

GREYCHAPEL

LEGAL



YOU MAY BE ABLE TO OBTAIN JUDGMENT FOR A DEBT IN 60 DAYS!!!

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1.0. Introduction

It is trite that debt is an integral part of the engine that drives an economy. However, it is not uncommon in this part of the world to find that people are generally unwilling to transact businesses on credit or on the basis of deferred payment. This may not be unconnected with personal or shared experiences with respect to the lengthy and cumbersome process of debt recoveries particularly in the Nigerian Courts.

In a bid to provide easy access to an informal, cost effective and speedy resolution of simple debt recovery disputes, the Chief Judge of Lagos State, Hon. Justice Opeyemi O. Oke, in exercise of her powers on April 23, 2018 commissioned the “**Small Claims Courts**” and issued Practice Directions to, amongst other things, regulate the procedures of the said Courts.

2.0. Small Claims Court

The Small Claims Courts are designated Magistrate Courts in Lagos State which are established to adjudicate over simple debts not exceeding ₦5,000,000 (Five Million Naira).

Accordingly, parties can now commence an action for the recovery of debts of up to ₦5,000,000 (Five Million Naira) at the Small Claims Court upon the completion of the prescribed forms.

2.1. Pre-Conditions to filing a Claim at the Small Claims Court

In order for an action to be commenced in the Small Claims Court, Article 2(1) of the Practice Directions provides that the following conditions must be met:

- a. The Claimant or one of the Claimants must either be resident in or carry on business in Lagos State.
- b. The Defendant or one of the Defendants must either be resident in or carry on business in Lagos State.
- c. The cause of action must have arisen wholly or partly in Lagos State.
- d. The claim should be for a “liquidated monetary demand” in a sum not exceeding ₦5,000,000 (Five Million Naira), excluding interest and costs.
- e. The Claimant must have served on the Defendant, a Letter of Demand in the prescribed form.

3.0. Nature of Liquidated Monetary Demands

Having regard to the provisions of Paragraph 2.1 (d) above, it should be noted that not all claims fall

within the jurisdiction of this Court. In other words, for a Small Claims Court to have jurisdiction over an action for simple debt recoveries, (a) it must be a liquidated debt and (b) the debt must not exceed the sum of ₦5,000,000.

A liquidated debt can be defined as a specific sum of money, usually due and payable; and the amount of which must be already ascertained or capable of being ascertained as a mere matter of arithmetic, without any further investigation.¹ In the case of **Madewell Products Limited and Mr David Iweta v Citibank Nigeria**² the Supreme Court interpreted liquidated money demand as “*an ascertained claim or specific amount which means that there is nothing more that needs to be done to determine the quantum or extent of the Defendant’s liability*”.

It follows therefore, that where the debt owed is contentious and debatable to the extent that the alleged debtor may have a divergent opinion as to how the sum is arrived at in the absence of an agreed yardstick or formulae, such sum would not be classified as “liquidated” and thus would fall outside the purview of the Small Claims Court.

It should also be noted that where a Defendant files a counter-claim for a liquidated sum which exceeds the jurisdiction of the Small Claims Court or indeed, the Magistrate Court, he shall not be foreclosed from filing same; judgment in the Counter-claimant’s favour shall however be limited to the jurisdiction of the Magistrate Court, and the excess thereof will be deemed abandoned.

4.0. Representations at the Small Claims Court

It is worthy of note that Parties may represent themselves at the proceedings in the Small Claims Court. Parties are also permitted to testify on their own behalf, tender all necessary documents and call other witnesses to give evidence at the hearing.

5.0. Timelines as Provided under the Practice Directions

In order to forestall delays in an action for recovery of debt, the Practice Directions provide for the following timelines:

- a. The entire hearing period shall not exceed 30 (thirty) days, inclusive of the 7 (seven) day period to be afforded the disputants for the purpose of amicable settlement.³
- b. The entire proceeding shall be for a period not exceeding 60 (sixty) days, inclusive of the dates of filing and judgment⁴; although the judgment of the Court will not be invalid by

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¹ See Black’s Law Dictionary (9th edition)

² (2014) LPELR-22421 (CA); (2014) 3 BFLR 413

³ Article 9 (6)

⁴ Article 12(2)

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reason of the entire proceedings having exceeded sixty (60) days.

- c. The judgment sum is expected to be paid within 14 (fourteen) days of delivery of judgment.
- d. Adjournments are granted during proceedings only in unforeseen and exceptional circumstances and a party may not be granted more than one adjournment during the entire proceedings.

6.0. Appeals against the judgment of the Small Claims Court

Appeals from the Small Claims Courts lie at the High Courts of Lagos State; and the appellate process from assignment of appeal to judgment should not exceed 30 (thirty) days.

The Practice Directions are however noticeably silent on whether a further appeal can be made to the Court of Appeal where a litigant is unsatisfied with the decision of the High Court; or if a decision of the High Court shall be final and binding on the parties.

7.0. Conclusion

The establishment of the Small Claims Courts is a remarkable development as the Court generally offers an abridged recovery process for persons who wish to pursue a claim falling within the stipulated parameters. The expectation is that this development will further facilitate the ease of doing business in Lagos State; the commercial hub of the country.

For any comments and additional information on the issues discussed, please contact any of the under-listed persons:



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