

**IN THE MAGISTRATES' COURT OF ABIA STATE OF NIGERIA  
IN THE SMALL CLAIMS COURT  
HOLDEN AT ABA  
BEFORE HIS WORSHIP C. K. BOB-OGU (MRS.) CHIEF MAG. GD 1  
THIS FRIDAY THE 14<sup>TH</sup> DAY OF FEBRUARY, 2025  
SUIT NO: SCC/AB/549/2024**

**BETWEEN:**

**MRS. ESTHER MADU  
VS**

**CELESTINE OGWO**

Claimant present

Defendant is absent.

G. N. Onwuchekwa for the Claimant.

Case is for continuation of hearing.

CW1 is reminded of her oath of 13/2/2024.

**CW1**

Counsel: We seek to tender the Statement of account of the Claimant wherein the three million five hundred thousand naira she loaned to the Defendant is reflected.

Court:- Application is granted. The said Statement of account dated 13/8/24 duly stamped is now received in evidence and marked exhibit A.

**CW1**

Counsel: We seek to tender the reply to the letter written to the Defendant by the Claimant Counsel where he admitted that we owed the Claimant four million naira instead of five million naira.

Court:- The said letter dated 7/7/2024 and duly signed is now received in evidence and marked Exhibit B.

**CW1**

The money admitted by the Defendant through his lawyer Basil Diala were the ones I gave to him through the bank which is 4 million naira. The remaining one (1) million came as a result of the cash payments I gave to him.

Counsel: I apply to tender a sheet of paper wherein the Claimant wrote down the other monies she gave to the Defendant.

Court: Document is received in evidence and marked Exhibit C.

**CW1**

I want the Court to order the Defendant to pay me the money he is owing me. I claim as per my writ.

**JUDGMENT**

It is on record that a demand notice D/L No. SCC/AB/909/2024 filed on 25/9/2024 was served on the Defendant. There is also an affidavit of service showing that the Defendant was served with the writ of summons on 12/11/2024 personally. The Defendant on his own part filed a written Statement of Defence and a Counter-claim on 27/11/2024 which is incompetent as same was not filed in accordance to the provisions of Article 7 (1) of the Practice Directions on the Small Claims Court of Abia State Page 8. Notwithstanding the fact that the Defendant did not complete Form SCA 5 as appropriate the said Statement of Defence was filed 15 days after the service of the writ of summons and not 6 days as stipulated by the extant Practice Direction which renders the entire Statement of Defence and Counter Claim incompetent and liable to be struck out. This is because the procedure and

proceedings of the Small Claims Court are **sui genesis** wherein times lines are sacrosanct. Based on the foregoing, the said statement of claim and Counter-claim is hereby discountenanced and struck out accordingly.

Having struck out the Defendants Counter-claim and Defence, there is nothing left for the Court to look at as the Defendant's defence and his absence from Court today simply show that he has no defence to the Claimants claim.

The law is clear that where the evidence before the Court is uncontroverted and unchallenged, the only option left for the court is to accept same and act upon it. See the case of **MUSARI V BISIRIYU (2014) ALL FWLR PT 735 PG 389.**

Consequently, I must accept the entire evidence led on behalf of the Claimant as true. I hold therefore that the Claimant has discharged the burden of proof placed on him by the law thereby shifting the burden to the Defendant who despite being aware of the pendency of this suit refused to defend himself.

In the result, I hereby enter judgment in favour of the Claimant and now order the Defendant to pay to the Claimant the sum of five million naira (N5,000,000.00) being debt arising from several loan transactions, FORTHWITH.

This is the judgment of the Court in this case.



**NWANOSIKE PATRICK C.**  
*Head Registrar*  
*SCC Aba Zone*



**SIGNED:**  
**C. K. BOB-OGU (MRS.)**  
**CHIEF MAG. GD. 1**  
**14/2/ 2025**