Rule 3 FORM No SCC 1

**REPUBLIC OF KENYA**

**IN THE SMALL CLAIMS COURT AT NAIROBI**

**CLAIM NO. ………………… OF 20..……**

**ABC ……………………………………................................................ CLAIMANT**

**-VERSUS-**

**DEF ................................................................................... RESPONDENT**

**STATEMENT OF CLAIM**

1. **Claimant’s Personal Details**

Name: ……………………………………………………………………

Postal Address: …………………………………………..………………

Physical Address: ……………………………………….……………

Telephone Contact: …………………………………………..………

Email Address: ………………………………………………………………………..…

Nature of the Claimant’s Business: …………………………………

Location/Sub/Village: ……………………………………….……………

□ Claiming in Person □ Claiming as a Representative (*Please tick where appropriate)*

1. **Respondent’s Personal Details:**

Name: ……………………………………………………………..

Postal Address: P. O. Box …………………………………..

Physical Address: ……………………………………………….

Telephone Contact: …………………………………………….

Email Address: ……………………………………………………

Nature of Business: …………………..………………………..

Location/Sub/Village: ………………………………………..

Legal Status of the Respondent: …………………………..

1. **Nature of Claim**
* Non-payment of invoices in respect of goods supplied in the sum of **Kshs. ……………………….**.
1. **Briefly explain the circumstances under which the claim arose, and attach documents (if any) in support of your claim**.
2. On diverse dates between …………………….. and …………………….., the Claimant supplied the Respondent with various goods at the Respondent’s request; and the Respondent accordingly duly accepted and utilized the said goods. **(*See a copy of the duly stamped delivery note with respect to the goods supplied by the Claimant to the Respondent produced as document number 1 in the Claimant’s List and Bundle of Documents).***
3. Further, it was a term of agreement between the parties that all overdue accounts would attract interest at the rate of ………… per month until payment in full.
4. Upon delivering the goods, the Claimant subsequently issued the Respondent with sales invoices in respect of the deliveries duly made to it. However, upon invoicing the Respondent for the goods supplied, the Respondent in blatant breach of the contract, has only settled part of the invoiced amount and failed, refused, neglected and/or ignored to pay invoices amounting to **Kshs. ………………………..** plus interest at the rate of ……………. per month from ………………………. until payment in full; which amount remains outstanding to date. ***(See a copy of the invoice issued by the Claimant to the Respondent and a copy of the Statement of Account produced as document number 2 in the Claimant’s List and Bundle of Documents)***
5. The Respondent’s default in payment of the debt herein despite constant reminders and requests by the Claimant, is a brazen breach of contract and an act of unjust enrichment. The Claimant claims an aggregate sum of **KShs. ………………….. (“Outstanding Amount”)** plus interest at the rate of ………. per month accruing on the said debt from ………………. when the debt became payable until payment in full.
6. As a result of the Respondent’s actions, the Claimant has suffered great financial losses as well as financial anguish and inconvenience for which the Respondent is solely responsible.
7. Despite demand and notice of intention to sue having been served, the Respondent has ignored, failed, neglected and/or refused to settle the Claimant’s claim thus necessitating the filing of this suit. ***(See a copy of the Demand Letter issued by the Claimant to the Respondent produced as document number 3 in the Claimant’s List and Bundle of Documents)***
8. The cause of action herein arose within the jurisdiction of this Honourable Court.
9. There is no other pending suit and there have been no previous proceedings in any court between the Claimant and the Respondent over the same subject matter hereof.
10. **Relief sought;**
11. Judgement in the sum of **KShs. …………………..**
12. Interest on (a) above at the rate of ………… per month from …………………. until payment in full;
13. Costs of this Claim.

By filing this Claim, I (the Claimant) hereby waive and forfeit the recovery of all sums in excess of Kshs. 1,000,000, excluding costs and interest.

Name of Claimant: **…………………………………….**

Signature of the Claimant: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Declaration**

I declare that the information given above is true.

Name of Claimant: **……………………………………..**

Signature of Claimant: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dated this day of 20……..

**Acknowledge of Service**

I acknowledge service of this Statement of Claim delivered to me, with evidential documents attached, on……………………………………………………

Name of Respondent: **…………………………………**

Signature of Respondent: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**For Official Use Only**

This Claim was filed on the day of 20………

Signed: ……………………………………….

 (Registrar)

**REPUBLIC OF KENYA**

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**ABC ……………………………………................................................ CLAIMANT**

**-VERSUS-**

**DEF ................................................................................... RESPONDENT**

**VERIFYING AFFIDAVIT**

I, **…………………..,** a resident of Nairobi within the Republic of Kenya and of Post Office Box Number 45310-00100 Nairobi, do hereby make oath and solemnly state as follows: -

1. **THAT** I am a ………………… of **……………………….,** the Claimant herein, duly authorized and competent to swear this affidavit on behalf of the Claimant.
2. **THAT** I am conversant with the facts of this case and swear this affidavit in verification of the correctness of the averments contained in the Statement of Claim filed herewith.
3. **THAT** the matters deposed to herein are true to the best of my knowledge, information and belief.

**SWORN** at **…………….**by the said **)**

**……………………………… ) ………………………….……**

On this day of 20…. **) DEPONENT**

**BEFORE ME: )**

 **)**

 **)**

 **)**

 **)**

**COMMISIONER FOR OATHS )**

**DRAWN & FILED BY:**

**REPUBLIC OF KENYA**

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**CLAIMANT’S LIST OF WITNESSES**

1. ………………………………..
2. Any other witness to be called at the Hearing.

**DATED** at **………………….** this  day of 20……...

**……………………………………….**

**ADVOCATES FOR THE CLAIMANT**

**DRAWN & FILED BY:**

**TO BE SERVED UPON:**

**REPUBLIC OF KENYA**

**IN THE SMALL CLAIMS COURT AT NAIROBI**

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**CLAIMANT’S WITNESS STATEMENT**

1. My name is **…………………** and I am the ……………….. of …………………………………...
2. The Claimant is in the business of ……………………………………… and at all material times preceding the filing of this suit, the Respondent was a Claimant’s customer with respect to supply of various packaging materials.
3. On diverse dates between …………………….. and ………………………………. the Claimant supplied the Respondent with various goods at the Respondent’s request; and the Respondent accordingly duly accepted and utilized the said goods. **(*See a copy of the duly stamped delivery note with respect to the goods supplied by the Claimant to the Respondent produced as document number 1 in the Claimant’s List and Bundle of Documents).***
4. Further, it was a term of agreement between the parties that all overdue accounts would attract interest at the rate of …………. per month until payment in full.
5. Upon delivering the goods, the Claimant subsequently issued the Respondent with sales invoices in respect of the deliveries duly made to it. However, upon invoicing the Respondent for the goods supplied, the Respondent in blatant breach of the contract, has only settled part of the invoiced amount and failed, refused, neglected and/or ignored to pay invoices amounting to **Kshs. ……………………** plus interest at the rate of ………… per month from ………………….. until payment in full; which amount remains outstanding to date. ***(See a copy of the invoice issued by the Claimant to the Respondent and a copy of the Statement of Account produced as document number 2 in the Claimant’s List and Bundle of Documents)***
6. The Respondent’s default in payment of the debt herein despite constant reminders and requests by the Claimant, is a brazen breach of contract and an act of unjust enrichment. The Claimant claims an aggregate sum of **KShs. ………………….. (“Outstanding Amount”)** plus interest at the rate of ………. per month accruing on the said debt from ……………………… when the debt became payable until payment in full.
7. As a result of the Respondent’s actions the Claimant has suffered great financial losses as well as financial anguish and inconvenience for which the Respondent is solely responsible.
8. Subsequently, the Claimant instructed its Advocates on record to recover the said Outstanding Amount from the Respondent and a demand and intention to sue was issued dated ……………………….
9. Despite having been served with a demand and notice of intention to sue, the Respondent has to date failed, refused and or neglected to make good the Claimant’s claim. ***(See a copy of the Demand letter issued by the Claimant to the Respondent dated ………………… produced as document no. 3 in the Claimant’s list of documents)***
10. The Respondent has breached its contractual obligation by willfully neglecting and failing to settle the Outstanding Amount which has occasioned loss and damage to the Claimant as a result of the breach. The Respondent intends to continue with the said breach unless compelled by this Court to pay the Outstanding Amount.
11. From the foregoing reasons, I pray that judgment be entered against the Respondent for **KShs. …………………..** being the amount owing from the Respondent to the Claimant, interest at the rate of ……… per month from ……………….. until payment in full and costs of the suit as prayed in the Statement of Claim.

**DATED** at **……………………** this  day of  20……...

**………..………..………………………..**

**(NAME OF THE WITNESS)**

**DRAWN & FILED BY:**

**TO BE SERVED UPON:**

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**CLAIMANT’S LIST OF DOCUMENTS**

|  |  |  |
| --- | --- | --- |
| **NO.** | **PARTICULARS** | **PAGE NO.** |
|  | A copy of the duly stamped delivery note with respect to the goods supplied by the Claimant to the Respondent |  |
|  | A copy of the invoice issued by the Claimant to the Respondent and a copy of the Statement of Account |  |
|  | A copy of the Demand letter issued by the Claimant to the Respondent dated …………………….. |  |

**DATED** at **NAIROBI** this  day of  20……….

**……………………………………………….**

**ADVOCATES FOR THE CLAIMANT**

**DRAWN & FILED BY:**

**TO BE SERVED UPON:**

**EXPLANATORY NOTE:**

**What is a Statement of Claim**

This is a pleading to be used by a Claimant when instituting a Claim against a Respondent in the Small Claims Court.

**Legal Basis**

The legal basis for filing of a Statement of Claim is provided for under Section 23 (1) of the Small Claims Court Act as read together with Rule 3 (1) of the Small Claims Courts Rules. Section 23 (1) of the Small Claims Court Act provides that every claim filed with the Court shall commence with the filing of a statement of claim in the prescribed form signed or authenticated by the claimant or authorized representative. Further Rule 3 (1) of the Small Claims Courts Rules provides that to commence proceedings under the Act, a person shall complete and file a Statement of Claim in **Form SCC-1** by presenting it at the court registry and on payment of the prescribed fee. The said Statement of Claim should be filed nearest to the place where the transaction or event to which the claim relates took place or where the respondent ordinarily resides or carries on business as provided by Rule 3 (2) of the Small Claims Courts Rules.

In preparing the Statement of Claim it is further important to take note that under Section 12 (1) of the Small Claims Court Act, the Small Claims Court has jurisdiction to determine any civil claim relating to:

1. a contract for sale and supply of goods or services;
2. a contract relating to money held and received;
3. liability in tort in respect of loss or damage caused to any property or for the delivery or recovery of movable property;
4. compensation for personal injuries; and
5. set-off and counterclaim under any contract.

Further, section 12 (1) of the Small Claims Court Act goes ahead to provide that without prejudice to the generality of the above the Court may exercise any other civil jurisdiction as may be conferred under any other written law. However, critically Section 13 (5) of the Small Claims Court provides that the Small Claims Court has NO jurisdiction to deal with any cause of action founded upon any of the following: defamation, libel, slander, malicious prosecution or is upon a dispute over a title to or possession of land, or employment and labour relations.

**Legal Grounds/Threshold**

The grounds to be raised in a Statement of Claim are not clear cut or specifically set out in law and the same will depend on the particular circumstance of the case. In that regard, ordinarily the grounds to be raised in a Statement of Claim will be based on the facts and grounds upon which the Claimant has founded the subject Claim.

**Remedies/Relief Sought**

Form SCC 1 indicates the remedies/reliefs that can be sought by a Claimant under a Statement of Claim, which Form provides that the Claimant can seek the following:

1. Judgment in the sum of Kshs. …………………………;
2. Costs of the Claim;
3. Other appropriate reliefs that the Claimant wishes to seek.

**The Processes/Procedure involved**

As a preliminary point it is important to take note that a Claimant is at liberty to lodge a Statement of Claim at the Small Claims Court at any time provided that the subject cause of action is not time barred, taking into account the time limitation set out for various causes of action under the Limitation of Actions Act.

The procedure in filing of a Statement of Claim is by uploading a scanned copy of the Statement of Claim onto the Judiciary E-filing Platform and thereafter making the relevant payment of Court filing fees, after which the Statement of Claim will be deemed duly filed.