

DISTRICT COURTS LAW

Practice Directions on Small Claims Court

No. 2 of 2022

DISTRICT 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) and Section 41 of the District Courts Law (CAP. 189) Laws of Bauchi State, 2001, and by virtue of all other powers enabling me in that behalf, I **Hon. Justice Rabi Talatu Umar**, Chief Judge of Bauchi State, hereby issue the following Practice Directions.

PREAMBLE:

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

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

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 and liquidated debt recovery disputes in the District 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 Bauchi State;
 - (b) The Defendant or one of the Defendants resides or carries on business in Bauchi State;
 - (c) The cause of action arose wholly or in part in Bauchi State.
 - (d) The claim is for a liquidated monetary demand in a sum not exceeding N3,000,000 (Three Million Naira), excluding interest and costs.
 - (e) The Claimant has served on the Defendant, a **LETTER OF DEMAND** 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 Chief Registrar or his Designee 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 Chief Registrar

or his Designee 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, Chief Registrar or his Designee in charge shall within 24 hours forward the case files to a District Judge of the Small Claims Court.
- (2) The District Judge shall within 24 hours of receipt of the case files affix a date for the hearing of the case.

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 Sheriff of the Small Claim Court.
- (2) Upon service, the Sheriff of the Small Claims Court shall file an Affidavit of service as in **Form SCA 6** within 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 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 Claimant shall apply for an Order of substituted service of the Summons on the Defendant by filling and filing **Form SCA 7** supported by an affidavit.
- (6) Upon receipt of a duly completed Form SCA7 the Judge shall make an order for substituted service of the summons.
- (7) Substituted service may be effected by electronic mail. If substituted service is to be effected 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/Bailiff 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 what processes have been served by way of electronic mail and the number of pages that were mailed.

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 N3,000,000.00 (Three Million Naira) (excluding interest and costs) and which claim arises out of the same transaction or series of transactions, the Defendant shall fill 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 N3,000,000.00 (Three Million Naira) and has a counterclaim that exceeds the general jurisdiction of the small claims court, the Defendant may file the counterclaim in the pending Small Claims action by filling **Form SCA 5** PROVIDED that any judgment in the defendant's favour shall be limited to the general jurisdiction of the small claims courts.
- (3) In the event of (2) above, the Defendant/Counterclaimant shall be deemed to have abandoned the excess of the counterclaim.
- (4) The Defendant(s) counterclaim shall be limited to the Claim(s) on record.
- (5) The Claimant may file a reply to the Defendant(s) Defence and

Counterclaim within 5 days of service of the Defendant(s) Defence and Counterclaim.

- (6) No pleadings after reply filed by the claimant are allowed.

ARTICLE 8 NON-APPEARANCE

- (1) When the claim is called for hearing on the date fixed and neither party appears, the District Judge 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 District Judge 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 District Judge 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 District Judge 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 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 District Judge shall hold a preliminary hearing 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 District Judge 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 adjournment 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.

ARTICLE 10 REPRESENTATION

Parties may represent themselves at the proceedings in the Small Claims

Court. Partnerships, Associations and Registered Companies can be represented by either a Partner(s) (within the firm), registered members of the Association and Company Secretaries or 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 District Judge shall deliver judgment within fourteen (14) days of the completion of hearing.
- (2) The judgment shall include the Court's determination of issues raised in any interlocutory application(s) filed by any of the parties.
- (3) The entire period of proceedings from filing till judgment shall not exceed sixty (60) days).
- (4) The judgment of the Court shall not be invalid by reason of the entire proceedings of the court having exceeded sixty (60) days.
- (5) The District Judge 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 District Court for the payment of money

ARTICLE 14

APPEALS

- (1) Subject to any express provisions to the contrary in any other written law and to the provisions of this practice direction any person aggrieved by the decision or judgement of a Small Claims Court may appeal therefrom to the High Court.
- (2) Where either party is aggrieved with the Judgment, such party shall fill the Appeal form, as in Form SCA 8 within 14 (fourteen days) of the delivery of the Judgment stating the reasons for the Appeal.
- (3) The Chief Registrar or his Designee in charge of the Small Claims Registry shall compile the records of appeal within fourteen (14) days of the submission of Form of SCA 8
- (4) The Records of Appeal shall thereafter be forwarded to the appeal section of the small claims Appellate Registry, where it shall then be assigned to a Judge of the Fast Track Appellate 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 oral hearing 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.

ARTICLES 15

GENERAL PROVISIONS

1. Where no provision is made in these practice directions, the provisions of the District Court (Civil Procedure) Rules: shall apply to the proceedings at the Small Claims Court while the High Court (Civil Procedures) rules or any other written laws for the time being in force shall so far as they can be conveniently applied, be in force at the small Claim Appellate Court.
2. Every District Judge presiding in a Small Claims Court must take judicial control and management of all cases allocated to him/her by the Chief Registrar/his Designee.
3. The District Judge must note in the Small Claims record book, the duration of each sitting. The record book shall provide detail information on the progress of each case from filing to issuance of judgement.
4. The District Judge must note on the record of the proceedings in respect of each case
 - i. the time of the day when the proceeding actually commenced and actually ended; and

ii. the time of the day of the commencement and conclusion of each adjournment on that day.

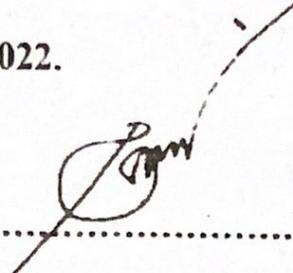
5. In line with Article 12(2) above, all District Judges shall strive to finalize cases within 60 days of filing by the Claimant. District Judges must report monthly to the Chief Registrar on all part-heard cases that had not been finalized within twenty (20) weeks from the date of commencement of the trial, provided that District Judges should not have more than five (5) or more part-heard cases and should not start new cases without a written approval from the Chief Registrar. District Judges 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 report on progress.
6. Upon the direction of the Chief Registrar, an Administrative District Judge must submit any information and any assessment material including statistics, records showing compliance with timeframes for court events, and any other reports required by the Chief Registrar to assess the functioning and efficiency of the Small Claims Court.

| 26th JULY, 2022

| Commencement

The Orders contained herein shall take effect from the
.....^{26th}..... Day of

.....^{July}..... 2022.



.....
HON. JUSTICE RABI T. UMAR
THE HONOURABLE, THE CHIEF JUDGE
HIGH COURT OF JUSTICE OF BAUCHI STATE