

Intro 1/Module 2/Exercise 3

1. List the 3 requirements for a case to be heard in small claims court:

2. If the defendant has not been served when you call the case for trial, what should you do?

Does your answer change if the defendant is present in the courtroom, and if so, why and how?

3. The defendant has been served but is not present in the courtroom when you call the case for trial. What do you do?

4. In a small claims action, defendant's attorney has filed a motion to dismiss "pursuant to GS 1A-1, Rule 12(b)(6) for failure to state a claim upon which relief may be granted." What do you do?

5. In a small claims action for recovery of personal property against a landlord who has refused to return the tenant's property, the plaintiff/former tenant is not able to attend court that day. Her husband, who occupied the property with her, is present and knowledgeable about the case. Only the named plaintiff signed the lease.

a. Do you go forward? _____

b. If you're not sure, what else do you need to know? _____

c. Would it matter to you, one way or another, if the husband showed you a power of attorney signed by the wife? _____

6. Same facts as above, except that the plaintiff wife IS present, but the defendant/landlord is unable to be there. She sends her secretary instead.

a. Do you go forward? _____

b. If you're not sure, what else do you need to know? _____

c. Would it matter to you, one way or another, if the secretary is able to demonstrate that her duties include managing the property for the landlord? _____