

## Supreme Court Glossary of Terms

- Civil Appeal:** A written request to modify or reverse the judgment of a trial court or intermediate level appellate court in a civil case.
- Criminal Appeal:** A request to modify or reverse the judgment of a trial court or intermediate level appellate court in a criminal case.
- Habeas Corpus:** (Habeas corpus ad subjiciendum) "An independent civil action to determine not the guilt or innocence of the person held in custody, but whether the custody is unlawful. Common grounds for relief under the writ include a conviction based on illegally obtained evidence, a denial of effective assistance of counsel, or a conviction by a jury that was improperly selected and impaneled. Use of the writ is not limited to criminal matters. It is also available in civil matters, as, for example, to challenge a person's custody of a child or the institutionalization of a person declared incompetent."  
(<http://dictionary.lp.findlaw.com>)
- Interlocutory:** An interlocutory appeal is one which is not determinable of the controversy, but which is necessary for a suitable adjudication of the merits. Colorado Appellate Rule 4.1 governs interlocutory appeals in criminal cases and provides that the state may file an interlocutory appeal in the Supreme Court from a district court ruling granting a motion in advance of the trial by the defendant for the return of property and to suppress evidence or to suppress an extra-judicial confession or admission. This is only one example of an interlocutory appeal.
- Interrogatories:** Pursuant to Article VI, section 3 of the state Constitution, the Court may be required to answer "important questions upon solemn occasions" propounded by the Governor, the Senate, or the House of Representatives. These questions are called "interrogatories."
- Judicial Discipline or Disability:** Judges who are alleged to have engaged in misconduct or to be suffering from a disability which is or is likely to become of a permanent character may be subject to judicial discipline. The Colorado Commission on Judicial Discipline investigates such allegations and, if it concludes that the judge has engaged in misconduct or is disabled, it may recommend to the Supreme Court a range of sanctions, including removal of the judge from office, retirement of the judge for a disability, reprimand or censure of the judge, or assessment of costs against the judge.
- Original Proceedings:** Colorado Rules of Civil Procedure 21 provides the Colorado Supreme Court with discretion to exercise original jurisdiction in extraordinary circumstances where no other remedy is available. Original proceedings are used to test whether the trial court is proceeding without jurisdiction or in excess of its jurisdiction and to review a serious abuse of discretion when an appellate remedy would be inadequate. The remedy in an original proceeding takes the form of a special mandate from the Supreme Court addressed to an individual, official body, or lower court and may be used to restrain or compel the acts of a trial court. The Court issues a "rule to show cause" why the relief requested in the petition should not be granted. After considering the written briefs, the Supreme Court either makes the rule absolute (grants the relief requested) or discharges the rule (denies the relief requested).
- Petitions in Certiorari:** A writ of common law origin issued by a superior to an inferior court requiring the latter to produce a certified record of a particular case tried therein. The writ is generally issued so that the issuing court may inspect the proceedings and determine whether there have been any irregularities. Like the United States Supreme Court, the Colorado Supreme Court uses the writ as a discretionary device to choose which cases it wishes to hear. Colorado Appellate Rules 49-58 govern writs of certiorari.
- Reapportionment:** Article 5, section 48 of the state Constitution provides that after the decennial federal census, the senatorial districts and representative districts shall be established, revised, or altered, and the members of the senate and the house of representatives apportioned among them, by a Colorado reapportionment commission. The commission must publish a preliminary plan for reapportionment of the members of the general assembly and shall hold public hearings thereon. After the completion of such hearings, the commission must finalize its plan and submit the same to the Colorado Supreme Court for review and determination as to whether the plan meets

constitutional standards. The Supreme Court must either approve the plan or return the plan and the court's reasons for disapproval to the commission. If the plan is returned, the commission shall revise and modify it to conform to the court's requirements and resubmit the plan to the court. If the plan is approved by the court, it shall be filed with the secretary of state for implementation.

**Request for Stay Pending Appeal:**

A stay is a suspension of the case or some designated proceedings within it. Colorado Appellate Rule 8 governs stays pending appeal.

**Rule 21.1:**

This rule of appellate procedure governs certification of questions of law to the Colorado Supreme Court by the United States Supreme Court, federal courts of appeals, federal district courts, and the federal Court of Claims. Under the rule, a certifying court may request that the Colorado Supreme Court answer a question of law if there is involved in any proceeding before the certifying court a question of state law which may be determinative of the cause pending and to which it appears that there is no controlling precedent in the Colorado Supreme Court's decisions.

**Special Concurrences:**

An opinion in which a justice expresses agreement with the particular result in a given case while objecting to a line of reasoning. The special concurrence may relate to the majority opinion in its entirety or to the result only.

**Statutory Reviews:**

Section 1-40-107, C.R.S., provides a mechanism by which registered electors who meet certain criteria and who believe that a ballot title contains multiple subjects may petition the Supreme Court to review the title board's action or decision.

**Unauthorized Practice:**

The practice of law by one who is not licensed as an attorney in Colorado. The Supreme Court has the exclusive jurisdiction to define the practice of law and to prohibit the unauthorized practice of law within the state (see C.R.C.P. 229 through 240.1).

### **Trial Court Glossary of Terms**

**Administrative Support Order:**

Cases in which the delegate child support unit (typically the department of social services) files a paternity or child support case (See §26-13.5-101 C.R.S.).

**Ancillary Proceedings:**

A type of probate filing in which a probate case had been opened in another state but the decedent had property in the state of Colorado.

**Breach of Contract:**

A civil case in which the plaintiff claims parties made an agreement either written or otherwise and the other side has breached this contract (e.g. §13-80-102 C.R.S.).

**Breach of Warranty:**

A civil case in which a plaintiff claims that a product does not perform as represented.

**C.R.C.C.P.:**

Abbreviation for Colorado Rules of County Civil Procedure

**C.R.C.P.**

Abbreviation for Colorado Rules of Civil Procedure

**C.R.S.:**

Abbreviation for Colorado Revised Statutes.

**Civil Protection Orders:**

(Prior to 7/1/03, known as Restraining Orders). District and county courts have original concurrent jurisdiction to issue temporary or permanent civil Protection orders for any of the following purposes: 1) to prevent assaults and threatened bodily harm; 2) to prevent domestic abuse; 3) to prevent emotional abuse of the elderly; and 4) to prevent stalking (See 13-14-102 C.R.S. and 13-1-136 C.R.S. and C.R.C.C.P. Rule 365)

**Condemnation:**

A civil case in which the plaintiff, usually the Department of Transportation but may be a city or state district, is asking that property be condemned and taken so that it may be put to that department's use (See §38-3-105 C.R.S.).

**County Court Counter Claim:**

A civil case in which a defendant desires to counterclaim against the Plaintiff. In County Court if the counterclaim exceeds the jurisdiction of County Court, a transfer of

the case to District Court may be requested by the defendant or made automatically by the court (See C.R.C.P. 313).

<b>County Felony:</b>	Criminal felony cases that have preliminary work done at the county court level before being bound over (sent) to district court.
<b>Covenant:</b>	Provisions in a deed limiting the use of the property and prohibiting certain uses. Breach of covenant claims are usually filed by homeowners associations.
<b>Criminal Non-support:</b>	A criminal action for the non-payment of child support.
<b>Declaratory Judgment:</b>	A civil case in which the plaintiff is asking the court to declare (order) something. It is used to settle and gain relief from uncertainty with respect to rights, status, or other legal relations.
<b>Dependency and Neglect:</b>	A child is dependent or neglected if a parent, guardian, or legal custodian has abandoned the child or has subjected the child to mistreatment or abuse, whether the parent is or is not at fault. In addition, a child is dependent or neglected if the child has run away from home or is beyond the control of their parents (For other examples, see §19-3-102 C.R.S.).
<b>Determination of Interests:</b>	A civil case in which the plaintiff asks the court to determine his or her interest in something. ( <i>e.g. two attorneys have been partners in a law practice. Now the partnership is being dissolved, and the attorneys cannot agree on who gets what, for example: furniture, computer, client list, etc.</i> )
<b>Disposition:</b>	The final settlement of a matter, and with reference to decisions announced by a court, a judge's ruling is commonly referred to as a disposition.
<b>Distrain Warrant:</b>	A filing by the State Department of Revenue for a judgment for outstanding State Taxes that allows for a lien to be placed on the debtor's assets.
<b>Expedited Placement:</b>	A dependency and neglect case in which at least one child of the family is under the age of 6 years on the date the petition is filed qualifies as an Expedited Permanency Planning (EPP) case (§19-3-104 C.R.S.).
<b>Felony:</b>	A crime punishable by death or by imprisonment in a state penal institution.
<b>Forcible Entry and Detainer:</b>	Eviction; a civil case in which the plaintiff is seeking to regain possession of leased real property and possibly money damages (See §13-40-110 C.R.S.).
<b>Foreclosure other than Rule 120:</b>	A legal proceeding to terminate a mortgager's interest in property, instituted by the lender either to gain title or to force a sale in order to satisfy the unpaid debt secured by the property (See §38-38-701 C.R.S.).
<b>Foreign Judgment:</b>	A judgment from any state or federal court granting or denying recovery for a sum of money other than judgments for taxes, a fine or other penalty, or a judgment for support in family or matrimonial matters (See §13-53-102 C.R.S.).
<b>Goods Sold and Delivered:</b>	A civil case in which the plaintiff claims that defendant purchased products, not services, but has failed to pay for them.
<b>Incoming Registration of Support:</b>	A domestic case in which a person had a Support Order that was entered in another state and he/she wants to enforce the case here, generally to modify the support order or to issue garnishments or wage assignments.
<b>Infraction:</b>	A breach, violation, or infringement, as of a law, contract, right, or duty. A violation of a statute for which the only sentence authorized is a fine.
<b>Injunctive Relief:</b>	Plaintiff asks the court to restrain or enjoin another party from taking an action that may cause harm or result in injury, loss or damage to the plaintiff. May also include a temporary protection order. (See C.R.C.P. 65)
<b>Intestate- Formal:</b>	Formal probate proceedings, with no will involved, may be commenced by an interested person filing a petition and, after notice and hearing, the court enters an order, adjudicates intestacy, determines heirs and appoints a personal representative.

<b>Intestate-Informal:</b>	Informal probate proceedings, with no will involved, may be commenced by an interested person filing an application for informal appointment.
<b>Lien:</b>	A civil case in which the plaintiff has provided goods and/or services to a party, and has not been paid. Plaintiff retains right to hold property until payment for services is received. If services were provided on real property, see Mechanic's Lien. (See §38-22-101 C.R.S. )
<b>Mechanics' Lien:</b>	Plaintiff has provided goods and/or services on a property (real property) for which he or she has not been paid and plaintiff has subsequently filed a lien against the property to ensure payment. (See §38-22-101 C.R.S.)
<b>Misdemeanor:</b>	A criminal offense punishable by a sentence in the county jail.
<b>Money:</b>	A civil case in which the plaintiff claims a demand for money owed.
<b>Note:</b>	A civil case in which the plaintiff claims defendant has signed a note (a borrower's legally binding written promise to repay a debt to a lender on a specified date) and has defaulted on the payment for that note.
<b>Outgoing Registration of UIFSA:</b>	An administrative order filed by the Department of Health Services that they want to have enforced in another state.
<b>Public Administrator Statement:</b>	A type of probate filing. The public administrator files statements of accounts in small estates.
<b>Public Utilities Commission:</b>	A review of a decision by the Public Utilities Commission for the purpose of having the lawfulness of the final decision inquired into and determined. (See §40-6-115 C.R.S.)
<b>Registration of Foreign Decree:</b>	When a party to a domestic relations case, filed in another state, seeks to register (or file) an out-of-state case into the State of Colorado for purposes of enforcement. (See §14-11-101 C.R.S.)
<b>Replevin:</b>	A civil case in which a party having right to possession is asking to recover from another who has either wrongfully taken or detained property. (See C.R.C.P. 104)
<b>Restraining Orders:</b>	See Civil Protection Orders
<b>Rule 105 Quiet Title:</b>	Plaintiff asks the court to determine the rights of all parties with respect to real property and its possession (See C.R.C.P. 105 and C.R.C.P. 105.1(b)).
<b>Rule 106 Writs/Contempt:</b>	A civil case brought in district court that allows for relief to be obtained in the following instances: 1) where any person not being committed or detained for any criminal or supposed criminal matter is illegally confined or restrained; 2) to compel a lower judicial body, governmental body, corporation, board, officer or person to perform an act which the law specially enjoins as a duty resulting from an office, trust, or station, or to compel the admission of a party to the use and enjoyment of a right or office to which he is entitled, and from which he is unlawfully precluded; 3) when any person usurps, intrudes into, or unlawfully holds or exercises any office or franchise; 4) where any governmental body or officer or any lower judicial body exercising judicial or quasi-judicial functions has exceeded its jurisdiction or abused its discretion, and there is no remedy otherwise provided by law.
<b>Rule 120 Deed of Trust:</b>	A party holding interest in property through an instrument in which there is default on the instrument, may ask the court to order the property sold by the public trustee (See C.R.C.P. Rule 120).
<b>Services Rendered:</b>	A civil case in which a party performs a service but is not compensated as agreed.
<b>Single Transaction:</b>	A type of probate filing in which the court, without appointing a conservator, may enter an order to authorize, direct or ratify any transaction necessary or desirable for the best interests of the protected person.

- Special Administrator- Formal:** A type of probate filing. A Special Administrator may be appointed by the Court on Petition of any interested person and finding, after notice and hearing, that appointment is necessary to preserve the estate or secure its proper administration, including when a personal representative cannot or should not act. (See §15-12-614 C.R.S.)
- Special Administrator- Informal:** A type of probate filing. A Special Administrator may be appointed informally by the Registrar on application of any interested person when necessary to protect the estate of a decedent prior to the appointment of a general personal representative or if a prior appointment has been terminated. (See §15-12-614 C.R.S.) Note there is a general policy in most courts to accept only formal proceedings.
- Special District:** Persons proposing the organization of a special district (i.e. water, fire protection, metropolitan, park & recreation, sanitation etc.) may petition the court for the organization of the district. (See §32-1-301 C.R.S.)
- Specific Performance:** A civil case in which the plaintiff claims that a contract exists between parties and one party has failed to perform the conditions of the contract. The plaintiff asks the court to order that the conditions of the contract be performed.
- Testate- Formal:** A probate filing. A formal proceeding for adjudication regarding the priority or qualification of one who is an applicant for appointment as personal representative, or of one who previously has been appointed personal representative in informal proceedings, or if an issue concerning the testacy of the decedent is or may be involved (See §15-12-414 C.R.S.).
- Testate-Informal:** A probate filing. An informal probate of will and informal appointment of personal representative.
- Termination (terminated case):** A case in which all outstanding issues have been resolved; a case that has reached final resolution.
- Uniform Veterans Guardianship Act:** A type of probate filing, commonly referred to as a UVGA case, which applies to beneficiaries of monies from the Veteran's Administration. The word guardian and guardianship is used but in essence this is a conservatorship and essentially treated as a conservatorship.
- Writ of Habeas Corpus:** Plaintiff claims that he or she has been illegally confined and is asking for an order releasing him or her. (See §13-45-101 C.R.S. and §13-45-102 C.R.S.)