

Thinking Like a Non-Lawyer: Legal Self-Help Materials

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Canadian Institute for the Administration
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Access to Professionalized Knowledge

In the U.S. *pro se* or self-help materials are the dominant form of assistance received by low- and moderate-income individuals seeking help with legal matters.



There's a difference between

Access



Deployment

"All your motions are denied,
Mr. Campbell. Your case is
dismissed."





Deployment

Lay consumers are expected to deploy (put into use) expert knowledge on everything from retirement savings to health plans to household electronics.



Medical Information

Your Medical Plans at a Glance

BENEFIT FEATURES	BOTH CARRIERS		BOTH CARRIERS
	POE, POE-G AND OUT-OF-AREA IN NETWORK	POS IN NETWORK	POS OUT-OF-NETWORK
Outpatient Physician Visits,	\$15 co-pay*		80% ¹
	No co-payment for preventive care visits and immunizations		80% ¹
	\$250 co-pay ²		\$250 co-pay ²
	100% at Preferred Facility 80% at Nonpreferred Facility (prior authorization required for diagnostic imaging)		60% ⁵ (prior authorization required for diagnostic imaging)
	100%		80% ¹
	100% (prior authorization required)		80% ¹ (prior authorization required)
	100% (prior authorization required)		80% ¹ (prior authorization required)
	100% (prior authorization required)		80% ¹ (prior authorization required)
	100% (if emergency)		100% (if emergency)
Short-Term Rehabilitation and Physical Therapy	100% (prior authorization may be required)		80% ¹ up to 60 inpatient days, 30 outpatient days per condition per year (prior authorization may be required)
Routine Eye Exam	\$15 co-pay, 1 exam per year ^{3*}		50%, 1 exam per year
Audiological Screening	\$15 co-pay, 1 exam per year		80% ¹ 1 exam per year

How to prepare for 2019 Open Enrollment

Health Care .gov



Investing information...

Equity Franchise

The Multi-Asset Franchise is also responsible for managing the Core Equity Franchise. They have worked together for years and leverage off each other's strengths to create team synergies evidenced in their fund performance.

The Core Equity Franchise overlays their own research and convictions over the broader in-house equity research before making any buy or sell decisions. The research overlay focuses on causal drivers of earnings, cash flows and returns. They require analysts to provide extensive input into the key criteria that they believe are drivers of earnings, cash flows and returns.

They believe in the importance of anticipating economic cycles and determining which industries are best placed to benefit.

Fixed Interest Franchise

The Fixed Interest Team, which is headed up by Henk Viljoen, is highly qualified with extensive experience in the industry and has been working together for over 10 years. The Franchise houses the Money Market, Bonds, Income, Liability Driven Investments and Credit Teams.

Other fixed interest managers typically develop skills that allow for outperformance of their benchmark through predominantly one strategy. Individual strategies can result in outperformance from time to time but they may not do so consistently. The Fixed Interest Franchise aims to exploit multiple strategies on a continuous basis, to be better positioned to outperform during all phases of the market.

Listed Property Franchise

The Listed Property Franchise is a leading Listed Property

Global (Managed by Offshore Partners)

threadneedle - Global Equities

Founded in 1994, Threadneedle is an established global asset manager with assets under management of US\$150.1 billion with a compliment of over 160 investment professionals. Their sole focus is the active management of client assets across equities, fixed income, commodities, multi-asset exposures and property. Threadneedle offers emerging market exposure within a diversified global portfolio of 70 – 110 stocks.

The Threadneedle investment process is driven primarily using bottom-up fundamental analysis, although some top-down analysis is applied in the context of the macro environment. Their investment style is market driven and the portfolio is not expected to display persistent style biases over different economic cycles – therefore style agnostic. Their strategy exploits value opportunities during value cycles and growth opportunities during growth cycles.

Brandywine GLOBAL - Global Bonds

Founded in 1986, Brandywine Global Investment Management manages US\$63 billion in assets as at 31 December 2014. Core to their principles is seeking value not yet recognised by others. Brandywine applies a top-down, value-driven process when structuring global income portfolios. Real (inflation-adjusted) yield is their primary measure of value.

Currency valuation is next in importance, as the real yield must be captured in US dollars. They focus on appreciating, undervalued currencies and overvalued currencies that can be hedged. Inflation trends, political risks, monetary trends, and business cycle and liquidity measures are also considered. Brandywine typically concentrate investments in eight to 16 countries that appear to offer the best total return potential.

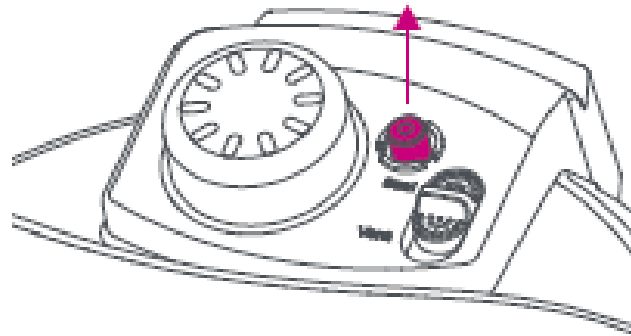


Overview of Pressure Control Features

The Float Valve

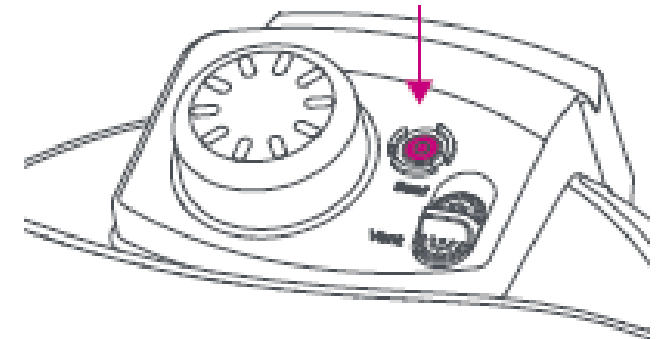
Pressurized

When the float valve is **popped up**, it indicates the cooker is **pressurized**.



Depressurized

When it is **lowered into the lid**, it indicates the cooker is **depressurized**.



Electronics ...

Remove the Float Valve from the Lid

Place one finger on the top of the float valve, then turn the lid over. Detach the silicone cap from the bottom side of the float valve. Remove the float valve from the top of the lid.

Do not discard the float valve or silicone cap.

Install the Float Valve

Drop the narrow end of the float valve into the float valve hole on the top of the lid. Place one finger on the top of the float valve, then turn the lid over. Firmly attach the silicone cap to the bottom of the float valve.



Current self-help materials

- use inaccessible legal jargon (*i.e.*, “vacating a default judgment”)
- are text heavy
- lack visual images
- lack advanced organizers
- fail to provide guidance as to how to conduct a negotiation
- fail to set forth what to expect in court
- fail to help people overcome feelings of shame and guilt
- fail to recognize how people respond to stressful circumstances

The state of the art in legal self-help must change



And we need rigorous evidence of what sorts of materials produce good results.



What's required? Thinking like a non-lawyer

- Identify the legal task
- Disaggregate the legal task into legal & non-legal aspects
 - Recognize that legal aspects are often few
 - Take steps to minimize their importance
- Create self-help materials that
 - Recognize psychological states/challenges
 - Focus on deployment & procedural learning
 - Follow state of the art in adult education, psychology, behavioralism
- Test and iterate (we don't yet know if this approach works!)
 - Before: elicit feedback from SRLs on drafts
 - After: randomize provision of self-help materials against other services, or no assistance



What's required? Thinking like a non-lawyer

Some notes based on our experience

- Who is best-suited to draft self-help materials?
- You don't know what you don't know
- Great, or great-sounding, ideas often don't work in practice (even my great ideas)

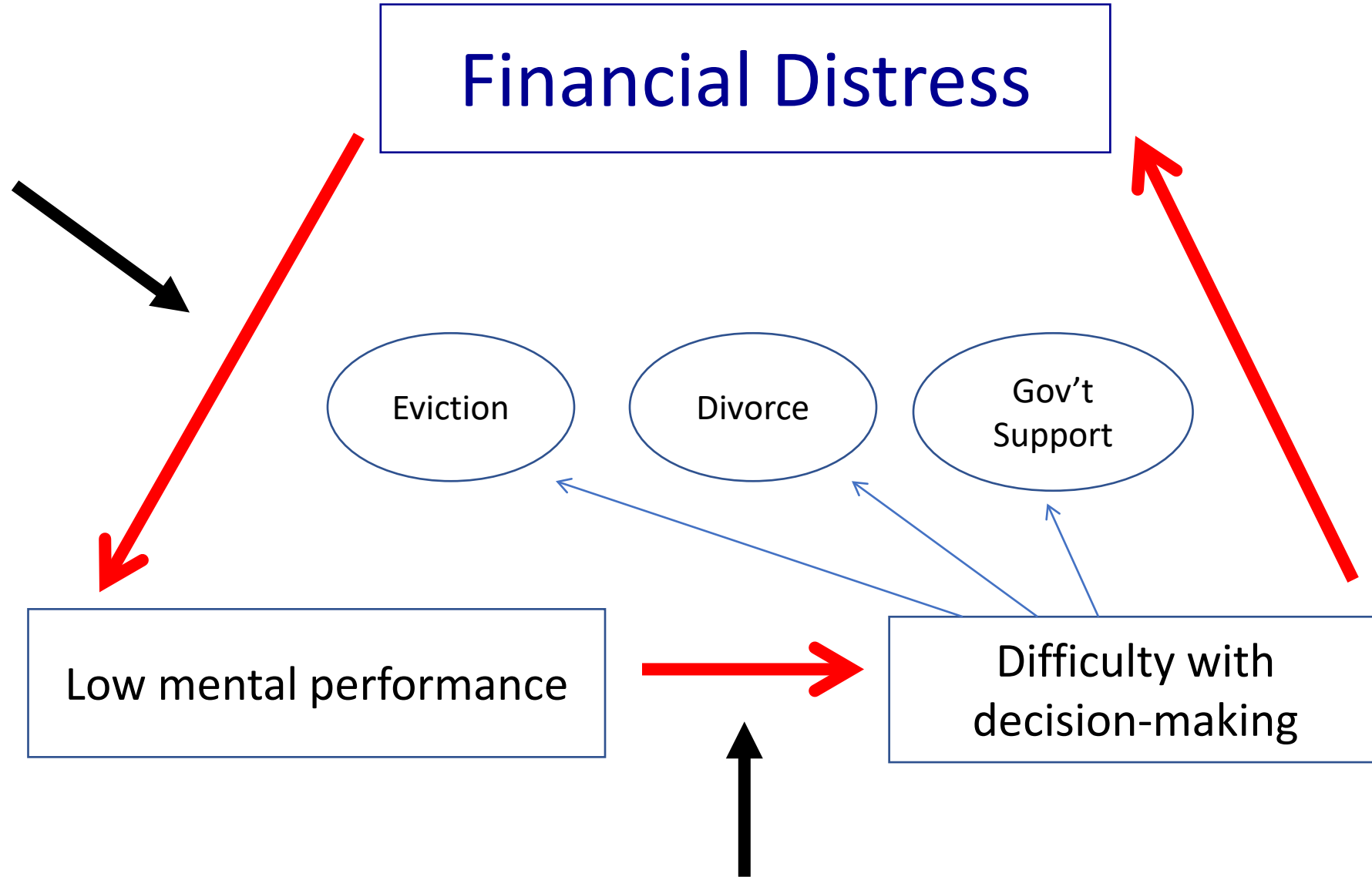


Environment For Testing These Theories: Financial Distress

- 40 million people live in poverty in the United States
- More than 70 million have at least one debt in collection.
- 1-in-7 consumers contacted about a debt report being sued by the debt collector/creditor
- 75% of consumers sued report not participating in the lawsuit
- People with <\$40k in annual income were more than twice as likely to be contacted than those with higher incomes



Severe Financial Distress: Vicious Cycle





**What helps consumers
in financial distress
improve their financial
lives?**

Study Question



But it is unlikely we will ever have enough lawyers available to meet the needs of LMI individuals with debt problems.

Some have suggested more affordable legal representation.



We have, however, little rigorous evidence assessing whether counselling improves credit profiles.

Others have suggested financial counseling



The key is to produce rigorous evidence regarding when and where to deploy scarce lawyer time most effectively, while designing new interventions that are less expensive than lawyers.

What helps consumers
in financial distress
improve their financial
lives?

Study Question
Financial Distress Research Project





Definitions / Population

- Financial distress
 - Legal services-eligible consumers sued on credit card collection action in Connecticut small claims courts
- “Improve financial lives” (outcomes)
 - Credit scores
 - Credit attributes— e.g., # of overdue accounts, available credit
 - Perceived stress
 - Financial health

Improving the Lives of Individuals in Financial Distress Using a Randomized Control Trial: A Research and Clinical Approach

Georgetown Journal on Poverty Law & Policy, Vol. 20, N. 3 (Spring 2013)

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low-income (LMI)
justice toolkit must
s across the country
has hamstrung its
luals about formal
self-represented
and cognitive



How do we design self-help materials that break down barriers to their deployment?



- Distance education
- Public health
- Behavioral economics
- Experimental psychology
- Cognitive psychology
- Sociology



Pre-Test the Deployment Problem

Methodology

- Court observations
- Semi-structured cognitive interviews with consumers in debt collection cases in Maine, Connecticut, and Massachusetts
- Focus groups



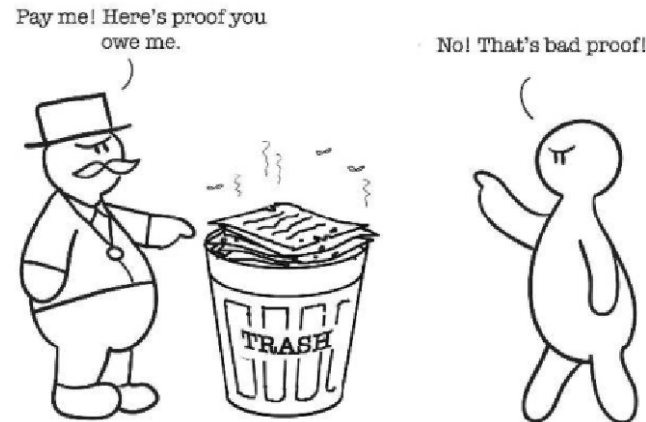
Cognitive Interview Example

Which graphic image best communicates the concept of “bad evidence”?

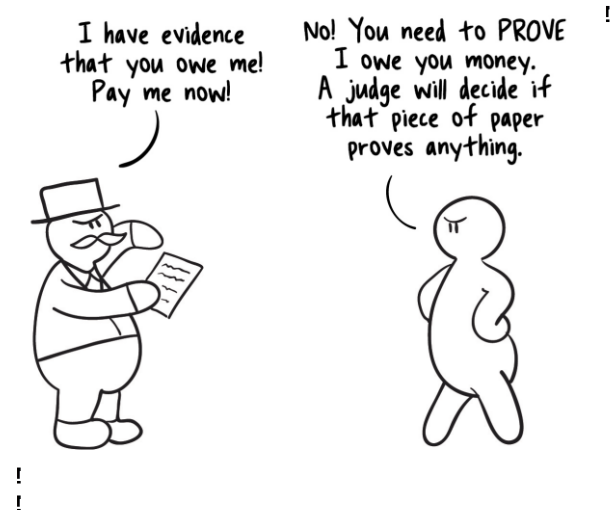
Version #1



Version #2



Version #3



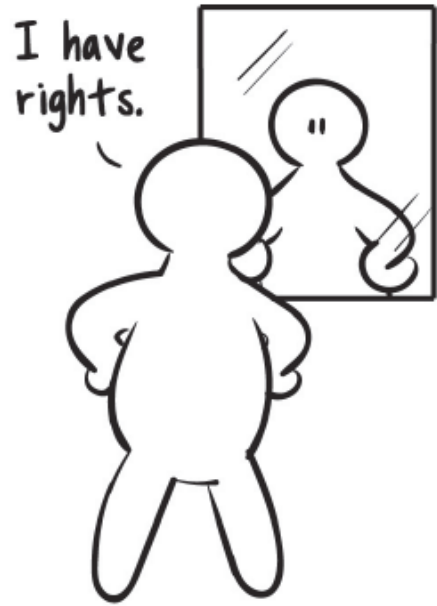


Post-Research and Testing Hypothesis

- Individuals in financial distress will have trouble deploying professional legal knowledge as a result of a variety of barriers:
 - Cognitive, emotional, behavioral, and psychological challenges
 - Debilitating feelings of shame, guilt, or hopelessness
 - Lack of self-agency
 - Failures in plan-making and plan-implementation

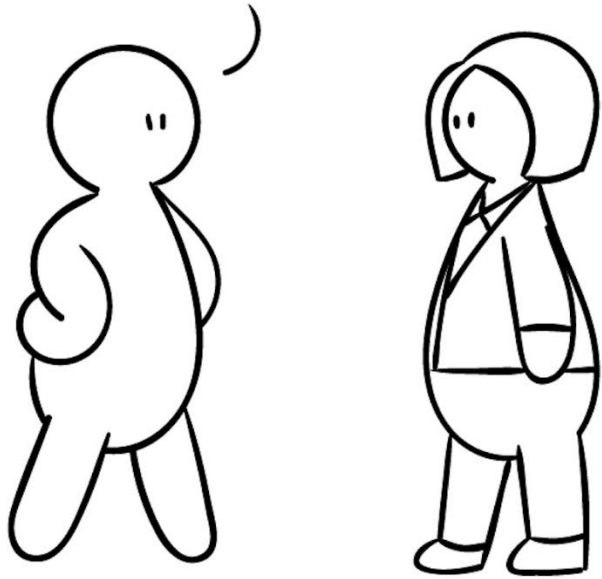


Barrier: Lack of familiarity with system

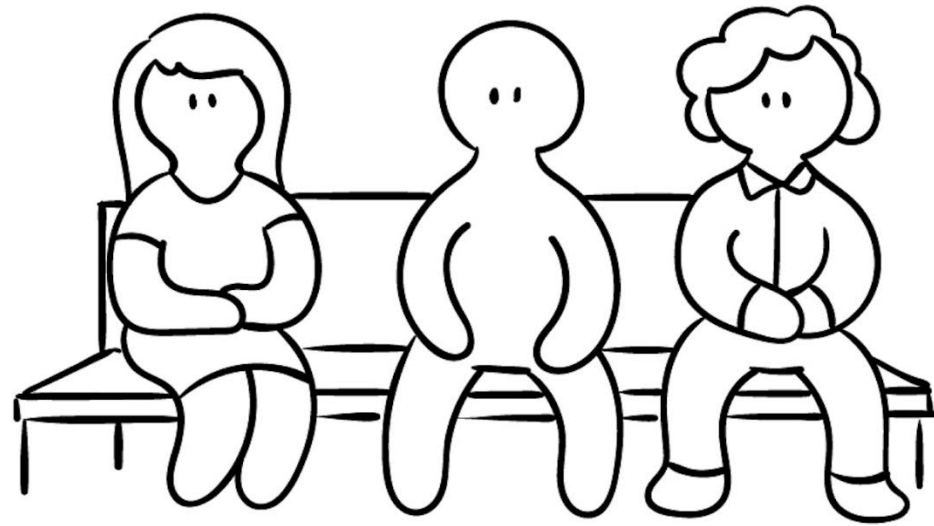




No, I want to talk
to the judge.



COURTROOM 5





State of Connecticut - Superior Court
Centralized Small Claims

RE: Docket# SCC-16-3210

Report to: SUPERIOR COURT, 122 Broad St., New London, CT
COURTROOM B

Hearing Date: 4/10/2017
Time: 2:00 PM

See opposite side for court directions:

Find the court date and
time from the Notice.

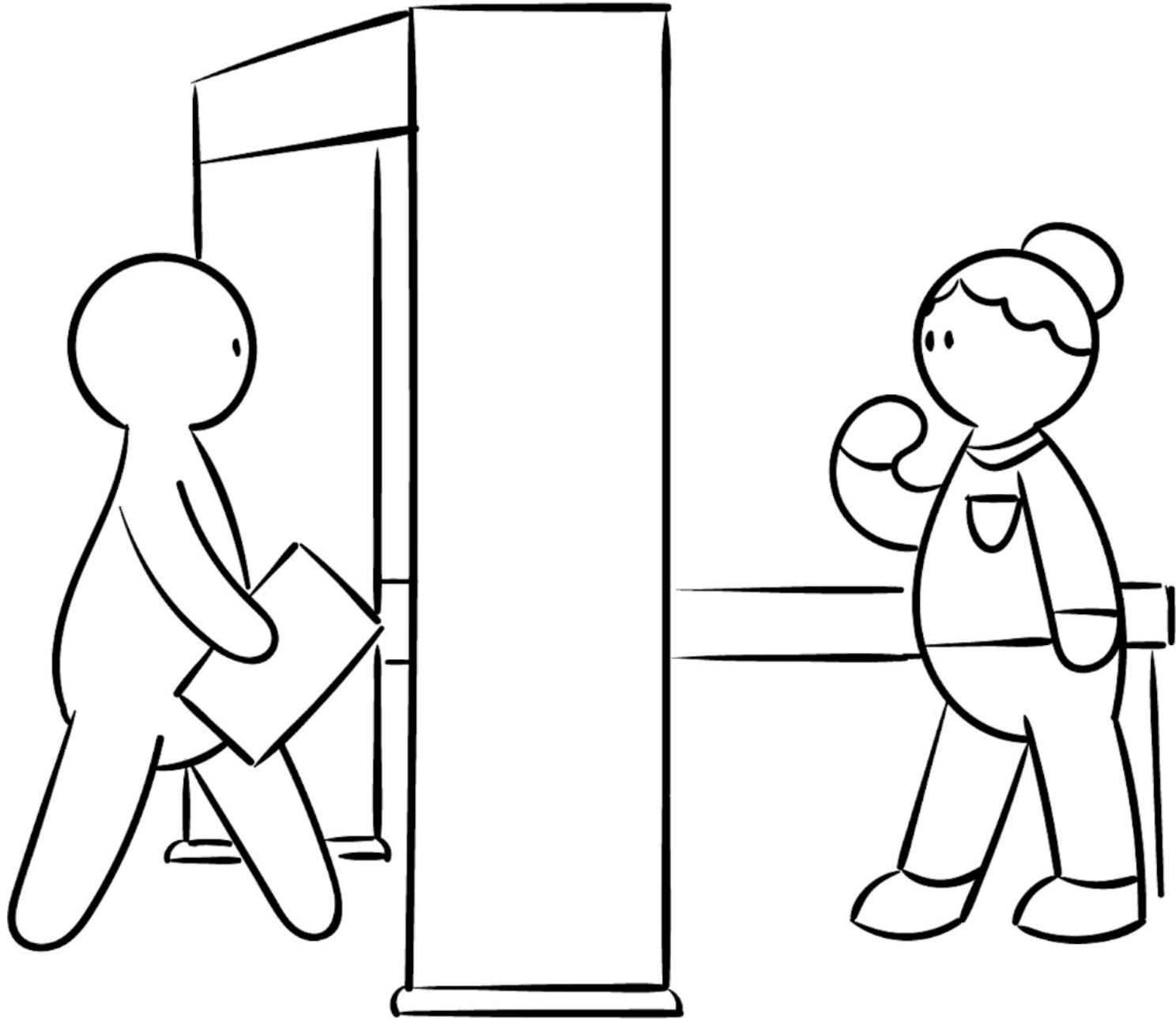
Plan to be at the court
for several hours!

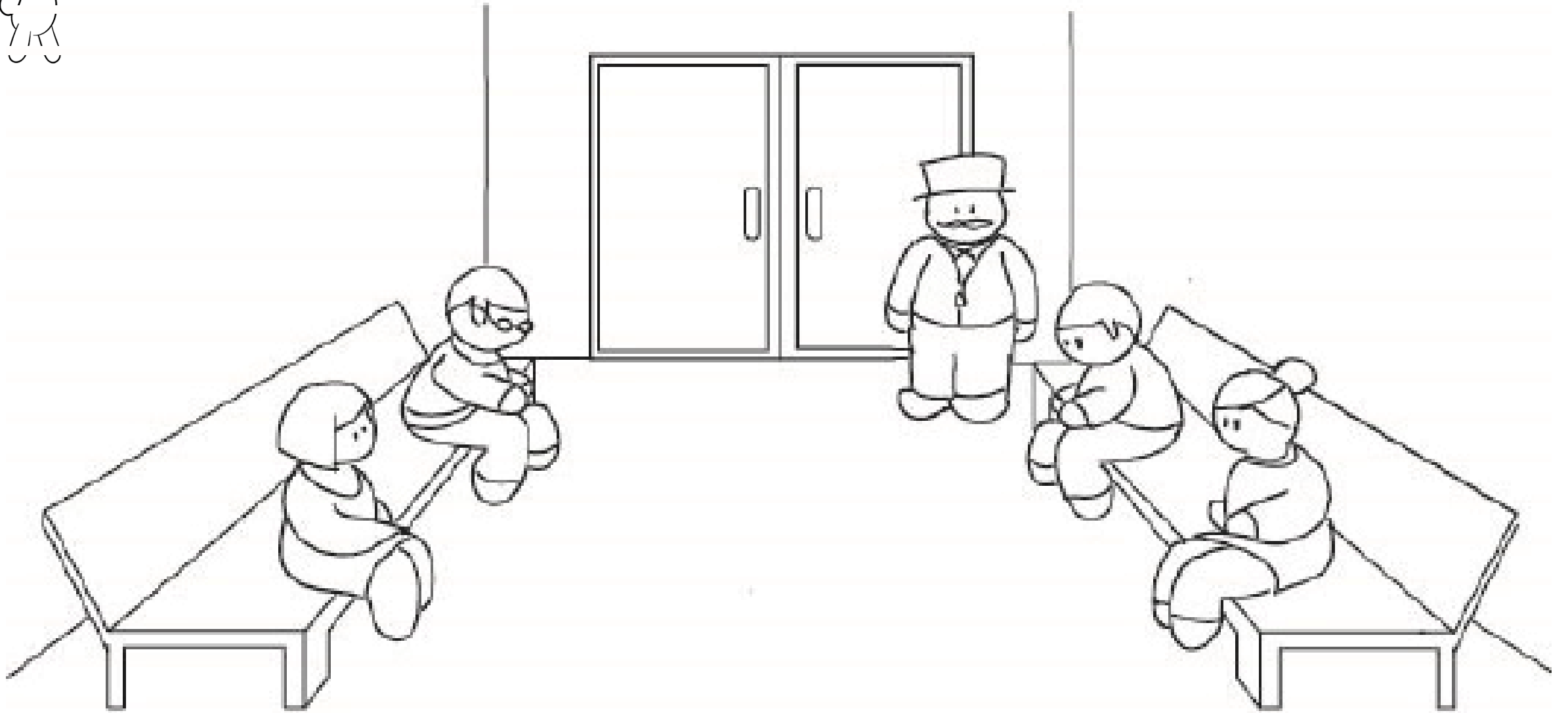
Find the court address.

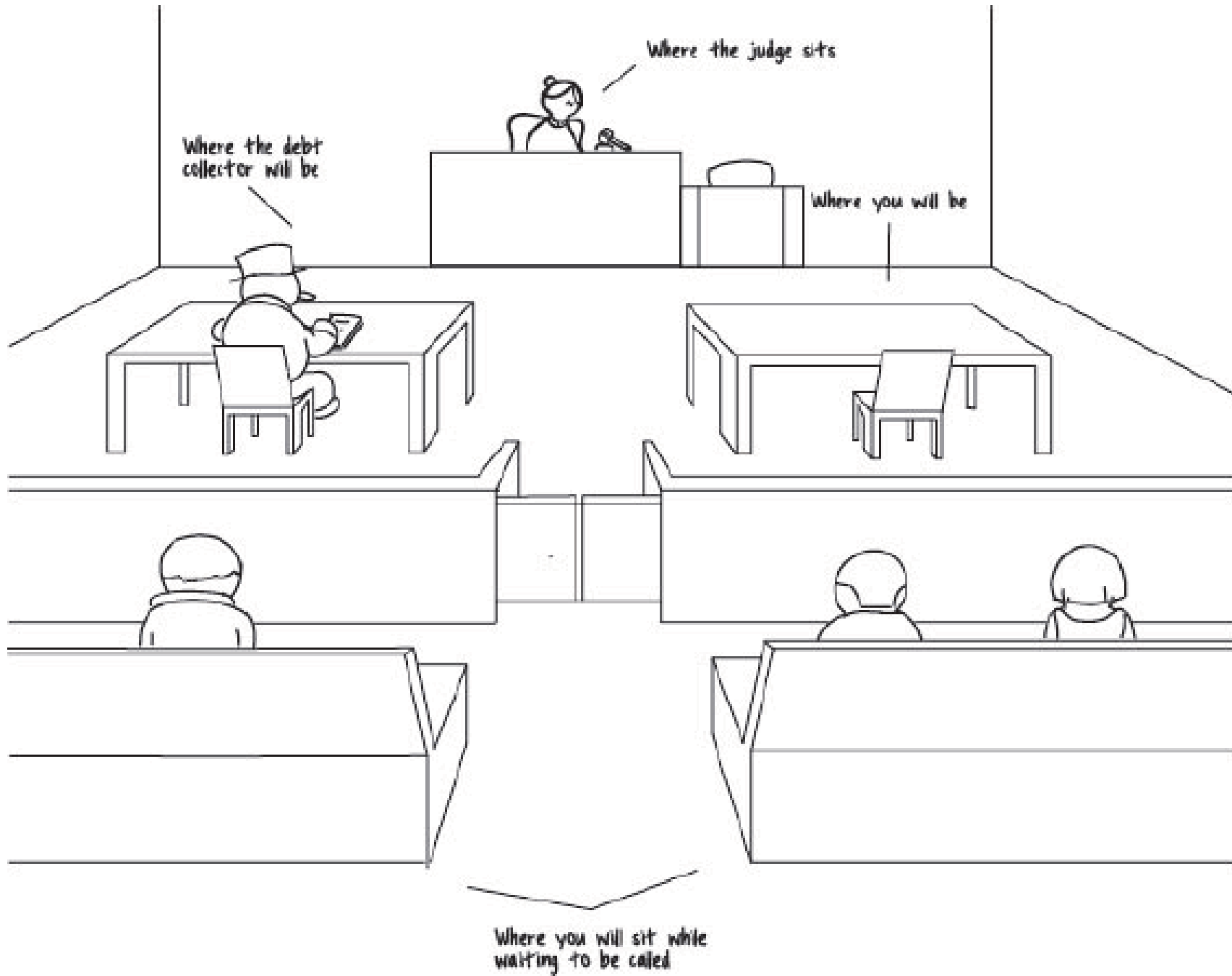
Plan how to get to court
early!

On the date listed on the *Notice of Small Claims Hearing* . . . go to court!!!











Barrier: Guilt and Shame

This is hard. But you are not alone. Lots of people have trouble paying their debts. And it doesn't mean you are a bad person.

Pick some words that describe you.

Maybe some of these:

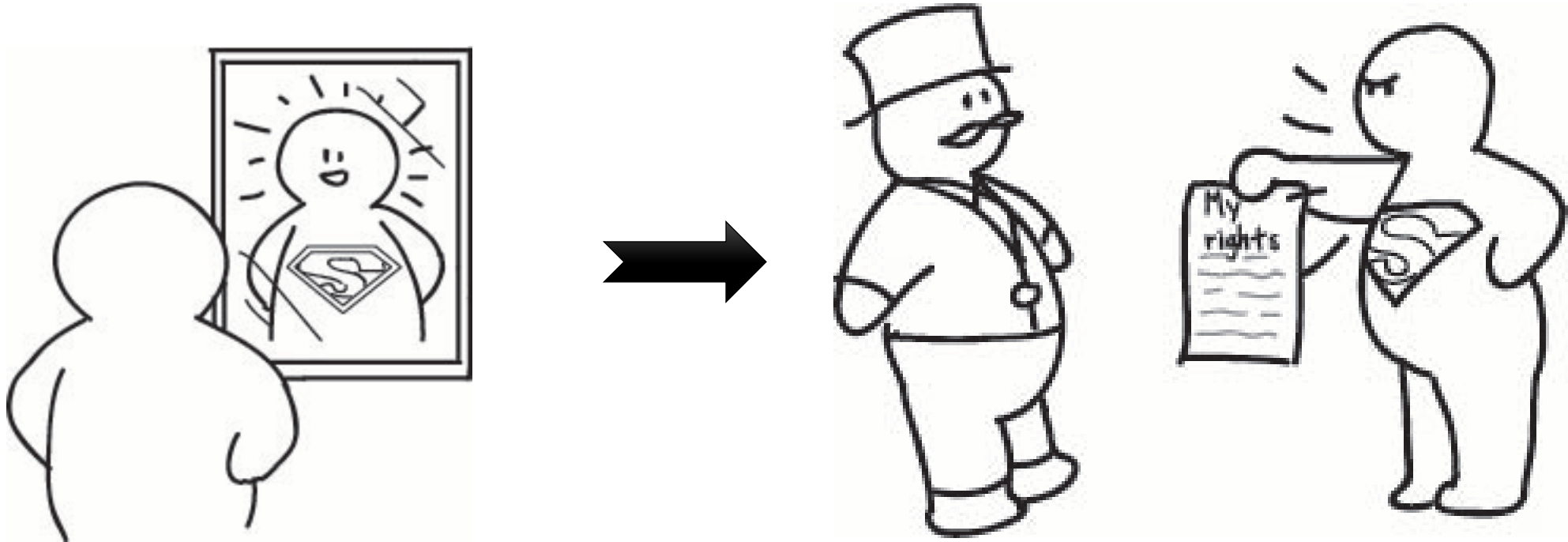
- Kind
- Giving
- Fair
- Honest
- Hard-working



Self-Affirmation Theory



Barrier: Lack of Agency when advocating for oneself before a figure of authority





Barrier: challenges with making plans and goal setting /implementation

- Self-help materials should provide tools to help users make plans, set important goals, and implement those.
- The advance commitment to a plan decreases the need for self-control in the face of temptation.





If goals are
specific &
proximate they
are more likely to
be accomplished

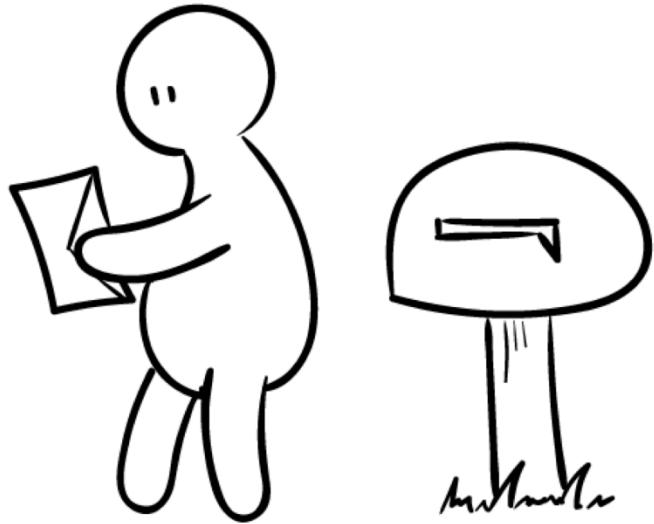
**“I will pay cash
for groceries
this week”**

rather than “I will try
not to use my credit
card so much”





If I get a refund check from my taxes, I will put it in the bank rather than spend it.



When do you go to court? The court will mail you a letter telling you when to go.

If “X” happens, then I will do “Y.”

- Self-help materials can give examples of a person committing to responding to a specific circumstance in a particular way.
- Having a plan in place eliminates decision-making in the moment.



If goals are framed positively they are more likely to be accomplished

“If I call my creditor about making small payments tomorrow, I will be happier” *rather than* “If I don’t set up a payment plan I’m in trouble”





Use planning prompts

2/28/2020

Jim Greiner
100 Main Street
Bridgeport, CT 06601

Dear Jim,

If you have already retained a lawyer for this matter, please contact Connecticut Legal Services, a non-profit that provides free legal services in Bridgeport and across Connecticut. We never ask you for anything.

I am writing because according to public records, LVNV Funding has a judgment against you for \$1023.10. We've got resources that could help you with this lawsuit. We never charge anything.

Jim -
CLS has free legal resources that could help with your lawsuit!
888-380-3646

If you don't do something about the lawsuit, you could owe lots of money. The judge will think that you *made an intentional choice* not to respond, and LVNV Funding will win automatically.

Don't let that happen! We're running a pilot project with students and professors at UConn Law School and at Harvard Law School. We can help you if you qualify for our study.



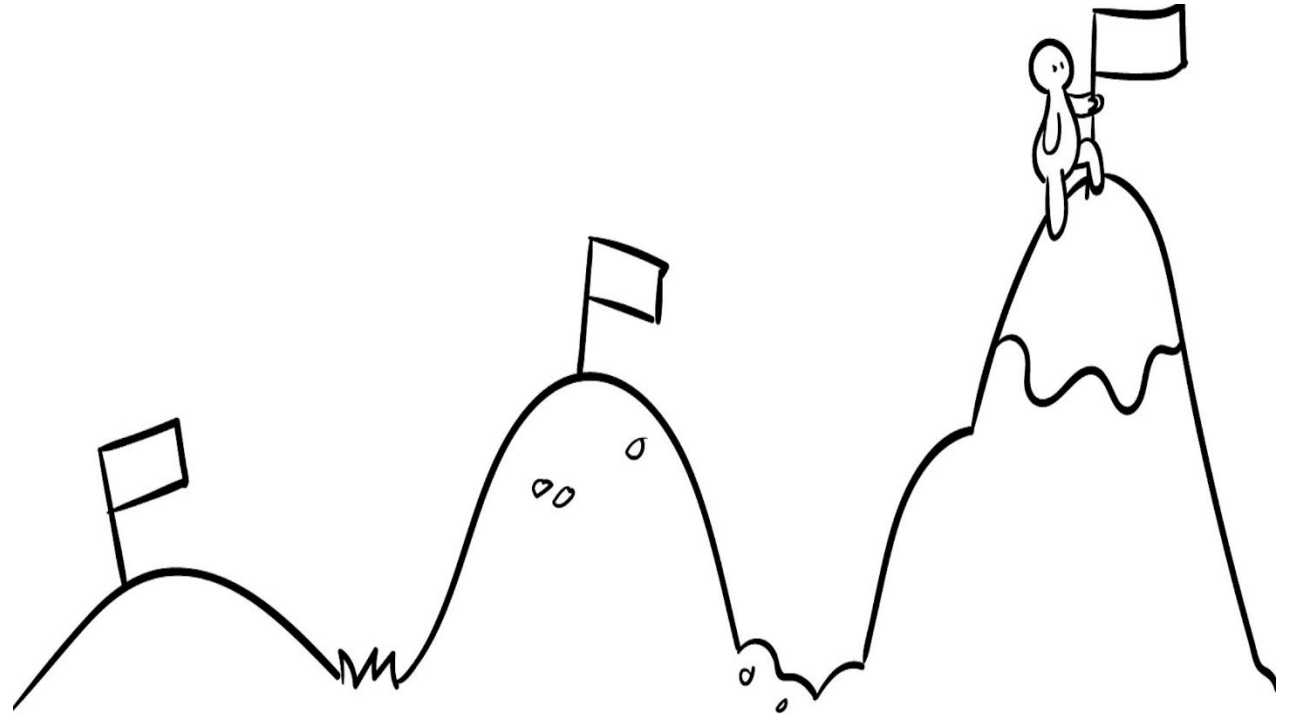
Don't wait. Call us by 3/5/2020. (888) 380-3646.
financialadvocacy@connlegalservices.org

You might not understand why you're being sued, you might think there's nothing you can do about the lawsuit, or you might hope it just goes away. But it won't go away—so it's really important to take action right now.



Include encouraging words or pictures to help people stay motivated through a difficult or lengthy process

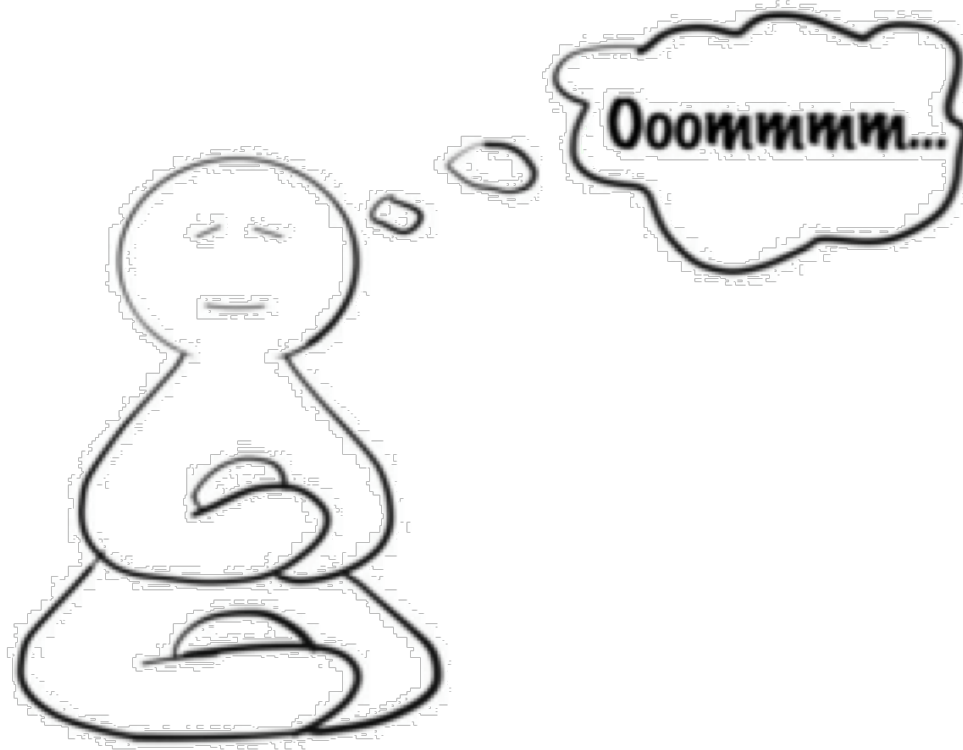
You can do this!





Include relaxation exercises to lessen anxiety through a stressful process

A few minutes of deep breathing with your eyes closed can make you feel calmer.





Barrier: Information processing & learning

Conceptual Knowledge

- Understanding underlying principles
- Understanding ideas, connections & relationships
- Interpretation of concepts

Procedural Knowledge

- Skills
- Procedures
- Action sequences



Provide procedural information. Less “why” they have to do something and more “this is what you need to do.”

Step one: Gather all of your pay stubs, bank statements, and every other paper that has to do with the money you get or have. Then make a list of everything you own.

Step two: Fill out the court forms.
You can get the on line at www.court.xxx or you can go to the court and get the forms.

Step three: Send the forms to the Court. Here is the address:

100 Main Street
Anytown, 12345

Step four: Send a copy of your forms to your spouse.
You can do this by mail.
If you go to the post office, you can get a receipt and tracking number.

We've written something you can read to the judge.

There are some legal words there that you may not understand.

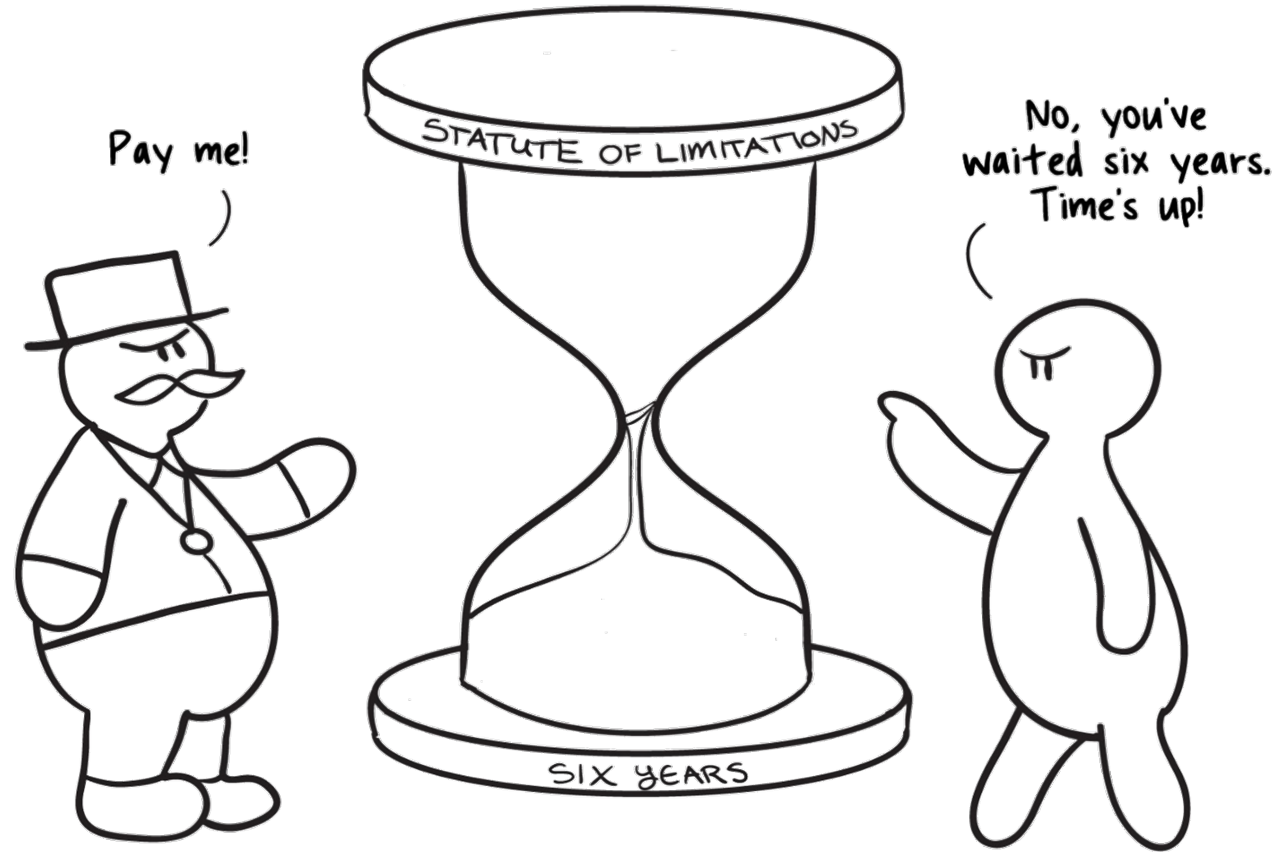
That's O.K.! The judge will understand.

First, Your Honor, I ask that you dismiss this case with prejudice because I don't think the lawyer can prove anything. The lawyer needs to have a witness, or at least a sworn document. And the lawyer needs records from that company. Otherwise, none of the information is reliable. Nothing is based on personal knowledge. And the business records exception does not apply because there's no witness to say so.



When conceptual knowledge is necessary,
use analogy & imagery

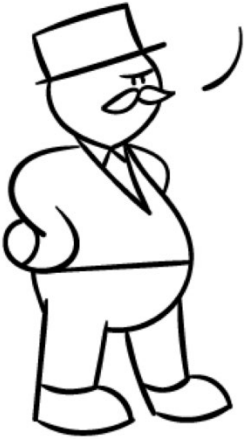
How to
explain the
statute of
limitations



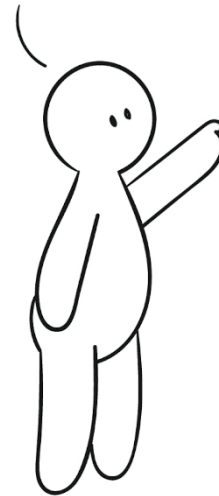


Imagery can be used to explain, direct and entertain the self-help user

Just agree to the settlement



This number is smaller than the one in 13. I should check the first box, box 14a.



- 12a.
- $\times 12$
- 12b.
- 13.

Someone told me that you owe my company money. Pay up.



That's not good enough. Your papers don't say that I owe your company.

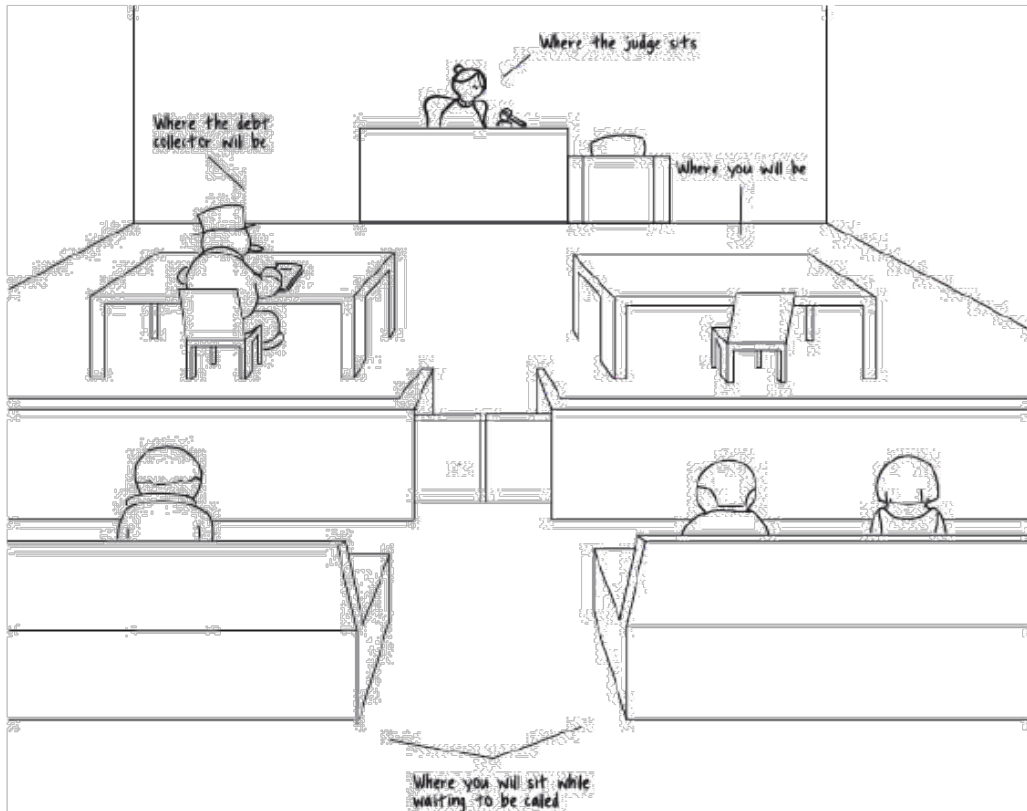


Yes, you're right.





Stick figures should be used rather than detailed photographs or drawings





Use checklists to help users keep organized

Checklist

- Step one:** Gather your papers. Turn to page ___ to see what papers you need to find.
- Step two:** Fill out the court forms. Turn to page ___ to see how to get them and how to fill them out.
- Step three:** Once you have filled out all the forms, you need to make copies of all the forms. Turn to page ___ to see where you can make copies.
- Step four:** Give one copy to the court with a filing fee or a waiver form. Turn to page ___ to learn exactly how to do this.
- Step five:** Send one copy of all the forms to your spouse. Turn to page ___ to learn exactly how to do this.



Use advanced organizers to help users see the process as a whole

You can take care of your court case without a lawyer. This packet will show you how. It has four parts:



Part One is called, "**You Should Go To Court.**" It explains why you should go to court.



Part Three is called, "**What To Do.**" It tells you what to do in court.



Part Two is called, "**Know Your Rights.**" It tells you why you might not have to pay any money, or as much money as the company suing you says you owe.



Part Four is called, "**Take This to Court.**" You should take this packet to court with you. It suggests what to say in court.



Avoid legal jargon and simplify complicated processes

home

rather than

domicile

papers or forms

rather than

documents

change

rather than

modify

next to

rather than

abutting



Simplify complicated processes

When you go to court, you or someone else will give information to a judge. This is called “evidence”.

This evidence may include a story that you or someone else tells the judge. This is called “testimony”.

Emails and text messages, documents, photos, and objects that help you tell your story can also be evidence.



Write at a 5th/6th grade reading level and in a conversational style



You can always tell your side of the story to the judge.

Even if the judge says that it will take a long time to finish the case if you don't settle.

If you want the judge to hear your story, the judge has to listen.



Draw on and reflect communication theory at the level of the page, the sentence, and the word

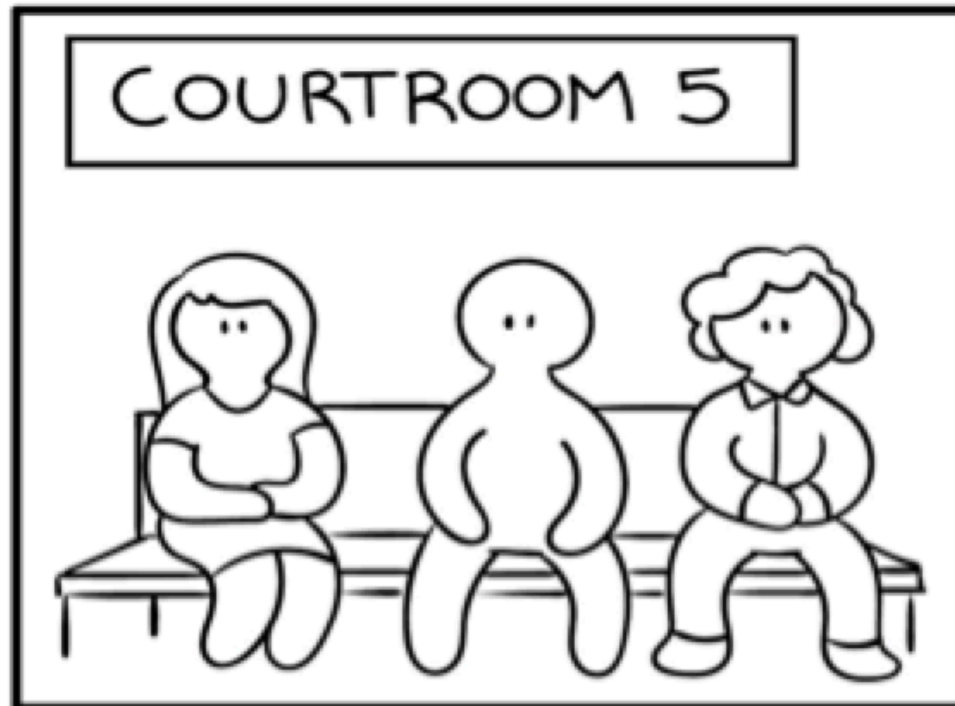
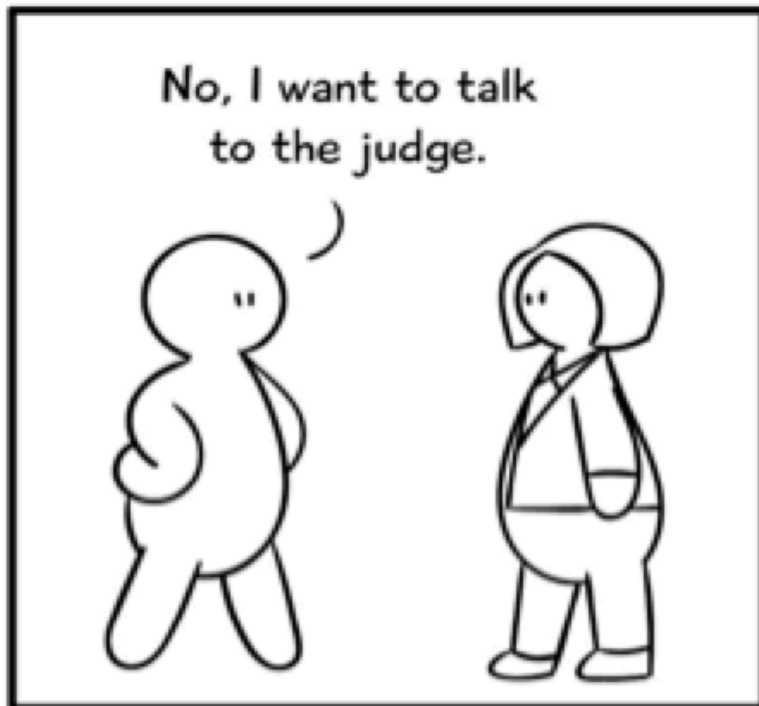
- Use the active voice and present tense
- Place the main idea before the exceptions
- Give examples of how one would follow a complicated direction
- Use headers on each page
- Leave plenty of white space on each page so as not to overwhelm the reader
- Don't mix fonts within the body of text

If you don't want to agree to a deal, you don't have to.

Tell the lawyer that you want the judge to decide. They go back into the courtroom.

You might have to wait for a while before it is your turn. That's OK.

You have the right to see the judge.





Summation

- Simplicity is key
- Provide shortcuts and prompts
- Make self-improvement behaviors easy and the “default” (*i.e.*, direct deposit 10% of salary into a savings account)
- Keep people engaged while they are performing challenging tasks
- Understand your audience and have that understanding reflected in your communication (*i.e.*, over-taxed bandwidth, stressed & overwhelmed, low literacy)