

**SMALL CLAIMS
COURT
PRACTICE
DIRECTIONS**

In the exercise of the powers conferred on me by **Section 274 of the Constitution of the Federal Republic of Nigeria, 1999 (as Amended)**, and **Section 3 of the Magistrates' Courts Law of Oyo State, Chapter 82, Volume III, Laws of Oyo State 2000**, and by virtue of all other powers enabling me in that behalf, I, HON. JUSTICE MUNTA LADIPO ABIMBOLA, Chief Judge of Oyo State, hereby issue the following Practice Directions;

PREAMBLE:

Whereas, I, the Hon. Chief Judge hereby designate some Magistrates' Courts as Small Claims Courts.

These Practice Directions shall apply and be observed in the Magistrates' Courts designated as Small Claims Courts and by the High Court of Oyo State, when sitting over appeals from the Small Claims Courts.

SMALL CLAIMS PROCEDURE

ARTICLE 1

OBJECTIVE

The objective of the Small Claims Procedure is to provide easy access to an informal, inexpensive and speedy resolution of Liquidated Money Demand and Simple Debt Recovery Disputes in the Magistrates' Courts.

ARTICLE 2

COMMENCEMENT OF ACTION

- 1) An action may be commenced in the Small Claims Court where:
 - (a) The Claimant or one of the Claimants resides or carries on business in Oyo State;
 - (b) The Defendant or one of the Defendants resides or carries on business in Oyo State;
 - (c) The cause of action arose wholly or in part in Oyo State;
 - (d) The claim is for a liquidated monetary demand in a sum not exceeding ₦5,000,000.00 (Five Million Naira), excluding interest and costs;
 - (e) The Claimant has served on the Defendant, a LETTER OF DEMAND as in Form SCA1.
- 2) The action shall be commenced by Claim upon the completion of a Small Claims Complaint Form as in Form SCA2.
- 3) The Summons shall issue as in Form SCA3 upon the Registrar being satisfied that the requirements of Article 2 (1) above have been met.

ARTICLE 3

MARKING AND PAYMENT OF FILING FEES

Where a case satisfies the criteria in Article 2 above, the Registrar or any person in charge of the Small Claims Registry shall cause the Claim to be marked "**Qualified for Small Claims**" and direct the Applicant to pay appropriate filing fees.

ARTICLE 4

ASSIGNMENT OF SMALL CLAIMS FILE

- 1) Upon the marking of the Claim, the Registrar shall within 24 hours forward the case file to the Administrative Magistrate for assignment to a Magistrate of the Small Claims Court.
- 2) The Administrative Magistrate shall within 24 hours of receipt of the case file assign the file to a Magistrate of the Small Claims Court. Such case assignment shall be on a random basis.

ARTICLE 5
SERVICE OF THE SUMMONS

- 1) The Summons shall be served by the Bailiff of the Small Claims Court within seven (7) days of filing.
- 2) Upon service, the Bailiff of the Small Claims Court shall file an Affidavit of Service as in Form SCA6 within 2 days of service.
- 3) The provision of the Magistrates' Courts (Civil Procedure) Rules regarding mode of service, except as provided herein shall apply to any process of whatever description issued by the Small Claims Court.
- 4) Where the Bailiff of the Small Claims Court is unable to serve the Summons on the Defendant within the time specified in (1) above, he shall file an Affidavit of Non Service as in Form SCA4 after the expiration of the time allowed for service.
- 5) In the event of (4) above, the Claimant shall apply for an Order of substituted service of the Summons on the Defendant by filing Form SCA7 within 3 (Three) days of the filing of the affidavit of Non Service.

ARTICLE 6
FILING OF DEFENCE/ADMISSION/COUNTER CLAIM

- 1) Upon service of the Summons, the Defendant shall file his Defence or Admission or Counterclaim within Seven (7) days by completing Form SCA5 as appropriate.
- 2) The provision of Article 5 on service of Summons shall apply to service of a Counterclaim.
- 3) Where a Defendant fails to file an Answer to the Claim such Defendant may be held to have admitted the Claim.

ARTICLE 7
COUNTER CLAIM

- 1) If at the time the action is commenced the Defendant intends to claim against the Claimant a liquidated money demand not exceeding ₦5,000,000.00 (Five Million Naira) (excluding interest and costs) and which Claim arises out of the same transaction or series of transactions, the Defendant shall file a counterclaim form as in Form SCA5 in answer to the Claim.
- 2) If at the time the action is commenced, the Defendant intends to claim against the Claimant a liquidated money demand exceeding ₦5,000,000.00 (Five Million Naira) but not more than ₦10,000,000.00 (Ten Million Naira) (excluding interest and costs), (which is the limit of the general jurisdiction of the Magistrate Court), the Defendant may file a Counterclaim in the pending Small Claims action by filing Form SCA5.
- 3) If at the time the action is commenced, the Defendant has a Counterclaim that exceeds the general jurisdiction of the Magistrate Court, the Defendant may file the Counterclaim, by filing

Form SCA5, PROVIDED that any Judgment in the Defendant's favour shall be limited to the general jurisdiction of the Magistrates' Courts.

- 4) In the event of (3) above, the Defendant/Counterclaimant shall be deemed to have abandoned the excess of the Counterclaim.
- 5) The Defendant's Counterclaim shall be limited to the Claimant's on record.
- 6) The Claimant may file a Reply to the Defendant's Defence and Defence to Counterclaim within 5 days of service of the Defendant's Defence and Counterclaim.
- 7) No pleadings after Reply are allowed.

ARTICLE 8

NON-APPEARANCE

- 1) When the Claim is called for hearing on the date fixed and neither party appears, the Magistrate shall, unless he sees good reason to the contrary, strike out the Claim.
- 2) When the Claim is called for hearing and the Claimant appears but the Defendant does not appear, provided there is proof of service, the Magistrate shall proceed with the hearing of the Claim and enter Judgment as far as the Claimant can prove his Claim.
- 3) When the Claim is called for hearing, and the Defendant appears but the Claimant does not appear, the Defendant if he has no Counter claim, shall be entitled to an Order striking out the Claim, but if he has a Counter claim, the Magistrate shall proceed to hear the Counter claim and enter Judgment accordingly, as far as the Defendant can prove his Counter claim.
- 4) A Claim Struck out on grounds of non-appearance or want of diligent prosecution shall not be relisted but may be refiled upon payment of prescribed fees and incidental costs.

ARTICLE 9

PROCEEDINGS AT THE HEARING

- 1) At the first appearance of the parties before the Court, the Magistrate shall promote, encourage and facilitate amicable settlement of the dispute among the parties by mediating and providing settlement options to the parties as he deems fit. The process of mediating and facilitating amicable settlement of the dispute among the parties shall not exceed seven (7) days.
- 2) Notwithstanding (1) above, the parties are also encouraged to contact one another with a view to settling the matter amicably or to narrow down the issues. The Court must be informed on the hearing date if the case is settled by agreement before that date, and a Consent Judgment may be entered by the Court accordingly.
- 3) In the event that parties are unable to settle the dispute amicably, the Magistrate shall hold a preliminary hearing for the purpose of giving directions for hearing of the Claim or Counter claim (as the case may be) including a hearing time table, length of trial or hearing, exchange

of witness (es) list, formulation and settlement of issues, as appears to the Magistrate to secure the just, expeditious and speedy disposal of the Claim or Counter claim.

- 4) Hearing shall be conducted by the Court from day to day and may only be adjourned as a last resort and for the shortest possible time.
- 5) Adjournment can only be granted during proceedings in unforeseen or exceptional circumstances and a party may not be granted more than one adjournment during the entire proceedings.
- 6) No Interlocutory Applications on Jurisdiction or other issues shall be entertained by the Small Claims Court until Judgement.
- 7) The entire hearing period shall not be more than thirty (30) days from the first date of hearing, inclusive of the seven (7) days for amicable settlement.

ARTICLE 10

REPRESENTATION

Parties may represent themselves at the proceedings in the Small Claims Court. Partnerships and Registered Companies can be represented by either a Partner, Company Secretary or any other Principal Officer of the Partnership or Company.

ARTICLE 11

EVIDENCE

Parties may testify on their own behalf and tender all necessary documents and they may call other witnesses to give evidence at the hearing.

ARTICLE 12

JUDGMENT

- 1) The Magistrate shall deliver Judgment within fourteen (14) days of the completion of hearing. The Judgment shall include the Court's determination of issues raised in any interlocutory application(s) filed by any of the parties.
- 2) The entire period of proceedings from filing till Judgment shall not exceed sixty (60) days.
- 3) The Judgment of the Court shall not be invalid by reason of the entire proceedings of the court having exceeded sixty (60) days.
- 4) The Magistrate shall issue authenticated copies of the Judgment immediately after its delivery but in any event not exceeding 7 days from the date of the delivery of the Judgment.

ARTICLE 13

ENFORCEMENT OF JUDGMENT

- 1) The Defendant or Defendant to Counterclaim (as the case may be) shall comply with the Judgment and pay the Judgment sum within fourteen (14) days of delivery of Judgment.
- 2) Upon default of the Defendant or Defendant to Counterclaim to pay the Judgment sum within the time specified, the Judgment shall be enforced in like manner as any Order of the Magistrate's Court for the payment of money.

ARTICLE 14

APPEALS

- 1) Where either party is aggrieved with the Judgment, such party shall comply with the provisions of Sections 70 to 73 of the Magistrates' Courts Law with regards to leave of the Magistrates' Court.
- 2) The aggrieved party shall file the Notice of Appeal as in Form SCA8 within Fourteen (14) days of delivery of the Judgment stating the reasons for the Appeal.
- 3) The Registrar of the Small Claims Registry shall compile the Records of Appeal within fourteen (14) days of the submission of Form SCA8.
- 4) The Records of Appeal shall thereafter be forwarded to the Fast Track Registry of the High Court, where it is then assigned to a Judge of the Fast Track Court designated to hear Appeals from the Small Claims Court.
- 5) The Judge so designated shall cause Hearing Notices to issue to the parties and the Appeal shall be heard at the earliest convenience of the Court.
- 6) The Appeal shall be by written briefs or oral address of the parties and on the Records of the Appeal.
- 7) The whole Appellate Process from the assignment of the Appeal to Judgment shall not exceed thirty (30) days.

ARTICLE 15

MISCELLANEOUS PROVISIONS

Where no provision is made in these Practice Directions, the provisions of the Magistrates' Court (Civil Procedure) Rules; the High Court (Appeal) Rules or any other written laws for the time being in force shall so far as they can be conveniently applied, be in force in the Small Claims Court.

SMALL CLAIMS COURT

LETTER OF DEMAND

FROM:

WORK ADDRESS:.....

RESIDENTIAL ADDRESS:.....

TELEPHONE NO.(S)AND E-MAIL:

TO:.....

WORK ADDRESS:.....

RESIDENTIAL ADDRESS:.....

TELEPHONE NO.(S)AND E-MAIL:.....

SIR/MADAM

DEMAND:

I hereby claim from you

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.....
.....
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.....
.....
.....
.....

.(PLEASE STATE PARTICULARS).

Unless you comply with this demand within fourteen (14) days after receipt of this letter, summons will be issued against you in the Small Claims Court

.....
CLAIMANT'S SIGNATURE

FORM SCA 2

**IN THE MAGISTRATE COURT OF OYO STATE (SMALL CLAIMS)
COMPLAINT FORM (TO ACCOMPANY FORM SCA 3)**

NB

1. Please fill the Form legibly.
2. Please attach copies of the documents (contracts, receipts, expert's report (if applicable) etc. upon which the claim is based.
3. Submit this form at the Registry of the Small Claims Court.

PARTICULARS OF CLAIMANT(S)

FULL NAME.....

WORK ADDRESS.....

RESIDENTIAL ADDRESS.....

TELEPHONE NO.(S)& E-EMAIL ADDRESS.....

Please attach a list of other Claimants (if more than one) with the required particular.

PARTICULARS OF DEFENDANT(S)

FULL NAME.....

WORK ADDRESS.....

RESIDENTIAL ADDRESS.....

TELEPHONE NO.(S)& E-EMAIL ADDRESS.....

Please attach a list of other Defendant(s) (if more than one) with the required particulars **PLEASE SUMMARIZE YOUR COMPLAINT AND STATE THE STEPS YOU HAVE TAKEN TO RECOVER THE CLAIM.**

.....

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.....
CLAIMANT'S SIGNATURE/

.....
DATE

THUMBPRINT

Sworn to at the Small Claims Court Registry _____ this..... Day of _____ 20.....

The foregoing having been read and interpreted by me to the Defendant in Language he has being illiterate/Blind and he is having appear to perfectly to have understood before affixing his thumbprint impression.

JURAT (if applicable)

Commissioner of Oaths

FORM SCA 3

**IN THE MAGISTRATE COURT OF OYO STATE (SMALL CLAIMS)
SUMMONS
TO BE SERVED WITHIN SEVEN DAYS OF FILING**

CLAIM NO

BETWEEN

..... CLAIMANT

AND

..... DEFENDANT

The Claimants/Claims:

Debt (particulars are attached)

Court Fees:

Costs:

Total ₦

To

1. You are hereby summoned to appear personally before this court on the day of20..... atto admit or deny your liability for the above mentioned claim.
2. If you deny liability or have a counterclaim you are advised to complete and return Form SCA 5 to the registry of the Small Claims Court within Seven (7) days after the service of this summons inclusive of the day of service. If you require a longer time for payment, complete the form of ADMISSION as in Form SCA 5.
- 3.(a) Take notice that if you fail to appear in Court on the hearing date after a summons has been served on you, Judgment may be obtained against you by the Claimant.
- (b) Money payable in terms of a Judgment or Order of Court may be paid directly to the Judgment Creditor.
- (c) The Judgment Debtor must notify the Judgment Creditor fully and correctly; within 7 days after he has changed his place of work, employment or residence, of his new place of work, employment or residence

Dated at..... this..... day of 20.....

Registrar

IN THE MAGISTRATE COURT OF OYO STATE (SMALL CLAIMS)
AFFIDAVIT OF NON-SERVICE

CLAIM NO.....

BETWEEN:

.....CLAIMANT

AND

.....DEFENDANT/RESPONDENT

I.....

.....

Make Oath and say that on the..... day of 20.....

At.....O'clock I attempted to serve upon

.....

Summons for small claims.....

..... True copy whereof annexed issued out of this

court

at

.....

.....

.....

I have been unable to serve the summons

Because.....

.....

.....

Bailiff Corp

SWORN TO AT THE MAGISTRATE COURT OF OYO STATE,
(SMALL CLAIMS) REGISTRY

This Day of 20.....

FORM SCA 5

IN THE MAGISTRATE COURT OF OYOSTATE (SMALL CLAIMS)

**FORM OF ADMISSION, DEFENCE AND COUNTERCLAIM TO ACCOMPANY FORM SCA 3
(TO BE SERVED ON THE CLAIMANT WITHIN SEVEN DAYS OF SERVICE OF FORM
SCA3)**

CLAIM NO:

BETWEEN

..... CLAIMANT

AND

..... DEFENDANT

ADMISSION

I admit the Claimant's claim (or)..... part of the Claimant's claim and I ask for permission to pay the sum with costs on that amount on theday of 20..... (or by instalments of ₦.....per.....) because,

- 1.....
- 2.....
- 3.....

State why you cannot pay at once

DEFENCE

I have a defence

or I dispute part of the Claimant's claim).....because

(State briefly the facts you wish to put before the court)

b) COUNTERCLAIM OR SET OFF.

I have a counter-claim or set-off against the Claimant for ₦.

.....
.....
.....
.....
.....

(State the particulars of the Counterclaim or Set off)

.....

**CLAIMANT'S SIGNATURE/
THUMPRINT**

DATE

JURAT (If applicable)

The foregoing having been read and interpreted by me to the Deponent in.....Language he being Illiterate/Blind and he having appeared perfectly to have understood before affixing his Thumb print impression.

Commissioner for Oaths

Defendant's address for service inIbadan,
Oyo State.

.Dated this.....day of
20.....

NB: IF YOU FAIL TO FILE AN ANSWER TO THE CLAIM, YOU MAY BE HELD TO HAVE ADMITTED THE CLAIM

FORM SCA 6

IN THE MAGISTRATE COURT OF OYO STATE (SMALL CLAIMS)

**AFFIDAVIT OF SERVICE
(PROOF OF SERVICE TO BE FILLED WITHIN TWO DAYS OF SERVICE)**

BETWEEN

CLAIM NO:

_____ CLAIMANT

AND

_____ DEFENDANT/RESPONDENT

I.....

Make Oath and say, that on theday of 20.....

At..... O'clock I served upon.....

Summons for small claims.....

.....True copy where of annexed issued out of this court
at.....

upon.....on the complaint of
.....

By delivering the same personally to

before the day I served the summons... ..

.....I did not know.....

.....personally, but after he was pointed out to me

By.....

..... asked him If

he was..... and he said, he was.

.....
Bailiff Corp

**SWORN TO AT THE SMALL CLAIMS
COURT REGISTRY.**

This day of 20.....

FORM SCA 7

**IN THE MAGISTRATE COURT OF OYO STATE (SMALL CLAIMS)
IN THE.....MAGISTERIAL DISTRICT
HOLDEN AT.....**

CLAIM NO:

BETWEEN:

.....**CLAMANT/APPLICANT**

AND

.....**DEFENDANT/RESPONDENT**

MOTION EX-PARTE

BROUGHT PURSUANT TO ORDER 5 RULE 2 OF THE MAGISTRATE COURT (CIVIL PROCEDURE) RULES, 2009 AND UNDER THE INHERENT JURISDICTION OF THE COURT

TAKE NOTICE that the Honourable Court will be moved on theday of.....20....., at 9'0 Clock in the forenoon or soon thereafter as the Claimant/Applicant may be heard praying the court for the following:

An Order of the Court granting leave to the Claimant/Applicant to serve the Summons on the Defendant by substituted means, to wit: pasting same at
.....
being the last known address of the Defendant or by any other means of service, as is hereby stated
.....
.....

AND FOR SUCH ORDER OR ORDERS as this Honourable Court may deem fit to make in the circumstances in this claim.

Dated this..... day of 20.....

.....
Claimant's signature

**IN THE HIGH COURT OF OYOSTATE
COMMERCIAL DIVISION (FAST TRACK COURT)
HOLDEN AT.....**

APPEAL NO:

BETWEEN:

.....**APPELANT**

AND

.....**RESPONDENT**

NOTICE OF APPEAL

TAKE NOTICE that the/Appellant being dissatisfied with the decision of the Magistrates' Court (Small Claims Court)..... Magisterial District as contained in the Judgment delivered on the..... by.....do hereby appeal to the High Court of Oyo State, upon the grounds set out in paragraph 2 and will at the hearing of the Appeal seek the reliefs set out in paragraph 3.

AND the Appellant further states that the names and addresses of the persons who would be directly affected by the appeal are those set out in paragraph 4 of this Notice.

1. PART OF THE DECISION OF THE LOWER COURT COMPLAINED OF:-
.....
.....
.....

2. GROUNDS OF APPEAL
The learned Magistrate erred in law when His Honour held that
.....
.....
.....

PARTICULARS OF ERROR

- (a)
.....
.....

(b)
.....
.....
.....
.....

3. RELIEF BEING SOUGHT FROM THE HIGH COURT OF OYOSTATE.

(a) An Order of the Honourable Court

(b) An Order

4. PERSONS DIRECTING AFFECTED IN THE APPEAL

NAMES

ADDRESS

(a)

(b)

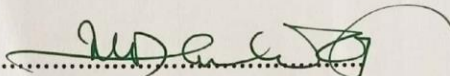
Dated this day of

ADRESS FOR SERVICE:

.....
APPELLANT'S SIGNATURE

ISSUED THIS 12th DAY OF January 2022

UNDER THE HANDS, AND SEAL OF


.....
HON (MR) JUSTICE MUNTA LADIPO ABIMBOLA
HON. CHIEF JUDGE OF OYO STATE