One of the things about the Law business, the legal industry, is some of the most important things about the law are actually SO SIMPLE and are easy to overlook.

There is ONLY 4 VERY simple truths, which empower YOU to win.

1\textsuperscript{st} great secret: Where does the court get its jurisdiction? We have a 2-tiered court system, consisting of:

There are Supreme courts and their tribunals. Superior courts get THEIR jurisdiction because of whom they are. There are also courts in an Inferior Jurisdiction. Where do these get their authority in an inferior jurisdiction? The courts in an inferior jurisdiction are empowered to act by pleadings sufficient to invoke their judicial authority. Prosecuting attorneys testify as if THEY are the injured party and they don’t get to testify because they ARE NOT the injured party. They have to SHUT UP because they are NOT the injured party.

Which means that the people, NOT THE ATTORNEYS, empower the person in a black robe to be a judge. Don’t allow THIS to occur, if you are ever in an Inferior Court.

In other words, an injured human being have to

2\textsuperscript{nd} great secret is: Constitution, state constitutions, statutes, laws, rules, really doesn’t mean a thing In Law to it, in their black and white print, but only hint or make suggestion as to what the law is. We have to find out what the Supreme Court has said about The Law.

Where do we find the Common Law? Answer: We find the Common Law in the Federal and State Annotated Statutes. If you can read these State Annotated Statutes, then you can find out where and what The Law is. Shhhh! This is a secret! (Actually, you CAN read the Bible to find these, too.)

3\textsuperscript{rd} Secret is: Attorneys testify like they are the injured party. And they ARE NOT the injured party. They don’t get to testify, because THEY are not the one injured. But they do it ALL the time, because no one puts them in their place.

Supreme Court ruling in Trinsey v Pagliaro says, “Statements of counsel, in brief or in argument are not sufficient for summary judgment.”

\textit{Trinsey vs. Pagliaro Supreme Court}. “\textbf{Statements of counsel, in their briefs or their arguments are not sufficient for a motion to dismiss or for summary judgment.”} 
Memorize this; get a tattoo that says this. THIS IS THE MOST POWERFUL THING YOU CAN EVER USE.

When an attorney reads from their paper any allegation, Stand up and state “I object, \textit{Trinsey vs. Pagliaro Supreme Court}. “\textbf{Statements of counsel, in their briefs or their arguments are not sufficient for a motion to dismiss or for summary judgment.”} 

4\textsuperscript{th} Secret is: The 4\textsuperscript{th} thing that we’re usually missing is, a Competent Witness. This is the 4\textsuperscript{th} leg in the court room.
You MUST have somebody, at some point in time, before the judgment, raise their hand and testify, in the courtroom, under oath, and subject to cross evaluation or it’s NONSENSE. It the other side supports their pleadings with an affidavit, then you subpoena them and question them under oath.

**Important to remember:** Actual facts, not mere allegations of complaint are determinative of issue of jurisdiction. If there is no witness, there are no facts. If there are no facts, there is no jurisdiction. You MUST have a competent witness, to have that 4th leg on the table, or there is no jurisdiction.

Remember: Yes... as soon as the lawyer opens his mouth and tells the judge you owe such and such... that is when you say, “I OBJECT”, and then state **Trinsey v. Pagliaro**... That lawyer doesn't have any idea who you owe, or how much... he is just a lawyer... reading from a paper... he has NO FIRST HAND KNOWLEDGE.

Unless you owe the lawyer some money.?? He can't collect zip... AND he can't TESTIFY that you owe it either.

SHUT THEM DOWN!!!

IT IS EASY!!!!

**Dismissals in Government cases -- bad judges or bad litigant?** ([http://caught.net/prose/badjudge2.htm](http://caught.net/prose/badjudge2.htm))

BE SURE TO READ THE UPDATE ALSO!

If this article seems like legalese, keep reading. I believe there is a valuable lesson. Several weeks ago I responded to an article you either wrote or published referencing "bad judges". In turn you asked me to expand my determination on the subject for your consideration and I agreed to do so when I had the time.

I am of the opinion that too much of the time we blame our ineptitude in the legal arena on the judge(s) who either denied our pleading(s) or dismissed our matter before the court. My opinion is based upon my studies of several classes of court decisions and my experiences in the courtroom. And when I am involved in hearings in the courtroom I pay close attention to what the judge is saying and doing. Also I used to read every Supreme Court Reporter, Federal Reporter, Federal Supplement, and Pacific reporter that gets printed each week or so. I see what the litigants have tried to do and I see the mistakes they made as pointed out by the judges. Litigants keep making the same mistakes case after case after case.

The majority of litigants follow this outline:
(a) They file a complaint against the government replete with truthful allegations,
(b) The D.O.J. attorney answers the complaint with a motion to dismiss under either FRCP Rule 12(b)(6) for failure to state a claim upon which relief can be granted, or Rule 12(b)(1) for lack of subject matter jurisdiction. Under 12(b)(6) failure to state a claim means that the complainant has not provided evidence upon which the judge can grant relief. Under 12(b)(1) lack of jurisdiction means that the complainant has not rebutted (with evidence) the presumption of sovereign immunity the government carries.
(c) The D.O.J. attorney files a motion for a protective order against discovery and the court grants it.
(d) The judge dismisses the matter or finds summary judgment in favor of the government without allowing discovery of any kind.
Now we are "mad as hell" and we want to blame the judge because he violated our rights. We have just failed to understand the process and act accordingly. We have been beaten by a "presumption" and didn’t even recognize it. There is a presumption that "government always acts correctly" (within the law) and we must REBUT their presumption.

There are many instances where the proof of an essential fact can be proven only by inference—a process of reasoning from the known to the unknown. From established facts other facts may be inferred. A presumption is an assumption of fact resulting from a rule of law which requires such fact to be assumed from another fact or group of facts found or otherwise established in the action.

Presumptions arise where evidence to support an allegation is wanting, and they are indulged to supply the want of proof of a more direct character and cannot be resorted to where such proof is available. A presumption will necessarily relate only to matters upon which the record fails to speak. See Old Wayne Mut. Life Assn. v. McDonough, 204 US 8, 51 L.Ed. 345, 27 Sup. Ct. Rep 236; Galpin v. Page, 18 Wall US 350, 21 L.Ed. 959. Webster's Collegiate Dictionary defines the term as "the taking of something for granted" or: evidence that points to the probability of something," and points out that in law it is defined as "the inference that a fact exists, based on the proved existence of other facts." If the "record" were always a faithful and accurate story of each step taken, from the incipient to the final stages of confrontation with the opposing party, to bring the subject matter and the parties before the court, there would be no occasion to using presumptions. If jurisdiction could be obtained by a perusal of the record itself, the courts would not "presume" anything to the contrary. Presumptions arise where the record is silent upon some fact or cannot be restored to in opposition to its plain terms. In civil cases there are essential elements of a cause of action that a plaintiff must allege and prove if he is to prevail, and as to these elements he has the burden of proof. Local rules and substantive law regulate the allocation of the burden of proof. Burden of proof is to be distinguished from the burden of going forward with the evidence. The general rule in civil cases is that the party charged with the task of maintaining the burden of proof must establish his case by a preponderance of the evidence. Most presumptions are based upon a logical inference—a reasonable probability as to the truth of the fact presumed. It has been held that, insofar as criminal liability is concerned, a statutory presumption may run afoul of constitutional provisions (due process) unless there is a "rational connection" between the established fact and the presumed fact flowing therefrom. See Tot v. U.S., U.S. v. Delia, 1943, 319 US 463, 63 S.Ct. 1241.

Again, I recognize that there is a long-standing presumption that "Government always acts within the law and is always right." This, in reality, means that government can do just about anything it wants to an individual and in the event the individual decides he has had enough mistreatment/abuse/rights violated (Marv) and decided to go to court to get an order to stop the MARV, he has a problem. The court will dismiss the matter because of the above stated presumption (Government always acts within the law and is always right).

Let us suppose that employees of a department of the federal government have been calling you a "pink elephant" for several months and you are very stressed by it. This name-calling has you angry all of the time and that anger/stress have caused you to fight with your spouse, your children and even your neighbors. You have had it! You decide that you are going to file a lawsuit in federal court for an injunction against their further calling you a pink elephant.

Your complaint alleges several wrongdoings, cites lots of statutory and case law support for your position, and prays for damages and injunctive relief. You angrily march to the clerk of the court to get it filed and a summons signed and stamped for service upon the
head of the federal agency. Sometime within the next sixty days you will receive a "motion to dismiss" under Federal Rules of Civil Procedure Rule 12(b), probably sub-sub section (6), "for failure to state a claim upon which relief could be granted". You will then have 15 days more or less to do your objecting to their motion after which the court will agree with the government’s attorney and dismiss your complaint.

WOW! You have now experienced the finest example of a "presumption" in action. You thought that you had made a claim when you alleged violations of law in the complaint and cited the statutory and case law support for your position. The "state a claim upon which relief could be granted" phraseology means PROVIDE EVIDENCE UPON WHICH THE COURT CAN LOOK AT AND BASE RELIEF UPON. When we FAIL to include EVIDENCE in the document (complaint) that we make the allegations then we have "failed to state a claim".

Now I want you to step back a moment and do a recall of why the complaint was filed in the first place. Employees of a governmental agency called you a "pink elephant" for several months and you are very stressed by it, you are angry all of the time, you fight with your spouse, your children and even your neighbors. You went to court to get relief; something for damages, and the judge kicked you out saying that you did not provide EVIDENCE upon which he could grant relief. Under your breath you are angrily mumbling something about a "bad judge" (in language that I won’t repeat here) because you know that you made a claim and cited lots of statutes and case law.

When you allege wrongdoings (violations of your rights), cite lots of statutory and case law support for your position all you are doing is arguing. Citing lots of statutory and case law support is not evidence. Remember, in a civil suit against a non-government person there usually is granted a period for discovery to bring evidence forward. When you sue government you need to bring forward all of your evidence up front in the complaint because there will be no discovery and when you do not bring the evidence along in the complaint your allegations will be dismissed for "failure to state a claim" upon which the court can grant relief.

Well what could we consider as evidence that you are not a pink elephant? Here is a list: 1. Go to your Medical Doctor and have him give you a complete physical examination. That is an "expert opinion" that you are not a pink elephant.
2. Go to a Veterinarian and have him give you a precursory examination sufficient for him to issue his "expert opinion’ that you are not a pink elephant.
3. Have three or four close friends who have participated in various activities with you and have them write Affidavits from their first hand knowledge that you are not a pink elephant and that they have seen you do certain things that pink elephants cannot do.
4. Write your own Affidavit claiming from first hand knowledge that you know you is not a pink elephant.
5. Get an encyclopedia and copy the pages therefrom that give information about pink elephants and use the pages as an exhibit along with the pages of evidence you already have.

If these pieces of EVIDENCE had been included with the complaint then the government would have had to rebut and destroy the evidence. We can cite 10,000 cases and make 10,000 claims of wrongdoing, but all they add up to is argument and nothing more. Argument does not rebut the government’s presumption. Tangible evidence is absolutely necessary to do the job.

When we fail to provide the EVIDENCE in our pleadings we fail to rebut the presumption of correctness held by the government and recognized by the courts. We need to give the court something upon which they can grant relief. I will again make the claim that we too often give the judiciary hell and unjustly criticize them when the problem lies at our own feet. We are the problem. I suppose you want to know how I learned this. I
learned this and many other things from judges. We need to listen when the judge is either speaking to us or telling us something via his written order. On the other hand I do know that there is a strong bias against people who represent themselves in court and argue for our rights. A judge told me that when a moving party has oral argument and does not know what is in the pleading he will automatically deny the motion or petition. He wants the litigators to be well prepared and be proficient in arguing their pleadings. They do not like someone to consume their time with stupidity or incompetence.

Sincerely, Jim Jensen

UPDATE
From a caught.net reader: Great website!!!!... I wish everyone in the US would get on the judicial and government accountability wagon. A friend forwarded me Jim Jensen's article titled "Dismissals in Government cases -- bad judges or bad litigant?" from your website. While the article is very good and thought provoking, the US Supreme Court respectfully disagrees. Haines v. Kerner, Et Al, 404 U.S. 519 (1972) states that a Pro Se litigant's complaint cannot be dismissed for failure to state a claim upon which relief can be granted. Haines v. Kerner, et al - Court’s Opinion:

...allegations such as those asserted by petitioner, however artfully pleaded, are sufficient to call for the opportunity to offer supporting evidence. We cannot say with assurance that under the allegations of the pro se complaint, which we hold to less stringent standards than formal pleadings drafted by lawyers, it appears "beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." Conley v. Gibson, 355 U.S. 41, 45-46 (1957). See Dioguardi v. Durning, 139 F.2d 774 (CA2 1944).

... we conclude that he is entitled to an opportunity to offer proof. The judgment is reversed and the case is remanded for further proceedings consistent herewith. I’ve attached a copy of Haines v. Kerner for your future reference.

Caught note: Perhaps a reader can shepardize this case and see how much of it has stood the test of time.

Haines v Kerner is a US Supreme Court case, which has not been overturned and will withstand any Shepardizing. Most Pro Se litigants know nothing of Haines v Kerner and would not know how to assert their legal arguments in courts. Also, the judges do a fine job of railroading pro se litigants and helping their BAR "fraternity" brothers and sisters, and often openly chastise pro se litigants in court for not hiring an attorney.

One way to get your legal arguments into the court record is by using Notices to the court within your legal documents filed with the court clerk's office. I like to incorporate Judicial Notices into my court documents that quote Haines v Kerner, Platsky v CIA, and others. The following is styled after Richard Cornforth's work.

**JUDICIAL NOTICE**

All officers of the court for <insert> County, <state> are hereby placed on notice under authority of the supremacy and equal protection clauses of the United States Constitution and the common law authorities of Haines v Kerner, 404 U.S. 519, Platsky v. C.I.A. 953 F.2d. 25, and Anastasoff v. United States, 223 F.3d 898 (8th Cir. 2000) relying on Willy v. Coastal Corp., 503 U.S. 131, 135 (1992), “United States
In re Haines: pro se litigants (Defendant is a pro se litigant) are held to less stringent pleading standards than BAR registered attorneys. Regardless of the deficiencies in their pleadings, pro se litigants are entitled to the opportunity to submit evidence in support of their claims. In re Platsky: court errs if court dismisses the pro se litigant (Defendant is a pro se litigant) without instruction of how pleadings are deficient and how to repair pleadings. In re Anastasoff: litigants’ constitutional rights are violated when courts depart from precedent where parties are similarly situated. All litigants have a constitutional right to have their claims adjudicated according the rule of precedent. See Anastasoff v. United States, 223 F.3d 898 (8th Cir. 2000). Statements of counsel, in their briefs or their arguments are not sufficient for a motion to dismiss or for summary judgment, Trinsey v. Pagliaro, D.C. Pa. 1964, 229 F. Supp. 647.