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Learning Legalese

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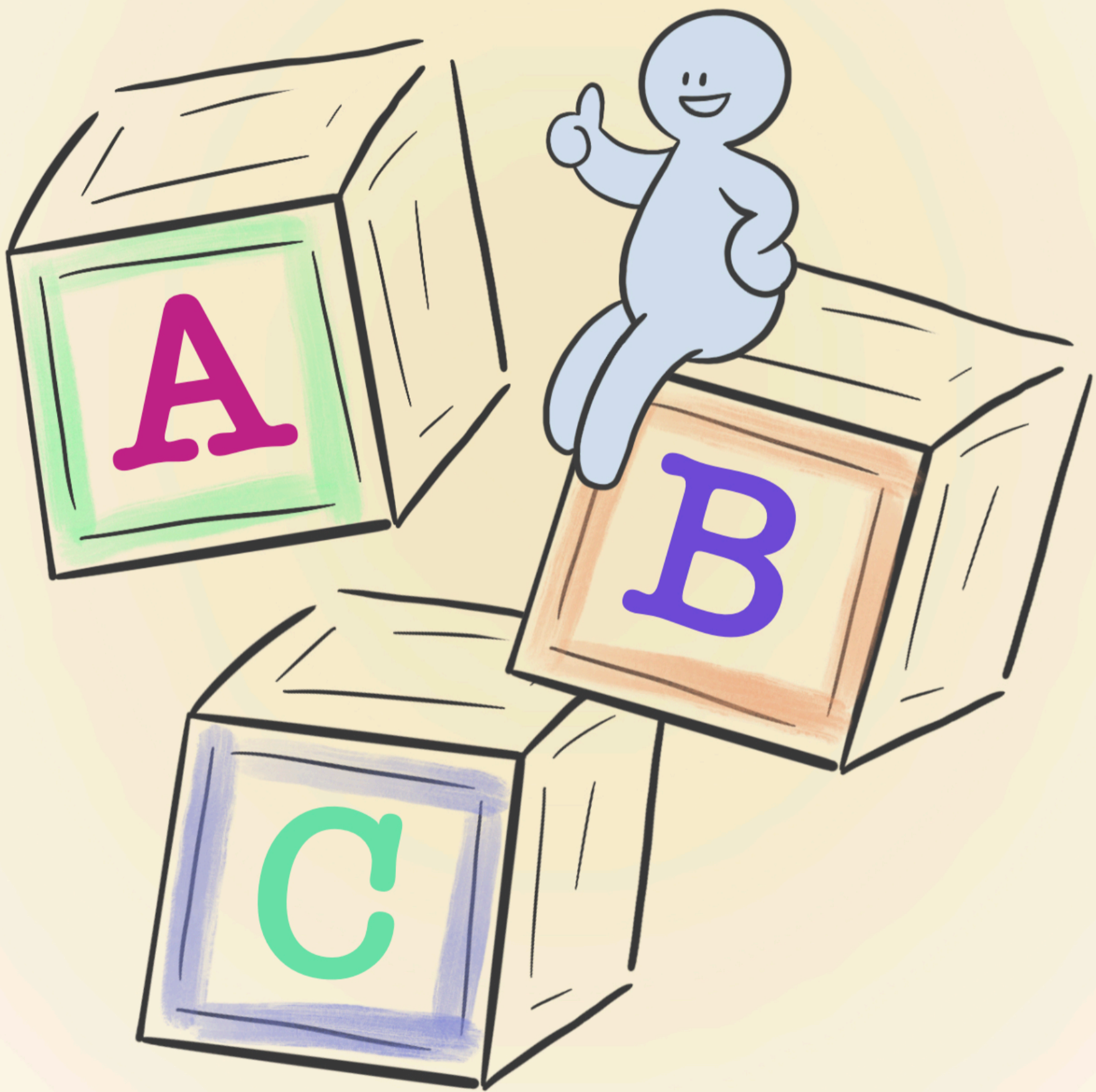
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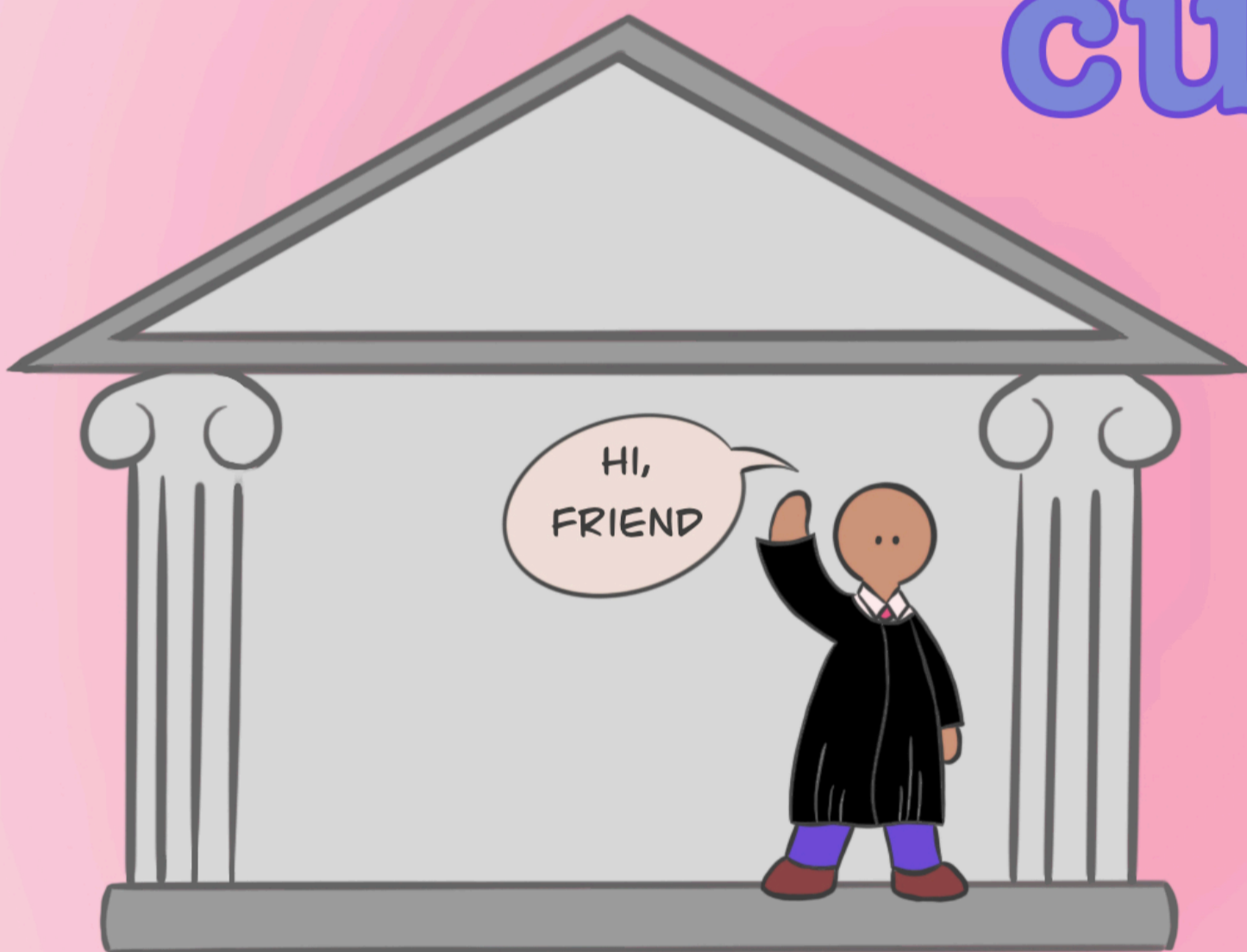
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Learning Legalese



*Written by Mimi Mays
Characters by the Graphic Advocacy Project &
Harvard A2J Lab*

A is for amicus curiae



“A-mih-kuhs KYOOR-ee-ay”
friend of the court

An **amicus curiae** (plural: **amici**)
isn't participating in the lawsuit,
but they're still interested in the outcome!

Amici will often ask the court if they can submit
a written argument, known as an **amicus brief**.

B is for Bona fide



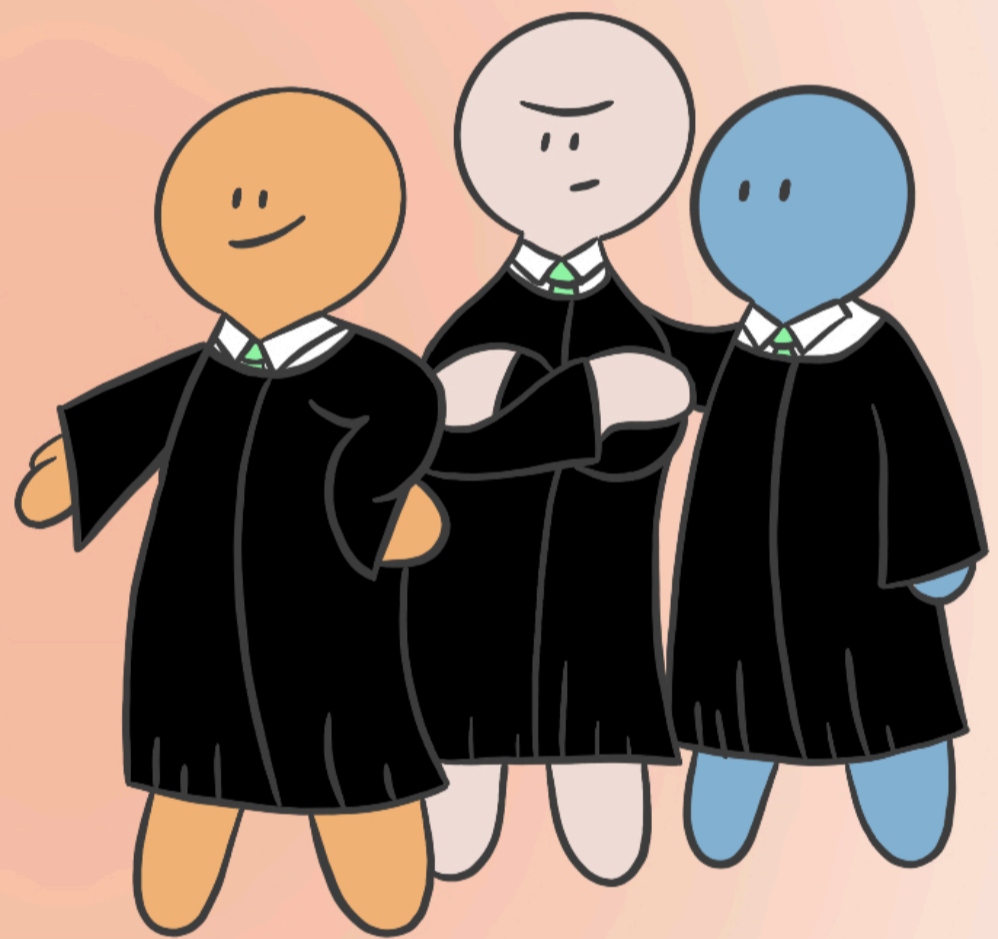
“bow-nuh f-eye-d”
good faith

A **bona fide** person has sincere and honest intentions. If they made any error, it wasn't on purpose!

If someone enters into a contract (like when buying a house, becoming an employee, or closing a business deal, for example) without a bona fide state of mind, some or all of the contract may not be enforceable.

C is for certiorari

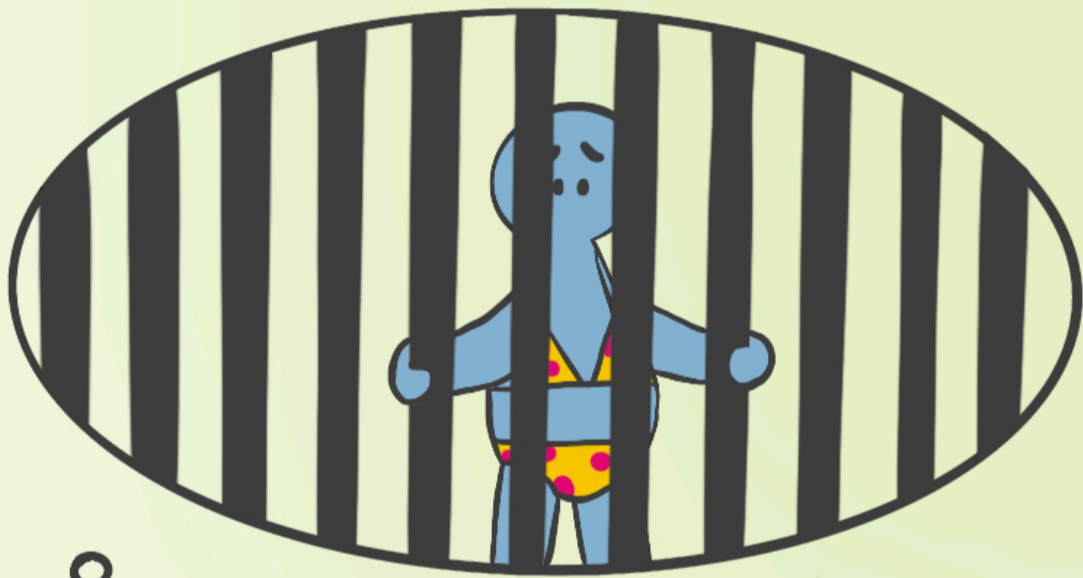
“sersh-oh-RAH-ree”
to be made more certain



When a higher court grants **certiorari**, it is agreeing to review the appellant’s case. The U.S. Supreme Court, which most commonly uses **certiorari**, will only grant it when at least three justices want to. If a court denies **certiorari**, it is saying that the lower court’s decision should stand.

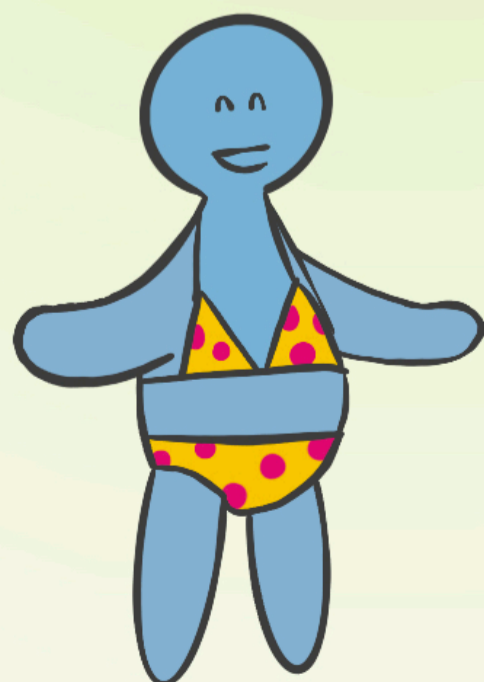
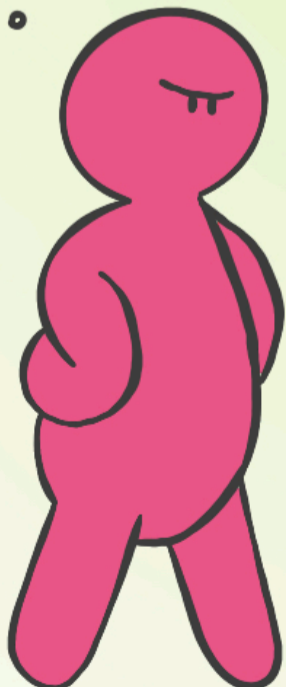
D is for De jure and de facto

De jure (“deh joo-ray,” *by law*)
is the opposite of **de facto**
 (“deh fak-toe,” *in fact*).



Something *by law*
unlawful...

(like singing in a bathing suit in Florida!)



...hopefully
goes unpunished
in fact.

E is for
stop

“eh-stahp”

to stop



YES, YOU

To **estop** means
to prevent
someone from
doing something.

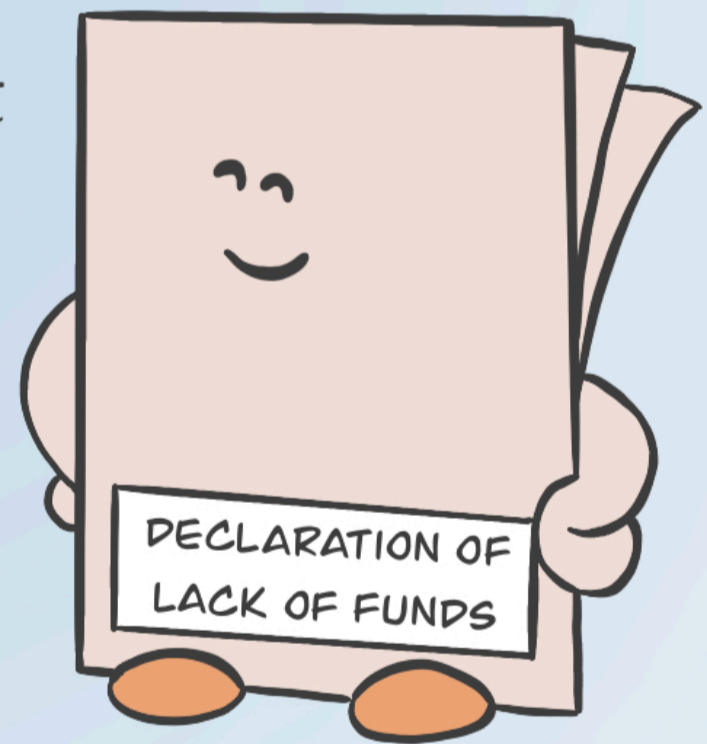
Courts can keep
parties from
asserting claims,
rights, or arguments
through **estoppel**.

F is for **in Forma pauperis**



“in FOR-muh PAW-puh-riss”
in the manner of a pauper

If a plaintiff needs to file a lawsuit but cannot afford to, they can ask the court to waive some or all required fees.



Bringing a suit **in forma pauperis** is available for an initial case in federal court *and* for cases being appealed.

G is for

Guardian

is for

ad litem

“GAR-dee-uhn
ad LAHY-tuhm”

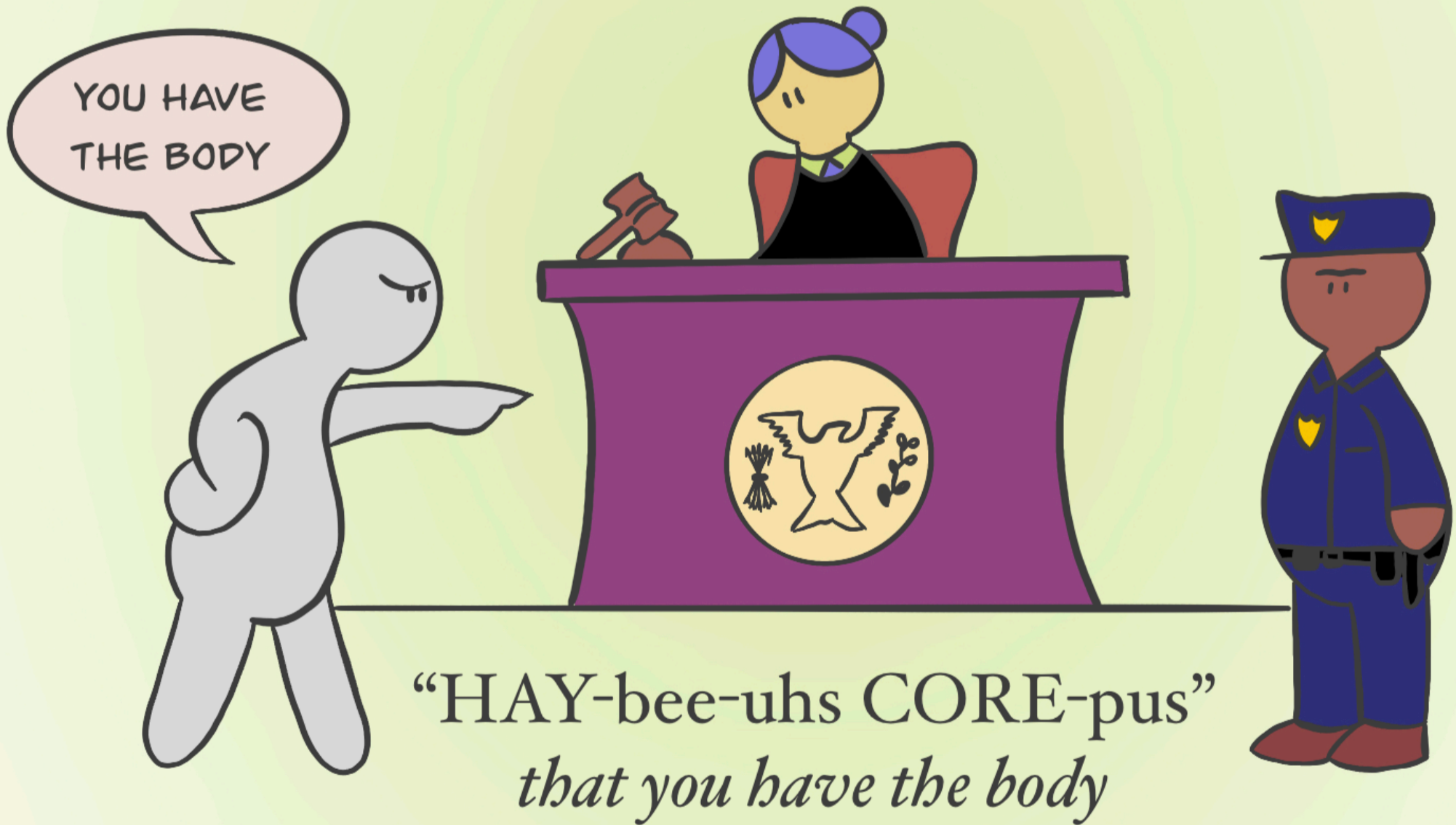
for the suit

When a participant in a lawsuit is not legally capable of representing themselves (a child or a disabled adult, for example), the judge can appoint a **guardian** to them for the length of the case.

Guardians will tell the judge what they think is best for their “ward” (the person whom they were appointed to assist).



H is for habeus corpus



Everyone has the right to be free unless lawfully imprisoned!

When a person thinks they're being detained unlawfully, they may file a **habeus** petition, asking a judge to determine whether their confinement is legal.

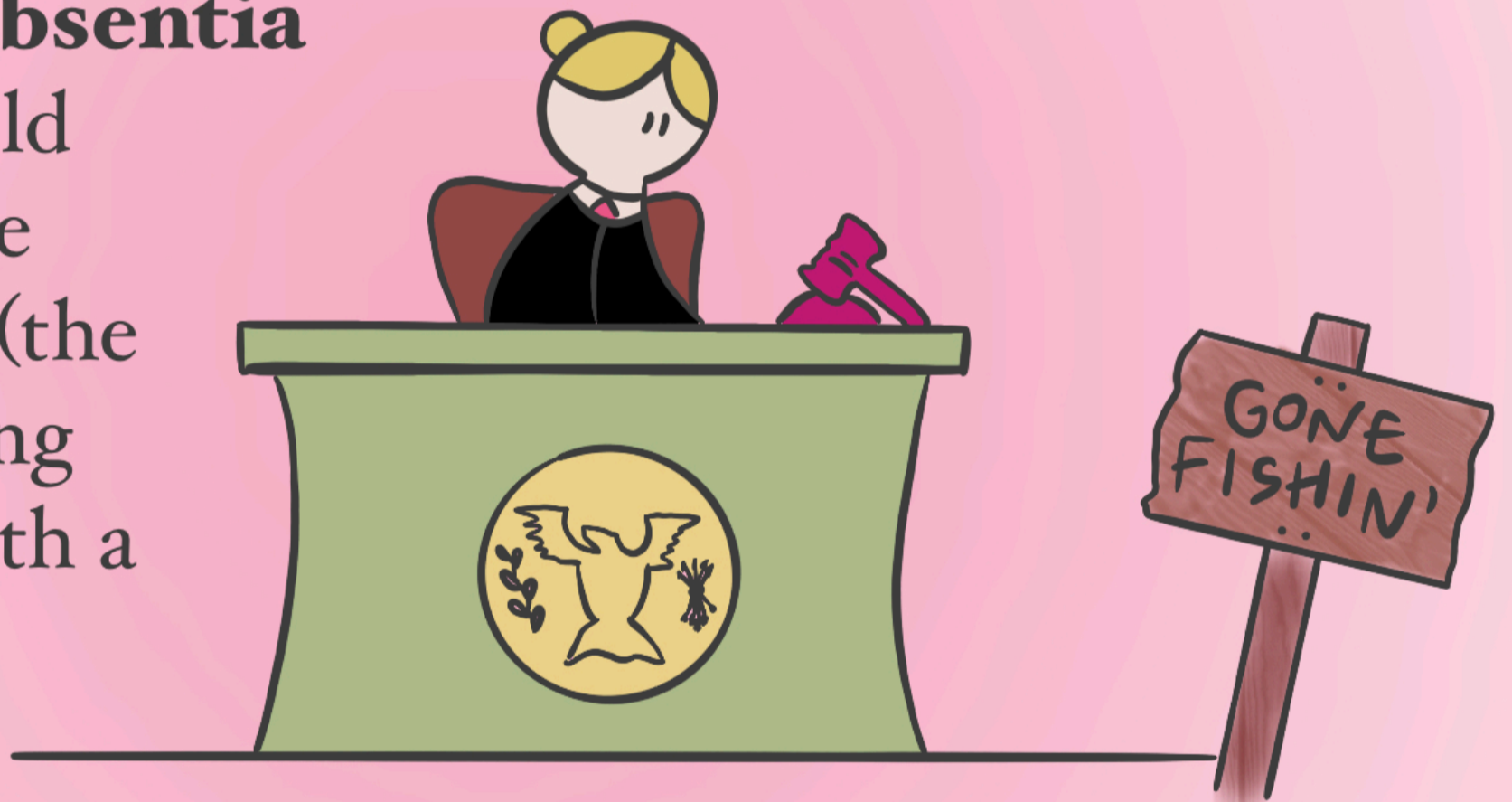
I is for

n

“in ab-SEHN-sha”
in absence

absentia

A trial **in absentia** is a trial held without the defendant (the person being charged with a crime).



A defendant can be tried (and convicted!) remotely, but they must be present at the beginning of the trial and choose to give up their right to be present.

J is for Juris doctor



A **J.D.** from an accredited law school is required in almost all U.S. states for someone to be able to practice law—in addition to passing the professional licensing exam (“bar exam”).

“JER-riss DAWK-ter”
teacher of law

A **J.D.** is a 3-year graduate-level law degree. Though officially a doctorate degree, it isn’t common for graduates from **J.D.** programs to use the title “doctor.”



K

is for

contract



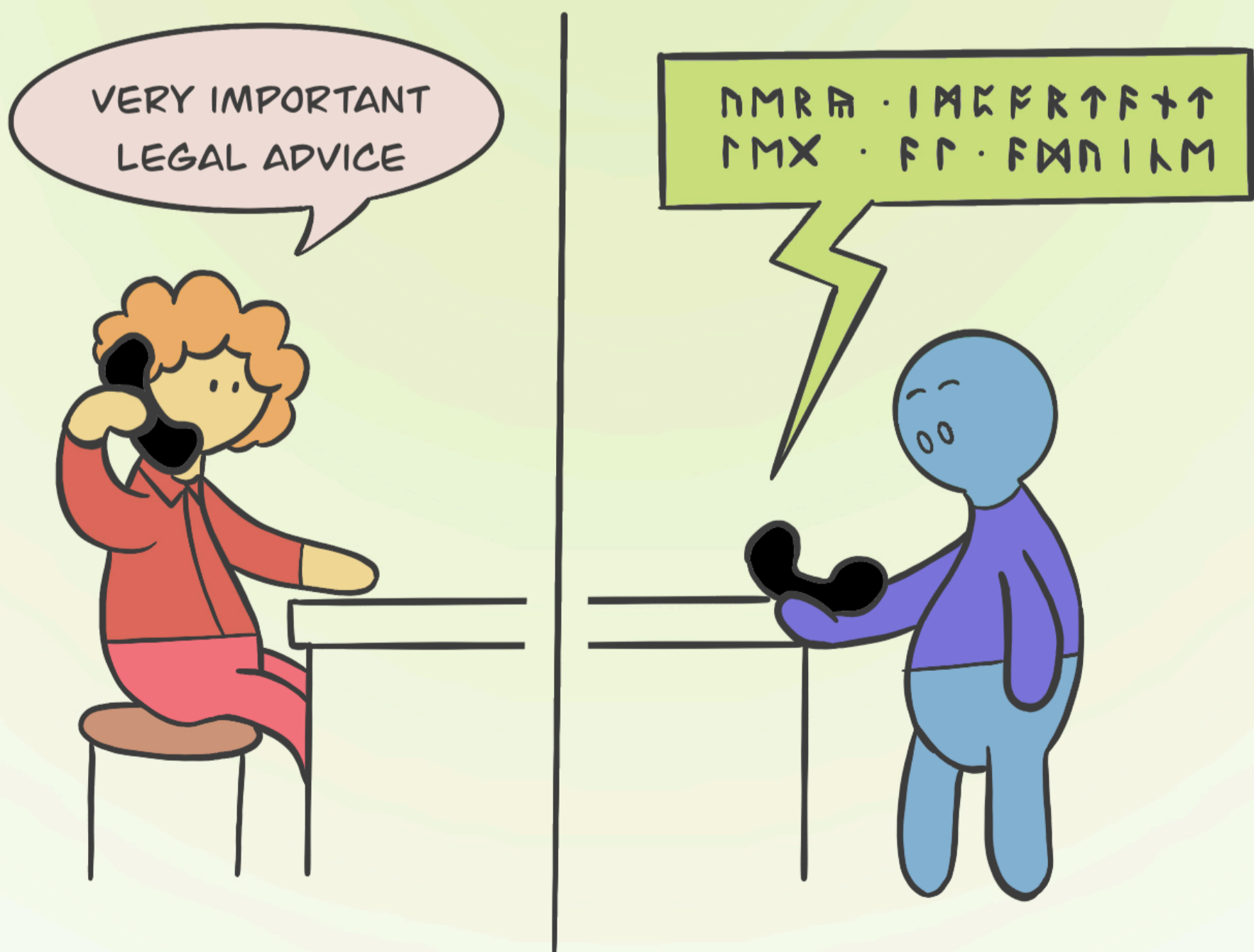
In law schools and in legal practice, for over a century, students and practitioners use K as shorthand for contract.

There are many theories about why K is used for a word that begins with C, but no one knows for sure!

L is for legalese

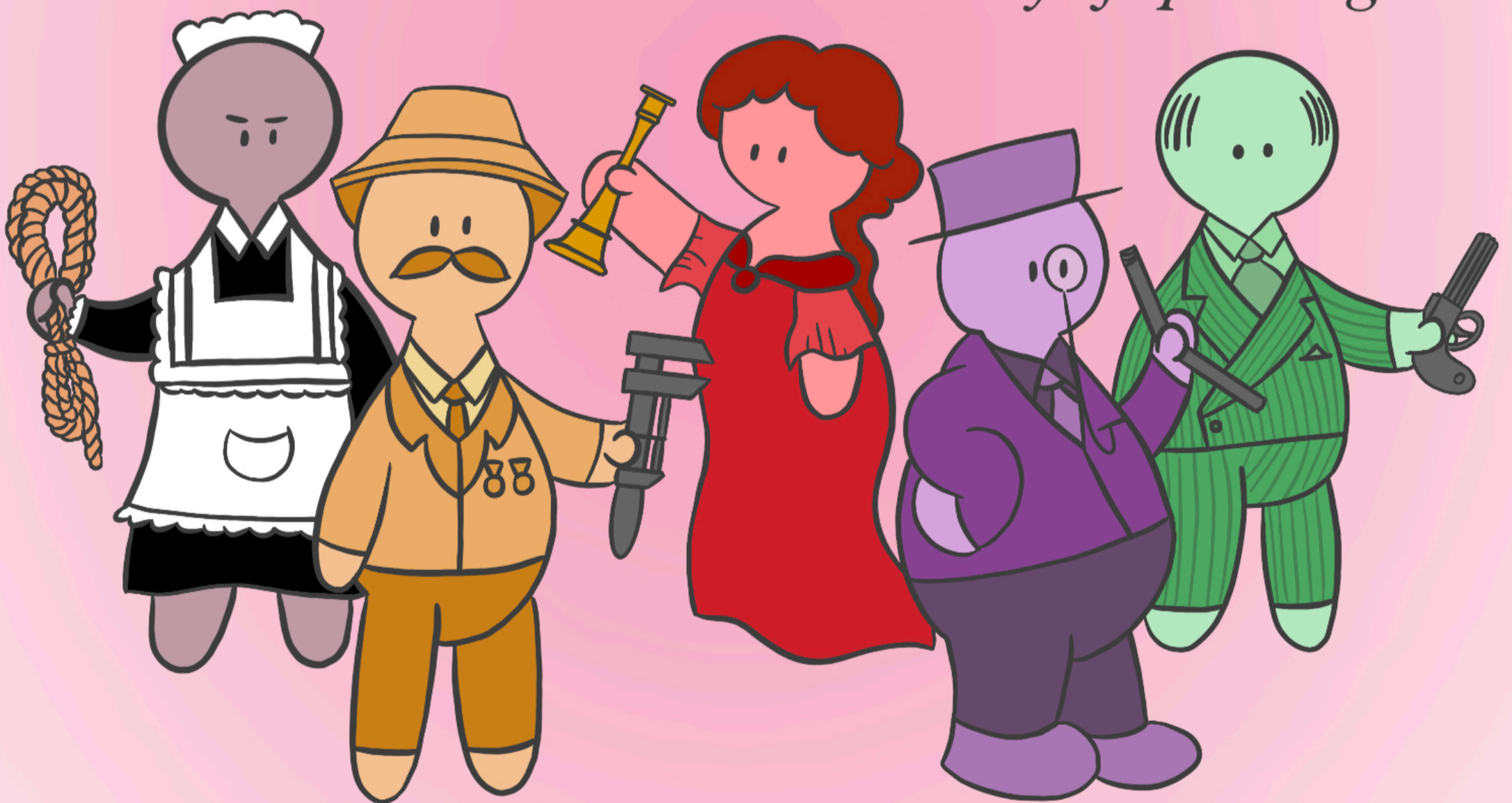
Legalese is the wording and phrasing used by those in the legal field, including things like the long, unnecessarily complicated sentences that are common in legal writing.

Most elements of legalese don't have a practical purpose: legalese is mainly used to elevate the appearance of the profession and make practitioners seem impressive. Unfortunately, it alienates non-law-trained people and makes the legal field less accessible to those who need it.



M is for modus operandi

“MOW-duss ah-purr-AND-eye”
way of operating



A **modus operandi** (M.O. for short) is a habit or common practice. In criminal investigations, it is a distinctive method or pattern of committing crime that can help identify the perpetrator.

N is for
Nolo

contendere



“no-lo
kon-ten-DARE-ay”
I will not contest

When charged with a crime, a defendant can plead guilty, not guilty, or, in some courts, **nolo contendere**. This **no-contest** plea allows a defendant to avoid trial, accept the court’s punishment, and never legally admit guilt.

O is for biter dictum

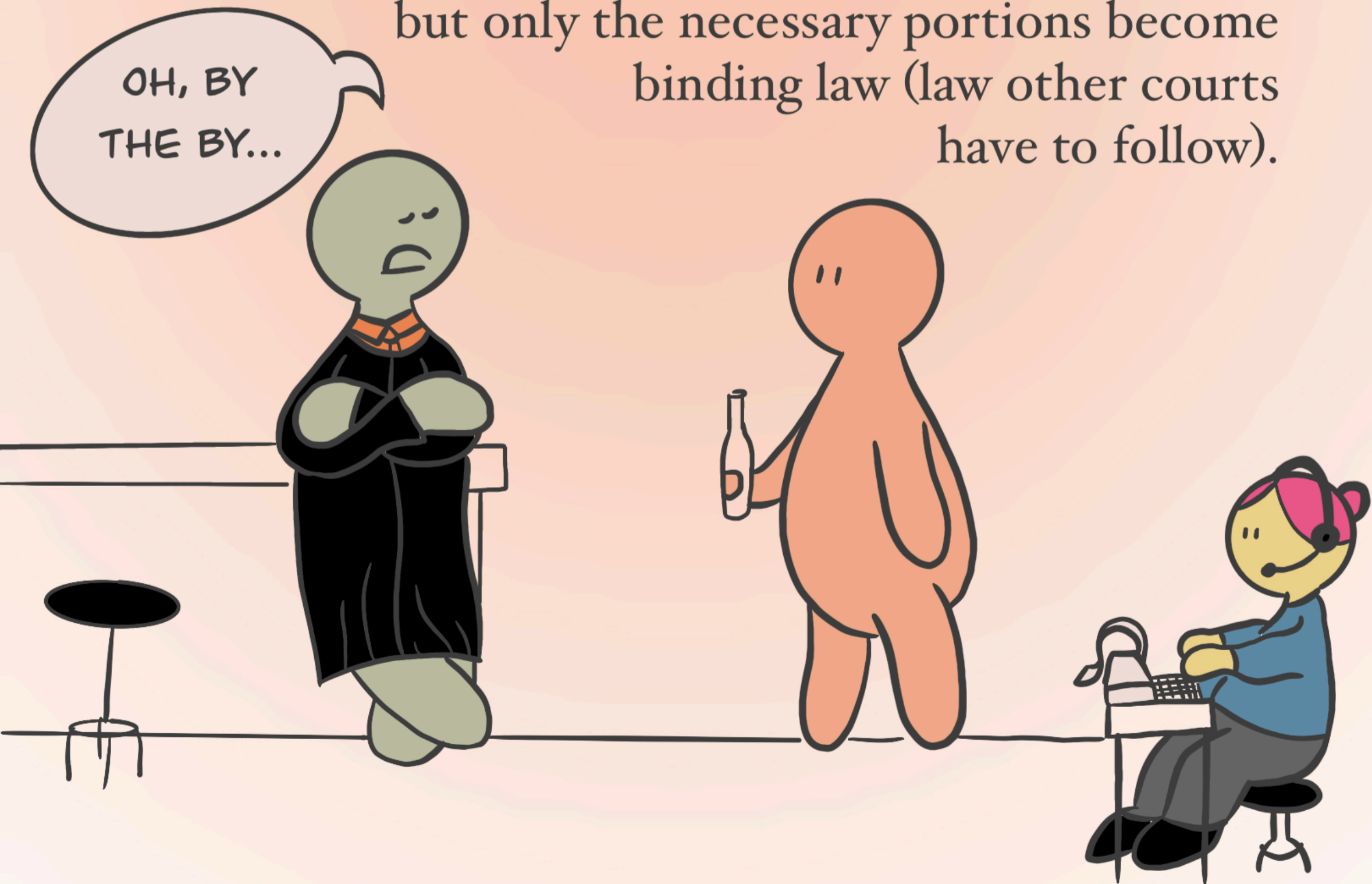
“OWE-bih-ter DIK-tehm”

other things said

Obiter dictum (or **dictum**, for short) is something said or written by a judge that they didn't have to say.

Dicta (plural) are mixed in with all the other necessary parts of the judge's ruling, but only the necessary portions become binding law (law other courts have to follow).

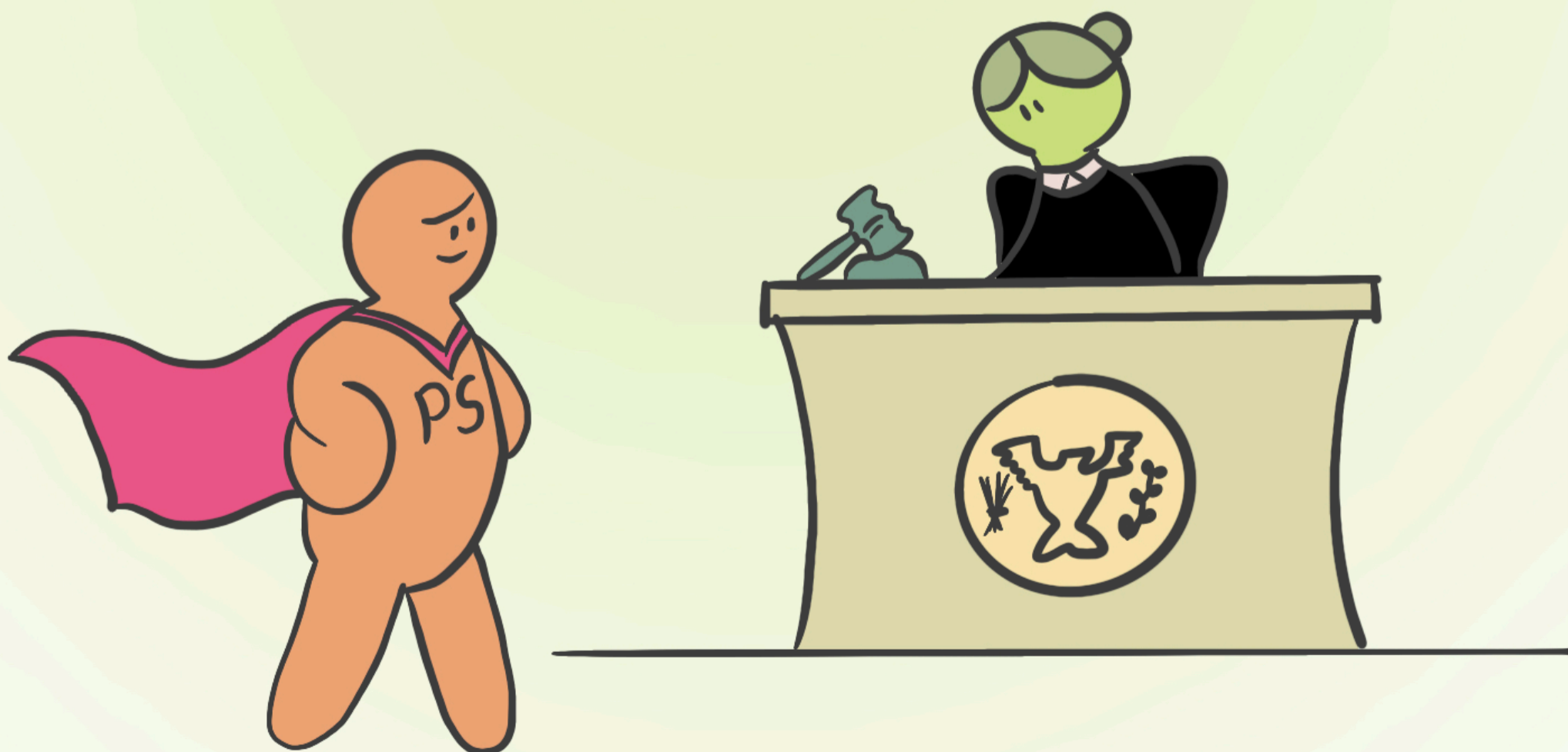
OH, BY
THE BY...



P is for pro se

“pro say”
for himself

A **pro se** litigant is someone appearing in court without legal counsel, representing themselves. No one is ever required to have an attorney in court, but anyone proceeding **pro se** should do so aware of the benefit a trained attorney can provide!



Q is for quid pro quo



“kwid pro kwo”
this for that

Literally meaning an exchange of one thing for another, **quid pro quo** sometimes has nefarious connotations.

For example, exchange of sexual favors can amount to sexual harassment under Title IX. **Quid pro quo** is also often used to describe the bribery of public officials.

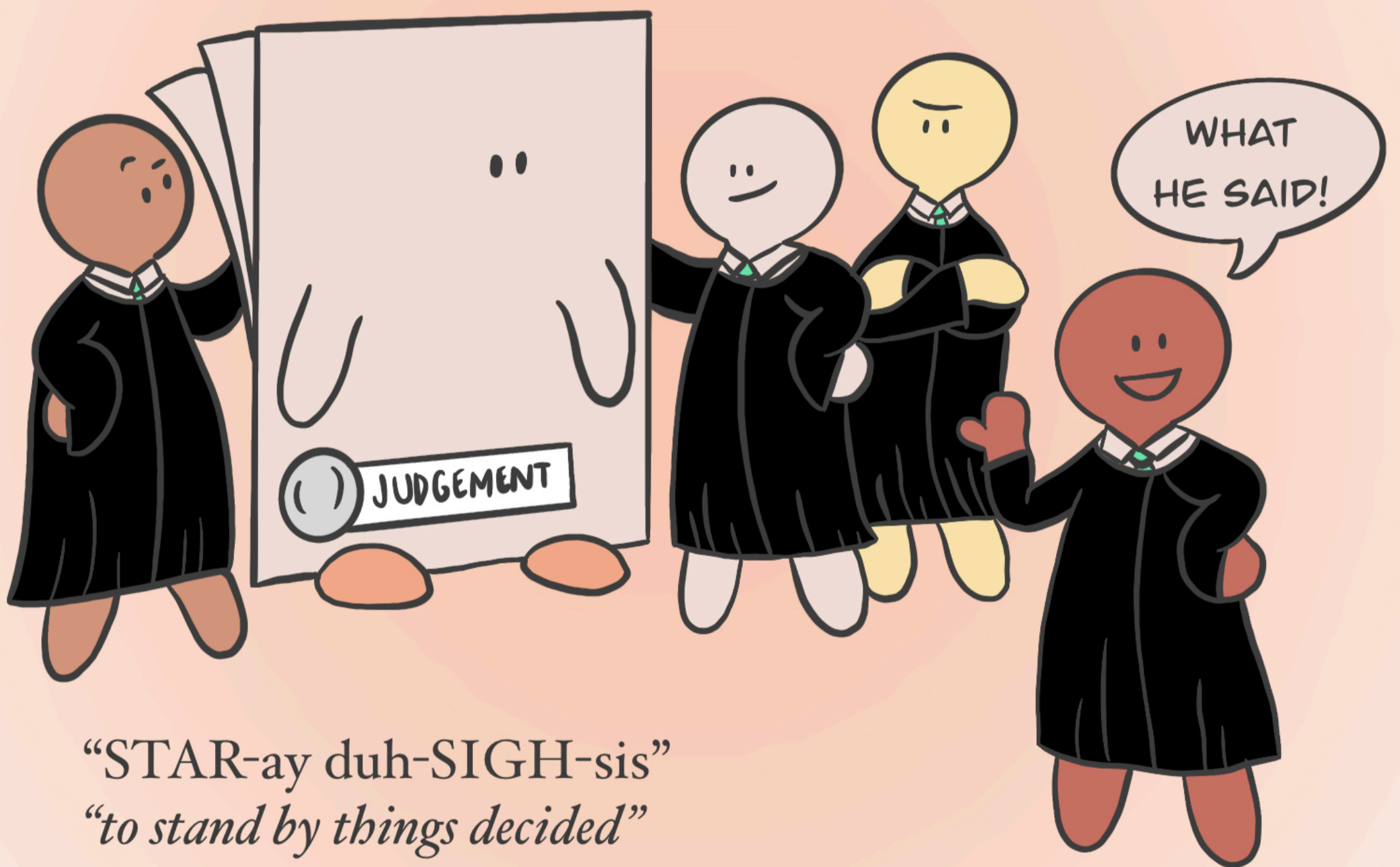
R is for remittitur



“ree-MIH-tih-ter”
to send back

When a jury awards a plaintiff money (called “damages”), and the judge thinks the amount is excessive, the judge may reduce the amount, or order a new trial. Such an order is called a **remittitur**.

S is for stare decisis



“STAR-ay duh-SIGH-sis”
“to stand by things decided”

Judges are usually bound by the cases that have come before them.

When a judge is examining an issue that another judge before them has already decided, the judge may (and sometimes must!) rule in the same or similar way, even if the judge disagrees with the previous ruling.

Trial de novo

“TRY-al duh NO-vo”
anew

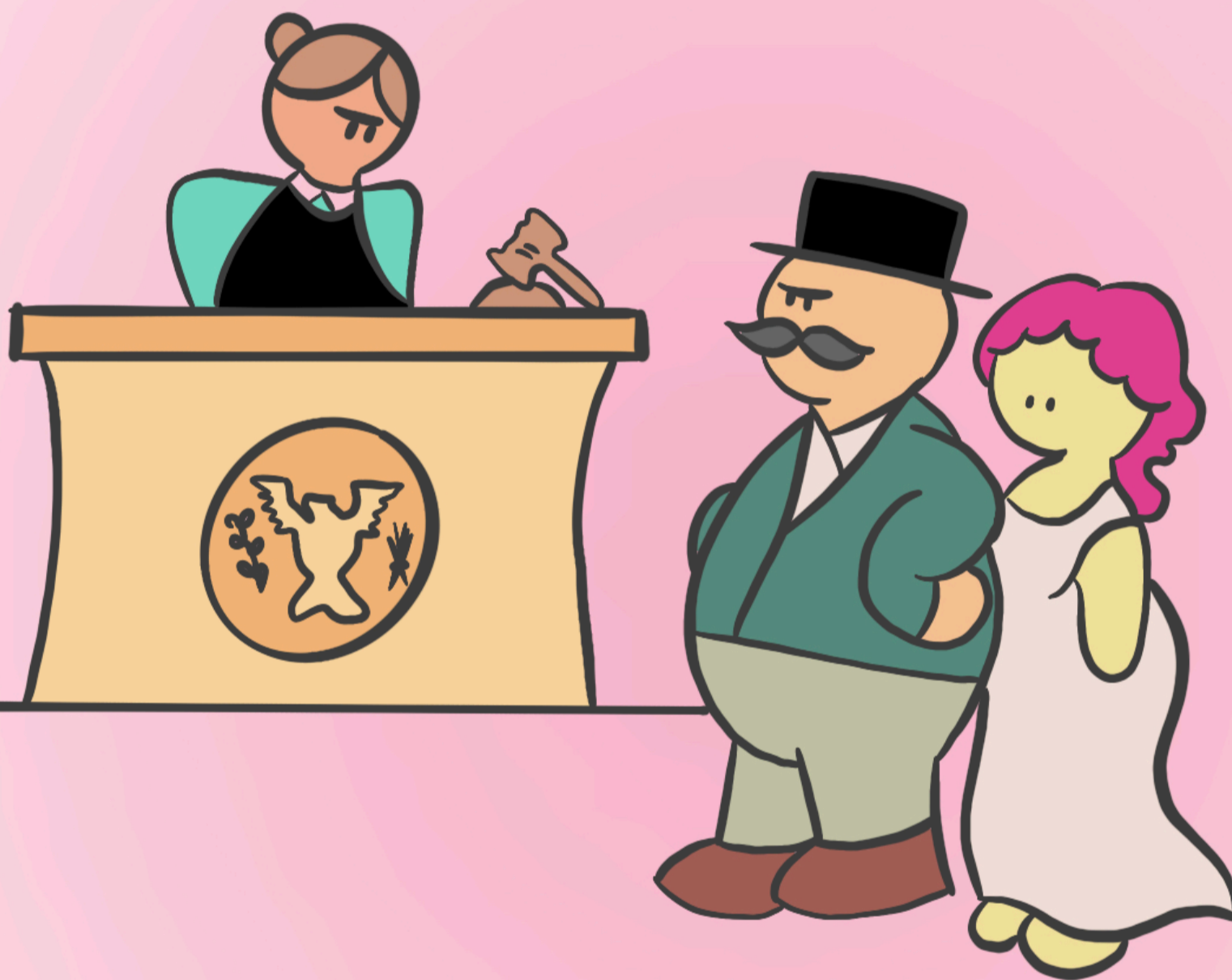


When a court hears a case **de novo**, that means it examines the issues without deferring to the findings of the court below or before it.

Courts of appeals often decide *legal* issues **de novo**, and takes the lower court's findings of *fact*.

A **trial de novo** (as if the *whole* case was never heard before) is rare.

U is for uxor

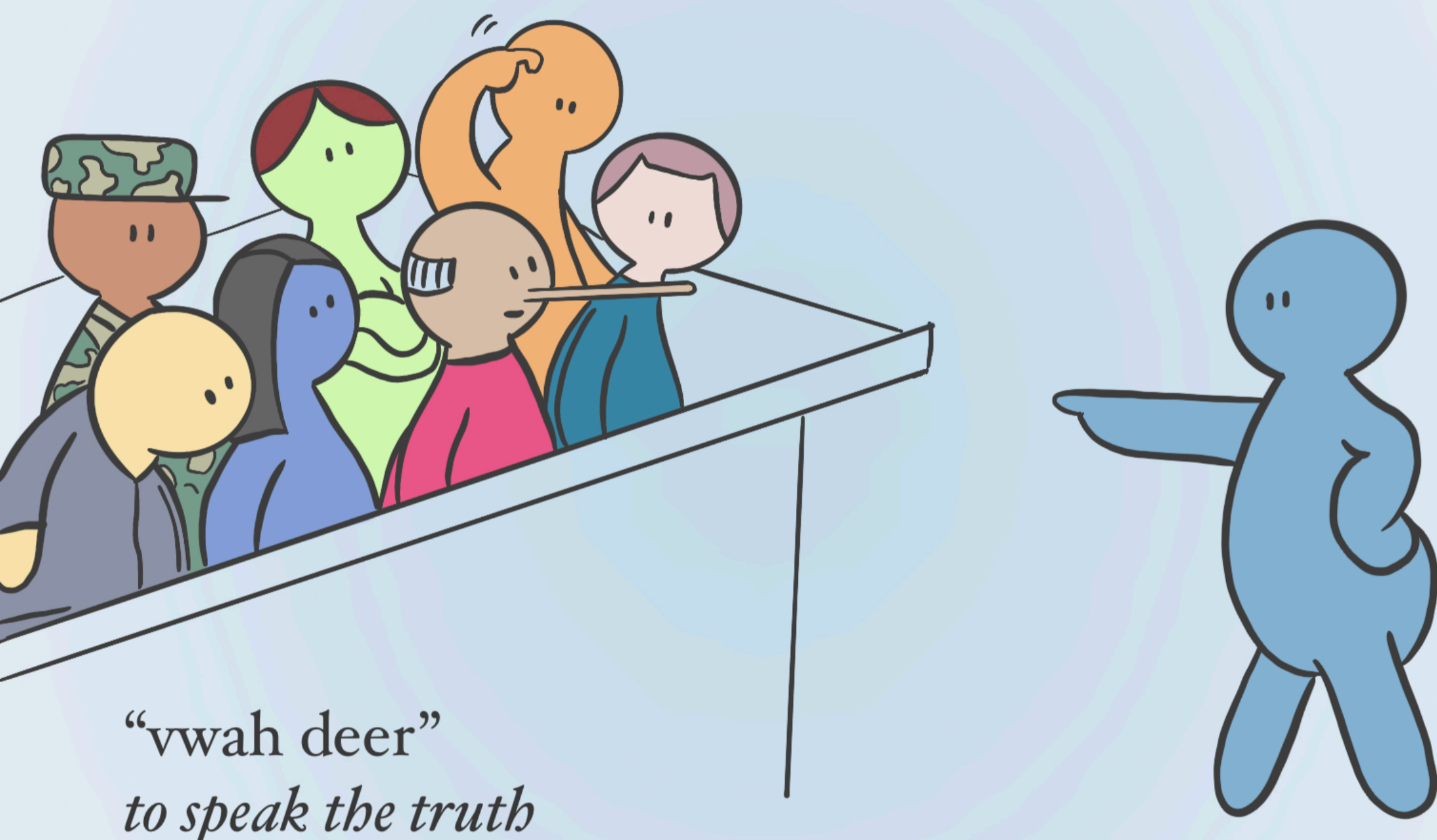


“UHKS-or”

wife

Uxor is an antiquated term for a man’s wife. **Uxor** would usually appear “et **ux.**,” after a man’s name in a legal document, to show that the man would be representing the wife’s interests. Now, married women are listed independently on legal documents.

V is for V^oir dⁱre



“vwah deer”
to speak the truth

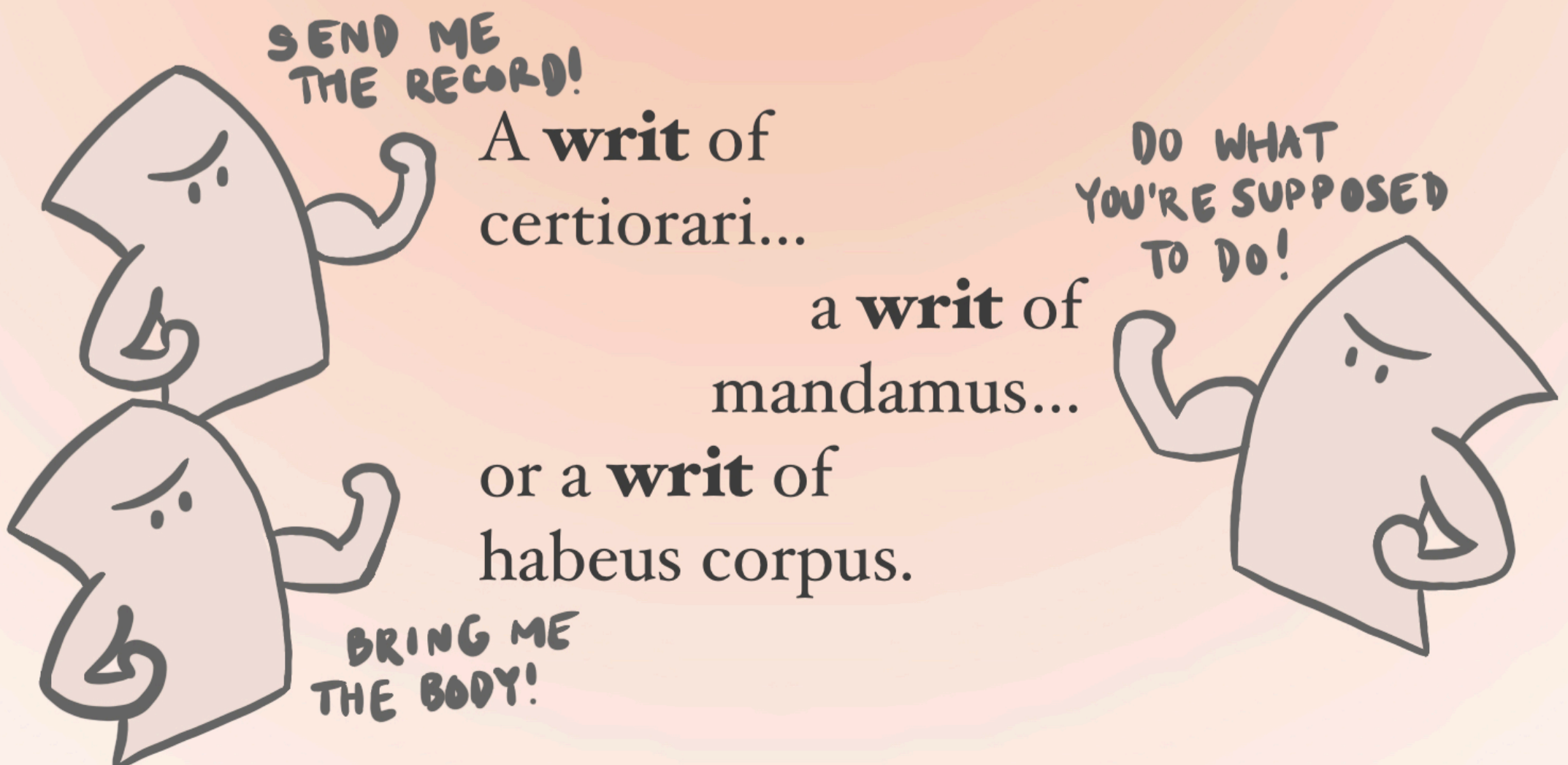
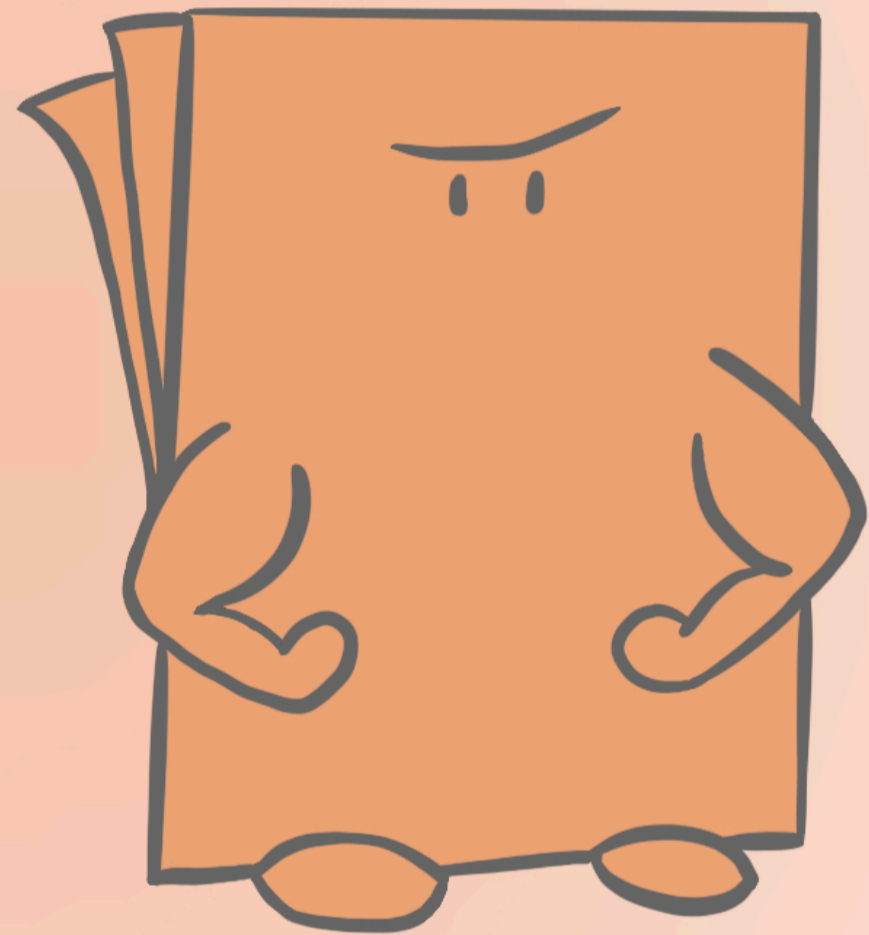
Voir dire is the process used to select jurors for a jury trial. The judge and the attorneys ask potential jurors a number of questions and have a responsibility to make sure that the jurors are suitable for jury service: honest, unbiased, and competent, for example.

Writ is for

“RIT”
something written

A **writ** is simply a command written by a legal authority, like a judge.

For example:



A **writ** of certiorari...

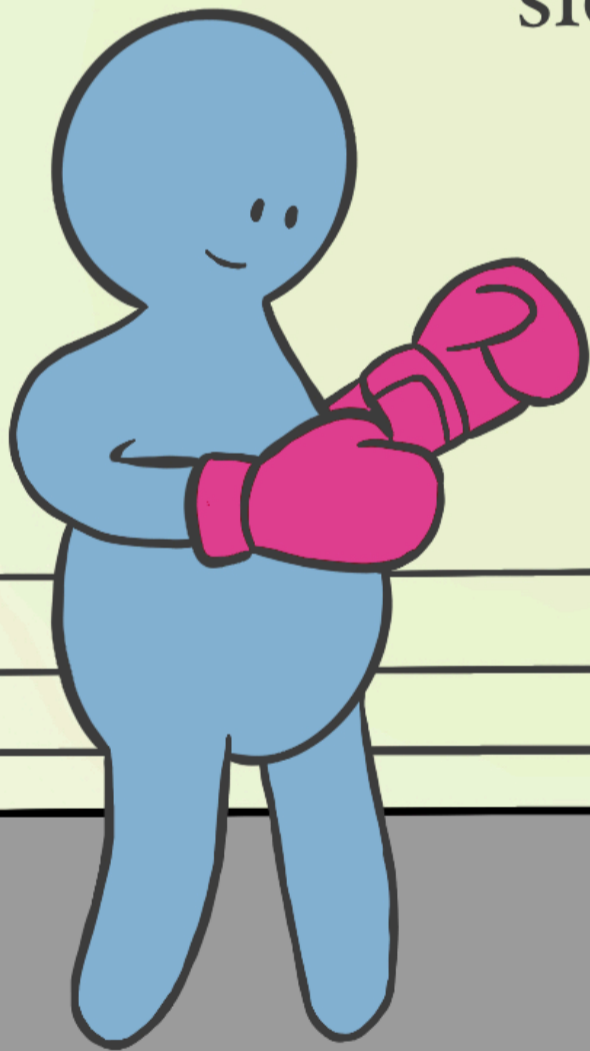
a **writ** of mandamus...

or a **writ** of habeus corpus.

EX is for **parte**

“ex PAR-tay”
from one party

Where a traditional legal dispute has two sides, **ex parte** means “one-sided.”



An **ex parte** communication is when one party talks to the judge without the other party present.

At an **ex parte** proceeding, the court can hear from one party without needing input from the other.

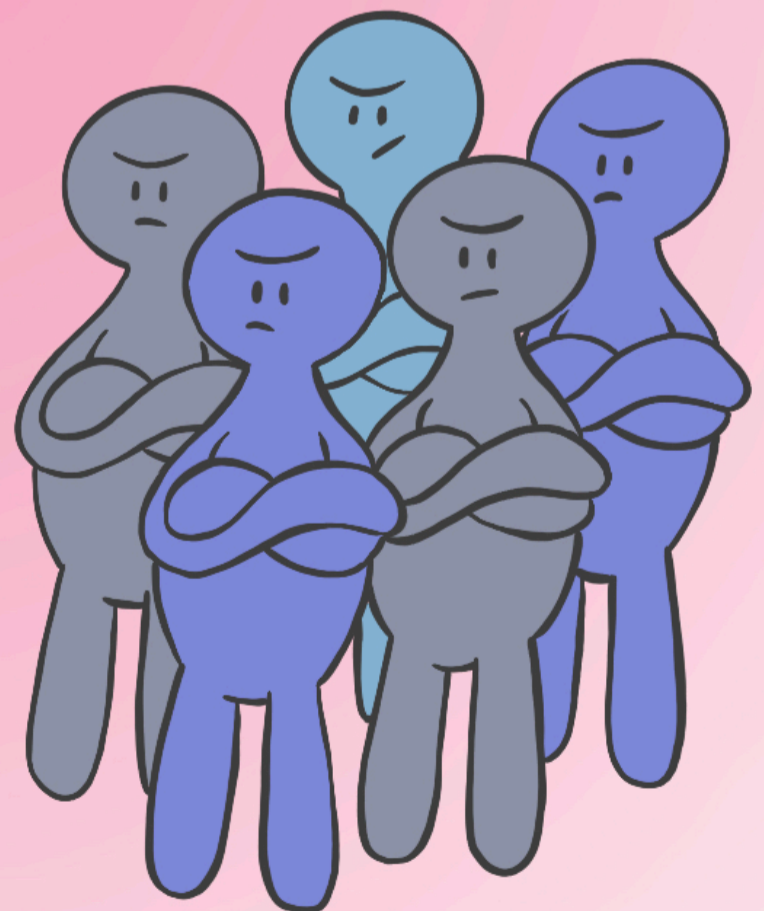
Y is for Yeas and nays



“yaze and naze”
yes and no

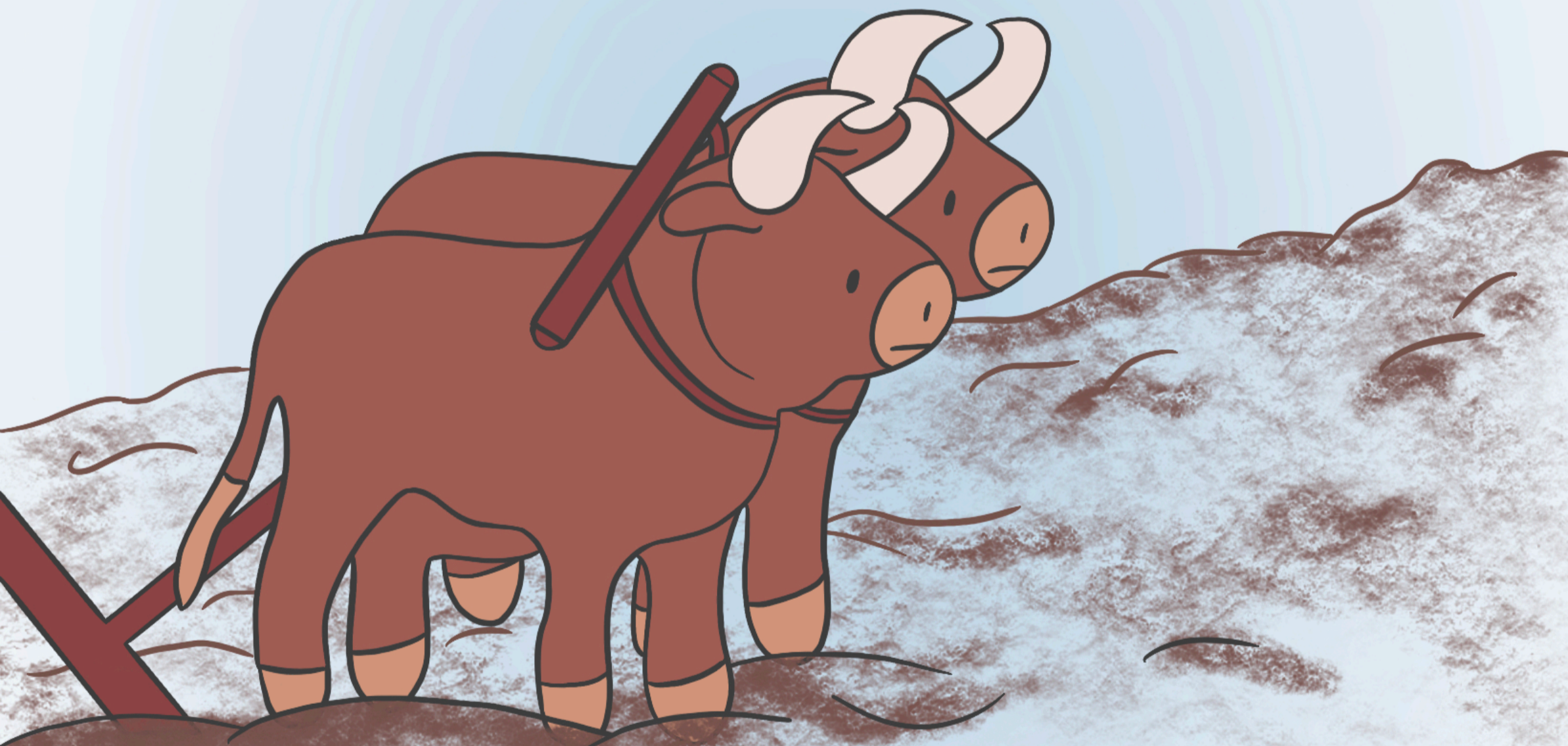
The numbers of “yes” and “no” responses when there has been a vote.

Historically (and currently, in most legislatures), when you would like to vote in the affirmative, you announce **yea**, and in the negative, **nay**.



Z is for zygocephalum

“zai-go-seh-FELL-um”
yoke + head



An outdated, inaccurate unit of measurement meaning “as much land as a yoke of oxen could plow in one day.” Ancient European farmers, and early colonial Americans, would measure their real property in **zygocephalae**, but use of the term soon gave way to the adoption of the standard acre.