

Legal Terminology in Genealogy

Legal documents are often researched when documenting for genealogy data. Black's Law Dictionary is an excellent source of reference for legal research. More in depth information can be found in "Courthouse Research for Family Historians: Your Guide to Genealogical Treasures" by Christine Rose. Her book contains many examples and explanations of court documents and procedures. A knowledge of terminology in the courts can be helpful. Here are a few terms you should be familiar with when researching in the courts.

Capias: that you take (person into custody) [writ of capias is a summons]

Ejectment: for recovery of land which establishes true ownership

Fieri facias: cause (it) to be done - a writ of execution to the court officer to levy and take the amount of the judgment from goods and chattels of debtor.

Trespass: unlawful interference with one's person, property, or rights.

Trespass vi et armis (T.V.A.): trespass with force and arms

Detinue: recover specific chattels rightfully taken but wrongfully detained

Replevin: recover specific chattels unlawfully taken and/or detained

Lis pendens: Lists of pending equity cases

Manucaptor: in old practice, a surety for the appearance of a person under arrest, who is delivered out of custody into the hands of his bail.

Imprisonment: a continuance

Testate: died leaving a will

Intestate: died without leaving a will

Devise: Real property

Bequeath: personal property

Heir at Law: those who inherit when a person dies intestate, under laws of descent.

Executor: Names in a will to handle the estate

Administrator: appointed by court in an intestate proceeding

Administration cta (cum testamento annexo) (with the will annexed): to handle the estate under terms of will (for instance, if executor refused to qualify, etc)

Administration de bonis non: to handle the remainder of the estate

Holographic Will: Entirely written, dated and signed in testator's own handwriting

Nuncupative Will: Oral will (usually cannot leave real property, must be reduced to writing within a specific time period; must be before sufficient witnesses which varies; usually only for last illness, ward time, accident; etc.)

Moiety: 1/2 or 1/3 of anything (sometimes used as an equal part)

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