

§ 105. Definitions. (a) Applicability. Unless the context requires otherwise, the definitions in this section apply to the civil practice law and rules.

(b) Action and special proceeding. The word "action" includes a special proceeding; the words "plaintiff" and "defendant" include the petitioner and the respondent, respectively, in a special proceeding; and the words "summons" and "complaint" include the notice of petition and the petition, respectively, in a special proceeding.

(c) Attorney. The word "attorney" includes a party prosecuting or defending an action in person.

(d) Civil judicial proceeding. A "civil judicial proceeding" is a prosecution, other than a criminal action, of an independent application to a court for relief.

(e) Clerk. The word "clerk," as used in any provision respecting an action or any proceedings therein, means the clerk of the court in which the action is triable. In supreme and county court, the word "clerk" shall mean the clerk of the county.

(f) Consumer credit transaction. The term "consumer credit transaction" means a transaction wherein credit is extended to an individual and the money, property, or service which is the subject of the transaction is primarily for personal, family or household purposes.

(g) Court and judge. The word "court," as used in any provision concerning a motion, order or special proceeding, includes a judge thereof authorized to act out of court with respect to such motion, order or special proceeding.

(h) Domestic and foreign corporation. A "domestic corporation" is a corporation created by or under the laws of the state, or a corporation located in the state and created by or under the laws of the United States, or a corporation created by or pursuant to the laws in force in the colony of New York before April nineteenth, seventeen hundred seventy-five. Every other corporation is a "foreign corporation."

(h-1) Finance charge. The term "finance charge" means the cost of consumer credit as a dollar amount, includes any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or a condition of the extension of credit, and does not include any charge of a type payable in a comparable cash transaction.

(i) Garnishee. A "garnishee" is a person who owes a debt to a judgment debtor, or a person other than the judgment debtor who has property in his possession or custody in which a judgment debtor has an interest.

(j) Infant, infancy. The word "infant", as used in this chapter, means a person who has not attained the age of eighteen years. The word "infancy" means the state of being an infant.

(k) Judgment. The word "judgment" means a final or interlocutory judgment.

(l) Judgment creditor. A "judgment creditor" is a person in whose favor a money judgment is entered or a person who becomes entitled to enforce it.

(m) Judgment debtor. A "judgment debtor" is a person, other than a defendant not summoned in the action, against whom a money judgment is entered.

(n) Judicial hearing officer. A "judicial hearing officer" means a person so designated pursuant to provisions of article twenty-two of the judiciary law.

(o) Law. The word "law" means any statute or any civil practice rule.

(p) Matrimonial action. The term "matrimonial action" includes actions for a separation, for an annulment or dissolution of a marriage, for a divorce, for a declaration of the nullity of a void marriage, for a declaration of the validity or nullity of a foreign judgment of divorce and for a declaration of the validity or nullity of a marriage.

(q) Money judgment. A "money judgment" is a judgment, or any part thereof, for a sum of money or directing the payment of a sum of money.

(q-1) Original creditor. The term "original creditor" means the entity that owned a consumer credit account at the date of default giving rise to a cause of action.

(r) Place where action triable. The place where an action is "triable" means the place where the action is pending; or, if no action has been commenced, any proper place of trial or any proper place to commence the action; or, after entry of judgment, the place where the judgment was entered.

(s) Real property. "Real property" includes chattels real.

* (s-1) The sheriff. The term "the sheriff", as used in this chapter, means the county sheriff as defined in subdivision (a) of section thirteen of article thirteen of the constitution and in counties in the

city of New York, the city sheriff as defined in section fifteen hundred twenty-six of chapter fifty-eight of the New York city charter. For the purposes of article fifty-two of this chapter relating to the enforcement of money judgments and for the purposes of any provision of law which in effect applies any such provision of article fifty-two of this chapter, such term shall also mean any "city marshal" as defined in article sixteen of the New York city civil court act, except that city marshals shall have no power to levy upon or sell real property and city marshals shall have no power of arrest.

* NB Repealed June 30, 2028

(t) Type size requirement. Whenever a requirement relating to size of type is stated in point size, the type size requirement shall be deemed met if the x-height of the type is a minimum of forty-five percent of the specified point size. Each point shall be measured as .351 millimeter. The x-height size shall be measured as it appears on the page. The x-height is the height of the lower case letters, exclusive of ascenders or descenders.

(u) Verified pleading. A "verified pleading" may be utilized as an affidavit whenever the latter is required.