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# THE LAW ON SUMMONS FOR DIRECTIONS IN UGANDA

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### LAW APPLICABLE:

1. The Civil Procedure (Amendment) Rules, 2019
2. Established Jurisprudence / Case Law

### WHAT IS A SUMMONS FOR DIRECTIONS?

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A summons for directions is an essential case management tool introduced into the Ugandan civil structure with the primary objective of empowering courts to proactively mitigate and manage case backlog. Consequently, it must not be construed or looked at as a new independent procedure for the commencement of legal suits.

By technical definition, it is a formal request made to court by the plaintiff seeking the court's structured guidance on how the suit will progress across timelines after the definitive closure of pleadings. This means that summons for directions are squarely aimed at invoking judicial guidance on intricate matters of procedure prior to the actual scheduling and hearing of a main civil action or suit.

### MATTERS HANDLED UNDER SUMMONS FOR DIRECTIONS

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All formal statutory steps preliminary to the trial, alongside all pending interlocutory applications, may be effectively handled under a single summons for directions framework. The presiding judicial officer is mandated to systematically deal with any matters which are deemed necessary to adequately prepare the case file for the final trial stage.

Upon absolute compliance with the administrative directions issued by the court, the respective parties shall be required to produce an organized trial bundle for the purposes of a scheduling conference before the trial Judge, facilitating a streamlined main trial of the suit.

Form 14B of the Civil Procedure (Amendment) Rules, 2019 outlines an expansive checklist of specific matters which may be properly considered by court under this setting, including:

- a. Consolidation of distinct actions;
- b. Transfer of the matter to an official referee or court-appointed mediator;
- c. Amendment of pleadings, or requests for further and better particulars;
- d. Discovery and formal physical inspection of documents;
- e. Filing and responding to interrogatories;
- f. Structuring of technical oral or affidavit evidence;
- g. Taking of specific transactional accounts;
- h. Securing and scheduling the attendance of witnesses;
- i. Formal stay of ongoing proceedings;
- j. Reference of the dispute to formal arbitration channels;
- k. Applications seeking security for legal costs;
- l. Property attachment processes before final judgment;
- m. Applications for temporary injunctions to preserve the status quo;
- n. Suits brought forward by paupers/indigent persons;
- o. Miscellaneous motions and concurrent operational applications;
- p. In specific matters concerning land, the registrar shall visit the *locus in quo* with the parties before the formal hearing of the case, record all structural developments on the land at the time of the visit, and prepare a definitive report to that effect.

## **TIMELINES AND CONSEQUENCES OF NON-COMPLIANCE**

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Summons for directions are strictly required to be taken out by the moving party **within 28 days** from the exact date of filing the last reply or rejoinder on court record. (See: *Order 11A Rule 1 (2)* of the Civil Procedure Rules, as amended).

The general operational rule dictates that if a plaintiff fails to take out the mandatory summons for directions within the prescribed 28 days, the underlying suit shall instantly **abate** by operation of law. (See: *Order 11A Rule 1 (6)*). Functionally, this implies that the suit shall be dismissed with costs as against the plaintiff.

The High Court has held across various binding decisions that the requirement to take out summons for directions within 28 days is couched in completely mandatory statutory terms; therefore, any failure to adhere strictly to this window leads straight to dismissal. (See: *Abdu Kiwanuka Yiga vs Abubaker Kaddu Kiberu H.C.M.A No. 386/2022*).

Where summons are omitted, counsel for the defendant can, at the earliest opportunity, raise a formal preliminary objection to the effect that the mandatory 28 days elapsed without action. On this singular ground alone, court is

expected to dismiss the matter without any procedural requirement to delve into the substantive merits of the live case.

## JUDICIAL INTERPRETATION AND CONTRADICTORY JURISPRUDENCE

There exists split jurisprudence regarding the interpretation of these rules, specifically on the contextual weight assigned to the statutory verb "SHALL" within the amendment rules:

STRICT / MANDATORY APPLICATION	HOLISTIC / DIRECTORY APPLICATION
<p><b>Addul Ddamulira vs Mss Xsabo Power Ltd (HCMA No. 046/2021)</b></p> <p>Justice Oyuko Anthony Ojok gave the verb "shall" a strict, uncompromising meaning. In his view, he held that the statutory order makes the timeline completely mandatory, and if a plaintiff fails to take out summons within 28 days, the suit automatically abates with no survival route.</p>	<p><b>Geoffrey Wasswa vs Amy for Africa Ltd &amp; 2 Ors (HCCS No. 127/2020)</b></p> <p>Hon. Lady Justice Florence Nakachwa applied a directory approach:</p> <p><i>"... 'shall' is sometimes intended to be directory only. In that case, it is equivalent to 'may' and would be construed as merely permissive to carry out the legislative intention. This applies usually where no right or benefit accrues to anyone, or where no public or private right is impaired..."</i></p> <p>Similarly, in <i>Kagimu Moses Gava vs Sekatawa Muhammed</i>, Justice Olive Kazaarwe Mukwaya held that the rules' intent was to mitigate structural delays, and a holistic and judicious approach should be adopted. Because a joint trial bundle had been filed, the suit was clearly active and did not abate.</p>

Furthermore, in *Gama Distillers Ltd vs Bikanza Ezra (HCCS No. 60/2021)*, the Hon. Justice Vincent Wagona observed that Order 11A was designed to optimize trial speeds by curtailing delays, stating:

*"It was not intended to be used as a sword against parties' live claims by strangling all under the guise that the summons for directions procedure was not strictly adhered to. Each case should be considered on its own peculiar merits..."*

As a secondary layer, courts emphasize that because the amendment rules introduced radical positions, a reasonable transitional approach should be applied where an omission does not introduce real injustice to the opposite party (See: *Carlton Douglas Kasirye (supra)*).

## STATUTORY EXCEPTIONS TO THE RULE ON ABATEMENT

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The framework establishes exactly **five (5) exclusive scenarios** where a suit will safely avoid abatement despite the plaintiff omitting to take out summons for directions within 28 days (Under *Order 11A Rule 1 (4)*):

- a) Where a plaintiff or counter-claimant has formally applied for a default judgment under Order 9 Rule 6, summary judgment under Order 36, or where an application for leave to file a defense under Order 36 is explicitly refused;
- b) Where a party has applied under Order 6 Rules 29/30 or Order 15 Rule 2 for the categorical determination of the suit on a singular point or points of law;
- c) Where the plaintiff in his or her plaint specifically prays for an account under Order 20;
- d) An active action in which a formal application for transfer to another division, court, or tribunal is currently made; or
- e) Where a matter is formally referred by the court to an official referee or arbitrator. In *Carlton Douglas Kasirye vs Sheena Ahumuza*, **Justice Boniface Wamala** noted that a court-appointed mediator performs the function of an official referee, thus exempting such mediated cases from the 28-day rule.

Additionally, where formal discovery of documentation is actively required by either party, the court may, upon application or its own motion, extend the 28-day period (*Order 11A Rule 1 (5)*).

## REMEDIES AND FINAL COMPLIANCE TIMELINES

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**The Ultimate Remedy:** If a suit is abated and dismissed under these rules, the singular legal recourse available to the plaintiff is to file a completely fresh suit, subject directly to the statutory law of limitation (See: *Order 11A Rule 1 (7)*).

**Compliance Matrix:** Once issued, the summons for directions must be fully complied with **within 45 days** from the date of the hearing of the summons. Thereafter, the plaintiff must, **within 7 days** from the final compliance step, formally have the suit fixed for a scheduling conference before the trial Judge.

## REFERENCES & AUTHORITY CITATIONS

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1. Civil Procedure (Amendment) Rules, 2019 (Order 11A & Form 14B)
2. *Carlton Douglas Kasirye Vs. Sheena Ahumuza* (HCMA No. 150/2020) – Justice Boniface Wamala
3. *Abdu Kiwanuka Yiga vs Abubaker Kaddu Kiberu* (H.C.M.A No. 386/2022) – Justice John Eiudes Keitirima
4. *Settaba Fulugensio Vs. Kizito Musoke and Another* (HC. Temporary Injunction Appeal No. 452/2021) – Justice Duncan Gaswaga
5. *GAMA Distillers LTD vs. Bikanza Ezra* (HCCS No. 60/2021) – Hon. Justice Vincent Wagona
6. *Kagimu Moses Gava and 7 Others VS Sekatawa Muhammed and 7 Others* (HCMA No. 25/2020) – Justice Olive Kazaarwe Mukwaya
7. *ADDUL DDAMULIRA VS MSS XSABO POWER LTD* (HCMA No. 046/2021) – Justice Oyuko Anthony Ojok
8. *Geoffrey Wasswa Vs. Amy for Africa Ltd and 2 Others* (HCCS No. 127/2020) – Hon. Lady Justice Florence Nakachwa