

Alaska Mock Trial

Glossary of Terms

Laws

Rules created by society to govern the behavior of people in society. Among other things, the laws are one formal way that societies express their views of appropriate behavior in different situations.

System of Laws (Legal System)

Social structure and institution for enforcing the rights and responsibilities of members of society that result from the laws of that society.

The legal system need not be a function of government (but in the United States it is).

Crimes and Criminal Law

Violations of the special set of laws that are made for the benefit of society as a whole (rather than any individual member of society).

Civil Law

The system of laws designed to protect the interests of individual members of society. For instance, the laws dealing with enforcement of contracts are civil laws.

Charging Document (Information or Indictment)

In a criminal case, a statement filed on behalf of society that charges an individual with a violation of a criminal law. In the United States, we say charging documents are filed on behalf of the “state,” meaning the government. In England, they are filed on behalf of the King or Queen, but the spirit is the same.

Complaint

In the civil law, the document filed by the plaintiff that sets out all of the facts the plaintiff alleges to be true that demonstrate why the plaintiff should win the case.

Answer or Plea

The response of the defendant to a complaint or charging document. Criminal defendants enter a plea, meaning they either admit that they are guilty, protest that they are not guilty, or agree to do neither and submit to punishment. Civil defendants answer the complaint by admitting or denying the factual allegations it makes.

Question of Law

A question about what the law actually is, disregarding the particular facts under consideration. For instance, “Is taking a rock from another person’s cave a ‘theft’?”
As opposed to a Question of Fact.

Question of Fact

A disputed issue about the truth of what occurred, regardless of the law of the situation. For instance, “Did Droog take the rock from Ploog’s cave?” is a question of fact. As opposed to a Question of Law.

To Find (a Fact)

Technically speaking, the truth cannot be “decided,” it must be “discovered.” Juries and judges do not decide what the truth is – the truth is what it is. Juries and judges simply discern the truth from the evidence. To find a fact means to announce the truth after having evaluated all of the evidence that has been presented.

Finder-of-Fact

The person charged with deciding a contested question of fact. In some cases, the finder-of-fact is the jury. In others, the judge is the finder-of-fact.

Settlement

A general term for the resolution of all of the outstanding questions of fact and law prior to a final decision by a court.

Trial

- (a) The specific event at which evidence is presented by the parties to a case and heard by the finder-of-fact, and a decision reached;
- (b) A general term encompassing the selection of a finder-of-fact, the resolution of outstanding questions of law, the presentation of evidence, the final decision, and any argument.

“Trial” in “Mock Trial” refers to the first definition.

Burden of Proof

The requirement that one party prove the facts that it alleges to be true, or else lose the case.

Also occasionally used to mean the same thing as Standard of Proof, although this use is discouraged.

Standard of Proof

The amount of persuasive evidence that must be produced in order for the party that bears the burden of proof to have fulfilled its burden. Most questions in civil law have a Preponderance of the Evidence standard of proof. Questions of guilt or innocence in criminal law have a Reasonable Doubt standard of proof.

Preponderance of the Evidence

Relatively light Standard of Proof, requiring only that the party produce sufficient persuasive evidence that the finder-of-fact views the fact as being more likely true than not. Put differently, the finder-of-fact should find in favor if, after reviewing the evidence, the finder-of-fact believes the fact is probably true.

Reasonable Doubt

A very difficult Standard of Proof. In order to satisfy this standard, the prosecutor must prove not only that the fact is probably true but that the fact is true, and that any doubts remaining in the mind of the finder-of-fact about the truth of the fact are unreasonable.

Acquittal and Conviction

In criminal law, the effects of a finding of innocence (or more accurately a failure to prove guilt) or guilt. If a criminal defendant is found by the finder-of-fact to be guilty, the defendant will be convicted of the crime (and sentenced for it). If the jury determines that the prosecutor failed to prove the defendant's guilt beyond a reasonable doubt (either because the defendant is actually innocent, or because the prosecutor did not present sufficient persuasive evidence,) then the defendant is acquitted (and may go free).

Physical Evidence

Evidence that is presented as a physical object, offered to prove a fact based on its physical characteristics.

Testimonial Evidence

Evidence in the form of statements from a witness, whether live and present in the courtroom or relayed in a document or by another witness.

Demonstrative Evidence

Evidence that is not offered for admission at all, but merely used to illustrate a point that is made through Testimonial or Physical Evidence.

Documentary Evidence

Evidence presented in the form of a document. Documentary evidence is considered Physical Evidence if it is offered to prove a fact based on its physical condition, Testimonial Evidence if it is offered because of its contents, and Demonstrative Evidence if it is offered as an example.

Fact (Percipient) Witness

A person, whether or not present, who gives Testimonial Evidence in a matter based on their own observations or perceptions, and not on any special skills or knowledge they may have. Fact Witnesses recite facts, but do not offer opinions. As opposed to Expert Witness.

Expert Witness

A person with special skills or knowledge who is qualified to offer an opinion as to the truth or falsity of a fact based on information gleaned from:

- their own observations;
- the observations of others;
- information they happen to know;
- examination of the evidence; and
- other sources.

Substantive Law

The law governing the actual controversy of the case. For instance, in a criminal case in which the accused has been indicted for the crime of theft, the Substantive Law is the law of theft. As opposed to Procedural Law.

Procedural Law

The law governing the actual conduct of trial or other legal proceeding. For instance, whether jurors are permitted to take notes during a trial is a function of the Procedural Law.