Dealing with Attorneys in Small Claims Court

We don't need to spend much time talking about all the great attorneys you know. If it's not a problem, it's not a problem.

The most important thing to know about wonderful attorneys is that you can learn a lot from them.

From a Lawyer's Point of View

Make me look good – or at least don't make me look bad.

Lawyers want clients who are glad they hired a lawyer. They want to appear to have made a difference, so they want to talk, make arguments, cross-examine, object to evidence, etc – and win. They want to appear knowledgeable about the law and prepared for trial. These desires going toward appearance are sometimes in some tension with the court's desire to create its own appearance of impartiality, competence, control of the courtroom, and legal expertise.

This concern about appearance likely to differ when attorney is appearing without client, and concern may shift to . . .

Time is $$

Cuts both ways, depending on whether paid by the hour. Local custom/court rules likely to govern expectations.

Allow me to do my job as a trained advocate.

May expect/desire a more traditional order of presentation, opportunity to cross examine aggressively, etc. This is different from the first concern because it focuses not on the client's impression, but instead on effective advocacy.

Many of these problems are inherent in the design and purpose of small claims court.

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Question: How much do you change what <u>you</u> do when an attorney is present? How does that situation compare with the one in which both parties are represented by attorneys?

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And then there's the psychology of it . . . theirs, and also yours.

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Plan of action

Identifying reasonable expectations:

Attorneys will be prepared for trial, including

- Ready to present documentary evidence
- Familiar with special rules related to small claims procedure
- Prepared to provide copy of case or statute relied on in argument

Having some things ready to say if necessary

- "*As an attorney, I assume you are aware of and familiar with the special procedural rules that apply in small claims court pursuant to GS Ch. 7A, Art. 19 (and Ch. 42 if SE action), as well as the Court's obligations under GS Ch. 8C, Rule 611."* [1]

- *"Ms. Jones, I know that you may have cases scheduled in other courtrooms today, so I'm going to call your client's case first. As you know well, small claims court is designed to be faster and less expensive than traditional trial courts, and procedures are simplified. For those of you who don't know, for this reason attorneys are asked to hold evidentiary objections until the presentation of evidence is complete. At that time, the court will hear brief legal argument from Ms. Jones, and [the other party] if desired, as to the weight and admissibility of any evidence presented."*

Prepare your own language, based on your decisions—made in advance-- about how you want to deal with attorneys in your courtroom. Do you allow opening/closing statements? Do you have rules about evidentiary objections? A generalized introductory statement about expectations specific to small claims court?

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Say it like a mantra

- "The small claims system is designed this way for a reason."
- "That's why God made appeals."
- "The law is an ocean."
- "I am a subject-matter expert."
- "We each have (different) professional obligations and a role to play in reaching a just result."

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[1] **Rule 611.** Mode and order of interrogation and presentation.
(a) Control by court. – The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.