

Bullet-Point Outline for Session 2: Focus on You and How You Begin

Focus on You: Imagine a typical day in small claims court.

Is your chair comfortable? _____

Can you see and hear the litigants clearly without undue effort? _____

Is the lighting to your liking? _____

How long will you sit there before taking a break (and how long is your break)? Give details about the length and number of court sessions, along with lunch time and other breaks.

Do you have a computer within easy reach? A copy machine? _____

What items do you personally make certain you have with you for court? (Answers like Chapstick, Motrin, hand putty, your favorite pen, extra blank forms, etc. all welcome! The longer the list, the more likely one of your colleagues will find a way to be happier on the bench!)

What changes in the physical environment might assist you in focusing on the proceedings before you?

How is the furniture arranged for the litigants and attorneys?

How many people are typically in the room with you while court is in session? (I.e., just people associated with one case at a time, everyone with a case at the morning session, or something in-between?)

Do you have a bailiff and/or clerk? Any other court officials, such as another magistrate, TCA, etc.?

Do you wear a robe? _____

Is your seat elevated? _____

Do you have a nameplate? Flag (of what?) Seal? Other features communicating that this is a courtroom/formal official setting?

How likely are you to be interrupted while holding court?

Are there visible legal resources in your courtroom? (For example, a copy of Small Claims Law, NC statutes, etc.?)

To what degree do you feel supported in projecting the image of a knowledgeable competent judicial official in terms of the courtroom environment? Do you have concerns that the present environment is TOO formal, in that it intimidates litigants? What specific changes within your control might be informative to try out in your courtroom?

Does your county have full-time small claims magistrates? _____

Does your county require all or most magistrates to rotate through small claims court?

Are you the magistrate primarily responsible for small claims court in your county?

If you share the role of small claims magistrate with another magistrate, do you have any formal or consistent informal arrangement to observe each other or otherwise communicate about your understanding of the law as well as procedures for running court? Would you be willing to experiment with such a collaboration? Would your colleagues?

How much control do you have over (1) the physical courtroom, and (2) standardizing practice in the conduct of small claims trials?

Are there other judicial officials available for consultation whom you find to be beneficial to talk to?

How much meaningful, effective support do you have in terms of resources? Are there resources you have requested or have considered requesting that might enable you to do your job better?

How You Begin

You've now conducted a systematic inventory of your own needs and those of the litigants and other players related to how you conduct trial. You may be feeling like you really have your work cut out for you! This task you do on a regular basis is enormously complicated and extremely important – and you're trying to accomplish a large number of goals, many of them in some tension with each other. Not for the faint of heart! The only approach likely to leave you alive at the end of the day and optimistic about doing it again tomorrow is the time-

honored wisdom of ONE STEP AT A TIME. In this part of the seminar, we're turning OUR focus to YOUR focus when you first enter the courtroom.

Consider Your Objectives

Some of you "begin" a trial session with litigants from a number of cases present in front of you, while others "begin" anew with each new case. That fundamental structural difference has dramatic implications for the choices you make about how to hold court, but you probably share the overarching objectives that are often front and center in the beginning (whatever that beginning looks like in your individual courtroom). Those objectives are likely to include:

-  Providing basic procedural information to litigants about small claims court;
-  Communicating clear expectations to parties, both about what will happen during trial and about their own behavior.
-  Creating a positive, accurate impression about the nature of the event over which you're presiding. For example, that the process will be orderly, that everyone will have an opportunity to be heard, that you are responsible for and capable of providing a forum that will be fair and based on legal requirements.

NOTE that these objectives are also the focus of the writings related to the topics of Bench Skills and Procedural Fairness.

Basic Procedural Information for Litigants

Court System Resources for Basic Procedural Information for Litigants

The AOC Website [has a section](#) written to assist citizens in small claims court.

In addition, [eCourts Guide & File](#) is likely to be extremely helpful to plaintiffs (as well as to defendants in SE actions who wish to file a counterclaim).¹

Many counties have information about small claims cases on their website. See, e.g., <https://www.alamance-nc.com/clerkofcourt/divisions/civil-division/small-claims-court/>

Other Resources for Basic Procedural Information for Litigants

LANC Website: <https://www.legalaidnc.org/get-help/self-help-library/small-claims-court-guide>

Communicating Clear Expectations to Parties

Magistrates in some counties make an opening statement before calling the first case. A sample opening statement is contained in the materials for this seminar, in the hope that it will provide a starting place for magistrates wishing to develop or revise their own.

Question: Do you or your clerk's office distribute any sort of written information related to what to expect in small claims court?

¹ Note that Guide & File also has information available for both landlords and tenants about summary ejectment and the CDC Order at <https://www.nccourts.gov/covid-19/covid-19-information-for-landlords-and-tenants#tenant>

Creating a Positive, Accurate Impression . . .

Your first words matter. “Will the plaintiff come forward?” is different from “Mr. Jones, you can sit down.” “Present your evidence” is different from “tell me what you’re here today.”

Words are one of the ways you control the degree of formality of your courtroom, which in turn makes a difference in the quality and quantity of evidence available upon which to base your ultimate decision.

As a general rule, what is your preferred degree of formality?

What are other factors related to the formality/informality of your court?

Do you sometimes adjust the degree of formality due to characteristics of parties?

Write it down: In a typical SE case, write down the exact words you usually say (be honest!) in addressing the parties prior to the presentation of evidence. You can leave out the oath itself, but include what you say about taking the oath – it’s a direction, after all. For example, do you say “right hand?” or just “hand”?

Now edit it: You may be perfectly satisfied with it, but edit it anyway. What is at least one thing you might make a different choice about? Consider trying it out a couple of times to see what you think.

Be Prepared

When all is said and done, you’re there to hear cases, and there are big advantages to knowing as much as possible about those cases ahead of time. If you don’t already do so, investigate **whether getting the shucks in advance** is a possibility.

For those of you who do this already, describe exactly what you’re looking for and what action you take. If you’ve done this for a long time, try to remember how that answer was different when you were less experienced.

Drawbacks: Have you ever made an assumption about a case that turned out to be wrong? What lesson did you learn from that? Is there a way to get the benefit of an advance look without the drawback of pre-judging a case?

Managing Your Calendar is a topic in which interest is likely to vary depending on the (1) volume and (2) predictability of your usual docket, as well as the magistrate’s amount of experience in holding court.

Discussions about managing your calendar are likely to overlap with discussions about continuances in your county. For example, you may have special rules about calling cases in which parties are represented first, and you may be required to continue a case in which the attorney is not present due to a scheduling conflict.

In cases in which a party is represented by an attorney, you should be aware of **Rule 3.1, NC General Rules of Practice for Superior and District Courts**, which governs scheduling conflicts for attorneys: After identifying a number of situations which are treated as priorities based on the nature of the case (e.g., capital cases, child abuse cases, etc.), the Rule concludes by saying, “When none of the above priorities applies, priority shall be as follows: superior court, district court, magistrate’s court.”