

BAUCHI STATE JUDICIARY
Small Claims Court
Handbook

By
The Chief Registrar
High Court of Justice, Bauchi State

INTRODUCTION

The Small Claims Court is a new innovation in Nigeria.

This Guide shows you how to:

- Start your case
- File a Simple Debt Recovery Claim in the Small Claims Court
- Find the right Court for your Claim
- Obtain and enforce your Judgement

This handbook is also available in Hausa language and at the registry of the Small Claims Courts

About Small Claims Court, Bauchi State

The Small Claims Court was established in Bauchi State on
....., 2022 as a Division of the District Courts to provide
Claimants with an accessible, inexpensive and speedy resolution
platform for Simple and Liquidated debt recovery disputes.
Proceedings of the Small Claims Courts are regulated by the Bauchi
State District Courts Law (Practice Directions on Small Claims) 2022

Benefits of the Small Claims Court

The Small Claims Court has jurisdiction to entertain simple and
liquidated debt recovery claims and Counter Claims not exceeding
N3,000,000.00 (Three Million Naira).

2. It saves time and cost of trial.
3. There is quick and efficient resolution of disputes within 60 days of
filing.
4. There is limited adjournment (Fast-track proceedings)
5. Self-Representation is encouraged (i.e. A Litigant does not need a
lawyer to represent him in court)

Location of Designated Small Claims Court

There shall be Three (3) Small Claims Court in Bauchi State and are
as listed below;

Bauchi Magisterial District

1. Principal District Court 7
2. Principal District Court 12

Azare Magisterial District:

1. CMC 1 Azare

FORMS

I. Letter of Demand	-	SCA1
II. Small Claims Complaint Form	-	SCA2
III. Small Claims Summons	-	SCA3
IV. Affidavit of Non-Service	-	SCA4
V. Defence/Admission/Counter Claim Form	-	SCA5
VI. Affidavit of Service	-	SCA6
VII. Motion Ex-parte	-	SCA7
VIII. Notice of Appeal	-	SCA8

What is Small Claim?

A small claim is a claim for money in any simple debt recovery with value not exceeding N3,000,000 (Three Million Naira)

Where can you file a Small Claims Action?

A Small Claims Action can be filed in designated Small Claims Court Registry located at Bauchi and Azare Magisterial District. It can be filed where you or the person you are claiming from lives, works or does business in any part of Bauchi State.

What is Small Claims Court?

A Small Claims Court is a Special Court where you can sue for N3,000,000 (Three Million Naira) or less. You cannot sue for rent or possession, or for pain or suffering or enforce a promise in a Small Claims Court.

If your Claim is more than N3,000,000 (Three Million Naira), you cannot split your Claim into smaller Claims to get around the limit of N3,000,000 (Three Million Naira)

Benefits of Small Claims Court

- It is Cheap and easy to use
- You do not need to have a lawyer
- The Court will notify the person you are suing for you

Who can use a Small Claims Court?

1. An individual who is 18 (Eighteen) years and above.
2. An individual who is less than 18 (Eighteen) years, or person of unsound mind can sue through his/her Guardian
3. Partnership
4. Association
5. Corporation

What to do before filing a Small Claims action

Write a letter of Demand as in FORM SCA1

How do I start my Small Claims action?

By filing a Complaint Form and Summons as in Forms SCA2 and SCA3

Where do I get the Court Forms?

You can get all forms for commencement, filing and prosecuting your Small Claims action from the Small Claims Registry in Bauchi and Azare Magisterial District or the Small Claims Section of the High Court Central Registry in Bauchi State

What information will I need to fill on the form?

- Your particulars as the Claimant;
- The particulars of the person you are suing; and
- The description of the claim.

It is advisable to follow the instructions on the forms

What if I don't have the defendant's correct, legal name?

You can still file your case.

- Use any name that the person you are suing is known or any name that the business or person operating the business uses.
- Inform the Court of the correct, legal name once you get the correct information.

NOTE: *If you do not provide the recovered information, it will be hard for you to recover your judgement sum, if you win.*

What do I do with my completed Form?

Completed forms should be submitted to the Registrar or any person in charge of the Small Claims Registry in the Magisterial District where the claim is filed.

Do I have to pay to file a Claim?

Yes.

You must pay the Court fees as assessed at the Small Claims Registry.

Can the person I am suing sue me?

Yes.

The person you are suing can file a Small Claims Counter Claim against you. In the Small Claims Court, a Counter Claim can only be for money and the limit is N3,000,000.00 (Three Million Naira) (excluding interest and costs). The person suing can also admit a part or the whole of the claim and judgement may be entered on his/her admission.

How will I know if the Defendant files a Counter-Claim?

A Defendant who intends to file a Counter Claim must do so within 7 (seven) days from the date of service of the Summons on him. You shall then be served with the Counter Claim by the Sheriff of the Court.

If the Defendant sues me, will my case be adjourned?

If you receive notice of the Counter Claim before the date of your trial, you must be ready to present your claim and defend against the Counter Claim on the date of the trial. The case will not be adjourned because the defendant sues you except you were not served with the Defendant's Counter Claim before the date of the trial.

Who tells the person I am suing about my claim?

The Small Claims Court's Sherriff will serve the Defendant the Summons personally. If the defendant cannot be served personally, the Sherriff will file an Affidavit of Non-Service and the Court or the Registrar or an Officer of the Small Claims Registry will inform you of the need to file an application for another mode/type of service.

What information will the Summons give the defendant?

The Summon tell the Defendant;

- What the Claim is about
- How much money you are claiming from him
- The date of your Small Claims Court trial.

You cannot have a trial if the Defendant is not served.

What do I do on the day of the trial?

- Get to the Court house early
- Find your Small Claims Courtroom
- Ask the Court Registrar if your case is on the cause list for the day

How will I know when my case starts

- the Court Registrar will call your case and your name,
- stand up and answer to your name
- if you and the Defendant are both ready, the trial will start

Can I adjourn my trial?

As the Claimant, you can ask the Court to adjourn your trial for a good reason, only once during the period of your trial.

If you are the Defendant, you can ask the Court to adjourn your trial for a good reason, only once during the period of your trial.

How do I ask the Court to adjourn my trial?

By sending a letter to the Court and to the other party asking the Court to adjourn the case before the date of the trial. The Court may grant your application for an adjournment only once and in exceptional circumstances.

If you or your representative cannot come to Court on the trial date, the Court will read your letter but may not adjourn the case if the Court is not satisfied with the reason stated in your letter and your case may be dismissed.

If you are the Defendant and you do not appear at the trial, the Court may give judgement against you.

How can I get ready for my trial?

Before your trial, get all the evidence that support your claim, including:-

- a. Written agreements, letters, photos or other documents
- b. Bills, receipts, invoices cheques, etc.

Can I have witnesses at my trial?

Yes, you can have witnesses at your trial. A witness can be;

- You
- Someone who knows something about your Claim
- Someone with a lot of knowledge and experience about your claim (an expert witness)

What if a witness does not want to testify or give me documents that are relevant to my case?

You can ask the Small Claims Court for an Order (called a **Subpoena**) that can compel your witness (es) to

- bring the document or records to the Court or
- to testify at the trial

Who serves the Order of the Court on the Witness

The Sherriff of the Small Claims Court will serve the Court Order on the witness.

Do I have to pay the Witness?

If the witness is to testify on your behalf in the case, you will have to pay the cost of bringing him to Court.

Is there a deadline to serve the Subpoena?

The Subpoena must be served before the date the witness is expected to testify.

What if I or my witness (es) do not speak English?

You must inform the Court on the first day of your appearance in Court that you do not speak or understand English Language and inform the Court of the language you or your witness (es) understand. The Court will assign an interpreter to you when you or your witness (es) needs one.

Can the Defendant and I agree to settle our case before trial?

Yes.

The parties are encouraged to contact one another with a view to settle the matter amicably. However, the Court must be informed on the date of the trial if the case is settled by agreement before that date, and the Court shall accordingly enter a Consent Judgement.

What happens if one side does not come to Court?

If you are the Claimant and you are not in Court when the Registrar calls the case, the Court will dismiss your case.

If the Defendant is not in Court when the Registrar of the Court calls the case, the Court will hear your case without the Defendant. You will win the case if you show the Court enough evidence in support of your case.

What happens during my trial?

- As the Claimant, you will first take an Oath to tell the truth and then you will tell your side of the story and show the Court your documents and other evidence. It is your duty to prove your claim.

Next, the Defendant may ask you questions about the case

- If you have witnesses, they will take Oath and testify. The Defendant may ask them questions too.

After you have concluded your case, the Defendant will testify.

- The Defendant takes Oath and tells his/her side of the story. The Defendant can show documents and other evidence.
- Defendant's witnesses can testify on his/her behalf too, after they have taken Oath to tell the truth.
- You may ask the Defendant and the Defendant's witness(es) questions.

Who decides my case?

The Court will decide when the trial is over. The Court does not usually make a decision right away. In most cases, the Court needs some time to consider your case and that of the defendant. The Court will then deliver Judgement.

What if I do not agree with the Court's decision?

If you do not agree with the Court's decision, you can ask the High Court of Bauchi State to review your case. This is called an Appeal.

Do I have to pay for an Appeal?

Yes.

You have to pay a fee for a Notice of Appeal. You also have to pay for the compilation of the Records of Appeal for the High Court.

Do I need a lawyer to ask for an Appeal?

No, but if you hire one, you will have to pay cost of a Legal Practitioner in addition to the cost of filling an Appeal.

Is there a deadline to ask for an Appeal?

Yes.

You must file a Notice of Appeal within 14 days of the Court's Judgement.

If I am the Defendant in the Claim or the Counterclaim and the Court gives judgement against me, do I have to pay the Judgement debt if I ask for Appeal?

This will be at the discretion of the Trial Court who usually sets the conditions of Appeal.

How do I get the money if I win?

If you win your case, there is no guarantee that the Defendant will pay willingly. If the Defendant does not pay willingly, within 14 (Fourteen) days, there are legal steps that you can take to enforce or get your Judgement sum.

Who will enforce my Judgement?

A Sheriff of the Small Claims Court will enforce your Judgement.

How can I find a Sheriff?

You can find a Sheriff in the Small Claims Registry.

What do I say to the Sherriff?

You tell the Sheriff that you are the Judgement Creditor in a Small Claims case. Give the Sheriff your Small Claims suit number and say that you want to ask the Court for an Execution.

Do I have to pay the Sherriff?

No.

The Sheriff is a staff of the High Court but you have to pay for the process of the Execution. The Small Claims Registry will determine the fee and you will make payment to the Registry and request for a receipt.

How does the Sheriff know what Asset the Judgement Debtor has?

- You must find out the Judgement Debtor's asset and give that information to the Sheriff.