

00:00:02:10 --:--:--:--  
(woman)  
Okay, everyone, hello.

00:00:04:00 --:--:--:--  
Welcome, everyone,  
to the Community Seminar Series.

00:00:07:16 --:--:--:--  
This one is "How to Start  
a Small Claims Case."

00:00:09:25 --:--:--:--  
Thank you all for coming,

00:00:11:07 --:~:~:~:~:  
everyone here  
in New York County,

00:00:13:07 --:~:~:~:~:  
as well as the Bronx, Queens,  
Brooklyn, and Staten Island.

00:00:17:20 --:~:~:~:~:  
Today, we have three  
fabulous speakers for you all.

00:00:21:07 --:~:~:~:~:  
We have two  
of our court attorneys,

00:00:23:28 --:~:~:~:~:  
Aaron Hoffman and Susan Avery,  
sitting here to my left,

00:00:27:16 --:~:~:~:~:  
and then we have Associate  
Court Clerk James Lopez also.

00:00:32:10 --:~:~:~:~:  
Hand it over to you two.

00:00:33:29 --:~:~:~:~:  
(Hoffman)  
Thank you.

00:00:36:19 --:~:~:~:~:  
Starting  
a small claims action

00:00:38:11 --:~:~:~:~:  
for someone who may not be  
familiar with the court

00:00:42:01 --:~:~:~:~:  
could be a little daunting,

00:00:43:14 --:--:--:--  
so we tried to simplify  
things a little bit.

00:00:46:12 --:--:--:--  
We're going to talk  
in general terms at first,

00:00:48:15 --:--:--:--  
and then Mr. Lopez  
will give you some details

00:00:51:21 --:--:--:--  
about the actual mechanics  
of starting the action,

00:00:54:27 --:--:--:--  
what you would do  
when you go to the court clerk.

00:00:58:10 --:--:--:--  
We tried to simplify this

00:00:59:29 --:--:--:--  
so that the key  
is to try and be a pro.

00:01:05:05 --:--:--:--  
And for that to--  
it means to be prepared,

00:01:08:16 --:--:--:--  
to be organized, and--  
I'm sorry.

00:01:11:17 --:--:--:--  
Be prepared, be realistic,  
and be organized.

00:01:15:03 --:--:--:--  
So as far as being prepared,  
Susan, do you want to start?

00:01:18:04 --:--:--:--  
(Avery)  
Oh, go ahead.  
You're doing a great job.

00:01:21:04 --:--:--:--  
(Hoffman)  
First thing you have to do  
is learn about the law

00:01:23:26 --:--:--:--  
as well as the rules

and procedures

00:01:25:19 --:--:--:--  
of small claims court.

00:01:27:17 --:--:--:--  
Now, the law is very broad.

00:01:30:07 --:--:--:--  
There are a lot  
of issues involved.

00:01:32:20 --:--:--:--  
When you have a particular case,

00:01:35:04 --:--:--:--  
try and find out  
as much as you can

00:01:37:02 --:--:--:--  
about the law  
that would relate to your case.

00:01:39:25 --:--:--:--  
You can do that by going  
to seminars such as this one.

00:01:43:23 --:--:--:--  
In addition, there are  
various bar associations,

00:01:46:29 --:--:--:--  
other law groups,  
that do sponsor seminars.

00:01:50:09 --:--:--:--  
You can try and go  
to those as well.

00:01:52:27 --:--:--:--  
You can also consult  
printed materials.

00:01:57:05 --:--:--:--  
There's the legal codes,  
so to speak,

00:02:01:02 --:--:--:--  
the laws of the state  
of New York.

00:02:04:19 --:--:--:--  
And those are available  
in legal libraries.

00:02:07:01 --:--:--:--

You can also go  
to your local library.

00:02:13:23 --:--:--:--  
Very often, there are books  
about consumer law,

00:02:17:08 --:--:--:--  
landlord-tenant law,  
various other issues

00:02:19:27 --:--:--:--  
that you might be involved in,

00:02:22:24 --:--:--:--  
and you should try and get

00:02:24:04 --:--:--:--  
as much information  
about the law as you can.

00:02:28:25 --:--:--:--  
There's also materials  
that are put out

00:02:30:19 --:--:--:--  
by the civil court and the state  
and local bar associations,

00:02:34:18 --:--:--:--  
so you should check  
that as well.

00:02:36:05 --:--:--:--  
As far as the civil court,  
we have a little booklet

00:02:40:04 --:--:--:--  
that was either given out  
or is available

00:02:42:25 --:--:--:--  
at all the locations

00:02:47:16 --:~:~:~:~  
on how to start--a guide  
to small claims court,

00:02:50:24 --:~:~:~:~  
and that'll give you  
a lot of information

00:02:53:13 --:~:~:~:~  
about the procedures  
that are involved.

00:03:00:08 --:--:--:--  
In addition,  
you can go to--

00:03:02:19 --:--:--:--  
you can use the internet

00:03:03:28 --:--:--:--  
if those of you who have access

00:03:05:21 --:--:--:--  
to the internet,  
to a computer,

00:03:08:03 --:--:--:--  
there are a lot of great places

00:03:10:28 --:--:--:--  
you can find  
on the internet.

00:03:13:03 --:--:--:--  
You can use search engines  
to do that.

00:03:16:14 --:--:--:--  
The best place  
to start is really

00:03:18:02 --:--:--:--  
the New York  
civil court website,

00:03:20:23 --:--:--:--  
and in the handout, you have  
the web address for that.

00:03:25:17 --:--:--:--  
If you go on that,  
you'll see pages and pages

00:03:28:19 --:--:--:--  
of information  
on starting a case

00:03:31:10 --:--:--:--  
and the various procedures  
that are involved.

00:03:34:29 --:--:--:--  
In addition,  
you may also be able

00:03:36:23 --:--:--:--  
to find specific questions  
regarding law on those websites.

00:03:42:05 --:--:--:--  
In addition, there's  
the internet and websites

00:03:46:12 --:--:--:--  
that are not connected  
with the civil court.

00:03:49:12 --:--:--:--  
Susan, you want to tell us

00:03:50:13 --:~:~:~:~:~  
a little bit  
about some of those?

00:03:52:05 --:~:~:~:~:~  
(Avery)  
Well, I was actually going  
to go on to the burden

00:03:54:12 --:~:~:~:~:~  
and explain that  
when you bring a case,

00:03:55:29 --:~:~:~:~:~  
it's your obligation  
to prove it,

00:03:58:13 --:~:~:~:~:~  
so you need to be prepared.

00:03:59:16 --:~:~:~:~:~  
You need to have  
whatever you can

00:04:01:25 --:~:~:~:~:~  
to prove your case,  
such as photographs,

00:04:03:28 --:~:~:~:~:~  
if you have contracts,  
witnesses,

00:04:06:13 --:~:~:~:~:~  
anything in writing,  
letters, emails.

00:04:08:25 --:~:~:~:~:~  
And try to be as organized  
as you possibly can,

00:04:11:07 --:~:~:~:~:~  
because it just makes everything  
a little bit easier.

00:04:15:07 --:--:--:--  
That--let's see, what else?

00:04:16:29 --:--:--:--  
And if you are going  
to bring a witness,

00:04:18:16 --:--:--:--  
just make sure your witness  
is going to say

00:04:20:07 --:--:--:--  
what you want them to say.

00:04:21:13 --:--:--:--  
I'm not saying that  
you should tell them

00:04:23:00 --:--:--:--  
what you want them to say,  
but make sure they see things

00:04:25:04 --:--:--:--  
the way you see things,  
because otherwise,

00:04:26:25 --:--:--:--  
you would ask  
the witness questions,

00:04:28:09 --:--:--:--  
and they might think everything  
happened a different way.

00:04:30:19 --:--:--:--  
So it's very, very,  
very important.

00:04:33:12 --:--:--:--  
(Hoffman)  
You can discuss testimony  
with your witnesses.

00:04:36:04 --:--:--:--  
You can go over the areas  
that you're going to discuss.

00:04:39:12 --:--:--:--  
However, you have to be  
a little bit careful about that.

00:04:43:24 --:--:--:--  
You cannot specifically--  
you can't tell them to lie.

00:04:48:00 --:--:--:--

Let's face it.

00:04:49:05 --:--:--:--  
You can't  
tell people to lie.

00:04:51:05 --:--:--:--  
You are going to be  
testifying,

00:04:52:18 --:--:--:--  
the witnesses are going  
to be testifying,

00:04:54:13 --:--:--:--  
under oath  
and under penalty of perjury.

00:04:57:14 --:--:--:--  
If they lie under oath,

00:04:59:19 --:--:--:--  
they can get  
into a lot of trouble.

00:05:01:07 --:--:--:--  
So the best thing is  
to stick to the truth.

00:05:04:05 --:--:--:--  
But you should be aware

00:05:05:10 --:--:--:--  
of what your witnesses  
are saying.

00:05:07:03 --:--:--:--  
If you don't like  
what they might say,

00:05:09:20 --:--:--:--  
perhaps you shouldn't call  
them as a witness.

00:05:11:26 --:--:--:--  
And you have to  
be aware of that.

00:05:13:20 --:--:--:--  
But whatever they will say  
on the stand

00:05:16:07 --:--:--:--  
is subject to perjury.

00:05:18:10 --:--:--:--

And if you tell somebody  
to lie under oath,

00:05:22:13 --:--:--:--  
that's called suborning perjury,

00:05:24:04 --:--:--:--  
and that's also a crime,  
so you shouldn't do that.

00:05:27:14 --:--:--:--  
[Avery speaking indistinctly]

00:05:28:26 --:--:--:--  
(Hoffman)  
Okay, as far  
as the burden of proof,

00:05:32:06 --:--:--:--  
try and gather  
all of the information

00:05:35:08 --:--:--:--  
if there are photographs  
that are involved.

00:05:37:03 --:--:--:--  
If it's something,  
let's say,

00:05:38:09 --:--:--:--  
you brought to a dry cleaner  
that they ruined

00:05:40:04 --:--:--:--  
and you can bring it  
into court,

00:05:41:18 --:--:--:--  
it's good to show that.

00:05:43:06 --:--:--:--  
If you can't bring in the item  
because it's too large

00:05:45:18 --:--:--:--  
or if a car was damaged,

00:05:48:05 --:--:--:--  
bring photographs  
as much as possible;

00:05:51:00 --:--:--:--  
diagrams, if that's necessary  
to show how something happened;

00:05:55:15 --:--:--:--  
if there were any contracts  
or agreements,

00:05:57:18 --:--:--:--  
whether they were written  
or oral.

00:05:59:23 --:--:--:--  
If you have an oral contract,

00:06:01:28 --:~:~:~:~  
you don't have necessarily  
any proof of that,

00:06:04:11 --:~:~:~:~  
except there may be other things  
such as letters,

00:06:07:18 --:~:~:~:~  
other correspondence,  
telephone messages,

00:06:10:04 --:~:~:~:~  
that relate to that,  
that people refer to that.

00:06:13:04 --:~:~:~:~  
If you have any of that,  
you should prepare that as well.

00:06:17:20 --:~:~:~:~  
Any bills or receipts  
that you have:

00:06:20:10 --:~:~:~:~  
if something is damaged  
and you're going to be--

00:06:23:19 --:~:~:~:~  
you want to recover damages  
for it

00:06:26:10 --:~:~:~:~  
and the item  
hasn't yet been repaired,

00:06:28:09 --:~:~:~:~  
you have to bring  
two itemized receipts

00:06:30:26 --:~:~:~:~  
to show how much  
it would cost to fix that.

00:06:33:25 --:~:~:~:~

If you don't have  
two itemized receipts,

00:06:35:19 --:--:--:--  
you cannot win,

00:06:37:26 --:--:--:--  
or--well, it's harder  
to prove your case,

00:06:40:23 --:--:--:--  
but it's--if you have  
two itemized receipts

00:06:43:25 --:--:--:--  
or two itemized estimates,

00:06:45:08 --:--:--:--  
the judge can then base  
their decision

00:06:48:08 --:--:--:--  
on the materials  
that you bring into court.

00:06:53:13 --:--:--:--  
(Avery)  
I think you're doing great.

00:06:54:28 --:--:--:--  
(Hoffman)  
Okay, check  
the proper identities

00:06:57:07 --:--:--:--  
of the other parties.

00:06:59:26 --:--:--:--  
If you want to sue a store,  
you have to make sure

00:07:02:25 --:--:--:--  
that you have the correct name  
for the store.

00:07:06:03 --:--:--:--  
If you're going to sue somebody  
and you have the wrong name,

00:07:09:26 --:--:--:--  
you may win the case,  
but you may not be able

00:07:12:04 --:--:--:--  
to collect the judgment  
against them.

00:07:14:19 --:--:--:--  
So it's very important  
that you have the correct name

00:07:17:11 --:--:--:--  
of the other parties.

00:07:20:00 --:--:--:--  
If it's an individual,  
you should learn their names,

00:07:22:07 --:--:--:--  
not just their nicknames.

00:07:24:01 --:--:--:--  
If it's a store,

00:07:25:05 --:--:--:--  
get the proper name  
for the store.

00:07:26:22 --:--:--:--  
And you should  
also know what kind

00:07:28:12 --:--:--:--  
of business entity it is,

00:07:30:22 --:--:--:--  
whether it's a corporation  
or a partnership

00:07:33:10 --:--:--:--  
or a sole person  
doing business as.

00:07:36:29 --:--:--:--  
And the ways  
to check some of that:

00:07:39:22 --:--:--:--  
some of the business records  
are available

00:07:41:26 --:--:--:--  
in the county clerk's office,

00:07:43:23 --:--:--:--  
and you can find out  
from the county clerk

00:07:45:26 --:--:--:--  
what records they have there.

00:07:47:26 --:--:--:--

In addition,  
you can go online again,

00:07:51:08 --:--:--:--  
and if you go  
to the New York State

00:07:54:02 --:--:--:--  
Department of State  
website--

00:07:56:17 --:--:--:--  
it's written  
in the handout,

00:07:58:15 --:--:--:--  
but an easy way  
to remember is dos.ny.us.

00:08:03:09 --:--:--:--  
On the left-hand side  
of that page,

00:08:05:19 --:--:--:--  
you will see a listing  
for corporate entities,

00:08:09:12 --:--:--:--  
and you can click on that,  
put in the information you have,

00:08:12:18 --:--:--:--  
and they will give you  
the corporate name

00:08:16:00 --:--:--:--  
and address  
to get in touch with them

00:08:19:03 --:--:--:--  
or to send  
the summons for them.

00:08:23:21 --:--:--:--  
In addition, on the left side  
of that website,

00:08:27:00 --:~:~:~:~:~  
you will also see  
a link for licensees.

00:08:30:04 --:~:~:~:~:~  
Some businesses  
have to be licensed

00:08:32:28 --:~:~:~:~:~

in the state of New York.

00:08:34:10 --:--:--:--  
And things--for example,

00:08:36:04 --:--:--:--  
security or alarm companies  
have to be licensed,

00:08:40:10 --:--:--:--  
contractors, and other services.

00:08:44:15 --:--:--:--  
So again,  
that's another resource

00:08:46:19 --:--:--:--  
that you can find out about.

00:08:49:12 --:--:--:--  
[Avery whispering]

00:08:51:03 --:--:--:--  
(Hoffman)  
Why don't you  
do the whole thing

00:08:52:29 --:--:--:--  
about being realistic?

00:08:54:19 --:--:--:--  
The other area  
is being realistic.

00:08:58:06 --:--:--:--  
You have to be realistic  
in what you want.

00:09:02:21 --:--:--:--  
We have a limited jurisdiction  
in small claims court,

00:09:06:16 --:--:--:--  
which means we cannot handle  
every single case.

00:09:09:16 --:--:--:--  
We have  
a limited jurisdiction

00:09:11:09 --:--:--:--  
as to the amount of money  
that you can recover,

00:09:14:00 --:--:--:--  
which is limited to \$5,000,

and it's money damages only.

00:09:20:10 --:--:--:--  
You cannot split up that \$5,000  
into smaller claims.

00:09:24:08 --:--:--:--  
Let's say you have  
a claim of \$20,000.

00:09:26:28 --:--:--:--  
You can't split that up  
into four claims of \$5,000.

00:09:30:06 --:--:--:--  
Total amount recovered  
will be \$5,000.

00:09:35:16 --:--:--:--  
Also, be aware that  
if you bring someone to court

00:09:38:25 --:--:--:--  
and you're suing them,  
they can counterclaim.

00:09:42:08 --:--:--:--  
If, for example, you've  
contracted with somebody

00:09:45:07 --:--:--:--  
to provide services,

00:09:46:23 --:--:--:--  
let's say a photographer  
for a wedding,

00:09:48:27 --:--:--:--  
and you've given them  
a \$500 deposit,

00:09:51:28 --:--:--:--  
and they haven't delivered  
the photographs,

00:09:55:23 --:--:--:--  
you may sue them  
to recover your \$500 deposit,

00:09:59:27 --:--:--:--  
but they may also sue you  
for, let's say, the \$1,000

00:10:03:10 --:--:--:--  
for the rest of the contract  
that you haven't paid them.

00:10:07:07 --:--:--:--  
So be aware of that.

00:10:08:12 --:--:--:--  
There may be valid grounds

00:10:09:14 --:--:--:--  
why you wouldn't  
have to pay them,

00:10:11:10 --:--:--:--  
but just be prepared

00:10:12:14 --:~:~:~:~:~  
that if you bring  
someone to court,

00:10:14:03 --:~:~:~:~:~  
they may counterclaim  
against you.

00:10:17:04 --:~:~:~:~:~  
In addition,  
in small claims court,

00:10:20:23 --:~:~:~:~:~  
when you start  
a small claims action,

00:10:22:18 --:~:~:~:~:~  
you cannot ask for a jury trial.

00:10:25:02 --:~:~:~:~:~  
By bringing the action,

00:10:26:16 --:~:~:~:~:~  
you're waiving your right  
to a jury trial.

00:10:29:13 --:~:~:~:~:~  
However, if someone  
is a defendant

00:10:32:01 --:~:~:~:~:~  
in a small claims action,

00:10:33:29 --:~:~:~:~:~  
under limited circumstances,  
they can ask for a jury trial.

00:10:38:18 --:~:~:~:~:~  
There's a fee  
that has to be paid.

00:10:40:01 --:~:~:~:~:~

They have to supply an affidavit

00:10:43:06 --:--:--:--  
showing why  
it can be heard by a jury.

00:10:45:27 --:--:--:--  
But they may be entitled  
to a jury trial.

00:10:49:11 --:~:~:~:~:~  
And if there is a jury trial,

00:10:51:04 --:~:~:~:~:~  
it will not take place  
in the evening;

00:10:53:21 --:~:~:~:~:~  
it would take place  
during the day.

00:10:56:25 --:~:~:~:~:~  
I'm seeing a note here.

00:10:58:20 --:~:~:~:~:~  
[Avery whispering]

00:11:00:28 --:~:~:~:~:~  
(Hoffman)  
Okay, and James will give you  
further information.

00:11:03:19 --:~:~:~:~:~  
Mr. Lopez will give you  
further information

00:11:06:08 --:~:~:~:~:~  
about what  
would be required on that.

00:11:11:07 --:~:~:~:~:~  
Now, you also  
have to be realistic

00:11:13:09 --:~:~:~:~:~  
about what  
small claims court cannot do.

00:11:16:09 --:~:~:~:~:~  
Very often, we find that  
people are upset with someone,

00:11:20:22 --:~:~:~:~:~  
and they want the other person  
to either apologize

00:11:24:05 --:--:--  
or admit they were wrong  
or something like that.

00:11:27:03 --:--:--  
Small claims court  
can't make them do that.

00:11:29:15 --:--:--  
We can't make them apologize.

00:11:31:09 --:--:--  
We can't make them behave.

00:11:32:23 --:--:--  
We can't control the behavior  
of the other parties.

00:11:37:00 --:--:--  
We can only award  
money damages.

00:11:39:19 --:--:--  
Now, sometimes  
those money damages

00:11:41:22 --:--:--  
can be conditional,  
which means--

00:11:44:11 --:--:--  
let's say in the case  
that I gave you,

00:11:46:09 --:--:--  
you've given \$500 deposit  
for photographs.

00:11:49:28 --:--:--  
There's an additional  
\$1,000 owing.

00:11:52:25 --:--:--  
The photographer  
may have the photographs.

00:11:55:10 --:--:--  
The court can order  
that the photographer

00:11:58:13 --:--:--  
either return your \$500 deposit  
and not supply the photographs,

00:12:03:17 --:--:--  
or they may say

00:12:04:22 --:--:--  
that you may owe  
the additional \$1,000,

00:12:07:11 --:--:--  
but it's conditioned  
on the photographer

00:12:09:26 --:--:--  
turning over  
the photographs to you.

00:12:12:11 --:--:--  
That's a conditional order  
that the court can grant.

00:12:16:25 --:--:--  
It's linked to the money award.

00:12:24:08 --:--:--  
If you've ever watched--

00:12:25:13 --:--:--  
by the way,  
didn't get into this,

00:12:27:15 --:--:--  
but I'm sure everybody is aware

00:12:29:10 --:--:--  
that there are  
all these television shows

00:12:32:00 --:--:--  
like "Judge Judy"  
and "People's Court"

00:12:34:21 --:--:--  
and all that.

00:12:36:18 --:--:--  
It might not be a bad idea

00:12:38:03 --:--:--  
to sometimes watch  
some of the shows.

00:12:40:04 --:--:--  
Ignore the show business aspect.

00:12:42:25 --:--:--  
But sometimes  
you can actually learn

00:12:44:12 --:--:--

a little bit of law  
in those shows,

00:12:46:25 --:--:--:--  
and it'll show you how to act

00:12:49:15 --:--:--:--  
and sometimes how not to act  
in front of the court.

00:12:53:27 --:--:--:--  
But one of the things  
you will see very often is,

00:12:56:01 --:--:--:--  
people are suing  
for harassment.

00:12:59:19 --:--:--:--  
"He kept telling me  
I owe him the money,

00:13:01:27 --:--:--:--  
"and he's harassing me,

00:13:03:25 --:--:--:--  
and I want money damages  
for that."

00:13:05:26 --:--:--:--  
It's very rare that you  
will get harassment damages

00:13:10:22 --:--:--:--  
or emotional distress damages.

00:13:13:12 --:--:--:--  
It's usually not granted.

00:13:15:25 --:--:--:--  
It's granted under  
very, very limited circumstances

00:13:19:05 --:--:--:--  
in tort cases

00:13:20:16 --:--:--:--  
or if it's really  
outrageous behavior.

00:13:23:12 --:--:--:--  
But again, be realistic.

00:13:25:07 --:--:--:--  
You're not going to get that  
in almost all cases.

00:13:32:12 --:--:--:--  
Another thing is that you  
shouldn't try and overreach

00:13:35:12 --:--:--:--  
or make outrageous  
money demands.

00:13:38:06 --:--:--:--  
If you have a minor injury  
and you're demanding

00:13:42:26 --:--:--:--  
an exorbitant amount of money--

00:13:44:26 --:~:~:~:~:~  
\$5,000 because you got  
a paper cut--

00:13:47:21 --:~:~:~:~:~  
it tends to weaken  
your credibility

00:13:50:29 --:~:~:~:~:~  
on the other issues.

00:13:52:14 --:~:~:~:~:~  
So be realistic.

00:13:53:26 --:~:~:~:~:~  
If you had about \$1,000 worth  
of damages,

00:13:57:05 --:~:~:~:~:~  
don't ask for \$5,000.

00:13:58:27 --:~:~:~:~:~  
It hurts the way the judge

00:14:01:24 --:~:~:~:~:~  
will look at the rest  
of your case.

00:14:04:21 --:~:~:~:~:~  
And since we're discussing that,

00:14:06:23 --:~:~:~:~:~  
we should also be very clear  
about the kinds of cases that--

00:14:11:17 --:~:~:~:~:~  
or the kinds of procedures  
you will find

00:14:14:08 --:~:~:~:~:~

in small claims court.

00:14:16:10 --:--:--:--  
Basically, there are  
four types of proceedings

00:14:22:01 --:--:--:--  
that you will find  
in small claims court.

00:14:24:28 --:--:--:--  
When you first come in,  
there will be a calendar call,

00:14:29:06 --:--:--:--  
and people will have to indicate  
whether they're present or not.

00:14:34:20 --:--:--:--  
I hear feedback.

00:14:36:19 --:~:~:~:~:  
(woman)  
It's okay.

00:14:37:19 --:~:~:~:~:  
You can keep talking.

00:14:38:24 00:14:39:26  
(Hoffman)  
Okay.

00:14:41:09 --:~:~:~:~:  
If the other side  
does not show up,

00:14:43:29 --:~:~:~:~:  
the case will be sent out  
to an arbitrator

00:14:46:22 --:~:~:~:~:  
who will act as a referee,

00:14:48:14 --:~:~:~:~:  
make findings of fact.

00:14:49:24 --:~:~:~:~:  
That's called an inquest.

00:14:52:22 --:~:~:~:~:  
However,  
you should also be aware

00:14:54:16 --:~:~:~:~:  
that if you are bringing a case  
and you cannot prove your case,

00:14:58:26 --:--:--:--  
even though there is no  
opposition by the other side,

00:15:02:16 --:--:--:--  
you will not win.

00:15:03:21 --:--:--:--  
You will not get a judgment.

00:15:05:09 --:--:--:--  
You still have to prove  
the elements of your case.

00:15:08:27 --:--:--:--  
That's why it's important  
that you be prepared

00:15:11:05 --:--:--:--  
and be organized

00:15:12:14 --:--:--:--  
even if the other side  
doesn't show up.

00:15:14:21 --:--:--:--  
And in an inquest,  
at the end of the inquest,

00:15:16:26 --:--:--:--  
there will be a decision  
rendered by the referee,

00:15:20:22 --:--:--:--  
and it'll either be  
in your favor or not.

00:15:23:07 --:--:--:--  
Most cases, you will not get  
a decision immediately.

00:15:27:29 --:--:--:--  
You will be sent the decision  
in the mail.

00:15:31:09 --:--:--:--  
And you should be prepared  
for that as well.

00:15:34:16 --:--:--:--  
If both sides show up,

00:15:37:02 --:--:--:--  
the court can ask  
the two sides to mediate.

00:15:40:25 --:--:--:--  
In other words, you will try  
and work out the differences.

00:15:43:23 --:--:--:--  
Sometimes it's done  
by the judge,

00:15:45:25 --:--:--:--  
who conferences the case.

00:15:47:11 --:--:--:--  
Sometimes it'll be done  
by the arbitrator,

00:15:50:08 --:--:--:--  
who will try and get  
the two sides to agree

00:15:52:16 --:--:--:--  
and settle the case.

00:15:54:01 --:--:--:--  
Sometimes the judge may ask it  
to go out so someone else,

00:15:58:11 --:--:--:--  
either a referee  
or an arbitrator,

00:16:01:19 --:--:--:--  
for the arbitrator  
or referee to mediate.

00:16:04:18 --:--:--:--  
And in mediation, it's--  
the two sides have to agree.

00:16:08:02 --:--:--:--  
There is no decision  
imposed on them.

00:16:10:20 --:--:--:--  
And if the two sides  
can agree,

00:16:12:11 --:--:--:--  
a settlement agreement  
is worked out.

00:16:14:29 --:--:--:--  
It's reduced to writing.

00:16:16:14 --:--:--:--  
And it's the same as if you

have entered into a contract,

00:16:20:01 --:--:--:--  
and you've settled the case

00:16:21:18 --:--:--:--  
according to the terms  
of that agreement.

00:16:25:18 --:--:--:--  
In addition,  
if the two sides cannot agree

00:16:30:02 --:--:--:--  
and they're both  
ready to proceed,

00:16:32:15 --:--:--:--  
you have the choice  
of going to an arbitrator

00:16:36:01 --:--:--:--  
or having your case heard  
by the court, by the judge.

00:16:39:29 --:--:--:--  
Most cases tend to go out  
to an arbitrator.

00:16:44:13 --:--:--:--  
The benefits of going  
to an arbitrator is,

00:16:47:15 --:--:--:--  
you will get a decision  
immediately.

00:16:50:07 --:--:--:--  
The arbitrator  
will hear the case.

00:16:53:06 --:--:--:--  
He will render a decision  
rather quickly.

00:16:55:19 --:--:--:--  
You won't find out  
the decision that day,

00:16:57:26 --:--:--:--  
but it will be mailed to you  
within a few days.

00:17:00:26 --:--:--:--  
If you ask to have the case  
heard by the court,

00:17:03:26 --:--:--:--  
you have to be aware  
that there may be--

00:17:06:04 --:--:--:--  
and in all case--  
almost every time I've seen it,

00:17:09:06 --:--:--:--  
there is a backlog of cases  
to be heard by the court.

00:17:12:23 --:--:--:--  
And therefore, you may not get  
to be heard that day by a judge.

00:17:19:03 --:--:--:--  
You may have to wait around  
until the end of the session,

00:17:22:13 --:--:--:--  
and you may have  
to come back another time.

00:17:25:23 --:--:--:--  
The cases are heard by the judge  
in order of how old they are,

00:17:29:29 --:--:--:--  
so if you're a case

00:17:31:08 --:--:--:--  
that's been on  
for the first time,

00:17:33:09 --:--:--:--  
it's highly unlikely,

00:17:35:05 --:--:--:--  
unless it's  
a very light calendar,

00:17:37:00 --:--:--:--  
for you to actually get  
to be heard by the judge.

00:17:39:29 --:--:--:--  
So again, being realistic:  
if the case is heard by--

00:17:43:08 --:--:--:--  
is being heard by the judge,

00:17:45:04 --:--:--:--  
then you may have to come back

once or more than once

00:17:48:22 --:--:--:--  
to have the case heard.

00:17:50:05 --:--:--:--  
And either side can opt

00:17:53:08 --:--:--:--  
to have the case  
heard by the judge.

00:17:56:11 --:--:--:--  
So even if you want  
to go to an arbitrator

00:17:58:11 --:--:--:--  
but the other side  
wants to have the case

00:18:00:14 --:--:--:--  
heard by the judge,  
it will go to the judge

00:18:03:23 --:--:--:--  
as long as the one side wants it  
to be heard by the judge.

00:18:07:15 --:--:--:--  
If it goes to arbitration,

00:18:10:04 --:--:--:--  
the arbitrator  
will hear both sides.

00:18:12:00 --:--:--:--  
You will be sworn in.

00:18:13:14 --:--:--:--  
It is similar to going  
in front of the judge

00:18:16:28 --:--:--:--  
and having a mini-trial.

00:18:18:23 --:--:--:--  
The key difference is,

00:18:20:05 --:--:--:--  
an arbitrator's decision  
cannot be appealed.

00:18:24:05 --:--:--:--  
The decision is final  
and binding.

00:18:26:19 --:--:--:--  
There are very, very, very,  
very--one more very--

00:18:30:19 --:--:--:--  
limited circumstances under  
which a arbitrator's decision

00:18:35:05 --:--:--:--  
can be overturned:  
highly unlikely.

00:18:39:13 --:--:--:--  
So if you go to an arbitrator,

00:18:42:05 --:--:--:--  
understand that decision  
will be final.

00:18:45:08 --:--:--:--  
If you do decide  
to go in front of a judge,

00:18:48:27 --:--:--:--  
the judge's decision  
may be appealed

00:18:51:14 --:--:--:--  
under, again,  
limited circumstances.

00:18:54:13 --:--:--:--  
And the issue of appeals

00:18:57:06 --:--:--:--  
is not an area  
for this particular seminar.

00:19:03:10 --:~:~:~:~:~  
[Avery whispering]

00:19:05:23 --:~:~:~:~:~  
(Hoffman)  
Now, I mentioned  
if one side shows up

00:19:09:06 --:~:~:~:~:~  
and the other side does not.

00:19:11:03 --:~:~:~:~:~  
If you bring your case

00:19:13:02 --:~:~:~:~:~  
and the defendant  
does not show up

00:19:15:09 --:--:--  
and a case goes out  
for an inquest

00:19:17:12 --:--:--  
and you get a decision  
in your favor,

00:19:19:12 --:--:--  
that decision will go  
to both sides.

00:19:22:14 --:--:--  
Be prepared,  
and be realistic.

00:19:25:00 --:--:--  
The other side,  
even though they have lost

00:19:27:23 --:--:--  
because of the default--

00:19:29:04 --:--:--  
what's called  
a default judgment--

00:19:30:25 --:--:--  
for their failure to show up,  
they can challenge that default.

00:19:35:13 --:--:--  
They can come to court,  
and then they have to--

00:19:38:28 --:--:--  
they have to show  
two primary things:

00:19:41:21 --:--:--  
one, a reasonable excuse  
for the default,

00:19:44:21 --:--:--  
why they didn't show up,  
and they have to have

00:19:47:20 --:--:--  
what's called  
a meritorious defense

00:19:49:27 --:--:--  
to the action.

00:19:51:06 --:--:--  
If you come and say,

"I never got notice,

00:19:53:22 --:--:--:--  
and that's why  
I didn't show up,"

00:19:55:01 --:--:--:--  
or, "The notice came late,

00:19:56:15 --:--:--:--  
and that's why  
I didn't show up in court,"

00:19:58:17 --:--:--:--  
but you owe--they owe the money

00:20:00:20 --:--:--:--  
or they admit to whatever  
they have been charged with,

00:20:04:23 --:--:--:--  
they can't vacate the default.

00:20:07:07 --:--:--:--  
They have to have  
a meritorious defense

00:20:11:02 --:--:--:--  
to the action as well.

00:20:12:23 --:--:--:--  
And by the way,  
that's true if you bring a case

00:20:15:18 --:--:--:--  
and something happens  
and you can't show up

00:20:18:15 --:--:--:--  
and the other side shows up

00:20:19:26 --:--:--:--  
and gets a default judgment  
in their favor.

00:20:23:21 --:--:--:--  
You can come back  
and vacate that default

00:20:27:05 --:--:--:--  
by giving a--again, two reasons:  
a reasonable excuse

00:20:32:08 --:--:--:--  
for why you didn't appear  
in court on time,

00:20:34:29 --:--:--:--  
and two, a meritorious basis  
for the lawsuit.

00:20:39:17 --:--:--:--  
(Avery)  
And I just want  
to chime in again

00:20:41:07 --:--:--:--  
with being realistic.

00:20:42:08 --:--:--:--  
When Aaron says  
that the other side,

00:20:44:04 --:--:--:--  
to vacate the default,

00:20:45:14 --:~:~:~:~:~  
has to show  
a meritorious defense,

00:20:46:28 --:~:~:~:~:~  
you may think  
that there is no defense,

00:20:48:24 --:~:~:~:~:~  
that it's not meritorious.

00:20:49:28 --:~:~:~:~:~  
It's just a smoke screen.

00:20:50:28 --:~:~:~:~:~  
Well, that might be,

00:20:52:04 --:~:~:~:~:~  
but they still have  
the right to be heard,

00:20:53:24 --:~:~:~:~:~  
so you just have to be patient

00:20:55:01 --:~:~:~:~:~  
and let them say  
what they want to say,

00:20:56:18 --:~:~:~:~:~  
and then you can counter that

00:20:57:29 --:~:~:~:~:~  
with whatever you're  
going to counter that with.

00:21:00:02 --:~:~:~:~:~

(Hoffman)  
And in general,  
there is a reluctance of courts

00:21:04:14 --:--:--:--  
to decide cases  
that are not on the merits.

00:21:07:23 --:--:--:--  
The preference is  
to decide cases on the merits.

00:21:12:03 --:--:--:--  
One more thing--

00:21:13:13 --:~:~:~:~:~  
one more thing  
I need to tell you:

00:21:16:03 --:~:~:~:~:~  
postponements or adjournments.

00:21:18:00 --:~:~:~:~:~  
Sometimes one of the parties  
may ask to adjourn the case

00:21:21:09 --:~:~:~:~:~  
or postpone the case.

00:21:23:12 --:~:~:~:~:~  
Again, it doesn't happen  
very often.

00:21:26:09 --:~:~:~:~:~  
However, if there is  
a very good reason for it,

00:21:29:00 --:~:~:~:~:~  
you have to be realistic  
and understand

00:21:31:16 --:~:~:~:~:~  
that the judge may grant  
an adjournment

00:21:33:26 --:~:~:~:~:~  
if the circumstances are there.

00:21:36:23 --:~:~:~:~:~  
And...

00:21:39:17 --:~:~:~:~:~  
Final thing is to be organized  
when you come to court.

00:21:43:24 --:~:~:~:~:~

You should make an outline  
of your facts and arguments.

00:21:47:16 --:--:--:--  
That way,  
you will not forget anything

00:21:50:01 --:--:--:--  
that you want to raise.

00:21:51:17 --:--:--:--  
It doesn't have to be  
written out word for word,

00:21:54:06 --:--:--:--  
but if you have an outline,  
you can follow it,

00:21:56:15 --:--:--:--  
and you know what you want  
to present to the court,

00:21:58:21 --:--:--:--  
you won't miss anything.

00:22:00:26 --:--:--:--  
You should follow it,  
be flexible,

00:22:03:13 --:--:--:--  
but listen to the witnesses  
and the judge.

00:22:05:26 --:--:--:--  
If you're going along  
your narrow path

00:22:07:22 --:--:--:--  
and there's something  
that the judge says

00:22:09:16 --:--:--:--  
or the witness says,  
please pick up on that.

00:22:12:12 --:--:--:--  
Be aware of that.

00:22:14:22 --:--:--:--  
Organize your exhibits  
and other materials.

00:22:17:09 --:--:--:--  
Use a file folder.

00:22:18:20 --:--:--:--

Label your things.

00:22:20:06 --:--:--:--  
That way, if you have to show  
a letter or a contract

00:22:22:26 --:--:--:--  
or photographs, you have  
that material available.

00:22:25:27 --:--:--:--  
It doesn't waste time.

00:22:27:10 --:--:--:--  
It doesn't get  
everybody frustrated.

00:22:30:05 --:--:--:--  
If you can, take notes  
of what the other side is saying

00:22:33:09 --:~:~:~:~:~  
or what the judge is saying.

00:22:35:01 --:~:~:~:~:~  
That may help you.

00:22:36:06 --:~:~:~:~:~  
But be aware  
of what the proceedings are.

00:22:38:12 --:~:~:~:~:~  
Don't get so caught up  
in writing and taking your notes

00:22:41:12 --:~:~:~:~:~  
that you're not paying attention  
to what's actually being said.

00:22:46:02 --:~:~:~:~:~  
Finally, address the judge  
or the arbitrator.

00:22:49:18 --:~:~:~:~:~  
Don't get into arguments  
with the other side.

00:22:52:20 --:~:~:~:~:~  
It doesn't do you any good.

00:22:53:28 --:~:~:~:~:~  
You haven't been able  
to work it out

00:22:55:14 --:~:~:~:~:~  
with the other side till now.

00:22:57:28 --:--:--:--  
Now the decision--  
if the decision

00:23:00:08 --:--:--:--  
is going to be rendered  
by the judge

00:23:02:06 --:--:--:--  
or by the arbitrator,  
address your arguments to them.

00:23:06:11 --:--:--:--  
They're the person  
you have to convince.

00:23:08:09 --:--:--:--  
You're not going to convince  
the other side anymore.

00:23:11:18 --:--:--:--  
And stay calm and focused.

00:23:13:23 --:--:--:--  
Don't get angry.

00:23:14:25 --:--:--:--  
Don't get distracted.

00:23:16:07 --:--:--:--  
Don't get  
into shouting arguments

00:23:17:25 --:--:--:--  
with the other side.

00:23:18:29 --:--:--:--  
It doesn't help your case.

00:23:20:16 --:--:--:--  
You can object if there's  
something to object to,

00:23:23:11 --:--:--:--  
but stay calm, and that way,

00:23:25:10 --:--:--:--  
you will be able  
to present your case

00:23:27:08 --:--:--:--  
the best way you can.

00:23:29:19 --:--:--:--  
And, James, up to you now.

00:23:31:17 --:--:--  
(Lopez)  
Some of you  
are probably wondering

00:23:33:12 --:--:--  
what I'm doing sitting here

00:23:34:20 --:--:--  
since I've been silent  
up until now.

00:23:37:28 --:--:--  
Basically, I'm what they call  
a court clerk.

00:23:42:27 --:--:--  
My function is much different

00:23:45:19 --:--:--  
from the function  
of Aaron and Susan.

00:23:49:04 --:--:--  
When you come  
to small claims court

00:23:51:07 --:--:--  
or even if you call  
small claims court,

00:23:53:15 --:--:--  
you're not likely to get  
an attorney on the telephone,

00:23:56:22 --:--:--  
and you're not likely  
to see an attorney

00:23:58:20 --:--:--  
at the small claims office.

00:24:00:28 --:--:--  
You're going to see somebody  
who is a clerk,

00:24:03:11 --:--:--  
who is basically  
a person like me

00:24:05:21 --:--:--  
who has no legal expertise  
but who is trained

00:24:09:00 --:--:--

in the procedure  
of small claims.

00:24:11:27 --:--:--:--  
And so as a result,

00:24:14:06 --:--:--:--  
there's some good  
and bad aspects to that.

00:24:17:08 --:--:--:--  
The good aspect is that  
I have plenty of time

00:24:20:09 --:--:--:--  
to help you with your case,  
to help you fill out your case,

00:24:24:13 --:--:--:--  
to help you  
with the procedural details

00:24:27:04 --:--:--:--  
of your case.

00:24:28:17 --:--:--:--  
However, I am unable to help you

00:24:33:12 --:--:--:--  
with the legal aspects  
of your case,

00:24:35:03 --:--:--:--  
as much as you would like to.

00:24:37:02 --:--:--:--  
And really, to an extent,  
that's a little unfortunate,

00:24:39:25 --:--:--:--  
because usually,  
when you come to court,

00:24:43:12 --:--:--:--  
I'm the person you're going  
to be seeing most of the time,

00:24:45:21 --:--:--:--  
either me or another clerk.

00:24:47:23 --:--:--:--  
And you're going to be  
full of questions

00:24:49:19 --:--:--:--  
if it's your first time,

and many of those questions

00:24:52:29 --:--:--:--  
I'm just not going to be able  
to answer for you.

00:24:55:11 --:--:--:--  
But I will do my best

00:24:57:02 --:--:--:--  
to answer the questions  
that I can respond to.

00:25:01:04 --:--:--:--  
For example, usually when people  
call small claims court,

00:25:04:18 --:--:--:--  
the first thing  
that they ask is,

00:25:07:21 --:--:--:--  
"What's the procedure?"

00:25:09:09 --:--:--:--  
It's a very open-ended question,  
and basically what they mean is,

00:25:13:08 --:--:--:--  
"How do I start my case?  
Do I even have a case?"

00:25:17:01 --:--:--:--  
Then they want to explain to me  
what their case is about.

00:25:19:29 --:--:--:--  
And I can listen  
to a little bit of your case,

00:25:23:11 --:--:--:--  
but basically, procedurally,

00:25:25:11 --:--:--:--  
what I'm going to go over  
with you are certain aspects

00:25:29:26 --:--:--:--  
that actually Aaron covered,  
but things that you need to know

00:25:34:14 --:--:--:--  
before you can even  
file your claim.

00:25:37:04 --:--:--:--



00:26:15:13 --:--:--:--  
of either filing your claim  
in the Bronx

00:26:17:23 --:--:--:--  
or in Queens County.

00:26:20:04 --:--:--:--  
Or you may have a question  
about the fees:

00:26:22:09 --:--:--:--  
"How much is--how much  
can I sue for, first of all,

00:26:25:15 --:--:--:--  
and how much  
is it going to cost me?"

00:26:28:05 --:--:--:--  
In small claims,  
the fee structure

00:26:30:25 --:~:~:~:~:  
is pretty simple.

00:26:32:21 --:~:~:~:~:  
Basically, if you have a case  
which is for \$5,000 or less,

00:26:39:11 --:~:~:~:~:  
down to \$1,000--  
I kind of said that backwards.

00:26:42:20 --:~:~:~:~:  
Let me say it again.

00:26:44:02 --:~:~:~:~:  
If you have a case which is  
for \$1 up into \$1,000,

00:26:48:20 --:~:~:~:~:  
it's going to cost you \$15  
to start a claim.

00:26:52:16 --:~:~:~:~:  
If you have a case  
which is over \$1,000,

00:26:55:08 --:~:~:~:~:  
up to our jurisdictional limit,  
which is \$5,000,

00:26:58:08 --:~:~:~:~:  
then your case is going  
to be \$20 to file your claim.

00:27:02:10 --:--:--:--  
There are some special cases  
that are called wage claims,

00:27:07:01 --:--:--:--  
which can be up to \$300,

00:27:09:14 --:--:--:--  
and you're only suing  
for wages only.

00:27:12:21 --:--:--:--  
Those cases are only  
the cost of the postage,

00:27:15:20 --:--:--:--  
which would be \$5.03 currently.

00:27:18:28 --:--:--:--  
Unfortunately, when you come  
to the small claims office,

00:27:21:09 --:--:--:--  
we're going to ask you  
to bring the \$5.03.

00:27:26:12 --:--:--:--  
And there are other cases where,

00:27:29:16 --:--:--:--  
if you happen to be unable  
to afford the small claims fee,

00:27:35:20 --:--:--:--  
you may be able to make  
an application to a judge

00:27:39:00 --:--:--:--  
to allow you to file your claim

00:27:41:14 --:--:--:--  
without having to pay  
any fee at all.

00:27:44:15 --:--:--:--  
(Hoffman)  
James?

00:27:45:15 --:--:--:--  
(Lopez)  
Yes?

00:27:46:15 --:--:--:--  
(Hoffman)  
Sorry, question:

00:27:47:20 --:--:--:--  
Are the fees recoverable  
if you win the case?

00:27:51:03 --:--:--:--  
(Lopez)  
For the most part, yes.

00:27:52:26 --:--:--:--  
When you file your claim,

00:27:54:28 --:--:--:--  
you're not really going to be  
adding in that fee.

00:27:57:22 --:--:--:--  
Even though you're going  
to feel the desire

00:27:59:21 --:--:--:--  
to add the \$15 into your claim,  
you're not going to do that.

00:28:03:06 --:--:--:--  
The court is going to know

00:28:04:12 --:--:--:--  
how much you paid  
for your claim,

00:28:06:00 --:--:--:--  
and then the judge  
is going to decide

00:28:07:22 --:--:--:--  
whether you're entitled  
to recover that claim

00:28:10:18 --:--:--:--  
as part of your reward,

00:28:12:13 --:--:--:--  
and in the overwhelming  
majority of cases,

00:28:15:11 --:--:--:--  
they do allow you to do so.

00:28:19:07 --:--:--:--  
I should mention briefly

00:28:21:02 --:--:--:--  
that we're covering  
small claims here.

00:28:23:20 --:--:--:--  
There are also  
certain kinds of claims

00:28:26:00 --:--:--:--  
which are called  
commercial claims,

00:28:27:19 --:--:--:--  
which I don't think we're  
going to really get into,

00:28:30:04 --:--:--:--  
which basically,  
if you are not an individual

00:28:35:05 --:~:~:~:~:~  
or a sole proprietor,

00:28:36:15 --:~:~:~:~:~  
if you have  
a different sort of case

00:28:38:04 --:~:~:~:~:~  
where you're a business,

00:28:39:16 --:~:~:~:~:~  
you may have to file  
a commercial claim,

00:28:41:14 --:~:~:~:~:~  
and that is something

00:28:43:00 --:~:~:~:~:~  
that you can call  
the clerk's office

00:28:45:23 --:~:~:~:~:~  
or go to the clerk's office,

00:28:47:11 --:~:~:~:~:~  
and they will be happy  
to explain to you

00:28:49:10 --:~:~:~:~:~  
the difference  
between the two of them.

00:28:54:01 --:~:~:~:~:~  
After you file your claim,  
you're going to want to know,

00:28:56:15 --:~:~:~:~:~  
how long is it going to take  
for you to get your court date?

00:28:59:15 --:--:--  
Normally, it takes  
between five and six weeks

00:29:03:09 --:--:--  
for your claim actually  
to go to court.

00:29:07:15 --:--:--  
There may be cases,  
as Aaron mentioned,

00:29:11:27 --:--:--  
where the case  
has to be postponed,

00:29:14:05 --:--:--  
and if the case is postponed,

00:29:16:05 --:--:--  
it could be for another  
couple of months after that

00:29:19:18 --:--:--  
or a shorter or longer  
period of time.

00:29:21:24 --:--:--  
That would be  
up to the discretion

00:29:23:15 --:--:--  
of the judge presiding

00:29:25:09 --:--:--  
on the night  
where the case is scheduled--

00:29:28:24 --:--:--  
is originally scheduled.

00:29:32:11 --:--:--  
And because of that,  
even if you need a postponement,

00:29:38:14 --:--:--  
there's something  
that you need to be aware of.

00:29:40:13 --:--:--  
You cannot call  
the clerk's office and say,

00:29:42:10 --:--:--  
"I need a postponement."

00:29:43:19 --:--:--  
And we can't reassign  
your case on that basis.

00:29:46:22 --:--:--  
It's up to the judge.

00:29:47:28 --:--:--  
The judge who is assigned  
to your hearing

00:29:51:03 --:--:--  
on the night  
that your case is scheduled

00:29:53:09 --:--:--  
would have to determine  
whether you are entitled

00:29:55:23 --:--:--  
to a postponement or not.

00:29:58:15 --:--:--  
As a rule of thumb,  
in most cases,

00:30:02:06 --:--:--  
if it is your first time  
filing your claim,

00:30:05:15 --:--:--  
if it's the first appearance,

00:30:07:25 --:--:--  
in most cases,  
the judge will grant

00:30:09:09 --:--:--  
a first adjournment  
either for you

00:30:12:13 --:--:--  
or for the defendant.

00:30:14:05 --:--:--  
But that is not a guarantee,

00:30:16:12 --:--:--  
so it--you should make  
every effort

00:30:19:28 --:--:--  
to arrange your schedule  
to make sure that you are there

00:30:22:24 --:--:--

on the night  
that you are assigned.

00:30:26:19 --:--:--:--  
I'm sorry, Aaron,  
did you mention

00:30:28:09 --:--:--:--  
about the difference

00:30:29:11 --:--:--:--  
between the night  
and the day court?

00:30:31:05 --:--:--:--  
(Hoffman)  
No, I didn't.

00:30:32:08 --:--:--:--  
(Lopez)  
Okay.

00:30:35:03 --:--:--:--  
In small claims,  
most of the cases

00:30:37:12 --:--:--:--  
are assigned for the evening,

00:30:40:13 --:--:--:--  
which would be 6:15 p.m.

00:30:44:28 --:--:--:--  
There are some cases where you--

00:30:49:12 --:--:--:--  
if you either work  
in the evening

00:30:52:08 --:--:--:--  
or you are disabled  
or you are a senior citizen,

00:30:57:03 --:--:--:--  
you can request that the clerk

00:30:59:25 --:--:--:--  
assign your case  
to a daytime hearing,

00:31:03:07 --:--:--:--  
and if you make that request

00:31:05:07 --:--:--:--  
and you show the evidence  
to the clerk

00:31:07:06 --:--:--  
that you fit  
one of those categories,

00:31:09:11 --:--:--  
the clerk will assign  
your hearing to daytime.

00:31:11:18 --:--:--  
But normally, you should expect  
your case to be at night.

00:31:14:22 --:--:--  
And when you arrive at night,

00:31:16:07 --:--:--  
you should expect to be there  
for--sometimes for a few hours.

00:31:20:21 --:--:--  
In the case--they  
will call the calendar

00:31:22:14 --:--:--  
promptly at 6:30, and there are  
some procedural issues

00:31:26:22 --:--:--  
that have to take place,

00:31:28:13 --:--:--  
and sometimes you can be there  
until 9:30, 10:00, 10:30.

00:31:34:20 --:--:--  
It's open until midnight,  
usually doesn't--

00:31:37:09 --:--:--  
the cases usually  
don't go that long,

00:31:38:29 --:--:--  
but there is a potential  
that they can.

00:31:42:29 --:--:--  
(Hoffman)  
One more thing.

00:31:44:01 --:--:--  
(Lopez)  
Yes.

00:31:45:13 --:--:--

(Hoffman)  
If you are requesting  
a daytime date

00:31:49:24 --:--:--:--  
because you're disabled,  
you're elderly,

00:31:53:17 --:--:--:--  
or because you work at night,  
you have to bring proof

00:31:58:12 --:--:--:--  
to the clerk's office  
at the time.

00:32:00:09 --:--:--:--  
Otherwise, you'll be making  
an extra trip.

00:32:02:24 --:~:~:~:~:~  
And again, in the booklet  
that's given out,

00:32:05:18 --:~:~:~:~:~  
they indicate what kind of proof  
you should give--

00:32:08:18 --:~:~:~:~:~  
you should bring.

00:32:10:28 --:~:~:~:~:~  
(Lopez)  
If you haven't picked up  
one of these books,

00:32:13:11 --:~:~:~:~:~  
you really should.

00:32:15:11 --:~:~:~:~:~  
About 75% of what  
we're discussing today

00:32:18:16 --:~:~:~:~:~  
is already covered in the book.

00:32:21:06 --:~:~:~:~:~  
And so you really need  
to make yourself prepared

00:32:27:26 --:~:~:~:~:~  
and realistic and organized,  
as Aaron said.

00:32:33:22 --:~:~:~:~:~  
One of the things it's going

to cover in the book is,

00:32:36:00 --:--:--:--  
after you file your case,

00:32:37:27 --:--:--:--  
you may need to have  
witnesses appear

00:32:41:29 --:--:--:--  
who may be unwilling  
to come to court.

00:32:45:09 --:--:--:--  
And in that case, you might need  
to get a subpoena.

00:32:48:28 --:--:--:--  
In small claims court,  
when you file your case,

00:32:53:08 --:--:--:--  
we need to serve the case first  
before we can proceed

00:32:57:12 --:--:--:--  
with any further actions  
with respect to that case.

00:33:01:01 --:--:--:--  
Normally, it takes  
about a week to 2 1/2 weeks

00:33:06:18 --:--:--:--  
for us to get a response  
from the other party

00:33:10:13 --:--:--:--  
that they were served.

00:33:12:26 --:--:--:--  
Your cases are served by mail  
in small claims court,

00:33:16:00 --:--:--:--  
and what we do is,  
we send out two summonses,

00:33:18:21 --:--:--:--  
one by ordinary mail  
and one by certified mail.

00:33:22:25 --:--:--:--  
We ask the person  
to sign the certified mail,

00:33:25:06 --:--:--:--  
but even if they don't,

00:33:27:15 --:--:--:--  
then we assume  
that the case has been served,

00:33:30:07 --:--:--:--  
as long  
as that regular mail piece

00:33:32:04 --:--:--:--  
does not get returned  
back to us.

00:33:34:11 --:--:--:--  
So that's one of the reasons  
why we're going to ask you

00:33:37:24 --:--:--:--  
to write clearly and concisely,

00:33:40:05 --:~:~:~:~  
to make sure that everything  
is spelled properly,

00:33:42:13 --:~:~:~:~  
to make sure that you have  
the proper name and address,

00:33:45:00 --:~:~:~:~  
before you even  
fill out your form.

00:33:46:27 --:~:~:~:~  
But after all of that's done,

00:33:48:23 --:~:~:~:~  
you may need  
to subpoena that party,

00:33:50:19 --:~:~:~:~  
and then we're going  
to have to wait

00:33:52:05 --:~:~:~:~  
until we receive that response  
from that person.

00:33:55:16 --:~:~:~:~  
So what we'll do is,

00:33:57:18 --:~:~:~:~  
after you purchase  
your index number,

00:33:59:19 --:--:--:--  
after you get your court date,  
we will ask you to call us

00:34:04:04 --:--:--:--  
in some time between a week  
to 2 1/2 weeks after that.

00:34:09:02 --:--:--:--  
And if the other party  
has been properly served

00:34:12:16 --:--:--:--  
and you need to get a subpoena,

00:34:14:11 --:--:--:--  
then you can come back  
to the clerk's office,

00:34:16:23 --:--:--:--  
and we will issue you a subpoena

00:34:19:12 --:--:--:--  
so that you can subpoena  
these parties

00:34:20:29 --:--:--:--  
who are unwilling  
to voluntarily testify.

00:34:24:19 --:--:--:--  
There's also a subpoena  
for documents

00:34:28:09 --:--:--:--  
where you may need documents  
to prove your case

00:34:32:00 --:--:--:--  
and the other party  
or another person is unwilling

00:34:36:12 --:~:~:~:~:~  
to provide those documents  
on a voluntary basis.

00:34:42:01 --:~:~:~:~:~  
You had mentioned a jury trial.

00:34:45:13 --:~:~:~:~:~  
Most of the time  
in small claims,

00:34:47:02 --:~:~:~:~:~  
people do not have jury trials.

00:34:49:15 --:--:--  
It's a complicated process  
to get a jury trial.

00:34:53:18 --:--:--  
If you've ever seen  
those court TV programs

00:34:56:26 --:--:--  
and they had that thing  
that's called voir dire,

00:34:59:16 --:--:--  
where the parties  
have to be questioned

00:35:02:10 --:--:--  
as to their suitability  
for a jury,

00:35:05:01 --:--:--  
that's something that you  
would have to do yourself

00:35:07:03 --:--:--  
or hire an attorney  
to do it, and so--

00:35:09:12 --:--:--  
(woman)  
James?

00:35:10:12 --:--:--  
(Lopez)  
Yes?

00:35:12:02 --:--:--  
(woman)  
We have to begin wrapping up  
so we have time for questions.

00:35:14:22 --:--:--  
(Lopez)  
Okay.

00:35:15:29 --:--:--  
So as Aaron mentioned,  
if you are the claimant,

00:35:19:04 --:--:--  
you're not going to be eligible  
to ask for a jury,

00:35:21:28 --:--:--  
but the defendant may,  
in some cases, request a jury,

00:35:26:01 --:--:--:--  
and if they need to,

00:35:27:10 --:--:--:--  
they would have to  
call the clerk's office,

00:35:29:01 00:35:30:16  
and we would assist them  
with that.