



ADAMAWA STATE JUDICIARY

THE DISTRICT COURTS (AMENDMENT) LAW

**PRACTICE DIRECTIONS ON
SMALL CLAIMS**

2022

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MAGISTRATES' COURTS LAW

PRACTICE DIRECTIONS ON SMALL CLAIMS 2022

In exercise of the powers conferred on me by Section 274 of the Constitution of the Federal Republic of Nigeria, 1999 (as Amended), Section 116 of the High Court Law, Laws of Adamawa State (Cap 60) 1996, and all other powers enabling me in that behalf. I **HON. JUSTICE HAFSAT ABDULRAHMAN**, Chief Judge of Adamawa State, hereby issue the following Practice Directions.

Dated at Adamawa this day of March, 2022

.....

HON. JUSTICE HAFSAT ABDULRAHMAN

Chief Judge of Adamawa State.

PREAMBLE:

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

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

SMALL CLAIMS PROCEDURE

ARTICLE I

OBJECTIVE The objective of the small claims procedure is to provide easy access to an informal, inexpensive and speedy resolution of 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 Plaintiff or one of th Plaintiffs resides or carries on business in Adamawa State;
 - (b) The Defendant or one of the Defendants resides or carries on business in Adamawa State;
 - (c) The cause of action arose wholly or in part in Adamawa State.
 - (d) The claim is for a liquidated monetary demand in a sum not exceeding N5,000,000 (Five Million Naira), excluding interest and costs.
 - (e) The Plaintiff has served on the Defendant, a LETTER OF DEMAND or a Demand Notice as in Form SCAI.
- 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 SCA 3 upon the Registrar being stratified that the requirements of Article 2 above have been met.

ARTICLE 3

MARKING AND PAYMENT OF FILING FEES

Where a case stratifies the criteria in Article 2 above, the Chief 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

SERVICE OF THE SUMMONS

- (1) The Summons shall be served by the Registry of the Small Claims Court within seven (7) days of filing by the Sheriff/Bailiff of the Small Court.
- (2) Upon service, the Sheriff/Bailiff of the Small Claims Court shall file an Affidavit of service as in Form SCA 6 within two (2) days of service.

- (3) The provision of the District 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 Sheriff/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 SCA 4 after the expiration of the time allowed for service.
- (5) In the event of (3) above, the Plaintiff shall apply for an order of substituted service of the Summons on the Defendant by filling and filing Form SCA 7.
- (6) Upon receipt of a duly completed Form SCA7 the Magistrate shall make an order for substituted service of the summons.
- (7) Substituted service may be effected by electronic email. If substituted service is to be effected by services at the electronic mail address of a party, the following provisions shall be applicable:
 - i. The application in terms of Article 5(5) above must be accompanied by an affidavit confirming the identity of the respondent, postal/physical address and the electronic mail address at which the defendant will receive service of the summons.
 - ii. A copy of any electronic mail correspondence including attachments between the parties may be attached as proof of the validity of the electronic mail address.
 - iii. The Sheriff/Baillif of the Small Claims Court Shall serve the summons, annexures and pleadings by way of electronic mail on the address as if ordered by the court, indicating mail on the address as if ordered by the court, indicating what processes have been served by way of electronic mail and the number of pages that were mailed.

ARTICLE 5

FILING OF DEFENCE /ADMISSION/COUNTER CLAIM

- (1) Upon service of the Summons, the Defendant shall file his Defence/Admission or Counter claim within Seven (7) days by completing Form SCA 5 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 Claims.

ARTICLE 6

COUNTERCLAIM

- (1) If at the time the action is commenced the Defendant intends to claim against the Plaintiff a liquidated money demand not exceeding N5,000,000.00 (Five Million Naira) (excluding interest and costs) and which claim arises out of the same transaction or series of transactions, the Defendant shall complete and file a counterclaim form as in Form ²SCA 5 in answer to the Claim.
- (2) If at the time the action is commenced, the Defendant intends to claim against the Plaintiff a liquidated money demand exceeding N5,000,000.00 (Five 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 filling Form SCA5.

- (3) If at 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 completing Form SCA 5, provided that any Judgment in the Defendant's favor shall be limited to the general jurisdiction of the Magistrates' Courts.
- (4) In the event of (3) above, the Defendant /Counter plaintiff shall be deemed to have abandoned the excess of the counterclaim.
- (5) The defendant(s) counterclaim shall be limited to the Plaintiff(s) on record.
- (6) The plaintiff may file a reply to the Defendant(s) Defence and Counter-claim within five (5) days of service of the Defendant(s) Defence and counter-claim.
- (7) No pleadings after reply are allowed.

ARTICLE 7

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) Where the claim is called for hearing and the Plaintiff 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 Plaintiff can prove his claim.
- (3) Where the claim is called for hearing, and the Defendant appears but the Plaintiff does not appear, the Defendant if he has no counterclaim, shall be entitled to an Order striking out the claim, but if he has a counterclaim, the

Magistrate shall proceed to hear the counterclaim and enter Judgment accordingly, as far as the Defendant can prove his counterclaim.

ARTICLE 8

PROCEEDING AT THE HEARING

- (1) At the first appearing of the parties before the Court, the Magistrate shall promote, encourage and facilitate negotiate among the parties. The process of facilitating amicable settlement of the dispute among the parties shall not exceed seven (7) days.
- (2) Notwithstanding 8(1), the parties are also encouraged to contact one another with a view to settling the matter amicably or to narrow the issues. However, 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 pre-trial conference for the purpose of giving directions for hearing of the claim or counterclaim (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 counterclaim.
- (4) Hearing shall be conducted by the court from day to day as far as is practicable 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 and exceptional during the entire proceedings.

(6) 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.

(7) During the hearing, the Magistrate may ask any question to the witness or order the witness to produce any document in the witness' possession in order to clear up any ambiguity which may have been left obscured in evidence given by such a witness.

ARTICLE 9

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 10

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 11

JUDGMENT

(1) The Magistrate shall endeavor to 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 judgment shall not exceed sixty(60) days.

(3) The judgment of the Court shall not be invalidated by reason of the entire proceedings of the court having exceeded sixty(60)days.

(4) The Magistrate shall endeavor to issue authenticated copies of the judgment immediately after its delivery but in any event not exceeding even(7) days from the date of the delivery of the judgment.

ARTICLE 12

ENFORCEMENT OF JUDGMENT

(1) The Defendant or Defendants 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 13

APPEALS

(1) Where either party is aggrieved with the Judgment, such party shall complete the Appeal form, as in Form SCA 8 within fourteen(14) days of the delivery of the Judgment stating the reasons for the Appeal.

(2) The Registrar of the Small Claims Registry shall compile the records of appeal within fourteen(14) days of the submission of Form SCA8.

(3) 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.

- (4) 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.
- (5) The Appeal shall be by oral hearing of the parties and on the records of the appeal.
- (6) The whole Appellate Process from the assignment of the Appeal to Judgment shall not exceed thirty (3)days.

ARTICLE 14

GENERAL PROVISIONS

- (1) Every Magistrate presiding in a Small Claims Court must take judicial Control and management of all cases allocated to him/her by the Chief Registrar /Administrative Magistrate.
- (2) The Magistrate must note in the Small Claims record book, the duration of each sitting, the record book shall provide details information on the progress of each from filing to issuance of judgment.
- (3) The Magistrate must note on the record of the proceedings in respect of each case:
 - i. The time of the day when the proceedings actually commenced and actually ended, and
 - ii. The time of the day of the commencement and conclusion of each adjournment on that day.

(4) In line the Article 12 (2) above, all Magistrates shall striver to finalize cases within 60 days of filing by the plaintiff. Magistrates must report monthly to the Chief Registrar on all part-head cases that had not been finalized within two (2) months from the date of commencement of the trial, Provided that Magistrates should not have more than five (5) or more part heard cases should not start any new cases without a written approval from the Chief Registrar. Magistrate who have more than five (5) part heard cases must submit along with their monthly reports an action plan on how they are going to reduce their part heard cases and provide monthly reports on progress.

(5) Upon the direction of the Chief Registrar, an Administrative Magistrate must submit any information and any assessment material including statistics, records showing compliance with time frames for court events and any other reports required by the Chief Registrar to assess the functioning and efficiency of the Small Claims Courts.

FORM SCA 1

**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

.....
.....

(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.

Yours faithfully,

.....

PLAINTIFF'S SIGNATURE

FORM SCA 2

**IN THE MAGISTRARATE COURT OF ADAMAWA 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.

A. PARTICULARS OF PLAINTIFF(S)

FULL NAME:.....
WORK ADDRESS.....
RESIDENTIAL ADDRESS.....
TELEPHONE NO.(S) & E-EMAIL ADDRESS.....

Please attach a list of other Plaintiff (if more than one) with the required particulars

B. PARTICULARS OF DEFENDANTS(S)

FULL NAME:.....
WORK ADDRESS.....
RESIDENTIAL ADDRESS.....
TELEPHONE NO.(S) & E-EMAIL ADDRESS.....

Please attach a list of other Plaintiff (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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