

A Guide to Legal Resources

Including an Overview of the Court System

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Senior Law Librarian
Appellate Division, 4th Dept. Law Library



RRLC Pizza Night
May 15, 2017



The Appellate Division (4th Dept.) Law Library

Website: <http://www.nycourts.gov/library/ad4/index.shtml>

Phone: 585-530-3250



- **Mission:**

- "...to provide legal information to the Appellate Division, to the Rochester metropolitan region and to the entire legal community of the Fifth, Seventh, and Eighth Judicial Districts. Our role is unique as the only appellate-level court library in New York State which serves both an active judiciary and practicing bar, and is also **open to the general public**. Through our services, the Library strives to be one of the best court libraries on the nation."

The Appellate Division Law Library

- **Location:**
 - **50 East Avenue** (Corner of Chestnut) Downtown Rochester, NY
- **Hours:**
 - 9-5, M-F
- **Staff of 11:**
 - 5 MLSs



- **Facilities:**
 - 8 Public-access PCs
 - Document and Microform scanners for public use



The Appellate Division Law Library

- Reference Services:
- Ask-A-Librarian (email):
ad4ref@nycourts.gov
- Phone: **585-530-3251**
- Catalog:
<http://ad4.nycourts.gov/polaris/>



- Circulation:
 - Borrowing limited to members of the bar in NYS (attorneys)
 - Most items circulate
 - Over 300,000 volumes
 - 98% directly law-related



Who We Serve

- What legal resources are most requested by library patrons?
- Well, that depends on the patron:
 - **Court staff:**
 - Judges, Court Attorneys, Law Clerks, Legal Assistants
 - **Private Legal Community:**
 - Local & Non-Local Attorneys, Paralegals, Law Firm Librarians
 - **Other Governmental Officials:**
 - Municipalities, Agencies, etc.

Who We Serve

- **Individuals representing themselves (Pro Se):**
 - **Pro Se patrons** represent a unique challenge for law librarians:
 - Primarily due to concerns regarding the “**Unauthorized Practice of Law**” (UPL).
 - Our disclaimer is summarized as follows:
 - **What We Can Do**
Answer factual, unambiguous questions.
Provide information about resources that may help answer your question.
- What We Cannot Do**
- Answer lengthy, complex, or vague questions.
Conduct legal research for you.
- Suggest** which form, statute, or case applies to your situation.
Give legal advice, which includes **interpreting** or **explaining** a statute, legal opinion, or administrative regulation.
- If you need legal advice, we recommend that you consult an attorney.**

Unauthorized Practice of Law

- What it boils down to:
 - We **can** help find ***what*** you ***might*** need...
 - ...But we **can't** suggest ***how*** to proceed, or help “interpret” the law. (That last part can get silly...)



It depends upon what the meaning of the word 'is' is. If 'is' means 'is and never has been' that's one thing - if it means 'there is none', that was a completely true statement,

— *William J. Clinton* —

In All Seriousness...

- Enabling “access to the law” is **the most important** thing that public law librarians do!
 - **Access to the law** is a concept that motivates me personally and professionally!
 - “Public legal information from all countries and international institutions is part of the common heritage of humanity. Maximizing access to this information promotes justice and the rule of law;
 - Public legal information is digital common property and should be accessible to all on a non-profit basis and free of charge;
 - Organizations such as legal information institutes have the right to publish public legal information and the government bodies that create or control that information **should provide access to it** so that it can be published by other parties.”*
- *Source: Legal Institutes of the World,
http://www.worldlii.org/worldlii/declaration/montreal_en.html

The American Legal System 101



- The US was founded on a system of **dual sovereignty**:
 - State and federal authority both valid, but federal law supersedes state law
 - Result is a legal system with two layers
 - Each “layer” (state & federal) contains similar elements

Three Branches of Government

- **Legislative:**
 - Federal: Senate + House = Congress
 - NYS: Senate + Assembly = Legislature
- **Executive:**
 - Federal: President and Agencies
 - Department of _____. (State, Homeland Security, Agriculture, Defense, Energy, Labor, etc.)
 - NYS: Governor and Agencies
 - Department(s) of Education, State, Financial Services, etc.
 - Office of General Services, Information Technology Services, Emergency Management, etc.

Three Branches of Government

- **Judicial:**
 - Completely separate court systems.
 - (Usually) Only link between the two is if the US Supreme Court deems a NYS decision unconstitutional.
 - They have similar, but not identical structures.



Overview of the Federal Court System

Final Appellate Court →



First Appellate Court →



Federal Trial Level Court →



Supreme Court

- Highest court in the federal system
- Nine Justices, meeting in Washington, D.C.
- Appeals jurisdiction through *certiorari* process
- Limited original jurisdiction over some cases

Courts of Appeal

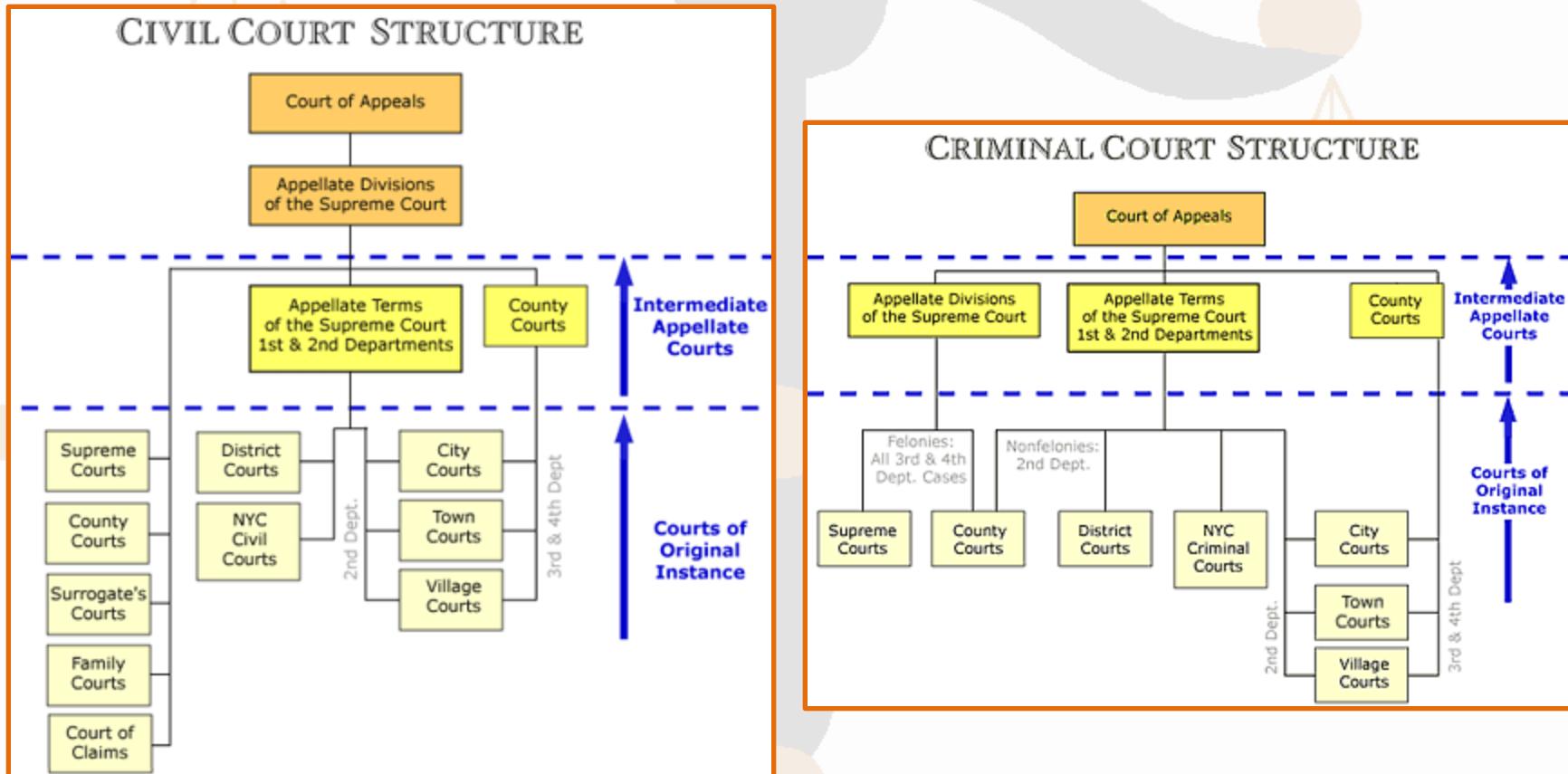
- Intermediate level in the federal system
- 12 regional "circuit" courts, including D.C. Circuit
- No original jurisdiction; strictly appellate

District Courts

- Lowest level in the federal system
- 94 judicial districts in 50 states & territories
- No appellate jurisdiction
- Original jurisdiction over most cases

Source: <http://www.catea.gatech.edu/grade/legal/structure.html>

New York State Court Structure



Source: <http://www.nycourts.gov/courts/structure.shtml>

NYS Court Structure

- Essentially, the NYS court system is comprised of 3 levels:

– Trial-Level Courts

- County, Family, Surrogate's, City, Town, Village

– First Appellate Level Courts

- 4 Appellate Divisions
- Geographic jurisdictions



Court of Appeals



Rochester City Court



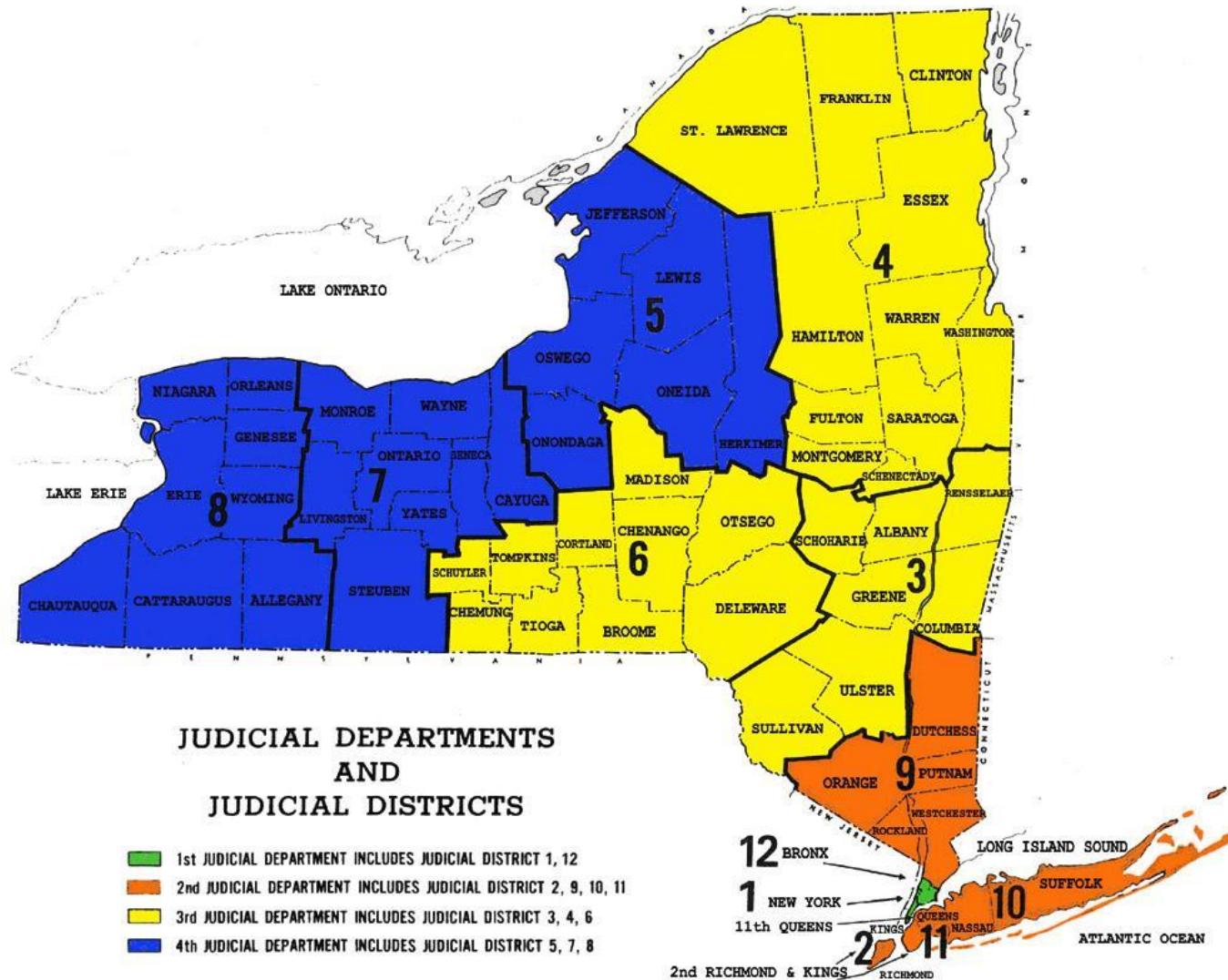
Appellate Division 4th Department

– Final Appeals Court

- Court of Appeals* (NY's highest court)

*NOT “Supreme Court”

New York State Courts Geography



Source: <http://www.nycourts.gov/courts/ad4/Court/Dept-Districts.html>

Common Questions

- As I mentioned earlier, at the Appellate Division Law Library, we essentially deal with four categories of patrons:
 - Court staff
 - Private legal community
 - Governmental officials
 - Pro se patrons
- We law librarians generally refer to:
 - Pro se patrons
 - Non-pro se patrons

Pro Se vs. Non-Pro Se Patrons

- Reference law librarians deal with each type of patron in different ways.



- Although we tailor our service differently, we are committed to providing the **same quality of service** regardless of whether we are dealing with a pro se patron or a non-pro se patron.

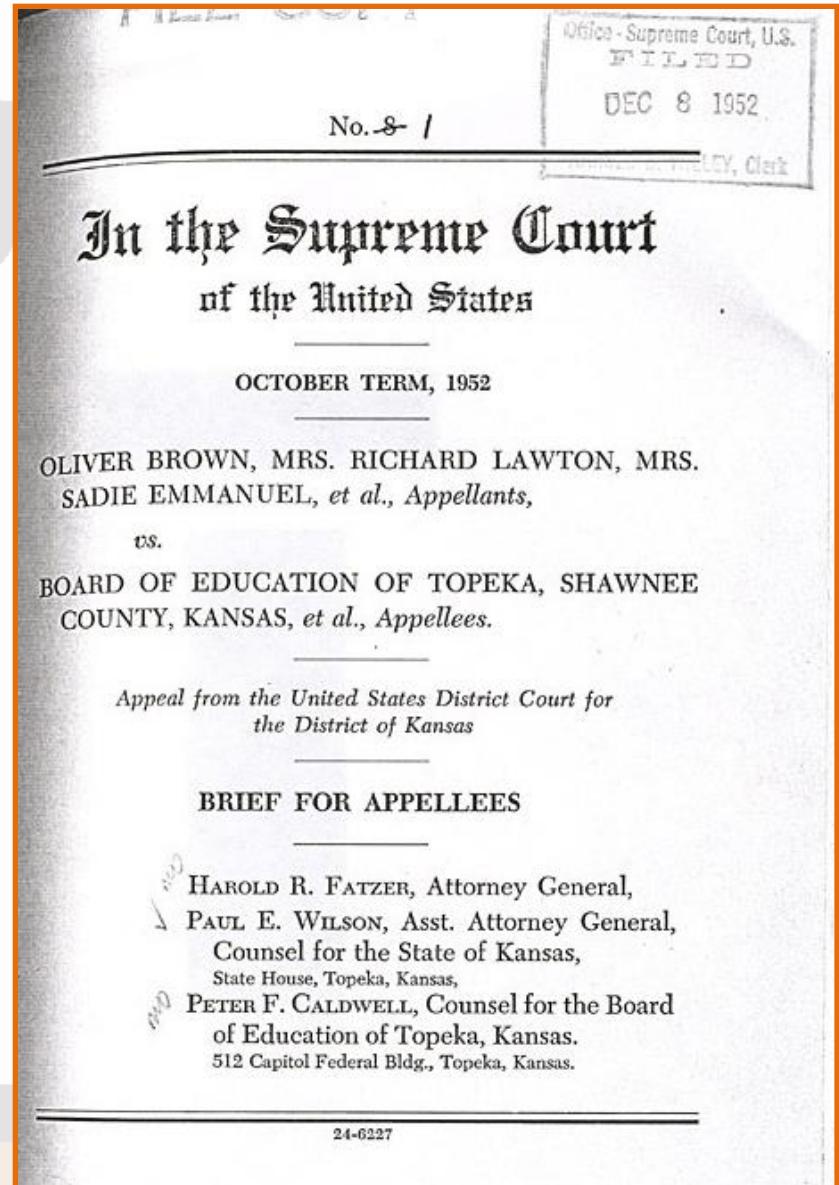
Assisting Non-Pro Se Patrons

- We help lawyers and their staff find information (usually) about a particular area of law:
- Examples:
 - Do you have a treatise* on _____?
 - *A treatise, sometimes called a “hornbook,” can be defined as “a scholarly legal publication containing all the law relating to a particular [subject] area.”
 - I’m looking for information regarding CPLR §3211.
 - I’m looking for an article, the citation is _____.
 - Law reviews, scholarly publications, etc.
 - Record on Appeal; aka Cases & Points, Records & Briefs

*<http://legal-dictionary.thefreedictionary.com/treatise>

Records & Briefs Definition:^{*}

- “**Briefs** are valuable to researchers because they state the legal arguments the parties relied upon in pursuing or defending their case. The briefs also explain the facts of a case from a particular point of view.
- “The **records** include pleadings, motions, trial transcripts and other documents from prior stages of the litigation.
- “Reviewing records and briefs can help researchers to understand **why the Court decided a case the way that it did** and to explore the arguments that prevailed or failed.”



* <http://www.lawschool.cornell.edu/library/whatwedo/researchguides/supreme-court-records.cfm>

Sources of Records & Briefs

- **U.S. Supreme Court:**
 - ADLL has 1989-present of microfiche
 - Lexis-Nexis (subscription required)
 - Westlaw (subscription required)
 - FindLaw: http://supreme.lp.findlaw.com/supreme_court/briefs/index.html
- **New York Appellate Courts:**
 - ADLL has:
 - Court of Appeals: c.1890—present*
 - Appellate Division, 1st, 2nd, 3rd Departments: 1896—present*
 - Appellate Division, 4th Department: 1850—present *

*Some gaps in coverage

Primary Law vs. Secondary Law

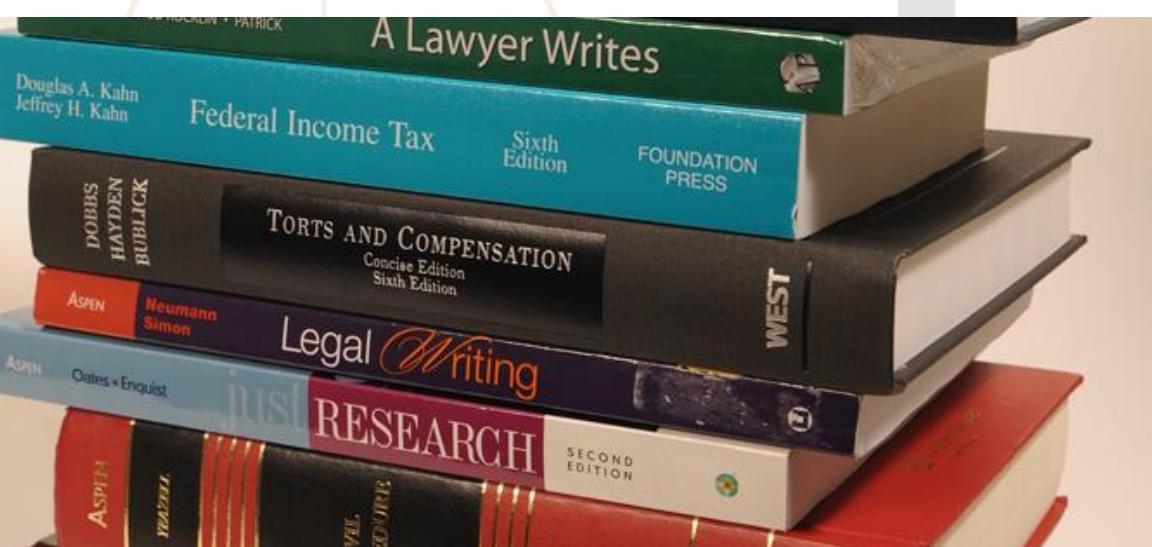
- **Primary Law:**

- “A statement of the law itself from a governmental entity, such as a court, legislature, executive agency, President or Governor.”
- **Examples:** Casebooks (Reporters); Statutes (Laws); Codes & Regulations; Administrative Decisions

- **Secondary Law:**

- “Materials that **discuss, explain, interpret, and analyze** what the law is or what it should be. Secondary sources also provide extensive **citations** to primary legal materials and other relevant secondary sources.”
- **Examples:** Treatises, Law Reviews, Encyclopedias, Legal Newspapers/Periodicals

Treatises

- Treatises, a form of **secondary law**, are often the most helpful sources for lawyers and non-lawyers alike.
 - Examples:
 - *Stein on New York Commercial Mortgage Transactions* (LexisNexis)
 - *Zoning and Land Use* (NYSBA, New York Lawyers' Practical Skills Series)
 - *Landlord's Legal Guide in New York* (Sphinx Legal)
 - Written for non-lawyers
- 
- Examples of Treatises

Primary Law Examples

- **Case Reporters (Decisions):**

- United States Reports (US)
- New York Reports (NY)
- Appellate Division Reports (AD)



- **Statutes/Codes/Laws:**

- *McKinney's Consolidated Laws of New York Annotated*
- *United States Code Service*

Case Law Citation

- **Case Reporters (Decisions):**
 - Citations to cases often take the following form:
 - People v Morel [164 AD2d 677]
 - **164 A.D.2d 677**
 - **164** refers to the volume number
 - **A.D.2d** or **AD2d** refers to the source:
 - In this example, AD2d refers to “Appellate Division Reports, Second Series” (Consult Google if unsure)
 - **677** refers to the page number
 - Another example: **548 US 521**
 - “**US**” stands for “**United States Reports**,” which contains decisions of the US Supreme Court

Case Law Citation

- When it comes to case citations, remember...
 - ...Google is your friend!!!
- Let's Google the two previous examples:
 - People v Morel [164 AD2d 677]
 - 548 US 521



Case Law Citation

- New York Official Reports website:
 - <http://www.nycourts.gov/reporter/Decisions.shtml>
 - Two competing areas of the site:
 - Slip Opinion Service
 - Official Reports Service
 - Both ostensibly allow for searching, but neither are particularly user-friendly
 - Advantage is these are “official,” in that they are published and maintained by the state
- Even after you’ve tried all these tools, your patron may still be asking...

Where's My Case?

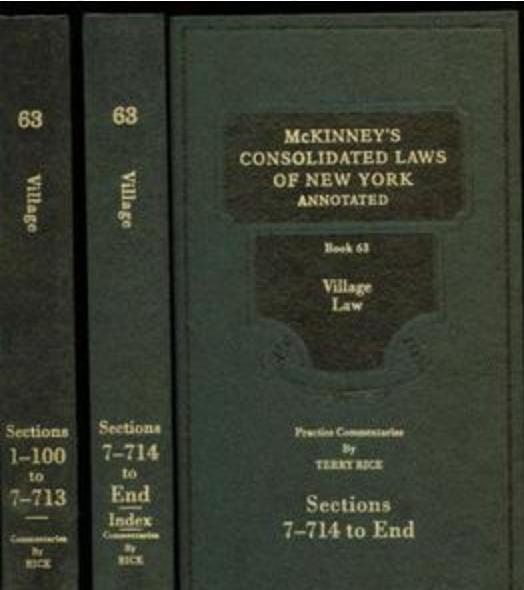
- This may be a surprise to you, but the vast majority of cases **are not published anywhere**.
- By law, the only cases that must be published are those that reach the appellate level.
- This is a product of history:
 - Court “reporters”
 - Most rulings were oral
 - Reporters attended and took notes
 - Published and sold to lawyers
 - Though modified through legislation, this system is still in place



Where's My Case?

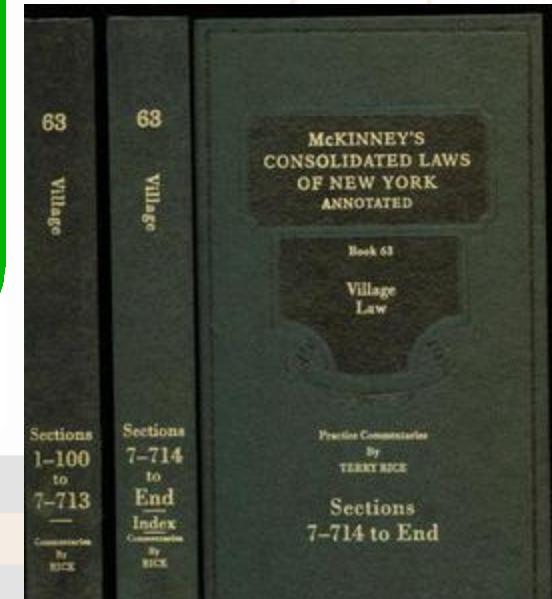
- For “unpublished” cases, one will usually have to contact the court or the county clerk where the case took place.
- Monroe County:
 - Information page:
<http://www2.monroecounty.gov/clerk-records.php>
 - Monroe County Clerk Online Office (database)
<http://www2.monroecounty.gov/clerk-records.php>
 - Registration required
 - Technically...challenging
 - Requires the perfect matrix of browser/java/plug-in/add-on to work right.

Statute Citations

- When assisting pro se patrons, he/she will often have documents indicating they have been charged with a particular offense.
 - For example, **PEN §120.45**
 - It may also be listed as “**section 120.45 of the Penal Law**”
 - Since we have a set of ***McKinney's Consolidated Laws of New York Annotated***, my next step is locate the statute within the text:
 - This is actually very easy to do...
 - ...even easier than using a computer.
- 

Statute Citations

- However, since a **single set** of “McKinney’s” costs **\$11,428**, chances are your library does not own a copy.
 - Again, when it comes to statute citations,
 - Google is your friend!



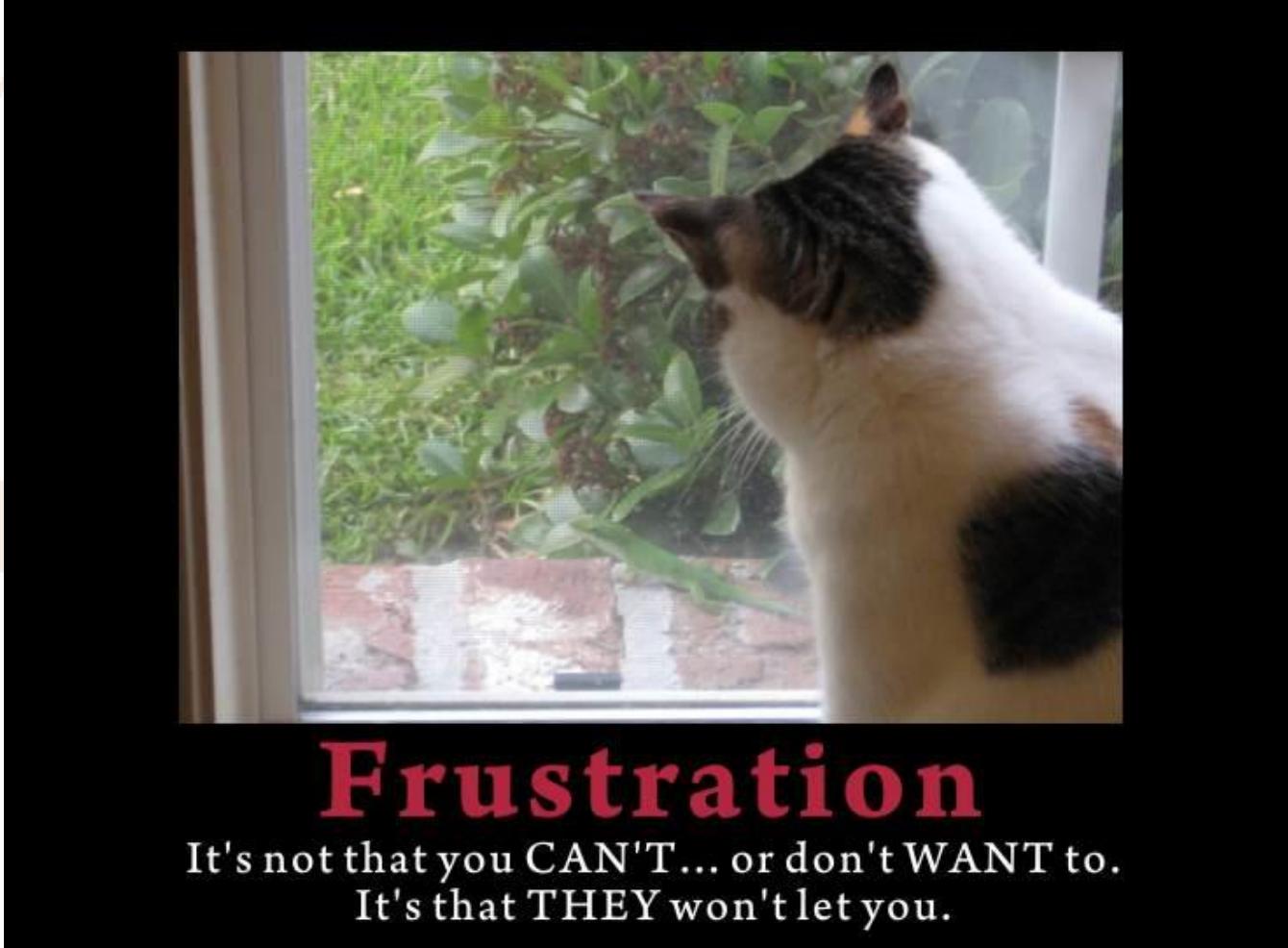
Statute Citations

- Let's conduct a Google search for:
 - **NYS PEN 120.45** (or)
 - **NY Penal Law section 120.45**
 - **What results did you get?**
 - http://law.onecle.com/new-york/penal/PEN0120.45_120.45.html
 - <http://ypdcrime.com/penal.law/article120.htm>
 - <http://codes.findlaw.com/ny/penal-law/pen-sect-120-45.html>
 - All three sites above *generally* have up-to-date, accurate information.
 - I trust **FindLaw** more than the other two.
 - None of the above are the “official” site...

Statutes Online – NYS's public.legalinfo.state.ny.us Website

- To get to the “official” site, Google **New York Laws or Laws of New York:**
 - Top result should be
<http://public.legalinfo.state.ny.us/lawssrch.cgi?NVLWO>:
- Closest thing to an “official” free, online source for New York State statutes.
- Let’s attempt a “Search [for a] Word or Phrase”
 - Using the search box near the top of the page
 - Search for anything you like...
 - Chances are, you’ll end up with...

Statutes Online – NYS's [“public.legalinfo.state.ny.us”](http://public.legalinfo.state.ny.us) Website



Frustration

It's not that you CAN'T... or don't WANT to.
It's that THEY won't let you.

Obligatory cat photo

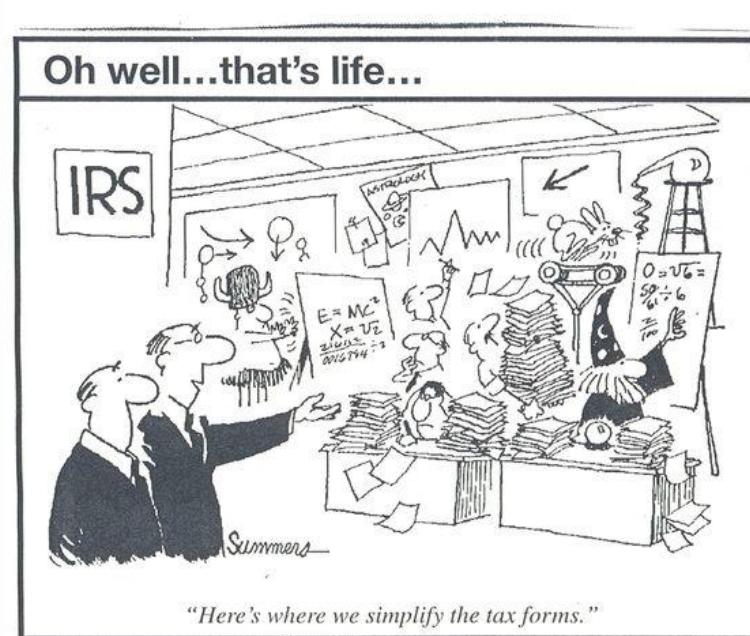
Luckily, You Have Options!

- Other sources for NYS statutes online:
 - <http://law.onecle.com/new-york/>
 - No search capability, no better than state site
 - <http://codes.lp.findlaw.com/nycode>
 - Search capability
 - Enter **PEN 120.45**...you actually get the correct result!
 - Actually works better than the NYS site (shocking, I know)

FindLaw.[®]

Other Common Questions: Forms

- One of the most common questions we get from pro se patrons, and...
- ...one of the most frustrating to answer.
- Remember, we are **barred by law** from recommending a specific form or assisting in filling out the form. (UPL)
- However, the frustration stems more from the inadequacy of any single source to satisfy patron requests for legal forms, and...



Other Common Questions: Forms

- ...the fact that “forms” is a misnomer.
- Legal “forms” should probably be called “templates”
- True “fill-in-the-blank” style forms are relatively rare.
- Even the best forms available are actually templates.

Forms

DEMAND LETTER (Sample letter for a commercial claim arising out of a consumer transaction)

Date: (Date of Letter)

To: (Name of Defendant)
(Mailing Address of Defendant)

Dear. (Name of Defendant)

You have not paid a debt owed to (Name and Address of Plaintiff) which you incurred on (date debt was incurred). Our records show that you have made the following payment(s) in partial satisfaction of this debt (date(s) and amount(s) paid). The amount remaining unpaid on the debt is \$ (amount due). Demand is hereby made that this money be paid. Unless payment of this amount is received by the undersigned no later than (date payment expected), a lawsuit will be brought against you in the commercial claims part of the court.

If a lawsuit is commenced, you will be notified of the hearing date and you will be entitled to appear at the hearing and present any defense you may have to this claim.

Sincerely,

(Claimant's Name)
(Claimant's Address)
(Claimant's Telephone Number)

Usually get this...

Form 1040 U.S. Individual Income Tax Return 2007		IRS Use Only—Do not write or staple in this space.																															
Department of the Treasury—Internal Revenue Service																																	
For the year Jan. 1-Dec. 31, 2007, or other tax year beginning _____, ending _____, '07		OMB No. 1545-0674																															
Your first name and initial _____ Last name _____		Your social security number _____																															
If a joint return, spouse's first name and initial _____ Last name _____		Spouse's social security number _____																															
Home address (number and street). If you have a P.O. box, see page 12. Apt. no. _____																																	
City, town or post office, state, and ZIP code. If you have a foreign address, see page 12. _____																																	
Presidential Election Campaign ► Check here if you, or your spouse if filing jointly, want \$3 to go to this fund (see page 12) ► <input type="checkbox"/> You <input type="checkbox"/> Spouse																																	
Filing Status Check only one box.																																	
<input type="checkbox"/> Single <input type="checkbox"/> Married filing jointly (even if only one had income) <input type="checkbox"/> Married filing separately. Enter spouse's SSN above and full name here. ► <input type="checkbox"/>																																	
<input type="checkbox"/> Head of household (with qualifying person). (See page 13.) If the qualifying person is a child not your dependent, enter this child's name here. ► <input type="checkbox"/> <input type="checkbox"/> Qualifying widow(er) with dependent child (see page 14) <input type="checkbox"/>																																	
Exemptions a <input type="checkbox"/> Yourself. If someone can claim you as a dependent, do not check box 6a. <input type="checkbox"/> 6a Boxes checked on 6a and 6b b <input type="checkbox"/> Spouse <input type="checkbox"/> 6b c Dependents: <table border="1"> <tr> <td>(1) First name</td> <td>Last name</td> <td>(2) Dependent's social security number</td> <td>(3) Dependent's relationship to you</td> <td>(4) ✓ If qualifying child for child tax credit (see page 15)</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>				(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) ✓ If qualifying child for child tax credit (see page 15)																									
(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) ✓ If qualifying child for child tax credit (see page 15)																													
d Total number of exemptions claimed <input type="checkbox"/> 7 <input type="checkbox"/> 8a <input type="checkbox"/> 9a <input type="checkbox"/> 10 <input type="checkbox"/> 11 <input type="checkbox"/> 12 <input type="checkbox"/> 13 <input type="checkbox"/> 14 <input type="checkbox"/> 15a <input type="checkbox"/> 15b <input type="checkbox"/> 16a <input type="checkbox"/> 16b <input type="checkbox"/> 17 <input type="checkbox"/> 18 <input type="checkbox"/> 19 <input type="checkbox"/> 20a <input type="checkbox"/> 20b <input type="checkbox"/> 21 <input type="checkbox"/> 22 <input type="checkbox"/> 23 																																	
Income Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld. If more than four dependents, see page 15.																																	
7 Wages, salaries, tips, etc. Attach Form(s) W-2 8a Taxable interest. Attach Schedule B if required 8b 9a Ordinary dividends. Attach Schedule B if required 9b 10 Taxable refunds, credits, or offsets of state and local income taxes (see page 20) 11 Alimony received 12 Business income or (loss). Attach Schedule C or C-EZ 13 Capital gain or (loss). Attach Schedule D if required. If not required, check here ► <input type="checkbox"/> 14 Other gains or (losses). Attach Form 4797 15a IRA distributions <input type="checkbox"/> 15a b Taxable amount (see page 21) 16a Pensions and annuities <input type="checkbox"/> 16a b Taxable amount (see page 22) 17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E 18 Farm income or (loss). Attach Schedule F 19 Unemployment compensation 20a Social security benefits <input type="checkbox"/> 20a b Taxable amount (see page 24) 21 Other income. List type and amount (see page 24) 22 Add the amounts in the far right column for lines 7 through 21. This is your total income ► <input type="checkbox"/> 23 Educator expenses (see page 26) <input type="checkbox"/>																																	
Adjusted																																	

...not this

Forms: Online Sources

- Nycourts.gov forms sources:
 - <http://www.nycourts.gov/forms/>
 - 7th JD <https://www.nycourts.gov/forms/7jd/index.shtml>
 - <http://nycourts.gov/courthelp//>
 - General page containing links for pro se litigants
 - <http://www.nycourts.gov/courthelp/diy/>
 - “DIY Forms” – very limited offering of “programs” that walk the user through the creation of specific forms.
 - NYSBA “Downloadable Forms”
 - <http://www.nysba.org/CustomTemplates/SecondaryStandard.aspx?id=1045>

Forms: Online Sources

- <http://www.lawhelpny.org/>
 - Good general website for pro se litigants

LawHelp.org powered by probono.net English Spanish / Español Text size: a A A

 LawHelpNY.org

Legal information for New Yorkers who cannot afford an attorney
About Us | Site Help | Glossaries | Brochures & Handouts | Feedback

Get info about your legal problem ▾ Find legal aid in NYS ▾ Search GO



Looking for legal help?
Learn about your legal rights and find free or low-cost legal aid
Need help searching?
Click [here](#) for assistance!

LiveHelp OFFLINE ZZZ
please visit us again
To learn more about LiveHelp, click here

More Languages
Spanish / Español
Chinese / 中文
Russian / Русский
Korean / 한국어
[All Languages ▶](#)


Disaster Recovery and Relief
General information about disaster relief
Disaster relief for small businesses and not-for-profit organizations
FEMA disaster assistance
[More issues ▶](#)


Family and Juvenile
Domestic Violence and Orders of Protection
Divorce and Spousal Support
Custody and Visitation
[More issues ▶](#)


Housing
Eviction
Repairs and Bad Conditions
Foreclosure
[More issues ▶](#)


Public Benefits
Welfare / Public Assistance
Food Stamps / Food Programs (WIC, etc.)
Fair Hearings
[More issues ▶](#)


Immigration / Immigrants
Permanent Residency (Green Card)
Becoming a U.S. Citizen
Deportation & Removal
[More issues ▶](#)


Consumer
Bankruptcy
Credit and Credit Repair
Debt, Garnishment & Repossession
[More issues ▶](#)

Welcome to LawHelpNY.org!
For Español go to AyudaLegalNY.org.
For other languages click on All Languages above.

[Take our survey](#)

More Issues: Health, Education, Veterans and Military, Disability, Workers Rights, Consequences of Criminal Charges, Discrimination and Civil Rights, Seniors, Taxes, Community Development, Internet Fraud, Crimes & Prevention

10 Legal Education Guides

Other Online Resources



- In my opinion, one of the **best sites out there** for legal information intended for non-attorneys.
- Organized by legal subject area.
- Only site of its kind that allows users to intuitively get legal information.

Other Online Resources

- Monroe County Bar Association
<https://www.mcba.org/>
 - Lawyer Referral Service:
 - <https://www.mcba.org/for-the-public/find-a-lawyer.aspx>
 - \$40 fee
 - I've received a wide range of feedback about this service

Last but not least...



- Unless I know of a specific resource elsewhere, I begin almost all forms-based questions with a Google search.
- I have found dozens of forms through the years by conducting specific searches in Google.



- The trick is knowing the specific terminology to enter for search terms, for example:
- Enter: **commercial lease agreement form new york**
 - One of the first results is:
 - <http://www.ilrg.com/forms/lease-comm/us/ny>
 - Although this is a “pay to download” form, the user could easily copy & paste and/or re-create the form using simple word processing software.

I've Tried Everything...Now What?

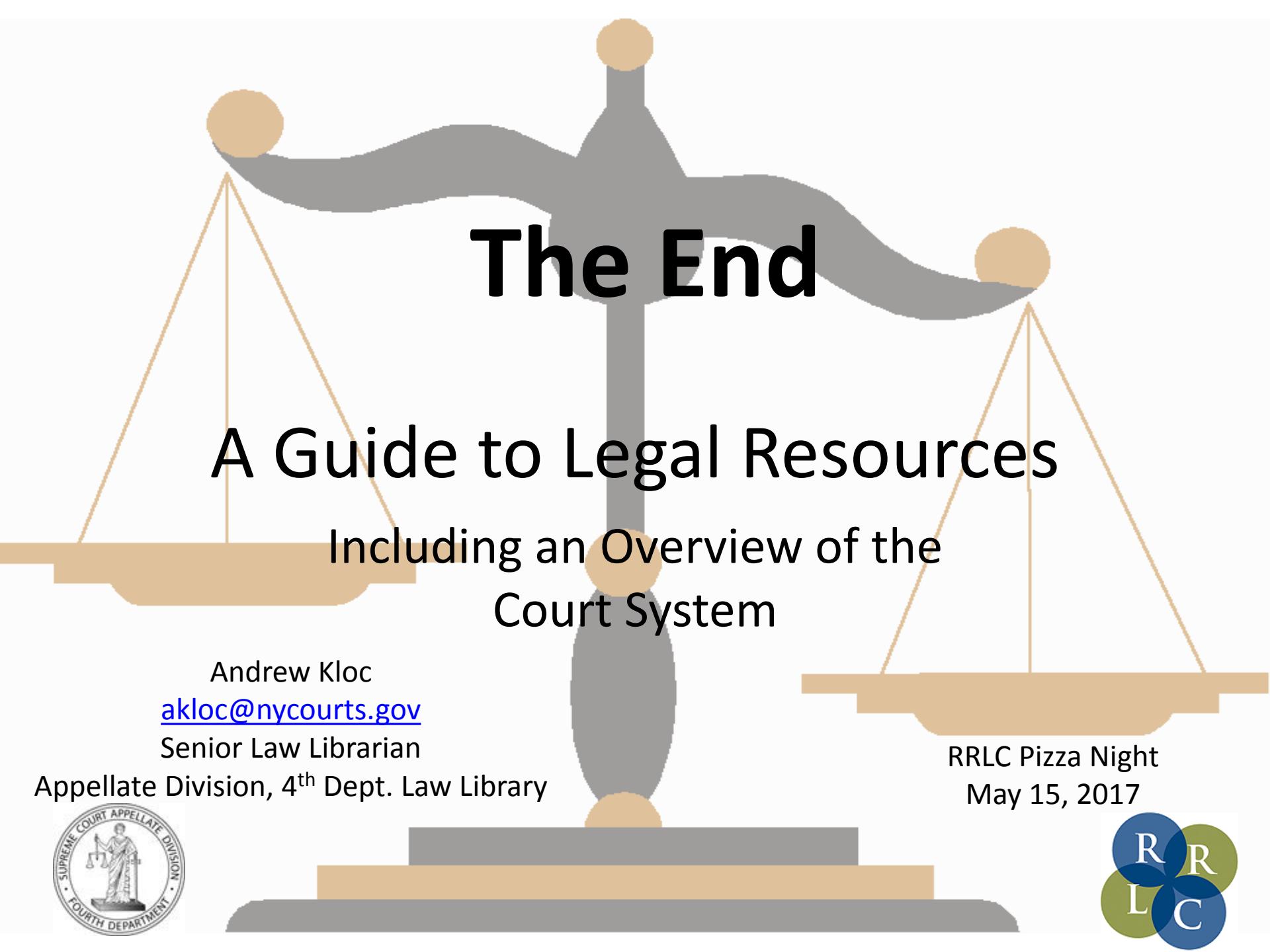
- **Call Us!**
 - AD4 Law Library Reference Desk **585-530-3251**
- **Email Us!**
 - [http://www.nycourts.gov/library/ad4/library services/references.shtml](http://www.nycourts.gov/library/ad4/library_services/references.shtml) or direct to ad4ref@nycourts.gov
 - Direct to form at:
http://iapps.courts.state.ny.us/ad4lib/ask_librarian.jsp
- **Stop in!**
 - 50 East Avenue (Corner of Chestnut St.) 9-5, M-F
- Refer your patrons to any of the above...
- ...**We're happy to help!**

I've Tried Everything...Now What?

- Sources of free/low-cost legal services in the area:
 - <http://nycourts.gov/library/ad4/datas/free.pdf>
 - Brochure produced by AD4 Law Library
 - Volunteer Legal Services Project / 7th JD Help Center:
 - Website: <https://www.vlsprochester.org/the-help-center>
 - VLSP website: <https://www.vlsprochester.org/home>

Other Useful Links

- New York Regulations (NYCRR) Online:
 - <https://www.dos.ny.gov/info/nycrr.html>
- Cornell LII: <https://www.law.cornell.edu/>
 - *Excellent* free source of state and federal laws



The End

A Guide to Legal Resources

Including an Overview of the Court System

Andrew Kloc

akloc@nycourts.gov

Senior Law Librarian

Appellate Division, 4th Dept. Law Library



RRLC Pizza Night
May 15, 2017

