



MAGISTRATES' COURTS LAW

PRACTICE DIRECTIONS
on
Small Claims
2023



BY

HON. JUSTICE A. R. OZOEMENA
The Honourable Chief Judge of Enugu State



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In exercise of the powers conferred on me by Section 274 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), Section 68 (2) of the High Court Law of Enugu State, 2004, Cap 92, Vol. iv, Revised Laws of Enugu State of Nigeria, 2004, Section 80 (1) of the Magistrates' Courts Law, Cap 13, Vol. V, Revised Laws of Enugu State, 2004, and by virtue of all other powers enabling me in that behalf, I Hon. Justice Afojulu Raymond Ozoemena, Chief Judge of Enugu 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.

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 Magistrates' Courts in Enugu State.

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 Enugu State;
 - b. The Defendant or one of the Defendants resides or carries on business in Enugu State.
 - c. The cause of action arose wholly or partly in Enugu State;
 - d. The Claim is for liquidated monetary demands in a sum not exceeding N5,000,000:00 (Five Million Naira), excluding interest and costs;
 - e. The Claimant has served on the Defendant, a LETTER OF DEMAND as in Form SCA1.
2. The action shall be commenced by Claim upon the completion of a Small Claims Complaint Form as in Form SCA2.
3. The Summons shall issue as in Form SCA 3 upon the

Assistant Chief Registrar or 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, 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 FILE

1. Upon the marking of the Claim, the officer in charge shall within 24 hours forward the case file to the Administrative Chief Magistrate for assignment to a Magistrate of the Small Claims Court.
2. The Administrative Chief Magistrate shall within 24 hours of receipt of the case file assign the file to a Magistrate of the Small Claims Court. Such case assignment shall be on a random basis.

ARTICLE 5
SERVICE OF THE SUMMONS

1. The Summons shall be served by the bailiff of the Small Claims Court within seven (7) days of filing.
2. Upon service, the bailiff 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 Magistrates' Court (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 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 filling and filing Form SCA 7 supported with an affidavit.
6. Upon receipt of a duly completed Form SCA 7 with a supporting affidavit, the Magistrate shall make an order for substituted service of the Summons.
7. Substituted service includes service by electronic means via the parties verified and verifiable E-mail, Twitter, Instagram, Whatsapp, Telegram address/account or any other related electronic message device as may be appropriate.
 - i. The affidavit accompanying the application in terms of Article 5(5) above shall confirm the identity of the Respondent, the postal/physical address verified and verifiable E-mail, Twitter, Instagram Whatsapp, Telegram address/account or any other electronic mail address at which the Defendant will receive service of the Summons.
 - ii. A copy of any verified and verifiable E-mail, Twitter, Instagram, Whatsapp, Telegram address/account or any other

electronic mail correspondence between the parties including attachment may be attached as proof of the validity of the electronic mail address.

- iii. The 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 or Admission or Counterclaim within seven (7) days by completing Form SCA5 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 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 Magistrates' Court), the Defendant may file a Counterclaim in the pending Small Claims action by filing Form SCA 5.
3. If at time the action is commenced, the Defendant has a Counterclaim that exceeds the general jurisdiction of the Magistrates' Court, the Defendant may file the Counterclaim, by filing Form SCA 5, PROVIDED that any Judgment in the Defendant's favour shall be limited to the general jurisdiction of the Magistrates' Court.
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 Claim on record.
6. The Claimant may file a reply to the Defendant's defence and defence to Counterclaim within 5days of service of the Defendant's defence and Counterclaim.
7. No further reply shall be allowed after the reply filed by the Claimant.

**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. When 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. When 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.
4. A Claim struck out on grounds of non – appearance or want of diligent prosecution shall not be relisted but may be refiled upon payment of prescribed fees and incidental costs.

**ARTICLE 9
PROCEEDINGS AT THE HEARING**

1. At the first appearance of the parties before the Court, the Magistrate shall promote, encourage and facilitate amicable settlement of the dispute among 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. 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 preliminary hearing for the purpose of giving directions for 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 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 or 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. Partnership 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 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) working 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 7 days from the date of the delivery of the Judgment.

ARTICLE 13

ENFORCEMENT OF JUDGMENT

1. The Defendant(s) to the claim or Counterclaim (as the case may be) shall comply with the Judgment and pay the Judgment sum forthwith or as may be ordered by the court.

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 Magistrates' Court for payment of money.

3. **Attachment of Debts by Garnishee.**
A party who is entitled to the benefit of a Judgment for recovery or payment of money shall fill and file motion exparte as in Form SCA 9 with accompanying affidavit containing the following information:
 - a. The name and address of the Judgment debtor.
 - b. Details of the Judgment or order sought to be enforced.
 - c. The amount of money remaining due under the Judgment or order.
 - d. If the Judgment debt is payable by installments, the amount of any installment which have fallen due and remain unpaid.
 - e. The name and address of the third party.

- f. If the third party is a bank or building society –
 - (i) Its name and the address of the branch at which the Judgment debtor's account is believed to be held; and
 - (ii) The account number; or, if the Judgment creditor does not know all or part of this information, confirmation that to the best of the Judgment creditor's knowledge or belief, the third party – (a) is within the jurisdiction; and (b) owes money to or holds money to the credit of the Judgment debtor;

- g. If the judgment creditor knows or believes that any person other than the Judgment debtor has any claim to the money owed by the third party –
 - (a) His name and (if known) his address; and
 - (b) Such information as is known to the Judgment creditor about his claim.

- h. Details of any other applications for third-party debt orders issued by the Judgment creditor in respect of the same judgment debt.

Where the Judgment creditor satisfies the provision of Article 9 sub1, the Magistrate may issue a garnishee order nisi and direct the garnishee(s) to show cause, regard been had to provision of Section 83 (2) of the Sheriff & civil Procedure Act”

ARTICLE 14
APPEALS

1. Where either party is aggrieved with the Judgment, such party shall comply with the provisions of Section 54 of the Magistrates' Court Law.
2. The aggrieved party shall file the Notice of Appeal as in Form SCA 8 within fourteen (14) days of delivery of the Judgment stating the reason (s) for the Appeal.
3. The Officer in charge of the Small Claims Registry shall compile the Records of Appeal within fourteen (14) days of the submission of Form SCA 8.
4. The Records of Appeal shall thereafter be forwarded to the Appeal Section of the Small Claims Appellate Registry. It shall 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 be issued to the parties and the Appeal shall be heard at the earliest convenience of the Court.
6. The Appeal shall be determined based on the Record of Appeal and parties may file a written brief or address the court orally as the magistrate may deem fit for the just determination of the Appeal.
7. The whole Appellate process from the assignment of Appeal to Judgment shall not exceed thirty (30) days.

ARTICLE 15
GENERAL PROVISIONS

1. Where no provision is made in these Practice Directions, the provisions of the Magistrates' Court (Civil Procedure) Rules, shall apply to the proceedings at the Small Claims Court while the High Court (Civil Procedure) 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 Claims Appellate Court.
2. Every Magistrate of the Small Claims Court shall take charge of all cases allocated to him.
3. The Magistrate shall 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 Judgment.
4. The Magistrate shall note on the record of proceedings in respect of each case:
 - i. The date and time when proceedings commenced.
 - ii. The date and time when proceedings were adjourned to.
 - iii. The date and time the proceedings were concluded.
5. In line with Article 12 (2), all Magistrates shall strive to finalize cases within 60 days of the filing by the Claimant. The Magistrates shall report monthly to the Chief Registrar on all part-heard cases that have not been finalized within two (2) months from the date of commencement of trial provided that Magistrates who have more than five part heard cases should not start new cases without a written approval from

the Chief Registrar. Magistrates that have more than five part heard cases shall submit along with their monthly reports an action plan on how they will dispose of the part heard matters and provide monthly reports on progress made.

6. Upon the direction of the Chief Registrar, the Administrative Chief Magistrate shall 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 Court.
7. The Chief Registrar shall be responsible for providing Court performance related data to the Enugu State Judicial Service Commission on a monthly basis. The Secretary to the Enugu State Judicial Service Commission shall ensure that Court performance reports are generated and published on a general basis which shall show (i) the time it takes each Small Claims Court within a particular Magisterial District to dispose of matters (ie from filing to Judgment and (ii) the age of matters pending before a Small Claims Court within a particular Magisterial District.

**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.

.....

CLAIMANT'S SIGNATURE

**FORM SCA 2
IN THE MAGISTRATES' COURT OF ENUGU STATE
(SMALL CLAIMS) COMPLAINT FORM (TO
ACCOMPANY FORM SCA 3)**

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.

PARTICULARS OF CLAIMANT(S)

FULL NAME WORK

ADDRESS

.....
RESIDENTIAL ADDRESS

.....
TELEPHONE NO.(S)& E-MAIL ADDRESS.....

.....

Please attach a list of other Claimants (if more than one) with the required particulars

PARTICULARS OF DEFENDANT(S)

FULL NAME WORK ADDRESS

.....

RESIDENTIAL ADDRESS

.....

TELEPHONE NO.(S)& E-MAIL 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

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

.....
**CLAIMANT'S SIGNATURE/
THUMB PRINT**

.....
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 MAGISTRATES' COURT OF ENUGU STATE
(SMALL CLAIMS) SUMMONS
(TO BE SERVED WITHIN SEVEN DAYS OF FILING)**

CLAIM NO.....

BETWEEN:

.....

CLAIMANT AND

.....

DEFENDANT

The Claimant's Claim:

Debt (particulars are attached)

..... **Court Fees**

.....

Costs Total: N _____

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 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 a longer time for payment, complete the form of ADMISION as in Form SCA5.

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 Claimant.

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

c. The Judgment Debtor must 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....

FORM SCA 4

**IN THE MAGISTRATES' COURT OF ENUGU STATE
(SMALL CLAIMS) AFFIDAVIT OF
NON – SERVICE**

CLAIM NO.....

BETWEEN:

.....

CLAIMANT

AND

.....

DEFENDANT/RESPONDENT

I.....

.....

.....

..... Make Oath and say, that on the day of
..... 20.... At..... O'clock attempted to serve upon
..... Summons for Small Claims
..... True copy whereof annexed issued
out of this Court at I have been unable to
serve Summons Because
.....
.....

Sheriff Corp

**SWORN TO AT THE MAGISTRATES' COURT OF ENUGU
STATE, (SMALL CLAIMS) REGISTRY THIS..... DAY
..... 20.....**

**FORM SCA 5
IN THE MAGISTRATES' COURT OF ENUGU STATE
(SMALL CLAIMS)
FORM OF ADMISSION, DEFENCE AND
COUNTERCLAIM TO ACCOMPANY FORM SCA 3 (TO BE
SERVED ON THE CLAIMANT WITHIN SEVEN DAYS OF
SERVICE OF FORM SCA 3)**

CLAIM NO.....

BETWEEN

.....
CLAIMANT

AND

.....

DEFENDANT

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

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 Court)

b) 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 Enugu
Dated this day of 20

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

FORM SCA 6

**IN THE MAGISTRATES' COURT OF ENUGU STATE
(SMALL CLAIMS)
AFFIDAVIT OF SERVICE (TO BE SERVED ON THE
CLAIMANT WITHIN SEVEN DAYS OF (PROOF OF
SERVICE TO BE FILED WITHIN TWO DAYS OF
SERVICE)**

CLAIM NO.....

BETWEEN:

.....

**CLAIMANT
AND**

.....

DEFENDANT/RESPONDENT

I.....

Make Oath and say, that on the day of
20..... At.....O'clock attempted to serve upon.....

.....
Summons for Small Claims

.....True copy whereof annexed issued
out of this Court at

Upon on
the complaint of

By delivering the same the same personally to
..... before the day I
served the summons.....

I did not know
..... personally, but after he was
pointed out to me.

.....
.....

.....asked him if he was
..... and he said,
he was.

**SWORN TO AT THE SMALL CLAIMS
COURT REGISTRY**

THIS..... DAY..... 20.....

FORM SCA 7

**IN THE MAGISTRATES' COURT OF ENUGU STATE
(SMALL CLAIMS)
IN THE MAGISTERIAL DISTRICT
HOLDEN AT.....**

CLAIM NO.....

BETWEEN:

.....
CLAIMANT/APPLICANT
AND
.....
DEFENDANT

**MOTION EX-PARTE
BROUGHT PURSUANT TO ORDER 5 RULE 2 OF THE
MAGISTRATE COURT (CIVIL PROCEDURE) RULES,
2009 AND UNDER THE INHERENT JURISDICTION OF
THE COURT**

TAKE NOTICE that the Honourable Court will be moved on the
.....day of20..... at 9'OClock in the forenoon or
soon thereafter as the Claimant/Applicant may be heard praying the
Court for the following:

An order of the Court granting leave to the claimant/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 this day of 20.....

.....
Claimant's Signature

FORM SCA 8

FAST TRACK COURT

HOLDEN AT.....

APPEAL NO.....

BETWEEN

.....
APPELLANT

AND

.....
RESPONDENT

NOTICE OF APPEAL

TAKE NOTICE that the/Appellant being dissatisfied with the decision of the Magistrates' Court (Small Claims Court)..... Magisterial District a contained in the

Judgment delivered on the.....by do hereby appeal to the High Court of Enugu 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 person 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..

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

(a). PARTICULARS OF ERROR

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

(b).....

.....
.....

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

(a) An Order of the Honourable Court

.....

b). An Order
.....
.....

PERSONS DIRECTLY AFFECTED BY THE APPEAL

NAMES

ADDRESS

- a.
- b.

Dated this day of 20.....

ADDRESS FOR SERVICE

.....
APPELLANT'S SIGNATURE

**ISSUED THIS 1ST DAY OF JULY, 2023
UNDER THE HAND AND SEAL OF**



.....
**HON. JUSTICE A. R. OZOEMENA
HON. CHIEF JUDGE OF ENUGU STATE**

