

GOMBE STATE JUDICIARY

PRACTICE DIRECTION ON SMALL CLAIMS COURT, 2023

BY

HON. JUSTICE HALIMA S. MOHAMMED

CHIEF JUDGE OF GOMBE STATE

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DISTRICT COURTS LAW

PRACTICE DIRECTIONS ON SMALL CLAIMS, 2023.

In the 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, Section 41 of the District Courts Law and by all other powers enabling me in that behalf, I, **HON. JUSTICE HALIMA S. MOHAMMED**, Chief Judge of Gombe State, hereby issue the following Practice Direction.

PREAMBLE

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

This Practice Direction 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 Defendants resides or carry on business in Gombe State;
 - (b) The Defendant or one of the Defendants resides or carry on business in Gombe State;
 - (c) The cause of action arose wholly or in part in Gombe 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 SCC1.
2. The action shall be commenced by Claim upon the completion of a Small Claims Complaint Form as in Form SCC2.
3. The Summons shall be issued as in Form SCC 3 upon the Registrar or his designee being satisfied that the requirements of Article 2 (1) above have been met.

ARTICLE 3

SUMMARY JUDGMENT

1. Where a Claimant believes that there is no defence to his claim, he may file with the Summons, an application for Summary Judgment as in Form SCC 3A.
2. The application for Summary Judgment shall be supported by an

affidavit stating the grounds for his belief (that there is no defence to his claim) as in Form SCC 3B.

3. If the Defendant files a Counter-affidavit specified in Article 7 (2) below, the Claimant may file a Further-affidavit to the Defendant's Counter-affidavit within 5 days of service of the Counter-affidavit.
4. Where it appears to a District Court Judge that the Defendant has a good defence and ought to be permitted to defend the claim, he may be granted leave to defend.
5. Where it appears to a District Court Judge that the Defendant does not have a good defence, the District Court Judge may enter judgment for the Claimant.
6. Where it appears to a District Court Judge that the Defendant has a good defence to part of the claim but does not have a good defence to other parts of the claim, the District Court Judge may enter judgment for that part of the claim to which there is no defence and grant leave to defend that part to which there is a defence.
7. Where there are several Defendants, and it appears to a District Court Judge that one or more of the Defendants have a good defence, the District Court Judge may permit such Defendants to defend and enter Judgment against the other Defendants.

ARTICLE 4 MARKING AND PAYMENT OF FILING FEES

When a case satisfies the criteria in Article 2 above, the Court Registrar or any officer of the Court 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 5 FIXING OF DATE

Upon the marking of the Claim by the Court Registrar, or any officer of the Court in charge of the Small Claims, the District Court Judge shall within 24 hours of receipt of the case file fix a date for the commencement of hearing of the case.

ARTICLE 6
SERVICE OF THE SUMMONS

1. The Summons shall be served by the Bailiff of the Small Claims Court within seven (7) days of filing the case.
2. Upon service, the Bailiff or any duly authorized Court Officer of the Small Claims Court shall file an Affidavit of Service as in Form SCC 6 or Certificate of Service within 2 days of the 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 Bailiff or any duly authorized officer of the Small Claims Court is unable to serve the Summons on the Defendant within the time specified in Article 6 sub (1) above, he shall file an Affidavit of Non-Service as in Form SCC 4 after the expiration of the time allowed for service.
5. In the event of Article 6 sub (4) above, the Claimant shall apply for an Order of substituted service of the Summons on the Defendant by filing Form SCC7 supported by an affidavit.
6. Upon receipt of a duly completed Form SCC 7, the District Court Judge shall make an order for substituted service of the Summons.
7. Substituted service of the summons may be effected by pasting on a conspicuous area of the Defendant's last known place of abode, by registered post, electronic means via the Party's verified email, WhatsApp, Telegram address/account or any other related electronic message platform as may be appropriate. Provided that substituted service by means of text message (SMS) shall be used for hearing notices only.
8. If substituted service is to be effected by service via the electronic mail address of a party, the following provisions shall be applicable:
 - a. The application in Article 6 (5) above shall be accompanied by an affidavit confirming the identity of the

Defendant/Respondent, postal/physical address, electronic mail address, and functional phone number(s), verified email, WhatsApp and Telegram address/account or any other related electronic platform within which the Defendant will receive service of the summons.

- b. A copy of any electronic email correspondence between the parties including attachments may be attached as proof of the validity of the electronic mail address.
- c. The Bailiff or any duly authorized Officer 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 7 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 SCC 5 as appropriate.
2. A Defendant who has been served with an application for Summary Judgment shall file (along with Form SCC 5 and within the 7 days stipulated for him to enter a Defence) a Counter-affidavit as in Form SCC 5A stating why summary judgment should not be entered against him.
3. The provision of Article 6 on service of Summons shall apply to service of a Counterclaim.
4. Where a Defendant fails to file an answer to the Claim, or a Counter-affidavit to the Application for Summary Judgment, such Defendant shall be held to have admitted the Claim.

ARTICLE 8 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 the sum of 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 as in Form SCC 5 in answer to the Claim.

2. If at the time the action is commenced, the Defendant has a Counterclaim that exceeds the general jurisdiction of Small Claims Court, the Defendant may file a Counterclaim, by filing Form SCC 5, PROVIDED that any Judgment in the Defendant's favour shall be limited to the general jurisdiction of the Small Claims Court.
3. In the event of Article 7 (2) above, the Defendant/Counterclaimant shall be deemed to have abandoned the excess of the Counterclaim.
4. 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.
5. No pleadings after Reply filed by the claimant are allowed.

ARTICLE 9 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 that there is proof of service, the District Judge shall proceed with the hearing of the claim and enter Judgment as far as the Claimant proved 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 may be entitled to an Order striking out the claim, but if he has a Counterclaim, the District Judge may after striking out the claim proceed to hear the Counterclaim and enter Judgment

accordingly, as far as the Defendant proved his Counterclaim.

4. Where a claim has been struck out on grounds of non-appearance or want of diligent prosecution as in Article 9 (1) or (3) above, it shall not be re-listed but may be re-filed upon payment of prescribed fees and incidental costs.

ARTICLE 10 PROCEEDINGS AT THE HEARING

1. At the first appearance of the parties before the Court, the District Judge may promote, encourage and facilitate amicable settlement of the dispute among the parties by mediating and providing options for settlement 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) 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 an 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 may 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 it appears to the District Judge to secure a 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 an unforeseen or exceptional circumstance 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. At the hearing, the District Court Judge 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 11 REPRESENTATION

1. Parties may represent themselves at the proceedings in the Small Claims Court.
2. Partnerships, Associations and Registered Companies can be represented by either a Partner(s), Registered Members of the Association, Company Secretary or any other Principal Officer of the Partnership or Company.

ARTICLE 12 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 13 JUDGMENT

1. The District Court 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 Court Judge shall issue the 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 14 ENFORCEMENT OF JUDGMENT

1. The Defendant or Defendant to the Counterclaim (as the case may be) shall comply with the Judgment and pay the Judgment sum forthwith.
2. Upon default of the Defendant or Defendant to the Counterclaim to pay the Judgment sum forthwith, the Judgment shall be enforced in a like manner as any order of the District Court for the payment of money.
3. A party who is entitled to the benefit of a judgment for recovery or payment of money shall fill and file motion ex parte as in FORM SCC 9 with the accompanying affidavit (as in FORM SCC 9A) containing the following information:
 - (1) the name and address of the judgment debtor.
 - (2) details of the judgment or order sought to be enforced.
 - (3) the amount of money remaining due under the judgment or order.
 - (4) if the judgment debt is payable by installments, the amount of any installments which have fallen due and remain unpaid.
 - (5) the name and address of the third party.
 - (6) 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;

- (7) 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.
 - (8) details of any other applications for third-party debt orders issued by the judgment creditor in respect of the same judgment debt.
4. Where the judgment creditor satisfies the provision of Article 14 sub 3, the District Court Judge 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 Process Act."

ARTICLE 15

APPEALS

1. Where either party is aggrieved with the Judgment, such party shall fill the appeal form, as in form SCC 8 within fourteen (14) days.
2. The Registrar of the Small Claims Court shall compile and transmit the records of appeal within fourteen (14) days of the submission of Form SCC 8.
3. The Records of Appeal shall thereafter be forwarded to the Appeal Registry of the High Court of Justice where it will then be assigned by the Chief Judge to a High Court Judge designated to hear appeals from the Small Claims Court.
4. The Judge(s), 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.
5. The Appeal may be by oral address or written briefs of the parties and on the record of proceedings.
6. The whole Appellate Process from the assignment of the Appeal to Judgment shall not exceed thirty (30) days.

7. The Judgment of the Appellate High Court shall not be invalid by reason of the entire proceedings of the court having exceeded thirty (30) days.

ARTICLE 16 GENERAL PROVISIONS

1. Where no provision is made in this Practice Direction, the provisions of the District Courts 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 also apply.
2. Every District Judge presiding in a Small Claims Court must take judicial control and management of all cases filed before him.
3. In line with Article 12 (2) above, all District Judges designated to hear Small Claims shall strive to finalize the cases within sixty (60) days of filing by the Claimant. Such District Judges must report quarterly to the Chief Judge through the Director Magistrates on all part-heard cases that have not been finalized within sixty (60) days from the date of commencement of the trial. Provided that District Judge(s) should not have more than ten (10) part heard cases and should not commence any new case without a written approval from the Chief Judge through Director Magistrates.
4. Any District Court Judge under this Practice Direction who has more than ten (10) part-heard cases must submit along with his quarterly report an action plan on how he intends to reduce the part-heard cases and provide reports on progress.
5. Upon the direction of the Chief Judge, the District Judge must submit any information and assessment material including statistics, records showing compliance with time frames for court events and any other reports required by the Chief Judge to assess the functioning and efficiency of the Small Claims Court.

INTERPRETATION

In this practice Direction, unless the context otherwise requires:

“Admission” means a concession or voluntary acknowledgement of the Claimant’s claim;

“Address for service” means the address of a place where any document may be left for, or sent by post to, the party giving the address;

“Appeal” means applying to a High Court for a review of the decision of the Small Claims Court;

“Claimant” means a person making a claim in the Small Claims Court;

“Counterclaimant” means a Defendant in a Small Claims Court proceedings that sets up a claim against the original claimant;

“Court” means the Small Claims Court;

“Defendant” means an individual, company or institution sued in the Small Claims Court;

“Defendant to Counterclaim” means the original Claimant who has been sued by a Defendant;

“District Court” means a Court established by the District Courts Law;

“District Judge” means a District Court Judge or a cadre of a District Court Judge designated and sitting in the Small Claims Court;

“High Court” means the High Court of Gombe State;

“Judge” means a Judge of the High Court of Gombe State;

“Liquidated money demand” means a debt or other specific sum of money usually due, payable and its amount must be already ascertained or capable of being ascertained as a mere matter of arithmetic without any other or further investigation;

“Registry” means the Small Claims Court Registry;

“Set-off” means an amount that is or may be set-off against another in the settlement of claims;

“Substituted service” means the service of a Court process or summons

otherwise than by personal service (as by mail or electronic means, or publication or by leaving it at a Defendant's place of business or residence or with an agent);

“Summary Judgment” means a judgment entered in favour of the Claimant and against the Defendant summarily on affidavit evidence. That is without a full trial;

“Summons” means an order to appear before the District Judge of the Small Claims Court.

CITATION

This Practice Direction may be cited as the “Gombe State Practice Direction on Small Claims Court, 2023.”

COMMENCEMENT

This Practice Direction shall come into effect on the 22nd day of December, 2023.

MADE AT GOMBE THIS 22ND DAY OF DECEMBER, 2023

SIGNED

**HON. JUSTICE HALIMA S. MOHAMMED
HON. CHIEF JUDGE OF GOMBE STATE**