



PRACTICE DIRECTIONS ON SMALL CLAIMS 2020

The Honourable the Chief Judge of EDO STATE

In exercise of the powers conferred on me by Section 274 of the constitution of the Federal Republic of Nigeria, 1999 (as amended), S. 60 (1)(a) and (b) of the Magistrates Courts Law Cap 97, Laws of Bendel State of Nigeria as applicable in Edo State, and by virtue of all other powers enabling me in that behalf, I **HON. JUSTICE ESTHER AMENAGHAWON EDIGIN**, Chief Judge of Edo State, hereby issue the following Practice Directions.

PREAMBLE:

Whereas, I, the Hon. Chief Judge hereby designate 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.

COMMENCEMENT

This Practice Direction shall come into effect on the 2nd Day of March, 2020

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 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 Edo State;
- (b) The Defendant or one of the Defendants resides or carries on business In Edo State;
- (c) The cause of action arose wholly or in part in Edo State.
- (d) The claim is for a liquidated money demand of a sum not exceeding N5, 000,000 (Five Million Naira), excluding interest and costs.
- (e) The Claimant has served on the Defendant, a Letter of Demand or a Demand Notice as in Form SCA 1.

(2) The action shall be commenced by Claim upon the completion of a Small Claims Complaint Form as in Form SCA 2.

(3) The Summons shall issue as in Form SCA 3 upon the Registrar being satisfied that the requirements of 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 Assistant 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

ASSIGNMENT OF SMALL CLAIMS FILES

(1) Upon the marking of the Claim, the Assistant Chief Registrar shall within twenty-four (24) hours forward the case files to the Administrative Magistrate for assignment to a Magistrate of the Small Claims Court.

(2) The Administrative Magistrate shall within twenty-four (24) hours of receipt of the case files assign the Small Claims files to a Magistrate of the Small Claims Court. Such case assignments shall be undertaken on a random basis.

ARTICLE 5

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 bailiff or any other designated officer of the Small Claims Court.

(2) Upon service, the bailiff or any other designated officer 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 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 or any designated officer 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 (4) above, the Claimant shall apply for an Order of substituted service of the Summons on the Defendant by filing Form SCA 7.

ARTICLE 6

FILING OF DEFENCE/ADMISSION/COUNTERCLAIM

(1) Upon service of the Summons, the Defendant shall file his Defence/Admission or Counterclaim 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 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 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 SCA 5 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 N5, 000,000.00 (Five Million Naira) but not more than N10, 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 completing Form SCA 5.

(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 filling Form SCA 5, 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 Counter-claim within five (5) days of service of the Defendant(s) Defence and Counter-claim.

(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) Where 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) Where the claim is called for hearing, and the Defendant appears but the Claimant 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 9

PROCEEDINGS AT THE HEARING

(1) At the first appearance of the parties before the Court, the Magistrate shall promote, encourage and facilitate negotiation and amicable settlement between the parties. The process of 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 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, discovery timeline/agreement on evidence, jurisdiction and other procedural issues, 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 circumstances and a party may not be granted more than one (1) adjournment during the entire proceedings.

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

(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.

The Court may, in the interest of justice, depart from the strict application of the rules of evidence and the Evidence Act.

ARTICLE 12

JUDGMENT

- 1) The Magistrate shall endeavour 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 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 endeavour to issue authenticated copies of the judgment immediately after its delivery but in any event not exceeding Seven (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 file the Notice of Appeal, as in Form SCA 8 within fourteen (14) days of the delivery of the Judgment stating the reasons for the Appeal.
- 2) The Assistant Chief Registrar of the Small Claims Registry shall compile the records of appeal within fourteen (14) days of the submission of Form of SCA 8.

- 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 written briefs and on the Records of the Appeal.
- 6) The whole Appellate Process from the assignment of the Appeal to Judgment shall not exceed thirty (30) days.

ARTICLE 15

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 Administrative Magistrate.
- 2) The Magistrate must note in the Small Claims record book, the duration of each sitting. The record book shall provide detailed information on the progress of each case from filing to issuance of judgement.



Issued This ^{28th} Day of FEBRUARY 2020

Under the Hand AND SEAL OF;


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Hon. Justice Esther Amenaghawon Edigin
Hon. Chief Judge of Edo State