LEGAL VOCABULARY FOR COURT DEBATE

COMMON USED LEGAL TERMINOLOGY

**Appeal:** To seek review by a higher court. (e.g. appeal trial court decisions to the appropriate higher court; appeal appellate court decisions to the appropriate highest court.)

**Appellant:** One who brings the appeal of the lower court decision (the loser in the lower court).

**Appellate Briefs:** Written argument submitted to the appellate court in support of a position on appeal (not the same as a case brief).

**Appellee:** One against whom the appeal is brought and must respond to the appeal (the winner in the lower court). Also called respondent.

**Case:** Generally used in law to refer to the written decision of a court.

**Case Law:** All reported decisions within a jurisdiction. May consist of common law decisions as well as judicial decisions interpreting statutes, regulations, constitutions etc.

**Case Reporters:** Court opinions that are gathered together and published in chronological order. The books containing these cases are called case reporters. Even though most cases are available online, they are still organized and cited to according to the print reporter system. Cases are primary sources regardless of publication in an official or unofficial reporter, the case decision is the primary source. Case reporters can be official or unofficial.

- **Official Reporter:** The governmentally approved publication reproducing reported cases within a given jurisdiction. The official reporter is the reporter that should be cited when submitting documents to the court.
- **Unofficial Reporter:** Reporters published by commercial publishers (West, Lexis, BNA) in either print or online formats, reproducing the reported decisions within a given jurisdiction. Commercially published reporters are considered unofficial reporters.

**Code:** The subject arrangement of the laws or regulations of a jurisdiction.

- **Annotated Code:** A publication of all the laws of a jurisdiction organized by subject matter which contains research references that include summaries of cases or citations to secondary sources that discuss that particular law. Annotated codes only contain select case law interpreting the statute, not every case ever citing the statute.
- **Unannotated Code:** A publication of all the laws of a jurisdiction organized by subject matter. No research references are included in unannotated codes.

**Citator:** A tool used in legal research to update legal authorities by listing their subsequent history and treatment. With case law, legal citators indicate when a case has been cited by a later case, and what effect, if any, the later citation had on the original case. The three main citators are Shepard's on Lexis, KeyCite on Westlaw and Bcite on Bloomberg Law.

**Common Law:** The body of judge-made law having no basis in statutes.
Concurring Opinion: A separate written opinion explaining a vote cast by one or more judges in favor of the judgment reached, often on grounds different from those expressed in the opinion explaining the judgment.

Defendant: A person sued in a civil proceeding or accused in a criminal proceeding.

Digest: A case finding tool that organizes cases by subject. Within each subject digests provide summaries of cases that discuss the law on that subject. Digests allow you to find cases on a particular point of law in a particular jurisdiction. Online services also provide digests for particular topics.

Dissenting Opinion: An opinion by one or more judges who disagree with the decision reached by the majority.

Headnote: A brief summary of a specific point of law decided in a case. Headnotes appear before the judicial opinion, and are generally written by a publisher's editors. Headnotes are a great research tool, but are not considered legal authority and should never be cited to.

Judge: A public official appointed or elected to hear and decide legal matters in court.

Judiciary: The branch of government responsible for interpreting the laws and administering justice; a body of judges.

Justice: A judge, especially of an appellate court.

Litigation: The process of carrying on a lawsuit; the lawsuit itself.

Litigator: A lawyer who prepares cases for trial as by conducting discovery and pretrial motions, trying cases and handling appeals; a trial lawyer.

Litigant: A party to a lawsuit.

Opinion: The written decision of a court.

- Majority Opinion: An opinion joined in by more than half of the judges considering a given case. One judge writes the opinion when a majority of judges agree with the holding.
- Minority Opinion: An opinion by one or more judges who disagree with the decision reached by the majority - also called a dissenting opinion.
- Concurring Opinion: A judge who voted with the majority opinion, but writes separately because her reasoning is different.
- Dissenting Opinion: A judge who writes a separate opinion where the reasoning and the holding are different from the majority.
- Per Curiam Opinion: Literally "By the Court." This happens when the court issues a unanimous opinion, typically on a controversial topic, so that no single author can be identified.

Opinions, unpublished: An opinion is considered published unless it is specifically designated as "unpublished." The court typically designates an opinion as "unpublished" if it doesn't add
anything new to the body of law. Courts have different rules about whether they will accept citations to unpublished opinions.

**Parallel Citation:** An additional reference to a case that has been reported in more than one reporter. Example: *Morgan v. United States*, 304 U.S. 1, 58 S. Ct. 773, 82 L. Ed. 1129 (1938), where 58 S. Ct. 773 and 82 L. Ed. 1129 are parallel citations to the decision cited in the official reporter at 304 U.S. 1.

**Petitioner:** A party who presents a petition to a court or other official body, especially when seeking relief on appeal (where the Petitioner is the Appellant).

** Plaintiff:** The party who brings a civil suit in a court of law.

**Precedent:** A decided case that furnishes a basis for determining later cases involving similar facts or issues.

**Respondent:** The party against whom an appeal is taken (appellee); the party against whom a motion or petition is filed.

**Slip Opinion:** The opinion issued by the court as a stand-alone document on the day it is decided, before it has been assigned a volume and page number in the official reporter.

**Supreme Court:** This is the court of last resort, or the highest court in the judicial hierarchy. The opinions of a supreme court are binding on all the courts below it (Trial and Appellate). Note that some jurisdictions refer to the highest court as a Court of Appeals or Court of Last Resort, e.g., in New York State the Supreme Court is not the highest court in the state.

**Syllabus/Synopsis:** A summary of the case. It will usually describe the procedural posture (how the case made it to the court) and the holding. It is not part of the official opinion.

**Table of Authorities:** The list of primary authorities (cases, statutes, regulations, or constitutions) and secondary authorities relied upon in the document you are viewing.

**Topic & Key Number System:** A proprietary system developed by West Publishing (now ThomsonReuters) to identify related cases on a similar issue. Each headnote in cases published by West will be assigned a corresponding topic and key number.

**Trial Courts:** Trial courts are at the bottom of the judicial hierarchy in a jurisdiction. They are usually persuasive primary authority. Trial court opinions bind only the parties involved in the case, other trial courts hearing similar cases are not bound by the opinions, and the appellate courts in the jurisdiction are not bound by the trial court opinions.

**GENERAL TERMS USED IN COURT**

**Analogize:** To take the facts, rationale or argument of a written decision and explain how the argument relates to your case/issue.

**Citation:** A reference to a legal precedent or authority (primary or secondary) such as a case, statute or treatise. *Case citation:* The alpha numeric identifier provided to enable researchers to locate written decisions. The format usually consists of a volume number, the abbreviated reporter name, and a page or paragraph number. (e.g. 268 N.E.2d 1247)
Citators: A tool used in legal research to update legal authorities by listing their subsequent history and treatment. Also provide additional research references to primary and secondary resources citing your original document.

Civil Law: The body of law imposed by the state; the law of civil or private rights; a civil law system relies on codes that provide explicit rules of a situation. A judge's decision in a civil law system does not become binding or form a precedent. Many European countries are civil law countries.

Constitution: A type of primary authority that is a set of principles that a country or state is governed by. Constitutions generally establish the branches of government, the scope of powers for each branch, and a set of guaranteed civil rights and civil liberties.

Criminal Law: The body of law defining offenses against the community at large, regulating how suspects are investigated, charged and tried, and establishing punishment for convicted offenders.

Federal Jurisdiction: A federal court's power to hear matters. Under this type of jurisdiction federal courts may decide a question of civil and/or criminal federal law.

Hypothetical: Discussion of a legal principle based on a fictitious or assumed set of facts.

Mandatory (Binding) Authority: A primary legal authority that is binding on a court. Jurisdiction and court level determine whether a primary legal authority is mandatory or persuasive.

Persuasive Authority: A primary or secondary authority. The legal authority is not binding on a court, but the court may still rely on the authority when making its determination. Jurisdiction and court level determine whether a primary legal authority is persuasive or mandatory/binding. Secondary authority is always only persuasive.

Pinpoint Citation: The page on which a quotation or relevant passage appears, as opposed to the page on which a case or article begins.

Procedural Law: Rules that describe the steps for having a right or duty judicially enforced, as opposed to the law that defines the specific rights and duties themselves.

Primary Legal Authority: Authority that issues directly from a lawmaking body such as constitutions, legislation, regulations, and the reports of litigated cases (court opinions) among others.

Relevance: Relation or pertinence to the issue at hand.

Relief: The compensation (monetary or other, e.g., injunction) or benefit that a party asks of another party, sometimes received through settlement and other times received through the courts.

Secondary Legal Authority: Authority that explains the law but does not itself establish the law, such as a treatise, annotation, or law review article among others.

State Jurisdiction: A state court's power to hear matters. Under this type of jurisdiction state courts may decide a question of civil and/or criminal state law.
**Substantive Law:** The part of the law that creates, defines and regulates the rights, duties and powers of parties.

**Uniform Laws:** An unofficial law proposed as legislation for all the states to adopt exactly as written, the purpose being to promote greater consistency among the states.