

SAMPLE / Opening Statement for Small Claims Court

Good morning. I am Magistrate _____ and this is _____ County Small Claims Court. I am going to read a list of cases that are scheduled to be tried today. If I call your name, or the name of the case you are here for, please stand, identify yourself, and tell me whether you are prepared for your hearing today. [Depending on how your calendar is designed, you may want to insert some information about the procedure for deciding which cases are tried first.] Be sure that you have turned off your cell phones, and sit quietly while the court is in session.

I want to talk with you a moment about what to expect while you're in court. Some of you may have watched small claims court on television and think that what happens here in this courtroom will be like it is on television. That is certainly not the truth. Some of you may be feeling nervous, or worried that you'll be expected to follow technical legal rules. That is also not true. The purpose of small claims court is to allow citizens who are not lawyers to come to court to tell their side of the story to an impartial judge. Everyone will have an opportunity to talk, and no one will be allowed to interrupt while someone else is talking,

When I call your case, come to front of the courtroom and sit down. The person who brought this lawsuit (the plaintiff) sits here, on my left, and the defendant sits there, on my right. I will begin by asking you to swear or affirm that you will tell the truth, and then the plaintiff has a chance to tell me about your case. I may ask some questions to be certain I understand exactly what your side of the story is. The plaintiff brought the case, and so has the burden of proving it. That means that even if I think the plaintiff MIGHT deserve to win, I would have to rule against the plaintiff. To win a case in small claims court, the plaintiff has to prove that the facts are PROBABLY as the plaintiff claims. Also, the law must say that when the facts are as plaintiff has proved, plaintiff is legally entitled to win. The plaintiff has to prove the case well enough to show that the plaintiff is PROBABLY entitled to win before the defendant even has to offer a defense. That means that if you are a plaintiff, and the defendant is not here, you still must prove to the court that the facts and the law entitle you to win.

After I've heard testimony from the person who brought the lawsuit, and any witnesses the plaintiff may have, if I believe that the plaintiff appears to be entitled to win so far, the defendant has a turn to begin at the beginning and tell his or her side of the story. At that time, I'll also hear testimony from witnesses for the defendant. Again, I will ask questions if I need to so that I can be certain that I understand defendant's side of the story. Both the plaintiff and the defendant have the right to ask questions too, but I will ask you to direct those questions to me. During the trial no one should speak directly to anyone except me as the presiding judicial official.

After I've heard both sides of the story and considered any evidence you have, I will either tell you the decision right away, or do some research on the case and mail you the decision. Most of the time, the decision is announced right away. If a delay is necessary, I am required to decide within ten days. The law gives a person who does not win the case in small claims court the right to appeal to district court for a whole new trial. After the decision is announced, if you are the losing party and you want to appeal, you can inform me of that so I can record it, or file notice of appeal with the clerk within ten days. If my decision is for the plaintiff, after ten days the plaintiff can go to the clerk and begin the procedure for enforcing my judgment. No one has to pay any money today.