

## Preparing Self-Represented Litigants for Court

Judge William Palmer  
Ms. Roberta Stovitz  
Commissioner Dale Wells

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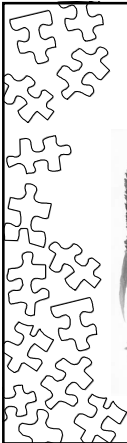
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### Is the courtroom hostile or hospitable to pro pers?



- To a large degree, it depends on how well prepared they are
- Your role is to help prepare them for their encounter with the court

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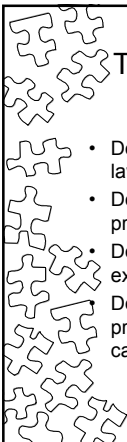
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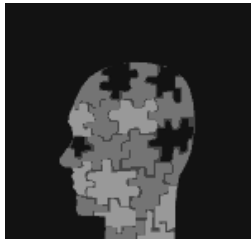
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### They may be missing critical pieces of information

- Do they understand the law?
- Do they understand procedure?
- Do they have realistic expectations?

Do they know how to prepare & present their cases?



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### Know Your Customers



80%+/- of litigants are self-represented  
They are employed at <\$1,000 - \$1,500 per month  
15% primarily speak languages other than English

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### "Legalese" is a foreign language to them. All they hear is ...



- They may or may not be educated
- Like having a doctor tell you in accurate medical terminology what's ailing you
- What can you do for them?

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### Explain Terminology in Plain English

- Pro Per
  - Self-represented
- Subject matter jurisdiction
  - Can the court make this kind of order?
- Personal jurisdiction
  - Can the court order this person to do anything?
- Date of marriage & date of separation
  - The day you said "I do" & the day you decided "Not any more, I don't"



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**Explain Terminology in Plain English**

- Community property & separate property
  - "Our stuff" & "My stuff"
- Legal custody
  - Who is going to make the decisions about health, education, welfare & morals of the children?
- Physical custody
  - Who are the kids going to primarily live with?
- Visitation
  - Timeshare between the parents



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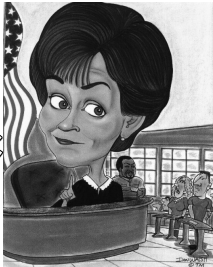
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**Explain the Law in Plain English**



- Sources of misinformation:
  - Court staff:
    - "The clerk told me to write 'ex parte' if I wanted to get in court earlier"
  - Law enforcement:
    - "They said I had voided my restraining order by inviting him over"
    - "They said he had just as much right to keep our child as I do" (no VDOP, parentage presumption, or adjudication)
  - Family, friends, neighbors – they mean well, but they'll get you in trouble!

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**Explain Procedure in Plain English**

- Service
  - Someone has to give him/her these papers. It can be any adult in the world – except you
  - Role play (Petitioner, Respondent & Friend)
    - Who serves?
    - What if he won't accept service?
  - Proof of service must list every document & must be filed



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**Explain Procedure in Plain English**

- Burden of Proof
  - You have to convince the judge to do something
- Preponderance of evidence
  - Tipping balance scales
- Issues before the court
  - Shopping list – but you can't add other items to the cart



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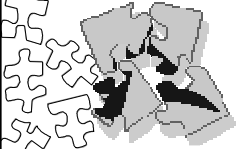
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**Tools to Help Self-Represented Litigants Prepare for Trial**

- Use Plain English
  - Instead of saying Breach of Warranty of Habitability, say "bad conditions"



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**Tools to Help Self-Represented Litigants Prepare for Trial**

- User-friendly video, instruction about:
  - Who to speak with when arriving in the courtroom
  - What to do/say when the judicial officer calls their name
  - How to present proof, etc.



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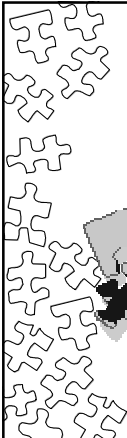
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### Tools to Help Self-Represented Litigants Prepare for Trial

- User-friendly written materials explaining:
  - What proof to take to trial
  - What is not acceptable
    - e.g. usually witness statements are not acceptable, the witness must appear

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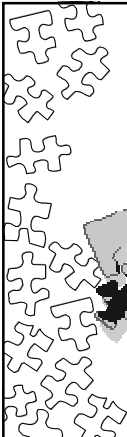
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### Tools to Help Self-Represented Litigants Prepare for Trial

- Mock Trial with the self-represented litigants
  - This makes them familiar and comfortable with the process.
  - It builds their confidence that they *can* represent themselves.

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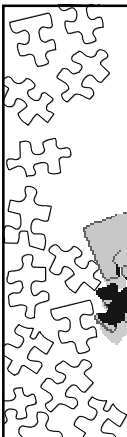
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### Tools to Help Self-Represented Litigants Prepare for Trial

- Collaborate with bench officers and other court personnel to work on user-friendly trial preparation materials to make it easier for self-represented litigants - and for the courts.

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### What About the Rules of Evidence?



- A British jurist, commenting on the complexity of our Evidence Code:
- "We only have two rules:
  - "Is it probative?"
  - "Do they really want to get it off their chest?"
- That summarizes what self-represented parties think about evidence!

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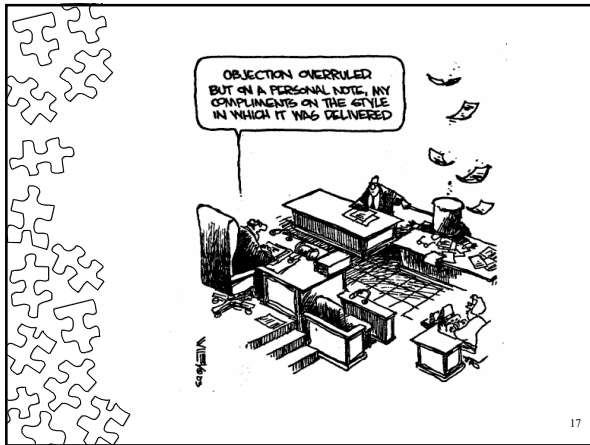
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### Expectations of Self-Represented Litigants

- *Pro per expectations are frequently based on ignorance of the law and of the judge's role. Here are assumptions they might make:*
  - The judge will explain the procedure in simple language.
  - The judge will help me prepare and complete legal forms.



18

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**Expectations of Self-Represented Litigants**

- If I ask questions of a witness, the judge will help me out if I'm doing it incorrectly.
- If a lawyer tries to dominate or control me, the judge will step in to protect my interests.

After the proceedings begin, if I decide I need a lawyer, the judge will continue the case until I can get one.



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**Expectations of Self-Represented Litigants**

- Because the judge knows that I'm not a lawyer, he/she should be tolerant if I make legal errors.
- Because I don't know the rules of evidence, I should be able to present anything in my favor and the judge can filter out whatever may be inadmissible.



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**Expectations of Self-Represented Litigants**

- One way or another, the judge will make sure that he/she gets all relevant information before making a decision.

If there are documents or witnesses that I've overlooked that would help me make my case, the judge will tell me what I need.



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**Setting Courtroom Expectations**



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**Courtroom Protocol**

- Following are guidelines on how cases will be handled. I may vary from these guidelines if I feel it is needed.
- The goal is for both sides to have a full opportunity to present their case.
- The Deputy has explained how he expects everyone to behave. I want everyone treated with dignity and respect.

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**The court reporter takes down everything that is said.**

- In order to insure that the court record is accurate only one person can talk at a time.
- If interrupt, I need everyone to stop talking so that I can say something.

Unless I say otherwise, the person who brought this matter to court presents their case first. That person is the moving party.

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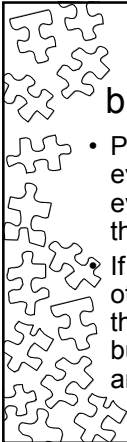
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**The moving party has the burden of proving their case.**

- Proving their case means that after all evidence is presented to the court the evidence, on balance, weighs in favor of the moving party.
- If the evidence weighs in favor of the other party, or if the balance is equal, the moving party has not met their burden and they will not get what they are asking for.

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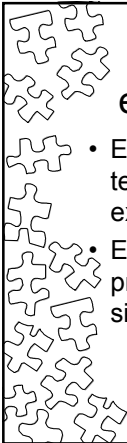
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**This Court will rule on evidence that is presented.**

- Evidence can be in the form of testimony, declarations, documents, exhibits, and the like.
- Each party will have an opportunity to present their evidence and to tell their side of the case.

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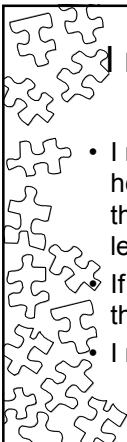
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**I may interrupt you while you are speaking.**

- I may interrupt you because I have heard enough on that point or I believe that what you are talking about is not legally relevant.
- If I interrupt I will ask you to move on to the next point.
- I might even ask questions.

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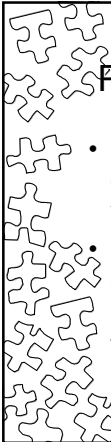
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**Present objections succinctly.**

- If you have a legal objection to what the other side is presenting, you are to state your objection briefly.
- If I sustain the objection that means the question and answer will not be considered. If I overrule the objection I then want to hear both the question and answer.

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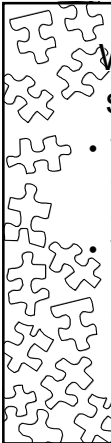
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**When you've had your turn to speak, it's your turn to listen.**

- When both sides have presented their evidence I require both parties remain silent so that I can make a decision.
- When I make a decision I ask that both parties not argue with me or with one another.

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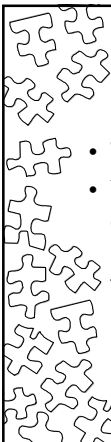
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**I may ask you to prepare an Order After Hearing.**

- This is an official court document.
- You may obtain assistance with this by going to the Family Law Assistance Center, the self-help center on the first floor, the law library or by obtaining proper legal assistance.

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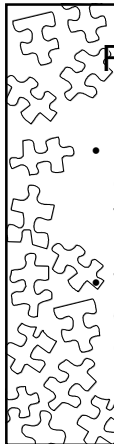
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**Finally, cases will be called in a certain order.**

- Sometimes the law requires them to be called in a certain order and other times there is a need to call a case first because of a priority.
- The Courtroom assistant to my left determines the order the cases are called based upon certain legal requirements.

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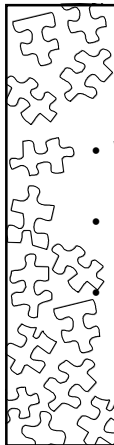
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**Contact information**

- William Palmer
  - [William.Palmer@kern.courts.ca.gov](mailto:William.Palmer@kern.courts.ca.gov)
- Roberta Stovitz
  - [rstovitz@nls-la.org](mailto:rstovitz@nls-la.org)
- Dale Wells
  - [Dale.Wells@riverside.courts.ca.gov](mailto:Dale.Wells@riverside.courts.ca.gov)

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