and sales. Also referred to as **business law**. See also, **personal law** and **public interest law**.

committee hearing: A meeting of a small group of senators (i.e., the members of the Senate Judiciary Committee) to formally question a nominee and vote on whether or not to recommend confirmation of the nominee to the full Senate. See also, **advice and consent**, **nomination**, **confirmation**, **blue slip procedure**, and **holds**.

common law: Judge-made law in the form of judicial decisions, or precedents, handed down over time. See also, **case law**, **common law system**, **civil law system**, **precedent**, and *stare decisis*.

common law system: A legal system based on precedent, with judges having significant discretion. See, for comparison, **civil law system**. See also, **case law**, **common law**, **precedent**, and *stare decisis*.

compensatory damages: Damages awarded to the plaintiff to replace what he or she lost due to the injuries for which the defendant is liable. Such damages are intended to restore the plaintiff to the position she would be in if the injury had not occurred. See, for comparison, **punitive damages**. See also, **plaintiff**, **defendant**, **judgment creditor**, and **judgment debtor**.

complainant: The victim of a crime or investigating officer who signs a complaint, swearing under oath, that he believes the factual allegations contained in the complaint are true. See also **complaint** and **prosecutorial discretion**.

complaint: In civil cases, it is the formal document filed with the court that initiates action by the plaintiff against the defendant. It is the vehicle by which the plaintiff claims legal rights for whose violation she is seeking compensation. In criminal cases, it is the initial charging instrument and includes the allegation that the accused committed a specific act constituting a violation of a criminal law at a particular place and time. Once filed, the arrestee becomes a criminal defendant. See, for comparison, **answer**. See also, **complainant**, **counterclaim**, **reply**, and **prosecutorial discretion**.

compliance with the judgment: The legal obligation of the losing party in a civil case to obey the judgment of the court and pay any monetary damages awarded to the winning party. Also known as **enforcement of the judgment**. See also **judgment debtor**, **judgment creditor**, **punitive damages**, and **compensatory damages**.

concurrent jurisdiction: The situation in which two or more courts have simultaneous jurisdiction over a case. See also, **jurisdiction**, **forum shopping**, and **subject matter jurisdiction**.

concurring opinion: A separate opinion written by a justice to express his agreement with the outcome supported by the majority opinion but which either elaborates on the rationale offered by the majority or lays out a different rationale than that of the majority to support that outcome. See, for comparison, **dissenting opinion** and **majority opinion**. See also, **consensus**, **regular concurrence**, and **special concurrence**.

confirmation: The formal process used by the Senate to approve or reject a president's judicial or executive nomination (as required by Article II of the U.S. Constitution). See also, **advice and consent**, **nomination**, **blue slip procedure**, **filibuster**, **hold**, and **senatorial courtesy**.

conservatives: Judges whose ideology generally favors the state in criminal cases, opposes congressional authority in economic matters, is protective of gun rights, and supports accommodation of religion in the public sphere. See also, **attitudinal model** and **liberals**.

constitution: The legal framework of a particular jurisdiction, which constitutes the fundamental laws and principles that specify the nature, functions, and limits of the government. A constitution is considered the highest source of law in its particular jurisdiction. See also, **law**, **common law**, **common law system**, **case law**, **executive order**, **ordinance**, and **statute**.

constitutional decision: A legal decision by a court in which the outcome is based on an interpretation of the Constitution, which can only be undone by another court decision or an amendment to the Constitution. See, for comparison, **statutory decision**.

constitutional law: A type of public law (i.e., law governing the relationship between individuals and that state) that details the political organization, powers, and limits of government, as well as the rights and liberties of individuals. See, for comparison,

administrative law. See also, **law, common law, common law system, case law, executive order, constitution, ordinance, and statute.**

constructive service: A type of service of process in which a summons is served via the publication of a public notice in a newspaper. Also referred to as **service by publication**. See, for comparison, **actual service (personal service)** and **substituted service**. See also, **service of process, summons, and default judgment**.

consumer-oriented response: A sanction imposed on an attorney for misconduct as a result of consumer complaints in which the focus is on restitution and conciliation as opposed to punishment per se. See also, **incapacitating sanctions, expressive sanctions, and rehabilitative sanctions**.

contingency fee: A model of compensation for legal services in civil cases in which lawyers represent clients for free and pay all the legal costs associated with the case, pursuant to an agreement that if the attorney wins the case he or she receives a percentage of the monetary award. See, for comparison, **billable-hour**. See also, **associate, partner, and rainmaker**.

contracts: Legally enforceable agreements containing one or more promises. Legally binding contracts include an offer, the acceptance of the offer, and consideration. They may be in writing or verbal, though written contracts are easier to enforce. See also, **civil dispute, torts, and property**.

correlative hypothesis: A prediction that there is a relationship between the dependent and independent variables, though the nature of the relationship (i.e., whether increases in the independent variable are associated with increases or decreases in the dependent variables) is unknown. See, for comparison, **directional hypothesis**. See also, **hypothesis, dependent variable, and independent variable**.

counterclaim: A cause of action included in the defendant's answer (to the plaintiff's complaint) that arises out of the same set of facts that gave rise to the plaintiff's claim. See, for comparison, **complaint**. See also, **cause of action, answer and reply**.

court-centered model of legal change: A model of legal change that presumes change starts at the top with a Supreme Court decision and then trickles down to other actors. See, for comparison, **de-centered model of legal change**. See also, **judicial path of influence and extra-judicial path of influence**.

courts of assize: Periodic courts created by King Henry II that were established to resolve disputes over land and inheritances, with outcomes determined by a panel of twelve freemen as opposed to a judge. These court were self-informing (i.e., did not depend on the introduction and consideration of evidence introduced by others). Also referred to as **assizes**. See also, **Magna Carta**.

court-martial: A military trial court. Appeals from the decisions of courts-martial are taken to the appropriate criminal appeals court, with the U.S. Court of Appeals for the Armed Forces then serving as the court of last resort except for rare cases that make it to the U.S. Supreme Court. See also, **Article I courts**.

criminal defense lawyer: The attorney representing the defendant in a criminal prosecution. See also, **public defender**.

criminal law: A type of law that deals with those who commit crimes. See, for comparison, **civil law**. See also, **criminal defense lawyer** and **public defender**.

cross-examination: The interrogation of a witness that is called by the opposing party in a court case. See, for comparison, **direct examination**. See also, **supportive cross** and **discrediting cross (destructive cross)**.

dead bang case: A criminal case for which there is a high probability of conviction. See, for comparison, **reasonable doubt case**. See also, **prosecutorial discretion** and **plea bargaining**.

dead list: A historical practice of the U.S. Supreme Court in which the chief justice compiled and circulated a list of cases petitioned to the Court that were not scheduled for discussion by the justices in conference. Any justice could remove a case from the dead list, meaning that it would then be included for discussion at conference. The dead list has been replaced by the discuss list. See, for comparison, **discuss list**. See also, **agenda setting**.

deadlocked jury: A jury that cannot, by the required voting threshold, agree on a verdict. Also referred to as a **hung jury**. See also, **mistrial**, **preponderance of the evidence**, **beyond a reasonable doubt**, **evidence-driven deliberations**, and **verdict-driven deliberations**.

de-centered model of legal change: A model of legal change in which change occurs because people can see what is realistic and understand what resources they can exploit to advance their cause. See, for comparison, **court-centered model of legal change**. See also, **judicial path of influence** and **extra-judicial path of influence**.

default judgment: A judgment in favor of one party in a court case due to the failure of the other party to take action required by a court. See also, **summons** and **service of process**.

defendant: The person who is being sued in a civil case or has been charged with a crime in a criminal case. See, for comparison, **plaintiff**. See also, **appellee (respondent)** and **appellant (plaintiff in error)**.

delegation model: A model of U.S. Supreme Court opinion writing in which a justice's law clerk writes the first draft of an opinion and the justice then revises that draft. Critics argue that this practice has contributed to longer and more convoluted Supreme Court opinions. See, for comparison, **retention model**. See also, **majority opinion** and **law clerk**.

dependent variable: A behavior or other phenomenon that a researcher is interested in explaining and/or predicting on the basis of one or more independent variables. See, for comparison, **independent variable**. See also, **codebook**, **coding rule**, **operationalize**, **hypothesis**, **correlative hypothesis**, **directional hypothesis**, **bivariate analysis**, **multivariate analysis**, **multiple regression analysis**, and **statistical significance**.

deposit bond: A method of posting bail in which only a percentage of the bail amount must be deposited with the court as a condition for pretrial release. It serves as an incentive for a criminal

defendant to show up for all court proceedings. If the defendant does, in fact, show up for all court proceedings then the bail amount is refunded (even if she is convicted). See also, **bail**, **cash bond**, **property bond**, and **surety bond**.

designated judge: A federal district court judge, typically from within the circuit, who serves on a temporary basis on a U.S. court of appeals. Generally used to assist the courts of appeals with their workload. See also, **three-judge panel**, *en banc*, and **panel effects**.

destructive cross: A type of cross-examination in which the attorney questions a witness to create doubt as to his testimony or the testimony of another witness. Also referred to as **discrediting cross**. See, for comparison, **supportive cross**. See also, **cross-examination**.

determinate sentence: A term of imprisonment that is fixed and unaccompanied by the possibility of parole. See, for comparison, **indeterminate sentence**. See also, **sentencing** and **sentencing guidelines**.

direct examination: The questioning of a witness during a trial that is conducted by the side for which that person is acting as a witness. See, for comparison, **cross-examination**. See also, **leading question** and **hostile witness**.

directional hypothesis: A prediction that there is a relationship between an independent and a dependent variable, with the expectation that increases in the independent variable are associated with increases in the dependent variable (i.e., there is a positive directional hypothesis) or that increases in the independent variable are associated with decreases in the dependent variable (i.e., there is a negative directional hypothesis). See, for comparison, **correlative hypothesis**. See also, **hypothesis**, **dependent variable**, and **independent variable**.

disbarment: An incapacitating sanction imposed on an attorney for misconduct in which the offending attorney's status as an attorney is terminated. It is the most severe incapacitating sanction. See also, **incapacitating sanction** and **suspension**.

discovery: The process by which the parties to a case disclose all relevant facts and documents to the other side prior to trial. See also, **interrogatories**, **oral depositions**, and **production of documents**.

discrediting cross: A type of cross-examination in which the attorney questions a witness to create doubt as to his testimony or the testimony of another witness. Also referred to as **destructive cross**. See, for comparison, **supportive cross**. See also, **cross-examination**.

discretionary jurisdiction: The power or authority of an appellate court to choose which cases it wishes to review from among the cases appealed to it from lower courts. See, for comparison, **mandatory jurisdiction**. See also, **discretionary review** and **docket**.

discretionary review: The situation in which a court is not required to but has nonetheless decided to grant review to a case appealed to it from the lower courts. See, for comparison, **mandatory review**. See also, **discretionary jurisdiction** and **docket**.

discuss list: A contemporary practice of the U.S. Supreme Court in which the chief justice compiles and circulates a list of cases petitioned to the Court that are scheduled for discussion by the justices in conference. Any justice can add a case to the discuss list, meaning that it will then be included for discussion at conference. The discuss list replaced the dead list. See, for comparison, **dead list**. See also, **agenda setting**.

dismissal with prejudice: The situation in which a court terminates an appeal and bars the appellant from appealing the same case in the future. Typically reserved for some egregious instances of obstruction or noncompliance on the part of the appellant. See, for comparison, **dismissal without prejudice**.

dismissal without prejudice: The situation in which a court terminates an appeal but does not bar the appellant from appealing the same case in the future. Typically the result of some procedural error that does not affect the rights of the appellant. See, for comparison, **dismissal with prejudice**.

dissenting opinion: A separate opinion written by a justice to indicate his disagreement with the outcome and rationale outlined in the majority opinion. See, for comparison, **concurring opinion** and **majority opinion**. See also, **regular concurrence** and **special concurrence**.

diversity of citizenship jurisdiction: The authority to hear cases involving litigants from different states who meet certain conditions (e.g., jurisdiction under federal law, minimum amount in controversy exceeding \$75,000). Also referred to as **diversity jurisdiction**. See, for comparison, **federal question jurisdiction**. See also, **jurisdiction**, **state sovereign immunity**, and **supplemental jurisdiction**.

diversity jurisdiction: The authority to hear cases involving litigants from different states who meet certain conditions (e.g., jurisdiction under federal law, minimum amount in controversy exceeding \$75,000). Also referred to as **diversity of citizenship jurisdiction**. See, for comparison, **federal question jurisdiction**. See also, **jurisdiction**, **state sovereign immunity**, and **supplemental jurisdiction**.

docket: The set of cases awaiting action by the court. See also, **writ of certiorari**, **discretionary jurisdiction**, **discretionary review**, **mandatory jurisdiction**, and **mandatory review**.

en banc: French for “in the bench.” A proceeding in which the full complement of judges on a given appellate court participates in the proceedings. The U.S. Supreme Court typically acts *en banc* while the U.S. courts of appeals typically rely on three-judge panels, with *en banc* review infrequent. See, for comparison, **three-judge panel**. See also, **panel effects**.

enforcement of the judgment: The legal obligation of the losing party in a civil case to obey the judgment of the court and pay any monetary damages awarded to the winning party. Also known as **compliance with the judgment**. See also, **judgment debtor** and **judgment creditor**.

equity partner: A partner in a law firm who has acquired full voting rights in the operation of the firm and shares in the profits of the firm. See, for comparison, **non-equity partner**. See also, **associate**, **single-tier partnership track**, and **two-tier partnership track**.

evidence-driven deliberations: A style of jury deliberation in which jurors focus on a review of the facts of the case, the evidence presented, and the judicial instructions. They are characterized by high levels of participation among jurors and a wide range in terms of what is included in the deliberations. See, for comparison, **verdict-driven deliberations**. See also, **foreperson** and **jury nullification**.

executive order: An act of an executive official (e.g., governor, president) establishing rules to implement a statute or pursuant to the executive's own executive authority. Executive orders are one source of law and must comply with constitutional dictates. See also, **law**, **case law**, **constitution**, **ordinance**, and **statute**.

expressive sanction: A sanction imposed on an attorney for misconduct that is intended to express a message regarding the culpability of the attorney and the level of condemnation attached to the misconduct. See also, **public reprimand**, **private admonition**, **incapacitating sanction**, **rehabilitative sanction**, and **consumer-oriented response**.

extra-judicial path of influence: A form of judicial influence in which court decisions are seen as producing change and social reform indirectly by inspiring individuals to act, or persuading them to examine and change their opinions and/or behavior. See, for comparison, **judicial path of influence**. See also, **public opinion**, **court-centered model of legal change**, and **de-centered model of legal change**.

fact-bound: An appeal that lacks significant procedural issues or legal questions of the kind that courts of last resort are charged with reviewing; i.e., an appeal that is focused merely on questions of fact, with the disposition tied to the very particular circumstances of the case. See also, **discretionary jurisdiction**.

federal question jurisdiction: The authority of a court to hear cases arising under the U.S. Constitution or federal statutes, pursuant to Article III of the the U.S. Constitution. See, for comparison, **diversity of citizenship jurisdiction**. See also, **jurisdiction**.

federalism: The distribution of exclusive and shared powers between the national and state governments. See also, **diversity of citizenship jurisdiction** and **federal question jurisdiction**.

felony: A crime, usually though not always involving physical harm or the threat thereof to victims, serious enough to warrant a punishment of incarceration in a state or federal prison or death. See, for comparison, **infraction** and **misdemeanor**. See also, **criminal law**.

filibuster: A legislative procedure that has the effect of continuing debate on a legislative measure, including the consideration of an executive or judicial nomination. In the context of a nomination, a filibuster delays a confirmation vote on a nomination, potentially indefinitely. See also, **advice and consent**, **cloture** and **hold**.

first appearance: The point at which a person arrested and accused of a crime first appears before a magistrate, typically within 24 to 48 hours of being arrested, and is informed of his legal rights. If the person was arrested without a search warrant, the magistrate will also determine if there was probable cause for the offense charged in the complaint. See, for comparison, **arraignment** and **preliminary hearing**. See also, **complaint** and *Gerstein* review.

foreperson: The juror selected by the other jurors to preside over their deliberations and the votes of the group, and to deliver the verdict of the jury. See also, **evidence-driven deliberations** and **verdict-driven deliberations**.

forum shopping: The practice in which a litigant seeks to have her case heard in a court thought most likely to provide a favorable judgment. See also, **change of venue**, **jurisdiction**, and **removal jurisdiction**.

gate-keeping function: The role played by attorneys who work under contingency fee models of compensation. Their decisions about accepting or declining cases (i.e., based on whether the potential payout justifies the difficulty of the case) structure, in part, access to the courts for non-wealthy individuals. See also, **billable-hour** and **contingency fee model**.

general jurisdiction: The authority of a court to hear a broad array of civil and criminal cases. For example, the U.S. district courts are trial courts of general jurisdiction while the U.S. courts of appeals are appellate courts of general jurisdiction. See, for comparison, **limited jurisdiction**. See also, **jurisdiction**, **appellate jurisdiction**, **mandatory jurisdiction**, and **discretionary jurisdiction**.

general partnership: A means of organizing a law firm in which the partners of a law firm share both the profits and the liabilities of the firm. See, for comparison, **limited liability company (LLC)**, **limited liability partnership (LLP)**, and **professional corporation**.

Gerstein review: The determination by a magistrate at a defendant's first appearance as to whether probable cause exists for the offense charged in a criminal complaint when a defendant was arrested without a warrant. So called because of the U.S. Supreme Court case of *Gerstein v. Pugh* (1975). See also, **first appearance** and **magistrate judge**.

God's law: The idea that law reflects, or is based on, a built-in sense of right and wrong. Also referred to as **natural law**. See, for comparison, **positive law (law of man)**.

grand jury: A panel of citizens that is convened by a court to decide whether it is appropriate to proceed with the prosecution against someone suspected of a crime. See, for comparison, **information**. See also, **indictment**.

gubernatorial appointment: A method of judicial selection in which members of the bench are selected by the governor with confirmation by the legislature or other designated entity. This method of selection is uncommon across the American states. See, for comparison, **legislative appointment**, **partisan election**, **nonpartisan election**, and **Missouri Plan**. See also, **retention election**.

habeas corpus: Latin for "you have the body." The common law right, codified in federal law, to be free from unlawful incarceration. See also, **federal question jurisdiction**.

hold: A parliamentary procedure that permits a senator to anonymously delay or derail a nominee by privately notifying her party leadership that she will object to having legislative action on that nominee proceed. See also, **advice and consent**, **nomination**, **confirmation**, **blue slip procedure**, **cloture**, and **filibuster**.

hostile witness: A witness who is antagonistic to the position of the party calling the witness. See also, **direct examination** and **cross-examination**.

hung jury: A jury that cannot, by the required voting threshold, agree on a verdict. Also referred to as a **deadlocked jury**. See also, **mistrial**, **preponderance of the evidence**, **beyond a reasonable doubt**, **evidence-driven deliberations**, and **verdict-driven deliberations**.

hypothesis: An explicit statement that indicates the expected or predicted relationship between a dependent variable (i.e., something a researcher wishes to explain) and an independent variable (i.e., something a researcher believes contributes to the explanation of the thing she wishes to explain). See also, **theory**, **correlative hypothesis**, **directional hypothesis**, **dependent variable**, and **independent variable**.

impeachment: The procedure by which formal charges are brought against an officeholder (including judges) for crimes committed in office. It is analogous to an indictment in regular court proceedings. At the federal level, the procedure is outlined in Article II of the U.S. Constitution and requires a majority vote in the House of Representatives for an individual to be impeached. If an individual is impeached, a trial then takes place in the Senate to determine if the individual should be convicted or acquitted on the article(s) of impeachment. See also, **Article III courts** and **life tenure**.

implicit plea bargaining: A type of plea bargain in which a defendant is informed that if he goes to trial and is convicted, he will be punished more severely than if he agrees to a plea. See, for comparison, **charge bargain** and **sentence bargain**. See also, **caseload pressure hypothesis**, **innocence problem**, **negotiation (criminal case)**, and **plea bargain**.

incapacitating sanction: A sanction imposed on an attorney for misconduct that serves to protect the public by preventing an offending lawyer from violating professional standards. See also, **disbarment**, **suspension**, **expressive sanction**, **rehabilitative sanction**, and **consumer-oriented response**.

independent variable: A variable that is hypothesized to explain and/or predict a behavior or other phenomenon of interest (i.e., a dependent variable). See, for comparison, **dependent variable**. See also, **codebook**, **coding rule**, **operationalize**, **hypothesis**, **correlative hypothesis**, **directional hypothesis**, **bivariate analysis**, **multivariate analysis**, **multiple regression analysis**, and **statistical significance**.

indeterminate sentence: A term of imprisonment that is imposed by a judge at her discretion based on specified minimum and maximum lengths of time (i.e., from a range of time rather than a specific period of time). See, for comparison, **determinate sentence**. See also, **sentencing** and **sentencing guidelines**.

indictment: A formal accusation or criminal charge brought by a grand jury. Also known as a **true bill**. See also, **grand jury** and **information**.

indigent person: A criminal defendant who cannot afford his own attorney. See also, **public defender** and **criminal defense lawyer**.

information: A formal accusation or criminal charge brought by the prosecutor without a grand jury indictment. See also, **grand jury** and **indictment**.

infraction: A minor violation of the law; i.e., a petty offense punishable by a small fine. See, for comparison, **felony** and **misdemeanor**. See also, **criminal law**.

innocence problem: The possibility that innocent defendants accept discounted plea offers to avoid the risk of severe sentences. See also, **caseload pressure hypothesis**, **charge bargain**, **implicit plea bargain**, **negotiation (criminal case)**, **plea bargain**, and **sentence bargain**.

interest on lawyer trust accounts (IOLTA): The interest earned on bank accounts where lawyers keep clients' money, which is distributed to legal aid programs. See also, **legal aid**.

interrogatories: A list of questions requiring answers under oath as part of the pre-trial discovery process. See also, **discovery**, **oral depositions**, and **production of documents**.

issue conference: A type of pretrial conference that occurs as a trial date draws near if a settlement has not been reached, the purpose of which is to foster agreement between the lawyers on undisputed facts or points of law. See, for comparison, **status conference**. See also, **pretrial conference**.

join 3: The practice in which a justice agrees that if three other justices vote to grant *certiorari* to a case he will supply the fourth vote to meet the requirements of the rule of four. See also, **rule of four**, **dead list**, **discuss list**, and **writ of certiorari**.

judgment creditor: The litigant who has been awarded the judgment in a civil case. See, for comparison, **judgment debtor**. See also, **compliance with the judgment**.

judgment debtor: The litigant who is responsible for paying the award amount in a civil case. See, for comparison, **judgment creditor**. See also, **compliance with the judgment**.

judgment notwithstanding the verdict (JNOV): A type of post-trial motion in which the losing side asks the judge to decide that reasonable people could not have reached the verdict that the jury has reached and to set aside the verdict, replacing it with one that favors the losing party. See, for comparison, **jury nullification**. See also, **post-trial motion**.

judicial implementation: The process by which a court's decision is put into practice and enforced, ultimately affecting the behavior of others. See also, **judicial path of influence**, **extra-judicial path of influence**, **court-centered model of legal change**, and **de-centered model of legal change**.

judicial path of influence: A form of judicial influence in which court decisions are seen as producing change and social reform directly by mandating change. See, for comparison, **extra-judicial path of influence**. See also, **public opinion**, **court-centered model of legal change**, and **de-centered model of legal change**.

judicial review: The authority of a court to examine the actions of the executive and legislative branches and to invalidate those actions if they are contrary to constitutional principles. A court

exercises judicial review by virtue of examining those executive or legislative actions, regardless of whether it has invalidated them as contrary to the Constitution or upheld them as consistent with the Constitution. First exercised by the U.S. Supreme Court in *Hylton v. United States* (1796), the Court did not fully articulate and claim the power of judicial review until *Marbury v. Madison* (1803). See also, **writ of mandamus** and **original jurisdiction**.

jurisdiction: The power or authority of a court to determine the merits of a dispute and grant relief. See also, **discretionary jurisdiction**, **mandatory jurisdiction**, **change of venue**, **forum shopping**, and **removal jurisdiction**.

jurisprudence constante*:** The civil law principle that a long line of consistent judicial decisions should carry great weight in the resolution of later cases, though they are not definitively authoritative. See, for comparison, ***stare decisis. See also, **civil law** and **civil law system**.

jury instructions: The set of legal rules, directions, or guidance that a judge provides to a jury with respect to the law that should govern a case (e.g., the standard of proof). See also, **preponderance of the evidence**, **beyond a reasonable doubt**, and **jury nullification**.

jury nullification: The situation in which a jury returns a verdict of not guilty despite its belief that the defendant is guilty of the violation charged. See, for comparison, **judgment notwithstanding the verdict (JNOV)**. See also, **preponderance of the evidence**, **beyond a reasonable doubt**, **jury instructions**, and **chaos hypothesis**.

jury pool: The set of prospective jurors from which jury members (i.e., *veniremen*) are selected. Also referred to as the *venire*. See also, **scientific jury selection (SJS)**, **mock jury**, **shadow jury**, **telephone survey**, **post-trial jury interview**, ***voir dire***, ***venire***, and ***venireman***.

law: A collection of principles and regulations established by judicial decision, or by a designated authority in a community, and applicable to the people of that community. See also, **executive order**, **case law**, **constitution**, **ordinance**, and **statute**.

law clerk: An individual, typically a recent law-school graduate from a top law school, who assists a judge by conducting legal research, helping to draft opinions, and performing general clerical duties. See also, **delegation model**, **retention model**, and **cert pool**.

law of man: Man-made law that confers or denies privileges to individuals or groups. Also referred to as **positive law**. See, for comparison, **natural law (God's law)**.

laws of war: International law governing war, such as the Geneva Conventions. See also, **Article II court**.

leading question: A question that lawyers are prohibited from asking during trial (i.e., during direct examination and cross-examination) because it is framed in such a way as to suggest the answer. See also, **direct examination** and **cross-examination**.

lecture method: A method of legal (or other) instruction in which the instructor stands before the class and presents information for students to learn. The lecture method emphasizes the communication of information from instructor to student and deemphasizes instructor-student

interaction. See, for comparison, **casebook method** and **text-and-recitation**. See also, **Christopher Columbus Langdell** and **Socratic method**.

legal aid: Government-funded legal services for those who otherwise cannot afford it. See also, **legal clinic**, **pro bono**, and **interest on lawyer trust accounts (IOLTA)**.

legal brief: Written arguments submitted by each party to a case articulating the legal questions to be addressed by a court and how each party believes the questions should be answered. Briefs are filed at both the *certiorari* and decision-on-the-merits stage in the U.S. Supreme Court. See also, **Brandeis brief** and *amicus curiae* **brief**.

legal clinic: Free or low-cost classes that individuals can attend to learn about their legal rights and options. See also, **legal aid**, **pro bono**, and **interest on lawyer trust accounts (IOLTA)**.

legal ethics: The standards, rules, and codes of conduct that members of the legal profession are expected to follow and support. See also, **incapacitating sanctions**, **disbarment**, **suspension**, **expressive sanctions**, **public reprimand**, **private admonition**, **rehabilitative sanctions**, **probation**, **mandatory education**, and **consumer-oriented responses**.

legal insurance: A type of insurance in which individuals pay a fee (typically on a monthly basis) in exchange for the right to obtain legal advice when necessary. It is analogous to limited medical insurance and is often obtained through a company or labor union program. Legal insurance is more common in European jurisdictions than in the United States. See also, **legal aid**, **legal clinic**, **pro bono**, and **interest on lawyer trust accounts (IOLTA)**.

legal model: A social science model of judicial decision making in which judges are assumed to make decide cases by applying the applicable legal principles to the facts of the case, setting aside any personal preference for an specific outcome. See, for comparison, **attitudinal model** and **strategic model**. See also, **precedent**, *stare decisis*, and **theory**.

legal prestige: The reputation and level of esteem with which various kinds of legal work are held. For example, securities, tax, antitrust, and patent law work have high levels of legal prestige while family law, divorce, landlord-tenant, and condemnation law work have low levels of legal prestige. See also, **legal specialization**.

legal realists: A group of judges and legal scholars who, beginning in the 1920s, argued that judicial discretion is quite broad and that, particularly at the appellate level, it is not common for the law to inexorably lead to one particular result. Notable legal realists included U.S. Supreme Court Justice Oliver Wendell Holmes and U.S. Court of Appeals for the Second Circuit Judge Jerome Frank. See also, **legal model**, **attitudinal model**, and **strategic model**.

legal specialization: The concentration or area of expertise in which a lawyer works (e.g., adoption law, business law, copyright law). Some areas of legal specialization are considered more prestigious than others (e.g., securities and tax law have high levels of legal prestige while landlord-tenant and divorce law have low levels of legal prestige). See also, **legal prestige**.

legislative appointment: A method of judicial selection in the American states in which members of the bench are selected by the legislature. This method of selection is uncommon

across the American states. See, for comparison, **gubernatorial appointment**, **partisan election**, **nonpartisan election**, and **Missouri Plan**. See also, **retention election**.

legislative courts: Federal courts created by Congress (under the authority granted to it by Article I) to handle specific kinds of cases. Judges on such courts serve for specified terms and examples include the U.S. Court of Federal and the U.S. Tax Court. Also referred to as **Article I courts**. See, for comparison, **Article II courts**, **Article III courts**, and **Article IV courts**.

legitimation effects theory: A theory that courts (in particular, the U.S. Supreme Court) act to legitimate certain policies and that, after the Court hands down a decision, public opinion shifts towards the position articulated in the Court's opinion. Also, referred to as **positive response theory**. See, for comparison, **structural response theory** (i.e., **polarization theory**). See also, **public opinion**.

liberals: Judges whose ideology generally favors the criminally accused in criminal cases, supports congressional authority in economic matters, is not protective of gun rights, and opposes accommodation of religion in the public sphere. See also, **attitudinal model** and **conservatives**.

life tenure: A term of office that lasts for the lifetime of official. Life tenure is intended to insulate judges to protect judicial independence and is typically contingent on the official's good behavior (i.e., non-criminal behavior). Few state court judges enjoy life tenure. Members of the U.S. Supreme Court and other Article III judges do enjoy life tenure. See also, **Article III courts** and **advice and consent**.

limited jurisdiction: The authority of a court to hear only a narrowly defined set of cases. Common examples of limited jurisdiction courts include probate and family courts. See, for comparison, **general jurisdiction**. See also, **jurisdiction**, **appellate jurisdiction**, **mandatory jurisdiction**, and **discretionary jurisdiction**.

limited liability company (LLC): A means of organizing a law firm in which the attorneys who own the firm are members of the company but remain insulated in that they are not liable to any third-party creditor of the firm. See, for comparison, **general partnership**, **limited liability partnership (LLP)**, and **professional corporation**.

limited liability partnership (LLP): A means of organizing a law firm in which the attorneys who own the firm are members of the company but remain insulated in that they are not liable to any third-party creditor of the firm and are also not liable for the negligence of any other partner. See, for comparison, **general partnership**, **limited liability partnership (LLP)**, and **professional corporation**.

litigation lawyer: An attorney who works mainly with lawsuits with the goal of taking cases to court and winning. See, for comparison, **transactional lawyer**.

magistrate judge: A minor judicial officer who has limited jurisdiction to hear certain types of cases. For example, a magistrate judge may preside over the first appearance and, if the defendant was arrested without a search warrant, she will conduct a *Gerstein* review. See also, **first appearance** and *Gerstein* review.

Magna Carta: A historical English legal document, signed by King John, that helped establish the common law right to a have panel of men determine innocence or guilt in criminal cases. It applied to non-serfs but not to serfs. Notably, the Magna Carta limited royal power by requiring the application of the law before the imposition of punishment, rather than permitting it merely on the basis of royal authority. See also, **courts of assize (assizes)**.

majority opinion: A judicial opinion agreed to by more than half of the members of a court, which sets forth the decision of the court and an explanation of the rationale behind the court's decision. The majority opinion is the opinion of the court. See, for comparison, **plurality opinion, concurring opinion** and **dissenting opinion**. See also, **consensus, regular concurrence, special concurrence, delegation model**, and **retention model**.

mandatory education: A form of rehabilitative sanction imposed on an attorney for misconduct that requires the offending attorney to take a class on legal ethics. See also, **rehabilitative sanction** and **probation**.

mandatory jurisdiction: The requirement that an appellate court must decide cases appealed to it from lower courts. See, for comparison, **discretionary jurisdiction**. See also, **mandatory review** and **docket**.

mandatory review: The situation in which a court is engaging in the review of a case appealed to it from the lower courts because it is required to do so. See, for comparison **discretionary review**. See also, **mandatory jurisdiction** and **docket**.

mediation: A form of alternative dispute resolution (ADR) for the resolution of a legal dispute through the active participation of a third party (i.e., a mediator) in which the decision is not legally binding. See, for comparison, **arbitration**. See also, **alternative dispute resolution (ADR)** and **negotiation (civil case)**.

misdemeanor: A lesser crime punishable by a fine, community service, and/or county jail time for up to one year. Those charged with misdemeanors are entitled to a jury trial and, if the offense is one that carries the possibility of jail time, a government-appointed attorney if they cannot afford one. See, for comparison, **felony** and **infraction**. See also, **criminal law**.

Missouri Plan: A method of judicial selection in the American states in which a slate of candidates are recommended based on their merit by a nonpartisan nominating commission, after which the governor appoints a candidate from among those the commission recommended. After serving a specified period of time, the judge stands for popular election with the electorate voting on whether or not the judge should be retained in office. See, for comparison, **gubernatorial appointment, legislative appointment, partisan election**, and **nonpartisan election**. See also, **retention election**.

mistrial: A trial that is not successfully completed but, instead, is terminated before a verdict is returned. A mistrial can result from, for example, a deadlocked (hung) jury, prosecutorial misconduct, or improper contact between a juror and one of the parties to the case. See also, **deadlocked jury (hung jury)**.

mock jury: A tool of scientific jury selection (SJS) in which a group of individuals are hired to serve as a practice jury to allow the attorney to test her presentation style and refine trial strategies. See, for comparison, **shadow jury**. See also, **scientific jury selection (SJS)**, **telephone survey**, **post-trial jury interview**, ***voir dire***, ***venire***, and ***venireman***.

multiple regression analysis: A common statistical technique for measuring the relationship between more than one independent variable (i.e., explanatory variable) and a dependent variable (i.e., the variable to be explained) while controlling for all other independent variables included in the statistical model. See also, **bivariate analysis**, **multivariate analysis**, **dependent variable**, and **independent variable**.

multivariate analysis: The statistical analysis of the relationship among three or more variables, one of which represents the thing a researcher wishes to explain (i.e., the dependent variable) and the others representing hypothesized explanations (i.e., the independent variable). See, for comparison, **bivariate analysis**. See also, **multiple regression analysis**, **dependent variable** and **independent variable**.

naming: The first of three stages in the emergence and transformation of a dispute as described by legal scholars William L.F. Felstiner, Richard L. Abel, and Austin Sarat. Naming occurs when a party realizes that he has experienced an injury. See also, **blaming** and **claiming**.

natural law: The idea that law reflects, or is based on, a built-in sense of right and wrong. Also referred to as **God's law**. See, for comparison, **positive law (law of man)**.

negative relationship: A directional hypothesis in which increases in an independent variable are hypothesized to be associated with decreases in the dependent variable (and, conversely, that decreases in an independent variable are hypothesized to be associated with increases in the dependent variable). See, for comparison, **positive relationship**. See also, **hypothesis**, **directional hypothesis**, and **correlative hypothesis**.

negotiation (civil case): A form of alternative dispute resolution (ADR) for the resolution of a legal dispute through a give-and-take discussion between a plaintiff and defendant. See also, **alternative dispute resolution (ADR)**, **arbitration**, and **mediation**.

negotiation (criminal case): The second step of the plea bargaining process, during which the terms of the plea bargain are established. This step can involve threats of delays through continuances or the setting of trial dates. See also, **caseload pressure hypothesis**, **charge bargain**, **implicit plea bargain**, **innocence problem**, **plea bargain**, and **sentence bargain**.

nomination: The formal process by which the President puts forth (in writing) the name of an individual to fill a judicial or executive position for senatorial consideration (as required by Article II of the U.S. Constitution). See also, **advice and consent**, **confirmation**, **blue slip procedure**, **filibuster**, and **hold**.

non-equity partner: A partner in a law firm who has limited voting rights in the operation of the firm and is compensated with a fixed salary rather than a share of the company's profits. See, for comparison, **equity partner**. See also, **associate**, **single-tier partnership track**, and **two-tier partnership track**.

nonpartisan elections: A method of judicial selection in the American states in which members of the bench are selected by popularly contested elections but candidates appear on the ballot without their partisan affiliation. See, for comparison, **gubernatorial appointment**, **legislative appointment**, **partisan election**, and **Missouri Plan**. See also, **popularly contested election** and **retention election**.

notice of appeal: A formal, legal announcement by the losing litigant that he is challenging the lower court ruling. See also, **appellant (plaintiff in error)**, **appellee (respondent)**, and **appeal bond (supersedeas bond)**.

one-shotters: Persons who rarely use the courts, such as the spouse in a divorce case or an auto-injury claimant. One-shotters are disadvantaged in the judicial process relative to repeat players. See, for comparison, **repeat players**.

opening statement: The statement (one by the plaintiff/prosecution, one by the defendant) made at the beginning of trial (i.e., post-jury selection) in which the attorney explains the evidence to the judge or jury and describes the issues that will be presented during the trial. See also, **direct examination** and **cross-examination**.

operationalize: To define an dependent or independent variable. Operationalization maps concepts from a theory onto observable variables. See also, **theory**, **codebook**, **coding rule**, **dependent variable**, **independent variable**, **valid measure**, and **reliable measure**.

oral argument: Time allotted to each side in an appeal to orally deliver arguments in support of their respective positions and to answer questions from the judges. Oral argument permits the attorneys to elaborate on and further explain the arguments contained in their legal briefs as well as permit the justices to ask questions to clarify for themselves and signal to the other justices their thinking. See also, **legal brief**.

oral depositions: Answers to questions posed by an attorney before a court reporter that are provided under oath as part of the pre-trial discovery process. See also, **discovery**, **interrogatories**, and **production of documents**.

ordinances: Statutes that originate at the local level of government. One example of an ordinance is a city-imposed curfew for underage residents. See also, **law**, **common law**, **common law system**, **case law**, **executive order**, **constitution**, and **statute**.

original jurisdiction: The authority of a court to hear a case for the first time. See, for comparison, **appellate jurisdiction**. See also, **jurisdiction**, **discretionary jurisdiction**, and **mandatory jurisdiction**.

panel effects: The influence of a judge's panel mates on his behavior on multi-member courts that use panels (i.e., subsets) of the full court's membership as the primary decision-making unit. See also, **attitudinal model**, **strategic model**, **three-judge panel**, *en banc*, and **designated judges**.

partisan agenda: As identified by political scientist Sheldon Goldman, a presidential strategy for the selection of judicial nominees in which the president uses nominations to further support

for his party or for himself. See, for comparison, **personal agenda** and **policy agenda**. See also, **advice and consent**, **confirmation**, and **nomination**.

partisan election: c See, for comparison, **gubernatorial appointment**, **legislative appointment**, **nonpartisan election**, and **Missouri Plan**. See also, **popularly contested election** and **retention election**.

partner: A member of a group of attorneys who jointly own a law firm and direct the firm's legal operations. See also, **private practice**, **associate**, **equity partner**, and **non-equity partner**.

peremptory challenge: The request of an attorney during *voir dire* to have a juror removed without any specific reason being given. The number of peremptory challenges an attorney can put forth is limited, with the specific number permitted varying by jurisdiction. See, for comparison, **challenge for cause**. See also, *voir dire* and *venire*.

Perry Mason Syndrome: The phenomenon in which jurors have misconceptions about how the legal process works because the long-running (and continually show in reruns) television show *Perry Mason* presented trial proceedings in an oversimplified manner. See also, **popular legal culture**.

personal agenda: As identified by political scientist Sheldon Goldman, a presidential strategy for the selection of judicial nominees in which the president nominates individuals for personal reasons, such as to please a friend or associate. See, for comparison, **partisan agenda** and **policy agenda**. See also, **advice and consent**, **confirmation**, and **nomination**.

personal jurisdiction: The power or authority of a court over the parties in the case. See, for comparison, **subject matter jurisdiction**. See also, **jurisdiction**.

personal law: Law work concerning the legal and financial interests of individuals and families. See, for comparison, **business law (commercial law)** and **public interest law**.

personal property: Items other than land and objects permanently attached to land (i.e., property other than real property). Also referred to as **chattel property**. See, for comparison, **real property**. See also, **property law**.

personal service: A type of service of process in which there is in-person delivery of a summons to a defendant in a civil case. Also referred to as **actual service**. See, for comparison, **substituted service** and **constructive service**. See also, **service of process**, **summons**, and **default judgment**.

plaintiff: The person who commences a civil suit against another. See, for comparison, **defendant**. See also, **appellant (plaintiff in error)** and **appellee (respondent)**.

plaintiff in error: The litigant appealing the decision of the lower court; i.e., the litigant who lost in the lower court and is seeking a new decision on appeal. Also referred to more commonly as **appellant**. See, for comparison, **appellee (respondent)**. See also, **plaintiff** and **defendant**.

plea bargain: An agreement between the defendant and his attorney, on one side, and the prosecutor, on the other side, in which the defendant is permitted to plead guilty to a lesser charge or to the original charge with less than the maximum sentence. See also, **caseload pressure hypothesis**, **charge bargain**, **implicit plea bargain**, **innocence problem**, **negotiation (criminal case)**, and **sentence bargain**.

plurality opinion: A judicial opinion agreed to by the most (but not a majority) of the members of the court, which sets forth the outcome agreed to by the judges in the plurality and the rationale behind that agreed to outcome. Though the opinion of the court is usually a majority opinion, the opinion of the court is the plurality opinion in the absence of a majority opinion. See, for comparison, **majority opinion**, **concurring opinion**, and **dissenting opinion**. See also, **consensus**, **regular concurrence**, and **special concurrence**.

polarization theory: A theory that public opinion changes its structure (but not necessarily its aggregate level of support for a policy) as a result of a Supreme Court decision, and that, after the Court hands down a decision, there will be a polarization of attitudes between groups that were already on one side or the other of the issue. Also referred to as **structural response theory**. See, for comparison, **legitimation effects theory** (i.e., **positive response theory**). See also, **public opinion**.

policy agenda: As identified by political scientist Sheldon Goldman, a presidential strategy for the selection of judicial nominees in which the president nominates individuals he believes will advance the substantive policy objectives of his administration. See, for comparison, **partisan agenda** and **personal agenda**. See also, **advice and consent**, **confirmation**, and **nomination**.

popular legal culture: Everything people know or think they know about law, lawyers, and the legal system based on pop culture depictions of them. See also, **Perry Mason Syndrome**.

popularly contested election: A method of judicial selection, first emerging during the era of Jacksonian democracy, in which voters choose judges through direct election. See, for comparison, **Missouri Plan**, **gubernatorial appointment**, and **legislative appointment**. See also, **partisan election** and **non-partisan election**.

positive law: Man-made law that confers or denies privileges to individuals or groups. Also referred to as the **law of man**. See, for comparison, **natural law (God's law)**.

positive relationship: A directional hypothesis in which increases in an independent variable are hypothesized to be associated with increases in the dependent variable (and, conversely, that decreases in an independent variable are hypothesized to be associated with increases in the dependent variable). See, for comparison, **negative relationship**. See also, **hypothesis**, **directional hypothesis**, and **correlative hypothesis**.

positive response theory: A theory that courts (in particular, the U.S. Supreme Court) act to legitimate certain policies and that, after the Court hands down a decision, public opinion shifts towards the position articulated in the Court's opinion. Also, referred to as **legitimation effects theory**. See, for comparison, **structural response theory** (i.e., **polarization theory**). See also, **public opinion**.

post-trial jury interviews A tool of scientific jury selection (SJS) in which actual jury members from a trial are interviewed for the purpose of aiding attorneys in the selection of jurors for future cases. See, for comparison, **telephone survey**. See also, **scientific jury selection (SJS)**, **mock jury**, **shadow jury**, *voir dire*, *venire*, and *venireman*.

post-trial motion: A motion permitted after the rendering of a verdict requesting the alteration of a verdict; e.g., motion for a new trial, motion for relief from judgment, motion for judgment notwithstanding the verdict (JNOV). See also, **judgment notwithstanding the verdict (JNOV)**.

precedent: A court decision that serves as authority for deciding similar issues in later cases. See also, *stare decisis*, **common law**, **common law system**, and **legal model**.

preliminary hearing: A hearing held to determine if a person charged with a crime should be tried for the crime based on whether there is some substantial evidence that she committed the crime. See also, **arraignment** and **first appearance**.

preponderance of the evidence: The standard of proof in a civil case, which requires the jury (or the judge in a bench trial) to determine whether the facts asserted are more likely to be true than not true. This standard means that whichever side has the greater weight of evidence prevails. See, for comparison, **beyond a reasonable doubt**. See also, **bench trial**.

pretrial conference: A meeting involving the parties to a case and a judge or magistrate for the purpose of managing the case, discouraging unnecessary pretrial activities, expediting disposition of the case, encouraging settlement of the case, and improving the quality of the trial through preparation. See also, **issue conference** and **status conference**.

private admonition: An expressive sanction imposed on an attorney for misconduct in which the offending attorney appears before a court or disciplinary body where the admonition is delivered. See also, **expressive sanction** and **public reprimand**.

private law: Law that governs the relationship between and among individuals. Examples include contracts, property, and family law. See, for comparison, **public law**.

private practice: Legal work as a business. See also, **associates**, **partners**, and **boutique law firms**.

pro bono: Commonly used shortened version of “pro bono public,” which is Latin for “for the public good.” Public interest legal work done voluntarily by attorneys either for free or for a reduced fee. See also, **legal aid** and **legal clinic**.

probability: The likelihood of something occurring. In social science, the likelihood that there is a relationship between a dependent and independent variable. See also, **dependent variable**, **independent variable**, **bivariate analysis**, **multivariate analysis**, **multiple regression analysis**, and **statistical significance**.

probable cause: Possessing sufficient facts such that a reasonable person would believe that a suspect had committed a crime. Constitutionally required by the Fourth Amendment. See also, **arrest**, **arrest warrant**, and **suspect**.

probation: A rehabilitative sanction imposed on an attorney for misconduct in which the attorney is subject to monitoring or limited in the practice of law in some way. It is the most severe form of rehabilitative sanction. See also, **rehabilitative sanction** and **mandatory education**.

procedural justice: A perspective on justice that focuses on the fairness of the processes and procedures used to resolve disputes. Implicit in procedural justice is the notion that procedural justice will result in substantive justice. See, for comparison, **substantive justice**. See also, **procedural law** and **substantive law**.

procedural law: Law governing how a court hears a case and determining what happens in a criminal or civil lawsuit. See, for comparison, **substantive law**. See also, **procedural justice** and **substantive justice**.

production of documents: The exchange of documents that each party has the right to see related to a legal case as part of the pre-trial discovery process. See also, **discovery**, **interrogatories**, and **oral depositions**.

professional corporation: A means of organizing a law firm in which the firm issues stock to the attorneys. See, for comparison, **general partnership**, **limited liability corporation (LLC)**, and **limited liability partnership (LLP)**.

property bond: A method of posting bail in which a property deed is submitted to the court to permit the court to place a lien on that property as a condition for pretrial release. It serves as an incentive for a criminal defendant to show up for all court proceedings. The deed is returned without a lien if the criminal defendant does, in fact, show up for all court proceedings (even if she is convicted). See also, **bail**, **cash bond**, **deposit bond**, and **surety bond**.

property law: Law that pertains to and governs ownership. See also, **real property** and **personal property (chattel property)**.

proprietary law school: A law school that is not affiliated with a university. Like university-affiliated law schools in early American legal education, they typically provided more structure for a legal education than the apprenticeship model, though with a more significant practice component than university-affiliated law schools. See, for comparison, **apprenticeship model**.

prosecutorial discretion: The power of the state to formally charge suspects with criminal offenses or, alternatively, to decide not to file formal charges and release suspects from custody. See also, **prosecutor**, **complaint**, and **complainant**.

prosecutor: An attorney who represents the government and tries cases on behalf of the government. They may initiate legal proceedings against, for example, criminal defendants, the military, government agencies, legislative committees, law enforcement, and social service agencies. See, for comparison, **public defender**. See also, **attorney general** and **Solicitor General**.

public defender: A salaried government employee responsible for defending indigent criminal defendants. See, for comparison, **prosecutor**. See also, **indigent person**, **legal aid**, **legal clinic**, **pro bono**, and **interest on lawyer trust accounts (IOLTA)**.

public interest law: Legal work that furthers interests shared by the entire public or significant segments of the public. See, for comparison, **business law (commercial law)** and **personal law**.

public law: Law governing the relationship between individuals and the state, including criminal law and compliance with government regulation. See, for comparison, **private law**. See also, **administrative law** and **constitutional law**.

public opinion: The aggregation of the thoughts and opinions of the general public. See also, **legitimation effects theory (positive response theory)** and **structural response theory (polarization theory)**.

public reprimand: An expressive sanction imposed on an attorney for misconduct in which the offending attorney's name and misconduct is made public. See also, **expressive sanction** and **private admonition**.

punitive damages: Damages awarded to the plaintiff for the purpose of deterring the defendant (or others) from behaving in the same manner in future. See, for comparison, **compensatory damages**. See also, **plaintiff**, **defendant**, **judgment creditor**, and **judgment debtor**.

rainmaker: A big-name lawyer who generates business by bringing in big-money clients. See also, **associate**, **partner**, **equity partner**, and **non-equity partner**.

real property: Land and objects permanently attached to land. See, for comparison, **personal property (chattel property)**. See also, **property law**.

reasonable doubt case: A criminal case in which the evidence does not clearly connect the defendant to the crime, which means that there is a high probability of acquittal. See, for comparison, **dead bang case**. See also, **prosecutorial discretion** and **plea bargaining**.

recess appointment: A presidential appointment for a judicial or executive position in which the Senate is bypassed because the Senate is in recess when it is made. The senatorial recess must be of sufficient length (i.e., roughly 10 days or more) and the appointment only lasts until the end of the next term of the Senate. See also, **advice and consent**, **nomination**, **confirmation**, **blue slip procedure**, **cloture**, **committee hearing**, **filibuster**, **holds**.

recuse: To excuse a judge from participating in a case because of a possible conflict of interest that may threaten the judge's impartiality. See also, **legal ethics**.

regular concurrence: A separate opinion written by a justice to express his agreement with the outcome supported by the majority opinion but which elaborates in some way on the rationale offered by the majority. The author of a regular concurrence agrees with the majority as to who wins and who loses and does so for the same reasons as the majority. See, for comparison, **special concurrence**. See also, **consensus**, **dissenting opinion** and **majority opinion**.

rehabilitative sanction: A sanction imposed on an attorney for misconduct that is based on the notion that human behavior (including attorney behavior) can be reformed given appropriate opportunities for reflection. See also, **probation, mandatory education, incapacitating sanction, expressive sanction, and consumer-oriented response.**

reliable measure: A measure of a variable for which the coding rule produces the same classification no matter who is applying it. See, for comparison, **valid measure.** See also, **dependent variable, independent variable, operationalize, coding rule, and codebook.**

removal jurisdiction: The power or authority to move a case from a state court to a federal court in order to neutralize a plaintiff's perceived advantage because of the jurisdiction. See also, **change of venue, forum shopping, and jurisdiction.**

repeat players: Persons who regularly use the courts as part of their business activity, such as insurance companies, banks, and corporations. Repeat players are advantaged in the judicial process relative to one-shotters. See, for comparison, **one-shotters.**

reply: A legal document filed by a plaintiff to respond to a defendant's counterclaim in a law suit; analogous to a defendant's answer to a plaintiff's complaint. See also, **complaint, answer, and counterclaim.**

research question: A question about some behavior or phenomenon of interest to a researcher that is subject to an empirical answer. See also, **theory, hypothesis, correlative hypothesis, directional hypothesis, dependent variable, and independent variable.**

respondent: The litigant against whom an appeal is taken; i.e., the litigant who won in the lower court and would prefer that the lower court ruling remains in effect. Also referred to as the **appellee.** See, for comparison, **appellant (plaintiff in error).**

retention election: A method of judicial retention in the American states in which, after serving a specified period of time, a judge stands for popular election, with the electorate voting on whether or not the judge should be retained in office. This is the method of retention embedded in the Missouri Plan. See, for comparison, **gubernatorial appointment, legislative appointment, partisan election, and nonpartisan election.** See also, **Missouri Plan and retention election.**

retention model: A model of U.S. Supreme Court opinion writing in which a justice drafts her own opinion and uses her law clerks for editing and adding citations and footnotes. See, for comparison, **delegation model.** See also, **law clerk and majority opinion.**

roll-off: The phenomenon in which voters do not complete an election ballot with a selection for each listed contest, particularly at the bottom for the ballot for lesser-known offices and candidates. See also, **popularly contested election, partisan election, and non-partisan election.**

rule of four: An unwritten rule of the U.S. Supreme Court that states that agreement by at least four justices is needed for the Court to hear a case. See also, **join 3, dead list, discuss list, and writ of certiorari.**

scientific jury selection (SJS): The use of behavioral and social scientific principles in the *voir dire* process directed towards the selection of *veniremen* most predisposed to a particular side in a given court case. See, **mock jury**, **shadow jury**, **telephone survey**, **post-trial jury interview**, *voir dire*, *venire*, and *venireman*.

senatorial courtesy: An informal norm that gives senators representing the state corresponding to a lower federal court vacancy the power to hold up a president's nomination, if desired. If a nomination is held up indefinitely then the effect is to defeat it without a formal vote. See also, **blue slip procedure**, **advice and consent**, **nomination**, and **confirmation**,

sentence bargain: A form of plea bargain in which the defendant agrees to plead guilty to an offense in exchange for the prosecutor agreeing to recommend a lighter sentence. See, for comparison, **charge bargain** and **implicit bargain**. See also, **caseload pressure hypothesis**, **innocence problem**, **negotiation (criminal case)**, and **plea bargain**.

sentencing: The process by which a person convicted of a crime has a punishment imposed (e.g., a financial sanction, monitored release into the community, incarceration). See also, **indeterminate sentence**, **determinate sentence**, and **sentencing guidelines**.

sentencing guidelines: Rules (promulgated by the judiciary or the legislature) that specify a sentence or sentence range to be imposed on the criminally convicted based on the type of crime. The U.S. Supreme Court held that the Federal Sentencing Guidelines could not be mandatory in *United States v. Booker* (2005). See also, **indeterminate sentence**, **determinate sentence**, and **sentencing**.

sequester: To separate jurors from contact with other people and media reports related to the case pending the conclusion of the case. See also, **foreperson** and **deadlocked jury (hung jury)**.

seriatim: Latin for "in a series." The practice common in the early history of the U.S. Supreme Court in which each justice issued his own opinion in every case that was heard. Chief Justice John Marshall was instrumental in eliminating this practice. See also, **consensus**, **majority opinion**, **dissenting opinion**, **concurring opinion**, **regular concurrence**, and **special concurrence**.

service by publication: A type of service of process in which a summons is served via the publication of a public notice in a newspaper. Also referred to as **constructive service**. See, for comparison, **actual service (personal service)** and **substituted service**.

service of process: The official notification to a civil defendant that he is being sued. See also, **actual service (personal service)**, **substituted service**, **constructive service (service by publication)**, **summons**, and **default judgment**.

shadow jury: A tool of scientific jury selection (SJS) in which a surrogate jury is placed in audience of the courtroom and exposed to the real trial so that the attorney can obtain personalized feedback at the end of each day and adjust her strategy as needed. See, for comparison, **mock jury**. See also **scientific jury selection (SJS)**, **telephone survey**, **post-trial jury interview**, *voir dire*, *venire*, and *venireman*.

shyster: A pejorative term for an unscrupulous lawyer who takes advantage of his clients for financial or other gain and who manipulates the judicial system for his benefit, even if doing so compromises ethical standards. See also, **legal ethics**.

single-tier partnership track: A model for promotion from associate to partner in which associates who demonstrate themselves to be skilled attorneys capable of generating sustained revenue over a period of years become partners, while those who are unable to do so are severed from the firm. See, for comparison, **two-tier partnership track**. See also, **associate**, **equity partner**, and **non-equity partner**.

Socratic method: A method of instruction (particularly legal instruction) in which the teacher asks a series of questions (typically of a single student), with the goal of leading the student through a chain of reasoning to lay bare its assumptions or the conclusions to which it leads. Named for the classical Greek philosopher Socrates, who is said to have relied on the practice as a tool for stimulating critical thinking and honing logic skills. See, for comparison, **lecture method** and **text-and-recitation**. See also, **Christopher Columbus Langdell**.

Solicitor General: The government lawyer who supervises and conducts litigation on behalf of the United States in the U.S. Supreme Court. See, for comparison, **attorney general**. See also, **prosecutor**.

solo practitioner: An attorney who has her own private law practice. See, for comparison, **general partnership**, **limited liability corporation (LLC)**, **limited liability partnership (LLP)**, and **professional corporation**.

special concurrence: A separate opinion written by a justice to express his agreement with the outcome supported by the majority opinion but which articulates a different rationale than that offered by the majority. The author of a special concurrence agrees with the majority as to who wins and who loses but does so for different reasons than the majority. See, for comparison, **regular concurrence**. See also, **consensus**, **dissenting opinion** and **majority opinion**.

standing: Whether a litigant has the right to bring suit because the litigant has experienced a direct injury. The challenges interest groups experience in establishing standing to bring suit on their own behalf often leads them to prefer to identify litigants who already have standing and assist them with their cases as a way of pursuing their policy objectives. See also, **amicus curiae** and **amicus brief**.

stare decisis: The common law principle that past court decisions should be applied to resolve later decisions. See, for comparison, **jurisprudence constante**. See also, **common law** and **common law system**.

state sovereign immunity: The principle that states cannot be sued in federal court without their consent. This principle is codified in the Eleventh Amendment, which was passed in response to the U.S. Supreme Court decision of *Chisholm v. Georgia* (1793). See also, **diversity of citizenship jurisdiction**.

status conference: A type of pretrial conference that occurs soon after the initial pleadings (e.g., complaint, answer) have been filed, the purpose of which is to aid the presiding judge in

managing the case (e.g., setting a timeline for pretrial activities, setting a tentative trial date). See, for comparison, **issue conference**. See also, **pretrial conference**.

statistical significance: How sure a researcher can be that the observed relationship between a dependent and an independent variable in a sample of observations reflects the relationship between that dependent and independent variables in the population. See also, **dependent variable**, **independent variable**, **bivariate analysis**, **multivariate analysis**, **multiple regression analysis**, and **probability**.

statute: A law passed by a legislative body at the national, state, or local level. Statutes are one of several sources of law and must comply with constitutional dictates. See also, **law**, **case law**, **executive order**, **constitution**, and **ordinance**.

statutory decision: A legal decision by a court in which the outcome is based on an interpretation of the language included in a statute, which can be overturned by the passage of new legislation. See, for comparison, **constitutional decision**.

strategic model: A social science model of judicial decision making in which judges are assumed to make decisions directed at achieving their goals but recognize that their ability to do so depends on what other key actors would prefer, the choices those other key actors are expected to make, and the context of their decision making. See, for comparison, **attitudinal model** and **legal model**. See also, **theory**.

structural response theory: A theory that public opinion changes its structure (but not necessarily the aggregate level of support for a policy) as a result of a Supreme Court decision, and that, after the Court hands down a decision, there will be a polarization of attitudes between groups that were already on one side or the other of the issue. Also referred to as **polarization theory**. See, for comparison, **legitimation effects theory** (i.e., **positive response theory**). See also, **public opinion**.

subject matter jurisdiction: The power or authority of a court to hear cases that deal with a particular subject. See, for comparison, **personal jurisdiction**.

substantive justice: A perspective on justice that focuses on the fairness of the outcomes in the resolution of disputes. Implicitly, substantive justice is expected to result from procedural justice. See, for comparison, **procedural justice**. See also, **substantive law** and **procedural law**.

substantive law: Law that defines rights and duties. See, for comparison, **procedural law**. See also, **substantive justice** and **procedural justice**.

substituted service: A type of service of process in which the delivery of the complaint and summons is not done in person but is done in a way that makes it likely for the defendant to be made aware of the proceedings. Examples include delivery of the documents to other responsible adults living at the same address as the defendant, and fixing the documents to the entrance of the defendant's home and subsequently mailing a copy via registered mail to the defendant. See, for comparison, **personal service (actual service)** and **constructive service (service by publication)**. See also, **service of process**, **summons**, and **default judgment**.

summons: The official notice of a law suit by a court. See also, **process of service**, **personal service (actual service)**, **substituted service**, **constructive service (service by publication)**, and **default judgment**.

supersedeas bond: A type of surety bond that a court requires from an appellant prior to filing a notice of appeal, which stays the execution of the judgment of the lower court. Also referred to as an **appeal bond**. See also, **appellant (plaintiff in error)** and **appellee (respondent)**.

supplemental jurisdiction: The authority of a federal court to hear a case dealing with a state law claim that is substantially related to a federal law claim it is already deciding. See also, **diversity of citizenship jurisdiction** and **federal question jurisdiction**.

supportive cross: A type of cross-examination in which the attorney questions a witness for the purpose of supporting the cross examiner's case. See, for comparison, **discrediting cross (destructive cross)**. See also, **cross-examination**.

Supreme Court bar: A specialized and elite group of attorneys, largely composed of attorneys who formerly worked in the Solicitor General's office or who clerked at the Supreme Court, who argue before the Supreme Court. See also, **Solicitor General** and **law clerk**.

surety bond: A method of posting bail in which a for-profit bail bonding company provides a promissory note to the court in exchange for a non-refundable fee from a criminal defendant to secure pretrial release. It serves as an incentive for a criminal defendant to show up for all court proceedings. The promissory note is voided if the criminal defendant does, in fact, show up for all court proceedings (even if she is convicted). See also, **bail**, **cash bond**, **property bond**, and **surety bond**.

suspect: A person for whom law enforcement officers have probable cause to believe has committed a crime. See also, **probable cause**, **arrest**, **arrest warrant**, and **defendant**.

suspension: An incapacitating sanction imposed on an attorney for misconduct in which the offending attorney is temporarily removed from the practice of law for a specified period of time. See also, **incapacitating sanction** and **disbarment**.

telephone survey: A tool of scientific jury selection (SJS) in which a survey is administered over the phone to a representative sample of individuals in the community from which a jury is likely to be drawn, with the results used to create juror profiles that assist the attorneys in jury selection. See, for comparison, **post-trial jury interview**. See also, **scientific jury selection (SJS)**, **mock jury**, **shadow jury**, **voir dire**, **venire**, and **venireman**.

text-and-recitation: A method of legal instruction common in early American law schools in which students learn the law by reading assigned treatises and then recite what they have learned in the classroom. See, for comparison, **casebook method** and **lecture method**. See also, **Socratic method**.

theory: A set of statements that provides a way to understand why actors behave or phenomena occur the way they do. A theory is a proposed causal explanation. See also, **hypothesis**, **operationalization**, **dependent variable**, and **independent variable**.

three-judge panel: A set of three judges from a federal court of appeals who sit together to hear a set of cases. The three-judge panel is the standard decision making unit relied upon by the U.S. courts of appeals and members of each three-judge are usually (though not always) selected on a random basis. See, for comparison, *en banc*. See also, **panel effects** and **designated judge**.

tort reform: Proposed changes in the civil justice system that would reduce tort litigation or damages. See also, **compensatory damages** and **punitive damages**.

tort: A wrongful act (excluding breach of an agreement) from which injury occurs to another, whether intentional or accidental. See also, **contracts**, **property law**, **real property**, and **personal property (chattel property)**.

transactional lawyer: A lawyer who spends the majority of her time researching, drafting, negotiating, and advising clients rather than litigating in court. See, for comparison, **litigation lawyer**.

trial: A legal proceeding in which the facts of a dispute and the relevant law are examined by a judge or jury (with the supervision of a judge) authorized to hear the matter. See, for comparison, **arraignment**, **preliminary hearing**, and **sentencing**. See also, **post-trial motion** and **verdict**.

true bill: A formal accusation or criminal charge brought by a grand jury. Also known as a **indictment**. See also **grand jury** and **information**.

two-tier partnership track: A model for promotion to associate to partner in which associates who demonstrate themselves to be skilled attorneys capable of generating sustain revenue over a period of years become equity partners, while those who are not able to do so but are nonetheless of value to the firm become non-equity partners. See, for comparison, **two-tier partnership track**. See also **associate**, **equity partner**, and **non-equity partner**.

valid measure: A measure of a variable with a high degree of correspondence between it and the concept it is purported to measure. See, for comparison, **reliable measure**. See also, **dependent variable**, **independent variable**, **operationalize**, **coding rule**, and **codebook**.

value of the case: An attorney's assessment of a case based on the seriousness of the crime, the strength of the evidence, and the defendant's background. See also, **dead bang case**, **reasonable doubt case**, and **plea bargaining**.

venire: The set of prospective jurors from which jury members (i.e., *veniremen*) are selected. Also referred to as the **jury pool**. See also, **scientific jury selection (SJS)**, **mock jury**, **shadow jury**, **telephone survey**, **post-trial jury interview**, *voir dire*, *venire*, and *venireman*.

venireman: A member of the jury pool. See also, **scientific jury selection (SJS)**, **mock jury**, **shadow jury**, **telephone survey**, **post-trial jury interview**, *voir dire*, and *venire*.

verdict: The formal finding of fact in a civil or criminal case. See also, **preponderance of the evidence**, **beyond a reasonable doubt**, **jury nullification**, **hung jury (deadlocked jury)**, **trial**, and **sentencing**.

verdict-driven deliberations: A style of jury deliberation in which jurors narrowly focus on the final outcome of the case as opposed to the evidence presented. They typically involve frequent polling of the jurors and are characterized by pressure to conform to the views of the majority. See, for comparison, **evidence-driven deliberations**. See also, **foreperson** and **jury nullification**.

victimless crime: Criminal conduct that does not directly harm other individuals, despite being considered a crime (e.g., gambling, drug use). See also, **probable cause**, **arrest**, **arrest warrant**, and **suspect**.

voir dire: From Latin (*verum dicere*), a French phrase for “to see and speak the truth.” The preliminary stage of a trial during which prospective jurors are questioned to determine their suitability to serve as jurors on the particular case. The goal is to remove from consideration those potential jurors who are unlikely to be impartial. See also, **scientific jury selection (SJS)**, **mock jury**, **shadow jury**, **telephone survey**, **post-trial jury interview**, *venire*, and *venireman*.

voting fluidity: The situation in which a justice’s vote at the initial conference changes during the opinion coalition formation process. See also, **majority opinion**, **dissenting opinion**, **concurring opinion**, **regular concurrence**, and **special concurrence**.

writ of appeal: An order granting the petition filed by a party who is seeking appellate review under the U.S. Supreme Court’s mandatory jurisdiction. The contemporary Court’s mandatory jurisdiction is virtually nonexistent. See, for comparison, **writ of certiorari**. See also, **mandatory jurisdiction** and **mandatory review**.

writ of certiorari: An order granting the petition filed by a party who is seeking appellate review under the U.S. Supreme Court’s discretionary jurisdiction. The contemporary Court’s jurisdiction is virtually entirely discretionary, making a petition for a writ of *certiorari* the most viable mechanism for seeking Supreme Court review. See, for comparison, **writ of appeal**. See also, **discretionary jurisdiction**, and **discretionary review**, **rule of four**, and **join 3**.

writ of mandamus: An order of a court requiring an official under its jurisdiction to perform a particular act. A writ of mandamus was at the heart of the case of *Marbury v. Madison* (1803), in which the Supreme Court first articulated the power of judicial review. See also, **judicial review** and **original jurisdiction**.