

GOMBE STATE JUDICIARY

PUBLIC NOTICE

IN THE HIGH COURT OF JUSTICE OF GOMBE STATE OF NIGERIA

BEFORE HIS LORDSHIP

HON. JUSTICE HALIMA S. MOHAMMED

CHIEF JUDGE

IN CHAMBERS

PRACTICE DIRECTIONS NO. 2 OF 2023

TOWARDS SPEEDY HEARING AND DISPOSAL OF CIVIL CASES

GOMBE STATE HIGH COURT PRACTICE DIRECTIONS, No. 2 of 2023

Commencement: 8th Day of August, 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) and Section 116 of the High Court Laws of Gombe State and all other laws and powers enabling me in that behalf, I, Honourable Justice Halima S. Mohammed, Chief Judge of Gombe State, hereby issue the following Practice Directions:

ORDER ONE

OBJECTIVES, APPLICABILITY AND INTERPRETATION

1. OBJECTIVES AND GUIDING PRINCIPLES

The objectives of these Practice Directions shall be as follows:

- (a) To provide time limits within which parties to a case before the Court are to mandatorily do certain acts towards ensuring speedy hearing of civil matters;
- (b) To ensure rules of procedure are not abused or used to undermine the confidence in the justice system;
- (c) To minimize undue adjournments and delays; and
- (d) To ensure that possibility of settlement is explored before the parties go into hearing.

2. APPLICABILITY

These Practice Directions shall save to the extent and as may otherwise be directed by the Chief Judge apply to civil proceedings of the High Court of Gombe State.

3. INTERPRETATION

In these Practice Directions:

"Court" means High Court of Gombe State.

“High Court Rules” means High Court Civil Procedure Rules of Bauchi State as applicable to Gombe State.

“Judge” means Judge of the Court.

“Landed property” means land with or without building or structures thereon.

“Legal Practitioner” means a Legal Practitioner or Counsel within the meaning of the Legal Practitioners Act.

“Registry” means the registry of the Court.

ORDER TWO

COMMENCEMENT OF ACTION AND FILING OF PLEADINGS

1. All civil proceedings commenced by writ of summons shall be accompanied by:

- a) Statement of claim;
- b) List of witnesses to be called at the trial;
- c) Written statement on oath of the witnesses, except subpoenaed witnesses;
- d) List of the documents or other items to be relied upon during trial; and
- e) Statement of compliance with pre-action counseling as in Form 1.

2. Statement of Defence and Reply.

1) A statement of defence with or without a counterclaim shall be accompanied by:

- a) List of witnesses to be called during trial;
- b) Written statement on oath of witnesses; and
- c) List of documents or other items pleaded in the statement of defence.

2) Where the Plaintiff files a reply to the statement of defence and/or counter claim, such reply shall be accompanied by:

- a) List of any additional witnesses to be called during trial;
 - b) Written statement on oath of the additional witnesses and or additional statement on oath of witnesses.
 - c) List of documents or other items pleaded in the reply.
- 3) Where the Defendant or Plaintiff as the case may be, fails to comply with Order 2 Rule 1 or 2 his processes may be struck out by the Court *suo motu* or on the application of either of the parties or the Court may direct compliance on such terms as to penalty of not less than Five Thousand Naira (N5,000:00).
- 4) Subject to any statutory provision or any provision of these directions relating to evidence, any fact required to be proved at the hearing of a suit or a cause shall be done by written deposition and oral examination of witnesses in open Court.
- 5) Subject to any statutory provision, documents which parties consent to its admissibility or other exhibits shall during trial be tendered from the Bar or by the party who is not represented by a Counsel.
- 6) There shall be no oral examination of a witness during evidence in chief except to adopt his written deposition, tender in evidence all disputed documents or other exhibits referred to in the deposition or pleaded and link the documents tendered through the witness to the particular aspect of the case.
- 7) Unless the Court otherwise directs, written statement on oath of subpoenaed witnesses shall be filed and served, atleast, 48 hours before the day slated for hearing of the witness.

ORDER THREE

SERVICE AND MODE OF SERVICE

1. Service outside jurisdiction

Outside jurisdiction in Order 12 Rule 13 of the High Court Rules shall also mean outside of Gombe State and all the Rules therein shall apply *mutatis mutandis* to writ and other processes for service outside Gombe State.

2. Service by Counsel

Where by the provisions of the High Court Rules, service of any process within the contemplation of Order 12 Rule 1 thereof is to be effected, such service may also be made by a Counsel in the matter who gives an undertaking to the Registrar at the time of filing, that he shall serve the process on the other party or his Counsel and shall also depose to an affidavit of service and file with the Registrar a proof of service effected, signed by the other party, his authorised agent or his Counsel.

3. Additional mode of substituted service

Where a Court or a Judge in chambers, on the application of any party to the proceedings, deems it fit to grant an application for substituted service, he may either in the alternative or in addition to any of the methods outlined in Order 12 Rule 5 of the High Court Rules, order that such service be effected by:

- a) email or any other digital or electronic medium now known or later developed;
- b) courier service or any other means satisfactory and convenient to the Court;

PROVIDED THAT: the party serving shall provide evidence of such service to the satisfaction of the Court.

- c) the person effecting substituted service via electronic medium shall in addition send an SMS or WhatsApp message in respect of the service to the phone number of the person served and thereafter depose to an affidavit of service to that effect.

ORDER FOUR

MOTIONS AND ORIGINATING SUMMONS

- 1.** Where by the High Court Rules or any other Rules of procedure, any application is authorised to be made to a Judge for seeking reliefs by way of motion or originating summons which may be supported by affidavit, every such application shall be accompanied by:
 - a) an affidavit setting out the facts and all exhibits to be relied upon;
 - b) a written address containing all the argument in support of the application and the list of authorities to be relied upon.
- 2.** Every motion shall set out the grounds upon which the party moving intends to rely upon.
- 3.** Where the other party intends to oppose the application he shall within seven (7) days (in case of motions) and twenty one (21) days (in case of originating summons) of the service on him of such application, file his written address containing all the argument and list of authorities to be relied upon and may accompany it with a counter affidavit.
- 4.** The Applicant, whether for a motion or originating summons may on being served with a written address or counter affidavit of the opposing party, file and serve an address in reply on the issues of law and facts arising from the respondent's counter affidavit or further affidavit as the case may be not later than two (2) days from the date of service on him of the written address.
- 5.** On the day fixed for hearing of the motion or originating summons, the parties shall adopt their written addresses.
- 6.** Oral argument of not more than five (5) minutes shall be allowed for each party to adumbrate on his address already filed including additional

authorities which shall have been filed and served on the other party before the hearing date.

7. Where a party fails to file or comply with the time limit set out above or as extended by the Court for filing and serving the written addresses, he may be deemed to have nothing to argue in the Court and shall not be heard in oral argument.

ORDER FIVE
SUITS ON THE UNDEFENDED LIST

1. Where by the High Court Rules or any other Rules of procedure, any application is authorised to be made to a Judge for the issuance of a writ of summons on the undefended list, every such application shall be accompanied by:
 - a) an affidavit setting out the facts and all exhibits to be relied upon;
 - b) a written address containing all the argument in support of the application and the list of authorities to be relied upon.
2. Where the other party intends to oppose the application, he shall within five (5) days of the service on him, file his written address containing all the argument and list of authorities to be relied upon and may accompany it with a notice of intention to defend and an affidavit.
3. The Applicant for a writ under the undefended list may on being served with a written address or counter affidavit of the opposing party, file and serve an address in reply on the issues of law and facts arising from the respondent's counter affidavit or further affidavit as the case may be not later than five (5) days from the date of service on him of the written address.
4. On the day fixed for hearing of the matter under the Undefended List Procedure, the parties shall adopt their written addresses.

5. Oral argument of not more than ten (10) minutes shall be allowed for each party to adumbrate on his address already filed including additional authorities which shall have been filed and served on the other party before the hearing date.
6. Where a party fails to file or comply with the time limit set out above or as extended by the Court for filing and serving the written addresses, he may be deemed to have nothing to argue in the Court and shall not be heard in oral argument.

ORDER SIX

FILING OF PROCESSES OUT OF TIME

1. Where the Defendant served with originating process fails to file his defence within the time stated by the Rules of this Court, he shall be liable to pay a default fee of Five Hundred Naira (N500:00) for each day of default.
2. The provision of Rule 1 above shall apply to any other processes, the filing of which is circumscribed by time.
3. The default fee prescribed in Rule 1 above shall also apply to all official processes.

ORDER SEVEN

FILING OF WRITTEN ADDRESS

1. The provisions of this Order shall apply to all applications and final addresses, every written address to be filed shall not exceed twenty (20) pages, except as otherwise directed by the Court.
2. A written address must be prepared in 210mm by 297mm paper size (A4) and typed in clear typographic character. The type set shall be in Arial, Times New Roman or Tahoma of 14 font size with atleast single spaces in between:

PROVIDED THAT any written address which does not comply with the requirements of Order 7 Rule 2 may be struck out by the Court.

3. The written address shall be set out in paragraphs, numbered serially and shall contain:

- a) the claim or application on which the address is based;
- b) a brief statement of fact with reference to exhibit(s) attached to the application or tendered at the trial;
- c) the issues arising from the evidence; and
- d) a succinct statement of argument on each issue incorporating the purport of the authorities referred to, together with full citation of each authority.

4. All written addresses shall:

- a) be concluded with a numbered summary of the points raised and the party's prayer; and
- b) list all authorities referred to and be submitted with the written address.

PROVIDED THAT where any unreported judgment is relied upon, the certified true copy shall be submitted along with the written address.

5. When final written addresses or written addresses in respect of any application under these Practice Directions have been filed and such come up for adoption and either of the parties is absent, the Court shall either on its own motion or upon oral application by Counsel for the party present:

- a) order that the final written addresses be deemed adopted if it is satisfied that all parties had notice of the date for adoption;
- b) oral argument of not more than ten (10) minutes shall be allowed for each party; and
- c) each party shall file two copies of his written address in Court together with a soft copy and serve a hard copy on every party.

ORDER EIGHT
NON SUIT

1. The Judge may on his own motion or upon application non suit the Plaintiff where satisfactory evidence is not given entitling the Plaintiff or the Defendant to the judgment of the Court.
2. A party or his Counsel may make submissions on the propriety or otherwise of making the order referred to in Rule 1 of this Order.

ORDER NINE
WITHDRAWAL AND CHANGE OF LEGAL PRACTITIONER

1. Every Legal Practitioner who is engaged in any cause or matter shall be bound to conduct same on behalf of the party engaging until final judgment or ruling over the cause or matter pertaining to his brief, unless allowed for any specific reason to cease acting therein.
2. No Legal Practitioner shall be allowed to withdraw from a matter in which he has announced appearance as Counsel for a party he is representing, unless he brings an application to that effect.
3. An application for withdrawal as Legal Practitioner for a party shall be made in writing which shall be filed and served on the party he is representing and shall also disclose reasons for such withdrawal.
4. The Court may consider the application if it is satisfied that the party for whom the Legal Practitioner is representing was duly served with the application.
5. Change of Legal Practitioner in any cause or matter shall be made by filing a notice of change of Counsel.
6. Notice of change of Counsel may:

- a) be filed by the newly engaged Counsel or by the party changing Counsel;
 - b) in case it is being filed by the newly engaged Counsel, the notice may be made on his office letter head or printed on white opaque A4 size paper duly headed in the cause and in the matter;
 - c) in case it is being filed by party, the notice may be made in any manner as the Court may be satisfied;
 - d) all notice of change of Counsel shall contain address for service of the new Counsel and shall be served on the disengaged Counsel at least three (3) days before the hearing date; and
 - e) the notice of change of Counsel may also be served on the other party at any time including the hearing date.
- 7.** In the event of change of Legal Practitioner, the Court may comment on any ethical issue relating to professional fees or otherwise as may be raised but no such ethical issue shall serve as a cloak to the hearing of the matter.
- 8.** Every Legal Practitioner appearing in a matter shall sign a Counsel list as in Form 4 to be made available every morning by the registry before the commencement of sitting.

ORDER TEN

PRE-TRIAL CONFERENCE AND SCHEDULING

- 1.** (1) Within seven (7) days after close of pleadings, the Plaintiff shall apply for the issuance of pre-trial conference notice or may, subject to sub-rule 3 below, proceed to hearing where there is no need to settle non-contentious issues or documents.
- (2) Upon application by a Plaintiff under sub-rule 1 above, the Judge shall cause to be issued to the parties and their Legal Practitioners (if any) a pre-trial conference notice for the purpose set out hereunder:
- a) disposal of matters which must or can be dealt with on interlocutory application;

- b) giving such directions as to the future cause of the action as appear best to secure its just and expeditious disposal;
- c) promoting amicable settlement of the case or adoption of Alternative Dispute Resolution.

(3) If the Plaintiff does not make the application in accordance with sub-rule 1 of this Rule, the Defendant or Counter-claimant may do so within five (5) days after the expiration of the time allowed for the Plaintiff to do so.

(4) Where the Defendant did not do so, it shall be presumed that there are no non-contentious issues or documents to settle and Rule 1 shall take its course accordingly.

2. At the pre-trial conference, the Judge shall enter a schedule order for:

- a) joining other parties;
- b) amending Pleadings or any other processes;
- c) filing of motions;
- d) further pre-trial conferences; and
- e) any other matter(s) appropriate in the circumstances of the case.

3. At the pre-trial conference, the Judge shall consider and take appropriate action with respect to the following (or aspects of them) as may be necessary or desirable:

- a) formulation and settlement of issues;
- b) amendments and further and better particulars;
- c) the admission of facts and other evidence by consent of the parties;
- d) control and scheduling of discovery, inspection and production of documents;
- e) narrowing the area of dispute between expert witnesses, by their participation at pre-trial conference or in any other manner;

- f) hearing and determination of objections on points of law;
 - g) giving orders or directions for separate trial of a claim, counter claim, set off, cross claim of third party or of any particular issue in the case;
 - h) determining the form and substance of the pre-trial order; and
 - i) such other matters as may facilitate the just and speedy disposal of the action.
- 4.** All objections to the competence of a suit or jurisdiction of the Court shall be heard and determined within the pre-hearing session except with leave of Court or where the Court directs otherwise.
- 5.** The pre-trial conference or series of pre-trial conferences with respect to any case shall be completed within thirty (30) days of its commencement, and the parties and their Legal Practitioners shall cooperate with the Judge in working within the time frame. The pre-trial conference period may be extended by the Judge.
- 6.** As far as practicable, pre-trial conferences shall be adjourned only for the purpose of compliance with pre-trial conference orders.
- 7.** After a pre-trial conference or series of pre-trial conferences, the Judge shall issue a Report. The Report shall guide the subsequent course of the proceedings unless modified by the Judge.
- 8.** If a party or his Legal practitioner fails to attend the pre-trial conference for no good and sufficient reason or obey a scheduling or trial order or is substantially unprepared to participate in the conference or fails to participate in good faith, the Judge shall:
- a) in case of the Plaintiff strike out the claim;
 - b) in case of a Defendant(s) enter final judgment against him.

9. Any judgment given under Rule 8 above may be set aside upon an application by way of motion on notice made within fourteen (14) days of the judgment or such other period as the Judge may allow not exceeding the pre-trial conference period. The application shall be accompanied by an undertaking to participate effectively in the pre-trial conference.
10. The Judge shall direct the pre-trial conference with due regard to its purpose and agenda as provided under this Order and shall require parties or their Legal Practitioners to cooperate with him effectively in dealing with the conference agenda.
11. (a) Where, in the circumstances of a particular case or matter, a Judge is of the view that justice may best be served by so doing, the Judge in his directions may refer the case to the Multi Door Court House for settlement out of Court and such reference shall operate as a stay of proceedings in that Court on the matter.

(b) Where a case is referred to the Multi Door Court House by the Court and the parties have not been able to reach agreement, the notice of failure to reach an agreement signed by the parties shall be filed in the Court by the Mediator whereupon the Court may either extend time for the mediation or vacate the order for stay of proceedings and proceed with the trial of the case.

ORDER ELEVEN

ORDER OBTAINED EX-PARTE

1. No order made on motion *ex-parte* for restraining an action shall last for more than fourteen (14) days.
2. If a motion to vary or discharge an *ex-parte* order is not disposed of within seven (7) days of it being filed, the *ex-parte* order shall automatically lapse.

3. The ex-parte order referred to in this Order shall not include ex-parte order used to obtain leave of Court to take certain recognized proceeding e.g. Garnishee, Certiorari, etc.

ORDER TWELVE

ENFORCEMENT OF ARBITRATION CLAUSE

1. No Court shall entertain an action instituted to enforce a contract or claim damages arising from a breach thereof, in which the parties have, by consent, included an arbitration clause and without first ensuring that the clause is invoked and enforced.
2. All Courts must insist on enforcement of the arbitration clause by declining jurisdiction and award substantial cost against parties engaged in the practice.
3. A party who institutes an action in Court to enforce breach of contract containing an arbitration clause without first invoking the clause is, himself, in breach of the said contract and ought not to be encouraged by the Courts.

ORDER THIRTEEN

SUMMARY PROCEEDINGS FOR POSSESSION OF LANDED PROPERTY AND SERVICE ON UNKNOWN PERSONS

1. (1) Proceedings under this Order shall apply where a person is in occupation of land without being:
 - a) a tenant; or
 - b) a tenant holding over after termination of his tenancy for determination thereof howsoever; or
 - c) a licensee of the owner or person entitled to possession; or
 - d) a person who had the consent of the predecessor in title of the person who is entitled to possession.

(2) Where a person claims possession of land which he alleges is occupied by a trespasser or any other person, proceedings may be brought by originating summons in accordance with the provisions of this Order.

2. The originating summons shall be in form 2 of these Practice Directions and no acknowledgement of service shall be required but there must be proof of service in any manner satisfactory to the Court including throwing for the purpose of achieving the aim of this Rule.

3. The Plaintiff shall file in support of the originating summons an affidavit stating:

- a) his interest in the land and annexing any proof thereof;
- b) the circumstances in which the land has been occupied without licence or consent and in which his claim to possession arises; and
- c) that he does not know the name of any person occupying the land who is named or not named in the summons.

4. (1) Where any person in occupation of the land or premises is named in the originating summons, the summons together with a copy of the affidavit in support shall be served on him:

- a) personally or in accordance with Order 12 Rule 1 or 5 of the High Court Rules; or
- b) by leaving a copy of the summons and of the affidavit or sending them to him, at the premises; or
- c) in such other manner as the Judge may direct.

(2) The summons shall in addition to being served on the named Defendant(s), if any, in accordance with sub-rule 1 of this Rule be served, unless the Judge otherwise directs by:

- a) affixing a copy of the summons and a copy of the affidavit to the main door or other conspicuous part of the premises; and

b) if practicable, inserting through the letter box at the premises, a copy of the summons and a copy of the affidavit enclosed in a sealed envelope address to "the occupant(s)"

(3) Every copy of an originating summons for service under sub-rule 1 or 2 of this Rule shall be signed by the Registrar or sealed with the seal of the Court out of which the summons was issued.

- 5.** Without prejudice to Order 11 of the High Court Rules, any person not named as a Defendant who is in occupation of the land and wishes to be heard on the question whether an order for possession should be made, may apply at any stage of the proceedings to be joined as a Defendant.
- 6.** (1) An order for possession in proceedings under this Order shall be in form 73 or 74 of the High Court Rules with such variations as circumstances may require or as in form 3 of these Practice Directions.

(2) Nothing in this Order shall prevent a Judge from ordering possession to be given on a specified date, in the exercise of any power which could have been exercised if possession had been claimed in an action begun by writ.
- 7.** No writ of possession to enforce an order for possession under this Order shall be issued after the expiration of three (3) months from the date of the order without the leave of the Court.
- 8.** An application for leave may be made ex-parte unless the Judge otherwise directs.
- 9.** A Judge may, on such terms as he deems fit, set aside or vary any order made in proceedings under this Order.

ORDER FOURTEEN
CITATION AND REPEAL

- 1.** These Practice Directions shall be cited as Practice Directions No.2 of 2023 and same hereby repealed the Practice Directions of 2012 in respect of civil cases.
- 2.** From the commencement of these Practice Directions, any proceeding that has been commenced under the old Practice Directions, shall be govern by these Practice Directions.

FORM 1

**STATEMENT OF COMPLIANCE WITH PRE-ACTION COUNSELING
(Order 2 Rule 1(e))**

In the High Court of Gombe State
In theJudicial Division
Holden at

Suit No.....

Between:

A.BPlaintiff

And

C.DDefendant

I/WEmake oath and state as follows:
(Plaintiff/Plaintiff's Legal Practitioner)

1. I/We have complied with the directions of the Pre-Action Counseling as set out in Order 1 Rule 1 (e) of these Practice Directions.
2. (a) I/WE have made attempts to have this matter settled out of Court with the Defendant and such attempts were unsuccessful (Plaintiff must state what attempts he has made to have the matter settled and attach evidence of same).
(b)If not, state reason(s) and set out your options for settlement hereunder.
3. I/We have by a Written Memorandum to the Defendant set out my/our claim and options for settlement.

Dated at Gombe this.....Day of.....20.....

Signature

Before Me

Commissioner for Oaths.

FORM 2
Originating Summons for Possession (O.13, R.2)

In the High Court of Gombe State.

In the.....Judicial Division

Suit No.....

Between

A.B.....Plaintiff(s) and

C.D., E.F. and G.H.....Defendant(s)

(if any) whose name is known to the Plaintiff To (C.D. and) every (other) person in occupation of let all persons concerned attend before at the High Court of the.....Judicial Division, Gombe State on

..... the Day of 20 at 9 O'clock in the forenoon for the hearing of an application by AB for an order to recover possession ofon the ground that he is entitled to possession and that the person(s) in occupation is (are) in occupation without his licence or consent.

Dated thisday of.....20.....

This summons was taken out by.....of.....Legal Practitioner for the Plaintiff whose address is.....(or when the Plaintiff acts in person). This summons was taken out by the Plaintiff who resides at and is (state occupation) and (if the Plaintiff does not reside within the jurisdiction) whose address for service is.....

Note: Any person occupying the premises who is not named as Defendant by this summons may apply to the Court personally or by Legal Practitioner to be joined as Defendant. If a person occupying the premises does not attend personally or by Legal Practitioner at the time and place above-mentioned, such order will be made as the Court may think just and expedient.

FORM 3

Order for Possession (O.13, R.6)

(Heading as in Form 2)

Upon hearing.....and after reading the affidavit of..... filed on theday of20.....it is ordered that the Plaintiff AB. do recover possession of the land described in the Originating Summons as (and the Defendantdo give possession of the land on) (and that the defendant..... do pay the Plaintiff N.....costs (or costs to be taxed). (The above costs have been taxed and allowed at N..... as appears by a taxing Officer's certificate dated theday of20.....)

Dated theday of20.....

.....

Judge

FORM 4
COUNSEL ATTENDANCE LIST (O.7, R.8)
(Heading as in Form 2)

Serial Number	Name of Parties	Counsel to Plaintiff And Phone Number	Year of Call	Counsel to Defendant and Phone Number	Year of Call

MADE AT GOMBE THIS 8TH DAY OF AUGUST, 2023.

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