

HANDBOOK ON PRACTICES AND PROCEDURES OF THE EDO STATE SMALL CLAIMS COURTS

INTRODUCTION

The Small Claims Court is a new innovation in Nigeria.

The 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 Judgment

This handbook is available online at the Edo State Judiciary website

[www.edojudiciary.gov.ng]

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A small claim is a claim for money in any debt recovery action with value not exceeding N5,000,000 (Five Million Naira)

Where can you file a Small Claims Action?

A Small Claims action can be filed in the Small Claims Court Registry located in every Magisterial District. It can be filed where you or the person you are claiming from lives, works or does business in any part of Edo State.

What is a Small Claims Court?

It is a Special Court where you can sue for **N5, 000,000 (Five million Naira) or less**. You cannot sue for rent or possession, or for pain or suffering or to enforce a promise in a Small Claims Court.

If your Claim is more than N5, 000,000 (Five Million Naira), you **cannot** split your Claim into smaller Claims to get around the limit of N5, 000,000 (Five Million Naira).

Benefits of a 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?

An individual who is eighteen years and above.

An individual who is less than eighteen years, or person of unsound mind, can sue through his/her Guardian.

Partnership

Association

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 filling a Complaint Form and Summons as in **Forms SCA2 and SCA3**

Where do I get the Court Forms?

You can get the Forms from the Small Claims Registry in every Magisterial District or on-line at the Edo State Judiciary Website (www.edojudiciary.gov.ng)

What information will I need to fill on the form?

Your particulars as the Claimant and the particulars of the person you are suing as well as a description of the claim. It is advisable to follow the instructions on the forms.

What if i do not have the Defendant's correct, legal name?

You can still start your case. You can use any name that the person you are suing is known or any name that the business or person operating the business uses. But once you get the correct information, you must inform the Court. (If you do not provide the correct information, it will be difficult for you to recover your money judgment, if your claim succeeds).

What do i do with my completed Forms?

They should be submitted to the Assistant Chief Registrar (ACR) of the Small Claims Registry in the Magisterial District where the claim is filed.

Do i have to pay to file my 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 N5,000,000 (Five Million Naira). The person suing you can also admit a part or the whole of the claim and Judgment may be entered on his admission.

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

If the Defendant files a Counter Claim, he must do so within seven (7) days from the date of service of the Summons on him. You will then be served by a Bailiff 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 if you were not served with the Defendant's Counterclaim before the date of the trial.

Who tells the person i am suing about my claim?

The Small Claims Court's Bailiff will serve the Defendant the Summons personally. If the Defendant cannot be served personally, the Bailiff 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, as in **Form SCA7**, for another mode/type of service.

What information will the Summons give the defendant?

The Summons tells 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 if i have been sued in the Small Claims Court?

If you have been sued as a defendant and you have been served with the Small Claims processes, you should file a defence within seven (7) days by completing **Form SCA5**.

What do i do on the day of my trial?

Get to the Court house early

Find your Small Claims Courtroom.

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?

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. This must be done before the date of trial. The Court may grant your application for an adjournment only once and in exceptional circumstances.

If you or someone else on your behalf 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 your reason and your case may be dismissed.

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

How do i get ready for my trial?

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

Written agreements, letters, photos or other documents

Bills, receipts, invoices, cheques.

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 documents or records to the Court or to testify at the trial.

Who serves the Order of Court on the Witness?

The Bailiff 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 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) need(s) one.

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

Yes. The parties are also encouraged to contact one another with a view to settling 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. The Court may accordingly enter a Consent Judgment. It is pertinent to note that the Consent Judgement once issued is binding on the parties.

What happens if one side does not attend 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. If you show enough evidence you may win your case.

What happens during trial of my Claim?

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 up to you to prove your claim.

Next the Defendant may ask you questions about the case.

If you have witnesses, they will take an Oath and testify.

The Defendant may ask them questions too.

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

The Defendant takes an Oath and tells his/her side of the story. The Defendant can show documents and other evidence and witnesses can testify on his/her behalf.

Before the Defendant's witnesses testify, they must also take an Oath to tell the truth.

You may ask the Defendant and the Defendant's witness(es) questions.

Who will decide 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 Judgment.

If you did not have the Defendant's correct name when you started the case, you may ask the Court to correct it at this stage. If this is not done, it will be difficult to recover your money judgment if your claim succeeds.

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 in Edo State to review your case. This process is known as an Appeal.

Do i have to pay for an Appeal?

Yes. You would 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 the cost of a Legal Practitioner in addition to the cost of filing 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 Judgment.

If i am the Defendant in the Claim or the Counterclaim and the Court gives judgment against me, do i have to pay the Judgment debt if i ask for an Appeal?

This will be at the discretion of the Small Claims Court which 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 Judgment sum.

Who will enforce my Judgment?

A Bailiff of the Small Claims Court will enforce your Judgment.

How can i find a Bailiff?

You can find a Bailiff in the Small Claims Registry.

What do i say to the Bailiff?

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

An Execution is a Court Order that allows the Bailiff to take the property or money of the person you sued to get your judgment paid.

Do i have to pay the Bailiff?

No. The Bailiff is a staff of the Court but you have to pay for the process of the Execution. The Small Claims Registry will determine the fee to pay and payment is to be made to the Registry (You should request for a receipt).

How does the Bailiff know what Asset the Judgment Debtor has?

You must find out the Judgment Debtors asset and give that information to the Bailiff.