

Glossary of Judicial Terms

Advocate/Attorney/Council/Counselor — The person who is arguing; one who is representing their client before the court

Appeal — A request to a higher court to review a lower court's decision, put forth by the appellant in hopes of reversing the lower court's decision.

Appellant — The advocates/side that request an appeal.

Civil Case — A case that usually involves private disputes between persons or entities, where the damage or dispute only pertains to the parties in question.

Criminal Case — A case that usually involves a person or entity committing an illegal action that affects society as a whole, where the damage may pertain to multiple persons.

Co-Council — Partners/Teammates of a counselor. A justice may say "As you co-council mentioned earlier," when referring to something your teammate previously discussed.

KRS — Short for "Kentucky Revised Statute," it signifies a law passed by the Kentucky General Assembly, followed by a three-digit chapter number (signifying the broad area that many laws may fall under) and three digits specifying a specific law. If needed, sections and subsections will follow in parenthesis.

- **KRS 212.230 (1) (c)** refers to a Kentucky Revised Statute, falling in chapter 212 (laws dealing with Local Health Programs), specifically section 230 (enumerating the powers of city, county, and district Boards of Health), section 1 (defining powers) subsection (c), listing Boards' power to make and enforce regulations.

Precedent — An earlier action, case, or ruling from any court which may act as a guide to the current case. There are two types of precedent: binding, and non-binding.

- Binding Precedent- cases and rulings which *must* be followed, enacted by the Supreme Court.
- Non-Binding Precedent— Rulings held by other courts, usually within the same state, that possibility deal with similar situations or questions of law, but have different fact patterns, so the court may not necessarily have to follow ruling, but may use it as a guide in determining their decision.

Affirmed/reversed (overturned/upheld) — When a higher court reviews a lower court's decision, they will either affirm or reverse the decision. Affirming the decision means that the lower court's ruling will stand. Reversing the decision means that the higher court believes the lower court reached an incorrect decision and sided with the wrong side, and therefore sides with the other party.

- When finishing your argument, it is common practice to end with a statement similar to: "Due to X, Y, and Z, we respectfully request that this court affirm/reverse the decision of the lower court. Thank you."
- **Bench** — Refers to the justice panel, set of officials, or other presiding persons that judge and hear a case. In the literal sense, if you "approach the bench," you come forward before the justices to present your case.

Brief — A document consisting of several pages that provides a complete and very thorough description of your argument, including all cases used with complete citations. Theoretically, a judge could read the briefs of both sides and come to a decision without ever hearing an oral argument.

Case Law — The rulings, judgments, fact patterns, and all information pertaining to previously argued cases that helps build an argument.

Citation — The specific manner in which all cases argued in the United States must be referred to within briefs and official documents

Claim — An argument or point of contention made by an advocate, based upon facts and information.

Constitutionality — Refers to the legality of a statute or ruling based upon *either* the United States Constitution or Kentucky Constitution. A statute or ruling in violation of the United States constitution is usually also in violation of the Kentucky Constitution.

Contention — an assertion or argument maintained in debate. Usually referred to as a “point of contention.”

Docket — Also known as “the record,” it refers to the cases, laws, facts that are to be utilized in the oral arguments.

Fact pattern — The elements and facts of a case that distinguish it from all other cases. Cases may have similar fact patterns which allow the court to draw upon them for comparison.

Lower court/Higher court — Lower courts are courts that have less power than the court above them. The case gets appealed to a higher court, such as the Kentucky Supreme Court or even the United States Supreme Court.

Outline — Differs from a brief in that an outline is a short overview of all the major points and cases in your argument. It should not be a total word-for-word review of your argument, but it should cover your points well.

Rebuttal — A response to your opponent's argument, that may not be in your original outline. The appellant has time specially set aside for this, but the appellee may also utilize some of their time to respond to points their opponent has made.

Statute — Synonymous with law, it is a piece of legislation passed by the general assembly or other legislative body that provides a rule for a specific topic. They are always binding.

Summary Judgment — After the court has heard a case, they release a summary judgment, listing the reasons for their ruling. The justices that agreed with the finding report the majority opinion, and the justices who disagreed write the dissenting opinion, each providing their reasoning for their findings.

Test — A test may be defined by a certain case to provide a definition. For example, the *Hollins test* lays out the requirements for an entity to be considered a religious institution. A test is usually defined by the summary opinion of a previously decided case.

- **Balancing Test**— a test that weighs two or more competing needs. A court may use a balancing test to weigh the Right of Free Speech with the Right to Privacy. It normally takes two previously mutually exclusive ideas and allows them to exist concurrently, in an effort to provide fairness in a question of law.
- **“At bar”** — Means that something is in question before the court. Most commonly heard in the saying “the case at bar,” meaning the case in question.