Glossary

Affidavit: A written statement of facts made under oath, signed before a notary public, and submitted to the court in support of a pleading. Your attorney will prepare an affidavit to present relevant facts. The person signing the affidavit may be referred to as the *affiant*.

Allegation: A statement that one party claims is true.

Appeal: The process by which a higher court reviews the decision of a lower court.

Child support: Financial support for a child usually paid by the noncustodial parent to the custodial parent.

Contempt of court: The willful and intentional failure of a party to comply with a court order or judgment. Contempt may be punishable by a fine or jail.

Contested divorce: Any divorce in which the parties cannot reach a full agreement. A contested divorce will result in a trial to the court, which will decide all disputed issues.

Court order: A court-issued document setting forth the judge's orders. An order may be issued based on the parties' agreement or the judge's decision. An order may require the parties to perform certain acts or set forth their rights and responsibilities. An order is put in writing, signed by the judge, and filed with the court.

Cross-examination: The questioning of a witness by opposing counsel during trial or at a deposition in response to questions asked by the other lawyer.

Custody: Joint legal custody means the conditions under which both parties share legal custody and neither parent's legal custody rights are superior, except with respect to specified decisions as set forth by the court or the parties in the final judgment or order. The award of legal custody grants any person having legal custody of children the right and responsibility to make major decisions concerning the children, except with respect to specified decisions as set forth by the court or the parties in the final judgment or order.

Deposition: Testimony under oath. A party or witness will be asked questions by an attorney, and all questions, answers, and comments will be recorded by an official court reporter or videotape.

Direct examination: The initial questioning of a witness in court by the lawyer who called him or her to the stand.

Discovery: A process used by attorneys to discover information from the opposing party and third parties for the purpose of fully preparing a case for settlement or trial. Types of discovery include interrogatories, requests for production of documents, requests for admissions, depositions, releases, and more.

Dissolution: The act of terminating or dissolving a marriage.

Ex parte: The term used to describe an appearance of only one party before the judge, without the other party being present.

Findings of fact, conclusions of law, and judgment of divorce: A formal written document usually prepared by the petitioner's attorney, approved by the respondent's attorney, and signed by the judge that sets forth the formal findings of fact, conclusions of law, and judgment of divorce. This is the actual legal document that grants a divorce and specifically sets forth the terms and conditions of the divorce whether by a negotiated settlement or trial to the court.

Guardian *ad litem* (GAL): An attorney appointed by the court to represent and advocate for the children's best interest.

Hearing: Any proceeding before the court for the purpose of resolving disputed issues between the parties through presentation of testimony, affidavits, exhibits, or argument.

Hold-harmless provision: A term in a court order that requires one party to assume responsibility for a debt and to protect the other spouse from any loss or expense in connection with it, as in to hold harmless from liability.

Interrogatories: Formal written requests directed to the other party for the production of truthful answers to relevant questions. Interrogatories are used in preparation for trial to obtain information not otherwise available. Interrogatories must be answered under oath by the party to whom they are directed.

Maintenance: Court-ordered spousal support payments paid from one party to another.

Mediation: A process by which a neutral third party facilitates negotiations between the parties on a wide range of issues.

Motion: A request to the court to make some type of order. A hearing will generally be held to determine whether or not the motion should be granted.

Motion for relocation: A parent's written request to the court seeking permission to relocate with the children to another state or more than 150 miles in Wisconsin from the other parent.

Motion to modify: A party's written request to the court to change a prior order regarding custody, child support, maintenance, or other issues set forth in the judgment of divorce.

No-fault divorce: No-fault divorces do not require evidence of marital misconduct. This means that abandonment, cruelty, or adultery are neither relevant nor required to be proven for the purposes of granting the divorce.

Party: The person in a legal action whose rights or interests will be affected by the action. For example, in a divorce the parties include the wife and husband.

Pending: During the case. For example, the judge may award you temporary support while your case is pending.

Petition for divorce: The petition sets forth many statistical facts about the marriage and the parties and also states that the marriage is irretrievably broken. The petition is served with the summons.

Petitioner: The person who filed the petition for divorce initiating the divorce action.

Pleadings: Formal, written documents filed with the court.

Pro se: To proceed in a legal matter without representation.

Property division: The method by which real and personal property and debts are divided in a divorce.

Qualified domestic relations order (QDRO): A type of court order that provides for direct payment from a retirement account to a former spouse.

Qualified medical support order (QMSO): A type of court order that provides a former spouse certain rights regarding medical insurance and information.

Request for production of documents: A formal written request for documents sent from one party to the other during the discovery process.

Respondent: The responding party to a divorce; the party who did not file the petition initiating the divorce.

Response and counterclaim: A written response to the petition for divorce. It serves to admit or deny allegations in the petition and may also make claims against the petitioner.

Sequester: To order prospective witnesses out of the courtroom until they have concluded their testimony.

Setoff: A debt or financial obligation of one spouse that is deducted from the debt or financial obligation of the other spouse.

Settlement: The agreed resolution of disputed issues.

Stipulation: A formal written agreement between the parties and/or their attorneys. It can cover any subject. If there is a complete, written stipulation regarding all terms of the final judgment, the parties will be able to schedule a "default" divorce.

Subpoena: A document authorized by the court or an attorney, as an officer of the court, which requires a person to appear and give testimony at a hearing, trial, or deposition or to produce documents. Failure to comply may result in punishment by the court. A subpoena requesting documents is called a *subpoena duces tecum*.

Summons: The pleading that provides initial notice of the divorce.

Temporary order: An order of the court or of the family court commissioner setting forth orders that are in effect prior to the final hearing on the divorce. It usually covers such items as custody, placement, support, temporary use of the home and other property of the parties, and payments of bills and mortgages.

Temporary restraining order (TRO): An order of the court prohibiting a party from a certain behavior. For example, a temporary restraining order may order a person not to transfer any funds during the pendency of a pending divorce action.

Trial: A formal court hearing and examination of evidence before a judge, including testimony, exhibits, and arguments from the parties and witnesses, setting forth each party's trial evidence.

Under advisement: A term used to describe the status of a case, usually after a court hearing on a motion or a trial when the judge has not yet made a decision.