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PRACTICE DIRECTION ON SMALL CLAIMS 2018

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DISTRICT COURTS LAW

PRACTICE DIRECTION 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); High Court Law, Cap. 53 Vol. 1, Laws of Niger State, 1989; Section 89 (1) and (2) of the District Courts Law, Cap. 37, Vol. 1, Laws of Niger State, 1989; and by virtue of all other powers enabling me in that behalf, **I, Hon. Justice Maria Sanda Zukogi, Chief Judge of Niger 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 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 District 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 Niger State;

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- (b) the Defendant or one of the Defendants resides or carries on business in Niger State;
- (c) the cause of action arose wholly or in part in Niger State;
- (d) the claim is for a liquidated monetary demand in a sum not exceeding Three Million Naira (N3,000,000.00), excluding interest and costs; and
- (e) the Plaintiff 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 Registrar 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 Assistant Chief Registrar or any person in charge of the Small Claims Registry shall cause the claim to be marked "**Qualified for the Small Claims**" and direct the Plaintiff to pay the appropriate 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 District Judge for assignment to a District Judge of the Small Claims Court.

(2) The Administrative District Judge shall within twenty-four (24) hours of receipt of the case files assign the Small Claims files to a District Judge 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 of the Small Claims Court.
- (2) Upon service, the Sheriff of the Small Claims Court shall file an affidavit of service as in **Form SCA 6** within two (2) days of service.
- (3) The provisions of the District Court. 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 (4) above, the Plaintiff shall apply for an Order of substituted service of the Summons on the Defendant by filling and 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 provisions 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
COUNTERCLAIM**

(1) If, at the time the action is commenced, the Defendant intends to claim against the Plaintiff, a liquidated money demand not exceeding Three Million Naira (N3,000,000.00), 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 Plaintiff, a liquidated money demand exceeding Three Million Naira (N3,000,000.00) but not more than Five Million Naira (N5,000,000.00), (excluding interest and costs), which is the limit of the general jurisdiction of the District Court, the Defendant may file a Counterclaim in the pending Small Claims action by filling **Form SCA 5**.

(3) If, at the time the action is commenced, the Defendant has a Counterclaim that exceeds the general jurisdiction of the District Court, the Defendant may file the Counterclaim by filling **Form SCA 5**.

Provided that any judgement in the Defendant's favour shall be limited to the general jurisdiction of the District 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 Plaintiff on record.

(6) The Plaintiff may file a reply to the Defendant's defence and Counterclaim within five (5) days of service of the Defendant's defence and Counterclaim.

(7) No pleadings after reply is 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 Plaintiff 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 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, 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 Article 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 District Judge shall hold a preliminary hearing for the purpose of giving directions for the hearing of the claim or Counterclaim (as the case may be) including a hearing timetable, 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 and registered companies can be represented by 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 District Judge 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 interlocutory application(s) filed by any of the parties.

(2) The entire period of proceedings from filing till judgement 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 District Judge shall endeavor 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 JUDGEMENT

- (1) The Judgment Debtor shall comply with the judgment and pay the judgment sum within fourteen (14) days of delivery of judgment.
- (2) Upon default of the Judgment Debtor to pay the judgment sum within the time specified, the judgement shall be enforced in like manner as any Order of the District Courts for the payment of money.

ARTICLE 14 APPEALS

- (1) Where either party is aggrieved with the judgment, such party shall fill 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) Assistant 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 heard on a written brief or by oral argument of the parties and on the records of the appeal.
- (6) The whole appellate process from the assignment of the appeal to Judgement shall not exceed thirty (30) days.

**FORM SCA 1
(Article 2(1)(e))**

SMALL CLAIMS COURT

LETTER OF DEMAND - - - - -

FROM:

.....(Plaintiff(s))

Occupational Address.....
Residential Address.....
Phone Number.....
E-mail.....

To:

.....(Defendant(s))

Occupational Address.....
Residential Address.....
Phone Number.....
E-mail.....

Sir/Madam,

Demand:

I hereby demand from you.....
.....

[StateParticulars]

.....
.....
.....

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.

.....
Plaintiff's Name, Thumbprint/Signature.

.....
Date

**FORM SCA 2
(ARTICLE 2(2))**

**IN THE DISTRICT COURT OF NIGER STATE (SMALL CLAIMS)
HOLDEN AT.....**

COMPLAINT FORM (TO ACCOMPANY FORM SCA 3)

NB:

1. Please fill the form legibly.
2. Attach copies of documents (Contract, receipt, expert report, etc.) upon which the claim is based.
3. Submit this Form at the Registry of the Small Claims Court.

A. Particulars of Plaintiff(s)

Name.....
 Occupational Address.....
 Residential Address.....
 Phone Number.....
 E-mail.....

[Add particulars of other Plaintiff(s) if applicable].

B. Particulars of Defendant(s)

Name.....
 Occupational Address.....
 Residential Address.....
 Phone Number.....
 E-mail.....

[Add particulars of other Defendant(s) if applicable].

Please summarise your complaint and state the steps you have taken to recover the claim:

.....

.....
Plaintiff's Signature/Thumbprint

.....
Date

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JURAT

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 thumbprint impression.

.....
Interpreter

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

Commissioner for Oaths.

**FORM SCA 3
(ARTICLE 2(3))**

**IN THE DISTRICT COURT OF NIGER STATE (SMALL CLAIMS)
HOLDEN AT.....**

BETWEEN: CLAIM No.....

.....Plaintiff

And

.....Defendant

The Plaintiff Claims:

Debt (Particulars are attached).

Court Fees.....

Cost.....

Total.....

To:

.....
.....
.....

1. You are hereby summoned to appear before this Court on.....day of20.....atto admit or deny your liability for the above-mentioned claim.

2. If you deny liability or have a Counterclaim, you are advised to complete and return form SCA 5 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 5.

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.

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(c) If you admit the claim and wish to consent to judgment or wish to undertake to pay the claim by installments 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 installments has been made fails to satisfy the judgment or order.

(a) such judgment or order may be enforced against movables and if the movable are found to be insufficient, then against the immovables 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 seven (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
(ARTICLE 5(4))**

**IN THE DISTRICT COURT OF NIGER STATE (SMALL CLAIMS)
HOLDEN AT.....**

AFFIDAVIT OF NON-SERVICE

BETWEEN:

CLAIM No.....

.....Plaintiff

And

.....Defendant

I,.....make
oath and say that on theday of.....20.....at.....o'clock,
I attempted to serve upon.....Summons for Small
Claims.....true copy of which is hereby
annexed, issued out of this Court on the.....day of.....
20.....

I have been unable to serve the Summons.....because
.....

.....
Sheriff

**Sworn to at the District Court of Niger State (Small Claims)
Registry this.....day of.....20.....**

Before Me

.....
Commissioner for Oaths

**FORM SCA 5
(ARTICLE 6(1), 7(1), (2) & (3))**

**IN THE DISTRICT COURT OF NIGER STATE (SMALL CLAIMS)
HOLDEN AT.....**

FORM OF ADMISSION, DEFENCE AND COUNTERCLAIM TO ACCOMPANY
FORM SCA 3

(To be served on the Plaintiff within seven (7) days of service of Form SCA 3)

BETWEEN: CLAIM No.....

.....Plaintiff

And

.....Defendant

(a) Admission

I admit the Plaintiff's claim (or).....part of the Plaintiff's claims
and I ask for permission to pay the sum with costs on that amount on the.....
.....day of.....20.....(or by installments 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 Plaintiff's claim) because.....

.....

[State briefly the facts you wish to put before the Court]

(c) Counterclaim or Set-off

I have a Counterclaim or Set-off against the Plaintiff for N.....

[State the particulars of the Counterclaim or Set-off]

.....
Plaintiff's Name & Signature/Thumbprint

.....
Date.

Jurat

The foregoing having been read and interpreted to the Deponent by me in.....
.....language, he being illiterate/blind and he having appeared perfectly to have understood before affixing his thumbprint impression.

.....
Interpreter

Sworn to at the District Court of Niger State (Small Claims)

Registry this.....day of.....20.....

Before Me

.....
Commissioner for Oaths

Defendant's address for service in Niger State.....

Dated this.....day of.....20.....

N.B.:

If you fail to file an answer to the claim, you will be held to have admitted the claim.

**FORM SCA 6
(Article 5(2))**

**IN THE DISTRICT COURT OF NIGER STATE (SMALL CLAIMS)
HOLDEN AT.....**

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

BETWEEN: No.....

.....Plaintiff

And

.....Defendant

I,.....make oath and say that
on the.....day of.....20.....at.....o'clock,
I served upon.....Summons for Small
Claims.....a true copy of which is hereby annexed
issued out of this Court on the.....day of.....20.....
at.....upon.....on the complaint of.....
by delivering the same personally to.....Before the day
I served the Summons on.....I did not know him
personally, but after he was pointed out to me by.....
i asked him if he was.....and he said he was.

.....
Sheriff

Sworn to at the Small Claims Court Registry

this.....day of.....20.....

Before Me

.....
Commissioner for Oaths

**FORM SCA 7
(Article 5(5))**

**IN THE DISTRICT COURT OF NIGER STATE (SMALL CLAIMS)
HOLDEN AT.....**

BETWEEN: CLAIM No.....

.....Plaintiff/Applicant

And

.....Defendant

MOTION EXPARTE

BROUGHT PURSUANT TO ORDER 2 OF THE DISTRICT COURT RULES.....
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: by pasting same at
.....being the last known address of the Defedant
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 of this claim.

Dated.....day of.....20.....

.....
Plaintiff/Applicant's Name & Signature

Name and Address of the Plaintiff/Applicant's Counsel:

.....

.....

**FORM SCA 8
(Article 14(1) & (2))**

IN THE HIGH COURT OF NIGER STATE
IN THE.....DIVISION (FAST TRACK)
HOLDEN AT.....

APPEAL No.....

(SMALL CLAIMS)

BETWEEN:

.....Appellant
And
.....Respondent

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

TAKE NOTICE that the...../Appellant being dissatisfied with the decision of the District Court (Small Claims Court).....Magisterial District as contained in the judgment delivered on the..... by.....do hereby appeal to the High Court of Niger 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 the Notice.

1. Part of the decision of the Lower Court complained of:
.....
.....

2. Grounds of Appeal:

(1).....

Particulars of Error.

(a).....
.....

(b).....
.....

3. Reliefs Being Sought from the High Court of Niger State

(a).....

(b).....

4. Persons Directly affected by the Appeal

Names	Addresses
.....
.....
.....

.....
Appellant's Signature

ADDRESS FOR SERVICE:
.....
.....

THIS PRACTICE DIRECTION IS GIVEN UNDER MY HAND AT MINNA,
THIS 10th DAY OF OCTOBER, 2018

.....
Hon. Justice Maria Sanda Zukogi
Chief judge,
Niger State.