

Extraordinary



Federal Republic of Nigeria

Official Gazette

No. 1

Lagos - 3rd January, 2017

Vol. 104

Government Notice No. 00

The following is published as supplement to this *Gazette* :

<i>S.I. No.</i>	<i>Short Title</i>	<i>Page</i>
1	National Industrial Court of Nigeria (Civil Procedure) Rules, 2017 ..	B3-347

Printed and Published by The Federal Government Printer, Lagos, Nigeria
FGP 131/012017/1,200

Annual Subscription from 1st January, 2017 is Local : ₦25,000.00 Overseas : ₦37,500.00 [Surface Mail]
₦49,500.00 [Second Class Air Mail]. Present issue ₦2,500.00 per copy. Subscribers who wish to obtain *Gazette* after
1st January should apply to the Federal Government Printer, Lagos for amended Subscriptions.

B 2

NATIONAL INDUSTRIAL COURT OF NIGERIA

(CIVIL PROCEDURE) RULES, 2017



TABLE OF CONTENTS

<i>Order</i>	<i>Page</i>
ENABLING POWERS	
1. REVOCATION, CITATION, SAVINGS, ETC.	43
2. INSTITUTION OF TRIAL AND SUITS.	51
3. FORMS AND COMMENCEMENT OF ACTION.	55
4. ENDORSEMENT OF CLAIM AND OF CONTACT INFORMATION.	63
5. EFFECT OF NON-COMPLIANCE.	65
6. FILING AND ISSUE OF ORIGINATING PROCESSES.	66
6A. ELECTRONIC FILING OF PROCESS AND DOCUMENT.	67
7. SERVICE OF PROCESSES.	73
8. SERVICE OUT OF NIGERIA AND SERVICE OF FOREIGN PROCESSES.	85
9. APPEARANCE.	91
10. ENTITLEMENTS OF DECEASED EMPLOYEE (TESTATE).	93
11. ENTITLEMENTS OF DECEASED EMPLOYEE (INTESTATE).	94
12. PRE-TRIAL CONFERENCE.	96
13. PARTIES.	98
14. SEXUAL HARRASSMENT, WORKPLACE DISCRIMINATION ,ETC.	106
14A. INTERNATIONAL PROTOCOLS, CONVENTIONS AND TREATIES.	107
15. DEFENCES.	108
16. SUMMARY JUDGMENT.	111
17. MOTIONS AND OTHER APPLICATIONS.	113
18. DETERMINATION OF MOTIONS.	120
19. ARREST OF ABSCONDING PARTY.	121
20. INTERIM ATTACHMENT OF PROPERTY.	123
21. URGENT RELIEF.	124
22. INTERLOCUTORY INJUNCTION AND INTERIM PRESERVATION OF PROPERTY.	126
23. RULES APPLICABLE TO GENERAL PROCEDURAL MATTERS.	128
24. REFERENCE TO ALTERNATIVE DISPUTE RESOLUTION CENTRE.	129
25. CASES TO BE PLACED ON FAST-TRACK.	131
26. AMENDMENT.	136
27. APPLICATION FOR ACCOUNT.	137
28. ASSESSORS AND EXPERT WITNESSES.	138

B 4

29. ISSUES, INQUIRIES, ACCOUNTS AND REFERENCES TO REFEREES AND ARBITRATORS.	138
30. PLEADINGS—GENERAL.	141
31. STATEMENT OF FACTS.	145
32. DEFENCE AND COUNTER-CLAIM.	145
33. REPLY OF CLAIMANT TO DEFENCE.	146
34. ADMISSIONS.	147
35. DEFAULT OF PLEADINGS.	149
36. PAYMENT INTO AND OUT OF COURT.	150
37. SETTLEMENT AND TRIAL OF ISSUES.	153
38. PROCEEDINGS AT TRIAL.	153
39. REASSIGNMENT OF CASES.	166
40. EVIDENCE/PROOF GENERALLY	167
41. AFFIDAVITS.	172
42. AMICABLE SETTLEMENT.	174
43. INTEROGATORIES, DISCOVERY AND INSPECTION.	175
44. POWER OF COURT TO ASK QUESTIONS OF WITNESSES.	177
45. FILING OF WRITTEN ADDRESS.	178
46. NON-SUIT.	180
47. JUDGMENT AND ORDERS.	180
48. APPLICATION FOR JUDICIAL REVIEW	187
49. ENFORCEMENT OF JUDGMENT AND ORDERS	190
50. APPEALS FROM ARBITRAL TRIBUNAL, BOARD OF INQUIRY, ETC.	196
51. GARNISHEE PROCEEDINGS	207
52. PROCEEDINGS IN FORMA PAUPERIS	210
53. JURISDICTION OF THE CHIEF REGISTRAR	211
54. CHANGE OF COUNSEL.	214
55. COSTS.	215
56. INTERPLEADER : THIRD PARTY PROCEEDINGS.	217
57. COMPUTATION OF TIME.	219
58. MISCELLANEOUS PROVISIONS.	222
59. APPOINTMENT OF PUBLIC TRUSTEE.	227
60. BUSINESS IN CHAMBERS.	228
61. WITHDRAWAL AND DISCONTINUANCE.	229
62. TRANSFER AND CONSOLIDATION.	230
63. COMMITTAL FOR CONTEMPT OF COURT.	236
64. STAY OF EXECUTION AND STAY OF PROCEEDINGS PENDING APPEAL.	239
65. POWER OF THE PRESIDENT OF THE COURT TO AMEND RULES, ETC.	243
66. ESTABLISHMENT OF COMMUNICATIONS AND SERVICE CENTRE FOR E-FILING	243
67. FEES AND ALLOWANCES.	243
Appendix—Forms	245

ORDER 1—ENABLING POWERS, REVOCATION, CITATION, ETC.

Enabling Powers.	43
1. Revocation.	43
2. Citation and Commencement.	43
3. Application.	43
4. Objectives and Intent.	43
5. Aim.	43
6. (1) Court to promote amicable settlement of disputes.	44
(2) Party to apply for time.	44
7. (1) Construction of Reference to law, rules, etc.	44
(2) Reference to enactments.	44
(3) Savings.	45
8. (1) Rules to apply to action earlier filed.	45
(2) Court to give direction to ensure conformity with rules.	45
(3) President to give practice directions.	45
9. (1) Where no rules exist on a matter.	45
(2) Application of regulations of rules by Court and Departure from Rules of Evidence.	45
(3) Disregard for technical irregularities.	45
10. (1) Interpretation.	45
(2) Meaning of words as contained in the interpretation act, LFN 2004.	45
11. Meaning of other words.	51

ORDER 2—INSTITUTION AND TRIAL OF SUITS

1. (1) Filing of Originating Process in Registry.	51
Proviso : Filing in another Judicial Division(s) due to exigencies.	51
(2) Service of Hearing Notice for process filed out of division.	51
2. (1) State Registries.	51
(2) Establishment of State Registries in Judicial Division.	51
(3) Functions of State Registries.	51
(4) Processes to comply with rules of filing.	52
(5) Non-compliant processes to be rejected.	52
(6) Service to comply with rules of Court.	52
(7) When a process will not be allowed.	52
(8) Propriety of process filed in State Registries.	52
3. (1) State Registries' Chambers.	52
(2) Where to hear interlocutory applications.	52
(3) When Judge can take application in chambers.	52
(4) Judge to deliver ruling or judgment in open Court.	52
(5) Judge may adjourn hearing of substantive matter.	53
4. (1) Where several defendants or respondents reside in different Judicial Divisions.	53
(2) President may assign division for hearing of matter.	53

B 6

(3) Assignment of matters by president of the court.	53
5. Suits commenced in the wrong Judicial Division.	53
6. Party may apply for appropriate Division where matter may be heard.	53
7. Matters to be referred to President of the Court for assignment.	53
8. President may delegate assignment of matter.	53
9. (1) Assigning matter of National interest.	54
(2) Panel may sit to hear a matter of national interest.	54
10. Designating an Administrative Judge.	54
11. President of the Court or Administrative Judge may hear or constitute panel of Judges.	54
12. Zones of the Court.	54
13. Co-opting of Judges to constitute a panel of three Judges.	54
14. President of the court to preside over certain matters.	55
15. President may direct Judicial Division where matter would be heard and concluded.	55
16. Other matters that may be referred to the President of the Court.	55
17. (1) Matters not qualified for referral to ADR Centre.	55
(2) Matters challenging appointment of Public Trustee, etc.	55
(3) Matters arising from collective dispute not for ADR.	55

ORDER 3—FORMS AND COMMENCEMENT OF ACTION

1. (1) Commencement of action.	55
(2) Filing of action.	56
2. (1) Action by Complaint.	56
(2) Filing of matter under Section 254c(1)(d) of the 1999 Constitution (Fundamental Rights)	56
3. Action by originating summons.	56
4. Action by application for Judicial Review.	56
5. Action by Notice of Appeal.	56
(2) Appellate jurisdiction on certain provisions of Employee's Compensation Act.	56
6. Action arising from referral by the Minister.	57
7. (1) Action by Motion on Notice.	57
(2) Application by Motion <i>ex parte</i> .	57
8. Content of complaint.	57
9. Documents to accompany Complaint.	57
10. Format of Complaint.	57
11. (1) Claimant to forward schedule of documents to other party.	58
(2) Schedule of admissible or inadmissible documents.	58
(3) Admitted documents.	58
12. (1) Originating process connected with or relating to monetary claims, etc.	59
(2) Originating process for Compensation.	59
(3) When an employee may not file an originating process for compensation with the court.	59

(4) Content of originating process.	59
(5) Defendant's response.	61
(6) Court to proceed to hear part of claims, etc.	61
13. Complaint on termination of appointment.	61
14. Defendant's response to Rule 12 above.	61
15. Application for leave to call additional witness(es).	61
16. (1) Application for determination or declaration of rights.	61
(2) Party to give details of provisions for interpretation.	61
(3) Format of appealing .	61
17. (1) Documents to be filed with Originating Summons.	62
(2) When a suit raises substantial disputes of facts.	62
18. Representative counsel to be served all processes.	62
19. Number of documents for service.	62
20. Time for filing in Registries.	62
21. (1) Effect of failure to comply with requirements of the rules.	62
(2) Challenging the competence of action.	63
(3) Claimant's counter-affidavit.	63
22. Registrar to indicate time of filing of process and arrange service.	63
23. (1) When pre-action notice is required	63
(2) Action filed without photocopy of pre-action notice.	63

ORDER 4—ENDORSEMENT OF CLAIM AND CONTACT INFORMATION

1. Format of Originating Process.	63
2. Endorsement to reflect Representative Capacity.	63
3. Endorsement where claim is liquidated demand.	63
4. (1) Originating process to indicate Claimant's or Counsel's contact information.	63
(2) Contact information of Claimant's Legal Practitioner.	64
(3) Signature of Counsel on originating process.	64
(4) Change of contact information.	64
(5) Failure to notify of change of contact information.	64
(6) Contact Addresses of Defendant/Respondent.	64
5. When process can be set aside for faulty contact information.	64

ORDER 5—EFFECT OF NON-COMPLIANCE

1. Effect of Non-Compliance.	64
2. (1) Application to set aside for irregularity.	64
(2) Application by summons or motion.	64
3. Departure from rules in the interest of justice.	65
4. (1) Further departure from rules.	65
(2) Condonation of non-compliance with rules	65
(3) When Court condones non-compliance with the rules	65
5. (1) Application for departure from the Rules of court.	65

B 8

- (2) Respondent's Written Address. 65
- (3) Oral application for departure from the rules. 65
- (4) Consideration of matter in the interest of justice, etc. 65
- 6. (1) Rules of Common Law vs Rules of Equity. 66
- (2) Departure from extant Evidence Act. 66
- (3) Flexibility of procedure 66

ORDER 6—FILING AND ISSUE OF ORIGINATING PROCESS

- 1. (1) Sufficient copies of originating process to be left with the Registrar. 66
- (2) Copies to be signed by claimants. 66
- (3) Sealing of process. 66
- 2. Registrar's action on duly filed Originating Process. 66
- 3. Registrar to arrange prompt service of Originating Process. 66
- 4. (1) Lifespan of an Originating Process. 67
- (2) Extension of lifespan of Originating Process. 67
- 5. Renewal of Originating Process. 67
- 6. Loss of Originating Process. 67
- 7. Concurrent Originating Processes. 67
- 8. Issuance and marking of concurrent Originating Process for service. 67
- 9. When Claimant can withdraw process.

ORDER 6A—ELECTRONIC FILING OF PROCESSES AND DOCUMENTS

- 1. (1) Scope of Rules. 67
- (2) E-filing Centre. 67
- 2. Process or document that may not be e-filed. 68
- (1) Documents for Chamber or presentation in camera. 68
- (2) Documents access to which is restricted by law, order, etc. 68
- 3. (1) Electronic Filing Manager (EFM). 68
- (2) Responsibility of Electronic Filing Manager. 68
- 4. E-filing to Electronic Filing Manager through Court portal. 68
- 5. Format of E-filed document. 68
- (1) Typed on A4 size paper. 68
- (2) Formatted in PDF. 68
- (3) Conformity with prescribed format. 68
- (4) Attachment of Exhibits or Appendices. 68
- 6. (1) E-filing through the Court portal to electronic filing manager. 68
- (2)(a) Electronic Filing Manager to issue Authentication Registration Number (ARN). 69
- (b) Use of Authentication Registration Number. 69
- (c) Provision of e-mail address(es). 69
- (3) Rejection of process or document without ARN. 69
- (4) Sending of process or document with ARN. 69
- (5) Automatic receipt of e-filed process or document. 69
- (6) Confirmation of Registrar's acceptance of e-filed process. 69

7. E-filing of multiple documents.	69
8. (1) Electronic Signature.	70
(2) Notarised document.	70
(3) Signatures of opposing parties.	70
(4) Retention of document carrying original signature.	70
9. Designated e-mail address(es).	70
10. Hyperlinking of documents or processes.	70
11. Process or document must be malware or virus free.	70
12. Good and proper e-filing.	70
13. Timeliness of e-filing of process or document.	70
14. (1) Untimely e-filing of document due to technical failure or system outage.	71
(2) Party or counsel to seek relief for non-compliance arising from technical or system failure.	71
(3) Matter not to be disposed of for failure of e-filing arising from technical or system failure.	71
15. (1) Time limit for acceptance or rejection of e-filing.	71
(2) Acceptance of document where process is in conformity with order, rules etc., of the Court.	71
(3) Failure to accept or reject document within time allowed.	71
16. (1) Date and time of transmission of document.	71
(2) Transmission of confirmation of filing of process or document.	72
(3) Transmission of electronic confirmation of acceptance or rejection of e-filing.	72
(4) Communication of rejection of e-filing to Registrar.	72
(5) Communication of rejection of e-filing to e-filer by Registrar.	72
(6) Payment of filing fees.	72
17. (1) Transmission of e-filed document to President of the Court for assignment.	72
(2) E-filed process not to be transmitted to a Judge of the Court until assigned by the President of the Court.	72
18. Transmission of e-filed process to Judge of the Court for assignment.	73
19. Notification of date and time of proceedings in assigned matter to e-filer.	73
20. E-filing in compliance with Order of the Court.	73
21. Official record.	73
22. Access of the President or Judge of the Court to e-filed process or document.	73

ORDER 7—SERVICE OF PROCESS

1. (1) Manner of service of process.	73
(2) Service of hearing notices.	75
(3) Service of process by the Rules of the Court or Rules of a High Court in Nigeria.	75
(4) Service by means of electronic devices.	76
(5) Electronic proof of service of process.	76
(6) Electronically transmitted or received processes acceptable as original document.	76

B 10

(7) When electronically transmitted process deemed good and proper service.	76
(8) Electronic transmission of hearing notice deemed good and proper service.	76
(9) Party may by <i>ex parte</i> motion move Court for an order of substituted service by other means.	77
(10) <i>Ex parte</i> motion to be supported by an affidavit.	77
(11) <i>Ex parte</i> application to be accompanied by Written Address.	77
(12) Informing unco-operative recipient of nature of document as sufficient service.	77
(13) Service on an unco-operative person effected by throwing process within reach.	77
(14) When affidavit of service is <i>prima facie</i> evidence.	77
(15) Service under the rules of Court and proof of delivery.	77
(16) When service of process is deemed good and proper.	77
(17) Service on Saturday, Sunday or Public holiday.	78
(18) Introduction of applicable rules of a High Court for service of process.	78
(19) Proof of Service by Counsel.	78
(20) Registrar also to effect service.	78
(21) Service on Counsel's Chambers.	78
(22) Service on Counsel in Court.	78
2. (1) Service of process by Sheriff, Deputy Sheriff, Bailiff or Process Server.	78
(2) Service on Counsel.	78
3. (1) Appointment of External Process Server.	79
(2) External Process Server to effect service of process or document.	79
(3) External process server to effect service according to the rules of the Court.	79
(4) External process server's book of records of process and document.	79
(5) Registrar of Court to keep records of processes given to External Process Server.	79
(6) Powers of External Process Server.	79
(7)(a) External Process Server to serve as officer of the court.	79
(b) Protection of External Process Server.	79
(8) Affidavit of service by External Process Server.	80
(9) Service on unco-operative party by External Process Server.	80
(10) Proof of service by External Process Server.	80
(11) Other means of proof of service by the External Process Server.	80
(12) Identity of persons served.	80
(13) Affidavit of service to be kept in case file.	80
(14) Payment of External Process Server on terms of agreement.	80
(15) Qualification of External Process Server.	80
4. (1) Service on person under legal disability.	81
(2) Good and sufficient service on person with legal disability.	81

5. Service on prisoner or detainee.	81
6. Service on public, private institution, corporation, etc.	81
7. Service on foreign company doing business in Nigeria.	82
8. Service on Public Functionaries sued <i>ex-officio</i> .	82
9. Service on Local Agent of Principal who is out of jurisdiction.	82
10. Service on person out of jurisdiction as a necessary party.	82
11. Service on person aboard a ship.	83
12. (1) Party to pay for service.	83
(2) Amount payable for service.	83
(3) Payment for service of process.	83
(4) Receipt of payment for service.	83
(5) Rates for service by courier.	83
(6) Accounting for expenses on service of process.	83
(7) Failure to pay for service of process.	83
13. (1) Time of day within which to effect service.	83
14. (1) Records of service of process(es).	83
(2) Entry of reasons of failure to serve.	84
(3) When entry of failure to serve is evidence.	84
15. (1) Creation of Judicial Divisions or Registries.	84
(2) Service on party without leave of court.	84
16. Service of process out of Nigeria with leave of court.	84
17. Other means of service.	84
18. Time to serve process or document.	84
19. Electronic service of e-filed document	84
20. (1) When e-filed document is good for service.	85
(2) Certificate of e-service of process or document.	85
(3) Proof of e-service	85
(4) Computation of time of e-service	85
21. Inclusion of designated e-mail addresses.	85
22. Service on person with no designated e-mail addresses.	85

ORDER 8—SERVICE OUT OF NIGERIA AND SERVICE OF FOREIGN PROCESS

1. Where service of process out of jurisdiction is allowed.	85
(1) For Acts, Deeds, or Contract of employment.	85
(2) Relief is sought against resident within jurisdiction.	85
(3) When action is to enforce, rescind or dissolve contract of employment.	86
(4) Injunction is sought to prevent anything within jurisdiction.	86
(5) For necessary or proper party.	86
(6) Where proceeding may be instituted by originating process.	86
2. Agreement as to prescribed mode, place, etc. of service.	86
3. Application to be supported by affidavit.	86
4. Order to fix time limit for appearance.	87
5. (1) Service of Notice of Complaint out of jurisdiction.	87
(2) Service of Complaint in appropriate manner	87

B 12

6. (1) Processes to be served out of jurisdiction.	87
(2) Service on person resident within Convention.	87
(3) Rules to apply <i>mutatis mutandis</i>	88
7. Procedure for service of notice of complaint to non-state party to a Convention	88
8. Leave to serve complaint in foreign country.	88
9. Limitation of Rule 8.	89
10. Court may direct mode of transmission of service.	89
11. Mode of effecting Letter of Request for service from foreign country.	89
12. Procedure for service of document from foreign country.	90
13. Order for substituted service.	91
14. Order to prescribe mode of service.	91

ORDER 9—APPEARANCE

1. (1) Need to file Memorandum of Appearance.	91
(2) Memorandum of Appearance to be signed by party or counsel.	91
(a) Memorandum to include names of defendants represented by same counsel.	91
(b) Appearance for legally disabled.	91
(3) Penalty for late filing of Memorandum of Appearance and defence.	91
(4) Penalty for further default.	91
(5) Time limit for forwarding advance copy of Memorandum of Appearance.	92
(6) Time limit for filing and service of advance copy of reply and advance copy of Memorandum of Appearance.	92
2. Effect of failure to enter appearance.	92
3. Right of party to change contact information.	92
4. Declaration by party who does not intend to appear.	92
5. (1) Effect of failure to file Appearance, Defence or Declaration.	92
(2) When party shows readiness to defend action.	92
6. Time within which application to set aside judgment and rehear matter may be made.	93
7. Appearance in representative action, etc.	93
8. Appearance by party in the action to give evidence.	93

ORDER 10—ENTITLEMENTS OF DECEASED EMPLOYEE. (TESTATE)

1. Filing fees for process relating to emoluments of deceased employee.	93
2. Action for and on behalf of testate employee.	93
3. Compliance with Rule 2.	93
4. Presumption of authenticity of Will.	93
5. Handling of conflicting Wills, probate grant.	94

ORDER 11—ENTITLEMENT OF DECEASED EMPLOYEE (INTESTATE)

1. Proof of status as kinship.	94
(a) Certified True Copy of Employment Form.	94
(b) Letter of Administration from Probate Registry.	94
(c) Order from Customary or Sharia Court of Appeal.	94
2. Application for order to produce Employment Bio-data form.	94
3. Claimant may use document in Claimant's possession.	94
4. Where there is no next of kin.	94
5. Proof of custom and practice.	95
6. When an intestate action may not be entertained.	95
7. Admissibility of process or order from Customary or Sharia Court of Appeal or other proof of custom.	95
8. Where there is more than one Letter of Administration or conflicting proof of custom.	95
9. Court may invite custodian of custom.	96
10. Matter to be placed on fast track.	96

ORDER 12—PRE-TRIAL CONFERENCE

1. (1) Response to Claim or Complaint.	96
(2) Time limit for filing of response.	96
2. (1) Court ordered or party driven pre-trial conference.	96
(2) Time limit for initiating pre-trial conference.	96
(3) When party fails to initiate pre-trial conference.	96
(4) Date, time and venue of pre-trial conference.	96
(5) Issues for consensus at pre-trial conference.	96
3. When parties are unable to reach consensus.	97
4. Filing of report of pre-trial conference.	97
5. (1) Registrar to remit report of conference to the Court.	97
(2) Action of the President of the Court.	97
6. When parties fail to attend pre-trial conference.	98
7. (1) Listing of matter for hearing after pre-trial conference.	98
(2) Notification of date, time, etc. of hearing.	98

ORDER 13—PARTIES

A.—Parties Generally

1. Joint or several Claimants in one action.	98
2. (1) When the name of Claimant is doubtful	98
(2) Defendant's counter-claim or set-off on improperly included claimant.	98
3. Stay of proceedings where Defendant has <i>bona fide</i> counter claim.	98
4. Joinder of any person as defendant.	98
5. Where the name of a party is incorrectly stated.	99
6. (1) Defendant need not be interested in all reliefs or every cause of action.	99

B 14

(2) Action of judge to prevent embarrassment to a defendant.	99
7. Claimant may join all persons, severally, or jointly as parties in an action.	99
8. Action by claimant in doubt as to defendants.	99
9. Suit by or against persons under legal disability.	99
10. Written authority of guardian or relation of person under legal disability.	99
11. (1) Action by numerous persons with same interest in one suit.	99
(2) One or more among numerous persons with same interest in suit to defend others.	100
(3) Application to be joined as a party.	100
(4) Joinder of third party interest to a suit.	100
(5) When Court may appoint representative.	100
12. Power and action of court to approve compromise.	100
(1) When persons with the same interest assent to approve compromise.	100
(2) When absent persons assent.	100
(3) Court may approve compromise to benefit absent person.	100
13. (1) When deceased person (party) has no legal representation.	101
(2) Legal practitioner may apply for substitution of party.	101
(3) Judgment may be entered if there is no representation for deceased party.	101
14. (1) Proceedings not defeated by misjoinder or non-joinder of parties.	101
(2) Names of improperly joined parties may be struck out by order of the court.	101
(3) Names of necessary party to be added by order of the court.	101
(4) When to add person under legal disability.	101
(5) Service on Defendant in Originating process.	101
15. (1) Application by motion to add, strike out, substitute or vary names of claimants or defendant.	102
(2) Statement of claim to accompany application to add names.	102
16. Where defendant is added or substituted.	102
17. (1) Joinder by any party of third party likely to bear liability.	102
(2) Service on third party within prescribed time.	102
18. Appearance by third party.	102
19. Default by third party.	102
20. Subsequent third party.	102
21. Claim against co-defendant.	102
<i>B.—Actions against Firms and persons carrying on business in Names other than their own.</i>	
22. Actions by and against firms.	103
23. (1) Disclosure of partners' names and addresses.	103
(2) Stay of action for failure to declare names and addresses of partners.	103
(3) Suit to proceed when names and addresses of partners are declared.	103
24. (1) Partners to appear individually in a proceeding.	103
(2) Where no personal appearance is required.	103
25. Application of Rules to action between co-partners.	103
26. Persons carrying on business as firm.	104

C.—Change of Parties by Death or Otherwise

- | | | |
|-----|--|-----|
| 27. | (1) Proceeding not to abate where cause of action survives. | 104 |
| | (2) Proceeding not defective whether cause of action survives or not. | 104 |
| | (3) Proceedings not to abate by reason of death of either party. | 104 |
| 28. | (1) Order to carry on proceeding despite change of capacity of an existing or new party in the proceeding. | 104 |
| | (2) Service of Order on parties under sub-rule 1 of this rule. | 104 |
| | (3) Appearance of person not already party to the proceeding. | 104 |
| | (4) Filing of pleadings by new party to proceedings. | 105 |
| 29. | Continuation of proceeding upon assignment or other devolution of interest. | 105 |
| 30. | Application by person under no legal disability or where being legally disabled, has a guardian, to vary Court Order obtained under Rule 28 of this Order. | 105 |
| 31. | Application by person under legal disability and not having a guardian. | 105 |

D.—Legal Practitioner or Agent

- | | | |
|-----|---|-----|
| 32. | Acts to be done by Legal Practitioner or Agent. | 105 |
| 33. | When an agent may sue for principal | 105 |

ORDER 14—SEXUAL HARRASSMENT AND DISCRIMINATION IN THE WORKPLACE

- | | | |
|----|---|-----|
| 1. | (1) Claims of sexual harassment. | 106 |
| | (2) Claims of workplace discrimination. | 106 |
| | (3) Mode, Manner, etc., of Sexual harassment or of discrimination in the workplace. | 107 |
| 2. | (1) Defendant's Statement of Defence. | 107 |
| | (2) Defendant's counter-claim. | 107 |
| | (3) When Court may non-suit or dismiss action. | 107 |

ORDER 14A—INTERNATIONAL PROTOCOLS, CONVENTIONS AND TREATIES

- | | | |
|----|--|-----|
| 1. | (1) Procedure in action for breach of international protocol, convention, etc. | 107 |
| | (2) Proof of existence of international best practice, etc. | 107 |
| 2. | (1) Defendant's Statement of Defence. | 107 |
| | (2) Defendant's counter-claim. | 107 |
| | (3) When Court may non-suit or dismiss action. | 107 |

ORDER 15—DEFENCES

- | | | |
|----|---|-----|
| 1. | (1) Duty of party served with a Complaint. | 108 |
| | (2) Application for leave by party to call additional witness(es) | 108 |
| 2. | (1) Defence to state contact information. | 108 |
| | (2) Service on appointed counsel. | 108 |
| | (3) Defendant's counsel to state contact information. | 108 |
| | (4) Statement of admission of claim. | 109 |
| | (5) Time limit to file counter claim. | 109 |
| | (6) When defendant admits part of claim. | 109 |

B 16

(7) Court to enter judgment for claim admitted.	109
(8) Non-indication of a defence.	109
3. Treatment of documents by defendant(s).	109
(a) Schedule of documents not objected to.	109
(b) Schedule of documents objected to.	109
4. (1) Admitted documents.	109
(2) Schedule of documents to be relied on at trial by defendant.	110
(a) Admissible documents by claimant.	110
(b) Schedule of documents objected to.	110
(3) Documents not objected to, not to be allowed at the trial.	110
5. Duty of party served with originating summons.	110
6. Time limit for filing written statement of defence on points of law.	111
7. Time limit for Claimant's reply to statement of defence.	111
8. When party fails to comply with time limit.	111

ORDER 16—SUMMARY JUDGMENT

1. Application for Summary Judgment.	111
2. Number of copies of processes to be delivered to the Registrar.	112
3. Mode of service of Processes and Documents.	112
4. Action of a party intending to defend upon being served.	112
5. (1) Duty of court upon hearing application for summary judgment.	112
(2) Judgment when there is no defence.	112
(3) Judgment to part of claim to which no defence.	112
6. Duty of court where there are several defendants.	112
7. Party at liberty to expatiate on Written Addresses.	112
8. (1) Party may submit to judgment on part of claim.	113
(2) When a defendant can defend contested part of claim.	113

ORDER 17—MOTION AND OTHER INTERLOCUTORY APPLICATION

1. (1) Application by motion on notice or motion <i>ex parte</i> .	113
(2) Motion on notice to be served on all parties	113
(3) Format of motion on notice by application	113
(4) Applications that must be by motion on notice.	113
(5) Affidavit to support application.	113
(6) Written Address to accompany application.	113
(7) Content of Written Address accompanying application.	114
(8) When to forward advance copy of motion to respondent.	114
(9) When to forward advance copy of respondent's notice of preliminary objection.	114
(10) Time for respondent to file counter affidavit.	114
(11) Time for claimant to deal with new issues arising from respondent's counter- affidavit.	114
(12) Party may address Court on points of law only.	114

(13) Time to adumbrate on Written Address.	115
(14) When respondent may not make an oral submission.	115
2. (1) When notice of motion should be given.	115
(2) Order for an injunction to subsist.	115
(3) Application to vacate order.	115
(4) Documents to accompany affidavit.	115
(5) Counter affidavit.	115
3. (1) Motion to enforce an arbitral award.	115
(2) Certified True Copy of an award.	115
(3) Arbitral award may be enforced as judgment of the Court	115
4. Length of time between service of process and date fixed for hearing of motion.	116
5. Effect of failure to give notice of motion to necessary party.	116
6. Application for hearing in Chambers.	116
7. Adjournment of hearing.	116
8. Filing and service of application with Originating Process.	116
9. (1) Power of Court to make an interlocutory order.	116
(2) Court to ensure service of notice of application for interim order.	116
10. Decision must be given on any motion filed.	116
11. Interlocutory application to be heard and determined before final judgment.	117

A.—Interlocutory applications

12. (1) Constitution of the Court for hearing and determination of interlocutory applications.	117
(2) Court to set down and determine every motion notwithstanding their strengths or weaknesses.	117
(3) Court to entertain all motions.	117
13. Court may exercise powers to achieve the objectives of NICA, 2006.	117

B.—Ex parte Motion

14. (1) Motion on notice to be filed along with every <i>ex parte</i> application.	117
(2) <i>Ex parte</i> application for injunction to be with motion on notice.	118
(3) <i>Ex parte</i> motion to be supported by affidavit.	118
(4) Party moving motion <i>ex parte</i> to address court on facts in evidence.	118
(5) Court may grant or refuse to grant order sought or direct that motion be made <i>ex parte</i> .	118
(6) Party affected by <i>ex parte</i> order to react to order and act in line with direction of the court.	118
(7) Lifespan of order made <i>ex parte</i> .	118
(8) When a motion to vary or discharge <i>ex parte</i> order can lapse.	118
(9) When order of injunction made on <i>ex parte</i> application shall abate.	119
(10) Court may extend duration of interim injunction.	119

C.—Notice of Motion

Application on Award of an Arbitral Body or Industrial Arbitration Panel (IAP)

- | | |
|---|-----|
| 15. (1) Motion to set aside, remit or enforce Arbitral Award to state grounds of application. | 119 |
| (2) Party to supply sufficient Certified True Copies of award or decisions. | 119 |
| (3) Award of arbitral body to be enforced as judgment or order of the court. | 119 |

D.—Non Contentious Applications

- | | |
|--|-----|
| 16. (1) Judge to take and decide non-contentious applications in chambers. | 119 |
| (2) When parties may apply orally to amend process(es). | 120 |

ORDER 18—DETERMINATION OF MOTIONS

- | | |
|---|-----|
| 1. Motion to be determined except where withdrawn. | 120 |
| 2. (1) Handling of multiple motions. | 120 |
| (2) When defendant disputes the jurisdiction of the court | 120 |
| (3) When the Court may take motion on jurisdiction with substantive suit. | 120 |
| (4) Defendant to file memorandum of appearance. | 120 |
| (5) When claimant/respondent may oppose motion on jurisdiction | 121 |
| 3. Handling of multiple preliminary objections. | 121 |
| 4. Consolidation of claimant's Written Addresses. | 121 |
| 5. Consolidation of Written Addresses. | 121 |
| 6. When Court may proceed to hear substantive matter after objections. | 121 |

ORDER 19—ARREST OF ABSCONDING PARTY

- | | |
|---|-----|
| 1. Party leaving jurisdiction or removing property. | 121 |
| 2. Warrant of Arrest issued by the Court. | 121 |
| 3. Bail in lieu of appearance or satisfaction. | 122 |
| 4. Deposit in <i>lieu</i> of bail. | 122 |
| 5. (1) Absconding party may be committed to custody. | 122 |
| (2) Application for committal. | 122 |
| (3) Transmission of warrant issued by a different Judicial Division. | 122 |
| 6. (1) Payment of expenses for the subsistence of a party in custody. | 122 |
| (2) When a prisoner may be released. | 122 |

ORDER 20—INTERIM ATTACHMENT OF PROPERTY

- | | |
|---|-----|
| 1. Circumstances warranting application for interim attachment of property. | 123 |
| 2. Contents of application for interim attachment of property. | 123 |
| 3. Order by court. | 123 |
| 4. (1) Where defendant or respondent fails to show cause or give security. | 124 |
| (2) Where defendant or respondent shows cause for security. | 124 |
| 5. Rights of third parties not to be affected. | 124 |
| 6. Removal of attachment where defendant or respondent furnishes security. | 124 |
| 7. (1) Appropriate Court to take proceedings. | 124 |
| (2) Transmission of order to appropriate Judicial Division. | 124 |

ORDER 21—URGENT RELIEF

1. Application for urgent relief. 124
2. (1) Application to be supported by affidavit. 124
- (2) Party to forward advance copy to respondent(s). 125
3. (1) President to assign application for urgent relief. 125
- (2) Registrar to return application to the Judge before who matter is pending. 125
4. Intention to oppose application. 125
5. Filing of counter-affidavit to oppose application. 125
6. Respondent to appear to oppose. 125
7. Court may allow appearance of person cited as a party at any stage of proceedings. 125

ORDER 22—INTERLOCUTORY INJUNCTION AND INTERIM PRESERVATION OF PROPERTY

1. (1) Application for injunction. 126
- (2) Application for injunction by motion *ex parte* 126
- (3) Application not before issuance of process. 126
2. Order for detention, custody, preservation, etc. of subject matter of action. 126
3. Power of Court to order assessment or valuation. 126
4. Order for early trial. 127
5. Recovery of personal property subject to lien, etc 127
6. Allowance of income of property *pendente lite*. 127

ORDER 23—RULES APPLICABLE TO GENERAL PROCEDURAL MATTERS

1. Application of Rules of General Procedure. 128
2. Party to refer the Court to Rules of a High Court. 128
3. Court may invoke rules of a High Court. 128
4. Party to refer the Court to International Best Practices. 128
5. Practice Direction. 128

ORDER 24—REFERENCE TO ALTERNATIVE DISPUTE RESOLUTION CENTRE

1. Reference of matters to ADR Centre. 129
2. Handling of matters referred. 129
3. Time limit for conclusion of matters at the Centre. 129
4. (1) Submission of report of mediation and conciliation session. 129
- (2) Report of amicable settlement to be entered as judgment of the Court. 129
5. (1) Serving of hearing notices to adopt settlement agreement. 129
- (2) Date and time to adopt settlement agreement. 129
6. (1) Variation and adoption of varied settlement report. 130
- (2) Execution of altered terms of agreement. 130
7. (1) Report of unresolved matter. 130
- (2) Remitting of unresolved matter back to the court. 130
8. Unresolved matter to be set down for hearing. 130
9. Appointment of Neutral. 130

B 20

10. Joinder of a fresh party to matter at the ADR centre. 130
11. How party may apply for joinder. 131
12. Officer of Court may be a neutral 131
13. Director to submit report to President of the Court. 131

ORDER 25—CASES TO BE PLACED ON FAST TRACK

1. Qualification for fast-track procedure. 131
2. Fast Track matter to be on cause list. 131

A.—Identification Mark and Speedy Processing

3. Registrar to mark process which qualifies for fast track. 131
4. Originating process for fast track to be served on all parties. 132
5. Claimant or appellant to be on notice for placement of case on fast track. 132
6. Defence process to be filed not later than 14 days. 132
7. Registrar to refer fast track matter to President of the Court. 132
8. Timely hearing of urgent interlocutory application in fast track cases. 132
9. Case to be set down for hearing as soon as possible. 132
10. Notice for direction by parties. 132
 - (1) Party or Counsel to express intension to proceed. 132
11. Court to consider proposal of parties or counsel and give direction. 133

B.—Variation of Direction

12. (1) Court may suo motu or on application vary direction issued. 133
 - (2) Parties to apply for order for changes to trial direction 133
 - (3) Court may impose costs on variation of trial directions. 133
 - (4) Order of variation without hearing. 133

C.—Enforcement of Compliance with Directions

13. (1) Application by a party for order to enforce compliance or sanction or both. 133
 - (2) Non-compliance not to lead to postponement of trial. 134

D.—Conduct of Proceedings to be Made and Heard Timeously

14. (1) Application to change the Trial Time Table. 134
 - (2) Court to attend promptly to application in a Fast Track. 134

E.—Trial to Proceed from Day to Day

15. Trials to be conducted from day to day. 134
16. (1) Postponement of trial is order of last resort. 134
 - (2) Adjournment to be within shortest possible time. 134

F.—Trial and Addresses¹¹⁷

17. (1) Court to ask other party if intending to call any witness. 134
 - (2) Beginning party to file Written Address within seven (7) working days. 134
 - (3) Other party to file Written Address within seven (7) working days. 134
 - (4) Other party to file Written Address after calling witness. 135

- (5) Beginning party to respond to other party's Written Address after seven (7) days. 135
- (6) Response to be on point of law only within five (5) days. 135

G.—Cases Commenced under Order 3, Rules 8 and 9

- 18. (1) Cases commenced by complaints under order 3 rule 8 and 9. 135
- (2) Judge or panel to set fast track case down for direction. 135
- (3) Court to request parties to adopt briefs of argument or written addresses. 135

H.—Delivery of Judgment

- 19. Judgment of fast track case to be delivered quickly. 136

ORDER 26—AMENDMENT

- 1 (1) When amendment may be allowed. 136
- (2) When amendment may be refused. 136
- 2. Limit to amendment of process before trial. 136
- 3. Court may allow amendment of defect or error in any process. 136
- 4. Application to amend to be supported by affidavit. 136
- 5. Documents to accompany amended originating proceeding. 136
- 6. Time limit for amendment and penalty for default. 137
- 7. Filing of amended process(es) and forwarding of advance copies. 137
- 8. Marking of amended process. 137
- 9. Judge may amend defect or error in any proceedings 137
- 10. Correction of mistakes in judgment or in process. 137
- 11. Party may apply for correction of error or mistake. 137

ORDER 27—APPLICATION FOR ACCOUNT

- 1. Order for Account. 137
- 2. Procedure for an application for account. 137
- 3. Account may be taken by the Court or a referee. 138

ORDER 28—ASSESSOR AND EXPERT WITNESS

- 1. Responsibility of assessor sitting in Court. 138
- 2. Assessor to take oath of secrecy. 138
- 3. Assessor not to write judgment. 138
- 4. Assessor to advise as an expert. 138
- 5. Court not bound to accept assessor's opinion or advice. 138
- 6. (1) Invitation of expert witness. 138
- (2) Proof of expert witness 138
- 7. Failure of party to comply with rule 6. 138

ORDER 29—ISSUES, INQUIRIES, ACCOUNTS AND REFERENCES
TO REFEREES OR ARBITRATORS

- 1. Issues referable to a referee or arbitrator 138
- 2. Details to be furnished to referee or arbitrator. 139

B 22

3. Limit of Referee's or Arbitrator's duty to be specified.	139
4. General power of the Referee or Arbitrator.	139
5. Evidence at inquiry.	139
6. Report pursuant to reference to be submitted to Court.	139
7. Court's directions to Referee to take account.	140
8. Mode of taking account.	140
9. Court may direct further vouching of account.	140
10. Surcharge.	140
11. Numbering of account and inquiries.	140
12. Just allowances to be made while taking account.	140
13. (1) Duty of the Court where there is undue delay in proceedings at references and arbitration.	141
(2) Court may direct take-over of conduct of proceedings.	141

ORDER 30—PLEADINGS : GENERAL

1. (1) Service of Statement of Claim.	141
(2) Statement of facts to include relief or remedy claimed.	141
2. (1) Statement of defence.	141
(2) Defendants statement of defence, counter-claim or set-off.	141
(3) Claimant to reply defendant's statement of defence, counter-claim or set-off within 14 days.	142
3. Pleadings to state material facts and not evidence.	142
4. Particulars to be given where necessary.	142
5. Further and better statement of particulars.	142
6. (1) Denial.	142
(2) General denial not acceptable for specific fact pleaded.	142
7. Conditions precedent.	142
8. All grounds of defence or reply to be specifically pleaded.	143
9. Pleadings to be consistent.	143
10. Joinder of issue by pleadings.	143
11. Effect of document to be stated.	143
12. Allegation of notice as fact except otherwise required.	143
13. Allegation of implied contractual relationship as facts.	143
14. Pleadings not to allege presumption of favour unless first specifically denied.	143
15. Action on stated or settled account.	144
16. No technical objection to pleading on want of form.	144
17. Allegation of malice with fraudulent intention.	144
18. (1) Striking out of amendment of pleading that discloses no reasonable cause of action.	144
(2) No evidence admissible under sub-rule 1(1)(a)	144
(3) Rule to apply to originating summons as to a pleading.	144
(4) No objection to declaratory judgment or order during proceedings.	144
19. (1) Close of pleadings for lack of defence.	144
(2) Close of pleadings when time barred.	145

(3) Close of pleadings for failure to file within the time allowed.	145
---	-----

ORDER 31—STATEMENT OF FACTS

1. (1) Statement of facts or counter-claims	145
(2) Claimant's relief for several claims to be stated separately.	145

ORDER 32—DEFENCE AND COUNTER-CLAIM

1. Statement of defence.	145
2. Evasive denial of allegation.	145
3. When mere denial of a debt is insufficient.	145
4. Defence as to set-off and counter claim.	146
5. Addition to title of defence in counter claim.	146
6. Counter-claim against person not a party.	146
7. Discontinuance of the claimant's claim.	146
8. Judgment for balance of claim.	146
9. (1) Grounds of defence arising after action is filed.	146
(2) Claimant to raise answer or ground in reply or defence after delivery of defence.	146
10. Further defence to reply	147
11. Concession to defence	147
12. Defence to originating summons	147

ORDER 33—REPLY OF CLAIMANT TO DEFENCE

1. Claimant to file reply within limited time.	147
2. Defence to counter-claim.	147

ORDER 34—ADMISSIONS

1. (1) Notice of Admission.	147
2. (1) Notice to admit document.	147
(2) Period for admitting document.	147
(3) Cost for challenging authenticity of document.	148
3. (1) Notice to admit facts.	148
(2) Admission in Rule 3(1) deemed to be for purpose of particular proceedings.	148
(3) Cost of refusal or neglect to admit documents.	148
4. Judgment or order upon admission of facts.	148
5. Cost of notice to admit or produce where document is unnecessary.	148

ORDER 35—DEFAULT OF PLEADINGS

1. Claim for debt or liquidated demand.	149
2. Default of one defendant out of several defendants.	149
3. (1) Pecuniary damages.	149
(2) Trial of unascertained damages and declaratory reliefs.	149
4. When claimant may apply for judgment against defaulting defendant(s).	149

B 24

- 5. Defence filed to only part of claim. 149
- 6. (1) Default in filing defence. 150
- (2) Application for trial when there is no defence. 150
- 7. Validity of a default judgment and application to set aside. 150

ORDER 36—PAYMENT INTO AND OUT OF COURT

- 1. (1) Payment into Court. 150
- (2) Notice of payment on Form 23. 150
- 2. (1) Payment into Court as admission of liability. 150
- (2) denial of liability when money is paid into Court. 150
- 3. Acceptance of sum paid in discharge of cause of action. 150
- 4. Non-acceptance of sum paid in. 151
- 5. (1) Payment into Court despite denial of liability. 151
- (2) Where claimant action succeeds in whole or in part. 151
- (3) Where the defendant succeeds in whole. 151
- (4) where claimant succeeds in the action, the amount to be applied to claimant's claim. 151
- (5) Where defendant succeeds Court to order refund of defendant's payment. 151
- 6. (1) Money deposited in the court to be paid into the bank. 151
- (2) Payment into bank by the Chief Registrar. 152
- (3) Definition of "Funds in Court". 152
- 7. (1) Money or damages claimed by person under legal disability. 152
- (2) Judge to give directive on payment to person under legal disability. 152
- (3) Money, awards, etc. to be directed by judge. 152
- 8. Application for payment into Court. 152
- 9. Payment by claimant. 152
- 10. No payment out except by order of the Court. 152

ORDER 37—SETTLEMENT AND TRIAL OF ISSUES

A.—Settlement of Issues

- 1. Settlement of issues at or before hearing. 153
- 2. When party fails to comply. 153
- 3. When neither party invokes rule 1 or 2. 153
- 4. Settlement of issues at hearing. 153

B.—Trial of Questions and Issues

- 5. Court may direct parties to settle documentary evidence. 153
- 6. Dismissal of action, etc., following settlement of preliminary issue. 153

ORDER 38—PROCEEDINGS AT TRIAL

- 1. Striking out for non-appearance of both parties. 153
- 2. (1) When a defendant without defence is absent in Court. 153
- (2) When defendant with defence is absent in Court. 153
- (3) When defendant is allowed to prove defence. 154

(4) When defendant fails to appear, claimant may file Final Address.	154
(5) When defendant shows good cause for absence.	154
3. (1) Non-appearance of the claimant at the trial.	154
(2) When Court may deal with matter in the absence of party.	154
(3) Failure to appear to present oral argument.	154
(4) Notice of intention not to contest application.	154
4. Power of Court to bar disobedient party.	154
5. Individual or group of individuals not to appear as both claimant and respondent.	155
6. (1) Application to re-list.	155
(2) When judgment may be set aside.	155
(3) Time to apply for relisting of struck out matter.	155
(4) Application to relist accompanied with affidavit.	155
7. (1) Adjournment of trial.	155
(2) Court may increase number of adjournments.	155
(3) Application for adjournment when matter or cause is fixed for hearing or trial.	155
8. Finding out adjourned date.	156
9. Foreclosure of hearing arising from defaulting party.	156
10. When matter cannot be adjourned.	156
11. When brief of principal counsel in proceedings is held by another counsel.	156
12. (1) Representation by junior counsel.	156
(2) When junior counsel refuses to continue with proceedings.	156
13. When matter fixed for hearing may be adjourned.	156
14. Time taken by trial to be noted by registrar.	157
15. Order of proceedings at trial.	157
16. (1) Closure of case by parties.	157
(2) Oral application by party for closure.	157
(3) When court can close a case.	157
(4) When the witness statement is deemed abandoned.	158
(5) When party cannot adduce or plead new issues.	158
17. (1) Power of court to call any witness.	158
(2) Party may apply to call additional witness.	158
(3) Additional witness to depose to oath.	158
18. (1) Court may <i>suo motu</i> order a person present in court to give evidence or produce document.	158
(2) Production of documents without giving evidence.	158
(3) Order by Court to give evidence.	158
(4) Subpoenaed witness.	159
(5) Summons for witness.	159
(6) Limitation of communication with witness.	159
19. Marking and preservation of exhibits admitted at trial.	159
20. Filing of Written Addresses.	159

B 26

21.	(1) When a party requires exhibit for appeal.	160
	(2) Custody of exhibits after trial.	160
	(3) When a Judge may grant the release of exhibit	160
	(4) When Court of appeal grants leave to release exhibit	160
22.	Party may obtain office copy of list of exhibits.	160
23.	(1) Case may be struck out for lack of diligent prosecution.	161
	(2) Application to relist.	161
	(3) When Court may grant application to relist	161
24.	The power of the Court to review its own order.	161
25.	The power of the Court to correct clerical errors or slips.	161
26.	(1) Application for fiat by parties to continue part-heard matter in Judge's new or former Division.	161
	(2) President of court may grant fiat to judge to continue hearing of part-heard matters in new or former division.	162
	(3) Reasons for fiat.	162
	(4) Service of fiat.	162
	(5) Party to respond to fiat.	162
	(6) President's response to application for fiat.	162
	(7) President may grant fiat to continue hearing beyond time.	162
	(8) Judge may apply for extension of fiat.	162
	(9) President may extend fiat.	162
	(10) President's decision on extension of fiat final.	162
	(11) Judge to remit matter if fiat is not extended.	163
27.	(1) Application to Court to move to workplace.	163
	(2) Notice to visit workplace.	163
	(3) Record of proceedings during workplace visit.	163
	(4) Examination of witnesses at workplace.	163
	(5) Taking of evidence during workplace visit.	163
	(6) Witness may continue evidence during workplace visit.	163
	(7) Court may direct any person to testify at workplace visit.	163
	(8) Evidence at workplace is part of record of proceedings.	164
28.	Registrar to remind judge of pending judgment or ruling.	164
29.	Recall of witness after closure of case.	164
30.	Court may order party to address it for clarification.	164
31.	Court upon satisfaction may grant application to re-open matter.	164
32.	Frivolous, vexatious, etc. Matter to be struck out.	164
33.	(1) Trial on Records.	164
	(2) Trial on Records : Written Addresses.	165
34.	(1) Request for interpreter.	165
	(2) Invitation of interpreter.	165
	(3) Cost of interpreter.	165
35.	(1) When Court may order use of stated mode or internal dispute resolution mechanism.	165

- (2) When any party may apply for participation by any other parties in use of stated mode or internal dispute resolution process. 165
- (3) When parties are able to resolve matter. 165
- (4) When parties are unable to resolve matter. 166
- (5) When Court may order status *quo ante*. 166

ORDER 39—RE-ASSIGNMENT OF CASES

- 1. Self-disqualification by a Judge 166
- 2. (1) Indication of self-disqualification 166
- (2) Approval of disqualification and reassignment of matter. 166
- (3) When one or more Judges withdraw from a matter. 166
- 3. (1) File to be sent back to President of the Court. 166
- (2) Re-assignment by President of the Court. 166
- 4. Withdrawal and reassignment of a case. 167
- 5. When *ex parte* or interlocutory order may remain valid. 167
- 6. When the Judge must set the case down *de novo* and proceed with hearing. 167

ORDER 40—EVIDENCE/PROOF GENERALLY

- 1. (1) Proof of facts. 167
- (2) Documents may be deemed tendered from the bar or by unrepresented party. 167
- (3) Tendering real evidence. 167
- (4) Oral examination limited to facts pleaded and written deposition. 167
- 2. (1) Particular facts. 167
- (2) Power to give evidence of particular fact at trial. 167
- 3. Court may limit the number of medical or expert witnesses. 168
- 4. When some documents will not be received in evidence. 168
- 5. Revocation and variation of any direction or order. 168
- 6. Certified True Copies of documents admissible in evidence as original 168
- 7. Procedure for requesting for an order to examine a witness in a foreign country. 168
- (1) Forms 51, 52, 53, 54 and 55. 168
- (2) Content of undertaking. 168
- 8. Order for examination of witness abroad. Form 50. 169
- 9. Request from foreign Court or Tribunal. 169
- 10. Court may order attendance of person to produce document. 169
- 11. Contempt of Court arising from disobedience to order to attend proceedings. 169
- 12. Payment of expenses of persons ordered to attend proceedings. 169
- 13. Contempt of Court arising from refusal to attend or cooperate with proceedings. 169
- 14. Transmission of authenticated original depositions of witnesses. 170
- 15. Depositions not to be given in evidence without consent of party or leave of court. 170
- 16. Administration of oaths. 170

B 28

17. (1) Attendance of witness or person under subpoena for examination. Form 37, 38, 39.	170
(2) Party or witness deposing to affidavit bound to attend court for cross-examination.	170
18. When Court may compel person in Court to produce document or give evidence.	170
19. (1) Examination, cross or re-examination of witnesses to apply to evidence at any stage of trial.	171
(2) Control of Cross-Examination.	171
20. Taking of evidence after trial to be subjected to special directions.	171
21. Provisions of Section 46 of the Evidence Act to apply in the use of evidence in subsequent proceedings.	171
22. (1) Subpoena issued using Form 70	171
(2) Subpoena to be duly paid for.	171
23. Subpoena Forms 37, 38, 39.	171
24. Subpoena for attendance of witness in chambers.	171
25. Legal Practitioner issuing subpoena may correct errors and reseal.	172
26. Subpoena to be served personally, unless otherwise directed.	172
27. Subpoena to remain in force till trial of matter.	172
28. Party to give “Notice to Produce” to other party.	172
29. “Notice to Produce” included in pleadings or in separate notice.	172
30. “Notice to Produce” to specify sufficient particulars.	172
31. Payment of fees for “Notice to Produce”.	172

ORDER 41—AFFIDAVIT

1. Evidence upon motion, etc. by deposition to Affidavit.	172
2. Title of Affidavit.	173
3. Use of defective Affidavit.	173
4. Special time prescribed for filing Affidavit.	173
5. Usefulness of Affidavit deposed to <i>ex parte</i> application.	173
6. Party to give notice of intention to use affidavit.	173
7. Alteration in accounts to be properly initialed in Affidavit.	173
8. Exhibits.	173
9. Certificate of exhibits.	173
10. Use of affidavit in chambers.	173
11. Application of Evidence Act, 2011.	173
12. Admissibility of affidavit deposed to in Commonwealth Country.	174

ORDER 42—AMICABLE SETTLEMENT

1. Court may adjourn for parties to reach agreement.	174
2. Filing of Terms of Settlement.	174
3. Content of Terms of Settlement.	174
4. Parties to sign Terms of Settlement.	174

5. Signing and sealing of Terms of Settlement by representative of corporate body, etc.	174
6. Terms of Settlement to be entered as Judgment of the Court.	174
7. Adoption and entering of terms of settlement as Judgment of the Court.	175
8. Party may apply for adoption of terms of settlement at earlier date.	175
9. Terms of Settlement are binding.	175
10. Modification of Terms of Settlement by parties.	175
11. Application of party to be served on other party.	175

ORDER 43—INTERROGATORIES, DISCOVERY AND INSPECTION OF DOCUMENTS

1. Presumption of genuineness of documents, etc.	175
2. Party to request in writing to make discovery of documents	175
3. When party may apply for order to produce document.	176
4. Party requesting to forward advance copy to the other party.	176
5. Prescribed time to answer request.	176
6. Copies of documents to accompany affidavit in answer to request for discovery.	176
7. Affidavit to detail documents objected to and grounds.	176
8. Court to decide on genuineness of request.	176
9. Court to decide for fairness and to save cost.	176
10. Other party may file counter-affidavit.	176
11. Court may make order upon hearing of motion and counter-affidavit.	177
12. Failure, refusal or neglect to produce document.	177
13. Requesting party to use document in possession of requesting party.	177
14. Time limit to request for discovery.	177

ORDER 44—POWER OF COURT TO ASK QUESTIONS OF WITNESS

1. Judge may ask witness question or order production of document.	177
2. Counsel not to object to Judge's question.	177
3. When person summoned is not a witness.	177

ORDER 45—FILING OF WRITTEN ADDRESSES

1. Application of Order.	178
2. Content and format of Written Addresses.	178
3. (1) Summary and conclusion of Written Addresses.	178
(2) When application or address is incompetent.	178
4. Sufficient copies of Written Addresses to be filed.	178
5. Addition and use of new judicial authorities.	178
6. Oral argument and adumbration.	179
7. When Court can adopt Written Address and adjourn for judgment.	179
8. Regularisation of position of new counsel.	179
9. Application for extension of time to file final Written Address.	179
10. Application to give cogent and compelling reason for failing to file within time.	179

B 30

11. When defendant fails to apply for extension of time 179
12. When Court may foreclose a defendant from filing final Written Address. 179
13. When Court may move parties to address on points of law. 179

ORDER 46—NON-SUIT

1. When Court can non-suit a matter. 180
2. Hearing and determination of counter-claim to non-suit. 180

ORDER 47—JUDGMENT AND ORDERS

1. Judgment to be delivered in open court and duly entered. 180
2. Collection and delivery of signed judgment or ruling. 180
3. (1) When a Judge is unable to deliver a judgment due to ill-health or other reason. 180
- (2) When a Judge is unable to deliver judgment due to transfer. 181
- (3) When a Judge is unable to deliver judgment due to death. 181
- (4) When a Judge is unable to deliver unsigned but typed judgment. 181
4. (1) Enrollment of order and sealing of judgment or ruling. 181
- (2) Registrar to present judgment for signature. 181
5. Judgment to take effect from date of delivery unless Court otherwise orders. 181
6. Judgment made pursuant to an application. 181
7. Court may direct time for performance and may order payment with interest. 182
8. Memorandum to be indorsed thereon by the Registrar. 182
9. Terms of Settlement to be signed by both parties and counsel. 182
10. Party to give consent to judgment in open court. 182
11. Consent to judgment by memorandum. 182
12. When orders need not be drawn up. 182
13. Order to be sealed and signed by the President of the Court or Presiding Judge, etc. 183
14. When motion cannot stop delivery of judgment or ruling. 183
15. (1) Incompetent motion cannot stop delivery of judgment. 183
- (2) When motion can stop delivery of judgment or ruling. 183
16. Application and deadline to vacate order of injunction. 183
17. When a party may still apply for vacation of order of injunction. 183
18. Registry to keep file of concluded matter. 184
19. Post-judgment proceeding to be given new suit number 184
20. Application for post judgment proceeding to refer to previous judgment. 184
21. Assignment of application for post-judgment proceeding to same judge. 184
22. (1) Court may rescind, vary, etc. Order or judgment. 184
- (2) Court may rescind order or judgment made in error. 184
23. Application for interpretation of judgment. 184
24. Time limit for application for interpretation of judgment. 185
25. Objection to application for interpretation of judgment. 185
26. (1) Application to vacate, alter, amend, etc. interim order. 185

(2) Objection to application to vacate, alter, amend, etc. interim order	185
(3) Where there is no objection to application to vacate, alter, amend, etc. interim order.	185
27. (1) Application to adjust date of adjournment.	185
(2) When Court may grant application for adjustment of date of adjournment.	185
28. Registration of judgment of foreign court.	185
29. (1) Application for leave to enforce judgment etc.	186
(2) Application by motion <i>ex parte</i> .	186
(3) No application for enforcement without leave of court.	186
30. (1) Application for enforcement to be by motion on notice	186
(2) Party seeking enforcement to serve other party advance copy.	186
31. Response of other party to foreign judgment.	186

ORDER 48—APPLICATION FOR JUDICIAL REVIEW

1. Review of decision or proceedings of Arbitral Body, etc.	187
2. (1) Originating summons of Arbitral Body.	187
(2) Compliance with directions of Originating summons.	187
(3) Failure to comply with summons.	187
(4) Certified True Copies of records of decisions.	187
(5) Parties to have copies of Certified True Copies.	187
(6) Costs of Certified True Copies.	188
(7) Affidavit of answer to claims.	188
(8) Counter affidavit to answer.	188
3. (1) Cases fitting for judicial review.	188
(2) Application for declaration, injunction or judicial review.	188
4. Claims for relief related to or connected with the same matter.	188
5. (1) Leave of Court not required to apply for judicial review.	188
(2) Application by originating process.	188
(3) Service of originating summons.	188
(4) Interval of time between service and hearing of originating process.	189
(5) Affidavit of service of originating summons.	189
(6) Service of person ought to be served.	189
6. Interlocutory application during proceeding for judicial review.	189
7. (1) Hearing of application for judicial review.	189
(2) When relief sought includes certiorari.	189
(3) When order of certiorari is made.	189
(4) Court to remit matter when certiorari applies.	190
(5) When the Court may order continuation of proceedings.	190
8. No action to be brought for anything done in obedience to order of mandamus.	190
9. Consolidation of applications on the same subject matter.	190
10. Power of the Court to be exercised against the authority of Federal, State or Local governments, etc.	190

ORDER 49—ENFORCEMENT OF JUDGMENT AND ORDERS

1. Court to issue Writ of Execution or Writ of Possession.	190
2. Writ of Execution or Writ of Possession to be issued after expiration of deadline.	191
3. Enforcement by Writ of Execution with the leave of court.	191
4. (1) Enforcement by officer of Court.	191
(2) Officer may be accompanied by law enforcement agent.	191
5. Time of enforcement of writ.	191
6. (1) Application for leave to issue Writ of Execution to be by motion ex parte.	191
(2) Content of affidavit in support of application for leave.	191
(3) Court may determine application on basis of rights.	192
7. (1) Processing of a Writ of Execution.	192
(2) Praeceptum for Writ to be filed.	192
(3) Counsel or party to sign praecipe.	192
(4) When to seal a Writ of Execution.	192
(5) Dating of a Writ of Execution.	192
8. (1) Validity of a Writ of Execution.	192
(2) Extension of validity of a Writ of Execution.	193
(3) Sealing of Writ of Execution.	193
(4) When seal is evidence of validity of Writ of Execution.	193
9. Cost of execution.	193
10. When a movable property is subject of <i>fi fa</i> .	193
11. (1) Payment of money by instalments with or without interest.	193
(2) Order to be made at time of judgment or afterwards.	193
12. Enforcement of payment of judgment sums.	193
(1) Where judgment debtor is a paid employee.	193
(2) Where judgment debtor is self-employed.	194
13. Application for instalmental payment of judgment debt.	194
14. Affidavit in support of instalmental payment of judgment debt.	194
15. Judgment creditor's counter-affidavit.	194
16. When Court may grant application.	194
17. When judgment debtor defaults.	194
18. When proceeds exceed debt.	194
19. When proceeds are insufficient.	194
20. When judgment creditor may file for Garnishee	195
21. (1) Where judgment debtor succeeds on appeal	195
(2) When Court may direct release of money to judgment debtor.	195
(3) Chief Registrar to release money to judgment debtor.	195
22. (1) Where judgment debtor fails, etc on appeal	195
(2) When Court may direct release of money to judgment creditor.	195
(3) Chief Registrar to release money to judgment creditor.	196
23. Motion on notice to be served on parties.	196

24.	(1) When attached property may be released	196
	(2) When attached property is not released	196
25.	Enforcement of decision of the Supreme Court, Court of Appeal or Superior Court of Records	196

ORDER 50—APPEALS FROM DECISIONS OF ARBITRAL TRIBUNAL (IAP),
REGISTRAR OF TRADE UNIONS, ADMINISTRATIVE BODY, COMMISSIONS
AND BOARD OF INQUIRY (BOI), ETC.

1.	(1) Appeal from the decision of Arbitral Body.	196
	(2) Service of Notice of Appeal.	196
2.	(1) Content of Notice of appeal.	196
	(2) Notice of Appeal may specify only the part of the decision complained of.	197
	(3) Form of notice of appeal.	197
	(4) Notice of appeal to give contact information of arbitral body.	197
	(5) Parties to comply with Order 4 Rule 4.	197
3.	(1) Certified True Copies of proceedings appealed against.	197
	(2) Appellant to pay for Certified True Copies of proceedings appealed against.	197
4.	(1) Time allowed for sending certified true copies of proceedings to Court.	197
	(2) President of the Court to assign hearing of appeal to a Judge or panel of Judges.	197
	(3) Hearing of interlocutory application.	198
	(4) Adjournment of hearing of appeal.	198
5.	Notification of date of hearing with Certified True Copies.	198
6.	(1) Enlargement of time for hearing.	198
(2)	Application for enlargement of time.	198
7.	Striking out of appeal for default of time.	198
8.	Application for mandatory order to produce etc.	198
9.	Notification of time and Division for hearing of appeal.	198
10.	(1) Hearing and determination of Appeal on brief filed by parties.	198
	(2) Period for filing of appellant's brief.	198
	(3) Period for filing of respondent's brief.	199
	(4) Reply to respondent.	199
	(5) Brief to clearly identify issues from grounds of appeal.	199
	(6) New issues not to be considered.	199
11.	Time for parties to adumbrate briefs.	199
12.	Departure from the rules on compilation of records.	199
13.	(1) Striking out of appeal for default of appearance of appellant or counsel.	199
	(2) When brief may be deemed adumbrated.	199
	(3) Judgment with cost against appellant.	200
	(4) Costs at Court's discretion where respondent is in default of appearance.	200
14.	(1) Hearing of Appeal in absence of one party.	200
	(2) Court to dismiss matter for non-compliance with requirements.	200
15.	(1) No extraneous reasons at hearing.	200
	(2) Court may allow amendment of defective appeal.	200

B 34

16.	(1) Respondent may give notice of intention to seek confirmation of judgment on new grounds.	200
	(2) Notice to state new grounds for confirmation.	200
	(3) Period for filing and service of notice and grounds of appeal.	201
17.	(1) Filing of Cross Appeal.	201
	(2) Period for filing and service of cross appeal.	201
18.	(1) No objection on basis of defects in form of appeal unless permitted by Court.	201
	(2) Amendment of grounds of appeal.	201
	(3) No objections allowed to any defect in any proceeding of an Arbitral Body.	201
	(4) Court may refer matter back to Arbitral Body.	201
	(5) Adducing of evidence.	201
19.	(1) Certification of additional evidence.	202
	(2) Appellant to be present when additional evidence is taken.	202
	(3) Evidence taken as if before Arbitral Body.	202
	(4) Arbitral body to give opinion on demeanor of witnesses and additional evidence.	202
20.	Fees for civil appeals.	202
21.	Allowances for witnesses.	202
22.	Court may order Arbitral Body to rehear and determine a matter arising from misled or deceived respondent.	202
23.	(1) Stay of execution pending appeal.	203
	(2) Respondent's counter-affidavit.	203
24.	(1) Conditions for applying for stay of execution.	203
	(2) Order to limit time allowed for performance of imposed conditions.	203
	(3) Application for stay of execution made first to Arbitral Body.	203
	(4) No application for stay to Arbitral Body where execution of judgment has been ordered by the court.	203
	(5) Notice of <i>ex parte</i> application for stay of execution to be given to the other party.	204
	(6) Appellant to state nature of security given instead of deposit.	204
	(7) Appeal by motion against order of Arbitral Body.	204
25.	(1) Appeal is not to operate as a stay of execution.	204
	(2) Court may stay execution of award, etc.	204
26.	(1) Order to deposit money or security.	204
	(2) Appeal may be dismissed for default in deposit or security.	204
	(3) Respondent entitled to reasonable cost on dismissed appeal.	204
	(4) Reinstatement of dismissed appeal.	205
	(5) Appellant not entitled to cost except from net proceeds after full execution of award, etc.	205
27.	Affirmation, modification amendment of judgment or decision.	205
28.	(1) Arbitral Body to have Certified True Copy of judgment.	205
	(2) Action of Arbitral Body on Court's judgment.	205

29. Arbitral Body to enforce judgment of the Court as its own.	205
30. Expeditious enforcement of order of court by Arbitral Body.	205
31. Court may enlarge time prescribed.	205
32. Order to pay costs.	206
33. When time of confirmed award shall begin to count.	206
34. (1) Application for order of mandamus to refer matter to the Court.	206
(2) Service of order of mandamus on Minister.	206
35. Application for order of mandamus to compel approval or return of award.	206
36. Application for order of mandamus to include application to Minister.	206
37. Hearing notice and period for response by Minister.	206
38. Judge may deliver the judgment on behalf of others in the panel.	207
39. Arbitral Body decision not qualified for adr.	207

ORDER 51—GARNISHEE PROCEEDINGS

1. (1) Order for Garnishee Proceedings.	207
(2) Content of Garnishee Order	207
(3) Payment not to exceed acceptable amount.	207
(4) Judgment debtor to produce details of account for garnishee.	207
2. <i>Ex parte</i> application for Garnishee Order.	207
3. (1) Service of Garnishee Order.	208
(2) Order to be binding on the garnishee as specified.	208
4. (1) Where Garnishee does not dispute debt.	208
(2) Enforcement of absolute Order	208
5. Where Garnishee disputes liability.	208
6. (1) Where more than one person make claims on same debt as judgment debtor.	209
(2) Where a judgment debtor has more than one garnishee.	209
(3) Where Garnishee's debt is insufficient.	209
7. Where Garnishee complies absolutely.	209
8. Manner of payment of debt by Garnishee.	209

ORDER 52—PROCEEDINGS IN FORMA PAUPERIS

1. (1) Application under <i>Forma pauperis</i> .	210
2. (1) When court may grant order of <i>Forma pauperis</i> .	210
(2) Who may sue or defend in <i>Forma pauperis</i> .	210
3. (1) Conditions to be fulfilled.	210
(2) Counsel to prove indigence of party.	210
4. Fees and Costs.	210
5. Assignment of legal practitioner.	210
6. (1) Procedure to be followed.	210
(2) When an order can be rescinded.	211
(3) When <i>Forma pauperis</i> is not indigent.	211
7. (1) Revocation of Order : discontinuance, etc.	211
(2) When Legal Practitioner cannot discontinue action.	211

B 36

8. Payment to Legal Practitioner. 211
9. Duties of Legal Practitioner. 211
10. No Appeal in *Forma pauperis* except by leave. 211

ORDER 53

A.—Jurisdiction of the Chief Registrar

1. Chief Registrar includes Deputy Chief Registrar. 211
2. Business to be transacted by the Chief Registrar. 212
3. Chief Registrar may refer matter back to the President. 212
4. Appeal from the Order of the Chief Registrar. 212
5. Chief Registrar's cause list. 212
6. Party may be represented by Legal Practitioner. 212
7. Power of Chief Registrar to delegate to Registrars. 212

B.—Chief Registrar's Certificate

8. Chief Registrar's Certificate. 212
9. Chief Registrar's Certificate to refer to relevant judgment or Order. 213
10. Form of Chief Registrar's Certificate in cases of account and transcripts. 213
11. When Chief Registrar's Certificate becomes binding. 213
12. Taxing of bills of cost. 213
13. Certificate may be discharged or varied by the court. 213

ORDER 54—CHANGE OF COUNSEL

1. Notification of change or withdrawal of Counsel. 214
2. Service of notification of change of Counsel/legal practitioner. 214
3. Where Claimant or Defendant desires to terminate services of counsel. 214
 - (1) Party effecting change to furnish Registrar with particulars of new counsel. 214
 - (2) Party effecting change to serve other parties and their counsel notice sent to registrar. 214
4. New Counsel to regularize appearance. 214
5. Appearance of withdrawn counsel. 214

ORDER 55—COSTS

A.—Costs inter-party

1. Cost fixed at the Court's discretion. 215
2. Costs follow events. 215
3. Court may order payment of costs to be paid from the fund of subject matter of suit. 215
4. Court to fix amount of costs at time of judgment. 215
5. Principle to be followed in fixing cost. 215
6. Court may stay proceedings pending payment of costs by any party. 215
7. (1) Deadline and penalty for default in payment of court ordered costs. 215

(2) All costs for default and applications to be borne by party requesting extension.	216
(3) Counsel to bear costs arising from counsel's default.	216
8. Court/taxing officer to determine costs of taxation.	216
9. Matters to be considered in taxation of costs.	216
10. Fees to be taken into account in taxation of costs.	216
11. Principle of taxation of bill of costs.	216

B.—Security for Costs

12. When a Claimant or Defendant may be ordered to give security for costs.	216
13. Form and manner of security for costs to be determined by court.	217

ORDER 56—INTERPLEADER : THIRD PARTY PROCEEDINGS

1. (1) Entitlement to relief by way of interpleader.	217
(2) Meaning of "Sheriff".	217
2. (1) Claimants to goods, etc. taken by with execution process to give notice to Sheriff.	217
(2) Processing between Sheriff and execution creditor.	218
(3) When execution creditor is liable to sheriff	218
(4) When Sheriff can apply to court for execution.	218
(5) Sheriff to withdraw order when execution creditor admits claim.	218
3. (1) Mode of application.	218
(2) Service of summons on person who makes claim.	218
(3) No appearance on originating summons.	218
4. Applicant to satisfy Court by affidavit.	218
5. Adverse titles of claimants.	219
6. When application is made by defendant.	219
7. Stay of action.	219
8. Order upon summons.	219
9. Failure or neglect of claimant to appear to obey summons.	219
10. Costs, etc.	219

ORDER 57—COMPUTATION OF TIME

1. Computation of time.	219
2. Holiday.	219
3. Time for service of processes.	220
4. (1) Power of court to extend time.	220
(2) Court may <i>suo motu</i> or on application extend, etc, time.	220
(3) Interested party may apply for compliance.	220
(4) Court may condone non-compliance.	220
5. (1) Endorsement of original process.	220
(2) Amount paid for process.2200	
(3) Government institutions excluded from payment of fees.	220
(4) Counsel to government institution to pay fees.	220
(5) Process incompetent for default in payment.	220

B 38

(6) Penalty for default on order or directive.	221
<i>Proviso : Further Penalty</i>	
(7) When counsel may bear Penalty for default, etc.	221
6. (1) Counsel to calculate days of default for penalty	221
(2) Onus of calculating days and penalty for default on Counsel.	221
(3) Process incompetent for violation of rules of the Court.	221
(4) Public holidays not part of default days.	221
(5) Limit to the extension of time.	221
7. (1) Party reviving a matter after a year to give 30 days' notice to the other party.	222
(2) Application for urgent hearing.	222
8. Application to set aside or remit an award.	222

ORDER 58—MISCELLANEOUS PROVISIONS

A.—Court Sitzings and Vacation

1. Court sittings.	222
2. Court to sit in public, except for special reasons.	222
3. Office hours.	222
4. (1) Sitting and Vacation periods.	222
(a) Public Holidays	222
(b) Easter Recess	222
(c) Christmas Recess	222
(2) Annual Vacation	223
(3) Posting on Notice Board and Websites.	223
5. (1) Court may sit during vacation with consent of all the parties to take urgent matters.	223
(2) Vacation Judges.	223
(3) Hearing of urgent matters.	223
(4) Assignment of non-vacation Judge to hear and determine urgent matter.	223
(5) Parties in urgent matter to be notified of hearing of matter	223
(6) Urgent matter may be reassigned after vacation.	223
6. Time for filing and service of pleadings to include annual vacation period.	224
7. (1) Filing of process during vacation.	224
(2) Filing during recess.	224
8. Delivery of judgment during vacation.	224

B.—General

9. Recovery of penalties and costs.	224
10. Notices.	224
11. Document for filing to be duly endorsed by registrar.	224
12. How warrants, etc. for execution are to be addressed.	224
13. Validity of a part-heard matter.	224

14. Government Ministries, Departments and Agencies (MDAs) excluded from paying fees.	225
15. Regularisation of processes.	225
16. Affidavit defective in form only.	225
17. Amendment and re-swearing of affidavit.	225
18. Court's working hours.	225
19. Calculation of penalty for late filing of process.	225
20. Failure to obey court order may deny defaulting party right of audience.	225
21. (1) Any costs awarded to be paid before next adjourned date.	226
(2) Court not to grant audience to a disobedient or negligent party.	226
22. Court may strike out matter for default arising from claimant.	226
23. Counsel to bear the costs for negligence, disobedience or default to Court Order.	226
24. Where no Rules exist.	226
25. Court may inquire into status of counsel.	226
26. (1) Media coverage of court proceedings	226
(2) When media coverage may be carried out.	226
(3) Media allowed to remain in courtroom	227
27. Legal practitioner not allowed to grant interview, etc.	227

ORDER 59—APPOINTMENT OF PUBLIC TRUSTEE

1. Application for appointment of Public Trustee.	227
2. Appointment of Public Trustee by President of the court	227
3. (1) Eligibility for appointment as Public Trustee.	227
(2) Relationship of Public Trustee to organization.	228
(3) Remuneration and allowances of Public Trustee.	228
(4) Source of payment of remuneration of Public Trustee.	228
4. Functions and mandate of Public Trustee.	228
5. Terms of appointment of Public Trustee.	228
6. Extension of period of engagement of Public Trustee.	228
7. Report of Public Trustee.	228

ORDER 60—BUSINESS IN CHAMBERS

1. Representation in Chambers.	228
2. Interlocutory proceedings may be conducted in Chambers	228
3. Proceedings in Chambers to be properly recorded.	228
4. Orders made in Chambers to be drawn up.	229
5. Costs of proceedings in Chambers to be fixed at Court's discretion.	229
6. Application to set aside or vary order made in Chambers.	229

ORDER 61—WITHDRAWAL OR DISCONTINUANCE

1. (1) When party can withdraw or discontinue claim.	229
(2) When Claimant may withdraw any particular claim without leave of court.	229
(3) How party can withdraw or discontinue a claim.	229
2. Claimant may withdraw or discontinue claim before defence.	229

B 40

3. Withdrawal or discontinuance not a defence to subsequent claim. 230
4. No filing of the same claim until compliance with Court order. 230
5. Withdrawal by consent. 230
6. When Claimant withdraws or discontinues claim before defence. 230
7. When Claimant withdraws or discontinues claim after joining of issues. 230

ORDER 62—TRANSFER AND CONSOLIDATION

(A)

Transfer of Cases

1. Transfer of cases to other High Courts. 230
2. Duty of Registrar. 230
3. (1) Transfer of cases from other High Courts. 231
(2) Matter transferred from other High Court 231
(3) Registrar to issue hearing notices. 231
(4) Payment for transferred matter. 231
4. (1) Reference or case stated to the Court of Appeal. 231
(2) Ruling of Court on reference and case stated. 231
(3) When ruling admits reference as to Constitution. 231
(4) When ruling admits case stated. 232
(5) Compliance with sub-rule 3 or 4, 232
(6) When Court adjourns matter sine die. 232
5. Continuation of a matter in accordance with the opinion of the Court of Appeal. 232
6. When the Court is denied jurisdiction by the Court of Appeal. 232
7. When a matter may be transferred to another Judge in another division. 232
8. The President of the Court may reassign a matter to another judge in another division. 232
9. Transfer of a matter to another Judge or Division by the President of the Court at the request of a Judge or party. 233
10. When the Judge is transferred to another Judicial Division. 233
(1) Party may apply for reassignment of the matter to another Division. 233
(2) President of the Court may by fiat direct continuation of hearing by the same Judge. 233
(3) President of Court may direct the judge to fix a date for the adoption of Written Addresses. 233
(4) When a transferred judge may hear a part heard matter in a new Judicial Division. 233
(5) Parties may apply to judge to adopt on-going proceedings. 234
11. (1) How parties may seek transfer of a matter to the same Judge in the new Division. 234
(2) Response by counsel to the other party to the application for transfer of the matter to the Judge in a new Division. 234
(3) President of the Court to issue fiat for continuation of matter. 234
12. (1) Delivery of judgment in new judicial division. 234

(2) Delivery of judgment by another Judge.	234
13. (1) When transferee Court may adopt the order made by transferor Court.	234
(2) When exhibits from transferor Court may be allowed to remain or to be reclassified.	235
14. Notice to party of receipt of documents of transferred matter and payment of fees.	235
15. Service of notice on party concerned in transferred matter.	235
16. Conditions for service of notice after payment of fees.	235

B.—Consolidation

17. Consolidation of similar actions.	235
18. Actions pending before different Judges.	235
19. Order to consolidate where parties have similar nomenclature.	235
20. Application for consolidation by summons or by motion on notice.	236
21. Party applying for consolidation to pay for same.	236
22. When the President of the Court may order consolidation.	236
23. When the Court may order consolidation.	236
24. Consolidation of applications of the same subject matter.	236

ORDER 63—COMMITTAL FOR CONTEMPT OF COURT

1. (1) Exercise of the power of committal.	236
(2) When order of contempt is made.	236
2. (1) Application for committal to be made by motion on notice.	236
(2) Service of motion on notice, affidavit etc, on intended contemnor.	237
3. Court may make an order of committal <i>suo motu</i> .	237
4. (1) Order for committal for contempt for disobedience to Court order.	237
(2) Summons to contemnor to appear before the Court.	237
5. (1) Contemnor may defend or surrender to the charge.	237
(2) Decision of the Court on contemnor's defence.	237
(3) The Court may adjourn for judgment.	237
6. Where contemnor is not a natural person.	237
7. (1) Provisions as to hearing of committal application.	238
(2) Order for committal to be announced in open court.	238
(3) No new grounds allowed.	238
(4) Oral evidence at the hearing.	238
8. Saving provisions for contempt in the face of the Court.	238
9. Power to suspend execution of committal order.	238
10. (1) Discharge of the person committed.	238
(2) Action of sheriff on person committed for contempt.	238
11. Payment of fine or giving of security.	239

ORDER 64—STAY OF EXECUTION AND STAY OF
PROCEEDINGS PENDING APPEAL

1. Appeal section of the Registry and its Functions	239
2. Fees of compilation of records of proceedings	239
3. Deposit for compilation of records of proceedings.	239
4. Payment of estimated sum for records of proceedings.	239
5. Receipt for payment for records of proceedings.	240
6. Accounting for expenses on records of proceedings.	240
7. Failure to pay deficit.	240
8. (1) Stay of execution or stay of proceeding pending appeals.	240
(2) Application for stay of proceedings or execution.	240
(3) Filing of application is insufficient for stay.	240
(4) When the issue in the application for stay is not monetary.	241
9. Compilation of record.	241
10. (1) Court may grant or refuse to grant an order for stay of execution or proceedings.	241
(2) Order for stay of execution may be made subject to conditions.	241
11. (1) Application for stay to be regarded as urgent.	241
(2) No further application for stay of execution or proceedings.	241
12. Formal order to be drawn up.	241
13. (1) Documents for Appeal	242
(2) Application for stay of execution pending appeal	242
(3) Granting or refusal of application for order for stay.	242
14. (1) Application for stay of proceedings pending appeal.	242
(2) Granting of stay of proceedings	242
(3) Appeal not to operate as stay of execution or of proceedings	242
15. Registrar to bring matter up to knowledge of the President of the Court.	243

ORDER 65—POWER OF THE PRESIDENT OF THE COURT TO AMEND
RULES AND ISSUE PRACTICE DIRECTION

1. The powers of the President of the Court over new rules.	243
2. Publication of new rules.	243
3. The powers of the President of the Court to issue practice directions, etc.	243
4. Practice Directions, etc., to be published.	243

ORDER 66—ESTABLISHMENT OF COMMUNICATIONS AND
SERVICE CENTRE FOR E-FILING

1. Powers of the President of the Court to establish e-filing centre.	243
2. Further rules thereof.	243

ORDER 67—FEES AND ALLOWANCES

1. Fees and allowances.	243
2. Regulations.	244
3. Appendix—Forms 1, Order 67 r. (1) NICNR, 2017. Schedule of Fees Payable.	245

S. I. No. 1 of 2017

NATIONAL INDUSTRIAL COURT OF NIGERIA

(CIVIL PROCEDURE) RULES, 2017

[3th Day of January, 2017]

In exercise of the powers conferred upon me by Sections 254(F)(1), of the Constitution of the Federal Republic of Nigeria, 1999 (as amended by the Third Alteration Act, 2010) and Section 36 of the National Industrial Court Act, 2006 and all other powers enabling me in that behalf, I, HON. JUSTICE, BABATUNDE ADENIRAN ADEJUMO, OFR, MCI Arb, GFISMN, CFIAR, FCI Arb, FNILS, President, National Industrial Court of Nigeria hereby make the following Rules.

ORDER 1—REVOCATION, CITATION, SAVINGS, ETC.

1. The National Industrial Court Rules, 2007 and Practice Direction, 2012 are hereby revoked. Revocation.
2. These Rules may be cited as the National Industrial Court of Nigeria (Civil Procedure) Rules, 2017 and shall come into effect on the 5th day of January, 2017. Citation and Commence-ment.
3. These Rules shall, save to the extent and as may otherwise be ordered by the President, National Industrial Court of Nigeria, pursuant to Section 254(C) of the Constitution of the Federal Republic of Nigeria, 1999, (as amended) apply to all civil matters in respect of which jurisdiction has been conferred on the Court by Section 254C of the Constitution of the Federal Republic of Nigeria 1999 or any other enactment in force in Nigeria. Application.
4. The objectives and intent of these Rules are to— Objectives and Intent.
 - (1) establish an enduring, equitable, just, fair, speedy and efficient fast-track case management system for all civil matters within the jurisdiction of the Court.
 - (2) promote in the light of—
 - (i) specialized nature of the Court ;
 - (ii) the socio-economic importance of the jurisdiction of the Court ;
 - (iii) diverse composition of parties,
easy and speedy resolution of civil matters, as well as, effective and prudent management of the resources of the Court;
 - (3) enable a Judge sitting as a single Judge or a panel of Judges to fast track the hearing and determination of all processes, motions and or applications in respect of civil cases within the jurisdiction of the Court.
5. These Rules aim at creating a system for speedy dispensation of justice and fast-tracking of proceedings in the Court, and in particular the hearing and determination of interlocutory applications, motions and notices by— Aim.

(a) ensuring that in the determination of appeals against the decisions, awards, or recommendations of the Industrial Arbitration Panel, an Arbitral Tribunal, the Registrar of Trade Unions, or any Commission, Authority or Committee vested with power to deal with any matter within the jurisdiction of the Court and such bodies created by any Act or law (hereinafter referred to as Arbitral Body), the Court will only entertain and determine applications which cannot be taken with the appeals or are based on clear issues of fact and not on recondite points of law ;

(b) ensuring that a Judge or a panel of Judges is assisted in the determination of all matters to reduce delay occasioned in the hearing of proceedings in matters before the Court ;

(c) reducing as much as possible the time spent on the hearing and determination of interlocutory applications during proceedings and reducing the possibility of parties making use of interlocutory applications to frustrate the expeditious conduct of cases ;

(d) discouraging unwarranted or frivolous adjournments occasioned by counsel ;

(e) reducing the delays that may arise in the dispensation of justice by the Court ;

(f) facilitating the integration of Alternative Dispute Resolution (ADR) as provided in Section 254C(3) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended by the Third Alteration Act, 2010), with adjudicatory mechanisms to expand and provide easier and fairer access to justice for all classes of parties.

Court to promote amicable settlement of disputes.

6.—(1) In any civil proceedings before the Court, it shall be the primary duty of the Court after the parties have joined issues, to promote reconciliation, encourage as well as facilitate amicable settlement of the dispute amongst the parties.

Party to apply for time.

(2) Any of the parties before the Court, may apply to the Court for time within which to reach an amicable settlement of the dispute.

Construction of reference to law, rules, etc.

7.—(1) Any reference herein includes a reference to anything done under any corresponding Statute or Rules of Court ceasing to have effect on the commencement of these Rules.

Reference to enactments.

(2)(a) Except where the context otherwise requires, any reference in these Rules to any enactment shall be construed as a reference to that enactment as subsisting with regard to construction or reference to law, rules, and any other enactment.

(b) Except where the context otherwise requires, any reference in these Rules to any enactment shall be construed as a reference to that enactment as amended, modified, or applied by or under any other enactment.	
(3) These Rules shall apply to all proceedings including part-heard causes and matters in respect of steps to be further taken in such causes and matters for the attainment of a just, effective, efficient, and speedy dispensation of justice.	Savings.
8.—(1) When an action has been filed prior to these Rules and no further step has been taken other than filing, subsequent steps in the proceedings shall be under these Rules.	Rules to apply to action earlier filed.
(2) In all other cases where causes or matters are pending, the Court shall give such directions as may be necessary or expedient to ensure conformity with the requirements of these Rules.	Court to give direction to ensure conformity with rules.
(3) The President of the Court may give practice directions, for the effective implementation of these Rules.	President to give Practice Directions.
9.—(1) Where a matter arises for which no provisions or adequate provisions are made in these Rules, the Court may adopt and apply any procedure as will in its view do substantial justice to any of the parties concerned in the matter.	Where No Rules exist on a matter.
(2) These Rules are to be applied by the Court as it considers fit and the Court may depart from the rules of evidence in the interest of justice as provided in Section 12(2)(b) of the National Industrial Court Act, 2006.	Application of Rules by Court and Departure from the Rules of Evidence.
(3) The Court may disregard any technical irregularity which is likely to result in a miscarriage of justice.	Disregard for Technical irregularities.
10.—(1) These Rules shall be interpreted in accordance with the Interpretation Act, Cap I.23 Laws of the Federation of Nigeria, 2004.	Interpretation (Cap. I. 23 LFN 2004).
(2) In these Rules, unless there is anything to the contrary, or the context otherwise requires, the following words and expression shall have the meanings ascribed to them as follows—	Meaning of words as contained in Interpretation Act, Cap I.23 Laws of the Federation of Nigeria.
“A matter of National Interest” means a matter relating to a strike, matters referred by the Minister of Labour and Productivity under section 17 of the Trade Disputes Act, 2004, or such other matters as the President of the Court may designate.	

“*Administrative Judge*” means a Judge of the Court designated by the President of the Court to be in charge of a Judicial Division in a Zone.

“*agent*” whenever the word agent is used in these Rules if it relates to a person at law, body corporate, Commission, agency, or any other body, it means anybody who represents the interest of the person at law, body corporate, Commission, agency or any other body in Nigeria. Any service made on an agent is presumed to be service on the principal.

“*Alternative Dispute Resolution*” (ADR) means the use of party driven mediation and conciliation processes for amicable resolution of matters between parties.

“*Alternative Dispute Resolution (ADR) Centre*” means a Centre established in the premises of the Court pursuant to section 254C (3) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

“*The Act*” means the National Industrial Court Act, 2006.

“*appearance*” means conditional or unconditional appearance :

“*conditional appearance*” means an appearance entered by a defendant or respondent to a suit on protest.

“*unconditional appearance*” means an appearance entered by a defendant to a suit not on protest as to the commencement or initiation of the action.

“*appeal*” shall not include an application for leave to appeal.

“*Appellant*” means any person who appeals or cross appeals against a decision or an award of an Arbitral Body or any statutory authority and an applicant for leave to appeal.

“*Application*” means a process initiated by motion before the Court.

“*Arbitral Body*” means Trade Unions, Commission or Board of Inquiry or Administrative Body or Panel or any Authority or Committee or Association or the Board empowered to implement the Employee’s Compensation Act, 2010 or any other institution vested with power to deal with any matter relating to or connected or arising from the jurisdiction of the Court.

“*Association*” has the meaning assigned to it by the Trades Unions Act.

“*Binding Award*” shall have the definition ascribed by the Trade Disputes Act and where it is an award confirmed by the Court it shall have the seal of the Court.

An award is binding if it is published in a Gazette by the Minister. Provided that where an award is confirmed by the Court, publication in the Gazette shall not be necessary.

“*Cause*” includes any action, suit or any other proceedings between claimant(s) and defendant(s), applicant(s)/appellant(s) and respondent(s).

“*Certified True Copy*” “*CTC*” means a photocopy or duplicate copy of an original document stamped and certified by a Commissioner for Oaths.

“*Chief Registrar*” is the Chief Administrative Officer (CAO) of the Court and subject to the approval of the President of the Court is responsible for the day to day running of the operations and administration of the Court.

“*Claim*” is that aspect of a cause or subject matter in which a party in a matter is stating and seeking the reliefs being sought against any other person(s) in a proceeding before the Court.

“*Claimant*” is any person seeking any relief (otherwise than by way of counter-claim as a defendant) against any other person(s) in any proceeding.

“*Collective Agreement*” means any agreement in writing for the settlement of disputes and relating to employment and physical conditions of work concluded between—

(a) an employer, a group of employers or one or more organizations, representatives of employers, on the one hand ; and

(b) one or more trade unions or organizations representing workers, or the duly appointed representative of any body of workers, on the other hand .

“*Collective Bargaining*” consists of negotiations between an employer and a group of employees so as to determine the conditions of employment. The result of collective bargaining procedures is a collective agreement. Employees are often represented in collective bargaining by a union or other labour organization.

“*Collective Bargaining Agreement*” means an agreement in writing or writings between an employer and a trade union setting forth the terms and conditions of employment or containing provisions in regard to rates of pay, hours of work or other working conditions of employees.

“*Collective Dispute*” is a dispute between a group of trade unions representing workers and or a group of organizations representing employers.

“*Complaint*” is a document in which the plaintiff tells the Court the acts of a case, the plaintiff’s version or perspective, and what relief is sought.

“*Compact Disk/CD*” is an electronic device for storage of data and information in electronic form, either in audio or visual form or both.

“*Counsel*” means a lawyer licensed to practice law in Nigeria in accordance with the Legal Practitioners Act.

“*Counter-claimant*” is a defendant in a suit in a matter before the Court who is also claiming against the Claimant in the same suit.

“*Court*” means the National Industrial Court of Nigeria and includes the President and Judges of the Court sitting together as a panel or one Judge sitting as a single Judge.

“*Court Process*” or “*Process*” includes originating process, complaints or originating summons, notice of appeal or other notices, pleadings, orders, motions, summons, warrants and all other documents or written communication filed in the Registry of the Court for which service is required in any proceeding before the Court.

“*day*” whenever day is referred to in this rule, day means any day other than a Saturday, Sunday or public holiday and when any particular number

of days is prescribed for the doing of any act the number of days shall be calculated by excluding the first day and including the last day.

“decision” means any determination of the Court and includes, a judgment, ruling, decree, order, conviction, sentence or recommendation of the Court.

“Defendant” is a party who is sued and is defending the claim or action and it includes a defendant who is a counter-claimant in the same matter as well as a defendant to a counter-claim.

“Designated e-mail address” means the e-mail address(es) the e-filer has designated to the Electronic Filing Manager (EFM) for electronic service of process or document.

“E-filer” means a party or counsel to a party, an authorized agent of a party or counsel who e-files a process or document in accordance with these rules.

“E-filing” is a process by which a party or counsel in that behalf files a process or document with the Court or Court registry by means of an online transmission of the document through an electronic device or computer to a portal operated by an Electronic Filing Manager of the Court.

“Electronic Filing Manager” (hereinafter referred to as EFM) is an officer of the Court or an independent entity designated, contracted or otherwise engaged by the President of the Court to provide the single interface for managing the electronic filings to the various Divisions of the Court.

“E-filed Service” is a method of electronically serving any e-filed process (pleading, plea, motion or other form of request), required to be e-filed with the Court, by electronically transmitting a copy to the EFM for transmission to the designated e-mail address of the party to be served.

“Employee” is an individual who works full-time or part-time under a contract of employment, whether oral or written, express or implied, and has recognized rights and duties. Such individual is also referred to as a worker.

“External Process Server” means a person or body corporate appointed by the President of the Court to serve any Court process or document relating to a matter before the Court on any party or witness in a matter before the Court.

“Fast Track” is the process of giving a matter priority so as to hear it quickly and speedily because of the exigency of the matter.

“File” means to submit a complaint or application or document in the appropriate form (process) and pay the requisite fees either manually or electronically through the Registry of the Court.

“firm” means a business carried on by a sole owner, partnership or body corporate under a separate name.

“*Form*” means the appropriate form prescribed in the Appendix to these Rules.

“*Judicial Division*” means a location at which the Court carries out its business in any part of the Federation. All Judicial Divisions of the Court shall be one for the purpose of instituting, commencing and proceeding on any matter within the jurisdiction of the Court.

“*Neutral*” for the purpose of these Rules, a neutral is a person or entity who has no interest whatsoever either in the cause of the dispute or in the dispute itself between and among the disputing parties and who is taking no side with either of the parties and who is not aligned to any of the parties in the dispute but who is only appointed to facilitate and promote the amicable settlement of the dispute between and/or among the parties.

“*Official Process Server*” means an officer of the Court designated by the President of the Court or the Rules of the Court to serve Court process(es) or any document(s) relating to a matter before the Court on any party or witness in the matter before the Court.

“*Originating Process*” means a complaint or originating summons or any other court process(es) by which a suit or action is initiated before the Court.

“*out of Jurisdiction*” in these Rules means out of the Federal Republic of Nigeria.

“*party*” means a person, body corporate or an unincorporated body or an institution, union or organization who is named as having an interest or being connected with a matter or proceeding before the Court.

“*President of the Court*” means the President of the National Industrial Court of Nigeria.

“*Registrar*” includes the Chief Registrar and all other registrars of the Court.

“*Registry*” means the Registry of the National Industrial Court of Nigeria in any Judicial Division of the Court or any State Registries of the Court.

“*Registration as an E-filer*” constitutes consent to accept electronic service of processes, pleadings or documents or orders issued by the court relating to a matter before the Court e-filed by other registered E-filers (a party or counsel in the same matter).

“*representative*” means an official or employee of a registered trade union or employers’ organization or any other party in an action or matter before the Court who is representing the party which such official or employee is representing.

“*responsible person*” in relation to the service of any process or document under these rules means any person who by virtue of the person’s office and standing in the organization or institution is expected to appreciate the importance and relevance of a Court process or document emanating from the Court, which when delivered to and received by the person, such recipient

should ordinarily know that the recipient owes it a duty to deliver same to the addressee or otherwise to bring it to the addressee's attention.

"*Respondent*" means and includes a person against whom a claim, an application, an appeal or cross-appeal before the Court is pending.

"*Sexual harassment*" means an unwanted, unpleasant, offensive or threatening conduct of a sexual nature distinguished from sexual attention that is welcome and mutual. Sexual attention becomes sexual harassment if—

(a) the behavior is persistent, although a single incident or instance can constitute sexual harassment ; and/or

(b) the recipient has made it clear that the behaviour is considered offensive ; and/or

(c) the perpetrator should have known that the behaviour is regarded as unacceptable.

"*State Registry*" means an office established by the President of the Court for the purpose of carrying out its functions or as may be designated in a Practice Direction under these Rules.

"*Suit*" means an action or a matter brought or pending before the Court.

"*Taxing Officer*" means the Chief Registrar or such other officer of the Court as the President of the Court may appoint to tax costs.

"*Technical failure*" is defined as a malfunction of the Electronic Filing (EF) portal or the court's owned or leased hardware, software, or telecommunications equipment that results in the inability of an e-filer to e-file a process or document.

"*Trade Dispute*" means any dispute between employers and workers or between workers and workers, which is connected with employment or non-employment, or the terms of employment and physical conditions of work of any person.

"*Trade Disputes Act*" An Act to provide for the settlement of trade disputes and other matters ancillary thereto.

"*Trade Union*" has the same meaning as the Trade Unions Act or a labour organization that is not employers' dominated organization.

"*Tribunal*" means an Arbitral Tribunal, including a Board of Inquiry, Registrar of Trade Unions and any other body or authority dealing with any cause or matter on which jurisdiction is conferred on the Court.

"*Unfiled document e-service*" is a method of electronically serving documents that are not required to be e-filed with the Court but are required to be served on all other parties to the action. Unfiled document e-service occurs by electronically transmitting the documents to the EFM for transmission to the designated e-mail address of the party to be served.

"*within jurisdiction*" means within the Federal Republic of Nigeria.

"*Worker*" means any employee, that is to say any public officer or any individual (other than a public officer) who has entered into or works under a contract with an employer ; whether the contract is for manual labour,

clerical work or otherwise, express or implied, oral or in writing, and whether it is a contract of service or contract of employment or apprenticeship.

11. Words other than those defined in rule 10 of Order 1 of these Rules, shall have the same meanings as in the Act.

Meaning of other words.

ORDER 2—INSTITUTION AND TRIAL OF SUITS

1.—(1) Subject to the provisions of the Act on transfer of suits, an originating process in respect of a matter in which the Court has jurisdiction shall be filed in any Registry of the Court nearest to where the defendant or respondent resides or has presence or in which the defendant or respondent carries on business.

Filing of Originating Process in Registry.

Provided that where economic, security, environmental or other exigencies warrant, an originating process may be filed in the Court's Registry in a Judicial Division other than that closest to the place of residence or business of the defendant(s) or respondent(s).

Filing in other Judicial Divisions due to exigencies.

(2) Upon the filing of the originating process pursuant to sub-rule (1) of this rule, any hearing notice in respect of the case or matter shall be promptly served on the Defendant(s) or Respondent(s) and may be heard and determined at a Judicial Division as may be directed by the President of the Court.

Service of Hearing Notice for process filed out of Division.

2.—(1) In any State where the Court does not have a resident Judge, there shall be a State Registry.

State Registries.

(2) Notwithstanding the provisions of sub-rule 1 of this rule, the President of the Court, may by a Practice Direction establish a Registry in any part of a State with a Judicial Division where the interest of justice and convenience of the stakeholders so demand.

Establishment of State Registries in Judicial Division.

(3) The State Registry shall perform the following functions—

Functions of the State Registry.

(a) Receiving for filing :

- (i) complaints ;
- (ii) originating summons ; or
- (iii) interim applications ; or
- (iv) interlocutory applications ; or
- (v) ex parte motion ;
- (vi) motions on notice ; or
- (vii) witness statement on oath ; or
- (viii) any other process.

(b) Transmitting processes filed to the nearest Judicial Division for necessary action ;

(c) Issuing hearing notices to parties or their counsel, as may be required ;

	(d) Serving court processes on parties in a suit before the Court ;
	(e) Providing service of Commissioner for Oaths for affidavits or any other oath ;
	(f) Performing any other function as the President of the Court or a Judge of the Court may direct from time to time.
Processes to comply with Rules of Filing	(4) In filing any process in a State Registry, parties or their counsel shall comply with all applicable provisions of the Rules of this Court.
Non-compliant process to be rejected.	(5) Any process submitted for filing in any of the Registries of the Court which does not comply with any of the applicable Rules of this Court shall be rejected by the Registrar.
Service to comply with rules of Court.	(6) Service of any process filed in any of the State Registries, shall comply with the provisions of Order 7 and all other applicable provisions of the Rules of this Court.
When a process will not be allowed.	(7) Where an Officer in a State Registry wrongly or mistakenly accepts any process which does not comply with the provisions of these Rules on filing, such process shall be incompetent and shall not be allowed by the Court to be used for the purpose for which it is intended.
Propriety of process filed in the State Registry.	(8) In furtherance of and in compliance with sub-rule 6 of this Rule, any process filed in any of the State Registries shall be deemed proper.
State Registries' Chambers.	3.—(1) The State Registries may have Judge's Chambers.
Where to hear interlocutory applications.	(2) Motions ex-parte or interlocutory applications shall only be heard by Judges in open court.
When Judge can take applications in Chambers.	(3) Notwithstanding the provisions of sub-rule 2 of this rule, in appropriate cases, the President of the Court may direct that a Judge of the Court take an interlocutory application other than motion ex-parte in Chambers of the Registry where the Court has no Judicial Division.
Judge to deliver ruling or judgment in open Court.	(4) Where a Judge takes or hears an application in line with sub-rule 3 of this Rule, the Judge may write the Ruling and deliver same immediately or adjourn the delivery of the Ruling on the matter to another day. The Ruling may be delivered in the open Court of the Judicial Division in which the Judge presides.

(5) Where a Judge takes an application in the State Registry as provided in sub-rule 3 of this Rule, the Judge may adjourn hearing of the substantive suit to the Court where the Judge presides.

Judge may adjourn hearing of substantive matter.

4.—(1) Where there are several defendants or respondents who reside or carry on business in different Judicial Divisions, the suit may be commenced in any one of those Judicial Divisions subject to any order or direction of the Court as to the most convenient arrangement for trial of the suit.

Where several Defendants or Respondents reside in different Judicial Divisions.

(2) Notwithstanding the provisions of rule 1 of this Order, the President of the Court may in the interest of justice, fairness, balance of convenience, equity and security of parties and the Court, direct that a case be heard in a Judicial Division other than where the case was filed.

President may assign Division for hearing of matter.

(3) Any matter filed in any of the Registries of the Court may be heard in any Judicial Division of the Court, as the President of the Court may direct, in line with sub-rule 2 of this Rule.

Assignment of matters by President of the Court.

5. Where any suit is commenced in the wrong Judicial Division, it may be tried in that Division unless the President of the Court otherwise directs.

Suits commenced in the wrong Judicial Division.

6. Where a party has justifiable grounds for a suit commenced in a particular Judicial Division to be heard in another Judicial Division, such a party or counsel to the party may apply to the President of the Court to consider and give directions as to the appropriate Judicial Division in which the suit may be heard. The direction of the President of the Court on such application shall be final.

Party may apply for appropriate Division where matter may be heard.

7. Whenever any matter under section 7(1)(b) ; section 17(1) and (2) ; section 18 or section 19 (a) and (c) of the Act is filed in any Division of the Court, the Registrar shall refer the matter to the President of the Court for assignment to a Judge of the Court or a panel of Judges as the President of the Court may deem fit.

Matters to be referred to the President of the Court for assignment.

8. Notwithstanding the provisions of Rule 7 of this Order, the President of the Court may delegate the assignment of the matters mentioned in Rule 7 of this Order to the Administrative Judge in charge of the Judicial Division or to a Judge in a Judicial Division.

President may delegate assignment of matter.

Provided that the power so delegated shall not extend to or include cases bordering on the provisions of section 254C (1)(c) and (e) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and sections 17 (1) and (2) and 19 (c) of the National Industrial Court Act, 2006.

Assigning matter of national interest.

9.—(1) Where a matter of national interest is before the Court, the President of the Court may hear the matter or designate a Judge of the Court to hear the matter.

Panel may sit on matter of national interest.

(2) Notwithstanding the provisions of sub-rule 1 of this rule, where there is a matter of national interest, the President of the Court may constitute a panel of three Judges of the Court to hear and determine the matter.

Designating an Administrative Judge.

10. The President of the Court may designate a Judge in a Judicial Division as the Administrative Judge.

President or Administrative Judge may hear or constitute panel of Judges.

11. Where a matter of national interest is to be heard by a panel of Judges in a Judicial Division, the President of the Court may preside or the Administrative Judge may constitute a panel of Judges of the Judicial Division to hear the matter and the Administrative Judge shall preside over the matter where the President of the Court so directs.

Zones of the Court.

12. For the purpose of these Rules and adjudicatory convenience, the Court shall be divided into the following Zones :

North-East Zone : Adamawa, Bauchi, Borno, Gombe, Taraba and Yobe States.

North Central Zone : Benue, Kwara, Kogi, Nasarawa, Niger, and Plateau States and the Federal Capital Territory, Abuja.

North West Zone : Jigawa, Kaduna, Kano, Katsina, Kebbi, Sokoto and Zamfara States.

South East Zone : Abia, Anambra, Ebonyi, Enugu and Imo States.

South South Zone : Akwa Ibom, Bayelsa, Cross River, Delta, Edo and Rivers States.

South West Zone : Ekiti, Lagos, Ogun, Ondo, Osun and Oyo States.

Co-opting of Judges to constitute a panel of three Judges.

13. Where a matter is to be heard by a panel of Judges in a Judicial Division and there is only one Judge or there are not more than two Judges in that Judicial Division, the President of the Court may constitute a panel or otherwise direct and cause the most senior Administrative Judge in that Zone to co-opt as member(s), any Judge(s) from any constituent part of the Zone in which that Judicial Division is located, in order that a panel of at least three (3) Judges can be constituted to hear and determine the matter.

- 14.** In constituting the panel on matters relating to rule 7 of this Order, the President of the Court may preside or assign a Judge of the Court to preside.
- President or Judge of the Court to preside over Certain Matters
- 15.** Notwithstanding the provisions of this Order, in the interest of justice, fairness, equity, convenience and security of the parties and the Court, the President of the Court may direct that any process filed in any Division or Registry of the Court be heard partly or to conclusion in any other Division of the Court other than where it was filed or commenced.
- President may direct Judicial Division where matter may be heard and concluded
- 16.** Whenever any matter relating to any monetary or other claim other than matters specified under section 254C(5) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended by the Third Alteration Act, 2010) is filed in any Judicial Division or Registry of the Court, the matter may be referred by the President or a Judge of the Court hearing the matter to the ADR Centre of the Court for resolution.
- Other matters that may be referred to the President of the Court.
- 17.—(1)** Any cause or matter commenced by originating summons or seeking any declaration for equitable or legal rights or interpretation of enactments, deeds, referral by the Minister of Labour and Productivity and agreements shall not qualify for referral to the ADR Centre.
- Matters not qualified for referral to the ADR Centre.
- (2)** All causes or matters challenging the appointment of a person to an office, union or association or organization or as Public Trustee shall not qualify for referral to the ADR Centre.
- Matters challenging the appointment of Public Trustee, etc.
- (3)** No causes bordering on collective disputes arising from the Trade Dispute Act (hereinafter referred to as TDA) shall qualify for Alternative Dispute Resolution (ADR) Centre. Accordingly, only matters involving individual disputes may be referred to the ADR Centre.
- Matters arising from collective disputes not for ADR.
- ORDER 3—FORMS AND COMMENCEMENT OF ACTION (FORM 1, 2, 45, 46)**
- 1.—(1)** Civil proceedings in the Court may be commenced by—
- Commence-ment of action.
- (a)** Complaint ; Form 1.
- (b)** Originating Summons ; Form 45, 46.
- (c)** Originating motions ;
- (d)** Application for Judicial Review ;
- (e)** Notice of Appeal or Petition ;
- (f)** Referral from the Minister of Labour and Productivity;
- (g)** by any other means that may be prescribed by these Rules, Act or Law in force in Nigeria.

B 56

Filing of action.	(2) The processes mentioned in sub-rule (1) of this rule shall be filed and sealed in any of the Registries of the Court in accordance with the provisions of Order 2 rule 1 of the Rules of this Court.
Action by Complaint. Form 1.	2. —(1) Civil proceedings that may be commenced by way of Complaint include all matters in which the Court has exclusive jurisdiction as provided in section 254C(1) paragraphs (a)-(k) and (m) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) or by any Act or law in force in Nigeria.
Filing of matter under Section 254C(1)(d) of the 1999 Constitution (Fundamental Rights).	(2) Where any matter relating to Section 254C(1)(d) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) is to be filed before the Court, such matter, if — (a) it relates only to interpretation, shall be by way of Originating summons ; (b) it relates to interpretation and application shall be by way of Complaint.
Action by Originating Summons. Forms 45, 46.	3. Civil proceedings that may be commenced by way of Originating Summons include matters relating principally to the interpretation of any constitution, enactment, agreements or any other instrument relating to employment, labour and industrial relations in respect of which the Court has jurisdiction by virtue of the provisions of section 254C of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) or by any Act or law in force in Nigeria.
Action by Application for Judicial Review.	4. Actions that may be commenced by Application for Judicial Review include all matters necessitating application for an order or for a declaration or for mandamus, prohibition, certiorari or injunction, in such matters on which the Court has exclusive jurisdiction, as provided in section 254C(1) paragraphs (a)-(k) and (m) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) or by any Act or law in force in Nigeria.
Action by Notice of Appeal.	5. —(1) Civil proceedings that may be commenced by Notice of Appeal or by Petition include all matters in respect of which the Court has appellate jurisdiction as provided in section 254C(1) paragraph (l) (i) and (ii) of the Constitution of the Federal Republic of Nigeria, 1999 as (amended) or by any Act or law in force in Nigeria.
Appellate jurisdiction on certain provisions of Employees' Compensation Act.	(2) Other civil proceedings that may be commenced by Notice of Appeal include matters on which appellate jurisdiction has been conferred on the National Industrial Court by the provisions of Section 55 (4) of the Employees' Compensation Act, 2010.

6. Civil proceedings that may be commenced by referral from the Minister of Labour and Productivity include such matters in respect of which the Court has jurisdiction in accordance with the provisions of Section 14 of the Trade Dispute Act.	Action arising from referral by Hon Minister.
7.—(1) Whenever a party to a suit intends to move the Court to take any action touching on or concerning or in respect of a matter already before the Court either as Complaint, Originating summons, or Appeal, such action shall be by Motion on Notice.	Action by Motion on Notice.
(2)(a) Whenever an interested party to a suit prays the Court to grant the party hearing ex parte, such application shall be made by Motion ex parte supported by an affidavit setting forth the grounds upon which hearing is sought as well as a Written Address.	Application by Motion Ex parte.
(b) The application shall be on matters in which the Court has exclusive jurisdiction and on issues that relate to the proceedings of the Court such as— (i) an application for leave of Court to serve out of jurisdiction ; (ii) a request for substituted service ; (iii) an application for an interim order of injunction, or (iv) Other applications of an interlocutory nature as the Court may deem fit to order.	
8. The Complaint shall state specifically the relief or reliefs claimed either singly or in the alternative and it shall not be necessary to ask for general or other reliefs which may be given as the Court may think just.	Content of Complaint.
9. The Complaint shall be accompanied by : (a) a statement of facts establishing the cause of action ; (b) a list of witnesses to be called ; (c) a Written Statements on oath of all witnesses listed to be called by the Claimant ; and (d) a list and number of copies of documents and other exhibits to be tendered at the trial.	Document to accompany Complaint. Form 1A.
10. The Complaint shall be in the format set out in Form 1 and shall contain— (a) in PART 1 the following information : (i) the title of the matter ; (ii) the suit number assigned to the matter by the Registrar of the Court ; (iii) an address for service of the party or of the party’s counsel filing or delivering the document, at which the party will accept notices and service of all documents in the proceedings ; and	Format of Complaint.

(iv) a notice to the other party that if that party intends to oppose the matter, a response shall be filed by such party in accordance with the provisions of Order 15 Rules 1, 2, 3 and 4 within fourteen (14) days of service of the statement of claims, failing which the matter may be set down for default judgment and order for costs may be granted against that party.

(b) in PART 2 the following information :

(i) the names and description and addresses of the parties ;

(ii) a clear and concise statement of the material facts establishing the cause of the action in chronological order, on which the party relies, which statement shall be sufficiently particularised to enable any opposing party to reply to ;

(iii) a clear and concise statement of the legal issues that arise from the material facts, which statement shall be sufficiently particularized to enable any opposing party to reply to ; and

(iv) the relief sought ;

(c) The Complaint shall—

(i) be signed by the party to the proceedings or by such party's legal practitioner ;

(ii) express all dates, sums and numbers contained in the document in figures ;

(iii) be accompanied by a schedule listing the documents and the number of document and exhibits that are material and relevant to be used at the proceedings

Claimant to forward schedule of Documents to other party. Form 1A.

11.—(1) In addition to the provisions of Rules 8 and 9 of this Order, the Claimant shall file along with the claim, a schedule of all documents and exhibits to be relied upon at the trial and upon filing, forward an advance copy of same to the defendant(s).

Schedule of admissible or non-admissible documents. Form 1A.

(2) Within fourteen (14) days of the receipt of the schedule referred to in sub-rule 1 of this rule, the defendant shall file an acknowledgment indicating the document(s) the admissibility of which the defendant shall not be objecting to as well as those documents the admissibility the defendant shall be objecting to at the trial.

Admitted documents. Form 1A.

(3) Any document and exhibits contained in the schedule which is/are not objected to by the defendant(s) may be deemed admitted and shall not be allowed to be objected to at the trial, except as the Court may otherwise direct.

Provided that :

(a) where the admissibility of a document is not objected to as provided in sub-rule (2) of this rule, the party seeking to put in the document in evidence shall tender same as an exhibit and the Court shall admit and mark same as an exhibit.

(b) where the admissibility of a document contained in the schedule is objected to by the Defendant, the ground of objection shall be raised at the trial and the Court may immediately or at judgment rule on the objection raised by the party to the admissibility of the document.

12.—(1) Where a party files an originating process arising from or connected with payment or non-payment of any monetary claim or salary, allowances, pensions, gratuity or benefit arising from any employment, the party shall clearly state in the statement of claim—

Originating process relating to monetary claims, etc.

(a) the source of the claim ;

(b) the amount being claimed or owed ;

(c) when the amount for payment became due ;

(d) when the demand(s) for payment was or were made ;

(e) how the demand(s) for payment was or were made ; and

(f) the response, if any, of the defendant to the demand(s) for payment being made.

(2) An employee or an employee's dependant may file an originating process for compensation on any matter relating to or connected with death or injury, illness or disease at the workplace or in the course of the employee's employment or engagement.

Originating process for Compensation.

Provided that the employee or the employee's dependant has not filed an appeal to the Board implementing the Employee's Compensation Act, 2010, in accordance with the provisions of Section 55 (4) of the Employee's Compensation Act, 2010.

(3) Where an employee or employee's dependant has elected to take the employee's request for compensation to the Board implementing the provisions of the Employee's Compensation Act such employee or employee's dependant shall not file an originating process with the National Industrial Court of Nigeria.

When an employee may not file an originating process for compensation with the Court.

(4) Where an employee or employee's dependant files an originating process for compensation pursuant to sub-rule (2) of this rule, the employee or employee's dependant shall clearly state in the originating process or statement of claim—

Content of originating process.

(a) the name and address of the employee ;

	(b) the name and address of the employer ; (c) the place, date and time of the illness, disease, injury or death ; (d) the nature and cause of the death, injury, disease or illness ; (e) the name and address of any specialist or accredited medical practitioner who attended to the employee ; (f) the report(s) of the specialist or accredited medical practitioner who attended to the employee ; (g) copy(ies) of the report of the death, injury, illness or disease informing the employer of occurrence of death, injury or disease ; and (h) copy(ies) of the employee's correspondence with the employer on the request for compensation and responses, if any.
Defendant's response.	(5) Where a defendant is served with an Originating Process that conforms with rules 8 and 9 of this Order, the defendant shall explicitly and clearly state in details in the defendant's statement of defence : (a) whether the defendant admits the claim in whole or in part ; (b) if the defendant admits the claim in part, the defendant shall state what part of the claim is admitted and how the defendant intends to pay the part or amount admitted ; (c) if the defendant has a counter-claim or set-off against the claim, the defendant shall clearly so state in the defence and shall proceed to file and plead the counter-claim which shall be treated as a separate claim ; (d) where the defendant files a counter-claim or set-off as defence to the Claimant's claim, the Claimant shall file a statement of defence to the counter-claim and/or the set-off within seven (7) days of the date of receipt of the counter-claim and/or set-off ; (e) where the defendant admits part of the claim, the Claimant may bring an application for the payment of the part admitted by the Defendant ; (f) where in a matter before the Court, the defendant admits part of the claim, the Court may suo motu enter judgment for the payment of the part of the claim admitted by the Defendant.
Court to proceed to hear part of Claim.	(6) Where there is an admission of part of the claim, the Court shall proceed to hearing the remaining part of the claim or counter-claim.
Complaint on termination of appointment.	13. Where the Claimant is challenging the termination of appointment, the suspension or dismissal of the Claimant therefrom, the Complaint shall be accompanied by the Claimant's letter of appointment, if any, together with a letter of confirmation of appointment, letter(s) of promotion where applicable, notice or letter of suspension, termination of appointment or dismissal and all other documents the Claimant wishes to rely upon at the trial of the suit. The

accompanying documents shall be exhibited along with the statement on oath as bundle of exhibits in support of the Claimant's claim before the Court.

14. The Defendant thereto may by a statement on oath supported by a counter-affidavit and accompanied by relevant documents respond to the documents filed by the Claimant.

Defendant's response to Rule 12 above.

15. Notwithstanding the provisions of rules 9 and 10 of this Order, a party in a matter before the Court may apply for leave to call additional witness(es) after filing the party's list of witnesses.

Application for leave to call additional witness(es).

Provided that such a party shall file along with the application for leave, the said witness(es)'s written statement on oath subject to the provisions of Order 15 of these Rules.

16.—(1) Any person claiming to be interested under an enactment, constitution, agreement or any other written instrument may by originating summons apply to the Court for the determination of any question of construction arising from the instrument and for a declaration of the rights of the person(s) interested, in so far as such question of construction arises from a subject matter over which the Court has jurisdiction.

Application for the determination or declaration of rights. Form 45 or 46.

(2) A party activating the interpretative jurisdiction of the Court shall indicate with sufficient particularity the provisions or part of the document sought to be interpreted.

Party to give sufficient details of provisions for interpretation. Format of appealing.

(3) Where the claimant complains against an award or decision of an Arbitral Tribunal, Board of Inquiry, decision of the Registrar of Trade Unions or decision of the Board empowered to implement the Employee's Compensation Act, 2010 or any other authority in respect of any matter within the jurisdiction of the Court (hereinafter referred to as Arbitral Body), the complaint shall be accompanied by a Record of Appeal, which shall comprise :

- (a)** The Notice of Appeal against the decision of the Arbitral Body being complained of ;
- (b)** Certified True Copy(ies) of all the processes exchanged by the parties at, or the representations made to the lower Tribunal ;
- (c)** Certified True Copy(ies) of the record of proceedings before the Arbitral Body (where applicable) ;
- (d)** Certified True Copy of the Award or decision of the Arbitral Body ; and
- (e)** Appellant's Brief of Argument.

Provided that in the case of an appeal from the decision of the Board of the Employee's Compensation Act, 2010, the appellant has not filed an Originating process with the Court on the same subject matter of compensation for death, injury or disease, illness or disability or ill-health or safety at the workplace.

B 62

Documents to accompany Originating summons. Form 45, 46, 47, 48.

17.—(1) An Originating summons shall be accompanied by :

(a) an affidavit setting out the facts relied upon to sufficiently identify the cause or causes of action in respect of which the claimant claims relief or remedy ;

(b) copies of the instrument indicating part(s) sought to be construed (other than an enactment) and other related documents ;

(c) a Written Address containing the issues to be determined and succinct argument of the issues.

Provided that where a suit raises a substantial dispute of facts or is likely to involve substantial dispute of facts, it shall not be commenced by way of originating summons, but by Complaint as provided for in rules 8 and 9 of this Order.

When suit raises substantial disputes of facts.

(2) Where in the opinion of the Court, a suit commenced by Originating summons raises substantial issues and dispute of facts, the Court shall not strike out the matter, but may order its conversion to Complaint and direct the parties to file and exchange pleadings and conduct the trial of the case in accordance with the Rules of the Court governing trial.

Representative counsel to be served processes.

18. Where a Claimant has appointed or instructed Counsel to represent the Claimant in Court, and the Counsel has entered appearance, all processes in the matter shall be served on the Claimant's Counsel, except as the Court may otherwise direct.

Number of Documents for Service.

19. The party filing an Originating Process as provided in rule 17 of this Order shall leave at the Registry sufficient number of copies thereof together with all the accompanying documents for service on the Defendant(s) or Respondents(s) and five (5) copies to be kept in the case file.

Time for filing in Registries.

20. Court process(es) shall only be submitted for filing in any of the Registries of the Court between the hours of 8.00 a.m. and 3.00 p.m. during working days.

Provided no process(es) shall be received on Saturdays, Sundays and on public holidays.

Effect of failure to comply with the requirements of the Rules.

21.—(1) Where a Claimant fails to comply with rules 7, 8 and 9 of this Order, as the case may be, the Claimant's originating process shall not be accepted for filing by the Registry.

(2) Where a Claimant fails to comply with rules 9 and 10 of this Order, the Defendant may file a motion on notice challenging the competence of the action filed by the Claimant. Such notice shall be filed within seven (7) working days from the date of receipt of the originating process and shall state the grounds of incompetence in the supporting affidavit.	Challenging the competence of action.
(3) Where the Claimant receives the notice in sub-rule 2 of this rule, from the Defendant(s), the Claimant shall file a counter-affidavit in response to the notice within five (5) working days. The counter-affidavit shall be supported by a Written Address.	Claimant's counter-affidavit.
22.—(1) The Registrar shall indicate the date and time of presentation for filing on every originating process presented and shall arrange for service thereof to be effected on the other parties.	Registrar to indicate time of filing of process and arrange service.
(2) An originating process shall not be altered after it is sealed except upon application to the Court.	
23.—(1) Whenever service of pre-action notice is statutorily required for a party to bring an action against a defendant, the party bringing the action shall file a photocopy of the pre-action notice served on the Defendant along with an originating process.	When pre-action notice is required.
(2) Where an action is filed without a photocopy of the pre-action notice, the Court may declare the process incompetent.	Action filed without photocopy of pre-action notice.
ORDER 4—ENDORSEMENT OF CLAIM AND CONTACT INFORMATION	
1. Every originating process shall be printed on Opaque A4 paper of good quality and shall contain the claim, the relief or remedy sought with the full names and address of the claimant or appellant.	Formatting of Originating Process. Forms 1, 2,
2. Where a claimant sues, or a defendant or any of several defendants is sued in a representative capacity, the originating process shall state that the suit is brought in that capacity.	Endorsement to reflect Representative Capacity
3. Where the claim is for debt or liquidated demand only, the originating process shall state the amount claimed and shall further state that the defendant may pay the amount with costs to the claimant or the claimant's Counsel within the time allowed for appearance and that upon such payment the proceedings shall terminate.	Endorsement where Claim is liquidated demand.
4.—(1) A claimant suing in person shall state on the originating process the Claimant's contact address(es), telephone number(s) and e-mail address(es) as the Claimant contact information for service of any Court process.	Originating process to indicate claimants or counsel's contact information.

B 64

Contact information of Claimant's Legal Practitioner.

(2) Where a claimant sues through Counsel, the Counsel shall state on the originating process the address, telephone numbers and e-mail address(es) of the Counsel's chambers as the contact information for service.

Provided that where the Claimant's Counsel is domiciled outside the Judicial Division where the suit was filed, the Counsel shall in addition, state the address, telephone numbers and other contact information of Chambers within the Judicial Division of the Court as contact information for service of processes on the Claimant's counsel.

Signature of Counsel on originating process.
Form 1

(3) An originating process shall be signed by the Claimant or Counsel where the claimant sues through a Counsel.

Change of contact information.

(4) Where a party or his or her counsel changes the contact information as specified in this Rule, party or counsel to the party shall notify the Court and the other party or counsel to the other party of the change of contact information.

Failure to notify of change of contact information.

(5) Where a party or counsel representing a party fails to notify the Court, the other party or counsel to the other party of a change in the party's contact information, service of any process on the party or on the party's counsel through the contact information earlier provided in sub-rule (1) of this Rule shall be deemed good and sufficient service.

Contact address of Defendant/Respondent.

(6) A party instituting an action or process shall state on the originating process the contact addresses (residential and business) and telephone number(s) or e-mail addresses (where available) of the Defendant/Respondent as the contact information for service on the Defendant/Respondent.

When a process can be set aside for faulty contact information.

5. Where the originating process does not correctly state the contact information for service, it shall not be accepted and where such contact information is vague, fictitious or misleading, the Court on the application of the Defendant may set the process aside.

ORDER 5—EFFECT OF NON-COMPLIANCE

Effect of Non-Compliance.

1. Failure to comply with any of these Rules may be treated as an irregularity and the Court may give any direction as it thinks fit.

Application to set aside for irregularity.

2.—(1) An application to set aside for irregularity any step taken in the course of any proceedings, may be allowed where it is made within a reasonable time and before the party applying has taken any fresh step after becoming aware of the irregularity.

Applications by summons etc.

(2) An application under this rule may be made by summons or motion and the grounds of objection shall be stated in the summons or notice of motion.

3. The Court may direct a departure from these Rules where the interest of justice so requires. Departure from the rules in the interest of justice.
- 4.—(1). At any time before or during the hearing of a matter the Court may— Further Departure from the Rules
- (a) direct, authorize or condone a departure from the Rules, where the Court is satisfied that the departure is required in the overall interest of justice, fairness and equity.
- (b) give such directions as to procedure in respect of any matter not expressly provided for in these Rules as may appear to the Court to be just, expedient and equitable.
- (2) The Court may, on good cause shown, condone non-compliance with any period prescribed by these Rules. Condonation of non-compliance with the Rules.
- (3) Where the Court on good cause shown to it condones non-compliance, in accordance with sub-rule (2) of this Rule, the Court may make an appropriate Order by which the Order shall be complied with. When Court condones non-compliance with the Rules.
- 5.—(1) Where any of the parties apply to the Court for a departure from the Rules, such application shall be made by motion on notice accompanied by an affidavit and a Written Address stating grounds for seeking a departure from the Rules while exhibiting due diligence in prosecuting the matter before the Court. The application shall be filed at least seven (7) days before the next date of hearing or as the Court may in the interest of justice direct. Application for departure from the Rules of Court.
- (2) Upon receipt of the Motion on Notice mentioned in sub-rule (1) of this rule, the Defendant or Respondent shall file a Counter Affidavit, if any, along with the Defendant's Reply and Written Address within seven (7) days of the date of such service on the Defendant or Respondent as the Court may in the interest of justice direct. Respondent's written address.
- (3) Notwithstanding the provisions of Rule 3 of this Order, in case of extreme urgency, the Court may under special and exceptional circumstances allow any of the parties to make an oral application to depart from the Rules, specifying compelling and exceptional circumstances why the Court should allow a departure from the Rules. Oral application for departure from the Rules.
- (4) In exercising any of its powers as may be conferred by the provisions of these Rules, the Court may take into consideration the exigency of the matter and the interest of justice and equity. Consideration of matter in the interest of justice, equity and exigency.

B 66

Rules of
Common
law and rules
of equity.

6.—(1) In any proceeding before it, the Court may apply the rules of common law and the rules of equity concurrently.

Provided that where there is variance between the rules of common law and the rules of equity, with reference to the same subject matter, the rules of equity shall prevail.

Departure
from extant
Evidence
Act.

(2) In any proceeding pending before it, the Court may as a specialized Court—

(a) regulate its procedure and proceedings as it thinks fit in the interest of justice and fair play.

(b) in appropriate circumstances, depart from the Evidence Act as provided in section 12 (2) (b) of the National Industrial Court Act, 2006 in the interest of justice, fairness, equity and fair-play.

Flexibility of
procedure.

(3) In any proceeding before it, the Court shall apply fair and flexible procedure and shall not allow mere technicalities to becloud doing justice to the parties based on the law, equity and fairness while also considering the facts of any matter before it.

ORDER 6—FILING AND ISSUE OF ORIGINATING PROCESS

Sufficient
copies of
Originating
Process to
be left with
the Registrar.

1.—(1) A claimant or Counsel shall, on presenting any originating process for filing and sealing, leave with the Registrar as many copies of the process as there are defendants or respondents to be served and one copy for endorsement of service on each defendant or respondent.

Copies to be
signed by
Claimants.

(2) Each copy shall be signed by the claimant suing in person or by the Counsel otherwise and shall be certified after verification by the Registrar as being a true copy of the original process filed.

Sealing of
Originating
Process.

(3) The Registrar shall seal every originating process which shall thereafter be deemed to be issued.

Registrar's
action on
duly filed
Originating
Process.

2. The Registrar shall after sealing an originating process, file it and note on it the date of filing and the number of copies supplied by a claimant or the claimant's counsel for service on the defendants. The Registrar shall then make an entry of the filing in the Cause Book and identify the action with a Suit Number that comprises the abbreviation of the Judicial Division, a chronological number and the year of filing.

Registrar to
arrange
prompt
service of
Originating
Process.

3. The Registrar shall arrange for prompt service of a copy of the originating process and accompanying documents on each defendant or respondent.

4.—(1) Every originating process shall ordinarily be valid for 6 months in the first instance beginning from the date of its issue.	Lifespan of an Originating Process.
(2) Where the Court is satisfied that it has proved impossible to serve an originating process on any defendant/respondent within its lifespan and a claimant applied before its expiration for renewal of the process, the Court may renew the original or concurrent process for three (3) months from the date of such renewal.	Extension of lifespan of originating process.
5. The Court may for good cause shown and upon timely application order two renewals in each case, provided that no originating process shall be in force altogether for longer than a period of 12 months. The Registrar shall state the fact, date and duration of renewal on every renewed originating process.	Renewal of Originating Process.
6. Where an originating process is lost after issuance, the Court, upon being satisfied of the loss and of the correctness of the process, may order the copy to be filed and sealed in place of the lost originating process.	Loss of Originating Process.
7. A claimant may on the issuance of an originating process or at any time during its validity, cause to be issued one or more concurrent originating processes each to bear the same date as the initial process marked ‘CONCURRENT’ with the date of issue stated on it.	Concurrent Originating Processes.
8. An originating process for service within the country may be issued and marked as a concurrent originating process with one for service out of the country or vice versa.	Issuance and Marking of Concurrent Originating Process for service.
9. Notwithstanding anything contained in this Order, where a Claimant files an originating process at the Registry of the Court, the Claimant or the claimant’s counsel may by notice of discontinuance withdraw the originating process either—	When Claimant can withdraw process.
(a) before the service of the originating process is effected on the Defendant or Respondent ; or (b) before the Defendant/Respondent files a defence or response.	

ORDER 6A—ELECTRONIC FILING OF PROCESS AND DOCUMENT

1.—(1) These rules shall govern electronic filing (“e-filing”) of all processes or documents connected with or relating to any matter before the Court.	Scope of Rules.
(2) There shall be an E-filing Centre for electronic filing and payment of filing fees for processes and documents relating to or connected with a matter before the Court.	E-filing Centre.

B 68

Document that may not be e-filed.	2. A party or counsel to a party may e-file any process or document that may be filed with the Court in paper form except :
Document for chamber or presentation in camera.	(1) Documents to be presented to the Court in Chambers or in camera, solely for the purpose of obtaining a ruling, and ;
Documents restricted by law.	(2) Documents to which access is otherwise restricted by law or Court order, etc.
Electronic Filing Manager (EFM).	3.—(1) There shall be an officer of the Court designated as an Electronic Filing Manager (EFM) at the E-filing Centre.
Responsibility of EFM.	(2) The EFM shall be responsible for the management of processes and document transmitted to the electronic filing portal of the Court.
E-filing to EFM through Court portal.	4. A party or party's counsel desiring to e-file a process shall first register as an E-filer with the EFM in order to e-file with the Court.
Format of e- filed document.	5. Any process or document to be e-filed must be formatted as follows :
Typed on A4 paper size.	(1) Typed or printed on 8.27 x 11.29 A4 white opaque paper ;
Formatted in PDF.	(2) Formatted in text-searchable portable document format (PDF) with the content appropriately rotated.
Conformity with prescribed format.	(3) Any process or document that is not compatible with the prescribed format stated in sub-rules (1) and (2) of this rule will be automatically rejected by the portal. The E-filer must confirm that each document is compatible with this format before it is e-filed.
Attachment of exhibits and appendices.	(4) Exhibits and appendices may be saved directly where such documents are in soft copy or scanned where they are printed on hard paper copy material and saved into one specifically named computer file with the authentication number of the E-filer and suit number and other relevant details of the matter.
E-filing through Court portal to EFM.	6.—(1) A party or counsel e-filing a process may do so to the EFM through the portal of the Court. Provided that no alternative electronic document filing and transmission system may be offered by courts or registrars. Provided also that parties or their counsel shall not file documents through any alternative document filing transmission system including tele-copier or fax.

Provided further that no court ruling, order, or practice of any court may be inconsistent with these rules.

(2)(a) The EFM shall issue the registered E-filer with an Authentication Registration Number (ARN).

EFM to
issue
Authentication
Registration
Number
(ARN)

(b) The ARN shall be used by the E-Filer in subsequent e-filing of any process or e-communication or correspondence with the Court on the matter before the Court.

Use of ARN.

(c) An e-filer must also provide designated e-mail address(es) to the EFM.

Provision of
e-mail
address.

(3) No process or document e-filed without the ARN will be accepted by the portal of the Court or transmitted to the EFM or to the Registry of the Court for further processing.

Rejection of
process or
document
without
ARN.

(4) Any process or document e-filed with the ARN may be sent to the portal of the Court and the EFM will forward the document to the Registry of the Court.

Sending of
document or
process with
ARN.

(5) Where a process is properly e-filed and accepted by the portal, the portal of the Court will :

Automatic
receipt of e-
filed process
or document.

(a) generate an e-mail acknowledging receipt of the e-filing ;

Court's
portal to
generate
acknowledge-
ment.

(b) send the automatically generated e-mail to the designated e-mail address of the e-filer ;

Send
acknowledge-
ment to
e-filer.

(6) Thereafter the e-filer will also receive a confirmation of the Registrar's acceptance of the filing, and a file-stamped copy of the document.

Confirmation
of Registrar's
acceptance
of e-filed
process.

7. An E-filer may e-file more than one process or document in the same matter by a single transmission to the portal of the Court to the EFM. Each e-filed document will be individually treated and may be accepted or rejected by the Registrar.

E-filing of
multiple
documents.

B 70

Electronic signature.	8.— (1) Counsel’s electronic signature constitutes the Counsel’s signature on the document in compliance with the signature requirements in these Rules, and authorizes payment of all filing and service fees associated with the e-filing.
Notarized document.	(2) If a document must be notarized, sworn to, or made under oath, the e-filer may electronically notarize the document or must scan the page with the notarized signature(s) or oaths and must include the page with the scanned notarized signature(s) or oaths with the document.
Signatures of opposing parties.	(3) If a document requires the signature of an opposing party, the E-filer must scan the page with the signature(s) of the opposing party and must include the page with the scanned signature(s) with the document.
Retention of document carrying original signatures.	(4) When an e-filer e-files a scanned image of a notarized signature or oath, pursuant to sub-rule (3) of this rule, the e-filer must retain the original document from which the scanned image was made until the case in which the document was filed is resolved. If the original document is in another party’s possession, that party must retain the original document until the case in which the document was filed is concluded.
Designated e-mail addresses.	9. An e-filer must include designated e-mail address(es) for e-service on all e-filings. An e-filer must notify the Registrar and the EFM of any change of the e-mail address within one business day of the change. The Registrar of the Court may send notices or other communications about a case to the designated e-mail address of the party to be served or the party’s duly authorized agent or counsel of record in lieu of physical service of the paper documents.
Hyperlinking of document or process.	10. An e-filed document may contain hyperlinks to another part of the same document or process on the same matter or party in the same matter, an attachment or exhibit contained within the same computer file.
Process or document must be malware or virus free.	11. An e-filed process or document must not contain a virus or malware. E-filed processes or documents suspected to contain a virus or malware will be automatically rejected by the e-filing portal of the Court. The e-filing of a document constitutes a certification by the e-filer that the document has been checked for viruses and malware.
Good and proper e-filing.	12. Where a process or document has been sent and acknowledged by the EFM, the e-filing is deemed good and proper and to have been delivered to the Registrar.
Timeliness of e-filing of process or document.	13. An e-filed process or document may be deemed timely filed if it is e-filed at any time before midnight on the date on which the document is automatically stamped received and expected to comply with an order or the relevant rules of the Court.

Provided that a transmission report by the e-filer to the EFM shall be prima facie evidence of the date and time of transmission.

14.—(1) Where an e-filed process or document is considered untimely arising from a technical failure or a system outage on the part of the e-filing portal of the Court, any process or document e-filed during the period of outage or failure may be deemed filed and the e-filer may seek appropriate relief from the Court.

Untimely e-filing due to technical failure or system outage.

(2) Where the system outage or technical failure prevents the e-filer from complying with an order, ruling, directive or any rule of the Court, the e-filer may by oral application during the Court proceedings seek for appropriate relief from the Court.

Party or counsel to seek relief for non-compliance arising from technical or system failure.

(3) Any technical failure or system outage that impedes a party from complying with e-filing procedures or an order, ruling or relevant rules of the Court cannot be a basis for disposing of any case.

Matter not to be disposed of for failure of e-filing arising from technical or system failure.

15.(1) Except as otherwise provided on the e-filing platform, the Registrar of the Court must not later than the first business day after receiving a document transmitted to him by the EFM, indicate to the e-filer whether the e-filer's process or document will be accepted for filing.

Time limit for acceptance or rejection of e-filing.

(2) Where the process or document complies with the order or relevant rule(s) of the Court or it is not misdirected, the Registrar must accept the document for filing.

Acceptance of document where process is in conformity with rules, etc. of the Court.

(3) If the Registrar fails to accept or reject a document within the time allowed, the document is deemed to have been properly filed and accepted.

Failure to accept or reject document within time allowed.

16.—(1) Where a process or document is accepted for filing, the Registrar will note the date and time of filing which, with the exception of sub-rule 2 of this rule, must be the date and time that the e-filer transmitted the document to the EFM.

Date and Time of transmission of document.

B 72

Transmission of confirmation of filing of process or document.

(2) Where the date and time a process is filed has been appropriately noted in accordance with the provisions of sub-rule (1) of this rule, the Registrar will send to the EFM an electronic confirmation which will include an electronically “file-marked” copy of the front page of the document showing the date and time the Registrar considers the process or document to have been filed.

Transmission of electronic confirmation of acceptance or rejection.

(3) The EFM may, on that same day, electronically transmit to the e-filer the “electronic confirmation” that the document has been accepted or rejected for filing by the Registrar.

Communication of rejection of e-filing to Registrar.

(4) Where a process or document is not accepted for filing, the Registrar may by electronic transmission inform the EFM of its action, with the reason for such rejection, on the same day decision on rejection of e-filing is taken.

Communication of rejection of e-filing to E-filer by Registrar.

(5) The Registrar must, on that same day of rejecting the e-filed process or document, electronically transmit to the e-filer by a short service message (SMS) to the phone of the e-filer an “alert” informing that the process or document was not accepted with the reason(s) for the rejection.

Payment of filing fees.

(6) Where a process or document has been duly filed and accepted, the Registrar shall transmit to the e-filer the filing fees for payment in accordance with the e-payment instruction on the e-filing portal.

Transmission of e-filed document to President of the Court for assignment.

17.—(1) When a process or document has been accepted by the Registrar as duly e-filed, the Registrar may transmit same to the box of the President of the Court for assignment of the matter in accordance with Order 2 rule 7 of these Rules or as the case may be.

E-filed process or document not to be transmitted to a Judge of the Court until assigned by President of the Court.

(2) Except as otherwise directed by the President of the Court, any process or document filed electronically may not be transmitted to any Judge of the Court until it has been properly assigned by the President of the Court.

- 18.** Where the President of the Court has delegated the assignment of matters in accordance with Order 2 rule 8 of these Rules to a Judge of the Court or to the Administrative Judge of a Judicial Zone, any matter e-filed in accordance with the provisions of Order 2 rules 1 and 4 for that Zone may be transmitted to the Judge so delegated or designated as the Administrative Judge for assignment, except as otherwise directed by the President of the Court.
- 19.** Where a matter has been duly e-filed, and assigned by the President of the Court or the Judge of the Court, the Registrar shall transmit to the e-filer the date and time of commencement of proceeding on the matter.
- 20.** Where a matter is already before the Court and by an order of the Judge presiding over the matter a document or application is supposed to be produced by any of the parties in the matter, any document e-filed in compliance with the order of the Judge on such matter shall be electronically transmitted to the Judge of the Court who gave the order.
- 21.** The Registrar may scan a paper document and designate the scanned version as the official court record. A Registrar may designate an e-filed document as the official court record.
- 22.** The Registrar must provide to the President of the Court or a Judge of the Court electronic access to e-filed documents within twenty-four (24) hours of the Registrar's acceptance of the document, and the President of the Court or a Judge of the Court or a designated staff of the President or the Judge's Chamber's may access such documents electronically or print such documents as necessary.
- 23.** The provisions of Order 6 and Order 6A may co-exist until such a time as the President of the Court may issue a Practice Direction for the discontinuance of Order 6 of these Rules.

Transmission of e-filed process to Judge of the Court for assignment.

Notification of date and time of proceedings in assigned matter to E-filer.

E-filing in compliance with order of the Court.

Official Record.

Access of the President or Judge of the Court to e-filed process or documents.

Order 6 and Order 6A to co-exist.

ORDER 7—SERVICE OF PROCESSES
FORM 16, 17, 18, 19.

- 1.—(1)** Any process or document required or authorized by these Rules or ordered by the Court to be served on any person who is a party in a matter may be served as follows :
- (a) by handing a copy of the process or document to the person or to the person's counsel ; or
- (b) by leaving a copy of the process or document at the person's or the person's counsel's residence or place of business ;

Manner of service of processes.

(c) by leaving a copy of the document or process at the person's place of employment ;

(d) by sending a copy of the document or process by registered post or courier to the last known address of the party or the party's counsel ; or

(e) by sending a copy of the document or process to the person concerned or to the person's counsel through the e-mail address(es) or any electronic mailing device provided by the parties concerned ;

(f) by sending a notification by way of hearing notice through a telephone short message services (SMS) of a process filed before the Court in which the person has been named as a party ; or

(g) by leaving at that person's address for service or, where no address for service has been given, at the registered office, principal place of business or last known address ; or

(h) (i) if the person is a company or other body corporate, by serving a copy of the document or process on a senior or a responsible employee of the company or body corporate at its registered office or at its principal place of business within the Federation, or its main place of business within the Judicial Division in which the dispute first arose or, if there is no employee willing to accept service, by affixing a copy of the document or process to the main door of the office or place of business or by posting same on the wall or the fence of the residence or place of business.

(ii) if the person is a trade union or employers' organization, by serving a copy of the document on a responsible person, or officer or employee of the union or employers' organization who at the time of such service is apparently in charge of the main office of the trade union or association or employers' organization or the union's or employers' organization's office within the Judicial Division in which the dispute first arose, at that office of the union or employers' organization or, if there is no person willing to accept service, by affixing a copy of the document or process to the main door of that office.

(iii) if the person or party is a partnership, firm or association, by serving a copy of the document or process on a person who at the time of service is apparently in charge of the premises, at the place of business of such partnership, firm or association or, if such partnership, firm or association has no place of business, by serving a copy of the document or process on a partner, the owner of the firm or the Chairman or Chief Executive Officer or Secretary of the managing partner or other controlling body of such association, as the case may be; and such service shall be deemed good service upon the firm. No leave to issue an originating process against them shall be necessary.

Form 18.

Provided that in the case of a partnership that has been dissolved to the knowledge of the claimant before the commencement of the action, the process shall be served upon every person sought to be made liable within the jurisdiction.

Provided further that where a process or any process is to be served on a partnership, no leave to issue such a process against any of the partners in the firm shall be necessary.

(iv) if the person or party is a Local Government Authority, by serving a copy of the document or process on the Local Government Chairman, Secretary or Supervising Councilor or Director of personnel of the Local Government Council or the Treasurer or any other responsible person, officer, or employee of the Local Government acting on behalf of that person ;

(v) if the person or party is a statutory body or an institution, by serving a copy on the Director General, General Manager, the Executive, full-time member of the institution or Commission, Secretary or similar Officer or member of the Board or committee of that body, or any responsible person, officer, or employee of the statutory institution acting on behalf of that body ;

(vi) if the person or party is a Ministry, Department, Agency, parastatal or any other institution of the Federal or State Government or the Federal Capital Territory, Abuja, by serving a copy of the document or process on a responsible person, officer or employee such as Attorney General or Permanent Secretary or Director, or their equivalent in any Ministry, Department, Agency or Branch of the Federal or State Government or the Federal Capital Territory, Abuja.

(i) by leaving copies of the process at the head office or any branch office of the claimant or defendant or the counsel of the Claimant/Applicant or Defendant in any part of Nigeria ; or

(j) by any other means permitted by the Rules of this Court or as may be directed by the Court.

(2) Any hearing notice or notice of adjourned date issued by the Court for service on any party may be served :

Service of
hearing
notices

(a) by telephone call to the numbers provided by the parties or their counsel ; or

(b) by any other means permitted by the Rules of the Court or as may be directed by the Court.

(3) The Court may direct that service of any document or process be effected in any manner prescribed by the Rules of this Court or by any Rules of a High Court in Nigeria or in any other manner the Court deems fit.

Service of
process by
the rules of
the Court or
that of
a High Court
in Nigeria.

(a) The President of the Court may designate an Officer of the Court as the Official Process Server.

Designation
as Process
Server.

B 76

(b) The Official Process Server shall effect the service of any process or document filed in the Court on any of the parties before the Court or their witnesses.

(c) The Official Process Server shall effect the service of any process, document, ruling, judgment, order, subpoena or invitation relating to any matter before the Court.

Service by means of electronic devices.

(4) Any process filed in the Court other than originating processes may also be served or effected on the parties through any of the following devices—

(a) Fax machine, where available ;

(b) As attachment to an electronic message via the e-mail address provided by the party or/and the party's counsel ;

(c) Short Message Service (SMS) to telephone number(s) provided by the party and/or the party's counsel ;

Provided that the use of Short Message Service (SMS) shall be limited to communicating dates of hearing or any change in respect thereof and not to be extended to service of other court processes, proof of which must be filed in the Court's record.

(d) Any other electronic communication and messaging platform ;

Electronic proof of service of process.

(5) Once a process is served by any of the above devices, its electronically downloaded and printed copy as a proof of service may be allowed to be tendered by a party who either transmitted the process or document or by the party or counsel that received same.

Electronically transmitted or received process acceptable as original document.

(6) An electronically transmitted process or document may be tendered as the original of the same process or document and the content therein may be received in evidence in proving the facts therein contained.

Electronic transmission of process deemed good and proper service.

(7) Proof of service of any Court process other than an originating process, served on any of the parties using the devices mentioned in sub-rule 4 of this rule shall be deemed good and proper service on any of the parties or counsel in the matter.

Electronic transmission of hearing notice deemed good and proper service.

(8) Where a hearing notice or any other Court process has been sent and delivered by means of any electronic device stated in sub-rule 4 of this Rule to the contact addresses or information provided by a party or counsel, it shall be deemed sufficient, good, and proper service on the party or counsel that provided the e-mail address(es) or electronic mailing device.

(9) Where prompt service of notice or documents authorized to be served by these Rules cannot be effected in any manner provided in this Rule, a party may by motion ex-parte move the Court for an order of substituted service to be effected by way of posting, publication in the media or any other means possible as the Court may deem effective and just.

Party may by ex parte motion move Court for an order of substituted service by other means.

(10) Every application for substituted service when necessary shall be made by motion ex-parte supported by an affidavit.

Ex parte motion to be supported by affidavit. Form 17.

(11) Every application for substituted service shall be accompanied by a Written Address in support of the order the applicant is seeking from the Court.

Ex parte application to be accompanied by Written Address.

(12) Where the Officer of the Court or a person charged with the service of any complaint or document on any person (in this rule referred to as recipient) is prevented by the violence or threats of the recipient or made to be impossible by the person on whom any complaint or document is to be served in concert with the recipient or under the recipient's control, it shall be sufficient to inform the person to be served of the nature of the complaint or document as physically near that person as practicable.

Informing uncooperative recipient of nature of document as sufficient service.

(13) Where a person to be served, whether alone or in concert with others, resists service or insults or assaults or attempts to threaten or threatens violence to the Process Server or otherwise prevents the Process Server from serving the process, the Process Server may throw or leave the process within the reach of the person to be served.

Service on uncooperative person by throwing process within reach.

(14) In all cases where service of any complaint or document has been effected by an Officer of the Court or an Official or External Process Server, an affidavit of service sworn to by the Officer of the Court or an Official or External Process Server appointed by the Court shall, on production, without proof of signature of the person so served be prima facie evidence of service.

When affidavit of service is prima facie evidence.

(15) When service is effected under any of the rules of this Order and there is proof of delivery, it shall be deemed good and sufficient service for all purposes.

Service under Rules of Court and proof of delivery.

(16) Any process served by an officer of the Court or an Official or External Process Server shall be deemed to be good service unless the contrary is proved to the satisfaction of the Court.

When service of process is deemed good.

B 78

Service on Saturday, Sunday or public holiday.

(17) Service of any process required by these Rules, shall not be effected on a Saturday or Sunday or on any public holiday, unless the Court otherwise directs by an Order endorsed on the document to be served.

Introduction of applicable rules of other High Courts for service of process.

(18) Where these Rules do not sufficiently provide for service of any process or do not make provisions for service at all, an application ex-parte may be made to the Court for leave to adopt any applicable Rules of a High Court in Nigeria. The application shall clearly state on the face of it the Order and Rules of the High Court sought to be adopted for the Court to apply and a copy thereof shall be attached to the application.

Proof of service by counsel.

(19)(a) Where a counsel or the servant, agent, staff or partner of the counsel (in this Order referred to as the representative of counsel) undertakes to effect service of process on the other party, or counsel to the other party, counsel or the representative of the counsel shall file a proof of service of the process within three (3) days of effecting the service.

(b) Where a counsel or the representative of the Counsel, undertakes to effect service on the other party, such counsel or the representative of the counsel who effects the service shall depose to an affidavit indicating the name, position of the person that acknowledged receipt, the date, time, place and mode of transmission of the process to the other party.

Registrar also to effect service.

(20) Where counsel or the representative of the counsel, in a matter has undertaken to effect service on the other party or counsel to the other party, the Registrar shall, notwithstanding the undertaking, also effect service of the process on the other party in accordance with the rules of the Court.

Service on Counsel's Chamber.

(21) Where any process is to be served on counsel in a matter, the service of such process on the Chambers, Secretary or any other counsel, clerk or officer in the counsel's Chambers shall be deemed good and proper service on counsel.

Service on Counsel in Court.

(22) Notwithstanding the provisions of sub-rule 21 of this rule, where a counsel in a matter agrees to accept service of process during proceeding in the Court, such service shall be deemed good and proper service.

Service of any process by Sheriff etc.

2.—(1) Service of any process shall be made by a Sheriff, Deputy Sheriff, Bailiff or other officer of the Court or an Official or External Process Server.

Service on Counsel

(2) Where a party is represented by a counsel, service of court processes may be made on such counsel or on a person under the control of counsel.

3.—(1) The President of the Court may appoint any competent person, company or firm as an External Process Server.	Appointment of External Process Server.
(a) An External Process Server shall perform all the duties of the Officer of the Court designated as an Official Process Server subject to the provisions of any Act or Law regulating service of court processes.	
(2) An External Process Server may be directed by the Court or any authorized officer of the Court to effect service of any process or document on any person, Company, Ministry, Department, Agency, Body Corporate, Institution, Commission, Trade Union, Employees' or Employers' Organization or any other party, named to be served on the face of the process or document.	External Process Server to effect service of process or document.
(3) An External Process Server shall effect service of any Court process(es) or document(s) on any of the parties, witnesses, or any interested party in accordance with the Rules of the Court.	External Process Server to effect service according to the Rules of Court.
(4) An External Process Server shall keep a book in which the particulars and records of process(es) or document(s) handed to the External Process Server for service shall be entered.	External Process Server's Book of Record of Processes and documents.
(5) The Registrar in charge of litigation or any other officer authorized to keep records of service of process(es) or document(s) shall keep and enter the records of every process or document handed over to the External Process Server to be served on every person, party, or any of the parties in the action required or named to be served, and any Ministry, Department, Agency, Body Corporate, Company, Institution, Commission, Trade Union, Employees' Association or Employers' Organization, as provided in sub-rule 2 of this Rule.	Registrar of Court to keep records of processes given to External Process Server.
(6) An External Process Server shall have all the powers of an Officer of the Court designated as Official Process Server authorized by the Rules of this Court or any Act or law to effect service of any Court process or document.	Powers of the External Process Server.
(7)(a) An External Process Server shall effect the service of any process or document handed over to the External Process Server for service in the same manner in which an Officer of the Court may effect service under the Rules of the Court.	External Process Server to serve as Officer of Court.
(b) An External Process Server shall enjoy similar protection as is available to an officer of the Court authorized to serve or effect service of process(es) or document(s) on any party or person on the face of the process(es) or document.	Protection of External Process Server.

B 80

Affidavit of Service by External Process Server.

(8) Upon service of a process by an External Process Server, the External Process Server shall depose to an affidavit of service at the Registry of the Court stating the name(s) of the parties served, the contact information (addresses) at which the process(es) were served, the time of service, mode of service, as well as acknowledgment of service signed by the parties served or any other person that received the process on behalf of a party in accordance with the provisions of rule 6 of this Order.

Service on un-cooperative party by External Process Server.

(9) Where a party to be served refuses, neglects or evades or is unwilling to accept service, the External Process Server shall after self-introduction to the party to be served, and after informing such party of the nature, content and purpose of the process throw the process at the party to be served or on anybody, howsoever, who is to receive it on behalf of the party and this shall be deemed good and proper service.

Proof of service by External Process Server.

(10) An affidavit deposed to by an External Process Server as prescribed in sub-rule 8 of this Rule shall be prima facie proof of service and shall be sufficient for that purpose until the contrary is proved to the satisfaction of the Court by the party on whom the process is said to have been served.

Other means of Proof of Service.

(11) Where service of documents has been effected by—

- (a) registered post,
- (b) the registrar,
- (c) hand-delivery or courier delivery,

the advice slip or some other acceptable proof of delivery provided by the postal agency ; the Registrar's out-going mail register or extract therefrom certified by the Registrar and a certificate of service or affidavit by the person effecting service, or delivery slip, or a copy of the document served duly signed by the recipient shall, respectively constitute sufficient proof of service.

Identity of person served.

(12) Where any document has been duly served on a responsible person, the name of that person shall be stated on the proof of service.

Affidavit of service to be kept in case file

(13) The affidavit of service deposed to by the External Process Server shall be kept in the case file while a copy of same shall be kept with the External Process Server as evidence of service of a process or document.

Payment of External Process Server on terms of agreement.

(14) An External Process Server shall be paid such fees for the services rendered in accordance with the terms of agreement entered into by the Court and the External Process Server.

Qualification of External Process Server.

(15) A person to be appointed as External Process Server shall :

- (a) either have served in a Court Registry or be familiar with the operations of a Court registry in the handling of court processes for a period of not less than fifteen (15) years' ;

(b) no longer be in the public service ; and

(c) possesses sufficient education to aid understanding of the importance of service of court processes and the implications and consequences of the failure or improper handling have of processes or service on a party in accordance with the rules of the Court.

Provided that—

(i) where the External Process Server is a company or corporate body it shall exhibit to the satisfaction of the President of the Court that it has in its employment staff that have reasonable and sufficient education and experience to understand the implications and consequences of service or non-service of court processes or documents on a party in a matter before the Court.

(ii) the company or corporate body has had cognate and proven experience in courier services for a period of not less than fifteen (15) years.

4.—(1) Where a defendant or respondent is a person under legal disability, service on the defendant or respondent's guardian shall be deemed good and sufficient service, unless the Court otherwise orders.

Service on
person under
Legal
Disability.

Provided that service on a minor who is over 16 years of age living independently or doing business shall be good and sufficient.

(2) The Court may order that service on a person under legal disability shall be deemed good and sufficient.

Good and
sufficient
service on
person with
legal
disability

5. Where a defendant or respondent is a detainee or prisoner, service on the head or other person in charge of the place of detention or incarceration shall be deemed good and sufficient service on the defendant or respondent.

Service on
Prisoner
Detainee.

6. Subject to any statutory provision regulating service on a Ministry, Agency or Department of Government, a Public or Private Institution, registered Company, Corporation, statutory Agency or public body or body corporate, Enterprise, Partnership, Board or any other Institution or Association required to be registered by law; every process requiring service may be served on the Ministry, Agency or Department of Government, Extra-Ministerial Body, Public or Private Institution, Company, Corporation, Statutory Agency or Public Body or Organization or Partnership or Board of any other Institution or Association required to be registered by law by delivery to the Minister, Permanent Secretary, Director General, or officially designated head of the Ministry, Agency, Department of a government, Public or Private Institution, Chairman of the Board, Managing Director/ Chief Executive Officer, Company Secretary,

Service on
public or
private
institution,
corporation,
etc.

Legal Adviser, Personal Assistant/Secretary to the Managing Director/Chief Executive Officer, or an Executive Director, or other senior principal staff of the organization, or to any responsible person or officer of any branch or zonal Office of the organization, Chief Security Officer of the company, Statutory Agency or Public Body or organization, or enterprise or any other responsible person who occupies or serves as the representative of the organization or enterprise or Board of any other institution required to be registered by law by leaving same at the registered, principal or advertised office or place of business of the organization or institution in Nigeria.

Service on
Foreign
Company
doing
business in
Nigeria.

7. When and where a suit is against a foreign corporation or company within the meaning of section 54 of the Companies and Allied Matters Act having an office and carrying on business within Nigeria and such suit is limited to a cause of action which arose within Nigeria, the originating process or other documents requiring service may be served on the principal officer or representative of such foreign corporation or company within Nigeria.

Provided that where a foreign company has complied with the provision of Chapter 3 of the Companies and Allied Matters Act, service shall be effected on one of the persons authorized to accept service on behalf of the said company.

Service on
Public
functionaries
sued ex
officio.

8. Where a Minister or Commissioner or the Attorney- General or the Director of Public Prosecutions, or any other public officer of the Federal or State Government is a party ex-officio as representing the Federal or State Government, as the case may be, in any proceedings in the Court, any notice or other document may be served on the public officer by leaving it at or sending it by registered post or courier service to the chambers or office of such public officer and service in this manner shall be as effective as if it were personal service.

Service on
local Agent
of Principal
who is out
of
Jurisdiction.

9. Where a contract has been entered into in Nigeria by or through an agent residing or carrying on business in any part of Nigeria on behalf of a principal residing or carrying on business out of jurisdiction, an originating process or any other document in an action relating to or arising out of such contract may, before the determination of such agent's authority or of business relations with the principal be served on such agent. A copy of the originating process shall be sent promptly by the claimant by courier to the defendant at the defendant's address out of Nigeria.

Service on
Person out
of
jurisdiction
as a
Necessary
Party.

10. Where any person outside Nigeria is a necessary or proper party in a matter before the Court and it is necessary to serve that person with the originating process or any other document relating to the matter, the Court may allow service of the process or such other document out of Nigeria.

11. Where the person on whom service is to be effected is living or serving on board any ship, it shall be sufficient to deliver the process to the person on board who is at the time of such service apparently in charge of such ship.	Service of person aboard a ship.
12.—(1) The party requiring service of any process shall pay all costs and expenses of and incidental to such service in advance.	Party to pay for Service.
(2) The amount payable for service shall be as directed by the President of the Court in Practice Directions from time to time.	Amount payable for service.
(3) Without prejudice to the provision of sub-rule 2 of this Rule, the party requiring service of any process shall deposit a specified amount of money with the Registry for service of the party's process or processes.	Payment for service of process.
(4) A temporary receipt evidencing payment of the deposit made for service shall be issued at the Registry to the party or counsel or any other person who made the deposit.	Receipt of payment for service.
(5) The amount payable for service shall be the prevailing charges of courier or official service providers; and in the case of transportation, it shall be the current commercial fares or as may be determined by Financial Regulations.	Rate for service by courier.
(6) On completion of service of process(es) an account shall be rendered of the expenses incurred by the Registry on the service. Provided that where,	Accounting for expenses on service of process.
(a) the amount expended on service is less than the amount deposited, the excess shall be refunded to the party or the party's counsel ;	
(b) the amount expended on service is more than the amount deposited, the party or the party's counsel shall pay the deficit incurred in that behalf.	
(7) Failure to pay for service of process or the deficit incurred on service of the process on behalf of the party as stated in sub-rule (6)(b) of this Rule shall render the process incompetent.	Failure to pay for service.
13. Service of originating and other processes, orders and documents whatsoever shall be effected between the hours of 6 (six) o' clock in the morning and 6 (six) o' clock in the evening.	Time of day within which to effect Service.
14.—(1) A register shall be kept at the Registry in such form as the President of the Court may direct for recording service of processes by any Process Server. The Registrar shall record therein the names of the claimant(s) or applicant(s) and defendant(s) or respondent(s), the method of service, whether personal or otherwise and the method used to ascertain that the right person was served.	Records of Service of processes.

B 84

Entry of reasons for failure to serve.

(2) Where any process was not served the reason(s) for such failure shall be recorded in the register.

When entry of failure to serve is evidence.

(3) Every entry in such register or certified copy thereof shall be prima facie evidence of the matters stated therein.

Creation of Judicial Divisions or Registries.

15.—(1) The National Industrial Court has one jurisdiction throughout the Federal Republic of Nigeria; and is only divided by the President of the Court into Judicial Divisions or Registries for adjudicatory and administrative convenience.

Service on party without leave of Court.

(2). All originating processes or other Court processes filed by any party before the Court shall be served on any other party in any part of the Federation without leave of Court.

Service of process out of Nigeria with leave of Court.
Form 3.

16. All originating processes or other processes filed by any party before the Court which are to be served on any other party outside the Federal Republic of Nigeria shall be with leave of the Court.

Other means of Service.

17. All documents not required in terms of these Rules to be served by an Officer of the Court or External Process Server may otherwise be served on a person by—

- (a) the party who issued the document, or
- (b) the party's counsel or counsel's representative ;

in any of the following ways—

- (i) by registered post ; or
- (ii) by delivery through a commercial courier service ; or
- (iii) by personal delivery to that party or to any person serving under the party at that person's place of work or residential address ; or
- (iv) by uploading to the electronic mailing address provided by the party ;

Time to serve process or document.

18. Service of any document in terms of these rules shall not be valid if served between 10 p.m. and 6 a.m.

Provided that the service of documents by post, electronic mailing address or courier service shall be valid whenever served.

Electronic service or e-filed document.

19. Every process or document that is e-filed may also be electronically served at the same time by the Registrar through the Electronic Filing Manager to the designated e-mail address(es) of the party or parties mentioned in the matter to be served, or to the e-mail address of the counsel to the parties in the matter.

20.—(1) Where a document or process has been duly e-filed, it is deemed appropriate for electronic service.	When e-filed document is good for service.
(2) Where a party or counsel electronically serves a document through the EFM, the party counsel must make a written certification of such service which will accompany the document setting out the date and time of service and the designated email address of the party served.	Certification of e-service of document.
(3) Where the EFM has electronically served a document or process, the EFM will send proof of service to the e-filer.	Proof of e-service.
(4) When e-service is carried out after 5:00 p.m. (recipient's time) the date of service is deemed to be the next day that is not a Saturday, Sunday or legal holiday.	Computation of time of e-service.
Provided that nothing in this rule shall preclude any party from offering proof that the notice or instrument was not received, and upon so finding, the court may extend the time for taking the action required of such party or grant such other relief as it deems just.	
21. An e-filer must include the designated e-mail address(es) of the e-filer on any electronically filed document.	Inclusion of designated e-mail addresses(es).
22. If an e-filer must serve a copy of a document on a party or counsel to the party who does not have a designated email address, such service must be in accordance with relevant rules in this Order.	Service of a party with no designated email address(es).
ORDER 8—SERVICE OUT OF NIGERIA AND SERVICE OF FOREIGN PROCESS FORMS 3, 4, 5, 6, 7, 8, 9, 10 or 16, 17, 18, 19, 20, 21	
1. Service out of jurisdiction of a Court process may be allowed by the Court whenever :	Where Service of process out of jurisdiction is allowed.
(1) any act, deed, contract of employment, obligation, or liability situate within the jurisdiction, is sought to be construed, rectified, set aside, or enforced in the action ; or for act, deed, contract of employment, etc.	
(2) any relief is sought against any person domiciled, or ordinarily resident within the jurisdiction ; or	Relief is sought against resident within jurisdiction.

B 86

When action is to enforce, rescind dissolve contract of employment.

(3) the action is one brought against the defendant or to enforce, rescind, dissolve, annul or otherwise affect a contract of employment or to recover damages or other relief for or in respect of a breach of a contract of employment or contract of services :

(a) made within the jurisdiction ; or

(b) made by or through an agent trading or residing within the jurisdiction on behalf of a principal, trading or residing out of jurisdiction ; or

(c) which by its terms or by implication is to be governed by the law in force in the jurisdiction, or is brought against the defendant in respect of a breach committed within the jurisdiction of a contract wherever made, even though such breach was preceded or accompanied by a breach of the jurisdiction which rendered impossible the performance of the part of the contract which ought to have been performed within the jurisdiction ; or

Injunction is sought to prevent anything within jurisdiction.

(4) any injunction is sought as to anything to be done within the jurisdiction, whether damages are or are not also sought in respect thereof ; or

For necessary or proper party.

(5) any person out of jurisdiction is a necessary or proper party to an action properly brought against some other party within the jurisdiction ; or

Where proceeding may be instituted by originating process.

(6) Any proceeding under any law or Rule of the Court may be instituted by any Originating Process.

Agreement as to prescribed mode, place etc. of service.

2. Where the parties have by their contract of employment or contract of service prescribed the mode or place of service, or the person that may serve or the person who may be served any process in any claim arising out of the contract of employment, service as prescribed in the contract shall be deemed good and sufficient service.

Application to be supported by affidavit.

3. Every application for leave to serve a complaint or for service of a Court process out of jurisdiction shall be supported by an affidavit or other evidence stating that in the belief of the deponent, the Claimant has a good cause of action, and showing in what place or country such defendant is or probably may be found, and whether such defendant is a Commonwealth citizen or not, and the grounds upon which the application is made, and no such leave shall be granted unless it shall be made sufficiently to appear to the Court that the case is a proper one for service out of jurisdiction under these Rules.

4. Any order granting leave to effect such service or give such notice shall limit a time after such service or notice within which such defendant is to enter an appearance, such time to depend on the place or country where or within which the process is to be served or the notice given, and on whether the means of transmitting or conveying such document such as air mail or any other means is available to such defendant.
- 5.—(1) Where the defendant is a foreigner and is not residing within Nigeria, the notice of the complaint and not the complaint itself, shall be served upon the defendant.
- (2) Where leave is granted under the foregoing provision to serve notice of the complaint out of jurisdiction, such notice shall be served in the manner in which complaints are to be served.
- 6.—(1) Service out of jurisdiction of the following processes or notices thereof may be allowed by the Court, that is to say :
- (a) an originating summons, where the proceedings began by an originating summons might have been begun by a complaint within the Rules ;
- (b) any originating summons, petitions, notice of motion or other originating proceedings :
- (i) in relation to any infant or lunatic or person of unsound mind ; or
- (ii) under any law or enactment under which proceedings can be commenced otherwise than by complaint ; or
- (iii) under any Rule of Court, by which proceedings can be commenced otherwise than by complaint ;
- (c) without prejudice to the generality of the last foregoing paragraph, any summons, order or notice in any interpleader proceedings or for the appointment of an arbitrator or umpire or to remit, set aside, or enforce an award in an arbitration held or to be held within the jurisdiction ;
- (d) any summons, order or notice in any proceedings duly instituted whether by complaint or any other such originating process as aforesaid,
- (2) Where the person on whom an originating summons, petition, notice of motion, or other originating process or a summons, order, notice is to be served is a foreigner or resides in a foreign country with which a Convention in that behalf has been made, a copy of the document concerned shall be served, together with an indication in writing that a process in the form of the copy has been issued or otherwise launched.

Order to fix time limit for appearance.

Service of Notice of Complaint out of jurisdiction.

Service of Complaint in appropriate manner.

Processes to be served out of jurisdiction.

Service on person resident within Convention.

B 88

Rules to
apply
mutatis
mutandi.

Procedure
for service of
Notice of
Complaint in
a non-state
party to a
Convention.

(3) The provisions of rules 3, 4, 5, 6 (2) of this Order shall apply mutatis mutandi to service under this rule.

7. Where leave is given to serve a complaint or notice of a complaint in any foreign country other than a country with which a Convention in that behalf has been made, the following procedure may be adopted—

(a) the document to be served shall be sealed with the seal of the Court for use out of jurisdiction, and shall be transmitted to the Permanent Secretary in the Ministry of Justice by the Chief Registrar on the direction of the President of the Court, together with a copy thereof translated into the language of the country in which service is to be effected and with a request for transmission to the Minister responsible for Foreign Affairs for further transmission of same to the Government of the country in which leave to serve the document has been given. Such request shall be in Form 7 in the Appendix with such variations as circumstances may require ;

(b) the party bespeaking a copy of a document for service under this section shall, at the time of bespeaking the same, file praecipe in Form 8.

(c) an official certificate, or declaration upon oath or otherwise Transmitted through diplomatic channels by the Government or Court of a foreign country to which this provision applies, to the Court, shall, provided that it certifies or declares the document to have been personally served, or to have been duly served upon the defendant in accordance with the law of such foreign country; or words to that effect, be deemed to be sufficient proof of such service, and shall be filed on record as, and be equivalent to, an affidavit of service within the requirements of these Rules in that behalf ;

(d) where an official certificate, declaration, affidavit or other notification transmitted to the Court in the manner provided in the last preceding paragraph certifies or declares that the efforts to serve a document have been without effect, the Court or Judge may, upon the ex parte application of the Claimant, order substituted service of such document, and the document and copy of the same, as well as the order shall be sealed and transmitted to the Permanent Secretary in the Ministry of Justice in the manner aforesaid together with a request in Form 9 of the Appendix, with such variations as circumstances may require.

Leave to
serve on
foreign
country with
Convention.

8. Where leave is given in a matter or cause or where such leave is not required, and it is desired to serve any complaint, originating summons, notice, or other document in any foreign country with which a Convention in that behalf has been or shall be made, the following procedure shall, subject, to any special provisions contained in the Convention, be adopted —

(a) The party bespeaking such service shall file in the registry a request in Form 8 in the Appendix to these Rules which may be varied as may be necessary to meet the circumstances of the particular case in which it is used ;

Such request shall state the medium through which it is desired that the service shall be effected either :

(i) directly through diplomatic channels ; or

(ii) through the foreign judicial authority,

and shall be accompanied with the original document and translation thereof in the language of the country in which service is to be effected, certified by or on behalf of the person making the request and a copy of each for every person to be served and any further copies which the convention may require (unless the service is required to be made on a Nigerian subject directly through the diplomatic channels in which case the translation and copies thereof need not accompany the request unless the Convention expressly requires that they should do so) ;

(b) the documents to be served shall be sealed with the seal of the Court for use out of the jurisdiction and shall be forwarded by the Registrar to the Permanent Secretary in the Ministry of Foreign Affairs for transmission to the foreign country ;

(c) an official certificate, declaration, affidavit or other notification transmitted through diplomatic channels by the foreign judicial authority, or by a Nigerian Diplomatic Agent to the Court, establishing the fact and the date of the service of the document, and shall be deemed to be sufficient proof of such service, and shall be filed in the records as, and be equivalent to, an affidavit of service within the requirements of these rules in that behalf.

9. Rule 8 shall not apply to render invalid or insufficient any mode of service in any foreign country with which a Convention has been or shall be made which is otherwise valid or sufficient according to the procedure of the Court and which is not expressly excluded by the Convention made with such foreign country.

Limitation
of Rule 8.

10. The Court or Judge, in giving leave to serve a document out of jurisdiction under these Rules, may in appropriate cases direct the mode of transmission, such as air courier, electronic transfer scanning and sending to appropriate e-mail addresses or internet sites, postage or faxing to be used by the party effecting service.

Court may
direct mode
of
transmission
of service

11. Where in any employment, labour or industrial relations matter or proceedings pending before a Court or a tribunal of a foreign country, a Letter of Request from such Court or tribunal for service on any person or citation in such matter is transmitted to the Court by the Attorney General of the Federation with intimation that it is desirable that effect be given to the same, the following procedure shall be adopted.

Mode of
effecting
Letter of
Request
from foreign
country.

(a) the Letter of Request for service shall be accompanied by a translation in the English Language, and by two copies of the process or citation to be served, and two copies thereof in English Language ;

(b) service of the process or citation shall be effected by an Official Process Server unless the Judge otherwise directs ;

(c) such service shall be effected by delivering to and leaving with the person to be served one copy of the process or citation to be served, and one copy of the translation thereof in accordance with the rules and practice of the Court regulating service ;

(d) after service had been effected by the Official Process Server, the Official Process Server shall file an affidavit of service in which the particulars of charges for the cost of effecting the service shall be stated. The affidavit shall be transmitted to the Chief Registrar with one copy of the process annexed ;

(e) the Chief Registrar shall examine and verify the Official Process Server's particulars of charges and may approve it or approve some lesser figure, whereupon the Chief Registrar shall forward to the Attorney General of the Federation or State a letter of request for service, the approved amount for service, evidence of service and a certificate appended thereto.

Procedure
for service of
document
from foreign
country.

12. Where in any civil cause or matter pending before a Court or tribunal in any foreign country with which a Convention in that behalf has been made, a request for service of any document on a person within the jurisdiction is received by the President of the Court from the Consular or other authority of such country, the following procedure shall, subject to any special provision contained in the Convention, be adopted :

(a) the service shall be effected by the delivery of the original or a copy of the document, as indicated in the request, and the copy of the translation, to the party or person to be served in person by an officer of the Court, unless the Court otherwise directs ;

(b) no court fees shall be charged in respect of the service. The particulars of charges of the officer employed to effect service shall be submitted to the Chief Registrar of the Court who shall certify the amount properly payable in respect thereof ;

(c) the President of the Court shall transmit to the Consular or other authority making the request a certificate establishing the fact and the date of the service in person, or indicating the reason for which it has not been possible to effect service, and shall at the same time notify to the said Consular or other authority the amount of the charges certified under paragraph (b) of this Rule.

13. Upon the application of the Attorney-General, the Court may make such order for substituted service or otherwise as may be necessary to give effect to the provision of rules 1 to 13 of this Order.

Order for substituted service.

14. Any order giving leave to effect service out of jurisdiction shall prescribe the mode of service, and shall limit a time after such service within which the defendant is to enter an appearance, such time to depend on the place or country where or within which the complaint or originating summons, or declaration is to be served, and the Court may receive an affidavit or statutory declaration of such service having been effected as prima facie evidence thereof.

Order for prescribe mode of service.

ORDER 9—APPEARANCE
FORM 11,12, 13, 14, 15, 58

1.—(1) Every person served with an originating process shall, within the time stipulated therein and if no time is stipulated shall within fourteen (14) days of the service of the originating process, file a Memorandum of Appearance in the Registry of the Court.

Need to file Memorandum of Appearance.

(2) The Memorandum of Appearance shall be signed by the party served or by the Counsel representing the party which shall contain full and sufficient address for service, the electronic mailing address(es) and telephone number(s).

Memorandum to be signed by counsel. Form 15.

(a) Where two or more defendants in the same action appear by the same Counsel, the Memorandum of Appearance shall include the names of all the Defendants so appearing.

Memorandum to include names of defendants represented by same counsel.

(b) A person under legal disability shall enter appearance by a guardian.

Appearance for legally disabled.

(3) Where the defendant or respondent files along with a Memorandum of Appearance, a defence out of time such defendant or respondent shall only pay one penalty in respect of the two processes.

Penalty for late filing of Memo of Appearance and Defense.

(4) Where the defendant fails to file a defence or Memorandum of Appearance or any other process after being in default, such defendant or respondent shall pay further penalty as stipulated in Order 57 rule 5 of these Rules.

Penalty for further default.

B 92

Time limit for forwarding of advance copy of Memorandum of Appearance.

(5) Any party that enters appearance or files any Court process in line with these Rules shall forward an advance copy of the process to the other party within seven (7) days of filing of the process.

Time limit for filing and service of advance copy of reply to advance copy of Memorandum of Appearance.

(6) Any party that has been served with an advance copy of an originating process or any Court process shall file and forward an advance copy of his or her or its reply to the other party within seven (7) days of filing of the process.

Effect of failure to enter appearance.

2. Where any defendant or respondent fails or omits to file a Memorandum of Appearance, the delivery of any document or subsequent processes in relation to the matter to the contact information shown on the originating process shall be deemed good and proper service.

Right of party to change contact information.

3. Any party or counsel to a proceeding may change the party's contact information as provided in Order 4 rule 4 of these Rules for service at any time by filing and serving same on the Court and all the parties to the proceeding giving notice of such a change of contact information.

Declaration by party who does not intend to appear..

4. At any time before the hearing of a matter, any party to the proceeding may file a declaration in writing that such party does not wish to appear in person or by Counsel on the hearing of the matter. A copy of such declaration shall be served on every other party who has filed a Memorandum of Appearance and thereupon the matter shall be dealt with as if the party had appeared.

Effect of failure to file Appearance, Defence or Declaration.

5.—(1) Where a defendant or respondent fails to file a Memorandum of Appearance within the stipulated time, or fails to file appropriate processes in defence of the action within the prescribed time, and also fails to file a declaration of intention not to defend the action, the Court may proceed to hear the matter and give judgment.

When party shows readiness to defend action.

(2) Where the defendant or respondent during the hearing, or within a reasonable time after conclusion of hearing and judgment applies to the Court giving satisfactory reasons for the failure to appear and defend the action, and demonstrates readiness to defend the action, the Court may in its discretion set aside any judgment given in default of appearance or defence, and allow

the defendant or respondent to appear and defend the matter on its merit, on such terms as to costs or otherwise.

6. No application to set a judgment aside and rehear the matter under rule 5 of this Order shall be made or entertained after the expiration of 30 days from the date of the judgment sought to be set aside.

Time within which application to set aside judgment and rehear matter may be made.

7. Where an action is filed in a representative capacity or the matter involves many Claimants or Applicants or Defendants/Respondents, any of the parties in the matter may appear on behalf of the Claimants/Defendants as the case may be.

Appearance in representative action, etc.

Provided that nothing shall prevent any of the parties to the matter who wishes to appear from appearing during any of the sittings of the Court on the matter.

8. Where a matter or application is filed before the Court, a party to the matter may appear as a Claimant or Applicant or Defendant or Respondent, whenever the matter or application comes up before the Court.

Appearance by party in action to give evidence.

Provided that when a matter is coming up for trial, and a party in the matter needs to testify and give evidence; the party shall appear in Court for the purpose of the day's proceedings.

ORDER 10—ENTITLEMENTS OF DECEASED EMPLOYEE (TESTATE)

1. Filing of any process related to or connected with outstanding salary, gratuity, pension, benefits, or any other entitlement of a deceased employee in any of the Registries of the Court shall attract twenty-five (25%) percent only of the stipulated filing fees.

Filing fees for process relating deceased employee.

2. Where a case involves the entitlements or benefits of a deceased employee who died testate, the Claimant shall in addition to any other document, attach the Will of the deceased person, the Probate Grant from the appropriate Probate Registry of a High Court and proof of appointment of executors of the Will.

Action for and on behalf of testate employee.

3. Any action filed before the Court concerning the entitlement of a deceased person who died testate which does not comply with Rule 2 of this Order shall not be entertained by the Court.

Compliance with Rule 2.

4. The Will, the Probate Grant and proof of appointment as executors shall be presumed to be true and authentic, unless the contrary is proved.

Presumption of authenticity of Will, etc.

B 94

Handling of
conflicting
Wills,
Probate
Grant.

5. Where there are conflicting Wills, Probate Grant and contradictory proof of appointment as executors, the authenticity or otherwise of the conflicting documents shall be resolved by the Probate Registry of the High Court in which the documents were obtained and not by the National Industrial Court of Nigeria.

ORDER 11—ENTITLEMENT OF DECEASED EMPLOYEE (INTESTATE)

Proof of
status as
kinship.

1. Where a case involves the outstanding salary, gratuity, pensions, benefit or any other entitlement of a deceased employee who died intestate but had named the next of kin or beneficiary in the deceased employment bio-data form, if such next of kin or beneficiary is the Claimant(s).

(a) shall provide proof of the next of kinship or relationship, either by—

Certified
True Copy
of
Employment
form.

(i) a Certified True Copy (CTC) of the employment bio-data form in which the Claimant was named as next-of-kin or beneficiary on the form obtained from the employer of the deceased employee ; or

(ii) a copy of the employment bio-data form of the deceased which may be in custody of the Claimant(s) ; in which the Claimant(s) has deposited to an affidavit ;

Letter of
Administration
from
Probate
Registry.

(b) attach Letter(s) of Administration obtained from appropriate Probate Registry of a High Court, or

Order from
Customary
or Sharia
Court of
Appeal etc.

(c) an order from a Customary Court of Appeal or Sharia Court of Appeal.

Application
for order to
produce
Employment
bio-data
form.

2. The Claimant may apply to the Court for an Order compelling the employer of the deceased to produce before the Court a copy of the employment bio-data form of the deceased in which the Claimant was named as next-of-kin or beneficiary.

Claimant
may use
document in
Claimant's
possession.

3. Where the employer fails, refuses or neglects to comply with the Order of the Court, the Claimant shall be at liberty to make use of any copy of the same employment bio-data form in the Claimant's possession to prove the claim.

Where there
is no next of
kin.

4. Where a case involves the outstanding salary, gratuity, pensions, benefits or any other entitlement of a deceased employee who died intestate and did not name a next of kin or beneficiary, the Claimant shall in addition to any other document,

(a) attach Letter(s) of Administration obtained from the appropriate Probate Registry of a High Court, or

(b) an order from a Customary Court of Appeal or a Sharia Court of Appeal.

5. Where the Claimant is unable to satisfy the provisions of rules 1, 2, 3 and 4 of this Order, the Claimant may attach ;

Proof of custom and practice.

(a) any proof related to or connected with inheritance emanating from the custom or tradition of the deceased employee, or

(b) any proof related to or connected with inheritance emanating from the traditional ruler or custodians of custom and tradition of the deceased employee's place of origin ;

Provided that the Court may also accept the evidence of traditional rulers or Chiefs or other persons having special knowledge of the Customary law and custom of the place of origin of the deceased employee ; or

(c) any book or manuscript recognized as legal authority by people indigenous to the community in which such law or custom applies and is admissible.

Provided that such proof or evidence is not repugnant to natural justice, equity and good conscience.

6. Any action filed before the Court concerning the entitlement of a deceased employee who died intestate which does not comply with the provisions of rules 1, 2, 3, and 4 of this Order may be incompetent and may not be entertained by the Court.

When an intestate action will not be entertained.

7. A process or any order of a Customary Court of Appeal or Sharia Court of Appeal, or any proof related to or connected with inheritance emanating from the customs or traditions of the people or from the traditional Ruler or Custodian of the customs or traditions of the place of origin of the deceased employee, presented before the Court, shall be presumed to be true and authentic, unless the contrary is proved.

Admissibility of process or order from Sharia or Customary Court of Appeal or other proof of custom.

8. Where there are conflicting Letters of Administration or any proof or Order of the Customary Court of Appeal or Sharia Court of Appeal or any proof related to or connected with inheritance emanating from the customs or traditions of the people or from the traditional Ruler or Custodian of customs or traditions of the place of origin of the deceased employee, the authenticity or otherwise of the conflicting letters of administration or any other process or the custom of the deceased employee, shall be resolved by the Probate Registry, Customary Court of Appeal or Sharia Court of Appeal or the traditional Ruler

When there is more than one letter of administration or any other proof or conflicting proof of custom.

or other Custodians of the customs and traditions of the deceased employee from which the letters or proof or order were obtained.

Court may invite custodian of custom.

9. Where there is conflicting evidence or other proof of the custom or tradition of the deceased employee, the Court may suo motu, invite the traditional Ruler or any other Custodian of custom as it relates to inheritance to give evidence or expert opinion on the matter.

Matters to be placed on fast track.

10. Any process related to or connected with outstanding salary, benefits, allowances, gratuity, pension or any other entitlement of a deceased person filed in any of the Registries of the Court, shall be placed on fast-track.

ORDER 12—PRE-TRIAL CONFERENCE

Response to claim or complaint.

1.—(1) Any party on whom a statement of facts or complaint has been served may respond to that statement of facts or complaint which must with the modifications required by the context of the statement of facts or complaint contain the same information required by Order 3 Rule 1 of these Rules.

Time limit for response.

(2) The response must be filed not later than fourteen (14) days after service of the statement of claim or complaint.

Court ordered or party-driven pre-trial conference

2.—(1) When a response is filed, the Court may suo motu order or the parties to the proceedings on their own volition may hold a pre-trial conference in accordance with the provisions of sub-rule 2 of this rule.

Time limit for initiating pre-trial conference.

(2) Where parties in a matter before the Court have joined issues, either the Claimant/Applicant or Defendant /Respondent may initiate the holding of a pre-trial conference within fourteen (14) days of joining issues.

When party fails, etc. to initiate pre-trial conference.

(3) Where either of the parties fails or refuses to initiate a pre-trial conference as required by sub-rule 2 of this Rule, the Court may order that a pre-trial conference be held within such specified time as the Court may deem proper.

Date, Time and Venue of pre-trial conference.

(4)(a) Parties or their counsel shall reach a consensus on the date, time and venue for the holding of the pre-trial conference.

(b) Where the Court orders a pre-trial conference, the Registrar, shall inform the parties in the matter of the date, time and venue for the conference.

Issues for consensus at pretrial conference.

(5) At the pre-trial conference, the parties shall attempt to reach a consensus on the following :

- (a)** the means by which the dispute may be settled ;
- (b)** facts that are common to the cause of action ;
- (c)** facts that are contentious in the dispute ;

- (d) the issues that the Court may be required to decide ;
- (e) the precise relief claimed and if compensation is claimed, the amount of the compensation and how it is calculated ;
- (f) discovery and the exchange of documents, and the preparation of a paginated bundle of documentation in chronological order ;
- (g) the manner in which documentary evidence is to be dealt with, including any agreement on the status of documents and whether documents, or parts of documents, will serve as evidence of what they purport to be ;
- (h) whether evidence on affidavit will be admitted with or without the right in any party to cross-examine the deponent ;
- (i) the necessity for any party on-the-spot inspection or workplace visit ;
- (j) securing the presence of any witness in Court ;
- (k) the resolution of any preliminary points that are intended to be taken ;
- (l) expert witness, if necessary ;
- (m) any other means by which the proceedings may be shortened ;
- (n) an estimate of the time required for hearing ;
- (o) whether an interpreter is required and if so in which language(s).

3. Where the parties or their counsel are unable to settle the matter at the pre-trial conference, the parties must draw up and sign a minute dealing with the matters set out in Rule 2 (5) of this Order.

When parties are unable to reach consensus.

4. The party initiating the pre-trial conference must ensure that a copy of the report of the pre-trial conference is filed within seven (7) days of the conclusion of the pre-trial conference.

Filing of report of pretrial conference.

5.—(1) Where a report of a pre-trial conference is delivered within or out of the allowed time, whichever comes first, the Registrar shall remit the file of the matter to the President of the Court or a Judge of the Court for directions.

Registrar to remit file of pretrial conference to the Court.

(2) The President of the Court may—

Action of President of the Court.

(a) if he is satisfied that the matter is ripe for hearing direct the Registrar to list the matter for hearing ;

(b) assign the matter to a Judge for hearing and determination in accordance with the Rules of the Court;

(c) direct the parties to convene a further pre-trial conference at a date, time and place (venue) fixed by the Court.

B 98

When parties fail to attend pretrial conference.

Listing of matter for hearing after pretrial.

Notification of date, time for hearing.

6. Where any of the parties fails to attend a court-ordered pre-trial conference or fails to comply with any direction issued by the President of the Court or a Judge of the Court, the matter may be set down for hearing on the direction of the President of the Court or a Judge of the Court.

7.—(1) Where any direction or order given by the Court in a referral has been satisfied, the President of the Court may direct that the matter be listed for hearing.

(2) Where directions have been given for the hearing of a matter, the Registrar shall list the matter; notify the parties of the date, time and the Judicial Division for hearing.

ORDER 13—PARTIES

A. *Parties Generally*

Joint or Several Claimants in one action.

1. All persons may be joined in one action as Claimants in whom any right to relief is alleged to exist whether jointly or severally and judgment may be given for such Claimant(s) as may be found to be entitled to relief and for such relief as the Claimant may be entitled to without any amendment.

When the name of Claimant is doubtful.

2.—(1) When an action commenced in the name of a wrong person as Claimant, or where it is doubtful that it commenced in the name of the right Claimant, the Court, if satisfied that it commenced through a bona fide mistake, and that it is necessary for the determination of the real matter in dispute so to do, may order any other person to be substituted or added as plaintiff upon such terms as may be just.

Defendant's Counter-claim or set-off on improperly included Claimant.

(2) Where in commencing an action any person has been wrongly or improperly included as a Claimant and a Defendant has set up a Counter-Claim or set off, such Defendant may establish the Set-Off or Counter-Claim as against the parties other than a Claimant so included, notwithstanding the inclusion of such Claimant or any proceeding based thereon.

Stay of proceedings where Defendant has bona fide Counter-claim.

3. If it appears on oath or affidavit to the satisfaction of the Court that the Defendant has a bona fide counter-claim against such Claimant which can be conveniently tried by the Court, it shall be lawful for the Court in its discretion to stay proceedings in the suit instituted by such Claimant until he shall provide such security to comply with the orders and judgment of the Court with respect to such counterclaim as the Court shall think fit.

Joinder of any person as Defendant.

4. Any person may be joined as Defendant against whom the right to any relief is alleged to exist, whether jointly, severally or in the alternative. Judgment may be given against one or more of the Defendants as may be found to be liable, according to their respective liabilities, without any amendment.

5. Where the name of a party has been incorrectly stated, a Judge of the Court may upon application order a correction of such name on any terms as may be just.

Where the name of a party is incorrectly stated.

6.—(1) It shall not be necessary for every Defendant to be interested in all the reliefs prayed for, or as to every cause of action included in any proceeding against such a Defendant.

Defendant need not be interested in all reliefs or every cause of action.

(2) A Judge upon considering the defence filed by any Respondent/Defendant may on application by that Defendant make such Order as may appear just to prevent the Respondent/Defendant from being embarrassed or put to expense by being required to attend any proceedings in which Respondent/Defendant may have no interest.

Action of Judge to prevent embarrassment to a Defendant.

7. A Claimant may at the Claimant's option join as parties to the same action all or any of the persons severally, or jointly and severally liable on any reliefs in the matter.

Claimant may join all persons, severally or jointly as parties in an action.

8. Where a Claimant is in doubt as to the person from whom the Claimant is entitled to redress, the Claimant may, in such manner as hereinafter mentioned, or as may be prescribed by any special order, join two or more Defendants, with the intent that the question as to which, if any, of the Defendants is liable and to what extent, may be determined as between all parties.

Action by Claimant in doubt as to Defendants.

9. Persons under legal disability may sue by their guardians or defend by guardians appointed for that purpose.

Suit by or against persons under legal disability.

10. Where any person's name is to be used in any action as guardian of a person under legal disability or other party or as a relation, a written authority for that purpose signed by the guardian, or relation, as the case may be shall be filed in the Registry.

Written authority from guardian or relation of person with legal disability.

11.—(1) Where there are numerous persons having the same interest in one suit, one or more of such persons may sue or be sued on behalf of or for the benefit of all persons so interested.

Action by numerous persons with same interest in one suit.

B 100

One or more among numerous persons with same interest in a suit to defend others.

(2) Where there are numerous persons having the same interest in one suit and they seek to defend the action, a Judge may allow one or more of such persons to defend the action on behalf of, or for the benefit of all persons so interested.

Application to be joined as party.

(3) A person who has an interest in the determination of a matter by the Court may apply to be joined as a party to the proceedings.

Joinder of third party to a suit.

(4) Where in any matter before the Court a party wishes to join a third party who is not a party to the proceedings, the first party may apply to the Court to join that third party to the action.

When Court may appoint representative.

(5) On an application for a declaration or an Injunction, the Court may appoint one or more persons to represent any class or group of person who—

(a) may be commonly interested in any matter ; or

(b) are commonly affected or likely to be commonly affected.

by any act or action of any person or authority, where such class or group of persons may not be easily ascertainable or conveniently found, if satisfied that is expedient to do so.

Power and action of Court to approve compromise.

12. Where in any proceedings before the Court, compromise is proposed and some of the absent persons who are interested in or may be affected by the compromise are not parties to the proceedings but—

When persons with the same interest assent to compromise

(1) there are some other persons having the same interest before the Court who assent to the compromise or on whose behalf the Court sanctions the compromise ; or

When absent persons assent.

(2) the absent persons are represented by a person who so assents on their behalf ;

Court may approve compromise to benefit absent persons.

(3) if satisfied that the compromise will be for the benefit of the absent persons and that it is expedient to exercise this power, the Judge may approve the compromise and order that such compromise shall be binding on those absent persons, and they shall be bound accordingly, except where the Order has been obtained by fraud or non-disclosure of material facts.

13.—(1) If in any proceedings it appears to a Judge that any deceased person who was interested in the proceedings has no legal personal representative, the Judge may proceed in the absence of any person representing the interest of the deceased person.

Where deceased person (party) has no legal personal representative.

(2) Where a sole or sole surviving Claimant or Defendant in a proceedings dies and the cause of action survives but the person entitled to proceed fails to proceed, a Judge may on the application of either the deceased's Counsel or the opposing party order any person to take the place of the said deceased and proceed with the suit.

Legal practitioner may apply for the substitution of deceased party.

(3) In default of such application or where the person substituted fails to proceed, judgment may be entered for the Defendant or as the case may be for the person against whom the proceedings might have been continued.

Judgment may be entered if there is no representation for deceased person.

14.—(1) No proceedings shall be defeated by reason of misjoinder or non-joinder of parties, and a Judge may deal with the matter in controversy so far as regards the rights and interest of the parties actually before the Court.

Proceedings not defeated by mis-joinder or non-joinder of parties.

(2) A Judge may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Judge to be just, order that the names of any party or parties improperly joined be struck out.

Names of improperly joined parties to be struck out by order of the Court.

(3) A Judge may order that the name of any party who ought to have been joined or whose presence before the Court is necessary to effectually and completely adjudicate upon and settle the questions involved in the proceedings be added.

Names of necessary party to be added by order of the Court

(4)(a) No person under legal disability shall be added as a Claimant suing without a guardian, and ;

When to add person under legal disability.

(b) No person shall be added without the person's consent in writing as the guardian of a Claimant under legal disability.

(5) Every party whose name is added as Defendant shall be served with the Originating Processes or Notice in the manner prescribed in these Rules or in such manner as may be prescribed by a Judge and the proceedings against such person shall be deemed to have begun on the service of Originating Processes or Notice.

Service of Defendant in Originating process.

B 102

Application by motion to add, strike out substitute or vary name of Claimant or Defendant.

Statement of Claim to accompany Application to add names.

Where Defendant is added or substituted.

Joinder by any party of third Party likely to bear liability.

Service on Third party within prescribed time.

Appearance by Third Party.

Default by Third Party.

Subsequent Third Party.

Claim against Co-Defendant.

15.—(1) Any application to add or strike out or substitute or vary the name of a Claimant or Defendant may be made to the Court by motion on notice.

(2) Where the application is to add a Claimant or a Defendant, the application shall be accompanied by the Statement of Facts or Defence as the case may be, together with all the exhibits intended to be used and the depositions of all the witnesses.

Provided that where the application is to substitute a deceased party with another person, the application may not be accompanied by the documents specified above.

16. Where a Defendant is added or substituted, the Originating Processes shall be amended accordingly and the Claimant shall unless otherwise ordered by the Court file an amended Originating Process and cause the new Defendant to be served in the same manner as the original Defendant.

17.—(1) Where it appears to the Court that any person not a party in the proceedings may bear eventual liability either in whole or in part, the Court may upon an application allow that person to be joined as a third party by any of the Defendants. The application shall state the grounds for the applicant's belief that such third party may bear eventual liability.

(2) The Order of the Court and existing processes shall be served on the third party within the time prescribed for delivering the Defence.

18. Where a party is joined in any proceeding as a third party, such a party may after service enter appearance within fourteen (14) days on such further terms as the Court may order.

19. If a third party duly served with the Order and all existing processes, does not enter an appearance or makes default in filing any pleading, the third party shall be deemed to admit the validity of and shall be bound by any judgment given in the action, whether by consent or otherwise.

20. A party joined as a third party in any proceedings may join any other party in the same manner as the third party was joined and the expression "Third Party" shall apply to and include every person so joined.

21. A Defendant may make a claim against a Co-Defendant in the Defendant's Counter-Claim.

*B.—Actions against Firms and Persons carrying on
Business in Names other than their own*

22. Any two or more persons claiming or alleged to be liable as partners and doing business within the jurisdiction may sue or be sued in the name of the Firm, if any, of which they were partners when the cause of action arose; and any party to that action may in such case apply to the Judge for a statement of the names and addresses of the persons who were partners in the Firm when the cause of action arose, to be furnished in such manner, and verified on oath or otherwise as the Judge may direct.

Actions by
and against
Firms.

23.—(1) When an Originating Process is issued by partners in the name of their Firm, the Claimants or their Counsel shall, on demand in writing by or on behalf of any Defendant, declare in writing the names and residential addresses of all persons constituting the firm on whose behalf the action is brought.

Disclosure
of partner's
names and
addresses.

(2) Where the Claimants or their Counsel fail to comply with such demand, all proceedings in the action may upon an application for that purpose, be stayed upon such terms as the Court may direct.

Stay of
action for
failure to
declare
names and
addresses of
partners.

(3) Where the names of the partners are so declared, the suit shall proceed in the same manner and the same consequences in all respects shall follow as if they had been named as Claimants in the Originating Process provided that the proceedings may continue in the name of the Firm.

Suit to
proceed
when names
and
addresses of
partners are
declared.

24.—(1) Where persons are sued as partners in the name of their Firm, they shall appear individually in their own names; but all subsequent proceedings shall continue in the name of the Firm where they are represented by counsel.

Partners to
appear
individually
in
proceedings.

(2) Where an Originating Process is served upon a person having the control or management of the partnership business, no appearance by such person shall be necessary unless the person is a member of the Firm sued.

When no
personal
appearance
is required.

25. The above Rules in this part of this Order shall apply to proceedings between a Firm and one or more of its partners and between Firms having one or more partners in common, provided such Firm or Firms carry on business within the jurisdiction.

Application
of Rules
to actions
between
Co-partners.

B 104

Persons
carrying on
business
as a Firm.

26. Any person carrying on business within the jurisdiction in a name or style other than the person's own name may be sued in such name or style as if it were a Firm name, and, so far as the nature of the case will permit, all Rules relating to proceedings against Firms shall apply.

C.—Change of parties by Death or otherwise, etc.

27. No proceedings—

Proceedings
not to abate
where cause
of action
survives.

(1) shall abate by reason of the death or bankruptcy of any of the parties, if the cause of action survives.

Proceedings
not defective
whether
cause of
action
survives
or not.

(2) shall become defective by the assignment, creation or devolution of any estate or title pendente lite, and whether the cause of action survives or not, and

Proceedings
not to abate
by reason of
death of
either party.

(3) shall abate by reason of the death of either party between the finding on issues of fact and judgment, but judgment may in such case be entered notwithstanding the death of either party.

Order to
carry on
proceeding
despite
change of
capacity of
an existing or
new party in
the
proceedings.

28.—(1) Where by reason of death or bankruptcy, or any other event occurring after the commencement of a proceeding and causing a change or transmission of interest or liability, or by reason of any person interested coming into existence after the commencement of the proceeding, it becomes necessary or desirable that any person not already a party or that any person already a party should be made a party in another capacity, an order that the proceedings shall be carried on between the continuing parties and such new party or parties may be obtained upon an application for such change, or transmission of interest or liability or of any such person interested having come into existence.

Service of
Order on
parties under
sub rule (1)
of this rule.

(2) An Order obtained under this rule shall be served upon the continuing party or parties, or their Counsel and also upon such new party unless the person making the application is the new party.

Appearance
of person
not already
party to the
proceeding.

(3) Every person served who is not already a party to the proceedings shall where applicable enter an appearance thereto within the same time and in the same manner as if the person had been served with the Originating Process. The person shall thereupon be served with the Originating Process and all existing processes.

(4) Any party served under this Rule who was not already a party to the proceedings shall file pleadings and other documents as if the party had been an original party in the proceedings.

Filing of pleadings by new party to proceedings.

29. In the case of an assignment, creation or devolution of any estate or title pendente lite, the cause or matter may be continued by or against the person to or upon whom such estate or title has come or devolved.

Continuation of proceedings upon assignment or other devolution of interest.

30. Where any person who is under no legal disability or being under any legal disability but having a guardian in the proceedings is served with an Order under Rule 28 such person may apply to a Judge to discharge or vary such Order at any time within fourteen (14) days of the service of the Order.

Application by person under no legal disability or where being legally disabled, has a guardian, to vary Court. Order obtained under Rule 28.

31. Where any person under any legal disability and not having a guardian in the proceedings is served with an Order under Rule 28 of this Order, such a person may apply to a Judge to discharge or vary the Order at any time within fourteen (14) days of the appointment of a guardian for such party, and until such period of fourteen (14) days has expired, the order shall have no force or effect as against the person under legal disability.

Application by person under legal disability and not having a guardian.

D.—Legal Practitioners or Agents

32. Where by these Rules, any act may be done by any party in any proceedings, such act, may be done either by the party in person, or by the party's counsel, or by the party's agent (unless an agent is expressly barred under these Rules).

Acts to be done by Legal Practitioner, or agent.

33. If a power of attorney is executed by a principal and the agent is authorized to sue in a representative capacity on behalf of the principal, such an action must be brought in the name of the principal, that is, the donor of the power of attorney, indicating that the donor is suing through the named agent.

When an agent may sue for principal.

ORDER 14—SEXUAL HARASSMENT, WORKPLACE DISCRIMINATION, ETC.

Claims of sexual harassment.

1. (1) Where in an action before the Court, a Claimant alleges sexual harassment at the workplace, the Claimant or the Claimant's counsel may in the complaint, indicate whether the sexual harassment is :

(a) Physical conduct of a sexual nature : such as unwanted physical contact, ranging from touching to sexual assault and rape, strip search by or in the presence of the opposite sex, gesture that constitutes the alleged sexual harassment ; and/or

(b) A verbal form of sexual harassment: such as unwelcome innuendoes, suggestions and hints, sexual advances, comments with sexual overtones, sex related jokes or insults, or unwelcome graphic comments about a person's body, unwelcome and inappropriate enquiries about a person's sex life and unwelcome whistling at a person or group of persons, any document, material or exhibit in further support of the claim ; and/or

(c) A non-verbal form of sexual harassment which includes unwelcome gestures, indecent exposures, and unwelcome display of sexually explicit pictures and objects ; and/or

(d) Quid pro quo harassment where an owner, employer, supervisor, member of management or co-employee undertakes or attempts to influence or influences the process of employment, promotion, training, discipline, dismissal, salary increments or other benefits of an employee or job applicant in exchange for sexual favours.

Claims of workplace discrimination.

(2) Where in an action before the Court, a Claimant alleges workplace discrimination, such Claimant shall state whether the alleged workplace discrimination is on any of the following grounds :

- (a) ancestry,
- (b) religion,
- (c) gender,
- (d) marital status,
- (e) family situation,
- (f) genetic heritage,
- (g) ethnic origin,
- (h) political or ideological convictions,
- (i) union affiliation,
- (j) tribe,
- (k) handicap or disability,
- (l) health,
- (m) pregnancy, and
- (n) any other ground.

(3) The Claimant shall also in the complaint, indicate the activity, (including the mode, manner, correspondence and communication) that constitutes the alleged workplace discrimination	Mode, manner, etc. of discrimination in the workplace.
2.—(1) The defendant in an action arising from workplace discrimination or sexual harassment shall file the defence to the complaint within 14 days of being served the process.	Defendant's statement of defence.
(2) The defendant in addition to the defence filed, may file a counter-claim and witness statement on oath and the Court may treat it in accordance with the rules of the Court.	Defendant's counter-claim.
(3) Where in any of the claims or complaints arising under Rule 1(1) of this Order, there is no satisfactory evidence entitling the Claimant or the defendant to judgment of the Court, the Court may non-suit or dismiss the action.	When Court may non-suit or dismiss action.
ORDER 14A—INTERNATIONAL PROTOCOL, CONVENTION, TREATY	
1.—(1) Where an action involves a breach of or non-compliance with an international protocol, a convention or treaty on labour, employment and industrial relations, the Claimant shall in the complaint and witness statement on oath, include,	Procedure in action for breach of protocol, convention, etc.
(a) the name, date and nomenclature of the protocol, convention or treaty ; and	
(b) proof of ratification of such protocol, convention or treaty by Nigeria.	
(2) In any claim relating to or connected with any matter, the party relying on the International Best Practice, shall plead and prove the existence of the same in line with the provisions relating to proof of custom in the extant Evidence Act,.	Proof of existence of International Best Practice.
2.—(1) The defendant in an action relating to or connected with any matter in this Order shall file a statement of defence to the claim not later than 14 days after being served the process.	Defendant's statement of defence.
(2) The defendant may in addition to the statement of defence file a counter-claim and witness statement on oath, and the Court shall treat it in accordance with the Rules of the Court.	Defendant's counter-claim.
(3) Where from the information provided in compliance with Rule 1 of this Order, there is no satisfactory evidence entitling the Claimant or the defendant to judgment of the Court, the Court may non-suit or dismiss the action.	When court may non-suit or dismiss the claim.

Duty of
Party served
with a
Complaint.

1.—(1) Where a party served with a Complaint or any other originating process and the accompanying documents as stipulated in Order 3 of these Rules intends to defend and/or counter-claim in the action, the party shall not later than fourteen (14) days or any other time prescribed for defence in the Complaint, file :

(a) a statement of defence and counter-claim, (if any), which may include any preliminary objection the party wishes to raise to the Claimant's action ;

(b) a list of witnesses ;

(c) a list and copies of documents and other exhibits to be relied upon at the trial ;

(d) Written Statements on oath of all witnesses listed to be called by the Defendant other than witnesses to be subpoenaed.

Application
for leave by
party to call
additional
witness(es).

(2) Notwithstanding the provisions of sub-rule 1 of this rule, a party in a matter before the Court may apply for leave to call additional or substitute witness(es) after filing the list of the party's witnesses and tender additional exhibits or documents.

Provided that such a party shall file along with the application for leave, the said witness(es)' written statement on oath and additional exhibits or documents.

Defence to
state contact
information.

2.—(1) A party served as a Defendant/Respondent with a Complaint or any other Originating Process and accompanying documents and who intends to defend and/or counter-claim in the action, shall, after complying with Rule 1 of this Order, state in the party's defence and/or counter-claim; the party's contact addresses (residential or business), telephone number(s) and e-mail address(es) as the party's contact information for service of any Court process.

Service on
Counsel
appointed.

(2) Where a party has appointed or instructed a counsel to appear on the party's behalf and represent the party, and the counsel has entered an appearance, all processes filed in the matter shall be served on counsel, except as the Court may otherwise direct.

Defendant's
Counsel to
state contact
information.

(3) Where a party served as a Defendant/Respondent with a Complaint or any other originating process intends to defend and/or counter-claim through a Counsel, the Counsel shall state in the defence and/or counter-claim the address, telephone number(s) and e-mail address(es) of the Counsel's chambers as the contact information for service on the Counsel of any Court process.

Provided that where counsel is based or resident outside the Judicial Division or State Registry where the defence and/or counter-claim is filed, the Counsel shall in addition, state an address, telephone numbers and other contact information of chambers within the Judicial Division of the Court as Counsel's contact information

(4) Where a defendant is served with an originating process as required by Order 3 of the Rules of this Court, the defendant shall explicitly and clearly state in details in the defendant's statement of defence :	Statement of Admission of Claim.
(a) whether the defendant admits the claim in whole or in part ; (b) if the defendant admits the claim in part, the defendant shall state what part of the claim is admitted and how the defendant intends to pay the part or amount admitted ; (c) if the defendant has a counter-claim or set-off against the claim, the defendant shall clearly state this in a defence and proceed to plead the defendant's counter-claim which shall be treated as claim ;	
(5) Where Claimant intends to defend a counter-claim or set off, the Claimant shall file a defence to the counter claim or set-off within seven (7) days of receipt of the counter-claim and/or the set-off.	Time limit to file counter-claim.
(6) Where the defendant admits part of the claim, the claimant may by motion on notice request the Court to give judgment against the defendant on that sum of money (where the claim is monetary) or part of the claim admitted by the defendant.	When defendant admits part of claim.
(7) The Court may thereafter enter judgment for the payment of the part admitted by the Defendant and may order that the action proceeds in respect of the unadmitted or contested part of the claim.	Court to enter judgment for claim admitted.
(8) Where the defendant fails to deny or contest any of the claims of the claimant as contained in the statement of claims, the Claimant may by motion on notice to the Court indicate that the defendant has disclosed no defence and therefore request for judgment.	Non indication of a defence.
3. Where a defendant/respondent is served with a schedule of documents or any recording by an electronic device to be relied on at the trial by the claimant, in compliance with Order 3 rules 9 and 10 of these Rules, the defendant(s) shall file and serve along with the defence a schedule that indicates :	Treatment of documents by defendants.
(a) the document(s) or any recording by an electronic device the admissibility of which the defendant shall not be objecting to at the trial ; and	Schedule of documents not objected to.
(b) the document(s) or any recording by an electronic device which the defendant shall be objecting to at the trial.	Schedule of documents objected to.
4.—(1) Any document or recording by an electronic device contained in the schedule which is not objected to by the Defendant shall be deemed admitted except the Court otherwise directs.	Admitted documents.

B 110

Provided at all times that a party that has signified an intention to object to the admissibility of a document or documents or any recording by an electronic device sought to be tendered by the other party shall file separately a short but succinct Written Address stating the ground(s) of objection and legal argument and authority for same.

Provided also that a party to whose document and or any recording by an electronic device an objection has been raised, upon being served with the notice of objection together with the written argument in support of same, shall accompany such party's reply process(es) which shall be on point of law with a written address in response to the objector's argument, within fourteen (14) days of service of the objector's process(es).

Provided further that at the commencement of trial, the Court may first take and dispose of all arguments on the admissibility and non-admissibility of the documents or any recording by electronic device of all parties.

Nothing in the foregoing shall preclude the Court from taking the arguments on admissibility and evidential value of documents and exhibits alongside arguments as to the substantive suit at the close of evidence at the stage of Final Addresses.

Schedule of documents to be relied on by defendant.

(2) The defendant(s) shall file and serve on the Claimant along with the statement of defence, a schedule of all documents and or any recording by an electronic device the defendant shall be relying on at the trial and the Claimant shall be required to indicate :

Admissible documents by Claimant. Form 1A.

(a) The document(s) and or any recording by an electronic device the admissibility of which the Claimant shall not be objecting to at the trial ;

Schedule of documents objected to.

(b) The document and or any recording by an electronic device the Claimant shall be objecting to at the trial.

Documents not objected to, not to be allowed at trial.

(3) Any document and or any recording by an electronic device contained in the schedule which is not objected to by the Claimant shall not be allowed to be objected to at the trial except the Court otherwise directs.

Duty of party served with Originating Summons.

5. Where a party served with an Originating Summons with any other accompanying documents and or any recording by an electronic device as stipulated in Order 3 Rule 16 of these Rules intends to contest the Originating Summons, such party shall not later than fourteen (14) days thereafter or any other time prescribed, file a Counter Affidavit thereto, which shall be accompanied by :

(a) other relevant document(s), if any

(b) a Written Address in opposition to the argument advanced by the Applicant ; or

(c) any records of data relevant to party's defence in an electronic storage device.

6. The Applicant may file a written reply on point(s) of law within seven (7) days of service of the Respondent's Affidavit (if any) and a Written Address.

Time limit
for filing
written
statement
of defence
on points
of law.

7. Where a Claimant has served the Defendant/Respondent with the Claimant's Originating Process in compliance with Order 3 rules 9 and 10 of these Rules, and the Defendant/Respondent has filed a defence and served same on the Claimant in compliance with Rule 1 of this Order, the Claimant may file and serve a reply to the statement of defence and serve same on the Defendant within seven (7) days from the date of receipt of the defence.

Time limit
for
Claimant's
reply to
statement of
defence.

Provided that the Claimant shall have the right to reply only to new issues raised by the Defendant in the statement of defence.

8. Where notice has been served on a party to file a notice of response within the time allowed by rule 1 of this Order and that party fails to comply, the matter shall nevertheless be set down for hearing and if on the day of hearing, the defaulting party—

When party
fails to
comply with
time limit.

(1) appears and shows good cause why the party did not file a notice of response, the Court may according to the nature of the case, or as the justice of the case requires—

- (i) postpone the matter to enable the defaulting party to comply, or ;
- (ii) proceed to hear and determine the matter ; or

(2) does not appear or show good cause why the party did not file a response, the Court may, according to the nature of the case, or as the justice of the case may require—

- (a) enter a default judgment against the defaulting party ; or
- (b) proceed to hear and determine the matter.

ORDER 16—SUMMARY JUDGMENT

1. Where a Claimant believes that there is no defence to the claim, an application for summary judgment supported by an affidavit stating the grounds for the belief shall be filed along with the originating process. The application shall be accompanied with the statement of facts, any exhibits and a written brief.

Application
for Summary
Judgment

B 112

Number of
Copies of
Processes to
be delivered
to the
Registrar

2. A Claimant shall deliver to the Registrar as many copies of all the processes and documents referred to in rule 1 of this Order as there are defendants or respondents.

Mode of
Service of
Processes
and
Documents

3. Service of all the processes and documents referred to in rule 1 of this Order shall be effected in the manner provided for under these Rules.

Action of a
party
intending to
defend upon
being served

4. Where a party served with the processes and documents referred to in rule 1 of this Order intends to defend the action such a party shall, not later than the time prescribed for defence, file :

(a) a statement of defence ;

(b) documents to be used in defence ;

(c) a counter-affidavit and a written brief in reply to the application for summary judgment ; and

(d) written statement on oath of all witnesses listed to be called by the defendant other than witnesses to be subpoenaed.

Duty of
Court upon
hearing
application
for Summary
Judgment

5.—(1) Where it appears to the Court that a party has a good defence and ought to be permitted to defend the claim such party may be granted leave to defend.

Judgment
when there
is no
defence.

(2) Where it appears to the Court that a party does not have a good defence the Court may thereupon enter judgment for the claimant.

Judgment on
part of claim
to which no
defence.

(3) Where it appears to the Court that the defendant or respondent has a good defence to part of the claim, the Court may thereupon enter judgment on that part of the claim to which there is no defence and grant leave to defend that part to which there is a defence.

Duty of
Court where
there are
several
Defendants.

6. Where there are several defendants or respondents and it appears to the Court that any of the defendants or respondents has a good defence and ought to be permitted to defend the claim, and other defendants or respondents do not have a good defence and ought not to be allowed to defend the claim, the former may be permitted to defend the claim. The Court shall then enter judgment against the latter.

Party at
liberty to
expatiate on
Written
Address.

7. Where provision is made for written briefs under these Rules, each party shall be at liberty to advance before the Court oral submissions to expatiate the party's written brief for not more than 20 minutes.

8.—(1) A party to an action may submit to judgment in respect of any claim by the Claimant and seek the leave of the Court to defend the part of the claim the party is contesting.

Party may submit to judgment on part of Claim

(2) Where a party submits to part of the Claimant's claim in line with sub-rule 1 of this rule, the Court shall enter judgment for the Claimant accordingly and thereafter grant leave to the defendant to defend the contested part of the claim.

When a defendant can defend contested part of claim.

ORDER 17—MOTIONS AND OTHER APPLICATIONS

1. (1) Where by these Rules, any application is authorized to be made to the Court, such application shall be by motion on notice or motion *ex parte* and shall state under what Rules of the Court or Act or Law it is brought.

Application by motion on notice or motion *ex parte*.

(2) Every motion on notice must be forwarded to and served on all parties in a matter.

Motion to be served on all parties

(3) A motion must substantially comply with format prescribed below and must be signed by the party bringing the application or by the party's counsel. The application must be delivered and must contain the following information—

Format of motion on notice.

(a) the title of the matter ;

(b) the case number assigned to the matter ;

(c) the prayer or relief sought ;

(d) an address of the party delivering the document at which that party will accept notices and services of all documents in the proceedings.

(4) The following applications shall be brought by motion on notice—

Applications that must be by motion on notice.

(a) Interlocutory applications;

(b) Other applications incidental to pending proceedings before the Court that are not specifically provided for in these Rules ;

(c) Any other applications for directions that may be sought from the Court.

(5) Every motion shall be supported by an affidavit setting out the facts upon which the application is made.

Affidavit to support application.

Provided that applications for direction on procedural aspects of the matter need not be supported by an affidavit.

(6) Every application shall be accompanied by a Written Address which shall be a succinct legal argument of the issues and appropriate authorities in support of the grounds of the application.

Written Address to accompany application.

B 114

Content of
Written
Address
accompanying
application.

- (7) The Written Address in support of motion on notice shall contain ;
- (a) a statement of facts in chronological order, on which the application is based, which statement must be sufficiently particularized to enable any person opposing the application to reply to the document ;
 - (b) issues for determination arising from the reliefs being sought by the Applicant ;
 - (c) succinct arguments of the legal issues that arise from the material facts and appropriate authorities cited in support of the argument ; and
 - (d) be divided into paragraph and numbered accordingly.

When to
forward
advance
copy of
motion to
respondent.

- (8) Every motion shall be served on the Respondent and an advance copy of same shall be forwarded by the Claimant or claimant's counsel to the other party within seven (7) days of filing.

When to
forward
advance
copy of
Defendant/
respondent
Notice of
Preliminary
Objection.

- (9) Every motion including Notice of Preliminary Objection shall be accompanied by a Written Address, and an advance copy of same shall be forwarded by the Defendant or Respondent or defendant/respondent's counsel to the Claimant or any other party in the matter within seven (7) days of filing.

Time for
Respondent to file
Counter
affidavit.

- (10) Where a Respondent served with a motion on notice intends to oppose the application, the Respondent shall file a Counter-affidavit (if any) and a Written Address within seven (7) days of the service on the Respondent of such application. An advance copy of the Counter-affidavit and Written Address shall also be forwarded to the Claimant and any other party.

Time for
Claimant
to deal
with new
issues
arising
from
Respondent's
counter-
affidavit.

- (11) Where a Counter-Affidavit together with a Written Address is served on the Claimant/Applicant, the Claimant/Applicant may file a Further and Better Affidavit to deal with new issues arising from the Respondent's Counter-affidavit and a Written Reply on points of law within seven (7) days of service. An advance copy of same shall be forwarded to the Defendant or Respondent.

Party may
address
court on
points of
law only.

- (12) Where the defendant or respondent did not file a Counter-affidavit, the party may address the Court on point of law only.

(13) Each party shall have twenty (20) minutes to expatiate on the party's Written Address.

Time to
adumbrate
on Written
Address .

Provided that no party shall be allowed to introduce new issues in the party's oral submission before the Court.

(14) Notwithstanding sub-rule 13 of this Rule, where a Respondent fails or neglects to file a reply to the written address of the Claimant within the time allowed by the Court, apart from the penalty relating to such default, the Respondent shall not be allowed to make any oral submission at the hearing of the application.

When
Respondent
cannot be
allowed to
make oral
submission.

2.—(1) Except where an application ex-parte is required or permitted under any Statute or these Rules, every motion shall be on notice to the other party.

When notice
of Motion
should be
given.

(2) The Court may either on application or suo motu make an order that subject to the provisions of sub-rule (3) of this rule an injunction may subsist until the hearing and determination of the motion on notice.

Order for an
injunction
to subsist.

(3) A party affected by the order made ex parte may by motion on notice apply to the Court to vacate the order.

Application
to vacate
order.

(4) The application in sub-rule 3 of this Rule shall be accompanied by :

Documents
to
accompany
affidavit.

(a) An affidavit ;

(b) A Written Address detailing the grounds of the application for vacation of the order ; and

(c) A copy of the order of the Court which the party wants the Court to vacate.

(5) Upon receipt of the motion on notice by the party for whom a motion ex parte has been granted, the said party shall file a counter-affidavit stating the grounds why the ex parte order should not be vacated.

Counter-
affidavit.

3.—(1) Every notice to enforce an arbitral award shall state the grounds of the application and where any such motion is founded on evidence by affidavit, a copy of the affidavit shall be served with the notice of motion.

Motion to
enforce an
Arbitral
Award

(2) The party relying on an award on applying for its enforcement shall supply a certified true copy of the award.

Certified
True Copy
of award.

(3) An award made by an arbitrator may, by leave of the Court, be enforced in the same manner as a judgment or order of Court.

Arbitral
award may
be enforced
like
judgment of
the Court.

B 116

Length of time between service of processes and date fixed for Hearing of Motion.

4. Unless the Court grants leave to the contrary, there must be at least three (3) clear days between the service of all processes in respect of a motion and the day named in the notice for hearing the motion.

Effect of failure to give notice of Motion to Necessary Party

5. Where on the hearing of a motion or other application the Court is of the opinion that any person to whom notice has not been given ought to have had such notice, the Court may either strike out the motion or application or adjourn the hearing in order that such notice may be given upon such terms, if any, as the Court may deem fit.

Application for hearing in Chambers.

6. Upon an application to the President of the Court by any of the parties in a matter, an application may be heard in Chambers by a Judge as may be directed by the President of the Court.

Adjournment of Hearing.

7. The hearing of any motion or application may from time to time be adjourned upon such terms as the Court shall deem fit—

Provided that no party shall make an application for adjournment more than twice.

Filing and Service of application with Originating Process

8. A Claimant may file any application together with an originating process and may serve both on any defendant or respondent simultaneously.

Power of Court to make an Interlocutory Order.

9.—(1) Subject to sub-rule (2) of this rule, the Court may, on the application of any party, make any order under the Act it considers necessary.

Court to ensure service of notice of application for interim order.

(2) Before making an interlocutory order under these Rules, the Court shall take all reasonable steps to ensure that notice of the application for the interim order has been served on the respondents.

Decision must be given on any motion filed.

10. Every motion filed before the Court, shall be set down and ruled upon and no motion shall be left in abeyance.

11. In any case pending before the Court, any motion filed as an interlocutory application shall be heard and ruled upon before the final judgment is delivered in the matter.

Interlocutory application to be heard and determined before final judgment.

A.—Interlocutory Applications

12.—(1) For the purpose of hearing and determining interlocutory applications, the Court shall be duly constituted, if it consists of a Judge of the Court.

Constitution of court for hearing and determination of interlocutory applications

Provided that a panel of three Judges may also hear and determine interlocutory applications, if the President of the Court so directs.

(2) The Court shall in the course of any proceeding before it ensure that every motion (or application) coming before the Court is set down, heard and ruled upon, notwithstanding the perceived strength, weakness or otherwise of such motion (or application) ;

Court to set down motion and determine every motion notwithstanding their strengths or weaknesses.

Provided that the Court may refuse to hear the motion (or application) in a proper circumstance in the exercise of its punitive jurisdiction against a contemnor of a Court order who is expected to be purged of the contempt before being heard.

(3) No motion (or application) brought before the Court may be discountenanced for reasons merely that such a motion (or application) has been superseded and or overtaken by another one. The Court in the circumstance shall take steps to set down and hear all such motions (or applications) in a way or manner and in such order as will allow for fair trial and hearing of the cause or matter.

Court to entertain all motions.

13. In the exercise of its powers and in the performance of its functions, or in any incidental matter, the Court may act in a manner that it considers expedient in the circumstances to achieve the objectives of the Act and the Rules of the Court.

Court may exercise powers to achieve the objective of NICA, 2006.

B.—Ex Parte Motion

14.—(1) For any motion ex-parte to be heard by the Court, the Applicant shall file along with the ex-parte application a motion on notice at the same time.

Motion on notice to be filed with every *ex-parte* application.

(2) No application for an injunction shall be made ex-parte unless the applicant files with it a motion on notice in respect of the application.

Ex parte application for injunction to be with motion on notice.

(3) A motion ex parte shall be supported by an affidavit stating sufficient grounds why a delay in granting the Order sought would cause irreparable damage or serious mischief to the party moving it.

Ex parte motion to be supported by affidavit

(4) A party moving a Court on a motion ex parte may support the motion by argument addressed to the Court on the facts but in evidence, while the other party to the proceedings, although present in Court may not be heard.

Party moving motion ex parte to address Court on facts in evidence.

(5) Where a motion is made ex parte, a Court may make or refuse to make the Order sought, or may direct the motion to be made on notice to the parties affected or may grant an Order to show cause why the Order sought should be made.

Court may grant, refuse or Order sought or direct that motion be made ex parte.

(6) Where an Order is made on motion ex parte, and a party affected by it may within seven (7) days after the service of the Order, or within such further time as the Court may allow, apply to the Court by motion to vary or discharge it, and the Court may, on notice to the party obtaining the Order, either refuse to vary or discharge it, or may vary or discharge it, with or without imposing terms as to costs or security, or as may seem just.

Party affected by ex parte Order to apply to vary or discharge it, and the Court may, on notice to the party obtaining the Order, either refuse to vary or discharge it, or may vary or discharge it, with direction of Court.

(7) An Order made on motion ex parte shall last for only fourteen (14) days after the party affected by the Order has applied for the Order to be varied or discharged; or last for another fourteen (14) days after application to vary or discharge it had been concluded.

Limitation of Order made ex parte.

(8) Where a motion to vary or discharge an ex parte Order is not taken within (14) fourteen days of its being filed, the ex parte Order shall automatically lapse.

When a motion to vary or discharge ex parte Order can lapse.

(9) An order of injunction made upon an application ex-parte shall abate at the end of seven (7) days upon hearing and determination of the motion on notice or as the court may otherwise direct during its ruling.

When Order of injunction made on ex-parte application shall abate.

(10) The Court may in the interest of justice and upon an application extend the effective period of an interim order of injunction made ex parte, either to be extended from time to time or to last until the hearing and determination of the motion on notice for interlocutory injunction.

Court may extend duration of interim injunction.

Provided that the application for extension is made not more than seven (7) days before the expiration of the Order for interim injunction.

C.—Notice of Motion

Application on Arbitral Awards

15.—(1) Every application to enforce a binding arbitral award made by an Arbitral Body shall state in general terms the grounds of the application and where any such motion is founded on evidence by affidavit, a copy of any affidavit intended to be used shall be served with the notice of motion.

Motion to set aside, remit or enforce arbitral award to state grounds of application.

(2) The party relying on a binding award or decision or ruling or recommendation made by an Arbitral Body shall sufficiently supply duly certified true copies of the award or decisions or recommendation.

Party to supply sufficient certified copies of award or decisions.

(3) An award made by an Arbitral Body in a matter within the jurisdiction of the Court may, by leave of the Court, be enforced in the same manner as a judgment or order of the Court.

Award of Arbitral Body, IAP or Tribunal to be enforced as judgment or order of the Court.

D.—Non-Contentious Applications

16.—(1) The Judge or the Panel of Judges to whom a matter has been assigned may take and decide any non-contentious applications in Chambers without inviting parties or their Counsel to appear before the Court where the applicant has complied with prescribed rules relating to the application and the opposition party apart from not filing any process in opposition must have filed a notice indicating a clear intention not to contest the application.

Judge to take and decide non-contentious application in Chambers.

B 120

When parties may apply orally to amend process(es).

(2) Any of the parties may with the leave of the Court make an oral application to the Court for a minor amendment on the face of the process or processes provided such an amendment does not affect the substance of the case before the Court.

ORDER 18—DETERMINATION OF MOTIONS

Motion to be determined except where withdrawn.

1. Whenever any motion is filed in a matter before the Court, except it is withdrawn by the applicant, it shall be heard and determined by the Court.

Handling of multiple motions.

2.—(1) Where there are multiple motions in a matter before the Court, the Court may consider taking the motions in order of filing and type, but may hear the motion that regularizes or saves the matter before taking that which may terminate the matter.

Provided that where there are many defendants in a matter before the Court and there is a multiplicity of Notice of Preliminary Objections either touching on ;

(a) the jurisdiction of the Court to hear the matter ; or

(b) the competency of the Court to hear the matter ; or

(c) application of the statute of limitation

the Court may hear the matter in the order listed paragraphs in (a), (b), (c) of this rule.

When defendant disputes the jurisdiction of the Court.

(2) Where in matter before the Court, a defendant wishes to dispute the jurisdiction of the Court to entertain such a matter, the Defendant may by a motion on notice, and an affidavit disclosing the facts in support of the application with a written address, apply to the Court to hear and determine the motion.

When the Court may take motion on jurisdiction with substantive suit.

(3) Where an application made in line with provisions of sub-rule (2) of this rule, the Court may take such application together with the Claimant's substantive suit.

Defendant to file memorandum of appearance.

(4) A defendant making an application in line with the provisions of sub-rule (2) of this rule shall file along with the motion on notice a memorandum of appearance stating that he or she is appearing conditionally.

(5) Where a Respondent served with a motion on notice intends to oppose the application, he shall do so in line with the provisions of Order 17 rule 1 sub-rules (10) and (11) and the matter may be handled in line with the provisions of sub-rules (12), (13) and (14) of Order 17 Rule 1.

When Claimant/ Respondent may take oppose motion on jurisdiction.

3. Where there are many defendants in a matter and more than one Preliminary Objection is filed, the Court may order that the Preliminary Objections be consolidated.

Handling of multiple Preliminary Objections.

4. Where the Court orders a consolidation of Preliminary Objections as stated in Rule 3 of this Order, the Court may make an order that the Claimant's reply to the consolidated Preliminary Objections be consolidated.

Consolidation of Claimants Written Addresses.

5. Where there are many Claimants in a matter before the Court and there is a multiplicity of Preliminary Objections, the Court may order each Claimant to consolidate the Claimant's reply in the Written Address instead of filing separate Written Addresses on each preliminary objection.

Consolidation of Written Addresses.

6. Where there is a matter pending before the Court and the preliminary objection is raised by any of the parties, in so far as the objection does not challenge the Court's jurisdiction, the Court may decide to hear the preliminary objection and proceed to hear the substantive matter without delivering the ruling on the preliminary objection until the judgment is ready and the ruling on the preliminary objection shall be delivered first before proceeding to deliver the main judgment on the matter.

When Court may proceed to hear substantive matter after hearing preliminary objection.

Provided that where the Court in its ruling decides that the preliminary objection be upheld, the Court may decide to proceed or not proceed with the delivery of the main judgment.

ORDER 19—ARREST OF ABSCONDING PARTY
FORM 90, 91, 92, 93, 97, 103, 115.

1. Where in any suit a party (Respondent/Defendant) is about to leave the jurisdiction of the Court, or has disposed of or removed from the jurisdiction, the party's property, or any part thereof, or is about to do so, the other party may, either at the institution of the suit, or at any time thereafter until final judgment, make an application to the Court that security be given for the appearance of the absconding party to answer and satisfy any judgment that may be passed against the party in the suit.

Party leaving Jurisdiction or removing property.

2. Where after investigation, the Court is of the opinion that there is probable cause for believing that a party is about to leave the jurisdiction of the Court, or has disposed of or removed from jurisdiction, the party's property, or any part thereof, or is about to do so, it shall be lawful for the Court to issue

Warrant of Arrest issued by the Court.

a warrant to bring the party before the Court to show cause why that party should not give good and sufficient bail for the party's appearance.

Bail in lieu of Appearance or Satisfaction.

3. Where an absconding party (Respondent/Defendant) fails to show any such cause, the Court shall order the party to give bail for the party's appearance at any time when called upon while the suit is pending and until execution or satisfaction of any judgment that may be passed against the party in the suit, or to give bail for the satisfaction of such judgment. The surety(ies) shall undertake in default of such appearance or satisfaction to pay any sum of money that may be adjudged against the party in the suit, with costs.

Deposit in lieu of bail

4. Where a party (Respondent/Defendant) offers, in lieu of bail for the party's appearance, to deposit a sum of money, or other valuable property, sufficient to answer the claim against the party with costs of the suit, the Court may accept the deposit.

Absconding party may be committed to Custody.

5.—(1) Where a party (Respondent/Defendant) fails to furnish security or offer sufficient deposit, the party may be committed to custody until the decision in the suit, or if judgment be given against the party, until the execution of the decree, if the Court so orders, but the Court may at any time, upon reasonable cause shown and upon such terms as to security or otherwise as may seem just, release the part (Respondent/Defendant).

Application for committal.

(2) The application for committal may be made to the Court in any Judicial Division, in which the party may be, and the Court may issue a warrant for detaining and bringing the party before the Court where the suit is pending, and may make such further order as shall seem just.

Transmission of warrant issued by a different Judicial Division.

(3) Where the warrant is issued by a Court in a different Judicial Division from that in which the suit is pending, that Court shall, at the request of either party, transmit the application and the evidence therein to the Court in which the suit is pending, on the sufficient security of the appearance of the party in that Court, or send the party there in custody of an officer of Court. The Court in which the suit is pending shall thereupon inquire into and proceed with the hearing of the application in accordance with the foregoing provisions, in such manner as shall seem just.

Payment of expenses for the subsistence of a party in Custody.

6.—(1) The expenses incurred for the subsistence in prison of the party so arrested shall be paid by the applicant in advance, and the amount so disbursed may be recovered by the applicant, unless the Court otherwise orders.

When a prisoner may be released.

(2) The Court may release the party so imprisoned on failure by the applicant to pay the subsistence money, or in case of serious illness, order his or her removal to hospital.

ORDER 20—INTERIM ATTACHMENT OF PROPERTY

FORM : 80, 81, 82, 83, 84, 85, 86, 87, 88, 102, 105

1. Where in any suit the subject matter :

(1) on which the Court has exclusive jurisdiction; the defendant or respondent, with intent to obstruct or delay the execution of any decree that may be made against the defendant, is about to dispose of the defendant's property, or any part thereof, or remove any such property from the jurisdiction ; or

Circumstances
warranting
application
for Interim
Attachment
of Property

(2) is founded on contract or tort or in which the cause of action arose within jurisdiction—

(a) the defendant or respondent is absent from jurisdiction or there is probable cause to believe that the defendant or respondent is evading service ; and

(b) the defendant or respondent is beneficially entitled to any property in Nigeria in the custody or under the control of another person in Nigeria, or such person is indebted to the defendant or respondent, then, in either case, the claimant may apply to the Court either at the time of the institution of the suit or at any time thereafter before final judgment, to call upon the defendant or respondent to furnish sufficient security to fulfill any decree that may be made against the defendant or respondent in the suit, and on failing to give the security, or pending the giving of such security, to direct that any property (movable or immovable) belonging to the defendant or respondent shall be attached until the further order of the Court.

2. The application for attachment shall contain details of the property required to be attached, and the estimated value thereof so far as the claimant can reasonably ascertain, and the claimant shall, at the time of making the application declare that to the best of the claimant's information and belief, the defendant or respondent is about to dispose of or remove the property with the intent stated in Rule 1 of this Order.

Contents of
application
for Interim
Attachment
of Property.

3.—(1) Where the Court after making such investigation as it may consider necessary, is satisfied that the defendant or respondent is about to dispose of or remove the defendant or respondent's property with intent to obstruct or delay the execution of the decree, the Court may order the defendant or respondent, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order or to produce and place at the disposal of the Court when required, the said property, or the value of same or such portion thereof as may be sufficient to satisfy the decree, or to appear and show cause why the defendant or respondent should not furnish security.

Order by
Court.

B 124

(2) Pending compliance by the defendant or respondent with the order, the Court may by warrant direct the attachment until further order, of the whole, or any portion, of the property specified in the application.

Where Defendant or Respondent fails to show cause or give security

4.—(1) Where the defendant or respondent fails to show such cause, or to furnish the required security within the time fixed by the Court, the Court may direct that the property specified in the application if not already attached, or such portion thereof as shall be sufficient to satisfy the decree, be attached until a further order is made.

Where defendant shows cause or gives security.

(2) Where the defendant or respondent shows such cause, or furnishes the required security and the property specified in the application or any portion of it shall have been attached, the Court may order the attachment to be withdrawn.

Rights of Third Parties not to be affected.

5. The attachment shall not affect the rights of persons not parties to the suit, and in the event of any claim being preferred to the property attached before judgment, such claim shall be investigated in the manner prescribed for the investigation of claims to property attached in execution of a decree.

Removal of attachment where Defendant or Respondent furnishes security.

6. In all cases of attachment before judgment, the Court may at any time remove the attachment, on the defendant or respondent furnishing security as above required, together with security for the costs of the attachment, or upon order for a non-suit or striking out the cause or matter.

Appropriate Court to take Proceedings.

7.—(1) The application may be made to the Court in the Judicial Division where the defendant or respondent resides or in case of urgency, where the property proposed to be attached is situate and the Court may make such order as shall seem just.

Transmission of order to appropriate Judicial Division.

(2) Where an order for the attachment of property is issued by a different Court from that in which the suit is pending, that Court shall, at the request of either party, transmit the application and proceedings to the Court in which the suit is so pending, retaining the property in the meantime under attachment or taking sufficient security for its value and the Court in which the suit is pending shall thereupon enquire into and proceed with hearing the application in accordance with the foregoing provisions, in such manner as may seem just.

ORDER 21—URGENT RELIEF

Application for urgent relief.

1. Where a party applies for urgent relief, such application must comply with the provisions of Order 3.

Application to be supported by Affidavit.

2. (1) The application for urgent relief must be accompanied by an affidavit which must contain—

- (a) the reasons for urgency and why urgent relief is necessary ;
 - (b) where the requirement of the rules were not complied with, the reasons for non-compliance, and
 - (c) the signature of the applicant ;
- (2) The party applying for urgent relief shall forward an advance copy of the party's application to the respondent(s).
- 3.—(1) Where an application for urgent relief has been filed, the Registrar shall take the application before the President of the Court or a Judge of the Court for fixing of the date and time and, for assignment to a Judge and Judicial Division for the hearing and determination of the application and shall serve the hearing notice on the Applicant and Respondent accordingly.
- (2) Where the matter is pending before a Judge of the Court, the Registrar shall take the application back to the Judge before whom the matter is pending.
4. Where the respondent intends to oppose the application or to make any representation on the application, the respondent or respondent's counsel shall notify the registrar and the applicant of the intention to oppose the application within seven (7) days of service of same on the respondent.
5. The respondent shall thereafter file a counter affidavit which shall state the respondent's reasons for opposing the application for urgent relief.
6. Where a party has notified the Court of the party's intention to oppose the application for urgent relief, the respondent may appear and be heard at the hearing.
7. The Court may at any stage of the proceedings, on good cause shown, allow any person who is cited as a party but failed to notify the Court as required by provisions of rule 4 of this Order, to appear to be heard on whatever terms the Court may decide.
- Party to forward advance copy to respondent.
- President or Judge of the Court to assign hearing of application for urgent relief
- Registrar to return application to the Judge before whom the matter is pending.
- Intention to oppose application.
- Filing of counter-affidavit to oppose application.
- Respondent to appear to oppose.
- Court may allow appearance at any stage of proceedings, etc.

ORDER 22—INTERLOCUTORY INJUNCTIONS AND INTERIM
PRESERVATION OF PROPERTY

Application
for
injunction.

1.—(1) Any application for the grant of an injunction may be made by a party to an action before, at or after the trial of the action, whether or not a claim for injunction was included in that party's action.

Application
for
injunction
by motion
ex parte.

(2) Where the applicant is the claimant and the case is for urgent relief, the application may be by motion ex-parte supported by an affidavit. Except as aforesaid, the application shall ordinarily be by motion on notice or summons.

Application
not before
issuance of
process.

(3) The claimant shall not make such an application before the issuance of the process by which the action is to be begun, except where the case is one of urgent relief. Where the case is for urgent relief, the injunction applied for may be granted on terms providing for the issuance of the process and service of the process together with the ex-parte order obtained on the defendant or respondent and such other terms as the Court thinks fit.

Order for
detention,
custody or
preservation,
etc of
property.

2.—(1) On the application of any party to an action, the Court may make an order for the detention, custody or preservation of any property which is the subject matter of the action or as to which any question may arise, or for the inspection of any such property in the possession of a party to the action.

(2) For the purpose of enabling any order made under sub-rule (1) of this rule to be carried out, the Court may by an order authorize any person to enter upon any land or building in the possession of any party to the action.

(3) Where the right of any party to a specific fund is in dispute in an action, the Court may on the application of the party, order the fund to be paid into Court or be otherwise secured.

(4) An order under this rule may be made on such terms as the Court deems just.

(5) An application for an order under this rule shall be made by motion on notice.

(6) Unless the Court otherwise directs, an application by the defendant or respondent for such an order shall not be made before entering appearance.

Power of
Court to
order
assessment
or valuation.

3.—(1) Where the Court considers it necessary or expedient for the purpose of obtaining full information or evidence in any action, it may, on the application of a party and by order on such terms as it deems just, authorize or require any assessment or valuation to be taken or any enquiries to be made of the property which is the subject matter of the action.

(2) The Court may, on the application of any party, make an order for the sale by such person, in such manner and on such terms as may be specified in the order, of any property (other than land) which is the subject matter of the action or as to which any dispute or question arises therein and which is of a perishable nature or likely to deteriorate if kept or which for any other reason it is desirable to sell forthwith.

(3) For the purpose of enabling any order under sub-rule (1) of this Rule to be carried out, the Court may by order authorize any person to enter any land or building in the possession of any party.

(4) Sub-rules (5) and (6) of rule 2 of this Order shall apply in relation to an application for an order under this rule.

4.—(1) Where on the hearing of an application made before trial in a cause or matter for an injunction, appointment of a public trustee or an order under rule 2 or 3 of this Order, it appears to the Court that the matter in dispute can be better dealt with expeditiously by an early trial than by considering the application on its merit, the Court may make such order accordingly.

Order for
early trial

(2) Where the Court makes an order for accelerated trial, it shall by the said order determine the place and mode of trial.

5. Where the Claimant or the defendant by way of counter-claim, claims the recovery of specific property (other than land) and the party from whom recovery is sought does not dispute the title of the party making the claim but claims to be entitled to retain the property by virtue of a lien or otherwise as security for any sum of money, the Court may order that the party seeking to recover the property be at liberty to pay into Court, to abide the event of the action, the amount of money in respect of which the security is claimed, or such further sum if any (of interests and costs) as the Court may direct; and that, upon such payment being made, the property claimed be given up to the party claiming it.

Recovery of
personal
property
subject to
lien, etc.

6. Where any real or personal property forms the subject matter of any proceedings, and the Court is satisfied, that the income from it will be more than sufficient to answer all the claims thereon for which provision ought to be made in the proceedings, the Court may order the whole or part of the income of the property to be paid, during such period as it may direct, to any or all of the parties who have an interest therein or may direct that any part of the personal property be transferred or delivered to any or all such parties.

Allowance
of income of
property
pendente
lite.

ORDER 23—RULES APPLICABLE TO GENERAL PROCEDURAL MATTERS

Application of the Rules of General Procedure.

1. Where no provision is made in these Rules as to practice and procedure or where the provisions in these Rules are inadequate, with respect to any aspect of the procedure or proceedings, any party to the proceedings may apply for leave of the Court to apply the Rules of Procedure of any High Court in Nigeria that will in the opinion of the Court do substantial justice to the parties in the particular circumstance.

Party to refer the Court to rules of High Court.

2.—(1) Where a party prays the Court to invoke any of the powers or rules of a High Court in Nigeria, the party shall refer the Court to the specific power or rule of that High Court the party or the party's counsel is praying the Court to adopt and invoke.

(2) Where the Court adopts the rule or power, it shall be only for purposes of the specific proceedings in which it was adopted.

Provided that the Court shall not be bound to adopt the rules of the High Court as requested by the party or party's counsel.

Provided further that the Court shall consider the overall interest of justice, equity, convenience, or the peculiarity of the matter and be satisfied that it has not overreached any party or that such adoption will not lead to any miscarriage of justice or create any undue advantage.

Court may invoke Rules of a High Court.

3. The Court may suo motu draw the attention of the parties in a suit before it to a particular rule or rules of a High Court in Nigeria, that it intends to adopt, invoke and apply and; which in the opinion of the Court will do substantial justice in the matter before it.

Provided that counsel to the parties are given the opportunity to address the Court on the suitability or otherwise of the Rules that the Court intends to apply.

Party to refer the Court to particular principle of International Best Practice.

4. Where a party to a suit prays the Court to apply any International Best Practice(s) or International Labour Standards in determining or doing justice in the matter before it, the party shall state the particular principle(s) and/or authority of International Best Practices or extant International Labour Standards the party is praying the Court to apply.

Practice Direction.

5. The President of the Court may issue a Practice Direction from time to time to regulate any aspect of the procedure and or proceedings of the Court as the situation may require.

ORDER 24—REFERENCE TO THE ALTERNATIVE DISPUTE RESOLUTION CENTRE

- | | |
|---|--|
| <p>1. The President of the Court or a Judge of the Court may refer for amicable settlement through conciliation or mediation any matter filed in any of the Registries of the Court to the Alternative Dispute Resolution Centre (hereinafter referred to as the Centre) established within the Court premises pursuant to Section 254C (3) of the 1999 Constitution (as amended by the Third Alteration Act, 2010) and Article 4(5)(a)–(e) of the Instrument of the Alternative Dispute Resolution Centre.</p> | <p>Reference of matter to ADR Centre.</p> |
| <p>2. Upon receipt of the referral, the Registrar of the Centre shall set the matter down for mediation or conciliation in accordance with the ADR Rules.</p> | <p>Handling of referred matter.</p> |
| <p>3. The Centre shall endeavour to take all necessary steps to conclude the mediation or conciliation process with respect to matters referred to it within twenty-one (21) working days of the date the process commences.</p> <p>Provided that an extension of ten (10) working days may be granted by the President of the Court or a Judge of the Court on request, if the mediation or conciliation process(es) is/are not completed within twenty-one (21) working days.</p> | <p>Time limit for conclusion of matter at the Centre.</p> |
| <p>4.—(1) At the end of the mediation or conciliation sessions, where parties agree to an amicable settlement, the Centre shall submit a Report of the process accompanied with the Record of the resolution sessions and Terms of Settlement, to the President of the Court or the Judge who made the referral, and Certified True Copies (CTC) thereof shall be made available to the parties or their counsel, if any.</p> | <p>Submission of Report of Mediation or Conciliation sessions.</p> |
| <p>(2) A report of any matter referred to the Centre by the President of the Court or a Judge of the Court which has been amicably resolved shall be submitted to the President of the Court or the Judge of the Court who made the referral, to be entered as the Judgment of the Court.</p> | <p>Report of amicable settlement to be entered as Judgment of the Court.</p> |
| <p>5. (1) Upon receipt of the report of an amicable settlement of a matter from the Centre, the Court shall cause hearing notices to be issued and served on the parties and their counsel, if any, for the adoption of the settlement agreement as the Judgment of the Court.</p> | <p>Serving of hearing notices to adopt settlement agreement.</p> |
| <p>(2) The hearing notice shall indicate the date and time fixed for the adoption of amicable Terms of Settlement, as the Judgment of the Court.</p> | <p>Date and time for adoption of settlement.</p> |

B 130

Variation and adoption of varied settlement report.

6.—(1) The report of an amicably resolved matter may be varied by consent of the parties to the mediation or conciliation session(s). The Report herein referred to includes the proceedings at sessions and the Terms of Settlement.

Execution of altered Terms of Settlement.

(2) Where parties to a matter in respect of which a Report of resolution session(s) is before the Court, and the Terms of Settlement have been executed and signed by the parties and their counsel, if any, and the parties intend to alter the Terms of Settlement by consent, the Court shall adopt the varied Terms of Settlement as the Judgment of the Court :

Provided all the parties and their counsel, if any, execute the varied Terms of Settlement as provided in the Rules of the Court.

Report of unresolved matter.

7.—(1) Where parties to any mediation or conciliation process are unable to settle their dispute amicably, the Director of the Centre shall submit a report to that effect to the President of the Court or the Judge of the Court who made the referral without the record of the mediation or conciliation session(s).

Remitting of unresolved matter to the Court.

(2) Where the matter was not resolved by the Centre, the matter shall be remitted to the President of the Court or the Judge who referred the matter within five (5) working days, to be set down for adjudication in accordance with the Rules of the Court.

Unresolved matter to be set down for hearing.

8. Where parties are unable to settle their disputes through the mediation or conciliation process, the Court may set the matter down for hearing and determination on its merits, and the procedure laid down for trial of cases under the Rules of Court shall be followed for the determination of the matter.

Appointment of neutral.

9. In a matter before the Court, parties may by consent move the Court to appoint a neutral mediator or conciliator for amicable resolution of their matter.

Provided the neutral shall comply with the rules of the Centre in the resolution of matters referred to the neutral.

Joinder of a fresh party to matter before the ADR Centre.

10. Notwithstanding the provisions of Order 3 Rule 4 of the ADR Centre Rules 2015 , where a matter is referred to the ADR Centre by a Judge of the Court presiding over such a matter, and during the pendency of the mediation and conciliation process at the Centre, a fresh party seeks to be joined or is sought to be joined as a party to the matter, the Director of the ADR Centre shall seek the approval of the President of the Court to allow such a party to be joined in the mediation and conciliation process.

Provided that the President of the Court shall communicate the development and the approval given to the Director of the ADR Centre to join such a party to the Judge of the Court who made the referral.

11. Where a party who sought to be joined or who is to be joined in a matter at mediation or conciliation process of the ADR Centre in line with the provisions of rule 10 of this Order, and the matter could not be resolved by the Centre and the matter is remitted back to the Court, the party who is seeking or being sought to be joined as a party shall file an application for joinder in accordance with the appropriate rules of this Court.

How party may apply for joinder after remittance back to Judge.

12. An Officer of the Court or any person with the qualification or professional experience relevant to the subject matter of the dispute may be appointed or assigned by the Court as a Neutral.

Officer of Court maybe a Neutral.

13. The Director of the Centre shall submit a monthly report of the activities of the Centre to the President of the Court.

Director to submit report to President of Court.

ORDER 25—CASES TO BE PLACED ON FAST-TRACK

1. The following cases shall qualify to be placed on Fast-Track ;

Qualification for Fast – track procedure.

(1) Cases concerning or relating to—

(a) a strike or industrial action or lock-outs ; or

(b) any other form of industrial action that threatens the peace, stability and economy of the country or any part thereof ;

(2) a declaration of trade dispute by essential services providers ;

(3) a trade dispute directly referred to the Court by the Minister of Labour and Productivity under Section 17 of the Trade Disputes Act, Cap T8, LFN 2004.

(4) any matter relating to the outstanding salary, pensions, gratuity, claims, allowances, benefits or any other entitlements of a deceased employee ;

(5) any other matter which the President of the Court may suo motu or on application of either of the parties to a suit direct to be placed on fast-track in the overall interest of the peace, stability and the economy of the Federation or any part thereof and of the larger society.

2. When a matter is ordered to be placed on fast track, the Court may accord such a matter priority by way of listing same on the Cause List for speedy trial.

Fast track matter to be on Cause list.

A.—Identification Mark and Speedy Processing

3. Where a case satisfies any of the criteria in Rule 1 above, the Registrar shall cause the Originating Processes to be marked “QUALIFIED FOR FAST TRACK”.

Registrar to mark originating process which Qualifies for Fast Track.

B 132

Originating process for fast track to be served on parties.

Claimant or Appellant to be on Notice of placement of case for fast track.

Defence process to be filed not later than 14 days and the Reply not later than 7 days.

Registrar to refer FAST TRACK matters to President of Court.

Timely hearing of urgent interlocutory application in fast track cases.

Case to be set down for hearing as soon as possible.

Notice for direction. Forms 17 and 18

Party or counsel to express intention to proceed.

4. The Registrar shall serve the Defendant(s) or Respondent(s) the originating processes along with notice that the case has been placed on the fast-track and that the party served is required to file the party's response to the originating processes within the time stipulated in the Rules.

5. The Claimant or Appellant shall similarly be given notice that the case has been placed on the fast-track and that the party so notified is required to file any Reply process within the time stipulated in the Rules.

6. The Defendant(s) or Respondent(s) shall file the Defence processes as stipulated in the Rules not later than fourteen (14) days from the date of service of the originating processes and the Claimant or Appellant shall file any Reply to the Defence not later than seven (7) days from the date of service of the Defendant(s)/Respondent(s) processes.

7.—(1) The Registrar shall refer any case which qualifies to be placed on the fast-track as soon as practicable to the President of the Court for assignment to a Judge or a panel of Judges.

(2) Where the originating process(es) in respect of a case on the fast track is (are) with an urgent interlocutory application, the file shall immediately be referred to the President of the Court who shall assign the case to a Judge or a Panel of Judges to handle the urgent interlocutory application pending the exchange of pleadings and/or briefs by the parties as stipulated in these Rules.

8. The Judge or the Panel of Judges to whom a fast-track case with urgent interlocutory application is assigned shall within five (5) days or so soon thereafter but not later than ten (10) days, set down any such urgent pending application to be disposed of timeously, and direct hearing notices to be issued to the parties accordingly.

9. The trial Judge or the Panel of Judges shall set the case down for hearing as soon as addresses have been settled and the Court shall order that hearing notices be issued and served on all the parties.

10. Every party or Counsel to the party shall be required to file a Notice indicating :

(1) if the party intends to file and move any or further interlocutory application before the commencement of trial, the nature of the application and whether such application has already been filed ;

(2) if the party intends to object to the admissibility of any of the documents listed and front-loaded to be relied upon at the trial by the opposing party, and the list of such documents to which objection will be taken and the ground(s) for the objection.

(3) if there is any issue raised by the opposing party which the first party does not intend to contest.

(4) the party's proposal for the speedy trial and determination of the case, including a possible timetable for the trial.

11. The Court shall consider the proposals by the parties or their Counsel and give directions for trial including a case management time table which it considers suitable, and the parties shall be bound by such directions

Court to consider proposal of parties or counsel and give direction.

B.—Variation of Direction

12.—(1) Where there has been a change of circumstances since trial directions were issued, the Court may suo motu or on application of any of the parties, vary any of the directions given by the Court.

Court may suo motu on application set aside or vary any of the directions issued.

(2) Where the parties agree on changes to be made to the trial directions given, they must immediately apply for an order by consent, including an agreed statement of the reasons why the variation is sought.

Parties to apply for order for changes to trial directions.

(3) Where the Court varies any direction because of a defaulting party or counsel to the party, it may impose costs and daily default fees as prescribed in the Rules ; or as may be deemed fit by the Court.

Court may impose cost on variation of trial directions.

(4) The Court may on default of a party make an order of variation without a hearing.

Order of variation without hearing.

C.—Enforcement of Compliance with Directions

13.—(1) Where a party has failed to comply with a Court direction, any other party may apply for an Order to enforce compliance or for a sanction to be imposed or both.

Application by a party for order to enforce compliance or sanction or both.

B 134

Non-compliance not to lead to postponement of trial.

(2) Failure to comply with Court directions will not lead to the postponement of the trial unless the circumstances of the failure are exceptional.

*D.—Conduct of Proceedings
To be Made and Heard Timeously*

Application to change the trial time table.

14.—(1) Where a party needs to make any application which is not included in the trial time table, the party must do so as soon as possible so as to reduce the frequency of alterations to the time table.

Court to attend promptly to application in a Fast Track.

(2) The Court shall take all necessary steps to ensure that applications and other hearings are listed and attended to promptly to avoid delay in the conduct of cases in the Fast Track.

E.—Trial to Proceed from Day to Day

Trials to be conducted from day to day.

15. Unless the Court otherwise directs, the trial shall be conducted from day to day and in accordance with any order previously made by the court.

16.—(1) The Court shall allow the postponement of a trial only as a last resort. Postponement of trial is order of last resort.

Adjournment to be within shortest possible time.

(2) Where the Court has no option but to adjourn the trial, it will do so for the shortest possible time, and as it deems just and fair.

F.—Trial and Addresses

Court to ask other party if intending to call any witness

17.—(1) When the party beginning has concluded evidence, the Court shall inquire whether the other party intends to call any witness.

Beginning party to file written address within 7 working days.

(2) If the other party does not intend to call any witness, the party beginning shall within seven (7) days after close of evidence file a Written Address ;

Other party to file written address within 7 working days.

(3) Upon being served with the Written Address, the other party shall within 7 days file a Written address.

(4) Where the other party calls any witness that other party shall within seven (7) days after the close of evidence file a Written Address.

Other party to file written address after calling witness.

(5) Upon being served with the other party's written address the party beginning shall within seven (7) days file as response a Written Address.

Beginning party to respond to other party's written address after 7 working days.

(6) The party who files the first Written Address shall have a right of reply on points of law only. The reply shall be filed not later than five (5) days after service of the other party's Written Address on the first party.

Response to be on point of law only within 5 working days only.

G.—Cases commenced under Order 3 Rules 8 and 9

18.—(1) Rules 8 to 15 of this Order shall apply to cases commenced by Complaint under Order 3, Rules 8 and 9 of these Rules where pleadings and frontloaded processes are filed and exchanged; but shall not apply to complaints against decisions of Arbitral Tribunals, a Board or Commission of Inquiry or of the Registrar of Trade Unions and other similar decisions, commenced under Order 3 Rule 16; or to cases commenced by originating summons for the construction of the Constitution, enactments, contracts or any other written instrument commenced under Order 3 Rule 17 (1) of these Rules.

Cases commenced by complaints under Order 3 Rules 8 and 9.

(2) When cases commenced under Order 3 Rule 16 (1) and (2) are placed on the fast track, the Judge or the Panel of Judges to whom such cases are assigned shall set down the cases for direction in order to ascertain that any pending interlocutory application has been disposed of and that parties or their Counsel have filed and exchanged Briefs of Argument or Written Addresses as provided in these Rules.

Judge or Panel to set Fast Track case down for direction.

(3) Once the Court is satisfied that the requirements of the provisions of rule 17 sub-rules (1)-(6) of this Order have been complied with, it shall proceed to take arguments by asking the parties or their Counsel to adopt the Briefs of Argument or Written Addresses already filed and served, or if the exigency of the court's business does not permit, fix the shortest possible date being not more than 30 days thereafter for taking argument of parties or their Counsel on the Briefs.

Court to request parties to adopt Briefs of Argument or Written Addresses

H.—Delivery of Judgment

Judgment of
FAST TRACK
cases to be
delivered
quickly.

19. In all Fast Track cases, the Judge or the panel of Judges shall endeavour to deliver judgment as quickly as practicable after completion of trial or adoption of written addresses.

ORDER 26—AMENDMENT

When
amendment
may be
allowed.

1.—(1) An amendment may be allowed where its purpose is to determine the real question or issue between parties and would—

- (a) secure substantial justice ; or
- (b) settle the controversy between parties and related issues.

When
amendment
may be
refused.

(2) An amendment may be refused where it would—

- (a) present a completely different case, or cause injustice to the other party or where the application for amendment is brought mala fide ;
- (b) necessitate the hearing of further evidence especially on appeal ;
- (c) not cure the defects in the procedure sought to be cured or where it is inconsistent and useless ;
- (d) amount to over-reaching the other party or an abuse of court process.

Limit to
amendment
of process
before trial.

2. A party may at any time but not more than twice with leave of Court alter, amend or modify the party's Originating and/or other processes.
Provided that the party may not completely change the cause of action endorsed on the process.

Court may
allow
amendment
of defect or
error in any
proceedings.

3. The Court may at any time, and on such terms as to cost or otherwise as the Court or Judge may think just, allow a party to amend any defect or error in any process, and all necessary amendments shall be made for the purpose of determining the real questions or issues in controversy raised by or arising from the proceedings.

Application
for
amendment
to be
supported
by affidavit.

4. An application for leave to amend may be made to the Court at the trial and such application shall be supported by an affidavit with the proposed amendment marked and attached as an exhibit and may be allowed upon such terms as to cost or otherwise as may be just.

Documents
to
accompany
amended
originating
process.

5. Where any Originating Process and/or a pleading is to be amended, a list of any additional witness(es) proposed or intended to be called together with such witness's written statement on oath (and or a further written statement on oath of an existing witness) as well as a copy of any additional document to be relied upon, shall be filed with the application.

- | | |
|--|--|
| <p>6. If a party who has obtained an Order to amend a process does not amend same within the time allowed for that purpose by the Order, or if no time limit is fixed , and the party fails or neglects or is unwilling to amend as ordered within fourteen (14) days of the date of the Order, such party shall pay a penalty of ₦200.00 (Two Hundred Naira) for each day of default for the first fourteen days (14) in default, and thereafter the penalty shall be ₦300.00 per day.</p> | <p>Time limit for amendment and penalty for default.</p> |
| <p>7. Whenever any Originating Process or Pleading is amended, a copy of the process or pleading as amended shall be filed in the Registry of the Court and advance copies of same shall be forwarded to all the parties to the action.</p> | <p>Filing of amended process and forward advance copy.</p> |
| <p>8. Whenever any Indorsement or Pleading is amended, it shall be marked in the following manner :</p> <p>“Amended.....day of.....pursuant to Order of (<i>Name of the Judge</i>) dated the.....day of”</p> | <p>Marking amended process.</p> |
| <p>9. A Judge may at any time amend any defect or error in any proceedings.</p> | <p>Judge may amend defect or error in proceedings.</p> |
| <p>10. A Judge may at any time correct any grammatical or typographical mistakes in the Judge’s Judgments, Rulings or Orders or any accidental slip or omissions contained therein.</p> | <p>Correction of mistakes in Judgment or in process.</p> |
| <p>11. Any of the parties may apply to the Court for the correction of any mistakes or errors or any accidental slip or omission in a Judgment, Ruling, Order or any process made or issued by the Court.</p> | <p>Party may apply for correction of error or mistake.</p> |

ORDER 27—APPLICATION FOR ACCOUNT

- | | |
|--|--|
| <p>1. Where in an originating process a claimant seeks an account or where the claim involves the taking of an account, if the defendant either fails to appear, or after appearance fails to satisfy the Court that there is a preliminary question to be tried, the Court may, on application make an order for the taking of proper accounts, with all necessary inquiries and directions.</p> | <p>Order for Account.</p> |
| <p>2. An application for account shall be supported by an affidavit stating concisely the grounds of the claim. The application may be made at any time after the time prescribed for defence.</p> | <p>Procedure for an application for account.</p> |

B 138

Account may be taken by the Court or a Referee.

3. Where an order is made for account under this Order, the account may be taken by the Court or a Referee appointed by the Court.

ORDER 28—ASSESSOR AND EXPERT WITNESSES

Responsibility of Assessor sitting with the Court,

1. Where an Assessor sits with the Court during a trial, such Assessor shall only give opinion to or advise the Court on the issue for which the Assessor is appointed.

Assessor to take Oath of Secrecy.

2. The Assessor shall subscribe to the judicial oath of secrecy before the President of the Court or a Judge of the Court before assuming duty.

Assessor not to write Judgment.

3. The Assessor shall not deliver any opinion in form of judgment or order and shall not dissent or concur with the judgment or order which the Court has given.

Assessor to advise on issue as an expert.

4. An Assessor shall in advising the Court limit such service to the issue on which the assessor is an expert.

Court not bound to accept Assessor's Opinion or Advice.

5. The Court is not bound to accept or act on the opinion or advice of the Assessor.

Invitation of expert witness.

6.—(1) Any party intending to call an expert witness must deliver a notice to that effect, together with a summary of the evidence and opinion of the expert witness, at least fourteen (14) days before the date of the hearing.

Proof of expert witness.

(2) The party intending to invite an expert witness, shall state in an affidavit :
(a) the area(s) of the claims with which the expert witness is concerned ;
(b) the qualification and experience of the expert witness in relations to the claims or issues before the Court

Failure of party to comply with Rule 6.

7. If a party fails to comply with rule 6 of this order, the Court may decline to admit the evidence or admit it only on good cause shown and may make an order as to costs.

ORDER 29—ISSUES, INQUIRIES, ACCOUNTS AND REFERENCES TO REFEREES OR ARBITRATORS

Issues referable to a Referee or Arbitrator.

1. In any action before the Court, the Court may at any time order the whole cause or matter or any question or issue of facts arising therein, to be tried before a special referee, officer of the Court, or arbitrator as agreed by the parties.

2. Where a matter is referred to a referee or arbitrator by a Court order, the Court shall furnish the referee or arbitrator with such part of the proceedings, such information and detailed instructions as may appear necessary and shall direct the parties if necessary to appear before the referee or arbitrator during the inquiry. Details to be furnished to Referee or Arbitrator
3. The instructions shall specify whether the referee or arbitrator is only to transmit to the Court the proceedings of the inquiry, or may also report the referee or arbitrator's own opinion on the point referred for investigation. Referee or Arbitrator's duty to be specified
4. The referee or arbitrator may, subject to the order of the Court, hold any inquiry at any place or adjourn it as may be convenient and conduct any inspection which may be desirable for the disposal of the matter. General power of the Referee or Arbitrator
- 5.—(1) Subject to any order made by the Court ordering the inquiry, evidence shall be taken at the inquiry before a referee or an arbitrator, and the attendance of witnesses to give evidence may be enforced by the Court in the same manner as such attendance may be enforced in a hearing before the Court. Evidence at Inquiry.
- (2) The referee or arbitrator shall have the same authority in the conduct of any inquiry as a Court during the course of any trial.
- (3) Nothing in these Rules shall authorize any referee or arbitrator to commit any person to prison or to enforce any order by attachment or otherwise; but the Court may, in respect of matters before a referee or arbitrator, make such order of attachment or committal as it may consider necessary.
- 6.—(1) The report made by a referee or an award made by an arbitrator in pursuance of a reference or arbitration under this Order shall be made to the Court and notice thereof served on the parties. Report pursuant to reference to be submitted to Court.
- (2) A referee or an arbitrator may submit a report on any question arising therein for the decision of the Court or make a special statement of facts from which the Court may draw such inferences as it deems fit.
- (3) An award of an arbitrator on any reference shall, unless set aside, be binding on the Court as its findings.
- (4) An application to make an award of an arbitrator an order of the Court which is unopposed may be filed by the party seeking for the order of the Court. The Court may make any competent order in the absence of the parties.
- (5) On receipt of a referee's report, the Court may—
 - (a) adopt the report in whole or in part ;
 - (b) vary the report ;
 - (c) request for an explanation from the referee ;

(d) remit the whole or any part of the question or issue originally referred to the referee for further consideration by that referee or any other referee ;

(e) decide the question or issue originally referred either on the evidence already taken or with additional evidence.

(6) An application to vary the report of the referee or remit the whole or any part of the question or issue originally referred may be made on the hearing by the Court for the further consideration of the cause or matter by giving not less than four (4) days' notice thereof and any other application with respect to the report may be made on that hearing without notice.

(7) Where on a reference under this Order, the Court orders that the further consideration of the cause or matter in question shall not stand adjourned until the receipt of the referee's report, the order may contain directions pending the receipt of the report. The foregoing provision of this rule shall have effect subject to any such directions.

Court's
directions to
Referee to
take Account

7. The Court may order or direct an account to be taken or by any subsequent order give special directions with regard to the mode in which the account is to be taken or vouched and in particular may direct that in taking the account, the books of accounts in which the accounts in question have been kept shall be taken as prima facie evidence of the truth of their contents, with liberty to the interested parties to object.

Mode of
taking
Account

8. Where any account is directed to be taken, the accounting party shall make out the party's account and verify same by affidavit. The items on each side of the account shall be numbered consecutively, and the account shall be referred to by the affidavit as an exhibit and left in the Registry.

Court may
direct further
vouching of
Account.

9. Upon the taking of any account, the Court may direct that any voucher be produced at the chambers of the accounting party's counsel or at any other convenient place and that only such items as may be contested or surcharged shall be brought before the Court.

Surcharge.

10. Any party seeking to charge any accounting party beyond what the account has admitted to have been received shall give notice to the accounting party, stating so far as the party is able, the amount sought to be charged with particulars of same.

Numbering
of Accounts
and
Inquiries.

11. Where by any judgment or order any accounts are directed to be taken or inquiries to be made, each such direction shall be numbered so that as far as possible, each distinct account and inquiry may be designated by a number.

Just
Allowances
to be made
while taking
Account

12. In taking any account directed by any judgment or order, all just allowances shall be made without any direction for that purpose.

13.—(1) Where it appears to the Court that there is any undue delay in the prosecution of any proceedings, the Court may require the party having the conduct of the proceedings or any other party, to explain the delay and may thereupon make such order as to costs of the proceeding as circumstances of the case may require with regard to expediting the proceedings, and the conduct, or the stay thereof. For the purpose aforesaid, any party may be directed to summon the persons whose attendance is required, and to conduct any proceedings and carry out any directions which may be given.

Duty of the Court where there is undue delay in proceedings at references and arbitration.

(2) The Court may direct any party or counsel to take over the conduct of the proceedings in question and to carry out any directions made by an order under this rule and make such order as it thinks fit for the payment of the counsel costs.

Court may direct takeover of conduct of proceedings.

ORDER 30—PLEADINGS : GENERAL

1. (1) A Claimant shall serve a statement of facts in the manner prescribed in Order 3 of these Rules together with copies of documentary evidence therein mentioned on the defendant, or, if there are two or more defendants, on each defendant, and shall do so either when the general form of complaint, or notice of the general form of complaint, is served on the defendant unless the Court or Judge otherwise orders.

Service of Statement of Claim. Form 1.

(2) A Statement of facts shall include the relief or remedy to which a Claimant shall claim to be entitled.

Statement of facts to include relief, etc.

2.—(1) A defendant who enters appearance and intends to defend the actions shall, at the time of filing the memorandum of appearance, unless the Court gives leave to the contrary, serve on the Claimant :

Statement of Defence.

(a) a statement of defence which may include any preliminary objection the defendant wishes to raise to the Claimant's action ;

(b) a list of witnesses to be called at the trial ;

(c) a Written Statement on oath of the witnesses ;

(d) copies of every document to be relied on at the trial ; and

(e) a list of non-documentary exhibits.

(2) A Defendant shall file a Statement of Defence, Set-off or Counter-claim not later than fourteen (14) days after service on the Defendant of the Claimant's Originating Process and accompanying documents. A counter-claim shall have the same effect as a cross action, so as to enable the Court pronounce a final judgment in the same proceedings. A Set-Off must be specifically pleaded.

Defendant's Statement of Defence, Counter-claim or Set-off to be made within 14 days.

B 142

Claimant to reply to Defendant's Statement of defence within 14 days.

(3) A Claimant shall within fourteen (14) days of service of the Statement of Defence and Counter-claim; file a reply, if any, to such Defence or Counter-claim.

Provided that where a Defendant sets up a Counter-Claim, and if a Claimant or any other person named as party to such Counter-Claim contends that the claim thereby raised ought not to be disposed of by way of Counter-Claim, but in an independent proceeding, a Judge may at any time order that such Counter-Claim be excluded.

Pleadings to state material facts and not evidence.

3.—(1) Every pleading shall contain a statement in summary form of the material facts on which the party pleading relies for the party's claim or defence, as the case may be, but not the evidence by which they are to be proved and shall, when necessary be divided into paragraphs and numbered consecutively.

In case of conflict, the words shall be preferred.

(2) Dates, sums and numbers shall be expressed in both figures and words.

(3) Pleadings shall be signed by a Legal Practitioner or by a party where such party sues or defends in person.

(4) The facts shall be alleged positively, precisely, and distinctly, and as briefly as is consistent with a clear statement.

Particulars to be given where necessary

4. In all cases in which the party pleading relies on any misrepresentation, fraud, breach of trust, willful default, or undue influence and in all other cases, in which particulars may be necessary, particulars (with dates and items if necessary) shall be stated in the pleadings.

Further and better statement of particulars.

5. A further and better statement of the nature of the claim or defence, or further and better particulars of any matter stated in any pleading, notice or process requiring particulars, may on application to the Court, be ordered upon such terms as to costs and otherwise, as may be just.

Denial.

6.—(1) Every allegation of fact in any pleading if not specifically denied in the pleadings of the opposite party, shall be taken as admitted, except as against a person under legal disability.

General denial not acceptable for specific fact pleaded.

(2) A general denial in any pleading shall not operate as denial of any specific fact contained in the pleadings of the opposing party.

Conditions precedent.

7. Each party shall specify distinctly in the party's pleadings any condition precedent, the performance or occurrence of which is intended to be contested.

8.—(1) All grounds of Defence or Reply which make an action unmaintainable or which if not raised will take the opposite party by surprise or will raise issues of facts not arising out of the pleadings shall be specifically pleaded.	All grounds of Defence or Reply to be specifically pleaded
(2) Where a party raises any ground which makes a transaction void or voidable or such matters as limitation law, release, payment, performance, facts showing insufficiency in the contract of employment or illegality either by any enactment or by common law, the party shall specifically plead same.	Specific pleading of ground which voids a transaction.
9. No pleading, not being a petition or summons, shall, except by way of amendment raise any new ground of claim or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same.	Pleadings to be consistent.
10. A party may by the party's pleadings join issues upon the pleading of the opposing party and such joinder of issues shall operate as a denial of every material allegation of fact in the pleading upon which issue is joined except any fact which the party may be willing to admit.	Joinder of issue by pleadings.
11. Wherever the contents of any documents are material, it shall be sufficient in any pleading to state the effect of the document(s) as briefly as possible, without setting out the whole or any part the document(s), unless the precise words of the document or any part of the same are material.	Effect of document to be stated
12. Wherever it is material to allege notice to any person of any fact, matter or thing, it shall be sufficient to allege such notice as a fact, unless the form or the precise terms of such notice or the circumstances from which such notice is to be inferred are material.	Allegation of Notice as fact except otherwise required.
13. Wherever any contract or any relationship between persons is to be implied from a series of letters or conversations, or otherwise from a set of circumstances, it shall be sufficient to allege such contract or relationship as a fact, and to refer generally to such letters, conversation or circumstances without setting them out in detail. If in such a case the party so pleading desires to rely in the alternative upon more contracts or relationships than one as to be implied from such circumstances, the party may in the alternative state the same.	Allegation of implied contractual relationship as facts.
14. A party may not allege in any pleadings any matter or fact that the law presumes in the party's favour or as to which the burden of proof lies upon the other side, unless the same has first been specifically denied.	Pleadings not to allege presumption of favour unless specifically denied.

B 144

Action on
Stated or
Settled
account.

15. In every case in which the cause of action is a stated or settled account, the same shall be alleged with particulars, but in every case in which a statement of account is relied on by way of evidence or admission of any other cause of action which is pleaded, the same may not be alleged in the pleadings.

No Technical
objection to
pleading
on want
of form.

16. No technical objection shall be raised to any pleading on the ground of any alleged want of form.

Allegation of
malice or
fraudulent
intention,
etc.

17. Wherever it is material to allege malice, fraudulent intention, knowledge or other condition of the mind of any person, it shall be sufficient to allege the same as a fact without setting out the circumstances from which the same is to be inferred.

Striking out
or
amendment
of pleading
that
discloses no
reasonable
cause of
action.

18.—(1) The Judge may at any stage of the proceedings order to be struck out or amended any pleading or the indorsement of any writ in the action, or anything in any pleading or in the indorsement, on the ground that :

(a) it discloses no reasonable cause of action or defence, as the case may be ; or

(b) it is unnecessary, scandalous, frivolous or vexatious ; or

(c) it may prejudice, embarrass or delay the fair trial of the action ; or

(d) it is otherwise an abuse of the process of the Court ;

and may order the action to be stayed or dismissed or judgment to be entered accordingly, as the case may be.

No evidence
admissible
under Rule
1(1)A.

(2) No evidence shall be admissible on an application under sub-rule (1) (a) of this rule.

Rule to
apply to
originating
summons as
to pleading.

(3) This rule shall, so far as applicable also apply to an originating summons as if the summons or petitions, as the case may be, were a pleading.

No objection
to
declaratory
judgment or
Order during
proceedings.

(4) No proceeding shall be open to objection on the ground that only a declaratory judgment or order is sought thereby and a Judge may make a binding declaration of right whether any consequential relief is or could be claimed or not.

Close of
pleadings for
lack of
defence.

19.—(1) Where a Defendant fails to file a defence within the fourteen (14) days prescribed by the Rules, pleadings may be deemed closed.

(2) Where a pleading subsequent to Reply is not ordered, then at the expiration of seven (7) days of the service of the Defence or Reply (if a Reply has been filed) pleadings may be deemed closed.

Close of pleadings when time barred.

(3) Where a pleading subsequent to Reply is ordered, and the party who has been ordered or granted leave to file the same fails to do so within the period prescribed for that purpose, then, at the expiration of the period so prescribed, pleadings may be deemed closed.

Close of pleadings for failure within the time allowed.

Provided that this Rule shall not apply to a defence to counter-claim and unless the Claimant files a defence to counter-claim, the statements of fact contained in such counter claim shall at the expiration of fourteen (14) days from the service thereof or such time (if any) as may by order be allowed for filing of a defence thereto be deemed to be admitted, but the Court may at any subsequent time give leave to the Claimant to file a Defence to Counter-Claim.

ORDER 31—STATEMENT OF FACTS

1. (1) Every Statement of Facts or Counter-claim shall state specifically the relief claimed either in the main or in the alternative, and it shall not be necessary to ask for general or other relief, which may be given as a Judge may think just as if it has been asked for.

Statement of Facts or Counter-claims.

(2) Where the Claimant seeks relief in respect of several distinct claims or causes of complaint founded upon separate and distinct grounds, they shall be stated, as far as may be, separately and distinctly. The same Rule shall apply to a defendant in respect of Counter-Claim.

Claimant's relief for several claims to be stated separately.

ORDER 32—DEFENCE AND COUNTER-CLAIM FORM 25

1. The Statement of Defence shall be a statement in summary form and shall be supported by copies of documentary evidence, list of witnesses and their written statements on oath in accordance with these Rules.

Statement of Defence.

2. When a party in any pleading denies an allegation of fact in the previous pleading of the opposing party, the party shall not do so evasively, but answer the point of substance. If an allegation is made with diverse particulars, the allegation and the particulars must be specifically denied.

Evasive denial of allegation.

3. In an action for debt or liquidated demand in money, a mere denial of the debt shall not be sufficient defence.

When mere denial of debt is insufficient.

B 146

Defence as to Set-off and Counter-Claim.

4. Where any Defendant seeks to rely upon any ground as supporting a right of Set-Off or counter-claim, the Defendant shall in the defence state specifically that the Defendant does so by way of supporting a right of Set-Off or counter-claim.

Addition to Title of Defence in counter-claim.

5. Where a Defendant in a defence sets up any Counter-Claim which raises questions between the Defendant and the Claimant along with any other persons, the Defendant shall add to the title of the defence a further title similar to the title in a Statement of Facts, setting forth the names of all the persons, who, if such counter-claim were to be enforced by cross action, would be Defendants to such cross-action, and shall deliver the Defence to such of them as are parties to the action within the period in which the Defendant is required to deliver it to the Claimant.

Counter-claim against persons not a party. Form 25.

6. Where a Defendant counter-claims against a person who is not a party to the action, the Court may suo motu or upon application order that the person be joined as a Claimant, and thereafter the person may file a defence process against the counter-claim in accordance with these Rules.

Discontinuance of the Claimant's claim.

7. If, in any case in which the Defendant sets up a counter-claim, the action of the Claimant is stayed, discontinued or dismissed, the counter-claim may nevertheless be proceeded with.

Judgment for balance of claim.

8. Where in an action, a Set-Off or counter-claim is established as a Defence against the Claimant's claim, the Court may, if the balance is in favour of the Defendant, give judgment for the Defendant for such balance, or may otherwise adjudge to the Defendant such relief as the Defendant may be entitled to upon the merits of the case.

Grounds of defence arising after action is filed.

9.—(1) Any ground of defence which arises after the action has been filed, but before the Defendant has delivered the Defence, and before the time limited for doing so has expired, may be raised by the Defendant in the Defence, either alone or together with other grounds of Defence.

Claimant to raise answer or ground in reply or defence after delivery of Defence was delivered

(2) If after a Defence has been delivered along with a set-off or counter-claim, any basis for answer or ground of defence arises to any such set-off or counter-claim respectively, it may be raised by the Claimant in the Claimant's Reply (in the case of a set-off) or Defence to counter-claim, either alone or together with any other ground of Reply or Defence to counter-claim.

- | | |
|---|--|
| <p>10. Where any ground of Defence arises after the Defendant has delivered a Defence, or after the time limited for doing so has expired the Defendant may, and where any ground of defence to any Set-Off or counter-claim arises after Reply, or after the time allowed for delivery of Reply has expired, the Claimant may, within seven (7) days after such ground of defence has arisen or at any subsequent time by leave of Court deliver further defence or further Reply as the case may be, setting forth the same.</p> | <p>Further defence to Reply.</p> |
| <p>11. Whenever any Defendant in a defence or in any further defence pursuant to Rule 10 of this Order alleges any ground of defence which has arisen after the commencement of the action, the Claimant may concede to such defence (which concession may be in Form 26 with such modification as circumstances may require) and may thereupon obtain judgment up to the time of the pleading of such defence, unless the Court either before or after the delivery of such concession otherwise orders.</p> | <p>Concession to defence.</p> |
| <p>12. A Respondent to an Originating Summons shall file a Counter Affidavit together with all the exhibits the Respondent intends to rely upon and a Written Address within (14) fourteen days after service of the Originating Summons.</p> | <p>Defence to Originating Summons.</p> |

ORDER 33—REPLY OF CLAIMANT TO DEFENCE

- | | |
|---|--|
| <p>1. Where the Claimant wishes to make a Reply, the Claimant shall file it within fourteen (14) days of the service of the Defence on the Claimant.</p> | <p>Claimant to file reply within limited period.</p> |
| <p>2. Where a Counter Claim is pleaded, a Reply thereto is called a Defence to Counter Claim and shall be subject to the rules applicable to Defences.</p> | <p>Defence to Counter claim.</p> |

ORDER 34—ADMISSIONS

- | | |
|---|--|
| <p>1. Any party to a proceeding may give notice by the party's pleading or otherwise in writing, that such party admits the truth of the whole or any part of the facts of the case of any other party.</p> | <p>Notice of Admission.</p> |
| <p>2.—(1) Either party may, not later than seven (7) days after close of pleadings by notice in writing filed and served, require any other party to admit any document and the party so served shall not later than four (4) days after service give notice of admission or non-admission of the document, failing which the party so served shall be deemed to have admitted it unless the</p> | <p>Court otherwise orders. Notice to admit document.</p> |
| <p>(2) When a party decides to challenge the authenticity of any document, such a party shall not later than seven (7) days after service on the party of that document, give notice that the party does not admit the document and requires it to be proved at the trial.</p> | <p>Period for admitting document.</p> |

B 148

Costs for challenging authenticity of document.

(3) Where a party gives notice of non-admission of a document and the document is proved at the trial, the cost of proving the document, which shall not be less than Five Thousand Naira (N5000.00) shall be paid by the party that has challenged it, unless at the trial or hearing, the Court certified that there were reasonable grounds for not admitting the authenticity of the document.

Notice to admit facts.

3.—(1) Either party may not later than seven (7) days before close of pleadings, by notice in writing filed and served, require any other party to admit any specific fact(s) mentioned in the notice, and the party so served shall not later than four (4) days after service give notice of admission or denial of the fact(s) failing which the party served shall be deemed to have admitted the facts unless the Judge otherwise orders.

Admission in Rule 3(1) deemed to be for purpose of particular proceedings.

(2) Any admission made pursuant to notice mentioned in sub-rule (1) of this rules, shall be deemed to be made only for the purposes of that particular proceeding and not as an admission to be used against the party or any other party than the party giving the notice of admission.

Cost of refusal or neglect to admit documents.

(3) Where there is a refusal or neglect to admit, answer, or react to the notice in sub-rule (1) of this rule, within four (4) days after service of such notice or within such further time as may be allowed by the Court, the cost of proving such fact or facts which shall not be less than Five Thousand Naira (N5,000.00) shall be paid by the party so refusing or neglecting, notwithstanding the result of the proceedings, unless the Court :

(a) certifies that the refusal to admit, answer or react to the notice was reasonable ; or

(b) at any time otherwise orders or directs.

Judgment or Order upon admission of facts.

4. The Court may, on application, at any stage of the proceedings where admissions of facts have been made, either on the pleadings or otherwise, make such orders or give such judgment as upon such admission a party may be entitled to, without waiting for the determination of any other question between the parties.

Cost of notice where to admit or produce document is unnecessary.

5. Where a notice to admit or produce comprises documents that are not necessary, the cost occasioned thereby which shall not be less than Five Thousand Naira (N5000.00) shall be borne by the party giving such notice.

ORDER 35—DEFAULT OF PLEADINGS

1. If the Claim is for debt or liquidated demand only, and the Defendant does not within the time allowed for the purpose file a Defence, the Claimant may, at the expiration of such time apply for final judgment for the amount claimed with costs.

Claim for debt or liquidated demand.

2. When in any such action as in Rule 1 of this Order there are several Defendants, if one of them makes a default as mentioned in Rule 1 of this Order, the Claimant may apply for judgment against the Defendant making default and issue execution upon such judgment without prejudice to Claimant's right to proceed with the action against the other party or parties as the case may be.

Default of one Defendant out of Several Defendants.

3.—(1) If the Claimant's claim be for pecuniary damages, and the Defendant or all the Defendants, if more than one, make default as mentioned in Rule 1 of this Order, the Claimant may apply to the Court for judgment against the Defendant or Defendants and the amount of the pecuniary damages, or the damages only as the case may be, shall be ascertained in any way the Court may order.

Pecuniary Damages.

(2) Where damages are to be ascertained and in all cases where declaratory reliefs are sought, the Court shall set down the matter for trial.

Trial of unascertained damages and declaratory reliefs.

4. When in any such action as in Rule 3 of this Order there are several Defendants, if one or more of them makes default as mentioned in Rule 1 of this Order, the Claimant may apply to the Court for judgment against the Defendant or Defendants so making default and proceed with Claimant's action against the others; as the case may be.

When Claimant may apply for judgment against defaulting Defendant(s).

Provided that the amount of damages against the Defendant making default shall be assessed at the trial of the action or issues therein against the other Defendant, unless the Court otherwise order.

5. If the Claimant's claim is for a debt or liquidated demand or for pecuniary damages only, and the Defendant files a Defence which purports to offer an answer to part only of the Claimant's alleged cause of action, the Claimant may apply for judgment, for the part unanswered.

Defence filed to only part of Claim.

Provided that the unanswered part consists of a separate cause of action or is severable from the rest, as in the case of part of a debt or liquidated demand.

Provided also that where there is a Counter Claim, execution on any such judgment as above mentioned in respect of the Claimant's claim shall not issue without leave of the Court.

B 150

Default in
filing
Defence.

6.—(1) In all actions other than those in the preceding rules of this Order, if the Defendant makes default in filing a Defence, the Claimant may apply to the Court for judgment, and such judgment shall be given upon the Statement of Facts as the Court shall consider the Claimant to be entitled to.

Application
for trial
when there
is no
Defence.

(2) Where there is no Defence and the matter before the Court cannot be adjudged without the Claimant adducing evidence to prove the case before the Court, the Claimant shall make an application to set the matter down for trial before the Court which shall upon consideration and grant of the application proceed to hear the matter at the trial Court.

Validity of a
default
judgment
and
application
to set aside..

7. Any judgment by default whether under this Order or under any Order of these Rules shall be final and remain valid and may only be set aside upon application to the Court on grounds of fraud, non-service or of lack of jurisdiction and upon such terms as the Court may deem fit.

ORDER 36—PAYMENTS INTO AND OUT OF COURT FORMS 23, 24, 25, 107, 108.

Payment
into Court.

1.—(1) In any action for debt or damages the Defendant may, at any time after the Defendant has entered appearance in the action, pay into Court a sum of money in satisfaction of the cause of action in respect of which the Claimant claims or, where two or more causes of action are joined in the action, a sum or sums of money in satisfaction of any or all of those causes of action.

Notice of
payment on
Form 23.

(2) On making any payment into Court under this Rule, and on increasing any such payment already made, the Defendant shall give notice thereof in Form 23 to the Claimant and every other Defendant (if any); and within seven (7) days after receiving the notice, the Claimant shall send to the Defendant a written acknowledgment of its receipt.

Payment
into Court as
admission of
liability.

2.—(1) Unless the Defendant denies liability, payment into Court, whether made in satisfaction of the Claimant's claim generally or in satisfaction of some specific part of the claim, operates as an admission of liability to the extent of the amount paid in and no more, and for no other purpose.

Denial of
liability
when money
is paid into
Court

(2) When money is paid into Court and the Defendant is denying liability, it shall be subject to the provisions of Rule 5 of this Order.

Acceptance
of sum paid
in discharge
of cause of
action.

3. Where the Defendant pays money into Court, and the liability of the Defendant in respect of the claim or cause of action in satisfaction of which the payment into Court is made is not denied in the defence, the Claimant shall be at liberty to accept the same in full satisfaction and discharge of the cause of action in respect of which it is paid in, and in that case the Claimant may

forthwith apply by motion for payment of the money to Claimant, and, on hearing the motion, the Court shall make such order as to stay of further proceedings in the suit, in whole or in part and, as to costs and other matters as seems just.

4. If the Claimant does not so apply, the Claimant shall be considered as insisting that the Defendant was and is indebted to the Claimant in a greater amount, than the sum paid in and, in that case the Court, disposing of costs at the hearing, shall have regard to the fact of the payment into Court having been made and not accepted.

Non-acceptance of sum paid in.

5.—(1) When the liability of the Defendant, in respect of the claim or cause of action in satisfaction of which the payment into Court has been made, is denied in the pleading, the matter shall proceed to trial.

Payment into Court despite denial of liability.

(2) Where money is paid into Court with denial of liability, the Claimant may proceed with the action in respect of the claim and if the Claimant succeeds, the amount paid shall be applied so far as is necessary in satisfaction of the claim, and the balance, if any, shall on the order of the Court be paid back to the Defendant(s).

Where Claimant's action succeeds in whole or in part.

(3) Where the Defendant(s) succeeds in respect of such claim, the whole amount paid into Court shall be paid to Defendant on the order of the Court.

Where Defendant succeeds in whole.

(4) If the Claimant proceeds with the action in respect of such claim or cause of action or any part thereof, and succeeds, the amount paid in shall be applied, so far as is necessary, in satisfaction of the Claimant's claim, and the balance, if any, shall on the order of the Court, be paid back to the Defendant.

Where Claimant succeeds with action, the amount paid shall be applied to his or her claim.

(5) If the Defendant succeeds in respect of such claim or cause of action, the whole amount shall, under Court order, be paid back to the Defendant.

Where Defendant succeeds Court to order repayment to him or her

6.—(1) Where an amount of money is required to be paid into or deposited in Court, the Court may, if it thinks it expedient, order that the money be paid into an interest yielding savings account with a reputable Commercial Bank with the name, The Chief Registrar, National Industrial Court of Nigeria.

Money deposited in the Court to be paid into the Bank.

B 152

Payment into Bank by the Chief Registrar.

(2) Such payment shall be done by the Chief Registrar, and any interest payable by the Bank shall accrue pro tanto to the benefit of the party who, at the end of the action, is entitled to the money originally paid into Court.

Definition of "Funds in Court".

(3) In this Rule "Funds in Court" includes money paid into a bank account.

Money or damages claimed by person under legal disability.

7.—(1) In any proceeding in which money or damages is or are claimed by or on behalf of a person under legal disability, suing either alone or in conjunction with other parties, no settlement or compromise or payment or acceptance of money paid into Court, whether before, at or after trial, shall as regards the claims of any such person be valid without the approval of the Court.

Judge to give directive on payment to person under legal disability.

(2) In any such proceedings in respect of the claims of any such person under legal disability, no money shall be paid to the Claimant or to the guardian of the claimant or to the claimant's counsel whether by judgment settlement, compromise, payment into Court or otherwise, before, at, or after trial, unless a Judge shall so direct.

For the purposes of this rule, "money" includes damages in any way recovered, or adjudged or ordered or awarded or agreed to be paid.

Money awards to be directed by the Court.

(3) All monies so recovered or adjudged or ordered or awarded or agreed to be paid shall be dealt with as the Court shall direct. The directions thus given may include any general or special directions that the Court may deem fit to give, including directions on how the money is to be applied or dealt with and as to any payment to be made either directly or out of money paid into Court to the Claimant or to the guardian of the claimant in respect of money paid or expenses incurred or for maintenance or otherwise for or on behalf of or for the benefit of the person under legal disability or otherwise or to the claimant's counsel in respect of costs.

Application for payment into Court.

8. Every application or notice for payment into or out of Court shall be made on notice to the other party.

Payment by Claimant.

9. A Claimant may, in answer to counter claim, pay money into Court in satisfaction of the counter-claim subject to the like conditions as to costs and otherwise as upon payment into Court by a Defendant.

No payment out except by order of the Court.

10. Money paid into Court pursuant to Rule 1 or 7 or under an Order of the Court shall not be paid out except in pursuance of an Order of the Court.

ORDER 37—SETTLEMENT AND TRIAL OF ISSUES

A.—Settlement of Issues

1. On conclusion of pleadings, the parties may within (14) fourteen days file applications before the Court stating the material questions in controversy between them in the form of issues, which may be noted by the Court and set down for trial. Settlement of issues at or before hearing.
2. Where a party fails to comply with rule 1 of this Order, the Court may proceed to set down the matter for hearing upon the issues submitted by the other party. When a party fails to comply.
3. Where neither rule 1 nor 2 of the Order is invoked by any of the parties, the Court may give notice to the parties to be present at the settlement of issues. When neither party invokes Rules 1 or 2.
4. Issues may be settled without any previous notice at any stage of the proceedings, at which all the parties are actually present or at the hearing. Settlement of issues at hearing.

B.—Trial of Questions and Issues

5. The Court may direct the parties to settle all documentary evidence which the parties intend to rely on at the trial. Court may direct parties to settle documentary evidence.
6. If it appears to the Court that the decision of any question or issue arising in a cause or matter and tried separately from the cause or matter substantially disposes of the cause or matter or renders the trial of the cause or matter unnecessary, it may dismiss the cause or matter, or make such other Order or give such judgment therein as may be just. Dismissal of action, etc, following settlement of preliminary issue

ORDER 38—PROCEEDINGS AT TRIAL

1. Where a cause on the Weekly Cause List has been called for hearing and neither party appears, the Court may in the absence of any justifiable good cause strike out the case. Striking out for non-appearance of parties.
- 2.—(1) Where a cause fixed for hearing is called and the Claimant appears in Court but the Defendant is absent in Court and has not filed any defence to the claim in accordance with these Rules, the Claimant shall be entitled to judgment as far as he can prove his case. When a Defendant without defence is absent in Court.
- (2) Where a cause is called for hearing and the claimant appears in Court but the defendant or respondent and/or counsel who has entered defence was not in Court and no good cause has been shown for the absence, the Claimant may prove the claim in so far as the burden of proof lies upon the Claimant. When a Defendant with defence is absent in Court.

B 154

When Defendant is allowed to prove defence.

(3) Where a Claimant was allowed by the Court to prove his claim in the absence of the Defendant or respondent and/or counsel, the Court shall adjourn the case to enable the Defendant appear in Court to prove the defence.

When Defendant fails to appear Claimant may file Final Address.

(4) If on the date fixed for the Defendant to appear before the Court to prove the defence and the Defendant fails or neglects to appear, the Claimant may be allowed to file a Final Address and adjourn the case for adoption of the Final Address.

Provided that the Defendant shall be put on notice on a date fixed for the adoption of the Final Address.

When Defendant shows good cause for absence.

(5) Where the Defendant appears and shows good and justifiable cause for his absence, the Court may allow the Defendant to enter defence in accordance with these Rules.

Non-appearance of the Claimant at the Trial

3.—(1) Where a cause is called for hearing and the defendant or respondent appears but the Claimant or counsel to the Claimant does not and no good cause is shown for the absence, the defendant or respondent, shall be entitled to judgment striking out the action, but if the defendant or respondent has a counterclaim, then the defendant may prove such counterclaim in so far as the burden of proof lies upon the defendant.

When Court may deal with issue in the absence of party.

(2) Where any party to the proceedings has been duly served with notice to appear or the party is to the satisfaction of Court aware of the adjourned date and without reasonable excuse fails to appear, the Court may consider and deal with the matter before it in the absence of such party.

Failure to appear to present oral argument.

(3) Where in a matter before the Court, Written Addresses have been filed by the parties or their respective counsel, and the matter is fixed for hearing and adoption of the Written Addresses and any of the parties or their respective counsel fails to appear to adopt the party's Written Address and adumbrate thereon without giving any cogent or compelling reason(s) for the absence, the Written Address shall be treated by the Court as having been duly adopted and adumbrated upon.

Notice of intention not to contest application.

(4) Upon the service of any application on the defendant/respondent directly or on counsel, the defendant/respondent counsel may within seven (7) days file a notice of intention not to contest the application and upon such notice the application may be heard by the Judge without oral argument.

Power of Court to bar disobedient Party

4. Where any party to the proceedings fails to comply with an order or direction of the Court, the Court may order that the party be barred from taking any further part in those proceedings until the party has complied with such direction or order or may make such other order as the Court thinks just.

5. In any matter before the Court, no individual or group of individuals may appear as both claimant or claimants and respondent or respondents in the same matter, notwithstanding the fact that they all belong to the same disputing organization.	Individual or group of individuals not to appear both as Claimant and Respondent
6.—(1) Where a cause is struck out under rule 1 of this Order either party may apply for the cause to be re-listed on the Cause List on such terms as the Court may deem fit.	Application to re-list
(2) Any judgment obtained where a party did not appear at the trial may be set aside by the Court upon such terms as it may deem fit.	When judgment may be set aside.
(3) An application to re-list a cause struck out or to set aside a judgment under this rule shall be made within fourteen (14) days after the order or judgment or such other extended period as the Court may allow.	Time to apply for relisting struck out matter
(4) The application to re-list under sub-rule 1 of this Rule shall be accompanied by an affidavit and written address stating the grounds and reasons why the Court should re-list the matter. Upon service of the application on the other party, the other party shall have seven (7) days to respond as appropriate by filing a counter affidavit and Written Address.	Application to re-list accompanied with affidavit.
7.—(1) Where a cause or matter is ripe for trial, the trial shall be from day to day. Provided that the Court may, where it thinks fit in the interest of justice, adjourn a trial for such time and upon such terms as it shall deem fit. Provided further that any matter fixed for trial shall not, except for very special circumstances or cogent or compelling reason(s) be adjourned for more than two times at the instance of a party.	Sequence of Trial.
(2) Notwithstanding sub-rule 1 of this Rule the Court may in the interest of justice, grant adjournments to any party where such party has exhausted the number of adjournments permitted under this Rule.	Court may increase the number of adjournments.
(3) Where a cause or matter has been fixed or set down for hearing or trial and any of the parties intends to seek for an adjournment, such party shall notify the Court in writing and send a copy of the notice to the other party or the counsel not later than three (3) working days before the date fixed for the hearing or trial of the cause or matter ;	Application for adjournment when matter or cause is fixed for hearing or trial.

Provided that the party seeking or applying for adjournment shall satisfy the Court that there are cogent unforeseen reasons or compelling circumstances warranting the grant of the application.

Finding out of adjourned date.

8. Where a matter was adjourned by the Court at the instance of a counsel due to the counsel's inability to attend a court sitting, it shall be the responsibility of the counsel to find out from the Registrar of court the date to which the matter was adjourned.

Foreclosure of hearing arising from defaulting party.

9. Where any matter fixed for trial is adjourned twice at the instance of a party or counsel to a party and the party or counsel fails or neglects or is not ready or willing to continue with the hearing of the party's case, the case shall be foreclosed against that party and the Court shall deal with the matter as the justice of the case may demand.

When matter cannot be adjourned.

10. Once a matter is fixed for hearing or trial, at the concurrence of all the counsel in the matter and the Court, the matter shall not be adjourned on the ground that any of the counsel is either not present in Court, or being present in Court is not ready to go on with the hearing or trial of the matter.

When brief of principal counsel in proceeding is held by another counsel.

11. Where a matter is slated for the hearing of a motion or substantive matter and a counsel announces appearance as holding the brief of another counsel in the matter, except the Court is not ready to take the motion or hear the matter or upon good cause being shown, the counsel shall be asked to proceed with the business of the day.

Holding brief shall mean holding brief for all intents and purposes.

Representation by junior counsel.

12.—(1) Where a matter is fixed for hearing as jointly agreed by the counsel in the matter and the Court, and on the day so fixed, a junior counsel appears in Court and asks for adjournment on the ground that the principal counsel has expressed the intention through the junior counsel to personally handle the matter, the Court may proceed with the hearing, notwithstanding the absence of the senior or principal counsel in the matter.

Provided that where the junior counsel provides cogent and compelling reasons to the satisfaction of the Court as to why the senior or principal counsel must personally handle the matter, the Court may grant the request for adjournment.

When junior counsel refuses to continue with proceedings.

(2) Further to the provisions of sub-rule (1) of this Rule, where the junior counsel refuses or is unwilling to proceed with the case as directed by the Court, the Court may close and call upon the Counsel on the other side to open, continue or proceed with the opposing party's case, as the Court deems fit.

When matter fixed for hearing may be adjourned.

13. The Court may adjourn a matter fixed for hearing or trial, if any of the counsel in the matter gives in advance, to the satisfaction of the Court, cogent, compelling and justifiable reasons.

Provided that in such eventuality all the counsel in the matter or the parties where no counsel appears have been duly notified of the intention to apply for an adjournment.

14. The Registrar of Court shall endorse the Court's files stating the time at which any matter commences or terminates to enable the Taxing Officer to assess cost.

Time taken by Trial to be noted by Registrar.

15. The order of proceeding at the trial of a matter shall be as prescribed hereunder :

Order of proceedings at Trial.

(a) The party on whom the burden of proof lies by the nature of the issues or questions between the parties shall begin.

(b) Documentary evidence shall be put in and may be read or taken as read by consent of parties.

(c) The Court may order that witness statements on oath be read in court or taken as read by consent of the parties.

16.—(1) A party shall close the party's case on completion of presentation of evidence.

Closure of Case by Parties

(2) Either party may make an oral application to have the case closed.

Oral application by party for closure.

(3) Notwithstanding the provisions of sub-rules (1) and (2) of this Rule, the Court may suo-motu where it considers that either of the parties fails or neglects or is unwilling to conclude the party's case within a reasonable time, close the case for the party based on the occurrence of any of the following events. That is, where :

When Court can close a case.

(a) the party fails or neglects or is unwilling to call the party's witness on the date fixed for hearing ;

(b) after hearing notices have been served and the party served fails or neglects or is unwilling to abide by the date fixed for hearing on the notice ;

(c) the party fails or neglects or is unwilling to proceed with the party's case and the matter has already been adjourned more than twice by the Court ;

(d) the party fails or neglects or is unwilling to file a final Written Address within the time stipulated by the Rules of the Court ;

(e) the party behaves in a manner that is likely to impede the speedy hearing and dispensation of the case before the Court or as otherwise ordered by the Court.

B 158

When the witness statement is deemed abandoned.

(4) Where a party before the Court has filed a Witness Statement on Oath in compliance with Order 3, Rule 9 (d), but fails or neglects to present the witness who deposed to the Witness Statement on Oath on the date fixed for trial without any cogent, convincing and compelling reason for the absence of the witness and the counsel to any of the other party or parties is present in Court, the Court may deem the said witness statement on oath abandoned and deal with the matter in accordance with the Rules of the Court.

When party cannot adduce or plead new issues.

(5) Where any of the parties has filed a witness statement on oath, such a witness shall not be allowed to adduce oral evidence on issues not pleaded by any of the parties.

Power of Court to call any witness.

17.—(1) The Court may of its own motion or on the application of any party order any person to appear before it as a witness or to produce any document.

Party may apply to call additional witness.

(2) A party who desires to call any witness not being a witness whose deposition on oath accompanied the party's pleading shall apply to the Judge for leave to call such a witness.

Additional witness to depose to oath.

(3) An application for leave in sub-rule (2) above shall be accompanied by the deposition on oath of such a witness.

Court may suo motu order a person present in Court to give or evidence produce document

18.—(1) The Court may compel any person present in Court to either give evidence or produce any document in such a person's possession and power as provided in Section 43 of the National Industrial Court Act, 2006.

Production of documents without giving evidence.

(2) A person whether a party or not in a cause, may be summoned to produce a document without being summoned to give evidence, and if such a person causes such document to be produced in Court, the Court may dispense with the person's physical attendance.

Order by Court to give evidence.

(3) Whenever the Court suo motu orders a person present in Court either to give evidence or produce any document in the person's possession and power in accordance with sub-rule 1 of this rule, such a person may not swear to a witness statement on oath, but may be allowed to give oral evidence after being sworn or affirmed.

Provided that nothing in this Rule shall preclude such a person from filing a witness statement on oath if the person so requires or wishes.

(4) Where a witness is subpoenaed by a party to the action to appear before the Court to give evidence, the subpoenaed witness may not file a witness statement on oath if the witness is only appearing before the Court to tender a document and answer questions either in examination-in-chief, cross-examination or re-examination relating to the document the witness has been subpoenaed to tender.

Subpoenaed witness.

Provided that where such a witness is subpoenaed to give evidence on what the witness did, saw or knew about, such a subpoenaed witness shall file a witness statement on oath in line with the Rules of the Court.

(5) Any of the parties to an action or matter before the Court may apply to the Court by motion *ex parte* to issue a summons to bring up a person before the Court either to be examined as a witness or to tender a document in the person's possession, or custody, or control or power or care, in any cause or matter pending or to be inquired into by the Court.

Summons for witness.

(6) The Court shall ensure that while conducting the trial of a matter there is no communication with any witness(es) who is/are within the court hall or its precincts awaiting to be called as witness(es).

Limitation of communication with witnesses.

Provided that this provision shall not extend to the parties themselves or to their respective legal advisers although intended to be called as a witness(es).

Provided further that a party that intends to give evidence or such party's Counsel who is intending to be called as a witness shall not be asked to leave the Court hall while the trial is on.

19.—(1) The Registrar shall take charge of every document or object put in as an exhibit during the trial of an action and shall mark every exhibit with a letter or letters indicating the party by whom the exhibit is tendered (or where more convenient the witness by whom the exhibit is proved) and with a number, so that all the exhibits put in by a party (or proved by a witness) are numbered in one consecutive series.

Marking and preservation of Exhibits admitted at Trial.

(2) The Registrar shall cause a list of all the exhibits in the action to be made.

(3) The list of exhibits when completed shall form part of the record in the action.

(4) For the purpose of this rule a bundle of documents may be treated and counted as one exhibit.

(5) In this Rule, a witness by whom an exhibit is proved includes a witness in the course of whose evidence the exhibit may be put.

20.—(1) When the party beginning has concluded evidence, the Court shall ask the other party if the party intends to call evidence. If the other party does not intend to call evidence, the party beginning shall within twenty-one

Filing of Written Addresses.

(21) days after close of evidence file a Written Address. Upon being served with the Written Address, the other party shall within twenty-one (21) days file the other party's Written Address.

(2) Where the other party calls evidence that party shall within twenty-one (21) days after the close of evidence file a Written Address.

(3) Upon being served with other party's written address the party beginning shall within twenty-one (21) days file a Written Address.

(4) The party who files the first address shall have a right of reply on points of law only. The reply shall be filed within seven (7) days after service of the other party's address.

(5) The Written Address by either party shall be accompanied by an electronic (soft) copy in an electronic storage device such as compact disc, flash drives, or by any other electronic storage device or means.

When a party requires exhibit for appeal.

21.—(1) Whenever a case is concluded and judgment delivered and any of the parties who wishes to go on appeal requires the exhibits used in the trial of the case for his appeal, such party shall by motion on notice apply to the Court for the exhibit to be released within thirty (30) working days from the date of delivery the judgment.

Custody of Exhibits after Trial.

(2) An exhibit shall not be released after the trial to the party who puts in the exhibit unless the period during which Notice of Appeal may be given has elapsed.

When a Judge may grant release of Exhibit.

(3) Where the Presiding Judge in the case (or in the absence of the Presiding Judge), another Judge on being satisfied that the period of the Notice of appeal has elapsed may grant leave to release such exhibit ;

Provided that :

(a) the exhibit will be kept, duly marked and labeled and will be produced, if required, at the hearing of an appeal (if any such appeal is lodged), or

(b) the release of the exhibit will not in any way prejudice any other party.

When Court of Appeal grants leave to release Exhibit.

(4) After a Notice of Appeal has been filed, an exhibit produced at the trial shall not be released by the Court unless leave to release such exhibit is granted by the Court of Appeal.

Party may obtain Office Copy of List of Exhibits.

22.—(1) Any party may apply for and obtain an office copy of the list of exhibits or of the exhibits on payment of the prescribed fee.

(2) Where there is an appeal, an office copy of the list of exhibits shall be included amongst the documents supplied for the purpose of the appeal.

23.—(1) The Court may, suo motu or on application strike out any proceedings for lack of diligent prosecution.

Case may be struck out for lack of diligent prosecution.

(2) Where a matter is struck out for lack of diligent prosecution, either of the parties may with good cause shown apply to re-list the matter on the Cause List.

Application to re-list matter.

Provided that the party applying for re-listing shall comply with the provisions of rule 6 (3) and (4) of this Order.

(3) The Court on being satisfied with the cause shown may grant the application to re-list the matter.

Court may grant application to relist.

24.—(1) The Court may, either of its own motion or on application by any of the parties to the proceedings, review any order made by it and may, on such a review, revoke or vary that order on the grounds that :

The power of the Court to review its own order.

(a) the order was wrongly made as a result of an error on the part of the court staff ;

(b) a party did not receive proper notice of the proceedings leading to the order ;

(c) the order was made in the absence of a party entitled to be heard ;

(d) new evidence has become available since the making of the order ; or

(e) the interest of justice requires such review.

(2) An application under sub-rule (1) of this rule shall be made within 14 days of the date of the order.

25. A clerical mistake or error in any order arising from an accidental slip or omission may at any time be corrected by or on the authority of the Court.

The power of the Court to correct clerical errors or slips.

26.—(1) When a Judge is transferred from one Division to another and the Judge has a part-heard matter in the former Division, any of the parties in the case may apply to the President of the Court for a fiat to enable the Judge continue to hear the case to conclusion in either the former or new Division.

Application for fiat by parties to continue part-heard matter in Judge's new or former Division.

B 162

President of the Court may grant fiat to a Judge to continue hearing of part-heard matter in new or former Division.

Reasons for fiat.

Service of fiat.

Party to respond to fiat.

President's response to application for fiat.

President may grant fiat to continue hearing beyond time.

Judge may apply for extension of fiat.

President may extend fiat.

President's decision on extension of fiat final.

(2) Upon an application by any of the parties, the President of the Court may having regard to the exigency of court work grant a fiat to a Judge to hear a case at his former or new Division as the justice of the case may require.

(3) The party applying for fiat shall state the reasons for the fiat and shall forward an advance copy of the party's application for fiat to counsel to the other party.

(4) The application for fiat shall be served on counsel to the other party in the matter.

(5) The other party or counsel to that party shall communicate his acceptance or objection in writing; where the other party raises an objection, such party or counsel to that party shall be required to state the grounds of the objection.

(6) The President of the Court may after considering the application and the response of the other party grant or refuse the application in the interest of justice.

(7) In granting the application for fiat, the President of the Court may issue the fiat directing the Judge to continue with the hearing of the case as may be desirable for a specified period.

(8) Where a Judge is granted the fiat to hear a matter in line with sub-rule (7) of this rule and the Judge is unable to conclude the hearing and determination of the matter within the period given, the Judge shall make a request to the President of the Court for an extension of the fiat.

(9) The President of the Court may extend the fiat for continuation of hearing and determination of the matter.

(10) The decision of the President of the Court to grant or refuse to grant or extend the period of a fiat, shall be final.

(11) Where the President of the Court refuses to extend the life span of a fiat, the Judge handling the matter shall remit the file to the President of the Court for re-assignment to another Judge.

Judge to remit file when fiat is not extended.

27.—(1) Where a matter arising from the workplace is pending before the Court, an application may be made to the Court by any of the parties for the Court to move to the workplace to inspect any part of or the entire workplace with a view to establishing facts in issue or facts that are relevant to the issue.

Application for Court to move to workplace.

Provided that the Court may suo motu order that an inspection be made of a workplace in order to ascertain a fact in issue and do justice to same accordingly.

(2) Where the Court grants an application to visit a workplace as required by this rule, a notice to that effect shall be issued and served on the Managing Director/Chief Executive Officer or a Director or a Manager or any other Principal Officer of the workplace three (3) working days before the day fixed for the visit.

Notice to visit workplace

(3) Where an application is made under this rule, it shall be lawful for the Judge and the officers of the court to visit and inspect the workplace and the proceedings of the Court shall continue at that place to the extent only that evidence, if any, of what transpired at the workplace shall be given afterwards in the Court.

Record of proceeding at workplace.

(4) Examination-in-chief and cross-examination as well as re-examination of a witness or witnesses may take place during the visit to the workplace pursuant to and in compliance with the provisions of section 12(2) of the Act.

Examination of witnesses at workplace.

(5) The Court may take evidence from either party to the case or from their witnesses or any other person during the visit to the workplace.

Taking of evidence during workplace visit.

(6) A witness, who has started giving evidence in Court, may continue with the evidence at the workplace visit upon being reminded of the oath already sworn by such a witness.

Witness may Continue evidence during workplace visit.

(7) The Court may in the interest of justice order or direct any person during the visit to the workplace to testify and the parties and their counsel shall have the right to cross-examine such person.

Court may direct any person to testify at workplace.

B 164

Evidence at workplace is part of record of proceedings.

(8) The evidence taken by the Court during the workplace visit shall form part of the record of proceedings of the Court.

Registrar to remind Judge of pending judgment or ruling on any matter.

28. If at the end of the proceedings, a matter is adjourned for Judgment or Ruling, the Registrar of the Court shall within three (3) working days thereafter, send the file to the Judge with a minute reminding the Judge of the pendency of the Judgment or Ruling.

Recall of witness after closure of case.

29. The Court may, where it deems it fit and expedient in the interest of justice grant leave to either Claimant or Defendant after the case has been closed and Judgment reserved to file an application to re-open a case, for the purpose of recalling a witness.

Provided that such an application shall be for the purpose of clarifying a point in issue already in evidence, and shall be made by motion on notice to the other party, and filed within 7 days of the adoption of final addresses.

Court may order party to address it for clarification.

30. The Court may suo motu on or before the date fixed for Judgment order or direct either party to the case to address it on any issue requiring further clarification for the fair trial of the case.

Court upon satisfaction may grant application to re-open matter.

31. Upon being satisfied with the grounds on which the application is made, and where the Court deems it fit in the interest of justice and fair trial to do so, the Court shall grant leave to the party to reopen the case for purposes of clarifying the point of law and/or presenting the additional evidence as contained in the application to the Court.

Provided that the respondent party shall have the right to reply within seven (7) days as the case may be.

Frivolous vexatious matter may be struck out.

32.—(1) Where in a matter pending before the Court a party or counsel to a party files an application which is found by the Court to be frivolous, vexatious or an abuse of Court process, the Court after striking out or dismissing the application may order that punitive cost be paid either by—

(a) the party ; or

(b) counsel who filed the application.

(2) Where the Court has ordered that a punitive cost be paid in accordance with sub-rule (1) of this rule, the Court may further order that the cost be paid before the next adjourned date.

Trial on record.

33.—(1) In any proceeding before the Court, parties may by consent at the close of pleadings agree to a trial on records where they rely only on the documents and exhibits frontloaded and thereby dispense with the need for oral testimony and/or cross-examination.

(2) Where parties agree to a trial on records, Written Addresses shall be filed starting with the Claimant on the basis of the document on record.	Trial on records : Written Address
(3) The Written Address which shall be in the format provided in rule 2 of Order 45 of these Rules shall be served first on the defendant in compliance with the provisions of rule 20 of this Order.	
34. —(1) In a matter or proceeding before the Court, a party or a witness may either before the commencement or in the course of the proceeding formally or orally apply for an interpreter in the language in which such a party is more comfortable to communicate.	Request for interpreter.
(2)(a) The Court shall keep a Register of Interpreters.	
(b) The Court may invite an Interpreter from the Register of Interpreters kept by the Court.	Invitation of interpreter
(3) The Court shall bear the cost of payment for the services of the Interpreter on pre-agreed terms. Costs of interpreter.	
35. —(1) Where an action relating to or connected with contract of employment or contract of services is pending before the Court and in the contract of employment or contract of services the mode of settlement of dispute or an internal dispute resolution mechanism is stated, the Court may order the parties in the matter before it to exploit the stated mode of settlement or the internal dispute resolution mechanism for the settlement of the dispute before proceeding with the matter.	When Court may order use internal dispute resolution mechanism.
(2) Where an action relating to or connected with a contract of employment or contract of services is pending before the Court, and the Court has ordered that parties in the matter exploit the use of the mode of settlement of dispute stated in the terms of the contract of employment or contract of services, any of the parties in the matter may apply to the Court for an order of the Court directing the other party(ies) in the matter to participate in the internal dispute resolution process.	When any party may apply for participation by the other parties in the use of stated mode of or internal dispute resolution process.
(3) Where the parties in the matter stated in sub-rule (1) of this rule are able to resolve the matter using the mode of settlement or the internal dispute resolution mechanism stated in the terms of the contract of employment, the terms of settlement entered into by the parties may be filed with the Court to be adopted as a binding judgment of the Court.	When parties are able to resolve matter.

B 166

When parties are unable to resolve matter.

(4) Where the parties in the matter stated in sub-rule (1) of this rule are unable to settle the dispute using the mode of settlement or the internal dispute resolution mechanism as stated in the terms of contract of employment or contract of services, the parties shall report to the Court for the Court to proceed with the trial of the matter.

When Court may order status *quo ante*.

(5) Where a matter relating to a contract of employment or contract of services is before the Court and the Court has ordered that parties exploit the use of the mode of settlement or internal dispute resolution mechanism as stated in sub-rule 1 of this rule to resolve the matter before proceeding to trial, the Court may order that the parties in the matter maintain the status quo ante until the report of the outcome of the internal dispute resolution mechanism is submitted to the Court.

ORDER 39—REASSIGNMENT OF CASES

Self-disqualification by a Judge.

1. A Judge hearing a matter may on good cause shown disqualify himself or herself from continuing with a matter.

Indication of disqualification.

2.—(1) When a Judge intends to disqualify himself or herself from a matter before the Judge, the Judge shall in writing state the reasons for seeking such self-disqualification and withdrawal from the matter to the President of the Court.

Approval of self-disqualification and reassignment of matter.

(2) On approval of the withdrawal on grounds of self-disqualification, the President of the Court shall direct the Judge where the matter is before a single Judge, to return the file and records of proceedings, if any, and at whatever stage of the proceedings to the President of the Court.

When one or more Judges withdraw from matter.

(3) Where the matter is before a panel of Judges of the Court and one or two or all of the Judges have sought self-disqualification, the President of the Court shall replace the Judge(s) that have withdrawn from the matter or reconstitute the panel as the case may be and reassign the matter to the new panel.

File sent back to the President of Court.

3.—(1) Whenever a Judge disqualifies himself or herself from hearing a matter, the Judge shall direct that the matter be sent back to the President of the Court for reassignment.

Reassignment by President of the Court.

(2) On receipt of the case file, the President of the Court may reassign the matter to another Judge or a panel of Judges as the President of the Court may deem appropriate in the circumstances of the case.

4. Whenever there is a just cause necessitating the withdrawal of a pending case from a Judge, the President of the Court may direct the withdrawal of the case from such a Judge and reassign same to another Judge of the Court.

Withdrawal and reassignment of a case.

5. In any case of withdrawal and reassignment of a case in line with rule 3 of this Order, any ex parte or interlocutory order made by the Judge from whom the case was withdrawn shall remain valid.

When ex parte or interlocutory order to remain valid.

6. Where a case has proceeded to trial before the withdrawal and reassignment in line with the provisions of rule 3 of this Order, the Judge to whom the case is reassigned, shall set down the hearing of the matter de novo.

When Judge must set the case down de novo and proceed with hearing.

ORDER 40—EVIDENCE/PROOF GENERALLY

1.—(1) Subject to these Rules and to any enactment relating to evidence, any fact required to be proved at the trial of any action may be proved by written deposition and oral examination of witnesses in open Court.

Proof of facts.

(2) All agreed documents or other exhibits may be deemed admitted or tendered from the Bar or by the party where the party is not represented by a Counsel.

Documents may be deemed tendered from the Bar or by unrepresented party.

(3) Real evidence as referred to in the witness statement on oath shall be tendered during the trial.

Tendering real evidence.

(4) The oral examination of a witness during trial shall be limited to facts pleaded and the sworn deposition frontloaded.

Oral examination limited to facts pleaded and written deposition.

Provided that a Judge may in appropriate cases, allow a witness on subpoena to lead oral evidence in examination-in-chief without having deposed to a written statement.

2.—(1) The Court may, at or before the trial of an action, order or direct that evidence of any particular fact be given at the trial in such manner as may be specified by the order or direction.

Particular facts.

(2) The power conferred by sub-rule (1) of this Rule extends in particular to ordering or directing that evidence of any particular fact be given at the trial by :

Power to give evidence of particular fact at trial.

(a) statement on oath of information or belief ;

	(b) the production of documents or entries in books ; (c) copies of documents or entries in books or ; (d) in the case of a fact which is or was a matter of common knowledge either generally or in a particular district, by the production of a specified newspaper which contains a statement of that fact.
Court may limit the number of medical or expert witnesses.	3. The Court may, at or before the trial of an action order or direct that the number of medical or expert witnesses who may be called at the trial be limited as specified by the order or direction.
When some documents will not be received in evidence at trial.	4. Unless the Court for special reasons at or before trial, otherwise orders or directs, no document, plan, photograph or model shall be receivable in evidence at the trial of an action unless it has been filed along with the pleadings of the parties under these Rules.
Revocation and variation of any Direction or Order.	5. Any Order or Direction under this Order may, on sufficient cause being shown, be revoked or varied by a subsequent Order or Direction of the Court made or given at or before the trial.
Certified true copies of documents admissible in evidence as original.	6. Certified true copies of all complaints, processes, records, pleadings, and documents filed in any Court shall be admissible in evidence in all matters to the same extent as the original would be admissible.
Procedure for requesting for order to examine a witness in a foreign country.	7. Where an Order is made for the issuance of a request to examine a witness or witnesses in any foreign country with which a Convention in that behalf has been made, the following procedure shall be adopted :
Forms 51, 52, 53, 54, 55.	(1) the party obtaining such Order shall file in the Registry an Undertaking in the Form 53 which form may be varied as may be necessary to meet the circumstance of the particular case in which it is used.
Content of undertaking. Form 54 or 56.	(2) such Undertaking shall be accompanied by— (a) a Request in Form 54 or 56, with such modifications or variations as may be directed in the Order for its issuance, together with a translation into the Language of the Country in which it is to be executed (if not English) ; (b) a copy of the Interrogatories (if any) to accompany the Requests, with a translation if necessary;

(c) a copy of the Cross Interrogatories (if any) with a translation if necessary.

8. Where an Order is made for the examination of a witness or witnesses before the Nigerian Diplomatic Agent in any foreign country with which a Convention in that behalf has been made, the Order shall be in Form 50 or 55, with such modification and variation as may be necessary to meet the circumstances of the particular case in which it is used.

Order for examination of witness abroad; Form 50.

9. Where any civil or criminal matter over which the Court has jurisdiction is pending before a Court or tribunal of a foreign country, and it is made to appear to the Court by Commission rogatoire, or a letter of request, or other sufficient evidence that such Court or tribunal is desirous of obtaining the testimony in relation to such matter of any witness or witnesses within the jurisdiction, the Court may, on the ex parte application of any person shown to be duly authorized to make the application on behalf of such foreign Court or tribunal, and on production of the Commission rogatoire, or letter of request, or such other evidence as the Court may require or consider sufficient, make such order or orders as may be necessary to give effect to the intention of the Commission rogatoire or letter of request.

Request from foreign Court or Tribunal.

10. The Court may at any stage of any proceedings order the attendance of any person for the purpose of producing any writings of or other document named in the Order.

Court may order attendance of person to produce document.

Provided that no person shall be compelled to produce under any such Order any writing or other document which the person would not be compelled to produce at the hearing or trial.

11. Any person willfully disobeying any Order requiring the person's attendance for the purpose of being examined or producing any document shall be in contempt of Court, and may be dealt with accordingly.

Contempt of court arising from disobedience to Order to attend proceedings.

12. Any person required to attend for the purpose of being examined or of producing any document, shall be entitled to payment for expenses and loss of time occasioned by the person's attendance.

Payment of expenses of persons ordered to attend proceedings.

13. If any person duly summoned by subpoena to attend for examination refuses to attend or if having attended, the person refuses to be sworn or to answer any lawful question such a person shall be in contempt of Court and may be dealt with accordingly by the Court.

Contempt of Court arising from refusal to attend or to cooperate with proceedings.

B 170

Transmission of authenticated original depositions of witnesses.

14. Where the examination of any witness before any examiner under Rule 7 above shall have been conducted, the original depositions authenticated by the signature of the examiner, shall be transmitted by the examiner to the Registry and filed.

Depositions not to be given in evidence without consent of party or leave of Court.

15. Except where otherwise provided in this Order or where directed by the Court, no deposition shall be given in evidence at the hearing or trial of the cause or matter without the consent of the party against whom the same may be offered, unless the Court is satisfied that the deponent is dead or beyond the jurisdiction of the Court or unable for sickness or other infirmity to attend the hearing or trial, in any of which case the depositions certified under the hand of the person taking the examination shall be admissible in evidence, saving all just exceptions, without proof of the signature to such certificate.

Administration of Oaths.

16. Any Officer of the Court or other person directed to take the examination of any witness or person or any person nominated or appointed to take the examination of any witness or person pursuant to the provisions of any Convention made with any foreign country, may administer oaths.

Attendance of witness or person under subpoena for examination. Form 37, 38, 39.

17.—(1) A party may by subpoena ad testificandum or duces tecum require the attendance of any witness before an Officer of the Court or other person appointed to take the examination, for the purpose of using witness' evidence upon any proceeding in the cause or matter in like manner and such witness would be bound to attend and be examined at the hearing or trial.

Party or witness deposing to affidavit bound to attend court for cross examination.

(2) Any party or witness having made an affidavit to be used in any proceeding in the cause or matter shall be bound on being so subpoenaed to attend before the Court for cross-examination.

When Court may compel a person in Court to produce document or give evidence.

18. Any person present in Court, whether a party or not in a cause or matter, may be compelled by the Court to give evidence or produce any document in the person's possession or power in the same manner and subject to the same rules as if the person had been summoned to attend and give evidence or produce such document and may be punished for any refusal to obey the order of the Court.

19.—(1) The practice with reference to the examination, cross examination and re-examination of witness(es) at a trial shall extend and be applicable to evidence taken in any cause or matter at any stage.	Examination, cross or re-examination of witness to apply evidence at any stage of trial.
(2) In any matter for cross-examination, the Presiding Judge or Judge in the matter shall have control of the duration of the cross-examination. Provided that no party cross-examining a witness shall be allowed more than forty (40) minutes to do so.	Control of cross-examination.
20. The practice of the Court with respect to evidence at a trial, when applied to evidence to be taken before an Officer of the Court or other person in any cause or matter after the hearing or trial shall be subject to any special directions which may be given in any case.	Taking of evidence after trial be subjected to special directions.
21. Subject to the provisions of Section 46 of the Evidence Act, 2011, all evidence taken at the hearing or trial of any cause or matter may be used in any subsequent proceedings in the same cause or matter.	Provisions of Section 46 of the Evidence Act to apply in the use of evidence in subsequent proceeding.
22.—(1) Where it is intended to issue a Subpoena, a praecipe for that purpose in Form 68 containing the name of the firm and the place of business or residence of the legal practitioner intending to issue out the same, and where such Legal Practitioner is an agent only, then also the name of the Firm and the place of business or residence of the Principal Legal Practitioner, shall in all cases be delivered and filed at the Registry.	Subpoena to be issued using Form 68, filed and delivered at the Court's Registry.
(2) No Subpoena shall be issued unless all Court fees have been paid (including fee for service) and unless sufficient conduct money on the prescribed scale is deposited to cover the first day's attendance.	Subpoena to be duly paid for.
23. A Subpoena shall be in one of Forms 37 or 39 with such variations as circumstances may require.	Subpoena Forms 37, 38, or 39.
24. Where a Subpoena is required for the attendance of a witness for the purpose of proceedings in Chambers, such Subpoena shall issue from the Registry upon the Judge's directive.	Subpoena for attendance of witness in Chambers.

B 172

Legal Practitioner issuing Subpoena may correct errors and re-seal.

25. In the interval between the issue and service of any Subpoena the Legal Practitioner issuing it may correct any error in the names of parties or witnesses, and may have the Complaint resealed upon leaving a corrected praecipe of the Subpoena marked with the words “altered and resealed” with the signature, name and address of the Legal Practitioner.

Subpoena to be served personally unless otherwise directed.

26. A Subpoena shall be served personally unless substituted service has been ordered by the Court in a case where a person persistently evades service. The provisions of Order 7 shall so far as possible apply to service and proof of service of a Subpoena.

Subpoena to remain in force till trial of matter.

27. A Subpoena shall remain in force from the date of issue until the trial of the action or matter in which it is issued.

Party to give “Notice to Produce” to other party. Form 35.

28. Where a party to a suit desires any other party to the suit to produce in Court at the trial, a document or any other thing, which the first party believes to be in the possession or power of that other party, the first party shall give “Notice to Produce” in Form 35 to that other party. The Notice shall be given and served not less than five (5) days before the date slated for the trial.

“Notice to Produce” included in pleadings or in separate notice.

29. A “Notice to Produce” may be included in the pleadings of the party seeking the production of the document or thing or be in a separate notice delivered to the other party or counsel to the other party.

“Notice to Produce” to specify sufficient particulars.

30. A “Notice to Produce” shall specify sufficient particulars to identify to the other party the exact document or thing required.

Payment of Fees for “Notice to Produce”

31. Fees for “Notice to Produce” shall be paid as prescribed by these Rules ;

Provided that where more notices than one are included in the pleadings payment shall be made for only one notice.

ORDER 41—AFFIDAVITS

Evidence upon Motion, etc by deposition to Affidavit.

1. Upon any Motion, Summons, or other application, evidence may be given by Affidavit, but the Court may, suo motu or on application, order the attendance for cross-examination of the deponent and where after such an Order has been made the person in question does not attend, the person’s Affidavit shall not be used as evidence save by special leave.

2. Every Affidavit shall bear the title in the cause or matter in which it is sworn but in every case in which there is more than one Claimant or Defendant, it shall be sufficient to state the full name of the first Claimant or Defendant respectively, as the case may be.	Title of Affidavit.
3. The Court may receive any Affidavit sworn for the purpose of being used in any cause or matter, notwithstanding any defect by mis-description of parties or otherwise in the title or jurat, or any other irregularity in the form thereof, and may direct a Memorandum to be made on the document that it has been so received.	Use of defective Affidavit.
4. Where a special time is allowed for filing an Affidavit, no Affidavit filed after that time shall be used, unless by leave of the Court.	Special time prescribed for filing Affidavit.
5. Except by leave of Court no order made ex parte in Court founded on any Affidavit shall be of any force unless the Affidavit on which the application was based was made before the order was applied for, and produced or filed at the time of making the application.	Usefulness of Affidavit deposed for ex parte.
6. The party intending to use any Affidavit in support of any application made by the party shall give notice to the other parties concerned.	Party to give Notice of intention to use Affidavit.
7. Every alteration in any account verified by Affidavit shall be marked with the initials of the Commissioner before whom the Affidavit is sworn and such alteration shall not be made by erasure.	Alteration in Accounts to be properly initialled on affidavit.
8. Accounts, extracts from registers, particulars of creditors' debt and other document referred to by Affidavit, shall not be annexed to the Affidavit or referred to as annexures, but shall be referred to as Exhibits.	Exhibits.
9. Every certificate on an exhibit referred to in an Affidavit signed by the Commissioner before whom the Affidavit is sworn shall be marked with the short title of the cause or matter.	Certificate of exhibit.
10. An affidavit which has been previously made and read in Court on any proceeding in a cause or matter may be used before a Judge in Chambers.	Use of Affidavit in Chambers.
11. The provisions of Sections 107 to 120 of the Evidence Act which set out the provisions governing Affidavit shall be applicable under these Rules.	Application of Evidence Act, 2011.

12. A document purporting to have affixed on it or impressed thereon or subscribed thereto the seal or signature of a Court, Judge, Notary Public or a person having authority to administer oath in any part of the Commonwealth outside Nigeria in testimony of an affidavit being taken before it or such person in that part of the Commonwealth shall be admitted in evidence without proof of the seal or signature of that Court, Judge, Notary Public or person.

ORDER 42—AMICABLE SETTLEMENT

1. Where parties before the Court have indicated their desire for an amicable settlement of their disputes pursuant to Section 20 of the Act or any other law or enactment, the Court may adjourn the matter to allow the parties negotiate and reach an amicable agreement.

2. Where parties in an action before the Court agree to settle amicably out of Court; they shall, at the conclusion of their negotiation, file the Terms of Settlement in Court.

3. The Terms of Settlement shall contain :
(a) the names of the Parties ;
(b) the Suit No. and the heading "Terms of Settlement", stating the terms and conditions of the amicable agreement ;
(c) the amount of money to be paid and the mode of payment shall be stated clearly, if it is for monetary settlement.

4. The parties or their representatives shall execute the Terms of Settlement respectively.

5. If the person signing is signing on behalf of :
(a) a group in a representative action or ;
(b) a corporate body or institution.
the person signing shall write party's name and shall disclose the status of such a person in the body corporate or institution and affix body or institution's official stamp or corporate seal to authenticate the agreement.

6.—(1) Where Terms of Settlement have been executed; the Terms of Settlement shall be filed at the Registry of the Court for adoption and to be entered as the Judgment of the Court in the matter.

(2) Upon receipt of the Terms of Settlement by the Court, the Court shall cause hearing notices to be issued and served on the parties and their counsel.

(3) The hearing notice shall indicate the date and time fixed for the Terms of Settlement to be adopted and entered as the Judgment of the Court.

Admissibility of Affidavits deposited in a Commonwealth country.

Court may adjourn for parties to reach agreement.

Filing of Terms of Settlement.

Content of Terms of Settlement.

Parties to sign Terms of Settlement.

Signing and sealing by representative of corporate body, etc.

Terms of Settlement to be entered as Judgment of Court.

7. On the date fixed by the Court, parties or their counsel shall adopt the said Terms of Settlement, and move the Court to enter the Terms of Settlement as the Judgment of the Court.

Adoption and entering of Terms of Settlement as Judgment of the Court.

8. Any of the parties may by motion on notice, supported by an affidavit deposing to the facts that the parties have settled amicably, attach the Terms of Settlement, and move the Court to adopt the Terms of Settlement at a date earlier than the date fixed by the Court for the adoption of the Terms of Settlements as its Judgment.

Party may apply for adoption of Terms of Settlements at earlier date.

9. Upon adoption of the Terms of Settlement, by the parties and their counsel, the Court shall enter the Terms of Settlement as the Judgment of the Court which shall be binding on the parties.

Terms of Settlement are binding.

10. Notwithstanding anything contained in Rule 8 of this Order, before the adoption of the Terms of Settlement, parties or their counsel thereto may by consent, alter or modify any part of the Terms of Settlement and thereafter pray the Court to enter and adopt the amended, altered or modified Terms of Agreement, as the Judgment of the Court.

Modification of Terms of Settlement.

11. Every application under rule 10 of this Order shall be filed and an advance copy shall be forwarded to the other party not less than five (5) days before the date fixed for hearing.

Application of party to be served on other party.

ORDER 43—INTERROGATORIES, DISCOVERY AND INSPECTION OF DOCUMENTS

1. The Court shall presume the genuineness of every document purporting to be :

Presumption of genuineness of document.

(a) the Official Gazette of the Federal Government of Nigeria or of a State ;

(b) the Official Gazette of any other Country ;

(c) a newspaper or journal ;

(d) a copy of the journal containing the resolutions or Hansard (that is verbatim report) of the National Assembly or House of Assembly of a State, printed by the Government Printer.

2. Where a party files a matter and serves the process on the other party, but discovers that the party needs to make discovery or inspection or disclosure of document(s) or a recording on an electronic device such as computer hard disk, external hard drive, flash drive or compact disc referred to as CD, tape, memory card, electronic camera and phone, etc, (all of which are in this Order referred to as an “electronic device”) which are in possession, custody, power or control of the other party, the first party may apply to the

Party to request in writing to make discovery of documents.

B 176

	other party to make available and/or produce the Certified True Copy of the document(s) or electronic copies to the party for inspection or use at the trial.
When party may apply for order to produce document.	3. Where the party in possession, custody, power or control of the document or a recording on an electronic device referred to in rule 1 of this Order refuses or makes it impossible for the party seeking for discovery or production or inspection or otherwise to achieve those aims, the party seeking may apply by motion on notice for an Order of the Court compelling the other party to produce the document or the recording on an electronic device, etc, in the other party's possession, custody, power or control.
Party requesting to forward advance copy on other party.	4. The party seeking discovery of documents or a recording on an electronic device shall forward an advance copy of his or her application for an Order of the Court to the adverse party.
Prescribed time to answer request.	5. The party on whom such request is served shall answer on oath completely and truthfully within seven (7) days of the request or within such other time as the Judge may allow.
Copies of documents to accompany Affidavit.	6. Every affidavit in answer to a request for discovery of documents shall be accompanied by copies of documents referred to therein.
Affidavit to detail documents objected to and grounds. Form 1A.	7. The affidavit to be made by any person in answer to a request for discovery of document or a recording on an electronic device shall specify which, if any, of the listed document or electronic records the person objects to producing, stating the grounds of the objection, and it shall be in Form 1A with such modifications or variation as circumstances may require.
Court to decide on genuineness of request.	8. On the hearing of the application, the Court or Judge may either refuse the application or adjourn the hearing, if satisfied that the discovery is not necessary or make such order, either generally or limited to certain classes of documents, as may be thought fit, in the discretion of the Court.
Court to decide for fairness to save cost.	9. Discovery shall not be ordered when and in so far as the Court is of the opinion that it is not necessary either for disposing fairly of the action or for saving costs.
Other party may file counter-affidavit.	10. Upon service and receipt of the Motion on Notice of the seeking party, the other party in possession, custody, power or control of the document or a recording on an electronic device may within seven (7) days, file a counter-affidavit with a written statement stating why the Order should not be made.

- 11.** Upon receipt of the application of the party seeking discovery and the counter-affidavit of the adverse party, the Court shall fix the date for the hearing of the motion and the counter affidavit, and after listening to the arguments of both parties, make such an Order as the justice of the case may require.

Court may make order upon hearing of motion and counter-affidavit.
- 12.** Where the party in possession, custody, power and/or of the document or a recording on an electronic device refuses, fails or neglects to comply with the order of the Court, the Court may presume that if produced or made available by the party, the document or the recording on an electronic device will be unfavourable to the party's case.

Failure, refusal or neglect to produce document.
- 13.** Further to provisions of Rules 1 and 2 of this Order, where the party on whom a request for discovery, inspection or production was made refuses or fails to comply with the request, the Court may allow the party making the request to use the copies of the document or a recording on an electronic device, in the requesting party's possession at the trial and the party refusing or failing to make such document(s) available shall not have the right to object to the admissibility of any available copy tendered and used by the seeking party.

Requesting party to use document in requesting party's possession.
- 14.** Every request for discovery or inspection shall be made within seven (7) days of the parties joining issues (Form 39).

Time limit to request for discovery. Form 39

ORDER 44—POWER OF THE COURT TO ASK QUESTIONS OF WITNESSES

- 1.** During trial, the Court may ask any question of witness or order the witness to produce any document in the witness' possession in order to clear up any ambiguities which may have been left obscured in evidence given by such a witness.

Judge may ask witness question or order production of document.
- 2.** Where the Court asks a question of or orders a witness to produce any document in compliance with rule 1 of this Order, no objection to such question or order either from the party or counsel to the party shall be allowed and the witness shall not be cross-examined upon any answer in reply to such question from the Judge without the leave of Court.

Counsel not object to Judge's question.

Provided that the question to be asked by the Court shall be based on facts that are relevant to the fair determination of the matter before the Court.
- 3.** Where a person simpliciter is summoned to produce a document, the person does not for that purpose become a witness and so cannot by the mere fact that of producing the document become a witness or be cross-examined until such a person is actually called as a witness.

When person summoned is not a witness.

ORDER 45—FILING OF WRITTEN ADDRESS

Application
of Order.

1. This Order shall apply to all applications and Final Addresses.

Content and
format of
Written
Address.

2.—(1) A Written Address shall be type-written with 14 font size of legible and readable font type or character (not cursive or italicized) with double spacing format and printed with black ink on white opaque A4 size paper of good quality.

(2) A Written Address shall not be more than thirty-five (35) pages, set out in paragraphs and numbered serially. It shall contain :

(a) the claim on which the address is based ;

(b) a brief summary statement of the facts with reference to the exhibit tendered at the trial ;

(c) the issues arising from the evidence ;

(d) a succinct statement of argument on each issue incorporating the authorities referred to together with full citation of the authorities ;

(e) a list of statutes or laws to be relied upon ;

(f) relevant facts and facts relevant to the facts in issue ;

(g) not contain extraneous matters.

Provided that where a Written Address contains extraneous matters, the Court may discountenance the portion of the final address containing the extraneous matters.

Summary
and
Conclusion
of Written
Addresses.

3.—(1) All Written Addresses shall be concluded with a numbered summary of the points raised and the party's prayer. A list of all authorities referred to shall be submitted with the Written Address. Where any unreported judgment is relied upon, the Certified True Copy shall be submitted along with the Written Address.

When
application
or address is
incompetent.

(2) Failure to comply with rules 2 and 3(1) of this Order may render the written Address incompetent.

Sufficient
copies of
written
addresses to
be filed.

4. Each party shall file a sufficient number of copies of the Written Address for the Court's record and for service on parties in the case.

Addition and
use of new
judicial
authorities.

5. Where a counsel after adoption of counsel's Written Address discovers new judicial authorities applicable to the issues canvassed, the counsel shall send the new judicial authorities to the Court and the opposing counsel. The opposing counsel shall have right of re-action.

- | | |
|--|---|
| <p>6. Each party shall have twenty (20) minutes for Oral argument to adumbrate on the content of the Written Address filed before the Court.</p> <p>Provided that no party shall be allowed to introduce new issues during oral argument.</p> | <p>Oral argument and adumbration.</p> |
| <p>7. Where any party before the Court has filed a Written Address and on the day fixed for adoption of the Written Address the party fails or neglects to appear to adopt the Written Address without any cogent and compelling reason to the satisfaction of the Court, the Court shall deem the said Written Address as adopted and adjourn for ruling or judgment accordingly.</p> | <p>When Court can adopt Written Address and adjourn for judgment.</p> |
| <p>8. Where there is a change of counsel, the new counsel may be granted only one adjournment to regularize counsel's position.</p> | <p>Regularisation of position of new counsel.</p> |
| <p>9. Where a Defendant or Claimant due to cogent and compelling reason(s) is not be able to file his or her Final Written Address within the twenty-one (21) days or the time limit ordered by the Court, he or she may by an application request for an extension of time within which to file the Final Written Address.</p> | <p>Application for extension of time to file Final Written Address.</p> |
| <p>10. The application for extension of time by the Defendant or Claimant which shall be supported by an Affidavit stating the cogent and compelling reason(s) for the inability to file the Final Address within the (21) twenty-one days or such time ordered by the Court, shall be made at least seven (7) working days before the expiration of the 21 days or time limit ordered by the Court.</p> | <p>Application to give cogent and compelling reasons for failure to file within time.</p> |
| <p>11. Where the Defendant fails to file his or her Final Address and did not apply for extension of time as provided in rule 9 of this Order, the Claimant may proceed to file his or her Final Written Address within twenty-one (21) days or such time limit ordered by the Court.</p> | <p>When Defendant fails to apply for extension of time.</p> |
| <p>12. The Court may, on the failure or refusal of the Defendant to file his or her Final Written Address where the Claimant has filed his or her file Final Written Address within the twenty-one (21) days or time limit ordered by the Court, may foreclose the Defendant from filing his or her Final Written Address except he or she gives cogent and compelling reason for his or her inability to do so within time limit by the Court or by these Rules.</p> | <p>When Court may foreclose Defendant from filing Final Written Address.</p> |
| <p>13. Where the Defendant fails or refuses to ask for extension of time to file his or her final Written Address within the time limit ordered by the Court and the Claimant has filed his or her Final Written Address and the Claimant may move the Court for parties to address it on points of law.</p> | <p>When Court may move parties to address on points of law.</p> |

ORDER 46—NON-SUIT

When Court
can non-suit
a matter.

1. Where satisfactory evidence entitling the Claimant or Defendant to Judgment of the Court is not given, the Court may suo-motu or on application non-suit the Claimant or the Defendant or the counterclaimant as the case may be.

Provided that the counsel to the parties shall have the right and be given the opportunity to make submissions about the propriety or otherwise of making such an Order before it is made.

Provided further that an order of non-suit shall not be made where the claim or counter-claim as the case may be, partly succeeds.

Hearing and
determination
of counter
claim to non-
suit.

2. Notwithstanding the provisions of Rule 1 of this Order, where the defendant counterclaims, such a counter-claim shall be heard and be determined in accordance with the Rules of the Court as a separate suit.

ORDER 47—JUDGMENT AND ORDERS

FORM 59, 60, 61, 62, 63, 64, 65, 66, 67.

Judgment to
be delivered
in open
Court duly
entered.

1. The Court shall, after trial, deliver judgment in open court and shall direct the judgment to be entered accordingly.

Provided that where the Court reserves judgment or ruling at the hearing and announces a date for delivery of the judgment or ruling, parties to the suit and their counsel are required to take note of the date for attendance for judgment; and the Court will not be obliged to, but may also direct that the parties or their counsel be served with notice to attend the Court on the day of judgment.

Provided further that the absence of parties or their counsel from the Court on the day judgment is to be delivered shall not prevent the Court from delivery of its judgment as earlier fixed.

Collection
and delivery
of signed
Judgment or
Ruling.

2. Any Judgment or Ruling to be delivered by a Judge of the Court shall be signed by the Judge and copies made available to the parties for collection within seven (7) days of the delivery.

When a
Judge is
unable to
deliver
judgment
due to ill-
health or
other reason.

3.—(1) Where a Judge is to deliver a judgment or ruling and has typed and signed the judgment but he is unable to deliver same on the grounds of ill-health or for any unforeseen contingencies, the Judge or the parties as the case may be, may request another Judge of the Court in that Division to sit and deliver the typed and signed judgment on his behalf.

Provided that where the Judge is the only Judge in the Division, he may request the President of the Court to assign another Judge from another Division of the Court to deliver the judgment or ruling on his behalf.

(2) Where a Judge has written and signed his judgment but was unable to deliver the judgment because of transfer, the President of the Court may assign any other Judge to proceed to the Division to deliver the signed Judgment.

When Judge is unable to deliver judgment due to transfer.

(3) Where a Judge is to deliver a judgment or ruling and has type-written and signed the judgment or ruling but died before the date of delivery of the said judgment or ruling, the President of the Court may assign another Judge of the Division or a Judge from another Division of the Court to deliver the judgment on behalf of the deceased Judge.

When the Judge is unable to deliver signed judgment due to death

(4) Where a Judge has type-written his judgment or ruling, but has not signed the judgment or ruling but died before the date fixed for the delivery of the judgment or ruling, the President of the Court may assign another Judge to hear and determine the matter de novo.

When the Judge is unable to deliver unsigned but typed judgment.

4.—(1) When a Judge delivers a Judgment, Order or Ruling, the Registrar of the Court shall prepare the Enrollment of Order and affix the seal of the Court thereon within five (5) working days of the date of delivery of the Judgment, Order or Ruling.

Enrollment of Order and sealing of Judgment or Ruling.

(2) The Registrar, where applicable shall present the said Judgment, Order or Ruling to the Judge and the authorized officer of the Court for signatures within 48 hours of receipt of the Judgment, Order or Ruling.

Registrar to present Judgment for signature.

5. Where any judgment or ruling is delivered by the Court, it shall be dated as of the day on which such judgment or ruling is delivered and shall take effect from that date unless the Court otherwise orders.

Judgment to take effect from date of delivery unless Court otherwise orders.

6. When any judgment is directed to be entered by an order made on application for judgment, the judgment shall, unless the Court otherwise orders be dated as of the day on which the order is made and shall take effect from that date :

Judgment made pursuant to an Application.

Provided that the order may direct that the judgment shall not be entered until a given date, in which case it shall take effect from that given date.

B 182

Court may direct time for performance and may order payment with interest

7. The Court may at the time of delivering the judgment or making the order give direction as to the period within which payment is to be made or other act is to be performed and may order interest at a rate not less than 10% per annum to be paid upon any judgment.

Memorandum to be indorsed thereon by the Registrar.

8. Every judgment or order made in any cause or matter requiring any person to perform any act or do anything shall state the time within which the act is to be done. There shall be endorsed on the judgment or order a memorandum by the Registrar in the following words :

“If you,(the within-named A.B), neglect to obey this judgment (or order) by the time therein limited, you will be liable to process of execution for the purpose of compelling you to obey the said judgment (or order)” and same shall be served upon the person required to obey the judgment or order.

Terms of Settlement to be signed by both parties and Counsel

9. In any cause or matter in which the parties are represented by Legal Practitioners, no order for entering judgment shall be made by consent unless the terms of settlement are signed by both parties and their counsel.

Provided that where the counsel refuses or fails to sign the terms of settlement, the parties may sign the agreement and that may be accepted by the Court.

Party to give consent to Judgment in open Court.

10. Where a party has no counsel, such order shall not be made unless the party gives consent in person in open court.

Consent to judgment by Memorandum.

11.—(1) A party may consent to an order for entering of judgment by filing a written memorandum to the Court stating—

(a) that the party so consents ; and

(b) whether the party’s consent is for the full claim or part thereof ;

(2) If the consent is for part or less than the full claim—

(a) the party may continue the defence as to the balance of claim ; and

(b) notwithstanding, a judgment upon such consent the action may proceed as to such balance and it shall in that event be in all subsequent respect an action for such balance.

When orders need not be drawn.

12. Where an order has been made not embodying any special terms nor including any special directions, but simply enlarging the time for taking any proceeding or doing any act or giving leave for :

(a) the issuance of any court process other than a writ of attachment ;

(b) the amendment of any court process ;

(c) the filing of any process or document ; or

(d) any act to be done by any officer of the Court, including a legal practitioner it shall not be necessary to draw up such order unless the Court otherwise directs.

(2) The production of a note or memorandum of such order signed by the President of the Court or the Presiding Judge shall be sufficient authority for the enlargement of time, amendment, filing or any other act.

13. An order shall be sealed and signed by the President of the Court or the Administrative Judge, or where the Court is constituted by a single Judge, by the Judge by whom it is made.

Order to be sealed and signed by the President of the Court or Presiding Judge etc.

14. Where a matter is fixed for judgment or ruling, no motion shall be allowed to prevent the Judge from delivering the Judgment, Order or Ruling.

When motion cannot stop delivery of judgment.

15.—(1) Any motion filed in contravention of rule 14 of this Order may be incompetent and may not be allowed to be used to delay or prevent the delivery of the Judgment, Order or Ruling of the Court.

Incompetent motion cannot stop delivery of judgment.

(2) A motion or an application which has been filed and an advance copy of same has been served on the respondent(s) within fourteen (14) days before the date fixed for the delivery of the Judgment and seven (7) days before the date fixed for the delivery of the Ruling may be allowed and heard.

When motion can stop delivery of judgment or ruling.

16. A party to a matter may apply to the Court to vacate its order of injunction within fourteen (14) days of the date the Order was made.

Application and deadline for vacation of order of injunction.

17. Where a party or counsel to the party fails to apply for the vacation of the order of injunction within the stipulated fourteen (14) days and the order has been enlarged beyond the first fourteen (14) days, the party or the counsel may still apply for the vacation of the order within another seven (7) days after the expiration of the first fourteen (14) days, subject to the leave of the Court properly sought and obtained.

When a party may still apply for vacation of order of injunction.

Provided that where the party or counsel applies for the vacation out of time, such party shall pay a penalty of ₦1000.00 for each day of default after the expiration of the fourteen (14) days.

B 184

Registry to keep file of concluded matter.

Post-judgment proceeding to be given new Suit Number.

Application for post judgment proceeding to refer to previous judgment.

Assignment of post judgment proceeding to same Judge.

Court may rescind, vary etc Order or Judgment.

Application for interpretation of judgment.

18. When a Judge delivers judgment in a case and signs same, the case file shall be sent back to the Registry of that Division.

19. Any proceeding initiated as a Post Judgment proceeding or any application brought or filed as a Post Judgment proceeding shall be given a new Suit Number.

20. Any party or counsel who files any post-judgment proceeding shall make reference to the previous Judgment from which the post-judgment proceeding arose e.g. In Re : Suit NoA. vs. B.

21. Any application filed as post-judgment proceeding shall unless otherwise directed by the President of the Court be heard and determined by the Judge who heard the substantive suit.

22.—(1) The Court may suo motu or on application of any party affected correct, rescind, or vary its order or ruling—

(a) erroneously sought or erroneously granted in the absence of any party affected by it ;

(b) in which there is an ambiguity or patent error or omission, but only to the extent of such ambiguity, error, or omission ;

(c) granted as a result of a mistake common to the parties.

(2) The Court may also suo motu or on application of any party affected rescind any order or judgment or ruling granted or made in the absence of that party Court may rescind judgment made in error.

23. In a matter before the Court in which the Court has delivered its judgment, any of the parties in the suit may by an application with a Written Address to the Court apply for an interpretation of the judgment.

Provided that such an application shall not be for the purpose of requesting the Court to rewrite its judgment or reverse itself.

Provided further that the application with a Written Address shall only be for the purpose of clearing any ambiguity or uncertainty, or for ascertaining the true meaning of or the intent of any word used in the judgment.

24. An application for interpretation of a judgment of the Court shall be by motion on notice and shall be filed not later than thirty (30) days after the delivery of the judgment or ruling.

Time limit for application for interpretation of judgment.

25. Where a party or counsel in a matter in which the Court has delivered its judgment has been served the notice of application for interpretation of the judgment of the Court, that respondent shall file the response or the counter-affidavit or its Written Address within fourteen (14) days of receipt of the notice of the application for interpretation of the judgment.

Objection to application for interpretation of judgment.

26.—(1) In any matter in which by an interim order the Court is restraining any of the parties from doing or compelling the doing of any particular thing within or before a stated time or period, any of the parties in the matter may by an application and or motion on notice ask the Court to either vacate, alter or amend the said interim order.

Application to vacate, alter, amend interim order.

(2) The other party or counsel in the matter affected by the interim order may on receipt of the motion on notice on the application for vacation or alteration or amendment of the interim order may by a counter affidavit respond his objection or otherwise react to the application for either vacation, alteration, or amendment of the interim order.

Objection to application to vacate, alter, amend, interim order.

(3) Where the respondent is not objecting to the application as provided in sub-rule (2) of this rule, and if upon good cause shown to the satisfaction of the Court that between the last date and the next date of hearing that there may be any development that may warrant or necessitate the vacation, alteration or amendment of the said interim order of the Court, the Court may grant the application.

Where there is no objection to application to vacate, etc interim order.

27.—(1) Where a case pending before the Court is adjourned to a specified date by the Court, any of the parties in the matter may by an application to the Court request to alter the specified date of adjournment either by bringing it forward or by abridging the next date of adjournment.

Application to adjust date of adjournment.

(2) If the Court is satisfied that sufficient and satisfactory reason has been adduced, the Court may grant the application for adjustment of the date only.

When Court may grant application for adjustment of date.

Provided that such application shall be filed not later than seven (7) working days before the date specified as the next hearing date.

28. When a Judgment, Ruling or Order of a court of foreign jurisdiction is to be enforced in Nigeria by the Court, the party seeking the enforcement of the judgment, ruling or order shall register the Certified True Copy (CTC) of the Judgment, Ruling or Order having the seal of the Court of foreign

Registration of Judgment of foreign Court.

jurisdiction, signature of the Judge who delivered the Judgment or made the Order and the date the Judgment was delivered or the Order was made with the Registry—

Application for leave to enforce judgment, etc.

29.—(1) When the party has duly registered the CTC of the judgment, ruling or order of a court of foreign jurisdiction, the party or the party’s counsel may apply for the leave of Court to enforce the judgment, ruling or order.

Application by motion ex parte

(2) The application for leave shall be made ex parte to the Court and shall be accompanied by :

- (a) a statement setting out the name and description of the applicant ;
- (b) the Judgment, Ruling or Order to be enforced with details and particulars ;
- (c) an affidavit in support ;

No application without leave of Court.

(3) No application for enforcement of the Judgment, Ruling or order shall be made unless the leave of Court has been obtained in accordance with this Rule.

Application for enforcement to be by motion on notice.

30.—(1) Upon the granting of leave by the Court, the party seeking the enforcement of the Judgment, Ruling or Order shall apply to the Court by motion on notice and shall file along with the application—

- (a) a Certified True Copy (CTC) of the judgment the party is seeking to enforce having the seal of the Court of the foreign jurisdiction, signature of the Judge who delivered the judgment and the date on which the Judgment was delivered ;
- (b) an affidavit in support of the application for enforcement, setting out the facts upon which the application is made ; and
- (c) a Written Address in support of the application containing a statement of facts and authorities.

Party seeking enforcement to serve other party advance copy of application.

(2) The party seeking the enforcement of the judgment shall serve the other party with an advance copy of all the processes within seven (7) days of filing the application.

Response of other party to foreign judgment.

31. The other party in the matter for enforcement of a Ruling or Judgment shall respond by filing a counter-affidavit with the other party’s Written Address in argument of the issues not later than seven (7) days after the receipt of the advance copy of the application.

Provided that nothing in this rule shall be construed as giving any of the parties the opportunity of rehearing the matter in this Court or of asking for an Order to vary the Judgment or an Order made by the foreign Court or Judge who delivered the Judgment or made the Order.

ORDER 48—APPLICATION FOR JUDICIAL REVIEW

1. A party desiring to review a decision or proceedings of an Arbitral Tribunal, or of the Registrar of Trade Unions, or of any Commission or Board of Inquiry or Administrative Body or Panel or any Authority or Committee or Board or any other institution vested with power to deal with any matter arising from a subject matter within the jurisdiction of the Court in this Order referred to as the “Arbitral Body” shall commence the review process by Originating process, which originating process must be served by a motion on notice on that body.

Review of decision or proceeding of Arbitral Body.

2.—(1) The Originating process shall pray for an order that—

Originating summons of Arbitral Body.

(a) the Arbitral Body, show cause why the decision or proceedings should not be reviewed or corrected or set aside.

(b) the Arbitral Body, shall within 14 days after the receipt of the originating summons dispatch to the Registrar, such record and /or decisions sought to be corrected or set aside, together with such reasons as are required by law or desirable to provide, and to notify the applicant that this has been done.

(2) The person or body upon whom an originating process in terms of rule 2 is served shall timeously comply with the direction in the originating summons.

Compliance with directions of Originating summons.

(3) If the person or body fails to comply with the direction or fails to apply for an extension of time to do so, any interested party may apply, on notice to the Court, for an order compelling compliance with the direction.

Failure to comply with summons.

(4) The person or body shall make available to the applicant the Certified True Copies (CTC) of the records of the matter regarding which decision or award is being reviewed on such terms as the person or body thinks appropriate to ensure safe keeping of the records by the applicant. The applicant shall make copies of such portions or whole of the records as may be necessary for the purposes of the review and certify each copy as true and correct.

CTC or records of decisions.

(5) The applicant shall furnish the person or body and each of the other parties with a copy of the record or portion of the record, as the case may be, and a copy of the reasons filed by the person or body.

Parties to have copies of CTC.

B 188

Cost of CTC.	(6) The cost of the production and certification of records, copying and delivery of the records to the Court and reasons, if any shall be paid by the applicant and then becomes costs in the cause.
Affidavit of answer to claims.	(7) A person wishing to oppose the granting of the order prayed in the originating process shall, within seven (7) working days after the receipt of the originating process file an affidavit in answer to the claims made by the applicant.
Counter affidavit to answer.	(8) The applicant may file a counter-affidavit in reply within five (5) working days after receiving the affidavit of the respondent.
Cases fitting for Judicial review.	3.—(1) An application for— (a) an order of mandamus, prohibition or certiorari or declaration ; or (b) an injunction restraining a person from acting in an office in which such a person is not entitled to act, shall be made by way of an application for judicial review in accordance with the provisions of this Order.
Application for declarative injunction or judicial review.	(2) An application for a declaration or an injunction (not being an injunction under sub-rule (1)(b) of this Rule) may be made by way of an application for judicial review and the Court may grant the declaration or injunction claimed, if it deems it just and convenient to grant it by way of a judicial review, having regard to : (a) the nature of the matters in respect of which relief may be granted by way of an order of mandamus, prohibition or certiorari ; (b) the nature of the persons and bodies against whom relief may be granted by way of such an order ; (c) all the circumstances of the case.
Claims for relief related or connected with the same matter.	4. In an application for judicial review, any relief mentioned in rule 3 of this Order may be claimed as an alternative or in addition to any other relief so mentioned if it arises out of, relates to or is connected with the same matter.
Leave of Court not required to apply for judicial review.	5.—(1) An application for judicial review shall be brought within three (3) months of the date of occurrence of the subject of the application and no leave of the Court shall be required for that purpose.
Application by originating process.	(2) The application shall be made by originating process.
Service of originating summons.	(3) The originating process shall be served on all persons directly affected and where it relates to any proceedings before the Court or tribunal and the object of the application is either to compel the Court or tribunal or an officer

of the Court or tribunal to do any act in relation to the proceedings, or quash them or any order made therein, the process shall also be served on the Clerk or Registrar of the Court or tribunal and where any objection to the conduct of the Judge or tribunal is made, on the Judge or tribunal.

(4) Unless the Court otherwise directs there shall be at least seven (7) working days between service of the originating process and the day named therein for the hearing.

Interval of time between service and hearing of originating process.

(5) An affidavit giving the names and addresses of and the place and dates of the service on all persons who have been served with the originating process shall be filed before the process is entered for hearing and where any person who ought to be served under this rule has not been served, the affidavit shall state the fact and the reason for none service. The affidavit shall be before the Court on the hearing of the process.

Affidavit of service of originating summons

(6) Where on hearing of the originating process the Court is of the opinion that any person who ought to have been served has not been served, the Court may adjourn the hearing on such terms, if any, as it may direct in order that the process may be served on that person.

Service of person ought to be served

6. An interlocutory application in proceedings on any matter for judicial review may be made to the Court.

Interlocutory application during proceeding for Judicial review.

7.—(1) On hearing of any originating process under rule 3 of this Order, any person who desires to be heard on the process, and appears to the Court to be a proper person to be heard, shall be heard notwithstanding the fact that the person has not been served.

Hearing of application for judicial review.

(2) Where the relief sought is or includes an order of certiorari to remove any proceedings for the purpose of quashing them, the applicant may not question the validity of any order, warrant, committal, conviction, inquisition, or record unless the applicant has filed before the hearing of the process, a copy thereof verified by affidavit or accounts for the failure to do so to the satisfaction of the Court.

When relief includes certiorari.

(3) Where an order of certiorari is made in any such case as is referred to in sub-rule 2 of this rule, the order shall, subject to sub-rule 4 of this rule, direct that the proceedings be quashed forthwith on their removal into Court.

When order of certiorari is made.

B 190

Court to remit matter when order of certiorari applies.

(4) Where the relief sought is an order of certiorari and the Court is satisfied that there are grounds for quashing the decision to which the application relates, the Court may, in addition to quashing it remit the matter to the Court, tribunal or authority concerned with a direction to reconsider it and reach a decision in accordance with the findings of the Court.

When Court may order continuation of proceedings.

(5) Where the relief sought is a declaration, an injunction or damages and the Court considers that it should not be granted on an application for judicial review, the Court, may, instead of refusing the application, order the proceedings to continue as if it had been commenced otherwise than by application for judicial review.

Action to be brought for anything done in obedience to order of mandamus.

8. No action or proceedings shall be brought or prosecuted against any person in respect of anything done in obedience to an order of mandamus.

Consolidation of application on the same subject matter.

9. Where there are more than one application pending against several persons in respect of the same matter and on the same grounds, the Court may order the applications to be consolidated.

Power of Court to make to be exercised against the authority of Federal, State or Local Government.

10. The power conferred on the Court by the Rules in this Order, to make an order of mandamus, prohibition or certiorari shall be exercised notwithstanding that the order is made against any Officer or Authority of the Federal, State or Local Government including but not limited to any Minister, Commissioner or public servant, or an agent of the Government or any other person at law who can sue or be sued.

ORDER 49—ENFORCEMENT OF JUDGMENTS AND ORDERS

Court to issue Writ of Execution or Writ of Possession.

1.—(1) The power of the Court to enforce its judgments and orders shall be exercised by issuance of a Writ of Execution or by Writ of Possession in a case in which the Court has given judgment or order for possession of landed property.

(2) The Court shall, after trial, deliver its judgment in open court and shall direct the judgment to be entered.

Provided that where the Court reserves its judgment at the hearing, parties to the suit and their Counsel shall take notice of the date for attendance; but the Court may also direct that they be served with notice to attend the Court on the day of delivery of judgment.

2.—(1) A writ of execution or Writ of Possession of the Judgment of the Court shall not be issued by the Court unless the date fixed for the Judgment to be obeyed or complied with has elapsed.	Writ of execution to be issued after expiration of deadline.
(2) Where no date is fixed by the Court, an Order of execution of the Judgment shall only be made after twenty-one (21) working days of delivery of the Judgment seeking to be enforced.	
3. A party wishing to enforce the judgment or order of the Court made in the party's favour shall first obtain leave to issue a writ of execution or Writ of Possession.	Enforcement by writ of execution with leave of Court.
4.—(1) A writ of Execution or Writ of Possession of the Judgment of the Court may be enforced by the Deputy Sheriff or any other Officer of the Court so ordered or empowered to enforce same by the President of the Court or by the rules of the Court.	Enforcement by Officer of Court.
(2) The Deputy Sheriff or any other officer so ordered or directed may be accompanied by a law enforcement agent in the discharge of the assignment.	Officer may be accompanied by law enforcement agent.
5. The enforcement of the writ of execution or Writ of Possession of the Judgment of the Court shall be carried out between the hours of 6.00 a.m and 6.00 p.m. of a working day.	Time of enforcement of Writ.
6.—(1) An application for leave to issue a Writ of Execution OR Writ of Possession or proceed to execute or otherwise enforce a judgment or order of the Court may be made by motion ex-parte unless the Court directs it to be made by summons.	Application for leave to issue Writ of Execution to be made ex parte.
(2) Such an application shall be supported by an affidavit :	Content of affidavit in support of application for leave to execute.
(a) Identifying the order or judgment to which the application relates and, if the judgment or order is for payment of money or, stating the amount originally due thereunder and the amount due on the date of the application. In the case of possession of a landed property, the address or location of the landed property and other documents relating to the landed property under judgment or order of the Court.	
(b) Stating that a demand to satisfy or comply with the judgment or order has been made on the person liable to satisfy it and that the person has failed or refused to do so.	
(c) Giving such other information as is necessary to satisfy the Court that the applicant is entitled to proceed to execution on the judgment or	

order in question and that the person against whom it is sought to issue is liable to execution on it, and

(d) a Written Address.

Court may determine application on basis of rights.

(3) The Court on hearing the application may grant leave in accordance with the application or may order that any issue or question, a decision on which is necessary to determine the rights of the parties, be tried in any manner in which any question of fact or law arising in an action may be tried and, in either case, may impose such terms as to costs or otherwise as it thinks just.

Processing of a Writ of Execution.

7.—(1) The issuance of a writ of execution takes place on its being sealed by an officer of the Court so authorized to seal court processes.

Praeipie for writ to be filed.
Form 68.

(2) A praecipe for the issuance of a writ of execution shall be filed before the writ is issued.

Counsel or party to sign praecipe.

(3) The praecipe shall be signed by the counsel to the person entitled to the execution or if that person is acting in person, by that person.

When to seal a Writ of execution.

(4) No such writ of execution shall be sealed unless at the time of the tender thereof for sealing :

(a) the person tendering the writ of execution produces—

(i) the judgment or order on which the writ is to be issued ; and

(ii) the leave of Court for issuance of the writ or evidence of granting of leave.

(b) the officer authorized to seal is satisfied that the period, if any, specified in the judgment or order for payment of any money or the doing of any other act thereunder has expired.

Dating of a Writ of Execution.

(5) Every writ of execution shall bear the date of the day on which it is issued.

Validity of a Writ of Execution.

8.—(1) For the purpose of execution, a writ of execution is valid in the first instance for six (6) months beginning from the date of issue.

Extension of validity of a Writ of Execution.

(2) Where the writ was not wholly executed, the Court may by order extend the validity of the writ from time to time for a period of twelve (12) months at any time beginning with the date on which the order is made, if an application for extension is made to the Court before the next day following that on which the writ would otherwise expire or such later day, if any, as the Court may allow.

(3) Before a writ, the validity of which has been extended under this rule is executed, either the writ shall be sealed with the seal of the office out of which it was issued showing the date on which the order extending its validity was made or the applicant for the order shall serve a notice sealed as aforesaid, on the Sheriff to whom the writ is directed informing the Sheriff of the making of the order and the date thereof.	Sealing of a Writ of Execution.
(4) The production of a writ of execution, or of the notice as mentioned in sub-rule (3) of this rule purporting in either case to be sealed as mentioned in that sub-rule, shall be evidence that the validity of that writ, or, as the case may be, of the writ referred to in that notice, has been extended under this rule.	When seal is evidence of validity of Writ of Execution.
9. The cost of execution shall be borne by the party applying for the writ.	Cost of Execution
10. In the execution of the judgment of the Court as provided in this Order, where a movable property is subject of a FiFa and brought to the precincts of the Court and a judgment debtor files a stay of execution pending appeal, the Court after hearing the parties, may order that—	When movable property is subject of Fi.Fa.
(a) the motion be refused ; (b) the motion is allowed on the condition that the judgment debt be paid into an interest yielding account (escrow) with the account name “The Chief Registrar of the National Industrial Court of Nigeria” and such monies shall be released to whoever succeeds in the appeal.	
11.—(1) Where a Judgment or Order directs the payment of money, the Court may, for any sufficient reason, order that the amount shall be paid by installments, with or without interest.	Payment of money by installment with or without interest.
(2) The Order may be made at the time of giving judgment, or at any time afterwards and may be rescinded upon sufficient cause at any time.	Order to be made at time of judgment or afterwards.
12. Where there is an application by the Judgment creditor before the Court to enforce payment of all judgment sums due to the judgment creditor from a defaulting judgment debtor, the Court may where it deems it fit and expedient further direct as follows—	Enforcement of payment of judgment sums.
(1) Where the defaulting judgment debtor is a paid employee or salary earner, the judgment debtor shall file a necessary counter-affidavit stating reasons for the inability to abide by the orders of the Court for payment of the judgment sum, accompanied by relevant documents including the judgment debtor’s current pay-slip which shall be exhibited as justification for the default or otherwise.	When judgment debtor is a paid employee.

B 194

When judgment debtor is self-employed.

(2) Where the judgment debtor is a self-employed person, the judgment debtor shall file a necessary counter-affidavit stating sufficiently to the satisfaction of the Court, the reasons for the inability to obey the orders of the Court accompanied by the statement of account or any other document as proof of the judgment debtor source of income.

Application for instalment payment of judgment debt.

13. The judgment debtor may on application to the Court request for payment in installment of the judgment debt.

Affidavit in support of instalment payment judgment debt.

14. The judgment debtor shall file along with his or her or its application for instalment payment of the judgment debt an affidavit —

(i) deposing to the judgment debtor's reasons for his or her or its inability to pay the judgment debt as ordered by the Court ;

(ii) stating how the judgment debtor intends to liquidate the judgment debt ;

(iii) stating the number of installments and the amount to be paid per installment.

Judgment creditor counter-affidavit.

15. The judgment creditor/respondent upon service of the motion on notice may file a counter-affidavit within seven (7) working days of the receipt of the judgment debtor's application for instalment payment.

When Court may grant application.

16. The Court on hearing the parties may grant the application, if the judgment debtor satisfies the Court by exhibiting such willingness and readiness by the payment of the first installment at the hearing of the application.

When judgment debtor defaults.

17. Where a judgment debtor defaults in payment of any instalment, the Court may order that the judgment should be executed and whatever proceeds are realized from the execution shall be used to liquidate the balance due to the judgment creditor.

When proceeds exceeds debt.

18. Where the proceeds realized from the execution of the judgment exceeds the balance due to the judgment creditor, the excess remaining after liquidating the balance due to the judgment creditor shall be refunded to the judgment debtor.

When proceeds are insufficient.

19. Where the proceeds realized from the execution of the judgment are insufficient to liquidate the balance due to the judgment creditor, the judgment creditor may apply to the Court for further execution of the judgment and the Court on hearing the parties may grant or refuse to grant the application for further execution of the judgment and may make necessary order in relation to the execution of the judgment.

20. Where the Court has delivered a monetary judgment in favour of any of the parties in the case before it, the winning party may apply to the Court for the enforcement of the judgment by filing a garnishee proceeding amongst other procedure as may be allowed under National Industrial Court Act, 2006 or any other Act or Rules of this Court.

When judgment creditor may file for garnishee.

21.—(1) Where the Court makes an Order that judgment debt be paid into an interest yielding account in line with the provisions of Order 36 rule 6 of these Rules, and on appeal by the judgment debtor to the appellate Court, the judgment debtor succeeds, he shall ask for the release of the deposited sum by filing a motion of notice accompanied by—

Where the judgment debtor succeeds on appeal.

(i) an affidavit ;

(ii) Certified True Copy of the order or judgment of the appellate Court ; and

(iii) a Written Address.

(2) Upon receipt of the application and being satisfied with the order or judgment of the appellate Court, the Court may direct the Chief Registrar to release the deposited sum to the judgment debtor.

When Court may direct release of money to judgment debtor.

(3) On receipt of the Order of the Court, the Chief Registrar shall release the deposited sum to the judgment debtor accordingly.

Chief Registrar to release money to judgment debtor.

22.—(1) Where the Court makes an Order that judgment debt be paid into an interest yielding account in line with the provisions of Order 36 rule 6 of these Rules, and on appeal by a judgment debtor to the appellate Court, the judgment debtor fails or his case is dismissed or struck out, the judgment creditor shall apply for the release of the judgment debt which was paid as directed by the order or judgment of the Court by filing a motion of notice accompanied by,

When judgment debtor's appeal fails, etc.

(i) an affidavit ;

(ii) Certified True Copy of the order or judgment of the appellate Court ; and

(iii) a Written Address.

(2) Upon receipt of the application and being satisfied with the order or judgment of the appellate Court, the Court may direct the Chief Registrar that the said judgment debt be paid to the judgment creditor.

When Court may direct release of judgment debt to judgment creditor.

B 196

Chief Registrar to release money to judgment creditor.

(3) On receipt of the Order of the Court, the Chief Registrar shall release the deposited sum to the judgment creditor.

Motion on notice to be served on parties.

23. The motion on notice shall be served on the judgment debtor in line relevant provisions of the rules of this Court.

When attached property may be released.

24.—(1) Where upon full liquidation of a judgment debt and there is no pending appeal or motion before the Court, any property attached as security for the judgment debt shall be released to the judgment debtor within 30 thirty days.

When attached property is not released.

(2) Where the judgment debt is not fully liquidated, the Court shall proceed with the execution of the judgment on the attached property in line with relevant provisions of rules 17, 18 and 19 of this Order.

Enforcement of decision of Supreme Court, Court of Appeal of a superior court of records.

25. Where an application to enforce the decision of the Supreme Court, Court of Appeal or decision of any other superior court of records is filed before the Court, the Court shall deem the decision of that superior Court of record as if it were its own and the enforcement shall be carried out in accordance with relevant provisions of this Order.

Form 72.

**ORDER 50—APPEALS FROM DECISIONS OF THE ARBITRAL TRIBUNAL
INDUSTRIAL ARBITRATION PANEL, REGISTRAR OF TRADE UNIONS, ADMINISTRATIVE
BODIES, COMMISSIONS AND BOARDS OF INQUIRY (BOI), ETC.**

Appeal from the decision of Arbitral Body.

1.—(1) Every appeal to the Court shall be brought by way of notice of appeal and shall be lodged in the Arbitral Tribunal, or with the Registrar of Trade Unions, Secretary of any Commission or Board of Inquiry or Administrative Body or Panel or any Authority or Committee or Association or the Board empowered to implement the Employee's Compensation Act, 2010 or any other institution vested with power to deal with any matter arising from the jurisdiction of the Court, (in this Order referred to as the "Arbitral Body") within thirty (30) days of the decision, award or recommendations, appealed from.

Service of Notice of Appeal.

(2) The notice of Appeal shall be served on all parties affected by the appeal.

Content of Notice of Appeal

2.—(1) The notice of appeal shall set out the reference number of the proceedings in which the decision, award or recommendation appealed against was given, the names of the parties, the date when the decision was given and the grounds of appeal in full.

(2) Where the appellant complains only of part of the award, recommendation or decision, the notice of appeal shall specify the part complained of; otherwise the appeal shall be taken to be against the decision as a whole.

Notice of Appeal may specify only the part of the decision complained of.

(3) The notice of appeal shall be in Form 72 which may be varied to suit the circumstances.

Form of Notice of Appeal.

(4) The Notice of Appeal shall give the contact information of the Arbitral Body as prescribed in Order 4 Rule 1(1) of these Rules, where the award, recommendation or decision appealed against is situated, to which notices may be sent from the appellant by registered post or electronic device.

Notice of Appeal to give contact information of Arbitral Tribunal.

(5)(a) The Appellant or appellant's counsel shall comply with the provisions of Order 4 Rule 4 of these Rules.

Parties to comply with Order 4 Rule 4.

(b) The Respondent or Respondent's counsel shall also comply with the provisions of Order 4 Rule 4 of these Rules.

3.—(1) The Registrar or Administrator of the Arbitral Body shall within thirty (30) days of the decision, award or recommendations appealed against, prepare as many Certified True Copies (hereinafter referred to as CTC) of the proceedings required for the consideration of the appeal as there are parties on record.

Certified true copies of proceedings appealed against.

(2) Except where the fees for preparing the CTC are remitted, a deposit of money decided on by the Registrar as likely to cover the fees, shall be made by the appellant before the preparation of the copies.

Appellant to pay for certified true copies of proceedings appealed against.

4.—(1) The Registrar of the Arbitral Body shall within fourteen (14) days of preparing the CTC send same to the Registrar of the Court.

Time allowed for sending of certified true copies of proceedings to Court.

(2) The President of the Court may direct that an appeal be heard and decided by a panel of three (3) Judges of the Court.

President of the Court to assign hearing of appeal to a Judge or panel of Judges.

B 198

Hearing of interlocutory application.

(3) Notwithstanding the provisions of sub-rule 2 of this rule, the President of the Court may direct that an interlocutory application in a pending appeal can be heard by a Judge before the matter is sent to a panel of Judges that may hear the appeal.

Adjournment of hearing of appeal.

(4) When a pending appeal is before a panel of Judges of the Court, a single Judge who is a member of the panel may sit and adjourn the hearing of the appeal or take an interlocutory application arising in the course of the appeal.

Notification of date of hearing with certified copy of proceedings.

5. When notifying a party of the date fixed for the hearing of an appeal, the Registrar shall send to the party CTC of the processes filed in the appeal.

Enlargement of time limit.

6.—(1) The times prescribed in rules 1 to 4 of this Order, may be enlarged at any time by the Court on such terms as the Court may deem fit.

Application for enlargement of time.

(2) Enlargement of time shall be by application and the Appellant shall forward an advance notice of the application for enlargement of time to the Respondent(s).

Striking out of appeal for default of time.

7. Where the time available to the appellant for the taking of any step has expired before such step has been taken or completed, the respondent may, on notice to the appellant, apply to the Court to strike out the appeal, and the Court may strike out, or enlarge the time if sufficient cause is shown.

Application for mandatory order to produce CTC.

8. Where a Registrar or the Administrator to the Arbitral Body fails, neglects or refuses to furnish the “CTC” of record of proceedings as provided in Rule 4 of this Order, the party appealing against the award or decision or recommendation of the bodies, authorities and entities mentioned earlier, may file an application before the Court for an order of mandamus compelling the Registrar to produce the CTC of the proceedings to the Court.

Notification of Time and Division for hearing of Appeal.

9. The appeal may be fixed by the Court for hearing at such time and in a designated Judicial Division and the Registrar of the Court shall notify the parties accordingly.

Hearing and determination of appeal on briefs filed by parties.

10. Unless the Court gives leave to the contrary—

(1) all appeals from the Arbitral Body shall be heard and determined purely on their briefs of argument filed and exchanged between the parties.

Period of filing of Appellant's brief.

(2) the Appellant shall file an Appellant's Brief of argument within twenty-one (21) days of receipt of the record of proceedings from the Arbitral Body ;

(3) the Respondent shall file and serve a Respondent's Brief of Argument within twenty-one (21) days of service on the Respondent of the Appellant's Brief of Argument.	Period for filing of Respondent's brief.
(4) within seven (7) days of the receipt of the Respondents Brief of Argument, the Appellant may file a Reply Brief of Argument which shall deal only with any new issues raised in the Respondent's Brief of Argument.	Reply to Respondent's brief.
(5) every Brief of Argument shall clearly identify the issues distilled from the grounds of appeal on the basis of which the parties seek the determination.	Briefs to clearly identify issues from grounds of appeal.
(6) any issue which is not covered by any ground of appeal shall not be considered by the Court in its judgment.	New issues not to be considered.
11. Where there is an appeal before the Court and the counsel to the parties have filed their briefs of arguments and the date has been fixed for hearing of the appeal, counsel to the parties shall each have thirty (30) minutes within which to adopt and adumbrate on their respective briefs or written addresses respectively. Provided that the counsel may orally apply for an extension of time during which the counsel may conclude on his or her adumbration ; the extension, if granted, may not be for more than ten (10) minutes. Provided also that the Court may suo motu allow such extension of time for adumbration by the counsel as the circumstance of the matter may demand. The decision of the Court on an application for extension of time for adumbration shall be final.	Time for parties to adumbrate briefs.
12. The Court may direct a departure from these Rules in respect of the compilation of records from the Arbitral Body upon the application of any party to an appeal.	Departure from the rules on compilation of records.
13.—(1) Where on the day fixed for hearing, the appellant or his or her counsel to the appellant does not appear, the appeal shall be struck out and the decision appealed against shall be affirmed, unless the Court, for sufficient reason thinks otherwise.	Striking out of appeal for default of appearance of Appellant or counsel.
(2) Notwithstanding the provisions of sub-rule 1 of this rule, where a brief has been filed, the brief may be deemed adumbrated and judgment delivered on the merits of the case.	When brief may be deemed adumbrated.

B 200

Judgment with cost against appellant.

(3) Where a respondent or his or her counsel appears in the Court and the appellant or his or her counsel does not, the appeal shall be struck out and the judgment shall be with costs of the appeal against the appellant, unless the Court otherwise orders.

Costs at Court's discretion where respondent is in default of appearance.

(4) If the Respondent or Respondent's counsel does not appear, the costs in the appeal shall be at the discretion of the Court.

Hearing of appeal in absence of one party.

14.—(1) On the day fixed for hearing of the appeal, whether the parties or their counsel appear or not, the Court may proceed to the hearing or further hearing and determination of the appeal and may determine the appeal on its merits.

Court to dismiss matter for non-compliance with requirements.

(2) If it appears or is proved before the Court that the appellant has not complied with the requirements precedent to the hearing of an appeal, the Court shall dismiss the appeal and affirm the decision, ruling, award or recommendation with or without costs of the appeal against the appellant.

No extraneous reasons at hearing.

15.—(1) At the hearing, the appellant shall not go into any other reasons for appeal than those stated in Appellant notice of grounds of appeal. .

Court may allow amendment of defective appeal.

(2) Where, in the opinion of the Court, other grounds of appeal other than those stated in the notice of appeal should have been given, or the statement on grounds of appeal is defective, the Court, in its discretion may allow such amendments of the notice of appeal upon such conditions as to service upon the respondent and as to costs as it may think fit.

Respondent may give notice of intention to seek confirmation of judgment on new grounds.

16.—(1) A respondent may give notice of respondent's intention to ask the Court at the hearing to confirm the judgment of the Arbitral Body on grounds other than those stated by the Arbitral Body.

Notice to state new grounds for confirmation.

(2) The notice shall be accompanied by a clear statement of the grounds on which the respondent intends to ask the Court to confirm the judgment of the Arbitral Body.

(3) Such notice and grounds shall be filed in Court within fourteen (14) days of service on the respondent of the notice and grounds for appeal and same shall be served on the appellant or appellant's counsel.

Period for filing and service of Notice and grounds

17.—(1) A respondent may file a cross-appeal against all or any part of the award, decision or recommendation of the Arbitral Body.

Filing of cross-appeal.

(2) The grounds of the cross-appeal shall be filed by the respondent within fourteen (14) days of service on respondent of the appellant's notice and grounds for appeal, and shall be served on the appellant or appellant's counsel before the hearing.

Period for filing and service of cross-appeal.

18.—(1) No objection on account of any defect in the form of stating any ground of appeal shall be allowed, unless the Court is of the opinion that the ground of appeal is so imperfectly or incorrectly stated as to be insufficient to enable the respondent to enquire into the subject-matter or to prepare for the hearing.

No objection on basis of defects in form of appeal unless permitted by Court.

(2) Where the Court is of the opinion that an objection to any ground of appeal ought to prevail, the Court may, if it thinks fit, cause the ground of appeal to be amended upon such terms and conditions, if any, as the Court may think just.

Amendment of grounds of appeal.

(3) On an appeal from a decision or award of the Arbitral Body, no objection shall be taken or allowed to any proceeding in the Arbitral Body for a defect or error which might have been amended by the Arbitral Body or to any complaints, summons, warrant, or other process to or of such Arbitral Body for any alleged defect in substance or in form therein, or for any variance between any complaint or summons and the evidence adduced in support thereof in such Arbitral Body.

No objections allowed to any defect in any proceedings of an Arbitral Body.

(4) Where an error, defect, or variance mentioned in this Rule appears to the Court at the hearing of any appeal to be such that the appellant has been thereby deceived or misled, it shall be lawful for the Court either to refer the case back to the Arbitral Body with direction to rehear and determine it or to reverse the decision appealed from or to make such other order for disposing of the case as justice may require pending the hearing and determination of the appeal.

Court may refer matter back to Arbitral Body.

(5) Where it considers it necessary that evidence should be adduced, the Court may either—

Adducing evidence.

(a) order that such evidence be adduced before the Court on some day to be fixed ; or

(b) refer the case back to the Arbitral Body to take such evidence, and may in such case either direct the relevant Arbitral Body to adjudicate afresh after taking such evidence and subject to such directions in law, if any, as the Court may think fit to give, or direct it, after taking such evidence, to report specific findings of fact for the information of the Court, and on any such reference the case shall, so far as may be practicable and necessary, be dealt with as if it were being heard in the first instance.

Certification of additional evidence.

19.—(1) Where additional evidence is to be taken by the Arbitral Body and specific findings of fact reported, it shall certify the evidence to the Court which shall then proceed to dispose of the appeal.

Appellant to be present when additional evidence is taken.

(2) The appellant or appellant's counsel shall be present when the additional evidence is taken.

Evidence taken as if before Arbitral Body.

(3) Evidence taken in pursuance of Rule 18 (5) (a) of this Order shall be taken as if it were evidence at the trial before the Arbitral Body.

Arbitral Body to give opinion on demeanour of witnesses and additional evidence.

(4) When forwarding to the Court any additional evidence taken by the Arbitral Body in pursuance of sub-rule (1) of this rule, the Arbitral Body may express its opinion on the demeanor of the witnesses and the value of their evidence and may also, if it is the same Arbitral Body against whose decision the appeal has been made, state whether or not it would have come to a different decision had the additional evidence been brought forward at the trial.

Fees for civil appeals. First Schedule.

20. The fees in the First Schedule shall be chargeable in civil appeals save where they would have to be paid by a Government officer acting in his official capacity or where the Arbitral Body or the Court waives or remits the fees on the ground of the poverty of the person chargeable therewith where it appears that there are substantial grounds of appeal.

Allowances for witnesses.

21. Allowances may be paid to witnesses in accordance with the Provisions of the Second Schedule.

Court may order Arbitral Body to rehear and determine a matter arising from misled or deceived respondent.

22. No objection shall be taken or allowed, on an appeal, to a notice of appeal which is in writing or to any recognizance entered into under this Order for the due prosecution of the appeal for any alleged error or defect, but if the error or defect appears to the Court to be such that the respondent on the appeal has been thereby deceived or misled, it shall be lawful for the Court to amend it and, if it is expedient to do so, also to adjourn the further hearing of the appeal, the amendment and the adjournment, if any, being made on such terms as the Court may think just.

23. (1) A party in an appeal may file a motion for stay of execution pending the determination of the appeal. Provided such party or party's counsel shall forward an advance copy of same to the Respondent within seven (7) days of the date of filing	Stay of execution pending appeal.
(2) The Respondent may file a counter-affidavit within seven (7) days of service on the Respondent and shall serve an advance copy of same on the Appellant seven (7) days from the date of filing.	Respondent's counter-affidavit.
24.—(1) On an application made for stay of execution under any enactment establishing the Arbitral Body, the Arbitral Body may impose one or more of the following conditions —	Conditions for applying for stay of execution.
(a) that the appellant shall deposit a sum fixed by the court not exceeding the amount of the money or the value of the property affected by the decision or judgment appealed against, or give security to the satisfaction of the Court for the said sum ;	
(b) that the appellant shall deposit a sum equal to the amount of the costs allowed against the appellant or give security to the satisfaction of the Court for the said sum ;	
(c) that the appellant shall, where the decision or award appealed against relates to possession of lands or houses, give security to the satisfaction of the Court for the performance of the decision or award in the event of the appeal being dismissed ;	
(d) that the appellant's property shall be seized, and attached and sold and the net proceeds deposited in court pending determination of the appeal	
(2) Any Order made on any application shall limit the time (not being more than twenty-one (21) days) for the performance of the conditions imposed, and direct that in default of the performance within the time so limited execution may issue or proceed.	Order to limit time allowed for performance of imposed conditions
(3) An application for stay of execution under the enactment establishing the Arbitral Body may be made at any time after lodgment of the notice of appeal and shall in the first instance be made on any Arbitral Body mentioned in this Order as may be relevant.	Application for stay of execution made first to Arbitral Body.
(4) Where execution has been ordered by the Court the application shall not be made to an Arbitral Body but to the Court.	No application for stay to Arbitral Body where execution of judgment has been ordered by the Court.

B 204

Notice of ex parte application for stay of execution to be given to other party.

(5) The application may be ex parte, but the Court may direct that notice of it be given to the other party; and where an order is made ex parte the Registrar of the Court shall notify the other party of the order made.

Appellant to state nature of security given instead of deposit.

(6) Where an appellant proposes to give security instead of making a deposit, the application shall state the nature of the security and the name of the surety proposed (if any).

Appeal by motion against order of Arbitral Body.

(7) A party dissatisfied with an order made by the Arbitral Body may apply to the Court by originating or interlocutory motion as the case may require, with notice to the other party for a review of the order, and the Court may thereupon make such order as may seem just.

Appeal not to operate as a stay of execution.

25.—(1) An appeal shall not operate as a stay of execution of the decision or award or recommendation appealed against, except :

(a) as the Court otherwise orders, or

(b) where there is any pending application for stay of execution of the award, decision or recommendation appealed against before the Court.

Court may stay execution of award, etc.

(2) Notwithstanding sub-rule 1 of this rule, the Court may order a stay of execution of the recommendation, award, or decision of an Arbitral Body pending the hearing and determination of the appeal.

Order to deposit money or security.

26.—(1) The Court may, in special circumstances, on an application on notice (originating or interlocutory as the case may require) supported by an affidavit, order the appellant to deposit such sum or give such security as may seem fit for respondent's costs of appeal including the costs incidental to the application.

Appeal may be dismissed for default in deposit or security within stipulated time.

(2) The order shall limit the time (not exceeding twenty-one (21) days) within which the deposit or security shall be made, and may direct that in default of its being made or given within the time so limited the appeal shall without further order stand dismissed.

Respondent entitled to reasonable costs on dismissed appeal.

(3) Where an appeal is dismissed, the respondent shall be entitled to all reasonable costs occasioned by the appeal and the amount of such costs may be stated in the order of dismissal or may be assessed at any subsequent time by the Court of its own motion or on application made ex parte or on notice, as the Court may deem fit.

(4) Where an appeal is dismissed, the appellant shall take no further step for proceeding for reinstatement of the appeal except by leave of the Court, which may be granted on such terms (if any) as the Court may deem fit, upon application by motion on notice given within thirty (30) days of such dismissal.	Reinstatement of dismissed appeal.
(5) Subject to the discretion of the Court to grant costs where it seems proper on an application made under sub rule (1) of this Rule, herein, costs shall not normally be granted to the applicant except where the net proceeds of execution levied on the appellant's property are sufficient to satisfy the amount payable under the decision or award appealed from.	Appellant not entitled to costs except from net proceeds after full execution of award, etc.
27. In determining the appeal brought before it, the Court may affirm, modify, amend, or vary the judgment, decisions, orders, awards or recommendation appealed against.	Affirmation, modification, amendment of judgment or decision.
28.—(1) Upon the determination of an appeal, the Court shall certify its judgment or order to the Arbitral Body in which the decision appealed against was pronounced.	Arbitral Body to have certified true copy of Court's judgment.
(2) The Arbitral body to which the Court certifies its judgment or Order shall then make such orders as are conformable to the judgment or Order of the Court, and if necessary, the records shall be amended accordingly.	Action of Arbitral Body on Court's judgment.
29. After the pronouncement of the judgment of the Court, the Arbitral Body from which the appeal came shall have the same jurisdiction and power to enforce, and shall enforce, any decision which may have been affirmed, modified, amended, or substituted by the Court or any judgment which may have been pronounced by the Court, in the same manner in all respects as if such decision or judgment had been pronounced by itself.	Arbitral Body to enforce Court's judgment as its own.
30. Any Order given or made by the Court may be enforced by the Court or Arbitral Body as may be most expedient.	Expeditious enforcement of Order of Court by Arbitral Body.
31. The Court may, if it thinks fit, enlarge any period of time prescribed by this Order.	Court may enlarge time prescribed.

B 206

Order to pay costs.

32. The Court may make an Order as to the payment of costs by or to the appellant as it may consider to be just and the Order may also be made in any other case where an appeal has been entered into, but the appellant refuses, neglects or omits to diligently prosecute it.

When time of confirmed award shall begin to count.

33. Where an award, decision or recommendation by an Arbitral Body forwarded to the Minister for approval has been confirmed by the Minister in compliance with section 13(2) of the Trade Dispute Act Cap T8, LFN, 2004, and the Minister communicates the confirmation of the award, decision or recommendation later than the time prescribed for communication of confirmation and beyond the time for acting on the award, the party concerned may apply to the Court for the time prescribed for acting on the award to begin to count from the day following the day of receipt of the confirmation of the award from the Minister.

Application for order of mandamus to refer matter to the Court

34.—(1) Where any of the parties has applied to the Minister to refer the dispute to the National Industrial Court of Nigeria and the Minister fails, neglects or refuses to refer the dispute to the National Industrial Court, as provided in section 14 of the Trade Disputes Act, CAP T8, LFN 2004 such a party may apply to the Court for an Order of Mandamus compelling the Minister to refer the matter and to forward copies of the proceedings to the National Industrial Court.

Service of order of mandamus on Minister.

(2) A copy of the Order of Mandamus shall be served on the Minister requesting the Minister to respond within twenty-eight (28) days from the date of service.

Application for order of mandamus to compel approval or return of award.

35. Where an award, decision or recommendation by an Arbitral Body, is forwarded to the Minister for his approval and the Minister fails, neglects or refuses to act on the award of the Industrial Arbitration Panel as provided in section 13(2) and (3) of the Trade Dispute Act, Cap T8, LFN 2004 any of the parties to the award may apply to the Court to issue an Order of Mandamus compelling the Minister to confirm or return same to the Arbitral Body.

Provided the party seeking for the Order of Mandamus shall have demanded through an application to the Minister, that the Minister releases the award within fourteen (14) days from the date of service of the application.

Application for order of mandamus to include application to Minister.

36. In applying to the Court for the Order of Mandamus, the party must attach an acknowledged copy of the party's application made to the Minister for the release of the award, decision or recommendation.

Hearing Notice and period for response by Minister.

37. The Court shall, upon receipt of the application for the Order of Mandamus issue a hearing notice to the Minister of Labour and Productivity to file a response within twenty-eight (28) days, but not later than thirty (30) days.

38. When a panel of Judges is hearing an appeal and the appeal has been argued and addresses submitted by counsel to the parties and judgment has been written and signed by all members of the panel of Judges, a member of the panel of Judges may sit and deliver the judgment of the panel.

Judge may deliver the Judgment on behalf of another in a panel

Provided that where there is a dissenting judgment or ruling, the member of the panel dissenting shall read or cause the dissenting judgment or ruling to be read on the dissenting Judge's behalf in accordance with these Rules.

39. No appeal from the decision or award or recommendation or finding of an Arbitral Body shall qualify for referral to the ADR Centre.

Arbitral Tribunal, etc. decision, etc. not qualified for ADR

ORDER 51—GARNISHEE PROCEEDINGS

1.—(1) Where a party in a matter before the Court (in this order referred to as “the judgment creditor”) has obtained a judgment or order for the payment by another party in the matter (in this Order referred to as “the judgment debtor”) of the sum of money not being a judgment or order for the payment of money into Court and any other person within the jurisdiction is indebted to the judgment debtor (in this Order referred to as the “Garnishee”), subject to the provisions of this order and of any enactment, the Court may order the garnishee to pay the judgment creditor the amount of the debt due or accruing to the judgment debtor from the garnishee, or as much thereof as is sufficient to satisfy that judgment or order and the costs of the garnishee proceedings.

Order for Garnishee Proceedings.

(2) Any Order made by a Judge of the Court under this Rule for a Garnishee to show cause, shall in the first instance show cause, specifying the time and place for the consideration of the matter and shall attach the amount of debt due to the judgment creditor.

Content of garnishee order.

(3) An order made under this rule shall not permit the payment of such sum of money which would reduce to below the minimum allowable balance in the bank account of the judgment debtor.

Payment not to exceed acceptable amount.

(4) For the purpose of sub-rule (3) of this rule, the onus shall be on the Judgement debtor to produce evidence and depose to an affidavit as to the amount in the account to be garnisheed and the allowable minimum balance for that account.

Judgment debtor to produce details of account for garnishee.

2. Any application for an Order under rule 1 of this Order shall be made *ex parte* and supported by an affidavit that—

Ex parte application for Garnishee order.

- (a) states the name and the last known address of the judgment debtor ;
- (b) identifies the judgment or order to be enforced ;

	(c) states the amount of the judgment or order ; (d) states the amount remaining unpaid under it as at the time of the application ; (e) states that to the best of the information or belief of the deponent the garnishee(s) (naming him) is within the jurisdiction and is/are indebted to the judgment debtor ; (f) states the sources of the deponent's information or the grounds for his belief ; (g) states, where the garnishee is a deposit-taking institution and has more than one place of business, the name and address of the branch at which the judgment debtor's account is believed to be held ; and (h) the number of that account.
Service of garnishee order.	3. (1) Unless the Court otherwise directs, an order under rule 1 of this Order to show cause shall be served : (a) on the garnishee at least, fourteen (14) days before the day appointed thereby for the further consideration of the matter ; and (b) on the judgment debtor, at least seven (7) days after the Order has been served on the garnishee and at least seven (7) days before the day appointed for the further consideration of the matter.
Order to be binding on the garnishee as specified	(2) An Order made by the Court under rule 1 of this Order shall be binding on the garnishee as from the date of service of the Order on the garnishee and any debt specified in the Order or so much thereof as may be so specified.
Where garnishee does not dispute debt.	4.—(1) Where on further consideration of the matter, the garnishee does not attend or contest or does not dispute the debt due or claimed to be due from the garnishee to the Judgment Debtor, the Court may make an Order absolute under rule 1 of this Order against the garnishee.
Enforcement of absolute order.	(2) An Order absolute under rule 1 of this Order against the garnishee may be enforced in the same manner as any other Order for the payment of money.
Where garnishee disputes liability.	5. Where on further consideration of the matter, the garnishee disputes liability to pay the debt due or claimed to be due from the garnishee to the judgment debtor, the Court may summarily determine the question at issue or order that any question necessary for determining the liability of the garnishee be tried, without, if it orders a trial before a matter, the need for any consent by the parties.

6.—(1) If in a garnishee proceeding it is brought to the notice of the Court that some other person other than the judgment debtor is or claims to be entitled to the debt sought to be attached or has or claims to have a charge upon such debt, the Court may order that person to appear before the Court and state the nature of the person's claim with particulars thereof.

Where more than one person make claims on same debt as judgment debtor.

(2) Where in a garnishee proceeding, it is brought to the notice of the Court that more than one garnishee is indebted to the judgment debtor and such money is enough to offset the judgment debt, the Court may decide to distribute the judgment debt amongst the garnishees in such proportion of the total amount of the judgment debt as is owed by each garnishee.

Where a judgment debtor has more than one garnishee.

(3) Where in a garnishee proceeding, the garnishee's debt is insufficient to offset the judgment debt, the judgment debtor may bring to the notice of the Court any other garnishee whose debt to the judgment debtor is enough to offset the judgment debt.

Where garnishee's debt is insufficient.

Provided that where the judgment debtor has no other garnishee, the Court may order the only garnishee to offset the remaining balance on agreed terms.

7. Any payment made by a garnishee in compliance with an order absolute under this order, and any execution levied against the garnishee in pursuance of such an order, shall be a valid discharge of liability to the judgment debtor to the extent of the amount paid or levied notwithstanding that the garnishee proceedings are subsequently set aside or the judgment or order from which they arose is reversed.

Where garnishee complies absolutely.

8. Where the Court has granted an order of garnishee absolute, the judgment debt shall be paid by the garnishee to the judgment creditor in the following manner :

Manner of payment of debt by Garnishee.

(a) directly to the bank account of the judgment creditor as indicated by the judgment creditor ; or

(b) to the Court in an account to be opened in the name of the Chief Registrar, National Industrial Court of Nigeria, which shall be an interest yielding account in the case of a pending appeal ; or

(c) into an account of the counsel of the judgment creditor ; provided

(i) the judgment creditor executes a deed of power of attorney in favour of counsel for the purpose of the payment of the judgment debt.

(ii) the power of attorney is executed before ;

(a) the Chief Registrar of the Court ;

(b) any other officer of the Court as may be authorized by the President of the Court ;

(c) the executed power of attorney shall be affixed with the seal of the Court by the Chief Registrar or other officer authorized by the President of the Court.

ORDER 52—PROCEEDINGS IN FORMA PAUPERIS

Application under <i>Forma Pauperis</i> .	1. If an aggrieved party in a matter before the Court is indigent and has no means of prosecuting the case, such an aggrieved person may orally apply to the Court under forma pauperis seeking the assistance of the Court to prosecute the matter.
When Court may grant order of forma pauperis.	2. (1) When an application is made under rule 1 of this Order and the Court is satisfied that the applicant is indigent and has no means of prosecuting the applicant's matter, the Court may grant an order for the applicant to sue or defend in forma pauperis.
Who may sue or defend in forma pauperis.	(2) The Judge may admit a person to sue or defend in forma pauperis, if satisfied that the person's means do not permit the person to brief a legal practitioner to prosecute the case and that there is a reasonable ground for suing or defending the action. (3) The applicant shall through the Registry of the Court obtain and fill Form 1 and no fees shall be paid for any process filed by the applicant.
Conditions to be fulfilled.	3.—(1) The application shall, if the Court so directs, be accompanied by an affidavit signed and sworn to by the applicant personally stating that the applicant satisfies the requirements of Rule 2 of the Order as to the applicant's means, and setting forth all the material facts on which the applicant relies in the desire to sue or defend, distinguishing between those which are within the applicant's personal knowledge and those which are based on information and belief, and in the latter case, setting forth the sources of applicant's information and belief.
Counsel may prove indigency of party.	(2) If in the opinion of the Court the application is worthy of consideration, it shall be referred to a legal practitioner willing to act pro bono.
Fees and costs.	4. Court fees payable by a person admitted to sue or defend in forma pauperis may be remitted in whole or in part as the Court may deem right, and a person so admitted to sue or defend shall not, unless the Court otherwise orders, be liable to pay or to be entitled to receive any costs.
Assignment of legal practitioner.	5. On granting the application, the Court may assign to the applicant any legal practitioner willing to be so assigned, and any legal practitioner so assigned shall not be discharged by the applicant except with leave of the Court.
Procedure to be followed.	6.—(1) Neither the legal practitioner whose opinion is sought nor the legal practitioner assigned to the applicant or any other person shall, except by leave of the Court, take or agree to take or seek to obtain any payment whatsoever from the applicant or any other person in connection with the application or the action taken or defended thereunder.

(2) If the applicant pays or agrees to pay money to any person whatsoever in connection with the application or the action taken or defended thereunder, the application shall be refused or, if already granted, the order granting it shall be rescinded.

When an order can be rescinded

(3) If the legal practitioner assigned to the applicant discovers that the applicant is possessed of means beyond those stated in the affidavit, if any, the legal practitioner shall at once report the matter in writing to the Registrar of the Court.

When forma pauperis is not indigent.

7.—(1) The Court may at any time revoke the order granting the application and thereupon the applicant shall not be entitled to the benefit of this provision in any proceeding to which the application relates unless otherwise ordered.

Revocation of order.

(2) Neither the applicant nor the legal practitioner assigned to the applicant shall discontinue, settle or compromise the action without the leave of the Court or of a Judge.

When legal practitioner cannot discontinue action.

8.—(1) The Court may order payment to be made to the legal practitioner assigned out of any money recovered by the applicant or may charge in favour of the legal practitioner assigned, upon any property recovered by the applicant, such sum as in all the circumstances may seem just.

Payment to legal practitioner.

(2) Where in the opinion of the Court, it is impossible to pay the legal practitioner as provided in sub-rule (1) of this Rule, the Court may suo motu pay for the services of the legal practitioner.

9. Every complaint, notice or application on behalf of the applicant, except an application for discharge of the legal practitioner assigned to the applicant, shall be signed by the said legal practitioner who shall take care that no application or notice is made or given without reasonable cause.

Duties of legal practitioner.

10. No person shall be permitted to appeal in forma pauperis, except by leave of the trial or the appellate Court.

No appeal in forma pauperis except by leave.

ORDER 53—A.—JURISDICTION OF CHIEF REGISTRAR

Form 44.

1. In this Order, any reference to the Chief Registrar means the Chief Registrar of the National Industrial Court and includes the Deputy Chief Registrar and an Assistant Chief Registrar.

Chief Registrar includes Deputy Chief Registrar

B 212

Business to be transacted by the Chief Registrar

2. The Chief Registrar may transact all such business and exercise all such authority and jurisdiction as may be transacted or exercised by a Judge in respect of the following matters :

(a) applications for the taxation and delivery of bills of costs and applications for the delivery by any Legal Practitioner of deeds, documents and papers ;

(b) the taking of an account in any case where the Court or a Judge has ordered that the account be taken by the Chief Registrar ; and

(c) the taxation of bills of costs.

Chief Registrar may refer matter back to the President

3. Where any matter under rule 2 of this Order appears to the Chief Registrar proper for the decision of the Court or a Judge, the Chief Registrar may refer same to the President of the Court or the Administrative Judge or presiding Judge who referred the matter to the Chief Registrar. The President of the Court or the Administrative Judge or presiding Judge of the Court may either dispose of the matter or refer the same to the Chief Registrar with such directions as the Judge may deem fit.

Appeal from the Order of the Chief Registrar

4. Any person affected by an order or decision of the Chief Registrar in the exercise of the jurisdiction conferred upon the Chief Registrar by this Order may appeal to the Court. Such appeal shall be by notice in writing to attend the Court without a fresh process within five (5) days after the decision complained of or such further time as may be allowed by the Court. Unless otherwise ordered, there shall be at least two (2) working days between service of the notice of appeal and the day of hearing. An appeal from the decision of the Chief Registrar shall not operate as a stay of proceedings unless so ordered by the Court.

Chief Registrar's Cause List

5. List of matters to be heard by the Chief Registrar shall be published on the Court's Notice Boards.

Party may be represented by Legal Practitioner.

6. A Legal Practitioner may represent any party in any proceedings before the Chief Registrar under the jurisdiction vested in the Chief Registrar by this Order.

Power of Chief Registrar to delegate to Registrars

7. The Chief Registrar may with the approval of the President of the Court delegate to any Registrar of the Court any functions required by these Rules to be exercised by the Chief Registrar.

Form 41.

B.—CHIEF REGISTRAR'S CERTIFICATE

Chief Registrar's Certificate.

8. Except as otherwise provided in these Rules, the directions to be given or concerning any proceedings before the Chief Registrar shall require no particular form, but the result of such proceedings shall be stated in a concise certificate.

9. The Certificate of the Chief Registrar regarding account and inquiries shall not, unless the circumstances of the case render it necessary, set out the judgment or order or any documents or evidence or reasons but shall refer to the judgment or order, documents and evidence or particular paragraphs thereof, so that it may appear upon what the result stated in the certificate is founded.

Chief
Registrar
Certificate
to refer to
relevant
Judgment or
Order

10.—(1) In cases of accounts and/or inquiries, the Certificate of the Chief Registrar shall be in Form 41 with such variations or modifications as the circumstances may require.

Form of
Chief
Registrar's
Certificate in
Cases of
Accounts
and
Transcripts

(2) The certificate shall :

(a) state the result of the account and not set the same out by way of schedule,

(b) refer to the account verified by the affidavit filed,

(c) specify by the numbers attached to the items in the account which (if any) of such items that have been disallowed or varied, and

(d) state the additions (if any) that have been made by way of surcharge or otherwise.

(3) Where the Account verified by the Affidavit has been so altered that it is necessary to have a fair transcript of the Account as altered, such transcript may be required to be made by the party prosecuting the Judgment or order and shall then be referred to the Certificate; and

(4) The Accounts and transcripts (if any) referred to by certificates shall be filed therewith.

11. Every certificate with the accounts (if any) to be filed therewith shall be transmitted by the Chief Registrar to the Registry for filing and shall thereafter be binding on all the parties to the proceeding unless discharged or varied upon an application made to the Court before the expiration of eight (8) clear days after the filing of the certificate.

When Chief
Registrar's
Certificate
becomes
binding

12. When taxing a bill of costs, the Chief Registrar shall indicate in red against every item disallowed, reduced or altered. The substance of the modification made by the Chief Registrar at the bottom of the bill of costs shall certify the net result of the taxation. The bill of costs shall then be transmitted by the Chief Registrar to the Registry for filing and the provisions of rule 10 of this Order shall apply in respect of such certificate.

Taxing of
Bills of Cost

13. The Court may, where the special circumstances of the case require, upon an application direct a certificate to be discharged or varied at any time after same has become binding on the parties.

Certificate
may be
discharged or
varied by the
Court.

ORDER 54—CHANGE OF COUNSEL

Notification of Change or withdrawal of Counsel

1. A notification for change or withdrawal of a counsel may be made to the Court by a party or counsel to the party as the case may be.

Service of notification of change of Counsel.

2. Where the notification is made by the counsel, the notification shall be served on all parties to the cause or matter and also on the outgoing counsel, if the outgoing counsel is not the person making the notification.

Where Claimant or Defendant desires to terminate services of Counsel

3. Notwithstanding the provisions of Rules 1 and 2 of this Order, where a party (Claimant or Defendant as the case may be) is desirous of terminating the services of Counsel and effecting a change, the Court, where it deems it appropriate and expedient, may direct as follows :

Party effecting change to furnish Registrar with particulars of new Counsel.

(1) that the party furnishes the Court with the full particulars and address of the new counsel taking over the matter from the out-going counsel.

Party effecting change to serve other parties and their Counsel notice sent to Registrar.

(2) that the party effecting the change, forward to the counsel of the other party(ies) in the matter, copies of the notice(s) sent to the Court of the change of the said party's counsel together with the particulars and address of the newly engaged counsel.

New counsel to regularise appearance.

4. The in-coming counsel shall regularise such counsel's appearance and take-over the matter by notifying the Court in writing of counsel's engagement and exhibiting the party's or client's letter of instruction to that effect. Copies of this notice shall also be forwarded to the other parties and counsel in the matter.

Appearance of withdrawn counsel.

5.—(1) A counsel who has withdrawn appearance for a party in a cause or matter may re-appear for the same party with the leave of Court.

Provided that the party such counsel is appearing for has notified the Court that the party has re-engaged the counsel to reappear for the party.

(2) The party re-engaging the party's former counsel to re-appear for the party shall communicate the fact to the new counsel.

Provided that where the provisions of these rules are not complied with, the Court may summon the parties to appear before it and shall state who their counsel is or are.

ORDER 55—COSTS

A.—Costs Inter Party

1. In every suit, the costs of the whole suit, and of each particular proceeding therein, and the costs of every proceeding in the Court, shall be at the discretion of the Court as regards the person by whom they are to be paid. Cost fixed at the Court's discretion.
2. The Court may order the successful party, notwithstanding the party's success in the suit, to pay the costs of any particular proceeding therein. Cost following events
3. The Court may order any costs to be paid out of any fund or property to which a suit or proceedings relates. Court may order Costs to be paid from the fund of Subject Matters of suit
4. Where costs are ordered to be paid, the amount of such costs shall if practicable, be summarily determined by the Court at the time of delivering the judgment or of making the order. Court to fix amount of cost at time of Judgment.
5. In fixing the amount of costs, the principle to be observed is that the successful party is to be indemnified for the expenses to which the party has been unnecessarily put in the proceedings. Principle to be followed in fixing Costs.
6. Where the Court orders costs to be paid or security to be given for costs by any party, the Court may order all proceedings by or on behalf of that party in the same suit or proceedings to be stayed until the costs are paid or security given accordingly, but the order shall not supersede the use of any other lawful method of enforcing payment. Court may stay proceedings pending payment of Costs by any Party
- 7.—(1) Costs become immediately payable when ordered and shall be paid within seven (7) days of the making of the order. Deadline and penalty for default in payment of Court ordered costs.

B 216

All costs for default and application to be borne by party requesting extension.

(2) In addition to any penalty payable for default under these Rules, the costs occasioned by any application to extend the time fixed by the rules or any direction or order thereunder, for delivering or filing any document or doing any other act (including the costs of any Order made on the application) shall be borne by the party making the application unless the Court otherwise orders.

Counsel to bear costs arising from Counsel's default.

(3) Where a counsel admits that the failure or neglect or unwillingness of a party to act, or where the party has acted negligently, and the counsel admits that the failure, neglect or unwillingness is the fault or mistake of Counsel, and any costs are awarded, such costs shall be awarded against the Counsel and not the party, and the Counsel shall pay the costs before the next adjourned date failing which Counsel shall be denied audience.

Court/Taxing Officer to determine Costs of Taxation

8. Where the Court deems it impracticable to determine summarily the amount of any costs which it has adjudged or ordered to be paid, all questions relating thereto may either be determined upon taxation by the Court itself or may be referred by the Court to a taxing officer for taxation to be ascertained for approval by the Court.

Matters to be considered in Taxation of Costs.

9. Upon any taxation of costs, the taxing master may, in determining the remuneration to be allowed, have regard, subject to any rule of Court, to the skill, labour and the degree of responsibility involved.

Fees to be taken into account in Taxation of Costs

10. In taxation of costs between party and party, nothing shall be allowed in respect of fees paid to the Court beyond what was necessary having regard to the amount recovered on judgment.

Taxation of Bill of Costs.

11. Where upon the taxation of any bill of costs more than one-sixth is deducted from the amount claimed, the Court may either make no order as to the costs of the taxation or may order the party who filed the bill of costs to pay to the other party or parties the costs of taxation.

B.—Security for Costs

When a Claimant or Defendant may be ordered to give Security for Costs.

12.—(1) Where on the Claimant or Defendant's application to the Court, it appears to the Court either at the commencement or at any stage of the proceedings—

(a) that the claimant or defendant is ordinarily resident out of jurisdiction ; or

(b) that the claimant (not being a claimant who is suing in a representative capacity) is a nominal claimant who is suing for the benefit of some other person and that there is reason to believe that the claimant will be unable to pay the costs of the defendant if ordered to do so ; or

(c) subject to sub-rule (2) of this rule, that the claimant's address is not stated in the originating process or is incorrectly stated therein ; or

(d) that either the claimant or the defendant has changed such party's address during the course of the proceedings with a view to evading the consequences of the litigation,

then where, having regard to all the circumstances of the case, the Court thinks it just to do so, it may order either the Claimant or the Defendant to give such security for the claimant's or defendant's costs of the action or other proceedings as the Court may deem fit.

(2) The Court shall not require a claimant to give security by reason only of sub-rule (1)(c) of this rule if the Claimant satisfies the Court that the failure to state claimant's address or the mis-statement thereof was made innocently and without intention to deceive.

(3) The references in this rule to a claimant and a defendant shall be construed as references to the person (howsoever described on the record) who is in the position of claimant or defendant, as the case may be, in the proceeding in question, including a proceeding on a counter-claim.

13. Where an order is made requiring any party to give security for costs, the security shall be given in such manner, at such time, and on such terms (if any) as the Court may direct.

Form and manner of Security for costs to be determined by Court

ORDER 56—INTERPLEADER : THIRD PARTY PROCEEDINGS

1.—(1) Where—

(a) a person is under liability in respect of a debt or money or chattels and expects to be sued in respect of the debt or money or chattels by two or more persons making adverse claims to it ; or

(b) a claim is made to any money or chattels taken or intended to be taken by the sheriff in execution under a process or to the proceeds or value of any such chattels by a person other than the person against whom the process is issued,

the person under liability as mentioned in sub-rule 1 (a) of this rule or, as the case may be, the sheriff , may apply to the Court for relief by way of interpleader.

Entitlement to relief by way of interpleader

(2) Any reference in this order to sheriff shall be construed as including references to any other officer charged with the execution of process by or under the authority of the Court.

Meaning of "Sheriff".

2.—(1) Any person making a claim to or in respect of any money, taken in goods or chattels taken or intended to be taken under process of the Court or to the proceeds or value of any such money or chattels, shall give notice of such a person's claim to the sheriff charged with the execution of the process and shall include in the notice a statement of the person's address, which shall be the person's address for service.

Claimants to good, etc. taken by execution process to give notice to Sheriff.

B 218

Processing between Sheriff and Execution creditor.

(2) On receipt of a claim made under this rule, the sheriff shall forthwith give notice thereof to the execution creditor and the execution creditor shall, within seven (7) days after receiving the notice, give notice to the sheriff informing the sheriff as to whether execution creditor admits or disputes the claim.

When execution creditor is liable to Sheriff.

(3) An execution creditor who gives notice in accordance with this provision admitting the claim shall only be liable to the sheriff for any fees and expenses incurred by the sheriff before the receipt of that notice.

When Sheriff can apply to Court for execution.

(4) Where—

(a) the sheriff receives a notice from an execution creditor under sub-rule 2 of this rule, disputing a claim, or the execution creditor fails, within the period prescribed in that sub-rule to give the required notice ; and

(b) the claim made under this rule is not withdrawn, the sheriff may apply to the Court under this order.

Sheriff to withdraw order when execution creditor admits claim.

(5) A sheriff who receives a notice from an execution creditor under sub-rule 2 of this rule admitting a claim made under this provision, shall withdraw from possession of the money, under this provision of the following kind, that is to say, an order restraining the bringing of an action against the sheriff for or in respect of the sheriff having taken possession of that money or those monies or chattels.

Mode of application.

3.—(1) An application for relief under this order shall be made by originating summons unless made in a pending action in which case it shall be made by motion in the action.

Service of summons on person who makes claim.

(2) Where the applicant is a sheriff who has withdrawn from possession of money or chattels taken in execution and who is applying for relief under rule 2 (5) of this Order, the summons shall be served on any person who made the claim under rule 2 (1) of this Order, to or in respect of that money, or those chattels, and that person may attend the hearing of the application.

No appearance on Originating summons.

(3) No appearance need be entered to an originating summons under this provision.

Applicant to satisfy Court by Affidavit.

4. The applicant shall satisfy the Court by Affidavit or otherwise that the applicant :

(a) claims no interest in the subject matter in dispute other than for charges or costs ;

(b) does not collude with any of the Claimants ; and

(c) is willing to pay or transfer the subject matter into Court or to dispose of it as the Judge may direct.

- | | |
|---|--|
| <p>5. The Applicant shall not be disentitled to relief by reason only that the titles of the Claimants have no common origin, but are adverse to and independent of one another.</p> | <p>Adverse titles of Claimants.</p> |
| <p>6. Where the Applicant is a Defendant, application for relief may be made at any time after service of the Originating Process.</p> | <p>When application is made by Defendant.</p> |
| <p>7. Where an application is made by a Defendant in an action, the Court may stay all further proceedings in the action.</p> | <p>Stay of action.</p> |
| <p>8. Where the Claimant(s) appears in pursuance of the summons, the Court or Judge in Chambers may order :</p> <p style="margin-left: 20px;">(a) either that any claimant be made a defendant in any action already commenced in respect of the subject matter in dispute in lieu of or in addition to the applicant, or</p> <p style="margin-left: 20px;">(b) that an issue between the claimants be stated and tried, and in the latter case may direct which of the claimants is to be claimant and which is to be Defendant.</p> | <p>Order upon summons.</p> |
| <p>9. Where a claimant, having been duly served with a summons calling on the claimant to appear and maintain or relinquish the claims, does not appear in pursuance of the summons or having appeared neglects or refuses to comply with any order made after such appearance, the Judge may make an order declaring the claimant and all persons claiming under such claimant, forever barred against the applicant and persons claiming under applicant; but the order shall not affect the rights of the claimants as between the claimants.</p> | <p>Failure or neglect of Claimant to appear to obey Summons.</p> |
| <p>10. The Court may, for the purposes of any interpleader proceedings, make all such Orders as to costs and all other matters as may be just.</p> | <p>Costs, etc.</p> |

ORDER 57—COMPUTATION OF TIME

- | | |
|--|-----------------------------|
| <p>1.—(1) Where by any law or any order made by the Court a period is prescribed or limited for the doing of any act, the period, if not limited by the hours, shall be reckoned :</p> <p style="margin-left: 20px;">(a) as excluding the day on which the order is made or on which the event occurs ;</p> <p style="margin-left: 20px;">(b) where the last day of the period is a public holiday the time shall continue until the end of the next day following which is not a public holiday ;</p> <p style="margin-left: 20px;">(c) where the act is required to be done within a period which does not exceed 6 days, a holiday shall be left out of account in computing the period.</p> | <p>Computation of Time.</p> |
| <p>2. In this Order “holiday” means a day which is a Sunday or a public holiday declared by the Federal or State Government within the Judicial Division of the Court or Registry.</p> | <p>Holiday.</p> |

B 220

Time for service of process.

3. No court process shall be served before 6.00 a.m. or after 6.00 p.m. Service effected after 6.00 p.m. shall be deemed to have been effected the following day, provided that service effected after 6.00p.m. on a Saturday shall be deemed to have been effected on the following Monday.

Power of Court to extend time.

4.—(1) Notwithstanding anything contained in these Rules, the Court may, as often as it deems fit, and either before or after the expiration of the time appointed by these Rules or by any judgment or order of the Court extend or adjourn the time for doing any act or taking any proceeding :

Court may suo motu or on application extend, etc. time.

(2) Subject to the provisions of any Act or law to the contrary, the Court may suo motu or on application and on good cause shown, extend or abridge any period prescribed by these rules.

Interested party may apply for compliance.

(3) If a party fails to comply with any notice or direction given in terms of these rules, any interested party may apply on notice for an order that the notice or direction be complied with within a period that may be specified, and that failing compliance with the order, the party in default may not be entitled to any relief in the proceedings.

Court may condone non-compliance.

(4) The Court may on good cause shown, condone non-compliance with any period prescribed by these rules and extend the time within which to comply.

Endorsement of original process.

5.—(1) The Registrar or any other officer in the Registry dealing with processes shall endorse on the original process the date and time of submission and whether the appropriate fee or penalty has been duly paid or not.

Amount paid for process.

(2) The amount so paid or not paid shall be clearly stated on the original process.

Government institutions excluded from payments.

(3) Government or Public Institutions may be exempted from paying for processes filed within time.

Provided that any process filed out of time by any Government or Public Institution shall attract the payment of appropriate penalties as may be stipulated.

Counsel to Government institutions to pay fees.

(4) Where any Government or Public Institution briefs a private legal practitioner to handle the matter on its behalf, such private legal practitioner shall pay all the prescribed filing fees and penalties.

Process incompetent for default in payment.

(5) Any process which is to be filed at the Registry of the Court for which the appropriate fees or penalty is not paid after assessment in line with the Rules of the Court shall not be accepted for filing.

Provided that where accepted for filing by default on the part of the officer of the Court in the Registry, such a process shall become incompetent and shall not be allowed to be used for the purpose for which it is intended until the appropriate fee is paid.

(6) Where by the Rules of the Court, a party is required to file a process or comply with a Directive or Order or perform any other act as ordered by the Court within a specified time and the party fails or neglects to do so, the party shall pay a penalty of ₦100.00 (One Hundred Naira) per day for the first fourteen (14) days of default and ₦200.00 (Two Hundred Naira) for each day of further default for another fourteen (14) days of default.

Penalty for default on order or directive.

Provided that at the expiration of the second period of fourteen (14) days, a party in default shall pay a penalty of ₦500.00 (Five Hundred Naira) for each day of default until the order or directive is complied with.

Further penalty.

(7) Where in any form or manner the default, neglect or failure to file a process or comply with the Directives or Order of the court is due to the fault of counsel or that of the counsel's agent or servant, the penalty for the neglect or failure to comply with directive or order of the Court shall be paid by the counsel and not by the client. Failure of Counsel to pay such a penalty may be regarded as disobedience to a court order and may be treated as the Court may direct.

When counsel may bear penalty for default to order, etc.

6.—(1) Where the Court grants extension of time in line with rule 4 of this Order, the number of days of being in default shall be calculated and stated in writing by the counsel to the defaulting party or the agent of the defaulting party or the defaulting party itself and the correct and appropriate penalties shall be stated and paid.

Counsel to calculate days of default for penalty.

(2) The onus of calculating and payment of accurate or appropriate penalty for default shall be on the counsel to the defaulting party or on the defaulting party, where the defaulting party is the person who filed the process(es).

Onus of calculating days and penalty for default on Counsel.

(3) Any process filed out of time which violates sub-rules (1) and (2) of this Rule is incompetent and may be so treated by the Court.

Process incompetent for violation of Rules of Court.

(4) In calculating the period of default, Saturdays, Sundays and public holidays shall not be included and time shall begin to run from the working day following the day the Order was made.

Public holidays not part of default days.

(5) Notwithstanding rule 4 of this Order, extension of time to regularize a party's position to file a particular process or processes out of time shall not be granted more than two times.

Limit to extension of time.

B 222

Party
reviving a
Matter after
a year to
give 30 days
Notice to the
other Party.

Application
for urgent
hearing.

Application
to set aside
or remit an
Award

7.—(1) Where a year or more has elapsed since the last proceeding in a cause or matter, the party who desires to revive proceedings shall give to every other party not less than 30 days' notice of such intention.

(2) An application for urgent hearing shall be made to the Court by motion ex parte and the decision of the Court on the application shall be final.

8. An application to set aside or remit an award may be made at any time within four (4) weeks after the award is made and published to the parties but the Court may by order extend the time either before or after it has elapsed.

Provided that it shall be regular and normal for any process to be filed during vacation. Any process filed in compliance with the Rules of the Court during vacation shall be competent.

ORDER 58—MISCELLANEOUS PROVISIONS

A.—Court Sittings and Vacation

Court
sittings.

1. Subject to the provisions of the Act, the Court may in its discretion appoint any day(s) and any place(s) from time to time for the hearing of causes as circumstances may require.

Court to sit
in Public,
except for
special
reasons.

2. The sittings of the Court for the hearing of causes and matters shall ordinarily be in public but subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), the Court may for special reasons, hear any particular cause or matter in the presence of the parties and their Legal Practitioners, and the officers of the Court only.

Office
Hours.

3. The offices of the Court shall be open at such times as the President of the Court may direct.

Sitting and
vacation
period.

4.—(1) Subject to the direction of the President of the Court, sitting of the Court for the dispatch of civil causes and matter may be held on every week day except :

Public
Holidays.
Easter
recess.

(a) any holiday ;

(b) the period beginning from the Monday of the week of Good Friday to Friday of the week of Easter Monday. The Court shall resume sitting on the Monday after the week of Easter Monday or as the President of the Court may direct ;

Christmas
recess.

(c) the period from the last working day before the twentieth (20th) day of December to the fourth (4th) working day of the January of the following year. The Court shall resume sitting on the fifth (5th) working day of January of the same year or as the President of the Court may direct.

(2) The Court may proceed on an annual vacation not exceeding forty-two (42) working days commencing on a date in July and ending on a date in September as may be contained in a Practice Direction to be issued by the President of the Court.

Annual
vacation.

(3) The President of the Court may direct that a notice of the Court's annual vacation be posted on all notice boards (including digital notice boards) in each Judicial Division, State Registries and be on the website of the Court.

Posting of
vacation on
Notice
Boards and
website.

5.—(1) Notwithstanding the provisions of rule 4 of this Order, any cause or matter may be heard by the Court during any of the periods mentioned in sub-rule 4(1) (c) or 4(2) of this rule (except Sundays and public holidays) where such cause or matter is urgent or the Court, at the request of all parties concerned, agrees to hear such cause or matter.

Court may
sit during
Vacation
with consent
of all the
Parties to
take Urgent
Matters.

(2) The President of the Court may assign one or more Judges to be vacation Judges to hear and determine any urgent matter or application during the vacation period.

Vacation
Judges.

(3) Notwithstanding the provisions of sub-rule (2) of this Rule, the President of the Court may hear and determine or assign any other Judge apart from the vacation Judge to hear and determine any urgent matter or any matter of national interest.

Hearing of
urgent
matters of
national
interest.

(4) Notwithstanding the provisions of sub-rules (2) and (3) of this rule, the President of the Court during vacation, may hear and determine or may assign any Judge of the Court to hear and determine any urgent matter in any Judicial Division of the Court though such Judge may not be one of the vacation Judges.

Assignment
of non-
vacation
Judge to hear
and
determine
urgent
matter.

(5) Where a matter is to be heard and determined in line with sub-rule (4) of this rule, the parties and their respective counsel shall be put on notice as the urgency of the matter may require.

Parties in
urgent
matter to be
notified of
hearing of
matter.

(6) Any matter that is assigned in line with sub-rules (4) and (5) of this rule, during vacation, the President of the Court may reassign the matter so heard during vacation to any other Judge who may hear and determine such matter after vacation.

Urgent
matter may
be reassigned
after
vacation.

B 224

Time for Filing and Service of Pleadings to include Annual Vacation Period.

Filing of process during vacation.

Filing during recess.

Delivery of judgment during vacation.

6. Where the Court orders or the Rules of this Court requires an urgent interim or interlocutory application or an act to be done or process to be filed, time shall continue to run from the next working day after the order was made by the Court, notwithstanding that the time falls within the Court's annual vacation or recess.

7.—(1) Whenever the Court orders or the Rules of the Court require an act to be done or a process to be filed and the time falls within the Court's Easter or Christmas recess, time shall continue to run during the period of the recess.

(2) Notwithstanding the provisions of sub-rule 1 of this Rule, parties and or their counsel may file court processes during recess or vacation.

8. When the Court adjourns a matter for ruling or judgment and the time for delivery of the ruling or judgment falls within a vacation or Court recess, the Court may proceed to deliver its ruling or judgment, if counsel to the parties in the matter consent to the delivery of the ruling or judgment during vacation or recess.

B.—General

Recovery of Penalties and Costs

Notices.

Document for filing to be duly endorsed by Registrar.

How Warrants e.t.c. for execution are to be addressed.

Validity of part heard matter.

9. All fines, forfeitures, pecuniary penalties and costs ordered to be paid may be levied by distress, seizure and/or sale of the movable and immovable property of the person in default of payment.

10. Where the publication of any notice is required the same may be made by advertisement in the Federal Gazette, unless otherwise provided in any particular case by any rule of Court or otherwise by the Court.

11. Any document filed must have endorsed on it the name and number of the case, the date of filing, whether filed by claimant or defendant and the endorsement shall be initialed by the Registrar and recorded in the Process Register.

12. All warrants and orders of whatever description shall be addressed for execution by being directed to the Sheriff; but this provision shall not prevent any order or warrant from being addressed to a person by name or to officers of the Court generally or to a Local Government Authority.

13. If before the commencement of these Rules, a process has been filed in a pending or a part-heard matter or at any stage before the Court, the process or matter shall remain valid.

14.—(1)(a) Subject to the provisions of Order 57 rule 5(3) of these Rules, no filing fees are to be taken in respect of any proceedings where such fees are payable by any Government Ministry, Department, Agency (MDA) or Institution.

Government Ministries, Departments and Agencies (MDAs) excluded from paying fees.

(b) Notwithstanding sub-rule (1)(a) of this rule, Government Ministries, Department, Agencies (MDAs), Institutions or Parastatals etc, shall pay any penalties for defaulting to file any process within the time so allowed by the Rules or Order of the Court.

(2) Notwithstanding the provisions of sub-rule 1 of this rule, where any person is ordered to pay the costs of the State or any Government Department in any proceedings whether criminal or civil, all such fees shall be recoverable from that person.

15. The Court may suo motu order the party or parties in a pending or a part-heard matter at any stage of the proceedings, to regularize the party's process already filed before the commencement of these Rules in order to bring it into conformity with the Rules of the Court.

Regularization of processes.

16. The Court may permit an affidavit to be used, where it is defective in form only and not in substance, if the court is satisfied that it has been sworn before a person duly authorized.

Affidavit defective in form only.

17. In any process before the Court, a defective or erroneous affidavit may be amended and re-sworn by leave of the court, on such terms as to time, costs or otherwise as seem reasonable.

Amendment and re-swearing of affidavit.

Provided such amendment does not in any way alter the original intendment of the affidavit or its contents.

18. The Registries of the Court shall, subject to the direction of the President be opened to the public on every day of the year from 8 o'clock in the forenoon to 3 o'clock in the afternoon, except on Saturdays, Sundays and public holidays.

Court's working hours.

19. Where processes are filed out of time, it shall be the duty of the defaulting party to correctly calculate the penalty payable for the failure or neglect to file within the prescribed time.

Calculation of penalty for late filing of processes.

20. When a Court makes an order that an act shall be carried out or performed before the next adjourned date, failure to carry out such an act without sufficient reasons shall deny such a party the right of audience until the order of the Court is complied with.

Failure to obey court order may deny defaulting party right of audience.

B 226

Any costs awarded to be paid before next adjourned date.

Court not to grant audience to a disobedient or negligent party .

Court may strike out matter for default arising from Claimant.

Counsel to bear the costs for negligence or disobedience or default to court order.

Where no rules exist.

Court may enquire into professional identity of counsel.

Media coverage of Court proceedings

When media coverage may be carried out.

21.—(1) Where the Court awards costs against any of the parties, the cost shall be paid before the next adjourned date.

(2) Where the court awards costs against a party, and the party refuses, neglects or is unwilling to obey or comply with the order of the court, the party defaulting shall not be granted audience during the continuance of the neglect, refusal or disobedience to the order of the Court.

22.—(1) If it is the claimant that is in default, the Court may proceed to strike out the matter. Where there is a counter-claim the Defendant may be asked to proceed to prove the Defendant's counter-claim.

(2) If it is the defendant that is in default, the Court may proceed to hearing the matter on its merit and give judgment accordingly.

23. Where a counsel admits that failure or neglect and refusal or unwillingness of the party to act is due to the fault or mistake of counsel and any cost is awarded, such cost shall be against the counsel and not the party; and the counsel shall pay the costs before the next adjourned date, failing which the counsel may not be given audience.

24. Where a matter arises in respect of which no provision or adequate provision is made in these Rules or any other written law, the Court may adopt such similar procedure as will in its view do substantial justice between or amongst the parties.

25.—(1) In any cause or matter before the Court in which counsel appears, the Court may make enquiry from the counsel as to the counsel's qualification, age at the Bar, payment of legal practitioners fees or the fulfilment of any other conditions as may be required.

(2) Where the Court is not satisfied with any answer given by the counsel, the Court may take such other action as may be necessary.

26.—(1) Media life coverage of Court proceedings may only be allowed by the Presiding Judge or as may be directed by the President of the Court.

Provided that such matter to be covered by the media shall be for Constitutional or of National importance interest or in the overall interest of the nation and citizenry.

(2) Where in a matter for which media life coverage is permitted as provided in sub-rule 1 of this rule, such coverage shall be limited to taking of pictures or video recording of the Court setting and shall be carried out before

the Court proceeding commences or the Presiding Judge enters the Court room.

(3) Notwithstanding sub-rule 2 of this rule, the media may be allowed to remain in the Court room and shall not be allowed to take pictures or video record or transmit same while the proceeding is going on.

Media allowed to remain in Courtroom.

27. No legal practitioner shall be allowed to grant any press interview, make comments or give any opinion or argument that may touch on a matter which is sub-judice before the Court either within the precincts of the Court, its appurtenances or environs.

Legal practitioner not allowed to grant interview, etc. within Court precincts, environs.

ORDER 59—APPOINTMENT OF PUBLIC TRUSTEE

1. Where there is an intra-union or intra-organizational dispute before the Court, the Court may suo motu or upon a motion on notice by any of the parties make an order for the appointment of a Public Trustee to manage the administration, affairs and finances of the trade union, employees' or employers' organization involved in any intra-union or intra-organizational disputes.

Application for Appointment as Public Trustee.

Provided that such application shall be accompanied by an affidavit stating the reasons for the appointment of the Public Trustee and the CTC of the process(es) filed in respect of the intra-union or intra-organisational dispute before the Court.

Provided further that the Respondent(s) is given the opportunity to file a counter affidavit in response to the application and in compliance with the rules of the Court.

2.—(1) The Court may appoint a Public Trustee from amongst reputable and notable Nigerians who satisfy the provisions of Rule 3 of this Order.

Appointment of Public Trustee by the Court.

(2) Where the Court orders that a Public Trustee be appointed in line with the provisions of sub-rule 1 of this Rule, the Judge shall remit the file of the proceedings to the President of the Court for the appointment of the Public Trustee to manage the affairs, administration and finances of the trade union, employees' association or employers' organization.

Provided that the appointed Public Trustee shall not interfere with or play any role in the statutory union, association or organization activities.

3.—(1) A person shall not be eligible to be appointed as a Public Trustee to manage the affairs, administration and finances of a Trade Union or Employees' or Employers' Organization unless the person has relevant educational qualification, background, knowledge and cognate experience in management and administration of a trade union, employees' association or employers' organization.

Eligibility for appointment as Public Trustee.

B 228

Relationship of Public Trustee to organization. (2) A person shall not be appointed as a Public Trustee if the person had been a member, worker, associate, affiliate or client or consultant to any of the trade unions, employees' or employers' organizations involved in the trade dispute before the Court.

Remuneration and allowances of Public Trustee. (3) The President of the Court may determine the remuneration and allowances payable to the Public Trustee appointed to run the affairs of a trade union, employees' or employers' organization as ordered by the Court.

Source of Payment of remuneration of Public Trustee. (4) The salaries and allowances payable to the Public Trustee shall be deductible from the purse of the trade union, employees' association or employers' organization in dispute before the Court.

Functions and mandate of Public Trustee. 4. The functions and mandate of the Public Trustee shall be in the terms of appointment as may be determined by the Court.

Term of appointment of Public Trustee. 5. Where the Court appoints a Public Trustee, the appointment shall be for a term of not more than three (3) months in the first instance and where the Public Trustee is unable to achieve the objective(s) of the appointment, the Public Trustee shall report accordingly to the Court.

Provided that nothing shall preclude the Court from terminating the appointment of the Public Trustee for inability to fulfil the terms of engagement.

Extension of period of engagement of Public Trustee. 6. Upon receipt of and satisfaction with the reasons for not fulfilling the mandate, the Court may extend the appointment of the Public Trustee for another term of three (3) months and no more.

Report of Public Trustee. 7. At the expiration or conclusion of the period of engagement, the Public Trustee shall render an account of stewardship to the Court.

ORDER 60—BUSINESS IN CHAMBERS

Representation in Chambers. 1. In any proceedings in Chambers, any party may be represented by a Legal Practitioner.

Interlocutory proceedings may be conducted in Chambers. 2. Unless any party or counsel objects, any interlocutory proceedings may be conducted in Chambers and any such proceedings may be adjourned from Court to Chambers or vice versa.

Proceedings in Chambers to be properly recorded. 3. Records shall be kept of all proceedings in Chambers with proper dates in the case file, so that all such proceedings in such cause or matter may appear with a short statement of the question or points decided or ruled on at every hearing.

4. Orders made in Chambers shall, unless the Court otherwise directs, be drawn up by the Registrar and signed by the Presiding Judge. Such orders shall be entered in the same manner as orders made in the Court.

Orders made in Chambers to be drawn up.

5. Subject to the provisions of the Act and of these Rules, the costs of and incidental to all proceedings in Chambers shall be at the discretion of the Court.

Costs of proceeding in Chambers to be fixed at Courts discretion.

6. Subject to the provisions of the Act and of these Rules, an application to set aside or vary an order made in Chambers may be made by a party when such an order is made in the party's absence and it shall be within the discretion of the Judge in Chambers to vary such order.

Application to set aside or vary Order made in Chambers.

ORDER 61—WITHDRAWAL OR DISCONTINUANCE

1.—(1) Where before the date fixed for hearing or judgment, any party to the proceedings desires to discontinue a claim or withdraw any part thereof, such a party shall give notice of discontinuance or withdrawal in writing to the Court and to the other party. The Court shall upon the discontinuance or withdrawal make such order or orders as may seem just.

When party can withdraw or discontinue claim.

(2) Where a Claimant files an Originating process and causes it to be served on the Defendant and Defendant has not filed or joined issues with the Claimant, the Claimant may discontinue the claim or withdraw any part thereof by an application to the Court, and forward same to the defendant, notwithstanding the fact that no date has been fixed for hearing of the matter.

When Claimant may withdraw or discontinue any particular claim.

(3) Where a party to a proceeding desires to discontinue a claim or withdraw any part of it before the date fixed for hearing or judgment, such party shall not later than seven (7) days before the date fixed for hearing or judgment, apply by motion on notice supported by an affidavit, stating the grounds for discontinuance of the claim and/or withdrawal of any part of it and the grounds so stated shall be to the satisfaction of the Court.

How party can withdraw or discontinue a claim.

Provided that where the application is not made within the period stipulated in this rule, such default shall attract a penalty of Five Hundred Naira (N500.00) for each day of continuance of delay after the period has lapsed, until the matter is disposed of.

2. The Claimant may at any time before receipt of the Defence, by notice in writing duly filed and served, wholly withdraw or discontinue the claim against all or any of the Defendants or withdraw or discontinue any part or parts of the claim. The Claimant shall thereupon pay such Defendant's

Claimant may withdraw or discontinue claim before defence.

costs of the action, or if the action be not wholly withdrawn or discontinued, the costs occasioned by the matter so withdrawn or discontinued.

Withdrawal
or
discontinuance
not defence
to
subsequent
claim.

3. A withdrawal or discontinuance as the case may be, shall not be a Defence to any subsequent claim.

No filing of
the same
claim until
compliance
with Court
order.

4. Where proceedings have been stayed or struck out upon a Claimant's withdrawal or discontinuance under this Order, no subsequent claim shall be filed by the Claimant on the same or substantially the same facts until the terms imposed on the Claimant by the Court have been fully complied with.

Withdrawal
by consent.

5. When a matter is ready for trial, it may be withdrawn by either the Claimant or Defendant upon producing to the Registrar, a consent in writing signed by the parties and thereupon the Court shall strike out the matter without the necessity of attendance of the parties or their legal Practitioner.

When
Claimant
withdraws
or
discontinues
before
defence.

6. Where a Claimant withdraws or discontinues any claim or suit or any part of his/her claim before the Defendant files in a defence such suit shall be struck out by the Court.

When
Claimant
withdraws
or
discontinues
after joining
of issues.

7. Where a Claimant withdraws or discontinues a claim or suit or any part of the claim after the Defendant has joined issues by filing a defence within the time prescribed by these Rules, such suit shall be dismissed by the Court.

ORDER 62—TRANSFER AND CONSOLIDATION

A.—Transfer of Cases

Transfer of
Cases to
other High
Courts

1. Where the Court has in the exercise of the powers conferred by Section 24(2) of the Act directed that any cause or matter be transferred to the Federal High Court, the High Court of the Federal Capital Territory, Abuja or the High Court of a State, the Court shall make an Order to that effect and shall specify in the order the High Court to which the cause or matter is transferred.

Duty of
Registrar.

2. The Registrar shall forthwith send a certified copy of the order made under rule 1 of this Order to the Chief Registrar of the High Court named in the order together with certified copies of all processes and record of proceedings of the Court relating to the cause or matter in question.

3.—(1)Where in exercise of the powers conferred by section 24(3) of the Act any cause or matter has been transferred to the Court from the Federal High Court, High Court of the Federal Capital Territory, Abuja or the High Court of a State, the Registrar shall on receipt of the order making the transfer enter such cause or matter in the Order Book and notify the parties concerned and shall henceforth, subject to any directions that may be given in any particular case by the President of the Court, or, as the case may be, the Presiding Judge, or, in the absence of the Presiding Judge, another Judge of the Court, treat the cause or matter as if it had been originally filed in the Court in accordance with these Rules, as may be appropriate.	Transfer of Cases from other High Courts.
(2) Where any matter is transferred to the Court by the Federal High Court, or the High Court of a State or the High Court of the Federal Capital Territory, Abuja pursuant to sub-section 24(3) of the Act or similar provision in the statute establishing the said High Court or as may be ordered by a Judge of the High Court, the case file shall be accepted in the appropriate Registry of the Court and referred to the President of the Court for assignment.	Matter transferred from other High Courts.
(3) Upon the assignment of a transferred case, the Registrar shall issue Hearing Notices to all the parties to participate in the proceedings.	Registrar to issue Hearing Notices.
(4) Where a matter is transferred to the Court pursuant to sub-section 24(3) of the Act, the parties shall not pay new filing fees; except a party or party's counsel is filing a fresh and new process which was not part of the transferred processes.	Payment for transferred matters.
4.—(1) In a matter praying the Court to make a reference or state a case on a point of law for the opinion of the Court of Appeal, the Court may ask the counsel to the parties in the matter to file Written Addresses.	Reference or case stated to the Court of Appeal. Court Stated Form 110, 111, 112.
(2) Consequent on the adoption of the Written Addresses, the Court may give its ruling accordingly.	Ruling of Court on reference and case stated.
(3) Where the ruling of the Court is as to reference of a question of law under the Constitution, the Court shall fill in a Reference Form the details of the matter and sign same.	When ruling admits reference as to Constitution. Form 110, 111 and 112.

B 232

When ruling admits case stated. Form 110, 111, 112.

(4) Where the ruling of the Court is as to Case stated, the Court shall fill and sign a Case Stated Form.

Compliance with sub-rule 3 or 4.

(5) Where the Court has complied with either of the provisions of sub-rule (3) or (4) of this rule, the Court shall compile the Written Addresses of the Counsel, its rulings and the appropriate Form and all other documents relevant to the matter and transmit same to the Court of Appeal for its opinion.

When Court adjourns matter sine die.

(6) Where the matter has been transmitted to the Court of Appeal, the matter shall be adjourned sine die.

Continuation of a matter in accordance with the opinion of the Court of Appeal.

5. When the Court of Appeal transmits its opinion or directive to the Court, the Court shall deal with the matter in accordance with the opinion or directive therein.

When the Court is denied jurisdiction by the Appeal Court.

6. Where the Court of Appeal rules that the Court has no jurisdiction, the matter shall be disposed of as may be ordered or directed by the Court of Appeal.

When matter may be transferred to another Judge in another Division.

7. Notwithstanding anything contained in these Rules, a cause or matter may before evidence is taken, and at the request of either party to the suit be transferred by the President of the Court to another Judge of the Court sitting in any other Division.

The President of the Court may re-assign a matter to another Judge in another Division.

8. The President of the Court may re-assign any cause or matter pending before any Judge to another Judge of the Court to be heard in any other Division of the Court than where the cause or matter was being heard.

9. If for any reason a Judge hearing a cause or matter, and who has taken any step in the proceedings, considers it necessary, either on his own or upon the application of any of the parties to the proceedings, to have the cause or matter transferred to another Judge or Division, the Judge shall refer the cause or matter to the President of the Court who may direct that the matter be transferred to the appropriate Judge or Division in accordance with these Rules.

Transfer of a matter to another Judge or Division by the President of the Court at request of a Judge or party.

10. Where a Judge having a part-heard matter in a particular Judicial Division is transferred to another Judicial Division :

When the Judge is transferred to another Judicial Division.

(1) If the Claimant has not closed the Claimant's case, an application may be made to the President of the Court by any of the parties requesting that the matter be assigned to another Judge in that particular Judicial Division where the matter is being heard, for the matter to be heard de novo;

Party may apply for reassignment of the matter.

(2) If the Claimant has closed the Claimant's case, the President of the Court may by fiat direct the Judge hearing the matter to continue the matter to conclusion in the Judge's former Judicial Division, provided that such matter shall be concluded not later than 3 months from the date the fiat was issued.

President of Court may by fiat direct continuation of hearing by the same Judge.

(3) Where the matter is part-heard but only for the parties to adopt their Written Addresses, the President of the Court may by fiat direct the trial Judge to fix a date for hearing and adoption of the Written Addresses and adjourn for judgment.

President of Court may direct the Judge to fix a date for adoption of Written Address.

(4) Where such a matter is not concluded within the time limited by the fiat, subject to agreement between the parties, the President of the Court may where the interest of justice demands, direct that the case be heard in the Judicial Division to which the Judge has been transferred. The directive of the President of the Court on the issue of transfer of the cause or matter shall be final.

When a transferred Judge may hear a part heard matter in a new Judicial Division.

B 234

Parties may apply to Judge for adoption of on-going proceedings.

(5) The parties in agreement may apply to the Judge taking over the matter for adoption of the proceedings and continue with the matter where the transferred Judge stopped.

How parties may seek transfer of a matter to the same Judge in the new Division

11.—(1) The party(ies) seeking or desiring transfer of the cause or matter to the Judicial Division to which the trial Judge is transferred, shall apply in writing to the President and transmit copies of the application to the trial Judge and counsel to the other party(ies).

Response by Counsel to the other party to application for transfer of the matter to the Judge in a new Division.

(2) On receipt of copies of the application, counsel to the other party(ies) shall within seven (7) days respond to the request by writing to the President of the Court, copying the trial Judge handling the matter as well as counsel to the applicant.

President of the Court to issue fiat on continuation of matter

(3) Upon receipt of the response of the counsel to the other party (ies), the President of the Court may after due consideration and in the interest of justice, issue a fiat directing how and where the case would be heard to conclusion. The decision of the President of the Court thereon shall be final.

Delivery of Judgment in new Judicial Division.

12.—(1) Where a Judge has heard a matter to conclusion and adjourned for judgment and the Judge has been transferred to a new Judicial Division, before the date fixed for the delivery of the judgment, the judgment may be delivered in the new Judicial Division.

Delivery of judgment by another Judge.

(2) Where a Judge has heard a matter to conclusion and adjourned for judgment and he has been transferred to a new Judicial Division, the transferred Judge may with the approval of the President of the Court, request another Judge resident in the transferred Judge's former Judicial Division to deliver the signed judgment on behalf of the transferred Judge.

When Transferee Court may adopt the Order made by Transferor Court

13.—(1) Where a transferor Court has made an Order and the transferee Court is of the view that the Order made by the transferor Court is valid and appropriate in the circumstance, the transferee Court will be at liberty to adopt it and adopt it expressly in writing.

(2) Exhibits already on record from the transferor Court may be allowed to remain and subject to the discretion of the Court may be re-classified to reflect the nomenclature of the transferee Court.

When exhibits from Transferor Court are allowed to remain or to be reclassified.

14. On receipt by the Court of the relevant documents and process on transfer of a cause or a matter, the Registrar shall notify the party who applied for the transfer, or where the transfer was not made on the application of any party, the Claimant to attend at the Registry and pay the fees for filing the documents, if any, and such payment shall be without prejudice to the question of how the costs shall ultimately be borne.

Notice to the party of receipt of documents of transferred matter and payment of fees.

15. Such notification shall be effected by serving a notice on the party concerned, or at an address for service given by such party in the application or at the Court that made the transfer.

Service of notice on party concerned in transferred matters.

16. The Registrar shall on payment of the prescribed fees, order :

Conditions for service of notice after payment of fees.

(a) the claimant(s) to within seven (7) days ensure that all the processes transmitted comply with Order 3 of these Rules;

(b) the Defendants(s) to ensure that within seven (7) days after service of the Claimant's processes, all the Court processes filed before the transfer, are in line with Order 4 of these Rules.

B.—Consolidation of Cases

17.—(1) The Court may on application consolidate several actions pending before it, where it appears that the issues are the same in all the actions, and can therefore be properly tried and determined at the same time.

Consolidation of similar actions.

(2) The Court may suo motu consolidate several actions pending before it, where it is of the opinion that the parties in the matter are the same.

18. Where actions arising from the same cause are pending before different Judges, a party desiring consolidation shall apply to the President for a transfer of the matter to a Judge before whom one or more of the actions are pending.

Actions pending before different Judges.

19. An order to consolidate may be made where two or more actions are pending between the same Claimant and the same Defendant or between the same Claimant and different Defendants or between different Claimants and the same Defendant or between different Claimants and different Defendants.

Order to consolidate where parties have similar nomenclature.

Provided that where the same Claimant brings actions against different Defendants, they will not be consolidated without the consent of all parties unless the issues to be tried are identical.

Application for consolidation by summons or by motion on notice.

20. Applications for consolidation may be made by summons, or they may be made in Court by motion on notice.

Party applying for consolidation to pay for same.

21. Where an Order for consolidation has been made, it shall be drawn up at the expense of the party or parties who applied for consolidation and shall be recorded in the Order Book.

When President of the Court may direct consolidation.

22. Where different claimants are suing the same Defendants and the claims are the same, the Court may direct consolidation of the matters.

When the Court may order consolidation

23. The Court may suo motu order that consolidation of cases be made after hearing from the counsel in the matter.

Provided that for cases to be consolidated parties must have joined issues and pleadings concluded in line with Orders 3 and 15 of the Rules of the Court.

Consolidation of applications of same subject matter.

24. In any matter before the Court where there are multiple applications concerning the same subject matter, the Court may order that such applications be heard together and a single ruling be delivered thereon.

Forms 90, 91, 82, 93.

ORDER 63—COMMITTAL FOR CONTEMPT OF COURT

Exercise of the Power of Committal

1. (1) The power of the Court to punish for contempt of court may be exercised by an order of committal.

When order of contempt is made.

(2) An order of committal may be made by the Court where contempt of court—

- (a)** is committed in connection with any proceedings before the Court ; or
- (b)** is committed in the face of the Court, or consists of disobedience to an order of the Court or a breach of an undertaking to the Court.

Application for Committal to be made by Motion on notice.

2. (1) An application for an order of committal may be made to the Court by any of the parties in an action before the Court by motion on notice, which shall be :

- (a)** supported by an affidavit and shall state the grounds of the application ;

(b) accompanied with a copy of the judgment or order or direction of the Court which is the subject of the contempt proceedings ;

(c) with a Written Address giving sufficient and compelling reasons for necessitating the contempt proceedings.

(2) The motion on notice, affidavit and grounds shall be served personally on the person or on counsel to the person or on any principal officer of the body sought to be committed but the Court may dispense with personal service where the justice of the case so demands.

Service of notice of motion, affidavit, etc.

3. Nothing in the foregoing provisions of this Order shall be taken as affecting the power of the Court to make an order of committal of its own motion against a person guilty of contempt of court.

Court may make an Order of Committal *suo motu*

4.—(1) Where the Court makes an order and the party affected by the order refuses, neglects or fails to obey the order, injunction or directive of the Court, the Court may on application issue an order of committal for contempt.

Order of committal for contempt for disobedience to Court Order.

(2) Where the Court orders committal for contempt, the Court may issue a summons requesting the contemnor to appear before it to show cause why the contemnor should not be committed to prison for the contemnor's act of disobedience to the order of the Court.

Summons to contemnor to appear before the Court.

5.—(1) Upon receipt of the summons, the party charged for contempt shall appear before the Court, be sworn on oath and state the party's defence or may surrender to the charge as contained in the summons.

Contemnor may defend or surrender to charge.

(2) On hearing the defence of the contemnor, either orally or by counsel, the Court may give its decision or adjourn for judgment to be delivered at a later date.

Decision of the Court on contemnor's defence.

(3) Where the Court adjourns for judgment, the Court may make an order as to whether the contemnor shall be kept in custody pending the final determination of the matter.

When Court may adjourn for judgment on contemnor.

6. Where the contemnor is not a natural person, the Court or the applicant shall seek leave of the Court to proceed against any of the principal officers of the contemnor, or against the Chief Executive Officer, Managing Director, the Company Secretary or any other responsible and highly placed officer of the contemnor.

Where the Contemnor is not a natural person.

B 238

Provisions
as to Hearing
of
Committal
Application.

7.—(1) Subject to sub-rule (2) of this rule, the Court hearing an application for an order of committal may sit in private where it appears to the Court that in the interest of justice or for reason(s) of state security the application should be heard in private; but except as aforesaid, the application shall be heard in open court.

Order for
committal to
be
announced in
open Court.

(2) Where the Court hearing an application in private by virtue of sub-rule (1) decides to make an order of committal against the contemnor, it shall in open court state—

- (a) the name and position of the contemnor ;
- (b) in general terms the nature of the contempt committed ;and
- (c) the length of sentence imposed.

No new
ground
allowed.

(3) Except with the leave of the Court on the hearing of an application for an order of committal, no new grounds shall be relied upon at the hearing except the grounds set out in the statement under rule 2 of this Order.

Oral
evidence at
the hearing.

(4) The contemnor may give oral evidence at the hearing of the application.

Saving
Provisions
for
Contempt in
the Face of
the Court.

8. The foregoing provisions are without prejudice to the powers of the Court to commit for contempt in the face of the Court.

Power to
suspend
execution of
Committal
Order

9.—(1) The Court by which an order of committal is made may by order direct that the execution of the order of committal shall be suspended for such period or on such terms or conditions as it may specify.

(2) Where execution of an order of committal is suspended by an order under sub-rule (1) of this Rule, the Sheriff shall, unless the Court otherwise directs, serve on the contemnor a notice informing the contemnor of the making of the order and the terms thereof under that sub-rule.

Discharge of
the Person
Committed

10.—(1) The Court may on the application of any person committed to prison for any contempt of court discharge such a person.

Action of
Sheriff on a
person
committed
for
contempt.

(2) Where a person has been committed for failing to comply with a judgment or order requiring the person to deliver up anything to some other person or to deposit it in Court or elsewhere, and a writ of sequestration has also been issued to enforce that judgment or order, then if the thing is in the custody or power of the person committed, the Sheriff may take possession of it as if it were the property of the person and without prejudice to the generality of sub-rule (1) of this rule, the Court may discharge the person committed and may give such directions for dealing with the thing taken by the Sheriff as it thinks fit.

11. Nothing in the foregoing provision of this Order shall be taken as affecting the power of the Court to make an order requiring a person guilty of contempt of court, or a person punishable by virtue of any enactment in like manner as if the person had been guilty of contempt of Court to pay a fine or to give security for the person's good behavior, and those provisions, so far as applicable, and with necessary modifications, shall apply in relation to an application for such an order as they apply in relation to an application for an order of committal.

Payment of
Fine or
giving of
Security

ORDER 64—APPEAL

STAY OF EXECUTION AND STAY OF PROCEEDINGS PENDING APPEAL

Form 73.

1. There shall be an Appeal section in the Registry of the Court which shall perform the following functions ;

Appeal
section of
the Registry
and
functions.

(a) receive notices of appeal from appellants ;

Form 73.

(b) issue notices to parties involved in the matter in which the judgment or decision is appealed against notifying them of the date and time for the settlement and compilation of records of appeal ;

(c) compile records of appeal ;

(d) transmit the compiled records of proceedings and other documents relevant to the matter in respect of which judgment is appealed against to the Court of Appeal.

Provided that the compilation of records of proceedings for a matter on appeal shall be completed within the time stipulated by the law subject to the payment of the specified deposit in accordance with Rule 3 of this Order.

2. Where a party in a matter is appealing against the decision of the Court to the Court of Appeal, and the party or counsel to the party is requesting a compilation of the records of proceedings, the party shall pay (N50.00) fifty naira per page for the production of the records of proceedings.

Fees for
compilation
of records of
proceedings.

3. Without prejudice to the provisions of rule 1 of this Order, an officer in charge of appeals shall assess the volume of the record of proceedings and ask the applicant to deposit an estimated sum of money in the Registry for the compilation of the records of proceedings.

Deposit for
compilation
of records of
proceedings.

4. The amount so estimated shall be paid before the commencement of compilation of the record of proceedings requested by the interested party; and where the party fails to pay the estimated amount of money no action will be taken on the party's application for the record of proceedings.

Payment of
estimated
sum before
compilation.

B 240

Receipt for payment for records of proceedings.

5. Where the estimated sum has been deposited, a temporary receipt evidencing payment shall be issued at the Registry to the party or counsel or any other person who made the deposit.

Accounting for expenses on records of proceedings.

6. On completion of compilation of the records of proceedings, an account shall be rendered on the expenses incurred by the Registry.

Provided that where,

(a) the amount expended is less than the amount deposited, the excess shall be refunded to the party or counsel to the party ;

(b) the amount expended is more than the amount deposited, the party or counsel to the party or the person who made the deposit shall pay the deficit incurred on the party's behalf before the transmission of the documents to the Court of Appeal.

Failure to Pay deficit.

7. Where there is failure to pay for the deficit incurred on behalf of the party as stated in sub-rule (6)(b) of this Order, the records of proceedings and documents relating to or connected with the matter in which judgment is appealed against shall not be ripe for transmission to the Court of Appeal.

Stay of Execution or Stay of Proceedings pending Appeal.

8.—(1) An application made to the Court for a stay of execution or proceedings under any judgment or decision appealed against shall be made by motion on notice supported by affidavit setting forth the grounds upon which a stay of execution or of proceedings is sought.

Application for stay of Proceedings or Execution.

(2) Notwithstanding anything to the contrary, mere filing of application for stay shall not operate as stay of proceedings or stay of execution.

Filing of application is insufficient for stay.

(3) Furthermore, the mere filing of an application simpliciter shall not be sufficient for the Court to grant a—

(a) stay of execution of the judgment of the Court or;

(b) stay of proceedings before the Court.

Provided that where an appeal has been filed, and all records of proceedings have been transmitted and an appeal has been entered ; that is to say the appeal has been issued a number, the Court may on sufficient grounds stay the execution of the judgment or of the proceedings upon which the appeal has been entered.

Provided further that in an application seeking for the stay of execution of the judgment of the Court pending appeal, where an appeal has been entered in line with the provisions of this Order, the Court may stay the execution of the judgment on the condition that the judgment debt (where the issue is monetary) is paid into an interest yielding account with the name "The Chief Registrar, National Industrial Court of Nigeria" pending the hearing and determination of the appeal.

(4) Where the issue on which the application for stay of execution is made is not monetary, and an appeal has been entered, the Court may grant the application for stay of execution of the judgment or stay of proceedings on the condition that the status quo ante as from the date of judgment be maintained pending the hearing and determination of the appeal.	When the issue in the application for stay is not monetary.
9. An applicant for stay of execution of a judgment or for stay of proceedings under this Order shall compile the records of appeal within twenty-one (21) days from the date of filing a notice of appeal and where the record is not so compiled, the respondent may apply to strike out the application or discharge the order where already granted.	Compilation of Record.
10.—(1) The Court may make or refuse an order for a stay of execution or of proceedings.	Court may grant or refuse to grant an order of stay of execution or proceedings.
(2) An Order for stay of execution may be made subject to such conditions, as shall appear just, including the deposit in Court of any money adjudged due to any of the parties in the judgment appealed against.	Order for stay of execution may be made subject to conditions.
11.—(1) An application for stay shall be regarded as an urgent matter.	Application for stay is urgent
(2) Where the Court has struck out an application for stay, no further application for stay shall be made in the same matter.	No further application for stay.
12. In any application made to the Court under this Order a formal order shall be drawn up embodying the terms of the decision of the Judge and bearing the date upon which the order is made.	Formal Order to be drawn up.
13.—(1) Where a party is appealing to the Court of Appeal against the decision of the Court, such a party shall in the party's application file along with the motion on notice of appeal ;	Documents for Appeal
(a) An affidavit in support of the motion on notice ; (b) Proof of compilation of Record(s) of appeal ; (c) Proof of lodgment of notice of appeal in line with Order 3 or any other relevant rules or Practice Direction of the Court of Appeal Rules ; and (d) Proof that an appeal has been entered.	

B 242

Application for stay of execution pending appeal.

(2). Where a party is dissatisfied with the decision of the Court and seeks to appeal to the Court of Appeal, such a party shall in the party's application to the Court for stay of execution of the judgment or Order :

- (a) file a notice of appeal ;
- (b) pay for the compilation of the records of proceedings ;
- (c) exhibit certified true copies of the judgment or order the party is appealing against ;
- (d) exhibit evidence that the appeal has been entered in line with the appropriate Rules or the Practice Direction of the Court of Appeal and that there is a valid appeal before the Court of Appeal ; and
- (e) exhibit evidence that leave has been granted by the Court of Appeal, where leave is required either by law or by the rules of the Court of Appeal.

Granting or refusal of application for order for stay.

(3). Where all the requirements in sub-rule 2 above have been satisfied, the Court may grant or refuse to grant the application for stay of execution of the order or judgment of the Court after taking into consideration the provisions of section 47 of the Act.

Application for stay of proceedings pending appeal.

14.—(1) Where a matter is on-going and a party is applying for stay of proceedings pending appeal, the party shall in the application for stay of proceedings :

- (a) file an application for stay of proceeding pending appeal,
- (b) pay for the compilation of the records of proceedings for which the party is seeking stay of proceedings ;
- (c) exhibit certified true copies of the record of proceedings for which the party is seeking stay of proceedings pending appeal and exhibit evidence that there is a valid appeal before the Court of Appeal ;
- (d) exhibit evidence that the appeal has been entered in line with the appropriate Rules of the Court of Appeal ; and
- (e) exhibit evidence that the party has been granted leave by the Court of Appeal, where leave is required either by law or by the rules or the Practice Directions of the Court of Appeal.

Granting of application for stay of proceedings.

(2) Where all the requirements in sub-rule 1 of this rule have been satisfied, the Court may grant or refuse to grant the application for stay of proceedings after taking into consideration the provisions of section 47 of the Act.

Appeal not to operate as stay of execution or of proceedings.

(3) An appeal to the Court of Appeal from the decision of the Court shall not operate as a stay of execution of the judgment order, rulings or proceedings of the Court, but the Court may order a stay of execution unconditionally or upon the performance of such conditions as may be imposed in accordance with the Rules of the Court.

15. Where the Court of Appeal remits a matter before it to the Court to be heard by the Court, the Registrar shall on receipt of same, bring the matter to the attention of the President of the Court, who may assign the matter to a Judge or a panel of Judges of the Court, to hear and determine in accordance with the Rules of the Court or as may be directed by the Court of Appeal.

Registrar to bring matter to knowledge of the President of the Court.

ORDER 65—POWERS OF THE PRESIDENT OF THE COURT TO AMEND RULES
AND ISSUE PRACTICE DIRECTION

1. Whenever additional provisions are made to these Rules or any part thereof are amended or modified, the President of the Court may issue directives for addition, publication or reprint of supplement to these Rules.

The power of the President of the Court over new Rules.

2. Whenever the President of the Court amends or modifies these Rules it shall be sufficient to publish same as supplemental provisions without the necessity of new a body of rules except when necessary.

Publication of new Rules.

3. The President of the Court shall have the power to issue from time to time in the official Gazette practice directions, directives and guidelines for the realization of speedy, just and effective administration of justice.

The power President of the Court to issue Practice Directions, etc.

4. Such practice directions, directives and guidelines shall be published and be given effect for the realization of the fundamental objectives of these Rules.

Practice directions, etc, to be published.

ORDER 66—ESTABLISHMENT OF COMMUNICATION AND SERVICE
CENTRE FOR ELECTRONIC FILING (E-FILING)

1. For the purpose of achieving the objectives of these Rules, the President of the Court may issue directions to establish a Communications and Service Centre which may include designated electronic filing workstations for on-line filing of processes and documents.

Power to establish the Centre.

2. The President of the Court may make such further Rules to guide the effective operation of the Communication and Service Centre for the E-filing of processes as may be necessary.

Further Rules thereof.

ORDER 67—FEES AND ALLOWANCES

1.—(1) Subject to the provisions of any written law and of the foregoing Orders, the fees set out in Appendix 1 to these Rules shall be payable by any person commencing the respective proceedings or requiring the corresponding services for which they are specified in the Appendix.

Fees and Allowances.

B 244

Allowances. (2) The allowances set out in Appendix 2 to these Rules shall be payable to the various categories of witnesses mentioned therein by any person at whose instance they testify.

(3) A witness who testifies at the instance of the Court acting on its own motion shall be paid by the Court.

(4) The President of the Court may from time to time issue Practice Directions adjusting or modifying the fees and allowances stipulated in the foregoing Appendices to reflect current economic realities and other prevailing circumstances.

Regulations 2. The regulations set out in Appendix 3 to these Rules shall be observed by all officers of Court concerned with the rendering of services and or collection of fees payable under the provisions of these Rules.

MADE at Abuja this 5th day of January, 2017.

HONOURABLE JUSTICE B. A. ADEJUMO, OFR
MCI.ARB, GFISMN, CFIAR, FCIARB, FNILS
President
National Industrial Court of Nigeria

APPENDIX –FORMS

<i>Form</i>	<i>Title</i>	<i>Page</i>
	<i>Forms of Complaints or Originating Process/Writ of Summons</i>	
1.	General Forms of Compliant or Originating Process.	249
1A.	Schedule of Documents: Admissible and Non-Admissible	252
2.	Specially Endorsed Complaint.	253
3.	Complaint for Service out of Jurisdiction, or where notice of Writ is to be Served out of Jurisdiction.	254
4.	Specially endorsed Complaint for Service out of Jurisdiction.	255
5.	Notice of Complaint to be served out of Jurisdiction	256
6.	Form of Memorandum for Renewed Complaint.	257
7.	Request for Minister for Foreign Affairs to Transmit Notice of Complaint to Foreign Government.	257
8.	Request for Service Abroad.	257
9.	Letter forwarding Request for Substituted Service.	258
	<i>Forms of Entry of Appearance</i>	
10.	Memorandum of Appearance.	258
11.	Notice of Entry of Appearance, after leave Obtained.	259
12.	Entry of Appearance Limiting Defence.	259
13.	Affidavit for Entry Appearance as Guardian.	260
14.	Notice of Entry of Appearance of Defendant or Defendants Counsel.	261
	<i>Affidavits of Service</i>	
15.	Services on Partner in a Firm.	262
16.	Service of Officer of a Corporation.	262
17.	Personal Service of Originating Summons Requiring Appearance.	263
18.	Substituted Service by Post to one Address.	263
19.	Service of Notice Writ by Advertisement and Form of Advertisement.	264
20.	Third Party Notice Claiming Indemnity or Contribution or other relief or Remedy.	265
21.	Third Party Notice when Question or Issue to be determined.	266
22.	Notice of Counterclaim.	267
23.	Notice of Payment into Court.	267
24.	Acceptance of Sum paid into Court.	268
25.	Acceptance of sum paid into Court by one of Several Defendants.	268
26.	Concession to Defence.	269
27.	Interrogatories.	269
28.	Answer to Interrogatories.	270
29.	Affidavit as to Documents.	270
30.	Notice to Produce Documents.	271

31. Notice to Inspect Documents.	272
32. Notice to Admit Documents	272
33. Notice to Admit Facts	274
34. Admission of Facts Pursuant to Notice.	274
35. Notice to Produce (General Form).	275
36. Issues Joined.	276
37. Subpoena ad testificandum.	276
38. Habeas corpus ad testificandum.	277
39. Subpoena duces tecum.	277
40. Commission to Examine Witness.	278
41. Certificate of the Chief Registrar.	281
42. Summons (General Form) Order 3.	282
43. General Form of Originating Summons Order 3	282
44. Notice of Appointment to Hear Originating Summons.	283
45. Originating Summons.	284
46. Form of Ex Parte Originating Summons.	284
47. Order (General Form).	285
48. Summons for Directions.	285
49. Short Order for Issue of Commission to Examine Witness.	289
50. Short Order for Issue of Commission to Examine Witness.	289
51. Order for Issue of Letter or Request to take Evidence Abroad.	290
52. Letter of Request to take Evidence Abroad. (Where no Convention).	290
53. Legal Practitioner's Undertaking as to Expenses.	292
54. Letter of Request to take Evidence Abroad (Convention Country).	292
55. Order for Appointment of the Nigerian Diplomatic Agent as Special Examiner (in Convention Country).	294
56. Default of Appearance and Defence in case of Ligated Demand.	296
57. Interlocutory Judgment in Default where Demand Is Un-liquidated.	296
58. Interlocutory and Final Judgment in Default where Demand is Un-liquidated.	296
59. Default in Judgment in Detinue.	297
60. Judgment after Trial before Chief Registrar or Referee.	297
61. Judgment after Trial of Question of Account by Referee.	298
62. Judgment upon Motion for Judgment.	298
63. Judgment for Dismissal.	298
64. Judgment for Defendant's Costs on Discontinuance.	299
65. Judgment for Claimant's Cost on after Confession of Defence.	299
66. Judgment for Costs after Acceptance of Money Paid into Court.	300
67. Judgment on Motion after Trial of Issue.	301
68. Forms of Praecipe.	302

69. Writ of Habeas Corpus ad subjiciendum.	302
70. Notice to be Served with Writ of Habeas <i>Corpus ad Subjiciendum</i> .	303
71. Writ of Habeas Corpus ad Testificandum.	304
72. Notice of Appeal (Civil).	305
73. Registrar Certificate for Fees Payable to Bailiff.	305
74. Receipt to be Given by Bailiff.	306
75. Summons for Neglect to Levy Execution.	306
76. General Form of Commencement of Process in Transferred Proceedings.	307
77. Order Suspending or Staying Judgment or Process or for Discharge of Debtor.	307
78. Writ of Attachment and Sale against Immovable Property.	308
79. Notice of Registrar of Foreign Court of payment under Warrant or Order of Commitment sent.	309
80. Public Notice of Attachment of Land.	310
81. Notice of Attachment.	311
82. Notice to Claimant to Attached Property to Make Deposit or Give Security.	312
83. Notice of Application for Private Sale.	313
84. Notice to Person in Possession of Sale of Attached Property.	314
85. Writ of Interim Attachment in Judgment of Debtor Proceeding.	316
86. Notice of Consequences of Disobedience to order of Court.	258
87. Notice to Show Cause Why Order of Attachment should not be Made.	316
88. Certificate that Labour has been Ordered for Debtor Prisoner.	317
89. Warrant of Committal of Judgment Debtor in Default of Security.	317
90. Warrant of Committal or Remand of Judgment Debtor for Misconduct.	318
91. Warrant for Committal for Contempt.	320
92. Warrant of Arrest and Detention of Judgment Debtor.	321
93. Production of Warrant.	322
94. Praecipe for Issue of Order or Warrant of Commitment.	323
95. Notice of Payment of Subsistence Money.	324
96. Endorsement on an Order of Committal sent to a Foreign Court.	325
97. Certificate by Officer in charge of Prison of Payment of Judgment Debt.	325
98. Notice of Part payment.	326
99. Endorsement of Recommitment.	327
100. Writ of Interim Attachment.	327
101. Warrant for Arrest of Absconding Defendant.	329
102. Affidavit of Delivery.	330

B 248

103. Writ of Delivery with Execution against Immovable Property.	332
104. Writ of Sequestration.	333
105. Notice of Registration of Certificate of Judgment.	334
106. Notice of Issue of Process.	334
107. Notice of Payment into Court.	335
108. Notice of payment into Court.	336
109. Caveat.	336
110. Case Stated as to S24(5) NICA 2006	337
111. Reference as to Constitution Order 5 rule 1	338
112. Reserved as to point of Law Order 5 rule 1	339
113. Writ of Possession	340
114. Certificate of Execution of Writ of Possession.	341

CIVIL PROCEDURE FORMS

Forms of Complaints

FORM 1

GENERAL FORM OF COMPLAINTS OR 3.R.1(1), R.2

(hereby put the letter and number(see note (a) following this Form)

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

Suit No :....., 20.....

In theJudicial Division

Between A.B.....Claimant/Appellant

and

C.D.....Defendant/Respondent

.....

.....

.....

.....

.....

.....

Contact Information of Claimant/Appellant Address :.....

.....

Telephone Numbers

E-mail Address

PART 2

Names of Defendant/ Respondent

(1).....

(2).....

(3).....

(4).....

(5).....

(6).....

Contact Information of Defendant/Respondent Address.....

.....

Telephone Numbers

E-mail Address

STATEMENTS OF MATERIAL FACTS, ETC.

.....
.....
.....
.....
.....
.....
.....
.....

RELIEFS CLAIMED :

.....
.....
.....
.....
.....
.....
.....
.....

SCHEDULE OF DOCUMENTS/ELECTRONIC RECORDINGS TO BE USED AT TRIAL

.....
.....
.....
.....
.....
.....
.....
.....

You are hereby commanded that within fourteen days after the service of this Complaint on you, inclusive of the day of such service, you do cause an appearance to be entered for you in an action at the suit of A.B. and take notice that in default of your so doing the Claimant may proceed therein, and judgment may be given in your absence.

DATED this.....day of.....20.....

By order of the Court

.....
Registrar

MEMORANDUM TO BE SUBSCRIBED ON THE COMPLAINT

N.B. This Complaint is to be served within six calendar months from the date thereof, or, if renewed, within three calendar months from the date of the last renewal, including the day of such date, and not afterwards.

The Defendant may enter appearance personally or by legal practitioner either by handing in the appropriate forms, duly completed, at the Registry of the National industrial Court of the Judicial Division in which the action is brought or by sending them to the Registrar by registered post or as provided in Order 7, Rule 1 of these Rules ;

The Claimants claim is for, etc. (b).....

The Complaint was issued by G.H. of
 whose address for service (c) is.....agent for.....
of.....Legal Practitioner for the said
 Claimant who resides at (d).....
 (mention the city, town or district and also the name of the street number of the house of the Claimant's residence, if any)

Endorsement to be made on copy of Complaint forthwith after service.

This Complaint was served by me at on the Defendant
 (here insert mode of service) on the.....day of
20.....

Endorsed the.....day of20.....

Signed.....

Address.....

Notes :

(a) *Heading and Title—*

If the matter relates to any inter or intra Union dispute the Complaint must be headed :

“In the Matter of the Trade Union Act” In the Matter of Inter (or Intra) Union Dispute :

“In the matter ofUnion (in the case of intra Union dispute)

“Between.....Union (if inter-union dispute)
 or.....(individual(s) and capacity in which
 he/she is or they are suing, if intra Union)

And.....Union (if inter Union dispute)
 or.....(individual(s) and capacity in which he/she
 is or they are suing (if intra Union dispute)

(b) *Endorsements of Claim.*—If the claimant sues, or defendant/respondent is sued, in a representative capacity, the endorsement must state in what capacity the claimant sues or the defendant/respondent is sued. See Or.4 r.2. If the claim is for a debt or liquidated demand only, the Endorsement, even though not special, must strictly comply with the provisions of 0.4.r.3, including a claim for four day’s costs.

(c) *Address for Service*—see Or.4.r.4.sr. (5) & (6) and Or.4.r5. The address must be within the jurisdiction.

(d) *Address of Claimant.*—In the case of company in liquidation the claimant’s address should run “..... claimants, who are a company in liquidation. The liquidator is (name of liquidator”).

In the case of a foreign corporation within the meaning of part 10 of the Companies and Allied Matters Act the claimant's address should run thus: "..... Claimants, who are a foreign corporation within the meaning of the Companies and Allied Matter Act. The registered name and address of the person to be served are..... (here add registered name and address").

(e) *Endorsement of Service.*—See 0r.7: r.1 sr.7, 14; r. 2 sr.14 , 15, and 16.

Before the Complaint is issued the following certificate must be indorsed on it:

The Registry,
National Industrial Court of Nigeria.

In the.....Judicial Division

A sufficient affidavit in verification of the endorsement on this Complaint to authorize the sealing thereof had been produced to me this.....Day of.....20.....

(Signature of Registrar)

FORM 1A

SCHEDULE OF DOCUMENTS : ADMISSIBLE/NON-ADMISSIBLE

[illegible]

FORM 2

Specially Endorsed Complaint Form

To C.D of.....in the.....of
You are hereby commanded that.....etc.,
 (as in Form 1, supra). Datedetc., (as in Form 1, supra).

N.B—— This Complaint is to be served within six calendar months from the date thereof, or if renewed within three calendar months from the date of the last renewal including the day of such date, and not afterwards.

The Respondent/Defendant may enter appearance personally or by legal practitioner by handing in the appropriate forms, duly completed, at the Registry of the Judicial Division in which the action is brought, or by sending them to the Registry by registered post or as provided in Or. 15 r 1 and 2 of these Rules.

Statement of Claims

This Claimant's Claim is.....

Particulars.....

Signed).....

And the sum of N.....(a) for such sum as may be allowed on taxation for costs, and also, in case the Claimant obtains an order for substituted service, the further sum of N.....

(or such sum as may be allowed on taxation). If the amount claimed to be paid to the Claimant or his legal practitioner or agent within four days from the service hereof, further proceedings will be stayed :

Provided that if it appears from the endorsement of the Complaint that the Claimant is resident outside the scheduled territories, as defined by the Exchange Control Act, or is acting by order or on behalf of a person so resident, proceedings will only be stayed if the amount claimed is paid into court within the said time and notice of such payment in is given to the Claimant, his/her legal practitioner or agent.

This Complaint was issued, etc. (as in Form 1, supra).

This Complaint was served by me aton the Respondent
 (.....here insert mode of service) on the day
 of..... 20.....

(Signed).....

Address.....

Notes——

(See also Notes to Form 1, *supra*)

Endorsement for Costs- endorsement for cost applies only where the claim on the Complaint is for a liquidated demand.

FORM 3

Complaint for Service out of the Jurisdiction, or where Notice of Complaint is to be served out of the Jurisdiction

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Between

A.B.....Claimant

and

C.D.....Respondent

To C.D. of.....in the.....of

DATED thisday of20.....

By order of the Court.

.....

Registrar

N.B. : This Complaint is to be served within six calendar months from the date thereof, or if renewed within three calendar months from the date of the last renewal including the day of such date, and not afterwards.

The Respondent/Defendant may enter appearance personally or by legal practitioner by handing in the appropriate forms, duly completed, at the Registry of the Judicial Division in which the action is brought, or by sending them to the Registry by registered post or as provided in Or. 15 r 1 & 2 of these Rules

Statement of Claim

The Claimant/Claimant/Applicant is.....

Particulars.....

(Signed).....

And the sum of ₦..... (or such sum as may be allowed on taxation) for costs.

If the amount claimed is paid to the Claimant or legal practitioner or agent representing the Claimant within (.....here insert number of days limited for appearance) days from service of the Complaint or notice hereof (as the case may be) further proceeding will be stayed :

Provided that if it appears from the endorsement of the Complaint that the Claimant is resident outside the scheduled territories, as defined by the Exchange Control Act, or is acting by order or on behalf of a person so resident, proceedings will only be stayed if the amount claimed is paid into Court within the said time and notice of such payment in is given the Claimant/Applicant/Claimant, the legal practitioner or agent.

This Complaint was issued, etc., (as in Form 1, *supra*)

This Complaint (or notice of this) was served, etc., (as in Form 1, *supra*).

N.B—A Complaint issued, against a foreign company having no office in Nigeria must be in Form 3 or 4. See also notes to Form 2, *supra*.

FORM 4

Special Endorsed Complaint to be Served out of the Jurisdiction

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Between

A.B.....Claimant

and

C.D.....Respondent

To C.D. of.....in the.....of

I (or we) hereby request that a notice of summons in this action be transmitted through the proper channels to (name of country) for service (or substituted service) on the defendant (name of defendant) at (address of defendant) or elsewhere in (name of country). And I (or we) hereby personally undertake to be responsible for all expenses incurred by the Ministry of Foreign Affairs in request of the service hereby requested and on receiving due notification of the amount of such expenses I (or we) undertake to pay the same into the National Industrial Court Registry for transmission to the Permanent Secretary of the Ministry of Foreign Affairs.

DATED this.....day of....., 20.....

.....

Signature of Legal Practitioner

FORM 5

NOTICE OF COMPLAINT TO BE SERVED OUT OF THE JURISDICTION
IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Between A.B.....Claimant

Take NOTICE, that A.B. of.....has commenced an action against you, C.D. in thein the Judicial Division of the National Industrial Court by writ of the Court, dated theday, of.....20..... which writ is endorsed as follows- (a copy in full of the endorsements) and you are required within.....days after the receipt of this notice, inclusive of the day of such receipt, to defend the said action, by causing an appearance to be entered for you in the said Court to the said action, and in default of your doing the said A.B. may proceed therein; and Judgment may be given in your absence.

You may appear to the writ by entering an appearance personally or by your legal practitioner at the.....Judicial Division of the National Industrial Court.

(if the writ specially endorsed add “if you enter an appearance you must also deliver a defence within fourteen days of the limited for appearance, etc, “an in Form 2, supra)

(Signed) A.B of, etc.,

or

X.Y. of, etc.,

The Notice was served by me.....ofaton the defendant.....theday of....., 20.....

Signature and address of Server.....

N.B This Notice is to be used where the person to be served is resident in Nigeria but outside the Jurisdiction of the National Industrial Court

FORM 6

Form of Memorandum for Renewal of Complaint

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

*Seal renewed Complaint of summons in this action endorsed as follows—
(Copy original Complaint and endorsement)*

FORM 7

*Request to Minister of Foreign Affairs to Transmit
Notice of Writ to Foreign Government*

The President of the National Industrial Court presents his/her compliments to the Minister of Foreign Affairs and encloses herewith a notice of writ of summons issued in an action of.....versuspursuant to order, out of the Judicial Division of the National Industrial Court for transmission to the Ministry of Foreign Affairs in.....(name of country) with the request that the same may be served personally upon(name of Defendant to be served) against whom proceeding have taken in the.....Judicial of the National Industrial Court and with the further request that such evidence of the service of the same upon the said Defendant may be officially certified to the National Industrial Court, or declared upon oath, otherwise, in such manner as is consistent with usage or practice of the Courts of the (name of country) in proving service of legal process.

The President further requests that in the event of efforts to effect personal service of the said notice of writ proving ineffectual, the Government or Court of the said country be requested to certify te same to the National Industrial Court.

FORM 8

Request for Service Abroad

I (or we) hereby request that a Notice of Summons in this action be transmitted through the proper channels to (name of country) for service (or substituted service) on the defendant.....(name of defendant) at(address of defendant) or elsewhere in (name of country). And I (or we)hereby personally undertake to be responsible for all expenses incurred by the Ministry of Foreign Affairs in request of the service hereby requested and on receiving due notification of the amount of such expenses I (or we) undertake to pay the same into the National Industrial Court Registry for transmission to the Permanent Secretary of the Ministry of Foreign Affairs.

DATED this.....day of..... 20.....

.....
Signature of Legal Practitioner

FORM 9

Letter forwarding Request for Substituted Service

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Between A.B.....Claimant

and

C.D.....Respondent

To C.D. of.....in theof.....

FORMS OF ENTRY OF APPEARANCE

FORM 10

Memorandum of Appearance

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....ofday....., 20.....

Between A.B.....Applicant/Claimant/Claimant(s)

or

C.D.Defendant(s)

Please enter an appearance for(give full name of Defendant wishing to appear). (A female defendant must add her description, such as spinster, married woman, widow or divorced). Sued asgive name by which defendant is named in writ if this differs from defendant's full name, otherwise delete words in square brackets). In this action.

DATED the.....day of....., 20.....

Signed (by defendant or legal practitioner entering the appearance).....

whose address for service is(a defendant appearing in person must give his residence or some other place within the Judicial Division of.....to which communication for should be sent and where defendant appears by a legal practitioner, the legal practitioner's place of business).

Note :

1. Where the defendant is a firm the appearance must be entered by individual partners by name with the description (partner in the firm of”
2. Where the defendant is an individual trading in a name other than the defendant’s own, the appearance must be entered by the defendant in defendant’s own name with the addition of the description (Trading as.....”
3. Where the defendant is a limited liability company, the appearance must be entered by a legal practitioner.
4. Where the appearance is being entered by leave of the Court, a copy of the order granting leave must accompany this Form.
5. If the defendant has no defence or admits the Applicant’s/ Claimant’s claim, the entry of appearance will delay judgment and may increase the cost payable by the defendant.

FORM 11

Notice of Entry of Appearance after leave is Obtained

Take Notice thathas obtained leave to appear to the Complaint of the summons in this section and that I have this day entered an appearance for (defendant’s name) at the National Industrial Court Registry.....Judicial Division.

DATED the.....day of, 20.....

Signed.....

Of.....

FORM 12

Entry of Appearance Limiting Defence

Enter an Appearance for the Defendant.....in this action. The said Defendant limits the defence to part only of the Claims mentioned in the Writ of summons, namely, to the area depicted (A or B) on the plan attached.

The address of.....is

DATED the.....day of, 20.....

Signed.....

Of.....

Any person appearing to defend as landlord must so state in his appearance: and if he is not named as a defendant, the date of the order giving leave must be added.

FORM 13

Affidavit For Entry of Appearance as Guardian

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division.

Suit No.....

Between A.B.Applicant/Claimant/Claimant.

C.D.Defendant.

I,.....ofthe legal practitioner for the above-named infant make oath and say as follows—

A.B, ofis a fit and proper person to act as guardian ad litem of the above-named defendant, and has no interest in the matters in question in this action (matter) adverse to that of the said A.B. to act as such guardian is hereto annexed.

Sworn, etc.

(Jurat)

(To this affidavit shall be annexed the document signed by such guardian in testimony of his consent to act).

Alternative Form of Affidavit

(To meet cases where a positive oath as to fitness cannot reasonably be insisted upon the following form is accepted).

I,.....ofthe legal practitioner for the above named C.D. an infant, make oath and say as follows—

1. I am informed and verily believe A.B., oris a fit and proper person to act as guardian ad litem of the above –named infant defendant, and the consent of the said A.B. to act as such guardian is hereto annexed.

2. The said A.B., has no interest in the matters in question in this action (matter) adverse to that of the said infant.

Sworn, etc.

(Jurat)

Usual Form of Consent

1. A.B., of (address and occupation) consent to act as guardian ad litem of C.D., an infant defendant in this action, and I authorize Mr.....ofto defend this action.

.....
Signature of Guardian

FORM 14

*Notice of Entry of Appearance of Defendant or Defendant's
Counsel Heading as in Form 1*

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the.....Judicial Division.
Suit No.....,20.....

Between

A.B.....Claimant

And

C.D.Defendant

I,(name, address, and description of defendant)
make oath as follows—

1. I did on the.....day of20.....at
(state where) personally serve C.D., the above mentioned Defendant
(or one of the above named defendants) with a true copy of the Notice
of summons in this section which appeared to me to have been regularly
issued out of the National Industrial Court Registry of the
.....Judicial Division of
.....against the above
named Defendant(or defendants)at the suit of the above –named
Claimant(or Claimants) which was dated the.....day of
.....20.....
2. At the time of the said service, the said writ and the copy thereof were
subscribed (and endorsed) in the manner and form prescribed by the
Rules of the National Industrial Court.
3. I did on the.....day of
.....20.....endorse on the said writ the day
of the month and the week of the said service of the defendant.

Jurat

This affidavit is filed on behalf of the Claimant

.....
Signature of Deponent

AFFIDAVITS OF SERVICE

FORM 15

Order 7

Service on a Partner in a Firm
(Title and Commencement as in Form 1)

1. I did on the.....day of....., 20.....at.....
(state where) personally serve C.D. & Co. with a true copy of (proceed as in Form 1 to end of paragraph 2).
2. I did on the.....day of....., 20.....endorsed on the said Complaint the day of the month and the week of the said service.

.....
Deponent

FORM 16

Service on Officer of a Corporation
(Title and Commencement as in Form 1)

1. I did on theday of..... 20.....atpersonally serve A.B. (Chairman, or Director, or Treasurer or Secretary) being the head officer of the above-named defendant corporation, with a true copy of the Notice of summons in this action which appeared to me to have been regularly issued out of the National Industrial Court of Nigeria Registry of the.....Judicial Division against the above-named defendants at the suits of the above-named Claimant, and which was dated the.....day of20.....by (leaving the same at (add place of service) or sending the same by post on theday of20.....in a prepaid letter or envelope addressed to that Company at (.....add address)
2. At the time of the said service, the said Notice and copy thereof were subscribed and endorsed in the manner and form prescribed by the Law.
3. In did on theday of20.....endorse on the said Notice the day of the month and week of the said service on the said Defendant.

.....
Deponent

FORM 17

*Personal Service of Originating Summons Requiring Appearance
(Title and Commencement as in Form 1)*

I did on the.....day of20.....at (place of service) personally serve C.D. the defendant (or respondent) herein (each if more than one) with a true copy of the originating summons in this action (or matter) which appeared to me to have regularly issued out of the National Industrial Court of Nigeria, Registry of the.....Judicial Division, against the Defendant (or respondents) (..... if the names do not appear in the title they should be stated here) on the application of the Claimants (or applicants),naming them if not stated in title) and which was dated the.....day of,20.....

.....
Deponent

FORM 18

*Substituted Service by Post to One Address
(Title and Commencement as in Form 1)*

1. That I did serve the above named defendant C.D. with a true copy of the summons in the action and true copy of the order of Hon Justicedated thedayof,20.....for substituted service herein by posting the same at the post office at.....on theday of,20.....in a prepaid ordinary letter or envelope addressed to the said Defendant atpursuant to the said order.
2. That the said writ of summons appeared to me to have been regularly issued out of the National Industrial Court of Nigeria, Registry of theJudicial Division against the above named defendant at the suit of the above named Claimant and was dated the..... day of, 20.....
3. I did on the day of, 20.....endorse on the said Complaint the day of the month and the week of the said service on the Defendant.

.....
Deponent

FORM 19

*Service of Notice of Writ by Advertisement and Form of Advertisement
(Title and Commencement as in Form 1)*

1. That I did theday of,
20.....serve the above named defendant C.D., with summons in
this action and of the order forby advertisement dated
theday of....., 20..... by causing to be inserted
once in (.....name of paper
or papers as ordered) an advertisement in the words following—

Title, Reference number, etc).

The above named defendant C.D.,of
(or late.....of

TAKE NOTICE that an action has been commenced against you in the
.....Judicial Division of the National Industrial Court
Suit No.....of....., 20.....by A.B
Of.....in which the Claimant's claim is for
(.....State very shortly the
nature of claim and the amount (If any) claimed in the endorsement on the
Complaint). And that it has been ordered that service of the Complaint in
the said action on you be effected by this advertisement. If you desire to
defend the said action you must within.....days from the
publication of this advertisement, inclusive of the day of such publication,
enter an appearance at the National Industrial Court of Nigeria, Registry
of the.....Judicial Division. In default of such appearance
judgment may be entered against you.

(Signed).....

of.....

Dated.....day of.....20.....

.....
Claimant's Legal Practitioner

2. The advertisement aforesaid appeared in the (name of Paper) on the
.....day of....., 20.....and in the (name
of paper) on the.....day of, 20.....
(as the day may be)

.....
Deponent

FORM 20

*Third Party Notice Claiming Indemnity or Contribution or
other Relief or Remedy*

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the Judicial Division.
Suit No. of 20.....

Between

A.B. Claimant

And

C.D. Defendant

And

E.F. Third Party

Third Party Notice

Issued pursuant to the order of Hon. Justice.....dated the
.....day of, 20.....

To E.F. of.....in theof

Take notice that this action has been brought by the Claimant against the Defendant. In it the Claimant claims against the Defendant (.....here state concisely the nature of the Claimant's claim) as appears by the endorsements on the or statement of claim a copy whereof is delivered herewith. The Defendant claims against you (.....here state concisely the nature of the claim against the third party as for instance to be indemnified against the Claimant's claim and the costs of this action or contribution to the extent of (one-half) of the Claimant's claim) or (the following relief or remedy namelyon the grounds namely that (State concisely the grounds of the clam against the third party).

And take notice that if you wish to dispute the Claimant's claim against the Defendant, or the Defendant's claim against you, you must cause and appearance to be entered for you within eight days after the service of this notice upon you.

In default of your entering such appearance, you will be deemed to admit the Claimant's claim against the Defendant and the Defendant's claim against you and your liability to indemnify the Defendant or to contribute to the extent claimed or to (stating the relief or remedy sought) and the validity of any judgment that may be given in the action and you will be bound by such judgment and such judgment may be enforced against.

Dated the.....day of....., 20.....

(Signed).....
Legal Practitioner for the Defendant

The third party may appear hereto by entering appearance, personally or by legal practitioner by handing in the appropriate forms, duly completed at the Registry of the Judicial Division of the National Industrial Court. The appropriate forms may be obtained from the Registrar.

Form 21

Third Party Notice when questions or Issue to be Determined

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the.....Judicial Division

Between

A.D.Claimant

and

C.D.Defendant

E.F.Third Party

Issued pursuant to the order of the Hon Justicedated the.....day of, 20.....ofto E.F.....of.....in the.....of.....

Take notice that this action has been brought by the Claimant against the Defendant. In it the Claimant's claim against the Defendant (here state concisely the nature of the Claimant claim) as appears by the endorsement on the writ of summons (or statement of claim) a copy whereof is delivered herewith.

The Defendant claims that the following questions or issue, viz (here state concisely the question or issue to be determined) should be determined not only as between the Claimant and the Defendant but as between the Claimant and the Defendant and yourself.

And take notice that if you wish to be heard on the said issue or question or to dispute the Defendant's liability to the Claimant or your liability the Defendant you must cause an appearance to be entered for you within eight days after service of this notice.

In default of your so doing you will be deemed to admit the validity or and will be bound by any decision or judgment arrived at or given in this action on the said question or issue and to admit any consequent liability of yourself and judgment may be given against you and enforced pursuant to the provisions of the Law.

Dated the.....day of....., 20.....

(Signed).....

Legal Practitioner for the Defendant

The third party may appear hereto by entering appearance, personally or by legal practitioner by handing in the appropriate forms duly completed, at the Registry.....Judicial Division of the National Industrial Court of Nigeria.

The appropriate forms may be obtained from the Registrar.

FORMS 22

Notice of Counterclaim

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Between

A.B.Claimant

And

C.D., E.F and G.H.....Defendant to the within named X.Y.

Take notice that if you do not appear to the within counterclaim of the within named C.D. eight days from the service of this defence and counterclaim upon you, you will be liable to have judgment given against you in your absence.

Appearance to be entered at theJudicial Division of the National Industrial Court.

FORM 23

Notice of Payment into Court

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Between

A.B.....Claimant

And

C.D., E.F and G.H.Defendant

Take notice that the Defendant.....has paid into Court ₦.....and says that (.....part of) that sum is enough to satisfy the Claimant's claim (or and ₦.....the other part of that sum is enough to satisfy the Claimant's claim for)

Dated the.....day of....., 20.....

.....
P.Q Legal Practitioner for the Defendant

(To X.Y the Claimant's legal practitioner, and to Mr R.S. legal practitioner for the Defendant E.F.)

(To be filled in by the Cashier, National Industrial Court)

Received the above sum of ₦.....k into Court in this action.

DATED the.....day of....., 20.....

FORM 24

Acceptance of Sum Paid Into Court

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No....., 20.....

between

A.B.Claimant

and

C.D., E.F. and G.HDefendants

Take Notice that the Claimant accepts the sum of ₦.....paid by the Defendant (C.D.) into Court in satisfaction of the claim in respect of which it was paid in (and abandons his other claims in this action).

DATED the.....day of....., 20.....

.....
X.Y Claimant's Legal practitioner

(To P.Q legal practitioner for the Defendant C.D., and R.S., legal practitioner for the Defendant E.F.)

FORM 25

Acceptance of Sum Paid into Court by one of Several Defendants

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No....., 20.....

Between

A.B.Claimant

And

C.D., E.F. and G.HDefendants

Take Notice that the Claimant accepts the sum of N.....paid by the Defendant (C.D.) into Court in satisfaction of the Claimant's claim against that Defendant .

DATED the.....day of....., 20.....

.....

X.Y Claimant's Legal practitioner

(To P.Q legal practitioner for the Defendant C.D., and R.S., legal practitioner for the Defendant E.F.)

FORM 26

Concession to Defence

Or. 32, r.11

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the.....Judicial Division

Suit No....., 20.....

between

A.B.Claimant

and

C.D., E.F. and G.HDefendants

The Claimant concedes the defence stated in theparagraph of the Defendant's defence (or, of the Defendant's further defence).

FORM 27

Interrogatories

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

In the.....Judicial Division

Suit No....., 20.....

between

A.B.Claimant

and

C.D., E.F. and G.HDefendants

Interrogatories on behalf of the above-named (Claimant or Defendant C.D.) for the examination of the above named (Defendants E.F. and G.H or Claimant).

1. Did not, etc.

2. Has not, etc.

(The Defendant E.F. is required to answer the interrogatories numbered)

Dated the.....day of....., 20.....

FORM 28

Answer to Interrogatories

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No....., 20.....

between

A.B.Claimant

and

C.D., E.F. and G.....Defendants

The answer of the above named Defendant E.F., to the interrogatories for Defendant's examination by the above named Claimant.

In answer to the said interrogatories, I, the above-named E.F., make oath and say as follows—

I, the above named defendant E.F., do hereby solemnly swear by the Almighty God that this is my name and handwriting and that the facts deposed by me in this affidavit are the truth, the whole truth and nothing but the truth.

FORM 29

Affidavit as to Documents

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the.....Judicial Division

Suit No....., 20.....

between

A.B.Claimant

and

C.D., E.F. and G.HDefendants

I, the above named defendant C.D., make oath and say as follows—

1. I have in my possession or power the documents relating to the matters in question in this suit set forth in the first and second parts of the First Schedule hereto.
2. I object to producing the said documents set forth in the second part of the said First Schedule hereto (state grounds of objection).
3. I have had, but have not now, in my possession or power the documents relating to the matters in question in this suit set forth in the Second Schedule hereto.
4. The last-mentioned documents were last in my possession or power on (state when, and what has become of them and in whose possession they now are).

5. According to the best of my knowledge, information and belief I have not now, and never had in my possession, custody or power, or in the possession, custody or power of my legal practitioners or agents (Legal Practitioner or Agent), or in the possession, custody or power of any other persons or person on my behalf, any deed, account, book of account, voucher, receipt, letter, memorandum, paper, or writing, or any copy of or extract from any such documents or any other document whatsoever, relating to the matters in question in this suit, or any of them, or wherein any entry has been made relative to such matters, or any of them, other than and except the documents set forth in the said First and Second Schedules hereto.

DATED at this..... day of....., 20.....

Sworn to.....

(jurat)

FORM 30

Notice to Produce Documents

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the.....Judicial Division

Suit No....., 20.....

between

A.B.Claimant

and

C.D., E.F. and G.H.Defendants

Take Notice that the (Claimant or Defendant) requires you to produce for Claimant's inspection, the following documents referred to in your (statement of claim, defence or affidavit) dated the day ofday of , 20.....

(.....Describe documents required)

DATED the.....day of , 20.....

.....
X.Y., Legal Practitioner to the (Claimant or Defendant)

FORM 31

Notice to Inspect Documents

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the.....Judicial Division

Suit No....., 20.....

between

A.B.Claimant

and

C.D., E.F. and G.H.Defendants

Take notice that you can inspect the documents mentioned in your notice of the.....day of....., 20.....(except the deed numberedin that notice) at my office on the.....day of, 20.....between the hours of.....and.....

DATED this.....day of, 20.....

.....
(Signed Legal Practitioner)

FORM 32

Notice to Admit Documents

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the.....Judicial Division

Suit No....., 20.....

between

A.B.Claimant

and

C.D., E.F. and G.H.Defendants

Take notice that the Claimant (or Defendant) in this case proposes to adduce in evidence the several documents hereunder specified , and that the same may be inspected by the Defendant (or Claimant), his legal practitioner or agent at.....between the hours of.....and the Defendant(or Claimant) is hereby required within six days of the.....respectively written, signed or executed as they purport respectively to have been; that such as are specified as copies are true copies; and that such documents as are stated to have been served, sent or delivered, were so served, sent or delivered respectively ; saving all just exceptions to the admissibility of all such documents as evidence in this cause.

And further take notice that if you do not within the afore-mentioned six days give notice that you do not admit the said documents (or any of them) and that you require the same to be proved at the trial you shall be deemed to have admitted the said documents (or document) unless the Court or Judge shall otherwise order.

Dated this.....day of....., 20.....

(Signed).....

G.H., Legal Practitioner (or agent) for Claimant (or Defendant).

To E.F., Legal Practitioner (or agent) for Defendant (or Claimant).

Here describe the documents, the manner of doing which may be as follows—

ORIGINAL

Description of Documents

Dates

Deed of Covenant between A.B. and C.D.	
First part and E.F. second part	20.....
Indenture of lease from A.B. C.D	20.....
Indenture or release between A.B. and C.D.	20.....
First part and E.F. second part	20.....
Letter –Defendant to Claimant	20.....
Policy of insurance on goods by ship	20.....
“.....” on voyage from.....to.....	20.....
Memorandum of agreement between C.D.	20.....
Captain of said ship, and E.F.	20.....
Bill of Exchange for N.....at three	20.....
Months drawn by A.B. on and accepted by	
C.D. endorsed by E.F. and G.H.	

Copies

<i>Description of Documents</i>	<i>Dates</i>	Original or duplicate served, sent or delivered, when, how and by whom
Register of baptism of A.B at, 20.....		
Letter –Claimant to defendant, 20.....		Sent by General Post, 20....
Notice to produce papers, 20.....		Served....., 20.....on defendant’s Attorney by E.F. of.....
Record of judgment of the National Industrial Court of.....in an action, F.S.V.F.N.		
Suit No.....of....., 20.....		
Letters patent in the Record Office....., 20.....		

FORM 33

Notice to Admit Facts

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the.....Judicial Division

Suit No....., 20.....

between

A.B.Claimant

and

C.D., E.F. and G.HDefendants

Take notice that the Claimant (or Defendant) in the cause requires the Defendant (or Claimant) to admit, for the purpose of this cause only, the several facts respectively hereunder specified, and the Defendant (Claimant) is hereby required, within six days from the service of this notice, to admit the said several facts, saving all just exceptions to the admissibility of such facts as evidence in this cause.

DATED this.....day of, 20.....

.....
G.D Legal Practitioner (or agent) of the Claimant (or Defendant)

To E.F. legal practitioner (or agent) for the Defendant (or Claimant).

The facts, the admission of which is required, are—

1. That(name of deceased party) died on.....
2. That(name of deceased party) died intestate
3. That.....(name of beneficiary) was his only son/daughter.
4. That died on.....
5. That.....(name of deceased party) was never married.

FORM 34

Admission of Fact Pursuant to Notice

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the.....Judicial Division

Suit No....., 20.....

between

A.B.Claimant

and

C.D., E.F. and G.HDefendants

The Defendant (or Claimant) in this cause, for the purpose of this cause only, hereby admits the several facts respectively, hereunder specified, subject to the qualifications or limitations, if any, hereunder specified, saving all just exceptions to the admissibility of any such facts, or any of them, as evidence in this cause :

Provided that this admission is made for the purposes of this action only, and is not an admission to be used against the Defendant(or Claimant) on any other occasion, or by anyone other than the Claimant (or Defendant, or party requiring the admission).

.....
E.F. Legal Practitioner (or agent) for the defendant (or Claimant)

Delivered, etc.

To G.H. legal practitioner (or agent) for the Claimant (or Defendant).

Facts admitted

Qualification or Limitation.

If any subject to which they are admitted.

1. That(name of deceased party) was died on.....
2. That(name of deceased party) died intestate
3. That(name of beneficiary) was his(relationship to deceased party)
4. Thatdied
5. That(name of deceased party) never was married

FORM 35

Notice to Produce (General Form)

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the.....Judicial Division

Suit No....., 20.....

between

A.B.Claimant

and

C.D., E.F. and G.HDefendants

Take notice that you are requested to produce and show to the Court on the trial of this cause all books, papers, letters, copies of letters, and other writings and documents in your custody, possession, or power containing any entry, memorandum, or minute relating to the matters in question in thisand particularly.....

B 276

Dated this.....day of....., 20.....
To the above named

(Signed).....of.....

Agent for.....
G.H. Legal Practitioner for the above named agent

FORM 36
Issues Joined

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA.
IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the.....Judicial Division

Suit No....., 20.....

between

A.B.Claimant

and

C.D., E.F. and G.H.Defendants

Whereas A.B. affirms, and C.D. denies (here state the question of fact to be tried) and it has been ordered by the Hon Justicethat the said question shall be tried therefore let the same be tried accordingly.

FORM 37
Subpoena ad Testificandum

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the.....Judicial Division

Suit No....., 20.....

between

A.B.Claimant

and

C.D.....Defendants

To.....of.....

You are commanded in the name of President of the Federal Republic of Nigeria to attend before this Court atonthe day of....., 20.....at.....0'clock in the forenoon, and so from day to day give evidence in the above named cause.....

Dated this.....day of....., 20.....

.....
Judge

FORM 38

Habeas Corpus ad Testificandum

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the.....Judicial Division

Suit No....., 20.....

between

A.B.Claimant

and

C.D.....Defendants

To.....the Director of Nigeria Prison at.....

You are commanded in the name of President of the Federal Republic of Nigeria to have.....who it is said is detained under your custody in the.....State of Nigeria Prison at.....before the Court at.....on.....day of, 20.....at0'clock in the forenoon, and so from day to day until the above action is tried, to give evidence in the above named cause and immediately after the saidshall have so given his/her evidence you safely conduct him/her to the prison from which he/she shall have been brought

Dated this.....day of....., 20.....

.....

Judge

FORM 39

Subpoena Duces Tecum

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the.....Judicial Division

Suit No....., 20.....

between

A.B.Claimant

and

C.D.....Defendants

To.....of.....

You are commanded in the name of President of the Federal Republic of Nigeria to attend before this Court at.....on.....theday of....., 20..... at the hour

of.....0'clock in the forenoon, and so from day to day until the above cause is tried, give evidence on behalf of theand also bring with you and produce at the time aforesaid.

(Specify documents to be produced)

Dated this.....day of....., 20.....

.....
Judge

FORM 40

Commission to Examine Witness

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the.....Judicial Division

Suit No....., 20.....

between

A.B.Claimant

and

C.D.....Defendants

To.....of.....commissioner
named by and on behalf of

In confidence of your prudence and fidelity you have been appointed commissioner by these presents and given power and authority to examine on interrogatories and viva voce as hereinafter mentioned witnesses on behalf of the saidand.....respectively atbefore you and any of two of you so that one commissioner only on each side be present and act at the examination.

And you are requested as follows—

1. Both the said.....and the saidshall be at liberty to examine on interrogatories and viva voce on the subject matter thereof or arising out of the answers thereto such witness as shall be produced on their behalf with liberty to the other party to cross-examine the said witness on cross-interrogatories and viva voce, the party producing any witness for examination being at liberty to re-examine the witness viva voce; and all such additional viva voce questions, whether on examination, cross-examination, or re-examination, shall be reduced into writing, and with the answers thereto shall be returned with the said commission.
2. Not less than.....days before the examination of any witness on

behalf of either of the said parties, notice in writing, signed by one of you, the commissioners of the party on whose behalf of the witness is to be examined, and stating the time and place of intended examination and the names of the witness to be examined, shall be given to the commissioners of the other party by delivering the notice to them, or by leaving it at their usual place of abode or business, and if the commissioners or commissioner of that party neglect to attend pursuant to the notice then one of you, the commissioners of the party on whose behalf the notice is given, shall be at liberty to proceed with and take the examination of the witnesses ex parte, and adjourn any meeting or meetings or continue the same from day to day until all the witnesses intended to be examined by virtue of the notice have been examined, without giving any further or other notice of subsequent meeting or meetings.

3. In the event of any witness on his/her examination, cross-examination, or re-examination produce any book, document, letter, paper, or writing, and refusing for good cause to be stated in his/her deposition to part with the original thereof, then a copy thereof, or extract therefrom, certified by the commissioners or commissioner present and acting to be true and correct copy or extract, shall be annexed to the witness's deposition.
4. Each witness to be examined under this Commission shall be examined on oath, affirmation, or otherwise in accordance with his/her religion by or before the commissioners or commissioner present at the examination.
5. If anyone or more of the witnesses do not understand the English Language (the interrogatories, cross-interrogatories, and viva voce questions, if any, being previously translated into the language with which he/she or they is or are conversant), then the examination shall be taken in English through the medium of an interpreter or interpreters to be nominated by the commissioners or commissioner present at the examination, and to be previously sworn according to his/her or their several religion by or before the said commissioner truly to interpret the questions to be put to the witness and his/her or their answers thereto.
6. The depositions to be taken under this commission shall be subscribed by the witness or witnesses, and by the commissioners or commissioner who shall have taken the depositions.
7. The interrogatories, cross-interrogatories and depositions together with any document referred to therein, or certified copies thereof or extracts therefrom, shall be sent to the Chief Registrar of the National Industrial Court on or before the.....day of.....enclosed in cover under the seals of the commissioners of commissioner.
8. Before you or any of you, in any manner act in the execution thereof,

you shall severally take the oath hereon endorsed or otherwise in such other manner is sanctioned by the form of your several religions and as considered by you respectively to be binding on your respective consciences. In the absence of any other commissioner, a commissioner may personally take the oath.

You are hereby given the authority to administer such oath to the other or others of you.

ISSUED at.....this.....day of20.....

Witnesses' Oath

I swear by the Almighty God that I will truly make answer to all such questions as shall be asked me, without favour or affection to either party, and therein I will speak the truth, the whole truth and nothing but the truth.

Commissioners' Oath

I swear by the Almighty God that I will, according to the best of my skill and knowledge, truly and faithfully, and without partiality, to any or either of the parties in this cause, take the examination and depositions of all and every witness produced and examined by virtue of the commission within written.

(Where there is only a single commissioner, he/she may be authorized to administer this oath on himself/herself)

Interpreter's Oath

I swear by the Almighty God that I will truly and faithfully without partiality to any or either of the parties in this cause, and to the best of my ability, interpret and translate the oath or oaths, affirmation or affirmations which shall be exhibited or put to, all and every witness and witnesses produced before and examined by the oath commissioners named in the commission within written, as far forth as I am directed and employed by the said commissioners, to interpret and translate the same out of the English into the language of such witness or witnesses and also in like manner to interpret and translate the respective depositions taken and made to such questions out of the language of such witness or witnesses into the English language.

Clerk's Oath

I swear by the Almighty God that I will truly, faithfully, and without partiality to any or either of the parties in the cause take, write down, transcribe, and engross all and every of the questions, which shall be exhibited or put to all and every witness and witnesses, and also the depositions of all and every such witness and witnesses, produced before and examined by the said commissioner named in the commission within written, as far forth as I am directed and employed by the commissioners to take, write down, transcribe

or engross the said questions and depositions.

Direction of interrogatories, etc, when returned by the Commissioners—

THE CHIEF REGISTRAR OF THE NATIONAL INDUSTRIAL COURT OF NIGERIA.....

FORM 41

Certificate of the Chief Registrar

TITLE AS IN FORM 1

In pursuance of the directions given by me, the Hon Justice
.....I hereby certify that the result of the accounts and inquiries
which have been taken and made in pursuance of the judgment (or order) in
this cause dated the day of.....ofis as follows—

1. The defendants.....ofhave received
the the amount ₦.....and they have paid, or are entitle to be
in account thereof, sums of the amount ₦.....leaving a balance
due from (or to) them of ₦.....on that account.
2. The particulars of the above receipts and payments appear in the account
marked.....verified by the affidavit of
.....filed on the.....day of.....and
which account is to be filed with his/her certificate, except that in addition
to the sums appearing on such account to have been received, the said
Defendants are charged with the following sums (state the same her or in
Schedule), and except that I have disallowed the items of disbursement in
the said account numbered.....and
(or in case where a transcript has been made).
3. The defendants.....havebrought in
an account verified by the affidavit offiled on the
.....day ofand which account is
marked.....and is filed with this certificate. The
account markedand which is also to be filed
with this certificate, is a transcript of the account as altered and passed.

FORM 42

Summons (General Form) Order 3

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the.....Judicial Division

Suit No....., 20.....

between

A.B.Claimant

and

C.D and E.F.....Defendants

Let all parties concerned attend the Honourable Justice.....in
Chambers on day, the.....day.....of
.....20.....

ato'clock.....in thenoon
on the hearing of an application on the part

Dated the.....day of, 20.....

This summons was taken out byof.....

.....legal practitioner for.....

To.....

FORM 43

General Form of Originating Summons Order 3

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

Let.....of.....inwithin
eight days after service of this summons on him or her, inclusive of the day of
such service cause an appearance to be entered for him or her to this summons
which is issued upon the application of.....of
.....who claims to be (nature of the claim), for
the determination of the following questions—
(State questions)

Dated this.....day of....., 20.....

This summons was taken out bylegal practitioner for the above named.

The defendant may appear hereto by entering appearance personally or by the legal practitioner either by handing in the appropriate forms duly completed at the National Industrial Court Registry of the Judicial Division or by sending them to that office by post.

Note : If the respondent does not enter appearance within the time and at the place above mentioned, such order will be made and proceedings taken as the Judge may think just and expedient.

FORM 44

Notice of Appointment to Hear Originating Summons. Order 3

(Title, etc, as in Forms 2, 3)

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

To (insert the name of the Defendant or Respondent).....

Take notice that you are required to attend the Judge's Chambers at the National Industrial Court of Nigeria, of theJudicial Division on the..... day of20.....at..... o'clock in the.....noon, for the hearing of the originating summons herein on the.....day of....., 20.....and that if you do not attend in person or by legal practitioner at the time and place mentioned, such order will be made and proceedings taken as the Judge may think fit and expedient.

Dated

.....
Legal Practitioner for the Claimant (or Applicant)

FORM 45

Originating Summons

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the.....Judicial Division

Suit No.....of.....

In the matter ofA.B, a legal practitioner (as may be)

Let A.B of.....attend the Judge or (Chief Registrar) in Chambers, (or Chief Registrar's Office) National Industrial Court of Nigeria on the.....day of.....,20.....at o'clock in the noon, (on the hearing of an application on the part of)(State relief sought) (if for leave to enforce award under the Arbitration Act; Laws of Federation of Nigeria)

DATED etc.,.....
.....

The summons was taken out by

Note : It will not be necessary for you to enter an appearance in the National Industrial Court Registry, but if you do not attend either in person or by your legal practitioner, at the time and place above-mentioned (or at the time mentioned in the endorsement hereon), such order will be made and proceedings taken as the Judge may think just and expedient.

FORM 46

Form of Ex Parte Originating Summons

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

In the matter of

A.B(as may be)

Let all parties concerned attend before the Judge or (Chief Registrar) in Chambers of the Judge, or (Chief Registrar's Office), National Industrial Court, at the time specified in the margin hereof, on the hearing of an application on the part of the above mentioned A.B by C.D., E .F that , etc

The summons was taken out by.....of.....
(agents for, of) legal practitioners for the applicant.

FORM 47

Order (General Form)

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division.

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

Upon hearingand upon reading the
affidavit of.....filed herein.....

.....it is orderedand that

The costs of this application be.....

DATED the.....day of....., 20.....

* Insert name of Judge or Chief Registrar.

.....

FORM 48

Summons for Direction

N.B : Applicants to complete the text of any matter required and to
strike out the number opposite any matter not required but not to strike out the
text, which must be left for the Judge.

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Before his Lordship, Hon Justice

Between

A.BClaimant

And

C.D and E.FDefendants

Let all parties concerned attend the Judge in Chambers, National Industrial
Court of Nigeria in theJudicial Division, onday of
.....20.....ato'clock in the
.....noon on hearing of application for directions in this action, that—

1. This action be consolidated with action(s)
2. Suit No.....andNo.....
3. The action be referred to an Official Referee, and that the cost of this application be costs in the cause.
4. The Claimant have leave to amend the Complaint by.....and that service of the Complaint and the Defendant's appearance stand, and that the costs incurred and thrown away by the amendment be the Defendant's in any event.
5. The Claimant have leave to amend the statement of claim as shown in the document delivered herewith and to re-deliver the amended of statement of claim in.....days, with leave to the defendant to redeliver an amended defence (if, so advised) indays thereafter, (and with leave to the Claimant to redeliver an amended reply (if so advised) indays thereafter, (and with leave to the Claimant to redeliver an amended reply (if so advised) indays thereafter and that the costs incurred and thrown away by the amendments be the Defendant's in any event.
6. The Defendant have leave to amend the defence as shown in (document delivered with) the Defendant's notice under this summons and to redeliver the amended defence in.....days (with leave to the Claimant to redeliver an amended reply (if so advised) in.....days thereafter) and that the costs of and the costs thrown away as the result of the amendments be the Claimant in any event.
7. The Claimant deliver to the defendant withindays the further and better particulars of the statement of claim specified in (the document delivered with) the Defendant's notice under this summons.
8. The Defendant deliver to the Claimant withindays the further and better particulars of the Defence specified in the document delivered herewith.
9. The Claimant deliver to the Defendant withindays the further and better particulars of the reply specified in (the document delivered with) the Defendant's notice under this summons.
10. The Claimant give security for the Defendant's costs to the satisfaction of the Chief Registrar or Registrar, National Industrial Court in the sum ofon the ground.....and that in meantime all further proceedings be stayed.
11. The Claimant within.....days deliver to the Defendant a list (file an affidavit) of documents (limited to the documents relating to the (special damage claimed) (Claimant's industrial) injury, industrial disablement; or sickness benefit rights) (period

from.....to.....) (issues raised in paragraphs,of the statement of claim and paragraphs.....of the defence) (issues of)

12. The defendant withindays deliver to the Claimant a list (file an affidavit) of documents (limited to document relating to the (period fromto.....)(issues raised in paragraphs.....of the statement) (issues of.....)
13. There be inspection of document withindays of the delivery of the lists (filing of affidavits).
14. The Claimant have leave to deliver to the Defendants the interrogatories shown in the document delivered herewith, and that the Defendant answer the interrogatories on affidavit withindays.
15. The Defendant have leave to deliver to the Claimant the interrogatories shown in the document delivered with the Defendant's notice under this summons, and that the Claimant answer the interrogatories on affidavit within.....90 days.
16. The Claimant (Defendant) (retain and preserve pending the trial of the action) (upondays' notice to give inspection of) the subject matter of the action, to the Defendant (Claimant) and to his/her legal adviser and (experts).
17. The statements inbe admissible in evidence at the trial without calling as a witness the maker of statements (and, if a copy of that document certified by.....to be true copy is produced, without production of the original document).
18. An affidavit of(in form of the draft affidavit) (delivered herewith)(with the Defendant's notice under this summons) (to be delivered withindays) be admissible in evidence at the trial.
19. Evidence of the following fact(s), namely.....be received at the trial by statement on oath of information and belief (by the production of the following document or entries in books or copy entries in books, namely.....)
20. It be recorded that the parties (Claimant) (Defendant) (refuses to) admit for the purpose of this action that (..... (the truth of the statements in the document delivered herewith) (with the Defendant's notice under this summons).

21.a witness on behalf of the Claimant (defendant) may, upon.....days' notice, be examined before one of the examiners of the Court (as special examiner to be agreed upon by the parties) and that the said witness need not attend the trial.
22. A medical report be agreed, if possible, and that, if not the medical evidence be limited to.....witness for each party.
23. A report by (expert) be agreed if possible, and that, if not, the expert evidence be limited to.....witness for each party.
24. A plan of the locus in quo other than a sketch plan be receivable in evidence at the trial.
25. Photographs and a plan of the locus in quo be agreed if possible.
26. By consent, (the right of appeal be excluded) (any appeal to be limited to questions of law only).
27. Trial, place.....mode
.....(Estimated length
.....to be set down within
.....days (and to be tried immediately after the
action No.....of....., 20.....).
28. The costs of this application be cost in the cause, dated theday
of....., 20.....
To the Defendant(s) and to his/her/their legal practitioner.
This summons was taken out byof.....
29.

.....
Legal Practitioner for the Claimant

FORM 49

Short Order for Issue of Commission to Examine Witness

(Heading as in Form 1)

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

Upon hearingand upon reading

the affidavit offiled the

day of....., 20.....

It is ordered that the.....be at liberty to issue a
commission for the examination of witness on behalf of
.....

And it is further ordered that the trial of this action be stayed until the return of
the said commission (the usual longer order to be drawn up), unless agreed
upon by the parties within one week, to be settled by the Chief Registrar or
Registrar (or as the case may be and that the cost of this application be
.....

DATED the.....day of....., 20.....

FORM 50

Short Order for Issue of Commission to Examine Witness

Upon hearing.....and
upon reading the affidavit offiled the
.....day of,
20.....

It is ordered that thebe at liberty to issue a commission
for the examination of witness on behalf of.....

And it is further ordered that the trial of this action be stayed until the return of
the said commission (the usual longer order to be drawn up), unless agreed
upon by the parties within one week, to be settled by the Chief Registrar or
Registrar (or as the case may be and that the costs of this application be
.....

DATED the.....day of....., 20.....

FORM 51

Order for the Issue of Request to take Evidence Abroad

It is ordered that a letter of request do issue directed to the proper tribunal for the examination of the following witnesses, that s to say—

E.F of

G.H., of

and I.J., of

And it is ordered that the depositions taken pursuant thereto when received be filed at theJudicial Division of the National Industrial Court Registry and be given n evidence on the trial of this action, saving all just exceptions. And it is further ordered that the trial of this action be stayed until the said depositions have been filed.

Note : for form of undertaking to be given by legal practitioner on issuing letter of request, see Form 54.

FORM 52

Letter of Request to take Evidence Abroad (where no Convention)
(Heading as in Form 1)

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

To the President and Judges of, etc., (or as the case may be)

Whereas an action is now pending in theJudicial Division of the National Industrial Court, in which A.B. is Claimant and C.D is Defendant. And in the said action the Claimant claims-
(Endorsement upon writ)

And whereas it has been represented to the said Court that it is necessary for the purpose of justice and for the due determination of the matters in dispute between the parties, that the following persons should be examined as witness upon oath touching such matters, that is to say—

E.F., of.....

G.H., of.....

I.J., of.....
 And it is appearing that such witnesses are resident within the jurisdiction of your Honourable Court.

Now I, the Hon Justiceas the President of the National Industrial Court of Nigeria have the honour to request and do hereby request, that for the reasons aforesaid and for the assistance of theJudicial Division of the National Industrial Court of Nigeria you as the President and Judges of the said.....
or some one or more of you, will be pleased to summon the said witnesses (and such other witnesses as the agents of the said Claimant and defendant shall humbly request you in writing so to summon) to attend at such time and place as you shall appoint before some one or more of you, or such other person as according to the procedure of your Court is competent to take the examination of witnesses, and that you will cause such witness to be examines upon the interrogatories which accompany this letter of request (or viva voce) touching the said matters in question in the presence of the agents of the Claimant and defendant, or such of them as shall, on due notice given attend such examination.

And I further have the honour to request that you will be pleased to cause the answers of the said witnesses to be reduced into writing and all books, letters papers, and documents produced upon such examination to be duly marked for identification and that you will be further pleased to authenticate such examination by the seal of your Court or tribunal or such other way as is in accordance with your procedure and to return the same together with such request in writing if any for the examination of other witnesses through the Ministry of Foreign Affairs, for the transmission to the said Judicial Division of the National Industrial Court.

Note.— “due notice given”—This refers to a notice to be given by the legal practitioner having conduct of the action.

For Form of Letter of Request to a Convention Country, as to undertaking by Legal Practitioner, see Form 54

FORM 53

Legal Practitioners' Undertaking as to Expenses
(Heading as in Form 1)

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division
Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

I (or we) hereby undertake to be responsible for all expenses by the Ministry of Foreign Affairs in respect of the letter of request issued herein on the..... and on receiving due notification of the amount of such expenses to pay the same as directed by the Chief Registrar of the National Industrial Court.

The following have been appointed as agents for the parties in connection with execution of the above letter of request :

Claimant's Agent.....of
.....

Defendant's Agent.....of
.....

Dated.....day of, 20.....

Legal Practitioner for

FORM 54

Letter of Request to take Evidence Abroad (Convention Country)
Heading as in Form 1

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division
Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

To the competent Judicial Authority ofin the
.....of

Whereas a civil action is now pending in theJudicial Division of the National Industrial Court Nigeria in which.....is Claimant andis Defendant

And in the said action the Claimant claims.....

And whereas it has been represented to the said court that it is necessary for the purpose of justice and for due determination of the matters in dispute between the parties, that the following persons should be examined as witnesses upon oath touching the matters, that is to say,.....ofand.....of.....

And it is appearing that such witnesses are resident within your jurisdiction.

Now I the President of the National Industrial Court Nigeria have the honour to request , and do hereby request, that for the reasons aforesaid and for the assistance of the said Court, you will be pleased to summon the said witnesses (and such other witnesses as the agents of the said Claimant and Defendant shall humbly request you in writing to summon) toat such time and place as you shall appoint before you or such other person as according to your procedure is competent to take the examination of witnesses, and that you will cause such witnesses to be examined (upon the interrogatories which accompany this letter or request) viva voce touching the said matters in question in presence of the agents of the Claimant and Defendant or such of them as shall, on due notice given attend such examination.

And I further have the honour to request that you will permit the agents of both the said Claimant and Defendant or such of them as shall be present to be at liberty to examine (upon interrogatories and viva voce upon the subject matter thereof or arising out of the answer thereto) such witnesses as may, after due notice in writing be produced on their behalf, and give liberty to the other party to cross examine the said witnesses (upon cross interrogatories and viva voce) and the party producing the witnesses for examination liberty to re-examine him or her viva voce.

And I further have the honour to request that you will be pleased to cause (the answers of the said witnesses and all additional viva voce questions, whether on examination, cross-examination, or re-examination) the evidence of such witnesses to be reduced into writing and all books, letters, papers and documents produced upon such examination to be duly marked for identification, and that you will further be pleased to authenticate such examination by the seal of your court or tribunal or in such other way as is in accordance with (the interrogatories and cross-interrogatories, and) a note of the charges and expenses payable in respect of the execution of this request, through the Ministry of Foreign Affairs from whom the same was received for transmission to the National Industrial Court.

And I further beg to request that you will cause me, or the agent of the parties if appointed, to be informed of the date and place where the examination is to take place.

Dated.....day of, 20.....

FORM 55

*Order for Appointment of the Nigerian Diplomatic Agent
as Special Examiner
(in Convention Country)*

Heading as in Form 1

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

Upon hearing the legal practitioners of both sides, and upon reading the affidavit of.....dated....., it is ordered that the Nigerian Diplomatic Agent or his deputy at.....be appointed as Special Examiner for the purpose of taking the examination, cross examination, viva voce on oath or affirmation, ofwitnesses on part of the ,at aforesaid.

The Examiner shall be at liberty to invite the attendance of the said witness and production of documents, but shall not exercise and compulsory powers. Otherwise such examination shall be practitioners to give thelegal practitioners.day's notice on writing of the date on which they purpose to send out this order to.....for execution and that.....days after the service of such notice the legal practitioner for the Claimants, and the Defendants respectively do exchange the names of their agents atto whom notice relating to the examination of the said witnesses may be sent. And thatdays (exclusive of Sunday) prior to the examination of any witness hereunder notice of such examination shall be given by the agent of the party on whose behalf such witness is to be examined to the agent of the other party unless such notice be dispensed with. And that the dispensation when so taken together with any documents referred to therein or certified copies of documents, or of extracts therefrom, be transmitted by the Examiner, under seal, to the Chief Registrar of the National Industrial Court Nigeria, on or before the day of

.....next, or such further or other day as may be ordered, there to be filed in proper office. And that either party be at liberty to read and give such depositions in evidence on the trial of his action, saving all just exceptions. And that the trial of this action be stayed until the filing of such examination and that the cost of the examination be in cost in the action.

DATED.....day of, 20.....

Note.— If the Convention requires that the invitation or notice to the witnesses must expressly state that no compulsory powers may be used, this requirement must be complied with.

FORM 56

Default of Appearance and Defence in Case of Liquidated Demand

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

The Defendant (if the Defendant resides abroad, add “residing out of jurisdiction” or if service was substituted, and “having been served by substituted service” and) not having appeared to the writ of summons herein (or, not having delivered any defence), it is this day adjudged that the Claimant recover against the said defendant ₦.....and ₦.....costs (or costs to be taxed)

The above costs have been taxed and allowed at ₦.....appears by a taxing officer’s certificate dated the.....day of, 20.....

FORM 57

Interlocutory Judgment in Default where Demand Unliquidated

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

No appearance having been entered to the writ of summons (or no defence having been delivered by the Defendant) herein.

It is this day adjudged that the Claimant recover against the Defendant the value of the goods (or damages, or both as the case may be) to be assessed.

FORM 58

*Interlocutory and Final Judgment in Default where
Demand Unliquidated*

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

No appearance having been entered to the writ of summons (or, no defence having been delivered by the Defendant) herein.

It is this day adjudged that the Claimant recover against the Defendant (the value of the claims or damages or both, as the case may be) to be assessed.

The amount found due to the Claimant under this judgment having been certified at the sum of ₦.....as appears by (official Referee's certificate or Chef Registrar's finding) filed the.....day of, 20.....

It is adjudged that the Claimant recover against the Defendant ₦.....and costs to be taxed. The above costs have been taxed etc. (as in Form 57 supra).

FORM 59

Default Judgment in Detinue

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

The defendant not having appeared to the writ of summons herein (or not having delivered any defence). It is this day adjudged that the Claimant do have a return of the chattels in the writ of summons (or statement of claim) mentioned and described as (description of chattels) or recover against the Defendant their value to be assessed, and damages for their detention to be also assessed.

The value of the.....having been assessed at the sum of ₦.....and damages at the sum of ₦.....as appears by the Chef Registrar's or Registrar's finding the day of....., 20.....

It is adjudged that the Claimant recover the defendant the sum of ₦.....and costs to be taxed.

The above costs have been taxed, etc. (As in Form 57 supra).

FORM 60

Judgment after Trial before Chief Registrar or Referee

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

The matter of (state matter referred) action having by an order dated the.....day of....., 20.....

The above costs have been taxed and allowed at ₦.....as appears by the Chief Registrar's Certificate dated the.....day of....., 20.....

FORM 61

Judgment after Trial of Questions of Account by Referee

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division
Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants
the.....day of, 20.....

The questions of account in this action having been referred to.....and he having found that there is due from the.....to the.....the sum of ₦.....and directed that thedo pay the costs of the reference.

It is this day adjudged that therecover against the saidcosts to be taxed.

The above costs have been taxed and allowed at the ₦.....as appears by the Chief Registrar's Certificate dated theday of, 20.....

FORM 62

Judgment upon Motion for Judgment

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division
Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants
the.....day of, 20.....

come before the Court on motion for judgment on behalf of the (party moving the Court) and the Court after hearing the legal practitioner for the (Claimant and Defendant, as the case may be) having ordered that (recite direction for judgment).

It is day adjudged that the.....recover against
₦.....and costs to be taxed.

The above costs have been taxed and allowed at ₦.....as appears by the Taxing Officer's Certificatday of, 20.....

FORM 63

Judgment of Dismissal

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

DATED and entered.....day of....., 20.....

The action having on the.....day of....., 20.....

been called on for hearing before.....and

.....Claimant having failed to appear and

the Defendant having thereupon become entitled.....

to judgment dismissing the action and the said.....having

ordered that judgment be entered accordingly.

Therefore it adjudged that this action do stand dismissed out of this Court with costs.

And it is further adjudged that the Defendant recover against the Claimant his cost to be taxed. The above costs have been taxed, etc.

FORM 64

Judgment for Defendant's Costs on Discontinuance

The.....day of....., 20.....

The Claimant having by notice in writing dated the, 20.....wholly discontinued this action (or withdrawn his/her claim n this action, for or withdrawn so much of his/her claim in this action as relates to.....as the case may be).

It is this day adjudged that the Defendant recover against the Claimant costs to be taxed.

The above costs have been taxed and allowed at ₦.....as appears by a Taxing Officer's Certificate dated theday of, 20.....

FORM 65

Judgment for Claimant's Cost after the Concession of Defence

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division
Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants
the.....day of, 20.....

The Defendant in the defendant's statement of defence herein alleged a ground of defence which arose after the commencement in this action, and the Claimant having on the.....day of....., 20.....delivered a confession of that defence.

It is this day adjudged that the Claimant recover against the Defendant costs to be taxed.

The above costs have been taxed and allowed at ₦.....as appears by a Taxing Certificate dated the.....day of, 20.....

FORM 66

Judgment for Costs after Acceptance of Money Paid into Court

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division
Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants
the.....day of, 20.....

The Defendant having paid into this action the sum of N in satisfaction of the Claimant's claim, and the Claimant having by this notice dated theday of, 20.....accepted that the sum in satisfaction of Claimant's entire cause of action, and the Claimant's costs herein been taxed and the Defendant not having paid the same within forty-eight hours after the said taxation.

It is this day adjudged that the Claimant recover against the Defendant costs to be taxed.

The above costs have been taxed and allowed at N.....as appears by a Taxing Officer's Certificate dated theday of, 20.....

FORM 67

Judgment on Motion after Trial of Issue

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division
Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants
the.....day of, 20.....

The issues or questions of fact arising in this action (or cause or matter) by the order dated the.....day of....., 20.....ordered to be tried before.....having on theday of....., 20.....been tried before and the having found.....now on motion before the Courtfor judgment on behalfof the Court having

It is this day adjudged that therecover against the.....sum of N.....and costs to be taxed. The above costs have been taxed and allowed at N.....as appears by the Taxing Officer's Certificate dated the.....day of, 20.....

FORM 68

Forms of Praecipe

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

Seal writ of subpoena, behalf
of thedirected

To.....returnable

DATED this.....day of, 20.....

(Signed).....

(Address).....

Legal Practitioner for the.....

FORM 69

Writ of Habeas Corpus ad Subjiciendum

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

To the Director of the Prison at..... You are hereby
ordered to have on the National Industrial Court of Justice (or before a Judge
in Chambers) aton the day and at the time
specified in the notice served on

FORM 70

Notice to be Served with Writ of Habeas Corpus ad Subjiciendum

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

(if in a cause already begun, here insert the title, not otherwise)

Whereas this Court (or the Honourable Justice.....) has granted a writ of habeas corpus directed to.....(or other person having the custody of.....f so) commanding him/her to have the body ofbefore the said Court (or before the Judge in Chambers) at the National Industrial CourtJudicial on the day and the time specified in this notice, together with a statement of the dat and cause of his being taken and detained.

Take notice that you are required by the writ to have the body of the saidbefore this Court (or before the Judge aforesaid) on.....the.....of, 20.....at O'clock before noon and to make a return to the said writ. In default, thereof, the said Court will then, or so soon thereafter as counsel can be heard, be moved to commit you to prison for your contempt in not obeying the said writ (or if in vacation, will be made to one of the Judges of the said Court for a warrant for your arrest in order that you may be held to bail to answer for your contempt in not obeying the said Writ).

DATED the.....day of....., 20.....

(Signed).....

Of.....

Legal Practitioner for.....

FORM 71

Writ of Habeas Corpus ad Testificandum

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division
Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants
the.....day of, 20.....

To the Director of the Prison at.....

You are hereby commanded to have before(give
description of Court) on.....theday of.....
20.....at.....O'clock in the forenoon, the body of
.....being.....to testifyto
the truth and give evidence on behalf of.....against
.....for (description of
offence or other proceeding) and so from day to day until the
said.....shall have given his/her evidence as aforesaid. And
when he/she shall have given his/her evidence, then you take him/her back
safe without delay to the said prison under your custody and cause him to be
detained therein under safe custody, until he/she shall be from thence discharged
by due course of law.

.....
Judge/Magistrate

By order of.....

ENDORSEMENT

This writ was issued by.....of.....Legal Practitioner
for.....

FORM 72

Notice of Appeal (Civil)

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division
 Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants
 the.....day of, 20.....

Take notice that the Claimant (or Defendant, as the case may be) A.B. (or C.D. name the Party who is appealing) appeals from the judgment (or order, decision) dated the day of....., 20.....in the proceedings.

And further take notice that Claimant or Defendant grounds of appeal are.....

.....

DATED

A.B. (or C.D (for the legal practitioner acting for Claimant or Defendant)

To C.D (or A.B.) of

Notes :— This notice must be filed with the Registrar of the National Industrial Court within a month of the decision appealed from and service on all parties affected by the appeal within that period.

The rules on civil appeal from National Industrial Court should be looked at carefully.

FORM 73

REGISTRAR'S CERTIFICATE FOR FEES PAYABLE TO BAILIFF

For the month of..... 20.....

<i>Nature of Duty</i>	<i>Number</i>	<i>Date</i>	<i>Total</i>

.....

Registrar

FORM 74

Receipt to be Given by Bailiff

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division
Receipt No.....
No of Suit or Plaint.....of 20.....
Date of writ (or order (or warrant)).....
BetweenClaimant
andDefendant
Received from.....of.....
N.....(.....) being.....
.....

.....
Bailiff

FORM 75

Summons for Neglect to Levy Execution

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division
To.....of.....bailiff.
You are hereby summoned to appear at a Court to be held at.....on
the.....day of....., 20.....at the hour
of..... in the noon, to answer a complaint made against you
by.....of against the (specify the property).....of
.....did, by neglect or connivance or omission lose the
opportunity of executing such writ, and to show cause why an order should
not be made against you under section 33 of Cap 151 of the Sheriff and Civil
Process Law, for payment of such (Cap 118) damages as it shall appear that
said.....has sustained by your neglect
or connivance or omission.
Dated this.....day of..... 20.....

.....
Judge

FORM 76

General Form of Commencement of Process in Transferred Proceedings
(General Title- Form 1)

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

No of suit (or Complaint).....

No of Judgments/Summons.....

Upon transfer from the.....High Court of the

.....Judicial Division (add for each previous transfer. And upon

transfer, etc. as above)

(Continue in the appropriate form, commencing with the first recital, in which
the court where the judgment was given should be named).

FORM 77

Order Suspending or Staying Judgment of Process
or for Discharge of Debtor

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

On the application ofand the Court being
satisfied that the Defendant.....is unable to pay
and discharge the sum recovered against the Defendant in this (or the
instalments due under the judgment (or order) in this) action (or the defendant
.....having furnished security (or shown cause
why he should not furnish security (or the Claimant having been non-suited)
(or the above action having been struck out) (or the court being satisfied that

the interim attachment herein should be lifted) or the Defendanthaving satisfied the sum upon payment of which the Defendant may be discharged by order of the Court (or having obeyed) (or being unable to obey) (or being desirous of obeying and having given security to obey) the order in this action).

It is ordered that the judgment (or order) in this action be suspended against the said defendant (or that the (interim) execution issued in this action (or on the judgment summons in this action) be suspended) (or that the order (and warrant) or commitment made (and issued) in this action be suspended) for (state time) upon the terms following, namely—

(state terms.....(or that the Defendant be discharged (or liberated) from custody under the order (or warrant) of commitment issued in this action (after the Defendant has been imprisoned thereunder) for.....from the date of this order unless the Defendant shall sooner pay a fine of ₦.....(upon the terms following, namely)—

(state terms, including, if so ordered, liability to re-arrest if the terms are not complied with).

DATED thisday of.....20.....

.....
Judge

FORM 78

Writ of Attachment and Sale against Immovable Property

Recital—(Forms, 4, 5, 6)

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

AND WHEREAS no movable property of the Defendant (for Claimant) can with reasonable diligence be found sufficient to satisfy the said judgment (or order).

AND WHEREAS upon the application of the Claimant (or Defendant) it was on the.....day of....., 20.....ordered that writ of attachment and sale should be issued against the immovable property

of the Defendant (or Claimant) for the sum of.....(being part of the sum of ₦.....judgment debt, or part thereof ordered to be levied, or Claimant's costs, or as the case may be remaining unpaid)—

These are therefore to require and order you forthwith to make and levy the said sum of ₦.....together with the costs of this writ and the costs of executing the same, by entering upon and attaching the immovable property of the defendant (or Claimant) wheresoever it may be found within the.....Judicial Division and by selling the same, and to bring what you shall have levied into Court and to make return of what you have done under this writ immediately upon the execution thereof.

Continue as in Form 4, 5 or 6 to the words the day last mentioned above)

Notice :The immovable property is not to be sold until after the end of fourteen days next following the day on which the attachment shall have been made.

If the defendant (or claimant) is native, and the property attached is defendant (or claimant's) right title or interest in a building owned or occupied by defendant (or claimant), the claimant is not entitled to under the native law or custom to alienate the building or the right of occupation therein but is entitled to remove the materials used in construction thereof or some of them, then the defendant (or claimant) right title or interest in such building shall not be sold without the leave of the Court.

.....
Judge

FORM 79

*Notice to Registrar of Foreign Court of payment under
Warrant or Order of Commitment sent to him/her*

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division
Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants
the.....day of, 20.....

Take notice that the Defendant has this day paid to the Claimant (or into Court) ₦.....for which sum credit should be given on warrant (or order) of commitment (or of arrest and detention) which has been sent to you for execution.

FORM 80

Public Notice of Attachment of Land

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

Notice : —This land (or this house, or as the case may be) is hereby attached to secure the enforcement against the defendant.....of the judgment of the Court in the above action, and all persons are from the date hereof prohibited from receiving the land (or house) by purchase, gift, or otherwise.

DATED this.....day of, 20.....

FORM 81

Notice of Attachment

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

To the Defendant :

Take notice that a writ has been issued for the attachment and sale of your goods (or land, or house, or as the case may be) in execution of the judgment (or order) obtained against you in this action (or matter) and the amount for which it has been issued is stated below.

And take notice that your land (or house, or as the case may be) is hereby attached and you are prohibited from selling the same or any right, title, or interest therein.

If you pay to the Bailiff the total amount to be levied, as stated below, within an hour after the service of this notice, you will incur no further fees and expenses.

Thereafter, you may be liable to pay the Sheriff a fee ofdaily for keeping possession of the property, and also the reasonable expenses, if any, of feeding animals, until the amount to be levied together with the amount of such fees and expenses, is paid or the property is sold.

If at any time before the sale of the property you pay to the Registrar or Bailiff (a) the amount to be levied, and (b) the fees and expenses, if any incurred after attachment, this execution will be superseded and your property will be released.

If you do not pay the amount to be levied and any fees and expenses subsequently incurred, the property will be sold and any amount that remains unpaid, together with costs of sale, will be deducted from the proceeds, and the balance, if any will be paid to you.

Your goods (or land, or house, or as the case may be) will not be sold until after the end of five (or fourteen) days next following the day on which they were (or it was) attached unless they are of a perishable nature, or you request it.

N K

Amount for which the writ has been issued.....

Fees on issue of the writ.....

Total amount to be levied, exclusive of fees.....

And expenses incurred after attachment.....

DATED this.....day of....., 20.....

.....
Registrar

FORM 82

Notice to Claimant to Attached Property to Make Deposit or Give Security

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

Whereas you have claimed the goods (or house) (or land) (or certain goods specify the same) attached in execution by the Sheriff under the writ of execution issued in this action.

Take notice that you are hereby required, in accordance with section 32 of the Sheriffs and Civil Process Law, either—

[S. 267 Cap 151]

(i) to deposit with the Sheriff the amount of the value of the goods (or house) (or land) so claimed by you, such value to be fixed by appraisalment in case of dispute, to be paid into Court to abide the decision of the Court upon your claim ; or

(ii) to deposit with the Sheriff the cost of keeping possession of such goods (or house) (or land) until such decision can be obtained ; or

(iii) to give to the Sheriff security by bond for the value of the goods (or house) (or land) so claimed by you.

And further take notice that in default of you making deposit or giving security the goods (or house) (or land) will be sold as if no such claim had been made by you, and the proceeds paid into Court to abide the decision of the Court.

DATED this.....day of....., 20.....

.....
Registrar

To the Claimant.....

FORM 83

Notice of Application for Private Sale
IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

Take notice that the Honourable Court will be moved on theday the....., 20.....atO'clock in the forenoon, or so soon thereafter as (Counsel for) the above named Claimant can be heard, for an order for (leave to effect) the sale by private contract of the movable (for immovable) property of the Defendant attached under a writ issued in this action (or matter) on theday of....., 20.....at O'clock in thenoon where-under the total amount to be levied is ₦.....

DATED this.....day of....., 20.....

.....
Claimant (Legal Practitioner)

To.....

FORM 84

Notice to Person in Possession of Sale of Attached Property

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

	In theJudicial Division Suit No.....of..... <i>Between</i> A.BClaimant <i>And</i> C.D and E.FDefendants the.....day of, 20..... Take notice that the goods (or as the case may be) specified on the back hereof, lately property of the above namedand now in your possession, have been sold under a writ of execution in the above action to.....and you are hereby prohibited from delivering possession of the said goods (or as the case may be) to any person except the said the purchaser. DATED this.....day of....., 20..... <i>Sheriff</i>
--	--

FORM 85

Writ of Interim Attachment in Judgment Debtor Proceedings

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division
 Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

WHEREAS upon adjournment to the.....day of....., 20.....
 of the hearing of a judgment summons issued in the above action against the
 Defendant.....an order was made for the interim protection
 of the property hereinafter specified, and that the said property should be
 attached forthwith.

These are therefore to require and order you forthwith to seize, take into your
 hands, enter upon, and attach the defendant's property specified on the back
 of this writ wheresoever they may be found.

WHEREAS it has been shown to the satisfaction of the court that the Defendant
with intent to obstruct or delay the execution
 of any judgment that may be given against the Defendant in this suit, about to
 dispose of (or remove from.....State) or that the
 Defendant is absent from.....State (or that there is probable
 cause to believe that the Defendant is concealing to evade service) and that
 the Claimant is beneficially entitled to the debts, (or the property hereinafter
 specified—

AND WHEREAS on the.....day of....., 20..... it
 was ordered that the Defendant should withindays thereafter
 (appear and show cause why the Defendant should not) furnish security to
 the said defendant in the sum of ₦.....to produce and place at
 the disposal of the court (the value of) the said property) (or such portion of
 the said property as may be of the value of ₦.....) :

AND WHEREAS (it was further ordered that the said property should be attached
 forthwith, pending the Defendant's (appearance) (or furnishing such security)
 (or the Defendant having appeared has failed to show cause as aforesaid and
 has not furnished such security) or the said period of.....days has expired,
 and the Defendant (has failed to appear and) has not furnished such security)—

These are therefore to require and order you forthwith to seize, take into your
 hands, (enter upon) and attach (such portion of) the Defendant's property

specified on the back of this writ (as may be) of the value of ₦.....)
 wheresoever it may be found within the..... Judicial Division
 (except the wearing of apparel and bedding on the Defendant and the
 Defendant's family and the tools and implements of the Defendant's trade
 (where applicable) to the value of one hundred naira) and to hold the same
 until the further order of the court and to make return of what you have done
 under this writ immediately on the execution thereof.

Sum (including the above fees) on payment of which the judgment summons
 will be satisfied and this writ superseded ₦.....

DATED this.....day of....., 20.....

.....
Judge

To the Sheriff and Bailiffs of the Court

Fees on issue of this writ

N : K

Application was made to the Registrar for this writ at.....minutes
 past the hour ofin the.....noon of the day
 last mentioned above.

.....
Registrar

ENDORSEMENT

SPECIFICATION OF PROPERTY TO BE ATTACHED

<i>Number</i>	<i>Description</i>	<i>Estimated Value</i>	<i>Where to be Found</i>	<i>Name of Person</i>

FORM 86

Notice of Consequence of Disobedience to Order of Court

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

To.....of

Take notice that unless you obey the directions contained in this order you will be guilty of contempt of Court and will be liable to be committed to prison.

DATED this.....day of....., 20.....

.....
Registrar

FORM 87

Notice to Show Cause why Order of Attachment should not be made

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

Take notice that the Claimant (or Defendants) will on.....the day of....., 20.....a the hour ofin the noon apply to this Court for an order for your committal to prison (for having disobeyed the order of this Court made on the day of, 20.....enjoining and restraining you from the order made on the day of, 20.....Requiring you to *here set out the mandatory part of the order).

And further take notice that you are hereby required to attend the Court on the first of mentioned day to show cause why an order for your committal should not be made.

FORM 88

Certificate that Labour has been Ordered for Debtor Prisoner

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

I certify that the Court has directed that the herein named be employed in work within the prison during (state period) of the term of his/her imprisonment.

DATED this.....day of....., 20.....

.....
Registrar

FORM 89

Warrant of Committal of Judgment Debtor in Default of Security

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

I certify that the Court has directed that the herein named be employed in work within the prison during (state period) of the term of his/her imprisonment.

DATED this.....day of....., 20.....

To the Sheriff and to the Officer in Charge of.....prison

WHEREAS upon the adjournment to the.....day of

....., 20.....of hearing of a judgment summons issued

in the above action against the Defendant it is today ordered

that the said defendant should give security for the Defendant's appearance

on that day, Defendant in ₦.....andsurety in

₦.....(each) and in default of finding such security should

be committed to prison until that day, unless the Defendant should sooner give such security, or pay the sum stated below as that on payment whereof the Defendant is to be discharged.

These are therefor to require you the said, Sheriff to take the said Defendant and deliver defendant to the Officer in Charge of the Prison atand you the said Officer to receive the said Defendant and keep defendant safely in the said prison until the day above-mentioned, when you shall bring the Defendant (or deliver same to the Sheriff to be brought) before this Court at the hour of.....in theby due course of law.

DATED this.....day of....., 20.....

.....

Judge

N : K

Sum on payment of which the debtor so to be discharged.....

(For use when part payment is made after issue of warrant.....

Deduct amount paid after issue of warrant.....

Balance on payment of which the debtor is to be discharged.....

.....

Registrar

Note : A separate warrant must be issued in respect of every defendant required to be arrested.

FORM 90

Warrant of Committal or Remand of Judgment Debtor for Misconduct

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

To the Sheriff, and to the Officer in charge ofprison.

(First Recital-Form 17, Sheriffs and Civil Process Law, Cap 151.)

AND WHEREAS on the.....day of....., 20.....at the hearing of (or being the return day of) a judgment summons issued in this against the said Defendant (and duly served) the said Defendant refused to be sworn (or to disclose the matters on which the Defendant was examined) (or did not answer to the satisfaction of the Court) (or it appeared to the Court that the said defendant refused or willfully neglected to pay on demand the sum of ₦..... payable in pursuance of the said judgment (or order) and had (or had since the date of the judgment or order) sufficient means to pay the said sum) (or that the Defendant, etc., reciting any other misconduct of the kind enumerated in section 55 of the Law) (or the said Defendant did not attend and did not excuse the non-attendance to the satisfaction of the Court) :

AND WHEREAS on the said hearing (or return) day the Court made an order calling upon the said defendant to show cause why the Defendant should not be punished for misconduct (or non-attendance) (or issued a warrant for the arrest of the said Defendant) :

AND WHEREAS on the.....day of....., 20.....(the return day of the said judgment summons to show cause) the said Defendant was brought before the Court in custody (or attended) as directed by the said warrant (or order) and did not show cause why he should not be punished (or the said Defendant failed to attend as directed by the said order, and show cause why the Defendant should not be punished (or the said defendant failed to attend as directed by the said order, and has not established sufficient reason for not attending), and it was ordered that a warrant should issue for the remand (or arrest and commitment) of the said defendant as for contempt of Court for..... (unless the Defendant shall sooner pay the sum stated below as that upon payment of which the Defendant is to be discharged) :

These are therefore to require you the said Sheriff forthwith to (arrest the said Defendant and) safely convey and deliver the Defendant (or the said Defendant) to the Officer in charge of the prison at.....and you the said Officer to receive the said Defendant and keep the Defendant safely in the said prison for.....from the arrest under (or date of) this warrant, or until the Defendant shall be sooner discharge by due course of law.

DATED this.....day of....., 20.....

.....
Judge

N : K

Sum in payment of which defendant has made default
 at the time of issue of the judgment summons.....
 Fees and cost of issue of judgment summons.....
 Deduct amount paid since issue of judgment summons.....
 Fees for issue of this warrant.....
 Sum of payment of which the debtor may be (or is to) be
 discharged by order of the Court.....
 (For use when part payment is made after issue of warrant)
 Deduct amount paid since issue of warrant.....
 Balance (if any on payment of which the debtor may be (or is to) be
 discharged by order of the Court.....

.....
Registrar

Note :— A separate warrant must be issued in respect of every Defendant required to be remanded or arrested.

FORM 91

Warrant of Committal for Contempt

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division
 Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants
 the.....day of, 20.....

To the Sheriff, and to the Officer in charge of.....Prison.

WHEREAS by and order of this Court dated the.....day of.....,
 20.....

(here recite the order)

AND WHEREAS on the.....day of....., 20.....
 the Court, being of the opinion that the said..... then appearing (or
 having been duly served with the said order), was guilty of a contempt of this
 Court by a breach of (or neglecting to obey) the said order, that is to say by
 (here set out the particular matter of contempt, ordered that he/she be committed
 for his/her contempt.

These are therefore to require you the said Sheriff forthwith to arrest the saidand safely convey and deliver him/her to the Officer in charge of the prison at.....and you the said Officer to receive the said.....and keep him/her safely in the said prison until further order of the Court.

DATED this.....day of....., 20.....

.....
Judge

(If required, add

Note : The costs of the issue and execution of this warrant, and of the application for the order grounding the same, were upon the hearing of the application ordered to be paid by the said.....

.....
Registrar

FORM 92

Warrant of Arrest and Detention of Judgment Debtor

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division
Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants
the.....day of, 20.....

To the Sheriff, and to the Officer in charge ofprison

WHEREAS on the.....day of, 20.....a judgment summons was issued from this Court against the Defendant.....in the above action returnable on theday of, 20.....

AND WHEREAS it is necessary to secure or enforce the attendance of the said Defendant to answer the said summons or (or appears to the Court that) the said Defendant has been guilty of misconduct at the hearing of the said summons (or in relation to the judgment debt) and the Defendant is required to show cause why the Defendant should not be punished for such misconduct) unless the Defendant shall sooner pay the sum stated below as that on payment of which he shall be discharged).

These are therefore to require you the said Sheriff to arrest the said Defendant and bring same before this Court forthwith (or on theday of....., 20.....) (or on the first convenient opportunity)(or upon the further order of the Court) (and in the meanwhile to deliver same to the Officer in charge of the Prison at.....and you the said Office to receive the said Defendant and keep the Defendant safely in the said prison until theday of....., 20.....(or until the first convenient opportunity when the Defendant may be brought before the Court or until the further order of the Court), when you shall bring (or deliver the Defendant to the Sheriff to be brought) before this Court at the hour of in the noon) unless the Defendant shall be sooner discharged by due course of law.

DATED this.....day of....., 20.....

.....
Judge

Sum on payment of which the debtor is to be discharged.....
(For use when part payment is made after issue of warrant).....
Deduct amount paid after issue of warrant.....
Balance on payment of which the debtor is to be discharged.....

.....
Registrar

FORM 93

Production Warrant

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division
Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants
the.....day of , 20.....

To (the Sheriff and) the Officer in Charge ofPrison
These are to require you the Officer in Charge of the Prison ato
bring the Defendant.....now in your custody (or to deliver
thenow in your custody to the Sheriff, and you the said

Sheriff to bring the said Defendant) before this Court on theday of....., 20.....at the hour of.....in the noon, unless the Defendant shall be sooner discharged by due course of law, and to have there the order (or warrant) under which the said Defendant was imprisoned.

DATED this.....day of....., 20.....

.....
Judge

FORM 94

Praecipe for Issue of Order or Warrant of Commitment

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division
Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants
the.....day of, 20.....

Claimant's names in full.....No of plaint.....

His residence and occupation or description No of Suit.....

.....

.....No of judgment.

.....Summons.....

.....No of order of commitment

Names of all Defendants.....Subsistence allowance

.....per diem to be paid before issue
of.....warrant.

Name of Defendant against whom order of commitment was made.....

Note : A separate order or warrant must be issued against every Defendant required to be arrested.

The address and occupation or description.....

I hereby request you to issue (a warrant for the enforcement of) the order of commitment (or arrest and detention) made under section 64, (or 67) (or 71) (or 57)(or 65) of the Law against the above named defendant on theday of....., 20.....

.....
Judgment Creditor or Legal Practitioner

Note : To be filled out by the Registrar if payment has been ordered through the Court—

Date of Judgment (or order) Sum of payment of whichdefendant has made default at the time of issue of the judgment summons
N.....k

Order..... Committed on, 20.....
for.....days.

Order suspended for..... Fees and cost on issue and hearing of judgment summons on payment ofN.....K

Deduct.....
Fees for issue of.....
Order of Warrant.....

FORM 95

Notice of Payment of Subsistence Money

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division
Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants
the.....day of, 20.....

Note : Subsistence money has been fixed at N.....per diem, of which the sum of N.....has been paid to me by the judgment creditor.

.....
Registrar

FORM 96

Endorsement of an Order of Commitment Sent to a Foreign Court

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

To the Officer in Charge of.....Prison

Take notice that, in accordance with the provision of section 38 of the Sheriffs and Civil Process Law, (Cap. 118) this order (or warrant) of commitment has been sent to me and that the debtor, if arrested within the division (or district) of this Court, is to be conveyed to the above-named prison, and is to be there kept for the time mentioned in this order (or warrant) unless sooner discharged by law.

DATED this.....day of....., 20.....

.....
Registrar

FORM 97

*Certificate by Officer in Charge of Prison of
Payment of Judgment Debt*

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

I hereby certify that the defendant, who was committed to my custody by virtue of an order of commitment made by the National Industrial Court ofJudicial Division bearing date theday of, 20.....has paid and satisfied the sum of

money for the non-payment whereof the Defendant was so committed, together with all costs due and payable in respect thereof (and that I have today discharged the defendant out of my custody).

DATED this.....day of....., 20.....

.....
Officer in Charge of Prison

(To the Registrar of the National Industrial Court of the
.....Judicial Division

FORM 98

Notice of Part Payment

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

Take notice that the Defendant.....who was committed to your (or may) custody by virtue of an order (or warrant) issued from the National Industrial Court of theJudicial Division bearing date the.....day of....., 20.....has paid the sum of ₦.....towards satisfaction of the sum of payment whereof the defendant is to (or may) be discharged (by order of the Court) and you are to deduct (or have deducted) the sum paid from the last mentioned sum as entered on the said order, (or warrant) which shall thenceforth operate as an order (or warrant) of commitment for non-payment of the balance).

DATED this.....day of....., 20.....

.....
Registrar

(or Officer in Charge of Prison)

To the Officer in Charge of the.....Prison (or to the Registrar of the National Industrial Court of theJudicial Division).

FORM 99

Endorsement of Recommitment

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

The within named Defendant, having failed to comply with the terms upon which the Defendant liberated (or to make a full disclosure of his property), was today ordered to be recommitted to prison for (state period) and this order (or warrant) now operates accordingly.

DATED this.....day of....., 20.....

.....
Judge

FORM 100

Writ of Interim Attachment

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

WHEREAS it has been shown to the satisfaction of the Court that the Defendant..... with intent to obstruct or delay the execution of any judgment that may be given against the defendant in this suit, is about to depose of (or remove from.....) or that the Defendant is absent from.....(or that there is probable cause to believe that the Defendant is concealing himself/herself to evade service) and that the Claimant is beneficially entitled to the debts, (or, the property hereinafter specified—

AND WHEREAS on the.....day of, 20.....it was ordered that you should within.....days thereafter (appear and show cause why the Defendant should not furnish security the said defendant in the sum of ₦.....to produce and place at the disposal of the Court (the value of) the said property (or such portion of the said property as may be of the value of ₦.....) :

AND WHEREAS (it was further ordered that the said property should be attached forthwith, pending the Defendant's (appearance) (or furnishing such security) (or the Defendant having appeared has failed to show cause as aforesaid and has not furnished such security) (or the said period of.....days has expired and, the Defendant (has failed to appear and)has not furnished such security)—

These are therefore to required and order you forthwith to seize, take into your hands, (enter upon) and attach (such portion of) the Defendant's property specified on the back of this writ (as my be of the value of ₦.....) wheresoever it may be found within theJudicial Division (except the wearing of apparel and bedding on the Defendant and the Defendant's family and the tools and implements of defendant's trade to the value of one hundred naira) and to hold the same until the further order of the Court and to make return of what you have done under this writ immediately on the execution thereof.

DATED this.....day of....., 20.....

.....
Judge

To the Sheriff and Bailiffs of the Court

Fees on issue of this writ. ₦.....K

Application was made to the Registrar for this writ atminutes past the hour of.....in thenoon of the day last-mentioned above.

.....
Registrar

ENDORSEMENT
SPECIFICATION OF PROPERTY TO BE ATTACHED

<i>Number</i>	<i>Description</i>	<i>Estimated Value</i>	<i>Where to be Found</i>	<i>Name of Person</i>

FORM 101

Warrant to Arrest Absconding Defendant

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

WHEREAS there is probable cause for believing that the Defendant.....is about to leave (or has (or is about to) dispose of or remove (some part of) defendant property from the jurisdiction of the Court by reason whereof the execution of any judgment which may be given against the defendant in this suit is likely to be obstructed or delayed:

You are therefore hereby commanded to bring the said Defendant before this Court forthwith, in order that the Defendant may show why the defendant should not (give bail for the Defendant's appearance at any time when called upon while this suit is pending and until execution or satisfaction of the judgment, if any).

DATED this.....day of....., 20.....

.....
Judge

To the Sheriff and Bailiffs of the Court

Fees on issue of this warrant ₦.....

Notice :— If the Defendant gives bail before a Justice of the peace in the sum of ₦.....with sufficient surety (for the defendant appearance as aforesaid) (or for the satisfaction of the judgment), or if the defendant deposits with you for transmission to the Court the sum of ₦.....or other property of the same or greater value, the Defendant shall thereupon, in respect of this warrant, be discharged out of your custody.

FORM 102

Affidavit of Delivery

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division
Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants
the.....day of, 20.....

WHEREAS on the.....day of....., 20..... the Claimant obtained judgment against the Defendant.....) for the recovery of (specify the goods which the court has ordered to be recovered of the Defendant)..... of the value of ₦.....(and for the payment of ₦.....for damages for the detention of the said goods and of) ₦.....for costs and it was ordered that the said Defendant should return the said goods to the Claimant (or pay the said sum of ₦..... their value) on or before the day of....., 20.....

AND WHEREAS the said Defendant did not on or before the saidday of....., 20..... return the said goods to the Claimant and default has been made in payment according to the said order of the said sum(s) of N.....for damages (and ₦..... for costs) and ₦.....the value of the said goods).

These are therefore to require and order your forthwith.....to seize the said goods, wheresoever they may be found within theJudicial Division, and to deliver the same to the Claimant.

And if the same cannot be found by you within such Division, you are required and ordered to make and levy the said sum of N.....(the assessed value of goods) by distress and sale as may be found within theJudicial Division (except the wearing apparel and bedding of defendant or him or his family and the tools and implements of his/her trade, to the value of one hundred naira), and also by seizing and taking any money, bank notes, bills of exchange, promissory notes, bonds, specialties, or securities for money belonging to the said Defendant which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution in respect of the said sum of ₦.....

And you are further required and ordered to make and levy (the said sum of

₦.....damages for detention) and the said sum of
 ₦.....costs together with) the costs of this writ and the costs
 of executing the same, by distress and sale of the goods and chattels of the
 said defendant, wheresoever they may be found, within the
Judicial Division (except the wearing
 apparels and for defendant or his/her family and the tools and implements of
 his/her trade, to the value of one hundred naira), and also by seizing and taking
 any money, bank notes, bills of exchange to the said Defendant which may
 here be found, or such part or so much thereof as may be sufficient to satisfy
 this execution.

And you are further required to bring into Court what you shall have levied,
 and to make return of what you have done under this writ immediately upon
 the execution thereof.

DATED this.....day of....., 20.....

.....
Judge

To the Sheriff and Bailiff of the Court.

N : K

Assessed value of the specified goods.....

Damages for detention of goods.....

Costs.....

Fees on issue of this writ.....

Total amount to be levied exclusive of further costs, if any
 execution.....

Application was made to the Registrar for this writ atminutes
 past the hour of.....in thenoon of the day
 last mentioned above.

Note :— The goods and chattels are not to be sold until the end of the five
 next following the day on which they were seized unless they are of a perishable
 nature or the defendant request it.

.....
Registrar

FORM 103

Writ of Delivery with Execution against Immovable Property

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

WHEREAS no movable property of the Defendant can with reasonable diligence be found (sufficient to satisfy the said sum(s) ₦.....damages) and of (costs) and ₦.....(Value of goods) :

AND WHEREAS upon the application of the Claimant it was, on theday of, 20..... Ordered that execution might be levied upon immovable property of the Defendant for (the sum of being part of) the said sum(s) of ₦.....(and ₦.....) and ₦.....) remaining unpaid.

These are therefore to requires and order you forthwith to seize the said goods, wheresoever they may be found within theJudicial Division, and to deliver the same to the Claimant:

And if the same cannot be found by you within such Division, you are required and ordered to make and levy the said sum of ₦.....(the assessed value of the goods) by entering upon and attaching the immovable property of the Defendant wheresoever they may be found within the Judicial Division and by selling the same, or such part or so much thereof as may be sufficient to satisfy the execution in respect of the said sum of ₦.....

And you are further required and ordered to make and levy (the said sum of ₦..... (damages for detention) and the said sum of ₦..... (costs) together with the costs of this writ and the costs of executing the same, by entering upon and attaching the immovable property of the defendant wheresoever it may be found and attaching the immovable property of the defendant wheresoever it may be found within the Judicial Division and by selling the same or such part or so much thereof as may be sufficient to satisfy this execution.

And you are further required to bring into Court (continue as in Form 103, to the words “the day last mentioned above”)

.....
Registrar

FORM 104

Writ of Sequestration

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

To.....

WHEREAS on the.....day of.....he Claimant obtained judgment (or order) in this Court against the Defendant for the sum of ₦.....for debt (or damages) and cost (or that.....(recite the effect of the order) :

AND WHEREAS the said Defendant is not and cannot be found (or has taken and detained in custody without obeying the said judgment (order) ;

Know ye therefore, that by these presents full power and authority is given you to enter upon all the immovable property, but also all the movable property whatsoever of the saidand to collect, receive and sequester into your hands not only all the rents and profits of the said immovable property, but also all the defendant's movable property whatsoever; and therefore you are commanded that you do at certain proper and convenient days and hours to go and enter upon all the immovable property of the said and that you do collect, take and get into your hands not only the rents and profits of his said immovable property, but also all the movable property, and detain and keep the same under sequestration in your hands until the said shall clear his contempt or his court shall make further order to the contrary.

DATED this.....day of....., 20.....

.....
Judge

Application was made to this Registrar for this writ at.....minutes past the hour of thenoon of the day last mentioned above.

.....
Registrar

FORM 105

Notice of Registration of Certificate of Judgment

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

To the Registrar, National Industrial Court

Suit No.....

TAKE NOTICE that the certificate of judgment, issued out of your Court on theday of....., 20.....in respect of the above named suit, has this day been registered in the Nigerian Register of judgments kept in this Court.

Given under my hand this.....day of....., 20.....

.....
Registrar

FORM 106

Notice of Issue of Process

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

To the Registrar

National Industrial Court of Nigeria at.....

Suit No.....

TAKE NOTICE that on the.....day of, 20.....a
(here state nature of process, etc.) for(here state
the amount in respect of which the process was issued) was issued out of this
Court upon the certificate of judgment in the above mentioned suit.

Given under my hand this.....day of....., 20.....

.....
Registrar

FORM 107

Notice of Payment into Court

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the.....Judicial Division
Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants
the.....day of, 20.....

To the Registrar
National Industrial Court Nigeria at.....

Suit No.....

TAKE NOTICE that on the.....day of, 20.....
the sum ofwas paid into this Court in full (or part as
the case may be) satisfaction of the judgment certified in the certificate of
judgment issued out of your Court on the.....day of
....., 20.....in the above mentioned suit.

.....
Registrar

FORM 108

Notice of Payment into Court

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

To the Registrar

National Industrial Court of Nigeria at.....

Suit No.....

TAKE NOTICE that in respect of the certificate of judgment issued out of this Court on the.....day of....., 20.....in the above mentioned suit and registered in your Court on theday of, 20..... paid into this Court in full (or part as the case may be) satisfaction of the said judgment.

GIVEN under my hand this.....day of, 20.....

.....
Registrar

FORM 109

Caveat

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In theJudicial Division

Suit No.....of.....

Between

A.BClaimant

And

C.D and E.FDefendants

the.....day of, 20.....

FORM 110
IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA
CASE STATED AS TO SECTION 24(5)
OF THE NATIONAL INDUSTRIAL COURT ACT, 2006

Between

..... Plaintiff

And

.....Defendant

This is an action 1.....

The Claimant alleged 2.....

The Defendant answered 3.....

The Claimant replied 4.....

After hearing the parties and the evidence adduced on each side the court found that the following matters were established as facts :

First that 5.....

.....

The following question as to the interpretation of the Constitution arose in these proceedings, namely 6.....

The above stated question of law is referred for the decision of the Court of Appeal.

DATED atthis....., day of 20.....

.....

Judge

1. State nature of action.
2. State as concisely as possible the substantive averments of the plaintiff but not any part of the evidence.
3. State in like manner the defendant's answer and also any further allegation or counter claim made by the defendant.
4. State reply, if any.
5. State the facts found.
6. Here state question of law.

FORM 111

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA.

Reference as to Constitution

ORDER 5 RULE 1

Between

.....Claimant
and

.....Respondent

This is an action 1.....

The Claimant alleged 2.....

The Respondent /Defendant answered 3.....

The Claimant replied 4.....

After hearing the parties and the evidence adduced on each side the Court found that the following matters were established as facts :

First that 5

.....
The following question as to the interpretation of the Constitution arose in these proceedings, Namely 6.....

.....
The above stated question of law is referred for the decision of the Court of Appeal.

DATED this.....day of....., 20.....

.....
Judge

1. State nature of action.
2. State as concisely as possible the substantive averments of the plaintiff but not any part of the evidence.
3. State in like manner the defendant's answer and also any further allegation or counter claim made by the defendant.
4. State reply, if any.
5. State the facts found.
6. Here state question of law.

FORM 112

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

Reserved point of Law

ORDER 5 RULE 1

Between

.....Claimant

and

.....Respondent/Defendant

This is an action 1.....

The Claimant alleged 2.....

The Respondent/Defendant answered 3.....

The Claimant replied 4.....

.....

After hearing the parties and the evidence adduced on each side the court found that the following matters were established as facts :

First that 5.....

.....

.....

.....

The following questions are reserved for the decision of the Court of Appeal :

First whether 6.....

.....

.....

.....

DATED this.....day of....., 20.....

.....

Judge

FORM 113

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

IN THE JUDICIAL DIVISION

FORM.....

ORDER RULE

WRIT OF POSSESSION

Suit No.

AB.....Claimant

V

CD.....Defendant

WHEREAS at the National Industrial Court of Nigeria Holden on theDay of....., 20..... It was adjudged that the Claimant/Defendant was entitled to the possession of the premises mentioned in the judgment/order in this action; that is to say (describe the premises as set out in the judgment/order), and it was ordered that the Claimant/Defendant give to Claimant/Defendant possession of the said property.

AND WHEREAS the Claimant/Defendant has not obeyed the said judgment/order. Therefore you are to forthwith give possession of the said property to the Claimant/Defendant.

DATED this.....day of....., 20.....

.....
Judge

FORM 114

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA
IN THE JUDICIAL DIVISION
FORM.....

CERTIFICATE OF EXECUTION OF WRIT OF POSSESSION

Suit No.

AB.....Claimant

V

CD.....Defendant

I hereby certify that by virtue of the writ of possession issued in this action, suit No..... I did on the Day of 20..... deliver full and peaceable possession to the of the premises named therein, that is to say (copy description from writ), as required by the said warrant.

DATED the..... day of..... 20.....

Signed :.....
Bailiff

1. State nature of action.
2. State as concisely as possible the substantive averments of the plaintiff but not any part of the evidence.
3. State in like manner the defendant's answer and also any further allegation or ; counter-claim made by the defendant.
4. State reply, if any.
5. State the facts found.
6. State question of law on which a decision is required.

APPENDIX 1

ORDER 67 r1.(1)

FEES AND ALLOWANCES PAYABLE

N : K

1. *For the recovery of a specified sum—*
 - (a) not exceeding ₦20,000 1,000.00
 - (b) exceeding ₦20,000 ; but not above ₦100,000 .. 1,500.00
 - (c) exceeding ₦100,000 ; but not above ₦1,000,000 2,500.00
 - (d) exceeding ₦1,000,000 per ₦1,000,000 or part thereof 1,500.00
 - (e) maximum fee 50,000.00
 - (f) claim in foreign currency shall be converted into the local currency as assessed above
2. For the recovery of an unspecified sum the fees payable is the same as the maximum payable per relief.
For set off or counter-claim: the same as Payable under item 1.
3. *For an account to be taken and payment of the sum found due—*
 - (a) initial fee 1,000.00
 - (b) second fee (payable before setting down for judgment):
per ₦100 or part thereof found due in excess of ₦200 1,000.00
 - (c) maximum fee 5,000.00
4. *Originating Process*
 - (a) originating summons 500.00
 - (b) oaths 20.00
 - (c) filing 50.00
 - (d) double sealing 100.00
 - (e) one exhibit each as per distance 10.00
 - (f) service as per distance but not less than ₦100.00 per each
5. *Motion on Notice*
 - (a) motion on notice 200.00
 - (b) oaths 20.00
 - (c) filing 50.00
 - (d) double sealing 50.00
 - (e) one exhibit each service as per distance .. 10.00
 - (f) service as per distance but not less than ₦100.00 per each
6. *Motion Ex-parte*
 - (a) motion Ex-parte.. ..200.00
 - (b) oaths20.00
 - (c) filing50.00
 - (d) double sealing50.00
 - (e) one exhibit each service as per distance 10.00
 - (f) service as per distance but not less than ₦100.00 per each

7.	For any other relief or assistance not specially provided for Applications, Affidavits, Judgments, Order, Security Bonds, Warrants and Writs.	50.00
8.	On application for a writ of Habeas Corpus	500.00
9.	<i>On filing any other application—</i>	
	(a) if on Notice	500.00
	(b) if ex-parte	
	(c) if accompanied by the other paper same as payable under item 4, 5 and 6	
10.	On filing an affidavit	20.00
11.	On filing a security bond	200.00
12.	On filing any other paper.. .. .	50.00
13.	On justification of sureties : for each surety	500.00
14.	For the issue of a writ of Habeas Corpus	500.00
15.	For the drawing up of any order or judgment	200.00
16.	For an inquiry by a court officer where so ordered : for each setting	200.00
17.	For an account taken by a court officer where so ordered : per ₱100 or part thereof fund to have been received	10.00
18.	For taking down a person's statement where so ordered as the court may direct.	10.00
19.	For searching the archives: for each period of six months or part thereof	100.00
20.	For drawing up a bill of costs where so directed ; per folio of 72 words	5.00
21.	For taking costs where so ordered: per N10 or Part thereof	10.00
22.	For preparing a copy where authorized: per folio of 72 words	5.00
23.	For every subpoena	50.00
	Witness allowance not less than	200.00
24.	On warrant for prisoner to give evidence.. ..	500.00
25.	<i>On commission to take evidence</i>	
	(a) out of the jurisdiction	5,000.00
	(b) within the jurisdiction	2,000.00
26.	For attesting the execution or signature of an instrument (other than an instrument regarding payment of pension by Government) not otherwise provided for	20.00
27.	For sealing any document not in proceedings ..	50.00

B 344

28.	For certifying a copy as a true copy : per folio of 27 words or part thereof	5.00
29.	For certifying a record of proceeding per folio	5.00
30.	For payment into court (except when ordered by the Court or proceeds of execution)	
	(a) not exceeding ₦100 per ₦20 or part thereof ..	2.00
	(b) exceeding ₦100 per ₦100 or part thereof	10.00
	(c) on payment into an interest yielding account, Part of interest paid into Court	1%
31.	On appointment of Commissioner to administer Oaths and take declarations (not being a Government Officer)	500.00
32.	For sealing a letter of request	500.00
33.	On transfer of a foreign judgment	500.00
34.	For certificate of service of foreign process (where not disallowed by convention)	200.00
35.	For the service of any document or process Initial fees plus distance in kilometer	
	(a) each service as per distance but not below but within 12 kilometers from the court.. .. .	100.00
	(b) if beyond 12 kilometers for every subsequent 2 kilometers or part thereof (one way)	10.00
	(c) if outside jurisdiction and in addition the postage fee or courier charges as the case may be	.100.00
TRANSLATIONS		
	For every folio of 72 words	5.00
	Attestation to translation.. .. .	20.00
FEES FOR REGISTRATION OF JUDGMENTS		
	Registration of a certificate of a judgment of a High Court	200.00
	Registration of a certificate of a judgment of any court	
REGISTRATION OF A CAVEAT		
	For filing a caveat	200.00

APPENDIX 2

ORDER 67 RULE 1 (2)

Per Diem £ : K	ALLOWANCES TO WITNESSES
200.00	Professional men, mercantile agents, bank Managers, chiefs, surveyors, and any officer of the public service whose salary is not less than £2,000 a year
200.00	Merchants, Captains of ships, mercantile assistants and officers in the public service whose salary is £2,000 but less than £20,000 per month
TRANSPORT ALLOWANCES	
(a) By private car per kilometre..... as per allowance granted	
(b) By private motorcycle per kilometre as per allowance granted	
(c) Maximum assessment by bus fare and not airfare unless the applicant requests for payment of fare by air.	
NOTE : *	
The travelling expenses of witnesses shall be allowed according to the sums reasonably and actually paid. No allowance is made to an officer of the public service who is summoned as a witness by the Government or by any department of the Government. In all other cases he is allowed costs and travelling expenses as if he were not an officer in the public service. Fees, costs expenses payable to an officer in the public service shall be paid into revenue unless otherwise ordered.	
Fees to be paid before issue of process.	

APPENDIX 3

ORDER 67 RULE 2.

REGULATIONS REGARDING FEES

Fees to
be paid
before issue
of process.

1. No summons, warrant, writ or subpoena shall, except by special court order be issued until—

(a) all fees payable thereon as contained in the appropriate Appendix of fees shall have been paid; and counter-foil thereof ;

(b) an account thereof, initialed as received is set forth by the officer issuing the process both in the margin.

Fees to be
carried to
account on
process
being signed

2. All such fees shall be carried to account immediately on the process being signed by the Judge.

Documents
to be
endorsed
with amount
of fees and
number of
receipt.

3.—(1) Every document, for or in respect of which any fee has been paid shall bear an endorsement initialed by the Registrar or other officer showing the amount of the fee so paid and the number of the receipt certifying the payment.

(2) When any form of process specifies the fees thereof, it shall be sufficient for the Registrar or other officer to initial the amount of the fees appearing thereon, and to quote the number of the receipt.

Counterfoil
receipt to be
produced on
signature.

4. Every Registrar or other officer submitting any originating or other process for signature by a Judge shall at the same time produce the stamp of the receipt given for the fees paid for such process.

No
document to
be used
unless fees
paid

5. No document in respect of which a fee is payable shall be used in any legal proceeding, unless it has been initialed as aforesaid by the Registrar or other officer or unless the court is otherwise satisfied that the proper fees in respect thereof has been paid.

Fees for
service to be
paid into
revenue.

6. All fees for service, execution and distance in kilometers shall be paid into revenue.

Mode of
returning
fees.

7. No hearing fee or other fee shall be returned except upon a voucher payable to the Treasury, in favour of the party entitled to receive it and prepared at the direction of the Judge before whom the cause or matter is set down and comes on for hearing.

MADE at Abuja this 6th day of December, 2016.

HON. JUSTICE B.A. ADEJUMO, OFR
MCI Arb, GFSMN, CFIAR, FCI Arb, FNILS
President
National Industrial Court of Nigeria

EXPLANATORY NOTE

*(This note does not form part of the above Rules but
is intended to explain their purport)*

These Rules provide for the rules of procedure to be followed in the
National Industrial Court of Nigeria.