

**What are you required to bring to the court on the day of the hearing?**

- Normally, you are required to appear in court with your witness(es);
- The original copies of the documents you are relying on.

**What happens at the hearing in a Magistrate Court?**

- The plaintiff and defendant arrive;
- The registrar calls the case;
- The Magistrate requests for the lawyer of the plaintiff to identify himself/herself;
- If the plaintiff has other evidence to support the claim, it can be filed now;
- The Magistrate would request for the lawyer of the defendant to identify himself/herself;
- The defendant presents his own witness(es) and submits any additional evidence;
- Both parties or their lawyers will ask questions to the witness(es);
- Both parties or their lawyers will make their final statements;
- The Magistrate will either proceed to deliver a written judgement or fix a date for judgement.

**IN THE HIGH COURT****What is a Pre-trial Conference?**

- A meeting with the High Court Judge to determine whether the matter can be settled out of court, e.g. through ADR (Alternative Dispute Resolution) mechanism;
- The main aim of the Pre-trial Conference is to identify clearly the issues in dispute and promote amicable settlement of the matter.

**What happens at a Pre-trial Conference?**

- Within fourteen (14) days after close of pleadings, the plaintiff is expected to apply to the Judge to issue a Pre-trial Conference Notice;
- Based on this application, the Judge will issue the parties and their lawyers a Pre-trial Conference Notice accompanied with a Pre-trial information sheet;
- The Pre-trial Conference should be completed within three (3) months of its commencement, although the time can be extended upon application to the Chief Judge;
- After the Pre-trial Conference the Judge issues a Report, which shall guide the subsequent course of the proceeding;
- All preliminary matters including amendments to the claims are concluded during the Pre-trial Conference.

**What if parties did not settle during the Pre-trial Conference?**

- Where parties do not settle the case, then the case file together with the Report of the Pre-trial Conference is sent back to the Registry for re-assignment to a trial Judge;
- Hearing Notices of the trial date are then issued to the parties through their lawyers.

**What happens during the hearing?**

- The registrar calls the case;
- The Judge requests the lawyer of the plaintiff to identify himself/herself;
- The plaintiff opens his/her case first. He/she and his/her witness(es) (if any) will give evidence. The defendant or his/her lawyer would cross-examine (question) them;
- Thereafter the defendant will open his/her case, give evidence, call his/her witness(es) to give evidence on his/her behalf, and the plaintiff's lawyer cross-examines (questions) each accordingly;
- The parties or their lawyers will make their final statements;
- The Judge will either now proceed to deliver a written judgement or fix a date for judgement.

**Can you obtain a copy of the court judgement?**

Yes. Anyone can obtain a certified true copy of the judgement by completing an application and paying a small fee.

**What can you do if you are not satisfied with the judgement?**

You can appeal within a period of thirty (30) days. If you are considering to appeal, it is advisable to make an application for a stay of execution (court approval that judgement should not be enforced) immediately, otherwise the judgement can be enforced.

**ENFORCEMENT****What if the losing party does not comply with the judgement?**

You can apply for enforcement by the court upon payment of enforcement fee.

- A common example of court enforcing judgement is by sending a court official (sheriff) assisted by the police to attach/confiscate the property of the party who lost (judgement debtor);
- The court can instruct a bank in writing to pay your monetary compensation (judgement debt) from the account of the losing party.



# BASIC CIVIL PROCEDURE

COURT USERS GUIDE **5**



**UNODC**

United Nations Office on Drugs and Crime



**What is a Civil Dispute?**

A civil dispute is any case that is not criminal in nature. Such as:

- Contracts;
- Debts;
- Landlord/Tenant;
- Administration of estate;
- Land matters;
- Chieftaincy disputes;
- Divorce and child custody matters.

**What can you do when you have a civil case?**

- Try to settle it amicably with the other party;
- Try ADR (Alternative Dispute Resolution) solution;
- Go to court.

**GENERAL PROCEDURE****How do you start if you decide to go to court?**

- Go to the court to seek advice from court registrar;
- Consult a lawyer, in particular if you want to go to the High Court, to help you prepare all the necessary documents;
- If you cannot afford to pay a lawyer, contact any organization that offers free legal services. For example:
  - > Office of the Public Defender;
  - > Legal Aid Council;
  - > Human Rights Commission;
  - > Civil Society Organizations;
  - > Nigerian Bar Association;
  - > International Federation of Women Lawyers (FIDA);
  - > NGO's/CSOs (Non-governmental Organizations/Civil Society Organizations) offering legal assistance.

**What are the requirements for filing a case?**

- Choose the right court (Magistrate Court or High Court);
- Prepare and present:
  - > statement of your claim;
  - > list of witnesses to be called during the trial;
  - > written statements on oath of the witness(es);
  - > copies of all the documents you wish to rely on during the trial of the case.

**How to choose the right court to hear your matter?**

In civil cases, the monetary value of the matter determines whether it is the Magistrate Court or the High Court that has to hear the case. For example, in Lagos state, if your matter involves little or no monetary claim (less than N1,000,000.00), the proper court is the Magistrate Court or Customary Court; if the amount is higher than N1,000,000.00, go to the High Court. If you are uncertain, consult a lawyer of the chief registrar of the High Court.

**What do you have to pay if you file a case?**

- There are two (2) types of payments: Filing fees and Service fees. The filing of a civil case requires the payment of filing fees – which is an amount of money paid for processing the papers filed in court.
- Service fees are the amount of money paid for serving the court papers to the other party.

**How much do you have to pay?**

- Filing fees are fixed by law. The court registrar will assess the case based on the monetary value of the claim (Rules of Court) and will determine the charge.
- Filing fees differ from state to state;
- Service Fees are fixed by law. The court registrar will assess the fees to be paid based on the distance to reach the person on whom the document is being served.
- For any additional document filed or served, additional filing fees will be charged; however, these fees are normally minimal;
- Insist on a receipt of any payment;
- If you are not sure that the amount requested is correct, request to view the Rules of Court.

**What is the next step after paying the necessary fees?**

The case will be filed by the court registrar, that means:

- The court assigns a suit number to the case;
- The case is then taken to the Administrative Magistrate or Judge who assigns the case to a Magistrate or Judge and lists it on the General Cause List for hearing.

**What happens after your case has been filed?**

The court will determine a date for the first calling of your case in the court and then inform you.

**Can you settle out of court after you have filed in court?**

Yes. You can still try to settle the matter in an amicable way.

**What happens in the court during the first calling of your case?**

- In a Magistrate Court, the Magistrate will just mention the case;
- In the High Court, the Judge holds a Pre-trial Conference, i.e. go through a question and answer session to understand the issues better.

**What should you do if someone filed a case against you?**

Although, the law allows you to defend yourself, it is advisable that you contact a lawyer who will advise you on the legal implications of the matter.

**How long does it take before you are notified that a case has been filed against you?**

- Based on the Rules of Court you will be notified within eight (8) days. If you live far away from the location of the court it may take more days.
- Once you have been notified that a case has been filed against you, you will be required within forty-two (42) days to submit a duly completed and signed “memorandum of appearance” to the court registry. This will be a confirmation statement that you will appear in court on the date set by the court.
- The defendant is also expected to file his/her Statement of Defence together with:
  - > a list of witnesses;
  - > the witnesses’ statement on oath;
  - > copies of all the document(s) he/she intends to use as evidence during the trial.
- At this stage, if the plaintiff has a reply to file in response to the Statement of Defence, he/she is expected to file the same, otherwise pleadings are deemed closed at this stage.

**What behaviour is expected of both the plaintiff and defendant in court?**

The law expects that, parties and their witnesses be of good behaviour during all proceedings.

**IN THE MAGISTRATE COURT****What is “mentioning” a case in the Magistrate Court?**

It means that the Magistrate would:

- Confirm that the defendant has been informed that a matter has been filed against him/her, and has been served with a letter of invitation to appear in court on the date fixed for hearing;
- Inform you on the date for the hearing to:
  - > give you the opportunity to get a lawyer to defend yourself;
  - > inform your witness(es) of the date and invite him/her. The court will serve (notify) your witness(es) only upon your request.

**How would the other party know the date fixed for your case?**

The court issues a Writ of Summons which is a written document to inform the party and invite him/her. The officers of the court, known as Sheriffs, would personally serve the opponent (defendant) except where he/she has a lawyer representing him/her and has authorized such a lawyer in writing to accept service on his/her behalf.