

Outline for Session 1:

Small Claims from the POV of the Other Players

The Other Players

How you do your job is of interest to other people, and their concerns are of interest to you. Let's take a look at who these people are and what they want. As you make decisions about how to do your job, some of the things you might think about are whether and how their interests and concerns are relevant to the specific choices you make about how to do your job.

From a Litigant's Point of View

Litigants differ, and different litigants value different things. What are some significant ways in which litigants differ?

Plaintiffs vs. defendants

Often in small claims vs. new to small claims

Primary interest business/professional vs. something else

What aspects of the small claims experience is likely to be significant for:

- **plaintiffs in general?**

- **repeat plaintiffs?**

- **business people?**

What aspects of the small claims experience is likely to be significant for defendants?

Your Courtroom, from the Litigant's POV

If in your county, there is ONE small claims courtroom, located in the ONLY building in the county in which trials of any sort are conducted, you can skip this question. Otherwise, briefly describe the potential scenarios in which litigants attempting to get to court end up somewhere else.

What's the parking situation like for litigants?

How difficult is it for a litigant to (1) find your courtroom, and (2) be certain they're in the right place?



If you have the slightest doubt about the accuracy of your answer, try it yourself or, better yet, be a silent witness to the efforts of a friend or family member who's never been to your courthouse before.

Are there security measures that might delay a litigant from arriving in court on time? For example, are phones or other electronic devices prohibited? Are lines long at relevant times of day? Are there any other unexpected rules or requirements that might catch a litigant unprepared?



Your assignment: Are there any measures within your control, large or small, easy or a long-shot, that might decrease the number of litigants who are trying unsuccessfully to arrive on time for their trial?

From a Lawyer's Point of View

What aspects of the small claims experience is likely to be significant for attorneys?

Answer to in-class question:

From Your Clerk(s) of Court's Point of View

Relationships with clerks run the gamut from barely-there to joined-at-the-hip, and each of you should focus on your own unique relationship in thinking about this.

What aspects of the small claims experience is likely to be significant for THE CLERK?

What aspects of the small claims experience is likely to be significant for clerks?

Your working relationship with the clerk, perhaps more than any other, demands effective communication – and decision-making -- between the clerk and the magistrate. A companion document to this one, Magistrates, Clerks, and Small Claims, may be helpful in structuring that conversation.

Assessing the lay of the land:

Do you have one or more specific clerks in your county with designated responsibilities related to small claims court? _____

Do you – and other small claims magistrates in your county – interact frequently with such a clerk? _____ If not, why not? _____

How would you characterize your relationship and the ease and effectiveness of your communication? _____

In terms of clarifying allocation of responsibilities and preferred procedures, does this clerk have authority and/or flexibility to enter into an informal agreement concerning these matters?

Do you anticipate that this person would be open to having this conversation? _____

Are there areas other than those listed that might benefit from more deliberate discussion with this person? _____

If you anticipate difficulties with this endeavor, what are they? _____

Do you have any thoughts about what measures by support personnel at the SOG, AOC, or others might assist with this? _____

From District Court Judges' Point of View

What aspects of the small claims experience is likely to be significant for district court judges?

Number of appeals for trial *de novo*.

Before we consider whether there are measures within your control that might diminish the number of appeals, we must first ponder the question of why litigants appeal. (Most of them don't, so of those that do, why is that?)

Do you have access to data about this? Can your clerk tell you what number of appeals never reach trial? Is it possible to look at those that do and consider the reasons? Particularly for magistrates in small counties, or medium-sized counties in which you personally do 50%+ of the small claims cases, (1) what percentage of appeals occur in cases involving involuntary dismissal for failure to prosecute [and if it's a significant number at all, look at with/without prejudice breakdown], and (2) what percentage involved appeals by parties represented by attorneys at the small claims trial, and finally (3) what percentage involved appeals by parties visibly upset, annoyed or angry, and/or belligerent at trial? Just for fun, you might make predictions about appeals that go to trial over the next year and then follow up to see what you learn. (Yes, this is my idea of fun.)

In light of the possible reasons you've identified, are there measures within your control that might diminish the number of appeals?

The other concern district court judges express is in determining what happened below. While this is seldom of legal significance, sometimes it is. We'll talk more about this subject when we discuss entering judgment. (We'll also talk about the concerns of the sheriff's office briefly at that same session.)

