

## Small Claims Procedure/Basic School Study Guide

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

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

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Does your answer change if the defendant is present in the courtroom?

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

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4. In a small claims action for money owed, the defendant was served on Friday, July 7, and the trial is held Monday, July 10. The defendant is not present in court. What do you do?

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Is your answer different if the action is for summary ejection?

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5. 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?

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6. In a small claims action for summary ejection, the plaintiff/landlord does not appear in court, but instead sends her secretary. The secretary shows you a document giving her power of attorney to act on behalf of her employer. The defendant is present and asks you to dismiss the case. What do you do?

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7. What difference does it make whether a case is dismissed with prejudice or without prejudice?

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8. In a summary ejection action the plaintiff-landlord submits an SCRA affidavit stating that the plaintiff has been unable to determine whether the defendant-tenant is in the military. Attached to the affidavit is a DoD website printout indicating that the person's status is unknown, and the landlord explains that s/he does not know the birthdate or social security number of the tenant, John Smith. Do you accept the affidavit as sufficient?

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9. Would you say that the formal rules of evidence apply strictly or leniently in small claims court? Give a reason for your answer.

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10. What is the most common example in small claims court of a violation of the real party in interest rule? What should a magistrate do when a violation occurs?

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11. What AOC form should you use if you learn that the defendant has filed for bankruptcy? \_\_\_\_\_

12. What should you do if the plaintiff checks the wrong box on the complaint form?

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13. List the four steps for announcing your judgment in open court:

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14. What should you do if, at the end of the evidence, you're not sure about your decision?

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How would you go about it?

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15. List the two things a party must do to appeal your decision, and explain in a few words what information you would give them about that.

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16. Imagine that after you've entered judgment, you realize that you made a legal error in your decision. What should you do?

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What remedy is available to the party who is hurt by your error?

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17. Assume that you have been authorized by your chief district court judge to consider motions under Rule 60(b)(1) to set aside small claims judgments. Give an example of a typical situation in which you might grant such a motion.

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