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## **Greetings,**

Going through a divorce is hard enough, but add in all the new terms and phrases and it can be overwhelming. The team at Bop has prepared a helpful A to Z list of commonly used legal terms and phrases.

Many of these terms are more frequently found in litigation also known as "court divorce". While you are less likely to encounter these terms in mediation also known as "no-court divorce" we believe in empowering our clients with information and knowledge.

If you have any questions, or think we might have missed an important term you encountered, please reach out. We are here to help.

## **Sincerely,**

Bop Mediation Team



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**Absolute Divorce:** The absolute ending of a marriage, leaving both parties free to remarry.

**Adversarial Divorce:** When a couple cannot come to an agreement about the terms of their divorce.

**Ab Initio:** Latin phrase meaning “from the beginning.” Action: Lawsuit or proceeding in a court of law.

**Affidavit:** Written statement of facts made under oath and signed before a notary public or other officer who has authority to administer oaths.

**Agreement:** Verbal or written resolution of previously disputed issues.

**Alimony:** Also known as “Spousal Support” or “Maintenance”. The standard is to give support to the spouse who needs it in order to keep the family on an equal setting – however, there is an underlying duty for each spouse to work towards being independent of each other.

**Annulment:** The legal end of an “Invalid Marriage”. In the eyes of the law, the parties were never married to each other, but all children of their relationship remain legitimate.

**Answer:** Written response to a complaint, petition, or motion.

**Appeal:** The process by which a higher court reviews the decision of a lower court to determine whether there was reversible error. If so, the appellate court amends the judgment or returns the case to the lower court for a new trial.

**Change of Venue:** A change of judges or geographical location.

**Collusion:** An agreement between two or more persons where one of the parties brings false charges against the other. Collusion is illegal.

**Common-Law Marriage or Relationship:** Based on cohabitation where no formal marriage ceremony has taken place, this is a judicially recognized marriage in some U.S. states.



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**Complainant:** The one who files the suit, same as plaintiff.

**Complaint:** This is a legal document filed by the plaintiff to start the divorce process. It states that the marriage has ended and lists the grounds and claims for the divorce. In some states it is also known as a petition.

**Condonation:** The act of forgiving one's spouse who has committed an act of wrongdoing that would constitute grounds for divorce. Condonation generally is proven by cohabitating with the spouse after learning that the wrongdoing was committed.

**Contempt of Court:** The willful failure to comply with a court order, judgment, or decree by a party to the action. Contempt of Court may be punishable by fine or imprisonment.

**Contested Divorce:** Any case where the judge must decide one or more issues that are not agreed to by the parties. All cases are considered contested until all issues have been agreed to.

**Corroborating Witness:** A person who testifies for one of the parties and backs up their story.

**Court Order:** A written instruction from the court carrying the weight of the law. Orders must be in writing. Anyone who knowingly violates a court order can be held in contempt of court.

**Cross Examination:** The questioning of a witness presented by the opposing party on trial or at a deposition. The purpose is to test the truth of that testimony.

**Decree:** The final ruling of the judge on an action for divorce, legal separation, or annulment. Decree has the same meaning as judgment.

**Decree Nisi / Rule Nisi:** An order by the court stating that a conditional divorce will become absolute by a certain date unless a party contests the order.



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**Default:** A party's failure to answer a complaint, motion or petition.

**Defendant:** The partner in a marriage against whom a divorce complaint is filed. Defendant has the same meaning as respondent.

**Deposition:** The testimony of a witness taken out of court under oath and reduced to writing. The deposition may be used to discredit a witness if he changes his testimony.

**Direct Examination:** The initial questioning of a witness by the attorney who called him or her to the stand.

**Discovery:** In the U.S., Discovery is a procedure followed by attorneys to determine the nature, scope, and credibility of the opposing party's claim. Discovery can include depositions, written interrogatories, and notices to produce documentation relating to issues relevant to the case.

**Dismissal:** Occurs when a party voluntarily drops the case (in some states) or when a judge finds that a case totally lacks merit.

**Dissolution of Marriage:** The legal process of ending a marriage. In most U.S. states, this is the legal term for divorce.

**Divorce:** The legal proceeding by which a marriage is legally terminated. It may be contested (where one party denies the allegation or wants to keep the marriage in place) or uncontested.

**Equitable:** Means fair; does not necessarily mean equal.

**Evidence:** Proof presented at a hearing, including testimony, documents or objects. Exhibits: Tangible things presented at trial as evidence.



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**Exhibits:** Tangible things presented at trial as evidence.

**Ex Parte:** An application for relief conducted for the benefit of one party only. These judicial proceedings are generally reserved for urgent matters in which requiring notice would subject one party (or his/her property) to irreparable harm. Examples include a Temporary Restraining Order (TRO) against an abusive spouse to stay away from the abused party, or a TRO stopping a spouse from removing or destroying family property.

**Expert Witness:** In court proceedings, the expert witness is the professional whose testimony helps a judge reach a decision.

**File/Filing:** To place a document in the official custody of some public official.

**Financial Affidavit/Statement:** Key document used to collect financial data; in some states, it may be known as a "Financial Statement" and may use a standard form. This document becomes part of the record of documents that are filed with the court.

**Foundation:** The evidence that must be presented before asking certain questions or offering documentary evidence in trial. If a piece of evidence lacks foundation (proof, facts to back it up) it will not be admitted or considered as evidence in the court case.

**Grounds for Divorce:** Reasons for seeking a divorce, such as incompatibility, mental cruelty, physical abuse, or adultery. While some states allow fault grounds for divorce, all states have some form of no-fault divorce.

**Guardian-ad-Litem (GAL):** A person appointed by a judge to prosecute or defend a case for a person legally unable to do so, such as a minor child.

**Hearing:** Any proceeding before a judicial officer.



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**Hearsay:** Hearsay is an out-of-court statement offered to prove the truth of the matter asserted. Generally speaking, hearsay cannot be used at trial, but there are exceptions that permit it to be admitted in court.

**Incompatibility/Irretrievable Breakdown:** The inability of persons to get along; a ground for divorce.

**Interrogatories:** A series of written questions served upon the opposing party in order to discover certain facts regarding the disputed issues in a matrimonial proceeding.

**Judgment:** The order of the court on a disputed issue; same as decree. **Jurisdiction:** The power of the court to rule upon issues relating to the parties, their children or their property.

**Legal Separation:** Court ruling on the division of property, spousal support, and responsibility to children when a couple wishes to separate but not divorce. A legal separation is most often desired for religious or medical reasons. A decree of legal separation does not dissolve the marriage and does not allow the parties to remarry. Some states do not recognize legal separation.

**Lis Pendens:** A piece of property cannot be transferred during a pending lawsuit that may change the disposition of it, once a notice has been filed in the public record.

**Litigation:** The process by which a civil case settles parties' rights.

**Maintenance:** See "Alimony".

**Modification:** A change in the judgment, based on a change in circumstances.

**Motion:** An application or request to the court for an order. A Motion may be written or verbal.

**No-Fault Divorce:** A marriage dissolution system whereby divorce is granted without the necessity of proving one of the parties guilty of marital misconduct.





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**Nuptial:** Pertaining to marriage. **Order:** A ruling by the court.

**Pendente Lite Orders:** A temporary order of the Court that provides support until the divorce is finalized. Pendente Lite or Temporary orders are automatic in some areas. **Perjury:** The act of lying while under oath.

**Petition:** A written application for particular relief from the court. In some jurisdictions complaint for divorce is entitled "petition for dissolution."

**Petitioner:** The person who filed the Petition or Complaint. Also referred to as the Plaintiff.

**Plaintiff:** The spouse who initiates the legal divorce process by filing a complaint or petition stating that the marriage is over and listing the grounds and claims against the other spouse. Plaintiff is the same as Petitioner.

**Precedent:** Decisions found in other pre-existing cases that factor into the case at hand.

**Prenuptial Agreement:** Prior to their marriage, partners can contractually agree how assets and liabilities will be divided in the event of a divorce with a prenuptial agreement (commonly known as a "prenup").

**Privilege:** The right of a spouse to make admissions to an attorney, clergyman, psychiatrist or others as designated by state law that are not later admissible as evidence.

**Pro Se Divorce:** Sometimes called "In Propria Persona" or "Pro Per" (from the Latin meaning "in one's own person"), or "self-represented" litigation, in this approach to divorce, either one or both parties choose not to hire a lawyer to represent them. The Latin term Pro Se translates as "on one's own behalf", meaning that the litigant is acting as his/her own attorney in a lawsuit – including self-representation in court.

**Qualified Domestic Relations Order (QDRO):** In the U.S., this is a court ruling earmarking a portion of a person's retirement or pension fund payments to be paid to his/her ex-spouse as part of a division of marital assets.



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**Quid Pro Quo:** The giving of one valuable thing for another.

**Rebuttal:** The introduction of evidence at a trial that is in response to new material raised by the defendant at an earlier stage of the trial.

**Reconciliation:** When parties decide to get back together. They may sign a reconciliation agreement, which is enforceable by the court.

**Respondent (Defendant):** The party defending against a divorce petition (complaint).

**Restraining Order:** A court order prohibiting a party from certain activities. Restraining orders are often issued to protect against domestic violence or to protect marital assets. In some jurisdictions, violating a "domestic restraining order" is a criminal offense.

**Retainer:** Money paid by the client to the lawyer or expert witness to obtain a commitment to handle the client's case. A retainer can be a deposit against which the lawyer or expert witness charges fees as they are earned.

**Rules of Evidence:** The rules that govern the method of presentation and admissibility of oral and documentary evidence at court hearings or depositions.

**Separation or Settlement Agreement:** A written contract dividing property, spelling out rights and obligations, as well as settling issues such as spousal and child support and custody.

**Service / Service of Process:** Providing a copy of the papers being filed to the opposing party.

**Spousal Support:** See "Alimony".

**Standard of Living:** A factor when determining spousal support, allowing the recipient an adequate amount to maintain their current lifestyle.





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**Stipulation:** An agreement between the parties or their counsel, usually related to matters of procedure.

**Subpoena:** A court order requiring a person's appearance in court or at a deposition as a witness or to present documents or other evidence for a case.

**Summons:** A Summons is a written notification to the defendant or respondent that an action has been filed against him or her. It notifies a spouse of his/her rights and obligations in responding to the Complaint for Divorce.

**Testimony:** Statements under oath by a witness in a court hearing or deposition. **Transcripts:** The written record of the divorce proceedings, testimony or depositions.

**Trial:** The time when a judge hears the contested permanent or temporary issues, with supporting evidence and witnesses, in a couple's divorce decisions. The judge may take a few hours or a few weeks to review the information presented and issue a court opinion.

**Uncontested Divorce:** When the defendant is not going to try to stop the divorce and there are no issues for the court to decide about the children, money or property.

**Venue:** The County in which the case is heard.

**Voir Dire:** Where the opposing counsel has the opportunity to disqualify an expert witness.

**Writ of Summons / Summons:** A form issued by the court directing a party to respond to a complaint, motion or petition.