

Culture in Theory vs. Practice: Small Claims Training and the Actual Speech Event

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A small claims hearing is a speech event in which the communication is facilitated and constrained by institutionally specific material conditions (of time and place, rules and procedures, etc.) such that certain matters of concern (disputes, complaints, etc.) are discursively constituted and formally resolved. Courts in many countries have websites seeking to inform their citizens about how to proceed. These websites, comprised of written texts of a variety of types, and sometimes videos, let potential litigants know what kinds of disputes will count as legitimate, how to navigate bringing a legitimate dispute to the court, and the kind of communicative exchange which parties should be prepared to participate in if they move forward. Of course, people may not access these websites to prepare or, if they do, they may not attend carefully what the website advocates. The upshot of this is it is not at all clear that what people are instructed to do is what they actually do in small claims court. This uncertainty calls for research comparing the speech event prescribed by small claims court websites with the speech event enacted through the actual practice. Our central data come from a single United States court in Colorado. Materials include the court's website; tapes and transcripts of 20 trials in this court run by six judges; and observations by the first author of more than 100 additional trials. We describe the speech event, making use of Hymes' (1974) SPEAKING tool, constructed by the various website materials to the speech event actually created by judges and litigants. We particularly focus on the act sequence, the emotional key and the norms presented in the materials or enacted in the practice, giving particular attention to judges' metadiscourse moves—their instructing, channeling, and criticizing of litigants' courtroom communication—as these segments of talk are especially revealing of speech event differences. In the final section of our paper, we will consider what this analysis of one court's small claims website and actual practices suggest about the communicative practice of small claims in other countries, focusing our comparison on the European Union and Hong Kong.