

# THE DARK SIDE OF SPORTS

## The Legal Dictionary: Part 1

### Legal terms you need to know: A-J

For this issue's column, Dr. Rabinoff put together the following list of important legal terms that will be used in future articles about safety and liability.

**affidavit:** A written statement made or taken under oath before an officer of the court, a notary public or other person who has been duly authorized to so act.

**arbitrator:** An impartial person chosen by the parties to solve a dispute between them. The arbitrator is vested with the power to make a final determination concerning the issue(s) in controversy, bound only by his or her own discretion and not by rules of law or equity.

**assumption of risk:** In torts, an affirmative defense used by defendants to negligence suits in which it is claimed that plaintiffs had knowledge of an obviously dangerous condition or situation, yet voluntarily exposed themselves to the hazard created by defendants.

**bailiff:** A court officer who has charge of a court session in the matter of keeping order, custody of the jury and custody of prisoners while in the court.

**brief:** A written argument concentrating on legal points and authorities. Briefs are used by lawyers to convey to the court the essential law that they would have applied and the application that they desire be made of it by the court. Briefs are submitted in connection with an application, motion, trial or appeal.

**charge:** In criminal law, the underlying substantive offense contained in an accusation or indictment. In trial practice, an address delivered by the court to the jury at the close of the case, instructing the jury as to what principles of law they are to apply in reaching a decision. The charge may also, in some jurisdictions, include any instructions given for the jury's guidance at any time during the trial.

**claim for relief:** The assertion of a right to money or property. The aggregate of operative facts giving rise to a right enforceable in the courts.

**class action:** A lawsuit brought by a representative member or members of a large group of people on behalf of all members of the group.

**code of ethics:** Standards governing the professional behavior of members.

**consulting expert:** The same as an expert witness, but with the exception that the expert is not expected to testify or provide any opinions at trial.

**cross-examination:** The examination of a witness by the opposing party regarding matters within the scope of the direct examination of the witness. The questioning generally tests the truth of the direct examination.

**damages:** Monetary compensation the law awards to a party or parties injured by the action of another.

**actual damages:** Those losses that can readily be proven to have been sustained, and for which the injured party should be compensated as a matter of right.

**exemplary damages:** Also known as punitive damages. Compensation in addition to actual damages. A form of punishment to the wrongdoer and excess enhancement to the injured. Nominal or actual damages must exist before exemplary damages are awarded, and then only in instances of malicious and willful misconduct.

**defendant:** In a tort action, the person defending or denying the party against whom relief or recovery is sought in an action or suit. In a criminal case, the accused.

**defense:** A denial, answer or plea opposing the truth or validity of the plaintiff's case. It is often done by introduction of evidence designed to refute all or part of the allegations of the plaintiff's case.

**deposition:** The testimony of a party or a witness. The attorneys for the parties ask oral questions while the witness, known as the deponent, is under oath. The deposition is usually conducted in the office of one of the attorneys, and a transcript is made of the deposition.

**directed verdict:** A case in which the party with the burden of proof has failed to present a prima facie case for jury consideration. The trial judge may order the entry of a verdict without allowing the jury to consider it because, as a matter of law, there can be only one verdict.

**discovery process:** In general, these are pre-trial activities that can be used to obtain facts and information about the case from the other party in order to assist the requesting party's preparation for trial. These can include written questions known as interrogatories that must be answered under court rules and depositions of parties and witnesses. It may also include various inspections such as medical inspections, product inspections and site inspections.

**due process of law:** *The fundamental principle of fairness from our Constitution that no person shall be "deprived of life, liberty, or property, without the due process of law."*

**exhibit:** A physical or tangible item offered as evidence.

**expert witness:** One who is knowledgeable in a specialized field, with that knowledge being obtained from either education or personal experience or from both.

**forensic expert:** A professional in a specific field or discipline who investigates and examines the hows and whys of specific situations.

**"hired gun" expert:** A derogatory term used to describe an expert witness who will provide an opinion in favor of the party hiring the expert without regard for the application of truth.

**immunity:** A right of exemption from a duty or penalty. A favor or benefit granted to one and contrary to the general rule.

**injury:** Any wrong or damage done to another, either to a person, rights, representation or property.

**intent:** A state of mind in which the person knows and desires the consequences of his act and that, for purpose of criminal liability, must exist at the time the offense is committed.

**joint liability:** Such shared liability as results in the right of any one party sued to insist that others be sued jointly with him or her.

**jury:** A group of people summoned and sworn to decide on the facts in issue at a trial. A jury is composed of peers or a cross section of the community.

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