

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 --:--:--

For example, he mentioned
jurisdiction and venue.

00:25:40:25 --:--:--:--
So I'm going to ask you,
where are you located?

00:25:44:25 --:--:--:--
If you are in New York County,
which is where we are right now,

00:25:49:10 --:--:--:--
and the other party
that you want to sue

00:25:51:03 --:--:--:--
is in California,

00:25:52:16 --:--:--:--
then I'm going to have
some bad news for you.

00:25:54:07 --:--:--:--
I'm going to tell you
we're not going to be able

00:25:56:02 --:--:--:--
to take your case
in New York County.

00:25:58:09 --:--:--:--
You're going to have to
file your claim in California,

00:26:01:02 --:--:--:--
and you're going to have
to get in contact

00:26:02:26 --:--:--:--
with the California legal system

00:26:04:21 --:--:--:--
if you want
to file a small claim.

00:26:07:17 --:--:--:--
Or if you are located
in the Bronx

00:26:11:12 --:--:--:--
and the other party
is in Queens County,

00:26:13:29 --:--:--:--
I'm going to give you an option

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.