

STRIKING A MATCH, NOT A POSE, FOR ACCESS TO JUSTICE

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One of the things that persistently puzzles and frustrates me in my work on access to justice is just how hard it is to light a fire under anyone about this issue. And I do not think that we are going to make progress on access to justice—to start a movement—until that fire is lit.

We in the legal profession have created such a complex system that only *we* understand, which makes it almost impossible to start a fire. We've drowned the kindling in an ocean of legalese and privilege. If you ask ordinary people about legal needs, they don't know what you mean: New York's 2010 survey found that just 4 percent of people said "yes" when asked if they had any civil legal problems.¹ But ask them about whether they have had wages withheld, or difficulties with child custody, or disputes with their landlords, or troubles with banks—then nearly half say, "Oh yes of course, I have THOSE problems."² They just don't think of them as "legal" because "legal" means criminal law and police and, maybe, the Supreme Court. We've made law so complex and so alien that people don't even know that they face legal problems when they are embroiled in them, much less what legal protections they're not getting.

And what they're not getting is something they deeply deserve: a reasonable, fair, and low-cost way of navigating normal life, with its ups and downs and disagreements and disasters. They *deserve* this. And they should be hopping mad they don't have it. They should be livid that they are expected to manage this without basic legal help or knowledge. They should be marching in the streets to demand that it be as straightforward to figure out a legal problem as it is to book a hotel room or get directions in a new city. How dare we tell them they have to hire a lawyer for \$200 an hour to find out why their employer does not have to pay them, or that a website can fail to safeguard their credit card information, to help resolve inevitable

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1. See THE TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVS. IN N.Y., REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK app. 17 at 7 (2010), <http://ww2.nycourts.gov/sites/default/files/document/files/2018-04/CLS-Appendices.pdf> [<https://perma.cc/F632-U69J>].

2. See THE TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVS. IN N.Y., REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK 11 (2010), <http://ww2.nycourts.gov/sites/default/files/document/files/2018-04/CLS-TaskForceREPORT.pdf> [<https://perma.cc/G4DB-LFSR>].

arguments with an ex-spouse or a former business partner, or to be heard when they think they have been unfairly evicted or fired.

They should be holding our feet to the fire. And if we've made it impossible for them to do that, then we should be dousing ourselves in their troubles until we stop talking and start acting. There should be no moral comfort in empathizing with their plight; there should only be the burn of knowing we created this problem, it's artfully hidden from those who pay the price, and the means to fix it are close at hand.