

# The Challenges and Opportunities of Self-Represented Litigants

Hon. Nicholas Chu  
Travis County; Pct. 5

Thea Whalen  
Executive Director; TJCTC

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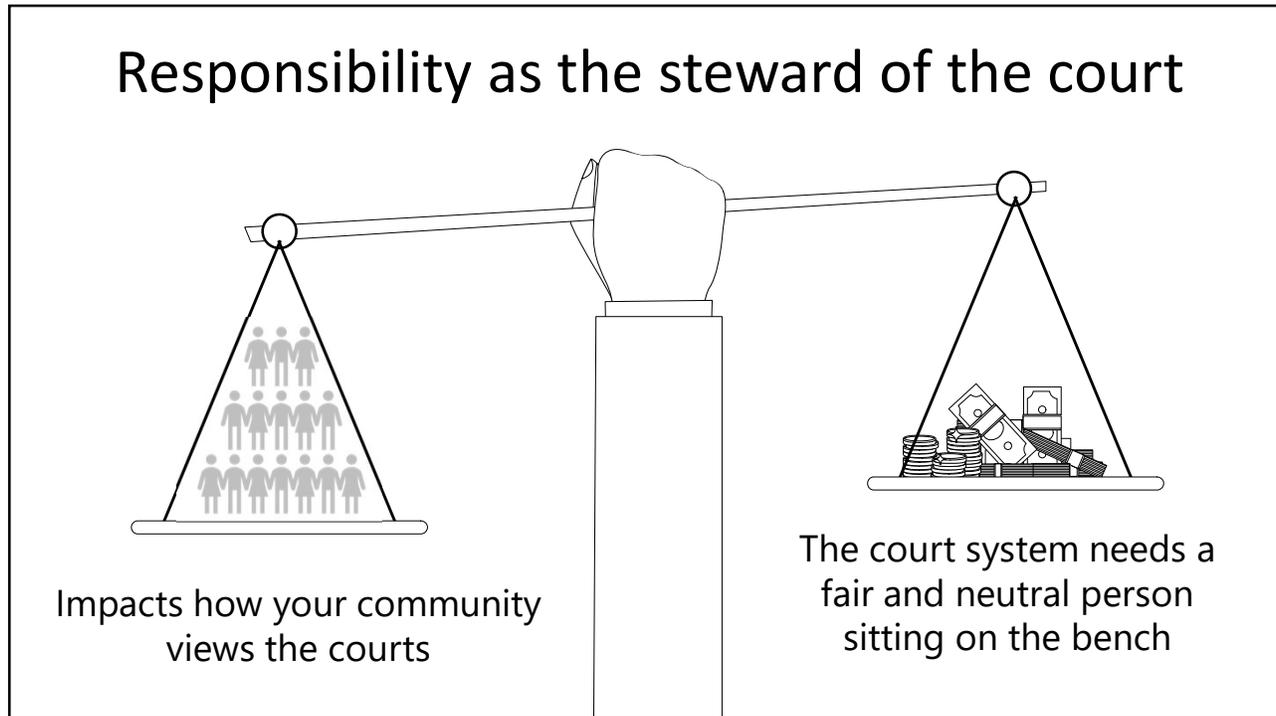
A 2015 study of civil litigation in state courts found that both sides were represented by lawyers in less than one-quarter of civil cases

## Why focus on self-represented litigants?

[A] driving factor for the increase in self-represented litigants (SRLs) is that many litigants do not believe that lawyers can solve their legal problems in a timely and cost-effective manner.

(Hannaford-Agor, Graves, and Miller, 2015); (Sandefur, 2010-11).

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## What we owe the bench and the public:

**Neutral**  
**Fair**  
**Accessible**

A judge shall be patient, dignified and courteous to litigants... and should require similar conduct of lawyers, and of staff, court officials and other subject to the judge's direction and control.

Canon 3B.(4)

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## A walk through the court in SRL shoes

Our goal for this scenario is to eliminate implicit  
bias and enhance procedural justice

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### **A framework for access to justice:**

#### What are we going to look at?

- Communicate effectively
- Limit or remove legal jargon
- Use technology or visual
- Legal process vs legal advice

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## **Bob gets sued in justice court**

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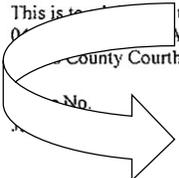
### Bob gets a notice of hearing

- *What information is given? (website?)*
- *Can he tell and what he needs to do?*
- *Are there legal terms or abbreviations?*

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PETER DAVID WAGNER  
11512 SUNNY CREEK LN  
MANOR TX 78653

Re: PETER DAVID WAGNER

This is to  that Trial Before Court on the following listed charge(s) has been set for  
AM. At that time please enter your appearance before this court located at  
County Courthouse, Room 112, Austin, Texas 78701.

No. (

# Trial Before Court

Sincerely,

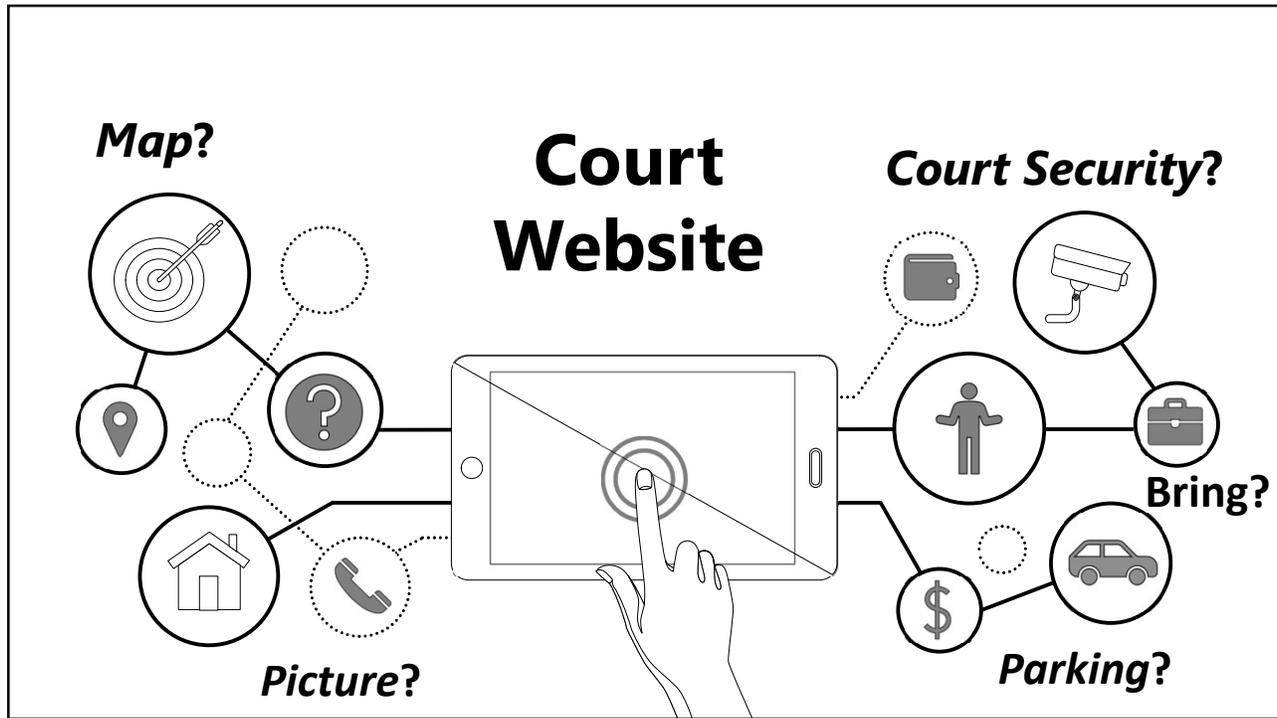
Judge Herb Evans  
Justice of the Peace  
Precinct Five, Travis County

CC: NOTICE TO APPEAR:

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# How does Bob get to your court?

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**Justice of the Peace Pct 1 - 1A**



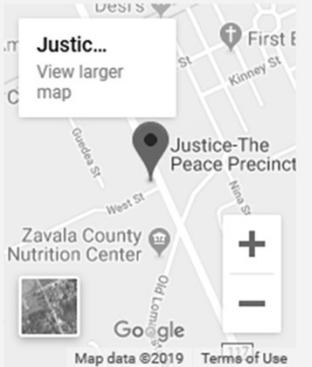
**Paula M. Deleon**  
Judge

**Selina A. Ramos**  
Chief Deputy Clerk

**Erica P. Ayala**  
Clerk

P. O. Box 508  
Batesville, TX 78829

Phone: 830-376-4609  
Fax: 830-376-9021



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## What greets Bob when he walks into your courthouse?

- *How easy is it to find where he needs to go?*
- *Are the signs out of date?*
- *Are the court rules & expectations clear?*

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## Is there information overload?

"Finding the Way to Justice: Language Access Wayfinding," Pathu Sriphanlop, Admin Analyst; Ana Parrack, Dep. COM Superior Court of California

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# **Is the information conflicting?**

"Finding the Way to Justice: Language Access Wayfinding," Pathu Sriphanlop, Admin Analyst; Ana Parrack, Dep. COM Superior Court of California

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# **Do you need a professionalism upgrade?**

"Finding the Way to Justice: Language Access Wayfinding," Pathu Sriphanlop, Admin Analyst; Ana Parrack, Dep. COM Superior Court of California

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# Are they language accessible?

"Finding the Way to Justice: Language Access Wayfinding," Pathu Sriphanlop, Admin Analyst; Ana Parrack, Dep. COM Superior Court of California

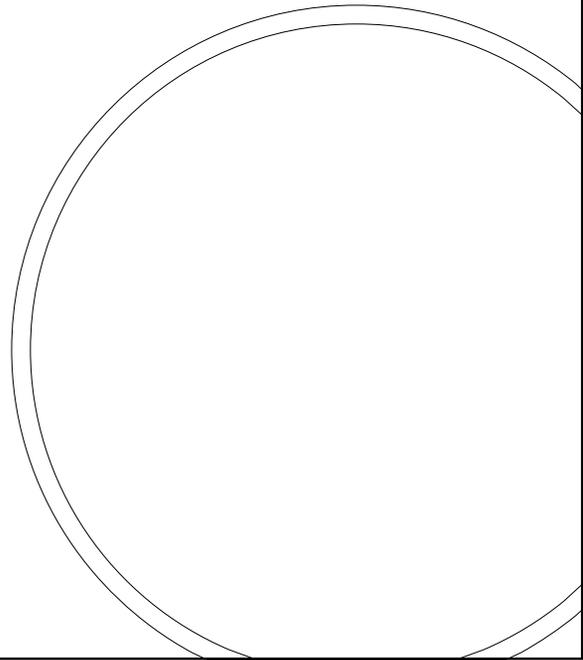
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**Bob finds your  
court and  
'checks in' with  
the clerk**

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## Do you know what your staff is saying?

- *Helpful?*
- *Non-legal terminology?*
- *Do they know the resources?*



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## Legal Information vs Legal Advice

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- Court rules
- Procedures
- Administrative practices
- How the court generally functions
- Public information
- Information that is legal fact
- Refer people to law libraries, state statutes, rules, or forms
- Explain the meaning of terms used in the court process
- Answer questions concerning due dates and deadlines (without calculating specific dates)

## **Legal Information**

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- Recommend or suggest a certain action
- Apply the law to an individual factual circumstance
  - Interpret an aspect of the law
- Give opinion of the merits of the case

## **Legal Advice**

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A JP (and their staff) SHALL assist during ex parte with:

- **determining where jurisdiction of an impending claim or dispute may lie**
- **determining whether a claim or dispute might more appropriately be resolved in some other judicial or non-judicial forum**

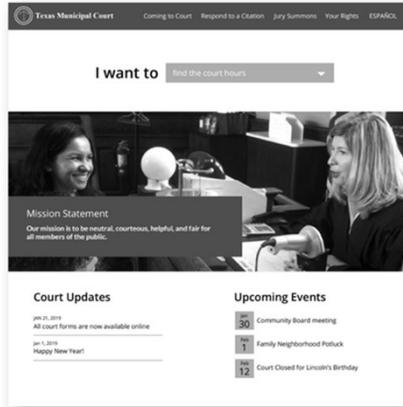
## **Canon 6C(2) ex parte communication**

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**Great time to bring this topic  
back to your staff**

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**Building Public Trust and Confidence Through Model Court Websites**



**If Walls Could Talk:  
Can Better Court Signs Help Build Public Trust?**



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Is there really a difference?

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## DEFENDANT'S MOTION FOR CONTINUANCE

NOW COMES Defendant, Jim Smith, in the above-entitled and number cause, and files this Motion for Continuance from its present setting of January 15, 2019 at 9am pursuant to TRCP 503.3(b) and shows the Court the following:

1. This case is presently set for a jury trial on January 15, 2019.
2. Defendant will be engaged in another appointment where his attendance is required and would not be available on January 15, 2019.
3. This motion is not made for the purposes of delay but in order that justice be done.

Defendant, Jim Smith, prays that the Court grant the Motion for Continuance and reset the trial in February of 2019.



Jim Smith, pro se

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JS-CV-129123

I can't make my trial date  
because I'm out of the state that  
day.

Jim Smith

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To: [JusticeCourt5@county.gov](mailto:JusticeCourt5@county.gov)

From: [JimSmith@emailaddress.com](mailto:JimSmith@emailaddress.com)

Subject: Jim Smith versus Bob Smith

I am sending this email because I am asking for my court date to be rescheduled. I have a doctor's appointment at that time and can't cancel my appointment.

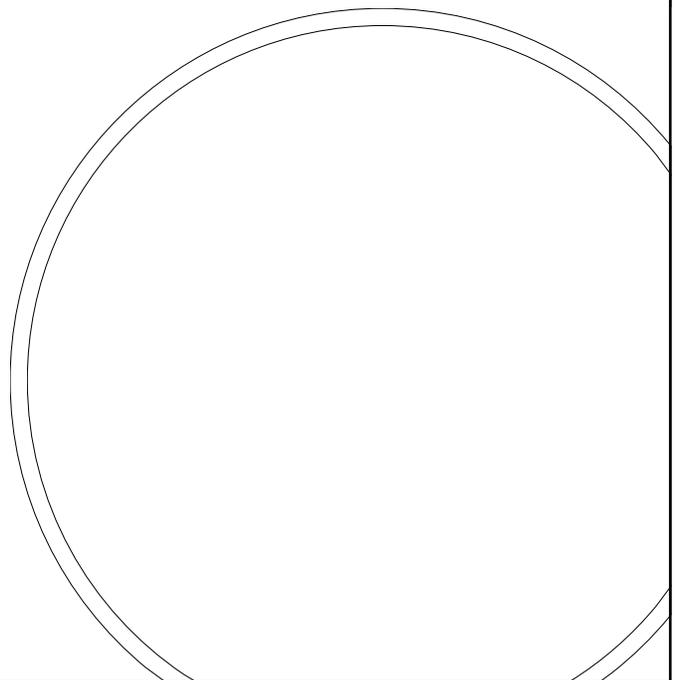
Jim

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# How I would rule?

New judge...

Now...



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# **BIAS**

**How we really feel about something**

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# **Implicit Bias**

**How we unconsciously feel about something...**

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*I grew up differently:* This person doesn't have a degree or money

*I grew up similarly:* People 'like this' weren't smart, so this person must not be

This person has money and connections – why are they representing themselves?

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How to find areas where implicit bias exists?

**It's always when the court has discretion**

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- Hearing dates
- Rules of evidence
- Deadlines

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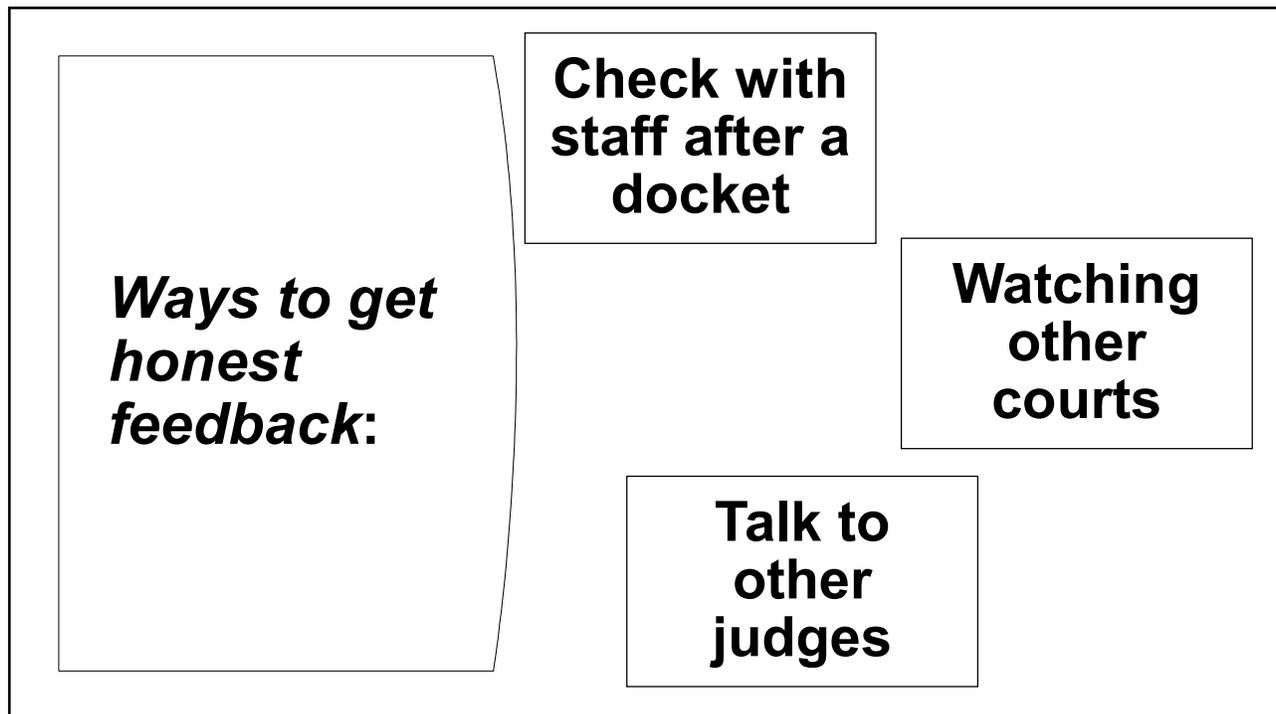
You need check points

*And a way to get honest feedback*

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<p><b>DEFAULT JUDGMENT CHECK LIST</b></p> <p>The suit is a:</p> <p><input type="checkbox"/> <u>DEBT CLAIM</u> or</p> <p><input type="checkbox"/> Small Claim based on a <u>written document signed by both parties</u>  <b>AND</b> a copy is in the file.</p> <p><b>***IF IT IS NOT ONE OF THE CATEGORIES ABOVE, THE  CASE MUST BE SET FOR A HEARING.***</b></p> <p>Citation issued for each Defendant <b>AND</b> Service on <b>EACH</b> Defendant</p> <p><input type="checkbox"/> NO, <b>STOP!</b> Every Defendant <b>MUST</b> have a citation issued and be served.</p> <p><input type="checkbox"/> YES, <b>SERVED = DATE:</b> _____</p> <p><input type="checkbox"/> <b>Waiver of Service</b> filed signed by Defendant</p> <p><input type="checkbox"/> <b>ALL</b> Citations&gt;Returns of Service/Affidavits of Service have been on file for <b>AT LEAST 3 DAYS</b></p> <p>Any Form of answer in the file for <b>ANY</b> Defendant still listed on the case?</p> <p><input type="checkbox"/> YES, <b>STOP!</b> <i>Send a copy to the Plaintiff. The DJ cannot be granted if the Defendant has answered.</i></p> <p><input type="checkbox"/> NO, proceed.</p> <p>Certificate of last known address. Is it the address listed below?  <b>AAA Texas Insurance</b></p>
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## **Bob is in the courtroom**

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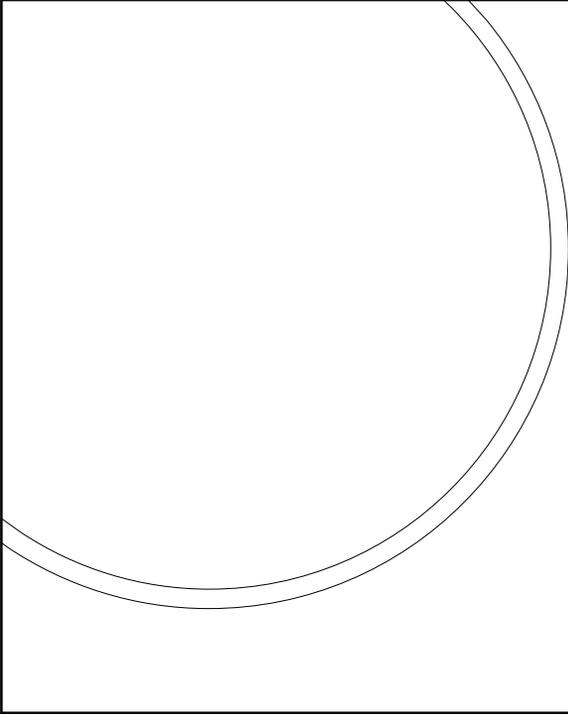
## **How did you prepare for Bob's hearing?**

- Do you have staff in there to let him know where to go or where to sit?
- When you take the bench, do you give introductory remarks for each docket or case?

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## Bob is in Trial

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- 
- How do you keep him on track without limiting his ability to be heard?
  - How do you remain neutral when one side is represented?
  - How do you respond to objections?

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## What might this mean?

“I don’t think you’re going to be fair to me.”

“I think the plaintiff was more to blame than me.”

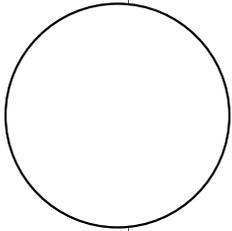
“This piece of paper isn’t what they say it is”

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**Bob is about to find out what happened in his case**

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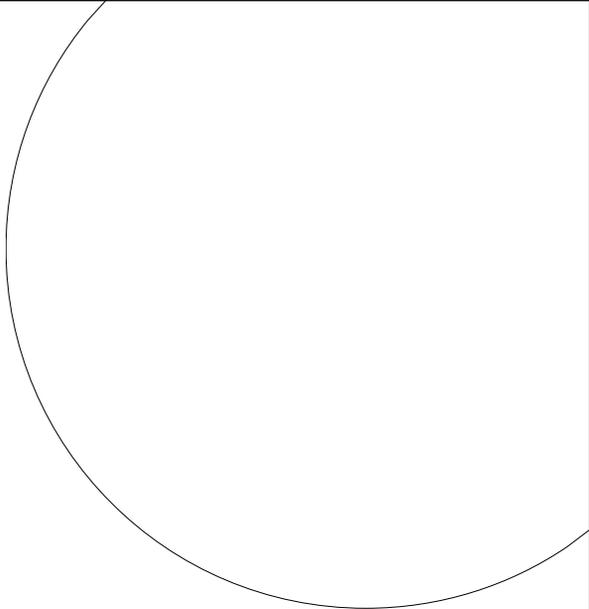
- How do you lead into the ruling?
  - “I am about to rule in this case, and I am going to rule against you, Bob”
- Do you tell them WHY you came to this conclusion?
- Decision in open court
  - Explain who is paying what & appeal options
- Should have a way that you always end
  - “Good luck to you both”



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## **Ending a hearing**

1. Ruling
2. Sign the judgement
3. Clerk makes copies
4. Ask for questions
5. “Good luck to you both”



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*Thank you!*