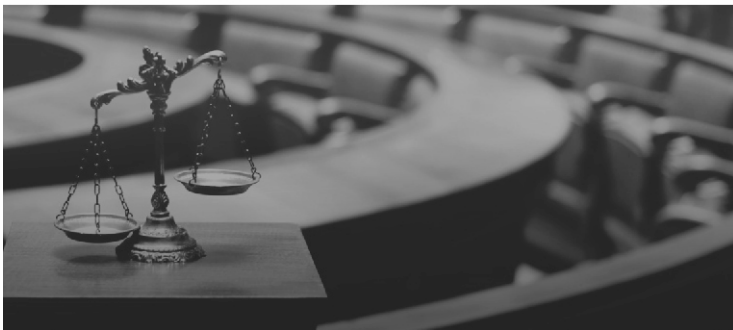




HANDBOOK





Introduction

The Small Claims Court is the latest innovation in the Nigerian Judicial System for fast track Justice delivery. This Handbook is a guide to help you understand 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
www.rivcomis.riversstate.gov.ng



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**▪ What is a Small Claim?**

- A small claim is a claim for money in any simple debt recovery action with a value of not more than N5,000,000.00 (Five Million Naira).

▪ Where can I file a Small Claims Action?

- A Small Claims action can be filed at the Small Claims Court Registry located in a Magisterial District. It can be filed in the Small Claims Court close to where you or the person you are suing lives, works or does business in any part of Rivers State.

▪ Can I conduct my case myself?

- Yes, you can. However, you may wish to engage the services of a lawyer at your own cost.

▪ What is a Small Claims Court?

- It is a Special Court where you can sue for N5,000,000.00 (Five Million Naira) or less including cost.
- You cannot sue for rent or possession, for pain or suffering or to enforce a promise in a Small Claims Court.
- If your Claim is more than N5,000,000.00 (Five Million Naira), you cannot divide your Claim into smaller Claims of N5,000,000.00 (Five Million Naira) each but you can choose to forgo any amount in excess of the sum of N5,000,000.00 (Five Million Naira).



- **Benefits of a Small Claims Court:**
 - It is cheap and easy to use.
 - It is fast.
 - You may not need to have a lawyer.
 - The Court will notify the person you are suing of your claim.

- **Who can sue in a Small Claims Court?**
 - An individual who is Eighteen (18) years and above.
 - A Person of unsound mind or a person under Eighteen (18) years old can sue through his/her Guardian/Next-Friend.
 - A Partnership
 - An Association
 - A Corporation

- **What do I do before filing a Small Claims Action?**
 - Write a Letter of Demand as in FORM RSSC1

- **How do I start my Small Claims action?**
 - File a Complaint Form at the Small Claims Registry in any Magisterial District or on-line at www.rivcomis.riversstate.gov.ng

- **What information do I need to file a claim?**
 - Your particulars as the Claimant.
 - The particulars of the person you are suing.
 - A brief 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 by which the person you are suing is known or any name that the business or person you are suing uses.
- However, as soon as you get the correct name, inform the Court.

(Note that 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 Registrar in charge 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 also 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 N5,000,000.00 (Five Million Naira).
- However, if the Defendant intends to file a Counter-Claim, he must do so within seven (7) days from the date of service of the Summons on him.
- The person you are suing 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?**

- You will 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 on the date of the trial.
- The case will not be adjourned because the Defendant sues you.

▪ How will the person I am suing know about my claim?

- The Bailiff of the Small Claims Court 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 RSSC7, 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 trial.

NOTE: 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 RSSC5.



- **What do I do on the day of my trial?**
 - Get to the Courthouse early.
 - Find your Small Claims Courtroom.

- **How will I know when my case starts?**
 - The Court Registrar will call your case and your name.
 - You will stand up and answer your name.
 - If you and the Defendant are both ready, the trial will start.

- **What happens if I am not able to go on with my case on the date fixed for trial?**
 - You can ask the Court to adjourn your trial for a good reason. As the Claimant, you can ask the court to adjourn your trial only once during the entire duration 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 entire duration of your trial.

- **How do I ask the court to adjourn my trial?**
 - By sending a letter to the Small Claims Court through the Registry 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 struck out as a Claimant.
 - If you are the Defendant and you do not appear at the trial, the Court may give Judgment against you and if you have a Counter-Claim, the Counter-Claim may be struck out.

**▪ How do I get ready for my trial?**

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

- Written agreements, letters, photos or other documents.
- Bills, receipts, invoices, cheques, etc.

▪ 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; or
- 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 Witness Summons) 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(es).

▪ 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/her to Court.

▪ Is there a deadline to serve the Witness Summons?

- The Witness Summons must be served three (3) clear days before the date the witness is expected to testify.



- **What if I or my witness(es) does 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) understands.
 - In such a case you will arrange for and come along with an Interpreter when you or your witness (es) requires one.

- **Can the person I am suing 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 must be noted that the Consent Judgment once issued is binding on all the parties.

- **What happens if one party does not attend Court?**
 - If you are the Claimant and you are not in Court when the Registrar calls the case, the Court may strike out 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, provided the Defendant was duly served. If you present sufficient evidence you may win your case.

- **What happens during the trial of my Claim?**
- As the Claimant, you will first take an Oath/Affirm to tell the truth and then you will state your own side of the case and show the Court your documents and other evidence. It is up to you to prove your claim.
- After you have stated your case against the Defendant and shown all the documents you have to prove your case, then the Defendant may ask you questions about the case.
- If you have witnesses, each witness will take an Oath/Affirm and also say all they know about your case and show any documents they have to prove the case.
- The Defendant may ask them questions too.
- After you have concluded your case, it will now be the Defendant's turn to speak.
- The Defendant takes an Oath/Affirms and states his/her own side of the case.
- The Defendant can show documents and other evidence and witnesses can testify on his/her behalf.
- Before the Defendant's witness(es) testifies, he must also take an Oath/Affirm to tell the truth.
- You may ask the Defendant and the Defendant's witness(es) questions about what they have said.

**■ 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.
- 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.
- The Court will then deliver Judgment.

■ 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 Small Claims Appellate Court in the High Court of Rivers State to review your case. This process is known as an Appeal.

■ Do I have to pay for an Appeal?

- Yes. You 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 Small Claims Appellate Court.

■ Do I need a Lawyer to ask for an Appeal?

- No, but you may wish to hire one.

■ Is there a deadline to file an Appeal?

- Yes. You must file a Notice of Appeal within 14 days after the Magistrate of the Small Claims Court has delivered Judgment.



- **If I am the Defendant in the Claim or the Counter-Claim and the Court gives judgment against me, do I have to pay the Judgment debt if I ask for an Appeal?**
 - This will be decided by the Small Claims Court which usually sets out 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 you your money willingly.
 - If the Defendant does not pay willingly, 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 Court Registry.

- **What do I say to the Bailiff?**
 - You will tell the Bailiff that you are the Judgment Creditor in a Small Claims case and you have not been paid the Judgement sum since after the Judgement.
 - Give the Bailiff a certified true copy of your Small Claims Judgement and tell him that you want to ask the Court for an Execution Order.
 - Execution Order is a Court Order that allows the Bailiff to take the property or money of the Judgement Debtor so as to get your Judgment sum 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 be paid 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 have to find out the Judgment Debtor's assets/properties and give that information to the Bailiff.

NOTE THAT YOU CAN WALK INTO THE SMALL CLAIMS COURT REGISTRY OF ANY MAGISTRATE COURT CLOSE TO YOU AND ASK ANY FURTHER QUESTIONS ON ANY AREA YOU ARE NOT CLEAR ABOUT. YOU CAN ALSO LEARN ABOUT THE SMALL CLAIMS COURT ONLINE AT: www.rivcomis.riversstate.gov.ng

Powered by the High Court of Rivers State (2023)



**RIVERS STATE
SMALL CLAIMS COURT**