

KANO STATE JUDICIARY

MAGISTRATES' COURTS LAW

PRACTICE DIRECTIONS ON SMALL CLAIMS

2018

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MAGISTRATES' COURTS LAW

PRACTICE DIRECTIONS ON SMALL CLAIMS 2018.

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 Kano State (Cap 57) 1991, Section 95 of the Magistrates' Courts Law 2018 and all other powers enabling me in that behalf, I **HON. JUSTICE NURA SAGIR UMAR**, Ag. Chief Judge of Kano State, hereby issue the following Practice Directions.

Dated at Kano this day 5th of September, 2018

.....

HON. JUSTICE NURA SAGIR UMAR

Ag. Chief Judge of Kano State.

PREAMBLE:

Whereas, I, the Hon. Ag. 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.

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 Plaintiff or one of the Plaintiffs resides or carries on business in Kano State;

(b) The Defendant or one of the Defendants resides or carries on business in Kano State;

(c) The cause of action arose wholly or in part in Kano 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 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 Article 2 above have been met.

ARTICLE 3

MARKING AND PAYMENT OF FILING FEES. [1]

Where a case satisfies 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

ASSIGNMENT OF SMALL CLAIMS FILES

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

(2) The Chief Registrar or 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 Sheriff /Bailiff of the Small Claim 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 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 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/Bailiff of the Small Claims Court Shall serve the summons, annextures 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 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 [2]SCA 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) 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 filling 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 completing 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/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 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 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 9

PROCEEDINGS AT THE HEARING

(1) At the first appearance 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 9(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 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.

(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 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 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 till 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 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 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 14

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 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 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 (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 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 case 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 strive 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. Magistrates 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 MAGISTRATE COURT OF KANO 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 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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……

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……

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……

……

…… ……

PLAINTIFF'S SIGNATURE/ THUMBPRINT **DATE**

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

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.

JURAT (If applicable)

Commissioner for Oaths.

FORM SCA 3

IN THE MAGISTRATE COURT OF KANO STATE (SMALL CLAIMS)

SUMMONS (TO BE SERVED WITHIN SEVEN DAYS OF FILING)

CLAIM NO……

BETWEEN:

…….. PLAINTIFF(S)

AND

…….. DEFENDANT(S)

The Plaintiff Claims:

Debt (particulars are attached) ……

Court Fees ……

Costs ……

Total: ₦_____

To ……..

…….

……

1. You are hereby summoned to appear personally before this court on the …… …… day of ……20…….. at …….. ……..to admit or deny your liability for the abovementioned claim.

2. If you deny liability or have a counterclaim you are advised to complete and return Form SCA 4 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 longer time for payment, complete the form of ADMISSION as in Form SCA 4.

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 PLAINTIFF.

(b) Money payable in terms of a Judgment or Order of Court may be paid directly to the Judgment Creditor.

(c) If you admit the claim and wish to consent to Judgment or wish to undertake to pay the claim in instalments or in full you may approach the plaintiff.

4**. Enforcement**

If any person against whom a Judgment for the payment of money has been given or an Order for the payment of money in instalments has been made fails to satisfy the Judgment or Order.

(a) Such judgment or order may be enforced against movables and if the movables are found to be insufficient then against the immovable of the party against whom the Judgment or Order has been issued.

(b) Execution shall be taken against the whole Judgment debt and costs which have not been paid in default of an instalment being paid.

(c) The Judgment Debtor is liable to 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

FORM SCA 4

IN THE MAGISTRATE COURT OF KANO STATE (SMALL CLAIMS)

AFFIDAVIT OF NON-SERVICE

CLAIM NO.……

BETWEEN:

…… **PLAINTIFF(S)/APPLICANT(S)**

AND

…… DEFENDANT(S)/RESPONDENT(S)

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/Sheriff Corp

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

THIS ……..DAY……..……20……..……..……

FORM SCA 5

IN THE MAGISTRATE COURT OF KANO STATE (SMALL CLAIMS)

FORM OF ADMISSION, DEFENCE AND COUNTERCLAIM TO ACCOMPANY FORM SCA 3
(TO BE SERVED ON THE CLAIMANT WITHIN 7 (SEVEN) DAYS OF SERVICE OF FORM SCA 3)

Claim No. ……..……

BETWEEN:

……..…… CLAIMANT(S)

AND

……..…… DEFENDANT(S)

(a) **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 the day of ……..... 20……. (or by instalments of N……..……..per……..……) because,

1. ……..……

2. ……..……

3. ……..……

(State why you cannot pay at once)

b) **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 courts)

c) **COUNTERCLAIM OR SET OFF.**

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

……..…….

……..……

……..……

……..……

……..……..

(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 in Kano ……..……..

Dated this…….. day of ……..……20……..……

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

FORM SCA 6

IN THE MAGISTRATE COURT OF KANO STATE (SMALL CLAIMS)

AFFIDAVIT OF SERVICE
(PROOF OF SERVICE TO BE FILED WITHIN TWO (2) DAYS OF SERVICE)

CLAIM NO……

BETWEEN:

…… **PLAINTIFF(S)/APPLICANT(S)**

AND

…… DEFENDANT(S)/RESPONDENT(S)

I,……..

……..

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

At……O'clock I served upon ……..

Summons for small claims……..

……True copy whereof 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/Sheriff Corp

SWORN TO AT THE SMALL CLAIMS COURT REGISTRY.
THIS ……. DAY……20……..

FORM SCA 7

IN THE MAGISTRATE COURT OF KANO STATE (SMALL CLAIMS)
IN THE ……MAGISTERIAL DISTRICT
HOLDEN AT ……

CLAIM NO……..

BETWEEN:

…….....…….....…… PLAINTIFF(S)/APPLICANT(S)

AND

…….....…….. DEFENDANT(S)/RESPONDENT(S)

MOTION EX-PARTE

BROUGHT PURSUANT TO ORDER 5 RULE 2 OF THE MAGISTRATE COURT (CIVIL PROCEDURE) RULES, 2018 AND UNDER THE INHERENT JURISDICTION OF THE COURT

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

An Order of the Court granting leave to the Plaintiff/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……. day of ……20……

……..
Plaintiff's signature

FORM SCA 8

IN THE HIGH COURT KANO STATE
COMMERCIAL DIVISION (FAST TRACK COURT)
HOLDEN AT ……..

APPEAL NO. ……..……..

BETWEEN:

…….....……. APPELLANT(S)

AND

…….....……. RESPONDENT(S)

NOTICE OF APPEAL
(TO BE FILED WITHIN 14 (FOURTEEN) OF DELIVERY OF THE JUDGMENT)

TAKE NOTICE that the ……../Appellant(s) being dissatisfied with the decision of the Magistrate Court (Small Claims Court) …… Magisterial District as contained in the Judgment delivered on the …… by …… do hereby appeal to the High Court of Kano 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

(1) The learned Magistrate erred in law when His Honour held that ……..…

……
……
……

PARTICULARS OF ERROR

(a) ……

……
……

(b) ……
……
……
……

3. RELIEFS BEING SOUGHT FROM THE HIGH COURT OF KANO STATE

(a) An Order of the Honourable Court ……..
……

(b) An Order ……
……..
……

4. PERSON(S) DIRECTLY AFFECTED BY THE APPEAL

NAMES	**ADDRESS**
……	**……**
……	……
……	**……**
……	……

Dated this …….. day of …… 20……

……
APPELLANT'S SIGNATURE

ADRESS FOR SERVICE:

……

……

……