

S.I. 8 OF 2000
CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA
FEDERAL HIGH COURT (CIVIL PROCEDURE) RULES 2000

Arrangement of Rules

Order 1
Citation, Application e.t.c

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|----|--|----|---|---|-----------------|
| 1. | Construction of reference to law, rules, e.t.c | 2. | Revocation of Civil Procedure Rules contained in Schedule to 1999 No 23 | 3 | Interpretation. |
| 4. | Citation and Commencement | | | | |

Order 2
Form and Commencement of Action

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|---|-------------------------------|---|--|---|--|
| 1 | Mode of beginning proceedings | 2 | (1) Proceedings which may be begun by writ.
(2) Proceedings which may be begun by originating summons | 3 | Proceedings to be begun by motion or petition. |
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Order 3
Effect of Non-compliance

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| 1 | Effect of non-compliance. | 2 | Application to set aside for irregularity |
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Order 4
Particulars of claim

1	Further particulars	2	Effects of particulars	3	Papers annexed: in what cases.
4	Inspection of papers annexed.	5	Amendment of particulars.	6	Amendment at trials.

Order 5
Causes of action

1	All causes of action may be joined.	2	Counter claim against plaintiff.	3	Court may order separate trials, e.t.c
4	Consolidation.				

Order 6
Writ of Summons

1	Writ of summons to be issued by the registrar.	2	Contents of writ of summons.	3	Alteration of writ.
4	Several causes of action in one suit.	5	Service of writ: whole Federation within court's jurisdiction	6	(1) Forms of writ (2) Provisions for framing additional forms
7	Sealing of writs	8	Statement of claim.	9	(1) Endorsement as to capacity. (2) Summons for service out of jurisdiction
10	Endorsement as to legal practitioner and address.	11	Concurrent writ.	12	Writ for service out of jurisdiction.
13	"Issue", when effected.	14	Duration and renewal.		

Order 7
Originating Summons

1	Application	2	Forms for originating summons.	3	Contents of summons
4	Endorsement as to capacity.	5	Endorsement as to legal practitioner and address.	6	Concurrent originating summons.

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| 7 | Summons for service out of jurisdiction. | 8 | "Issue" when effected | 9 | Validity and renewal of originating summons. |
| 10 | Ex parte originating summonses. | | | | |

Order 8
Petition: General Provisions

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|---|--|---|--|---|---------------------------|
| 1 | Application. | 2 | Contents of petition. | 3 | Presentation of petition. |
| 4 | Fixing time for hearing, etc. of petition. | 5 | Certain applications not to be made by petition. | | |

Order 9
Interlocutory applications

A - Motions Generally

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|---|---|---|--|---|--------------|
| 1 | Time to apply. | 2 | (2) Application by motion.
(2) Motion List. | 3 | Affidavits. |
| 4 | Affidavit to be served with motion. | 5 | Hearing of motions. | 6 | Adjournment. |
| 7 | Motion to be on notice except in emergency. | | | | |

B - Ex parte Motion

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| 8 | Affidavit in support of ex parte motion. | 9 | Arguments on motion. | 10 | Orders on ex parte motions. |
| 11 | Court may vary or discharge order. | 12 | Duration of ex parte order. | | |

C - Orders to show cause

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|----|-----------------------------|----|-------------------|----|-----------------------------------|
| 13 | Return-day to be specified. | 14 | Counter-evidence. | 15 | Further service in certain cases. |
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| 16 | Appearance or proof of service | 17 | General powers as to orders. |
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D - Notice of motion

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| 18 | Notice of motion. | 19 | Service of notice. | 20 | Service on solicitor. |
| 21 | Copy of affidavit to be served with notice. | 22 | Order for service. | 23 | Service with writ of summons. |

E - Evidence in Interlocutory Proceedings.

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|----|----------------------|----|---|----|---|
| 24 | Oral evidence. | 25 | Evidence in addition to or in lieu of affidavits. | 26 | Notice to parties and interested parties. |
| 27 | Evidence: how taken. | 28 | Affidavit not filed with motion paper. | | |

Order 10
Affidavits

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|----|---|----|---|----|--|
| 1 | Evidence on motion. | 2 | Title of affidavits. | 3 | Use of defective affidavits. |
| 4 | Special time for filling affidavits. | 5 | Affidavit in support of ex parte application. | 6 | Notice of intention to use affidavits in Chambers. |
| 7 | Uses in Chambers of affidavits used in Court. | 8 | Alterations in accounts to be initialled. | 9 | Exhibits. |
| 10 | Certificate on exhibit | 11 | Application of Evidence Act. | 12 | Affidavit taken in Commonwealth country admissible without proof of seal, etc. |

Order 11
Place of instituting and of trial of Suits

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|---|--|---|---|---|------------------------------------|
| 1 | (1) Place for trial of suits.
(2) Suits relating to taxation.
(3) Suits for penalties. | 2 | Division of Court in which suit may be commenced. | 3 | Suits commenced in wrong Division. |
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- (4) Suits upon contract.
- (5) Suits relating to customs.
- (6) Suits relating to foreign trade.
- (7) Suits relating to passports, etc.
- (8) Suits relating to copyright, etc.
- (9) Other suits.

4. Transfer of proceedings.

Order 12
Parties

A - General

1	Persons claiming jointly, severally or in the alternative may be plaintiffs.	2	Action in name of wrong plaintiff.	3	All persons may be joined as defendants.
4	Counter-claim: Misjoinder.	5	(1) Non-joinder. (2) Misjoinder of parties.	6	Joint and several demand.
7	Suit or claims on behalf of others	8	Where joint interest, parties may be authorized to sue or defend for others.	9	Partners
10	Infants as parties.	11	Lunatics, etc.	12	Appearance by infant.
13	Next friend.	14	Trustees, executors, etc. may be sued as representing the estate.	15	Where defendant added.
16	Application to add or strike out party.	17	(1) Third party notice. (2) How leave obtained.	18	Form and issue of notice.
19	Effect of notice	20	Appearance.	21	Default by third party.
22	Procedure after default.	23	Third party directions.	24	Leave to defend.
25	(1) At trial or after. (2) When no trial.	26	Person trading as firm.	27	Court may require security in respect of counter-claim.
28	Act may be done by legal practitioner or agent.				

B - Alteration of parties

29	Where change of interest, court may make order enabling suit to proceed.	30	When suit does not abate.	31	When cause of action survives.
32	When cause of action accrues to survivors.	33	Death of sole or surviving plaintiff.	34	Dispute as to legal representative.
35	Death of one of several defendants or of a sole or surviving defendant.	36	Bankruptcy of plaintiff.	37	Legal practitioner of plaintiff to give notice of abatement.
38	Party may change legal representative.	39	Where legal representative ceases to act.	40	Address of party.

Order 13
Service of process

A - Service within jurisdiction

1	By whom service is to be effected.	2	Service of process: how effected.	3	When process need not be served
4	Special bailiff.	5	Substituted service.	6	Service on employee of government.
7	Service on partners	8	Service on corporation or company.	9	Service on board ship.
10	Service on prisoners and lunatics	11	Service on infants.	12	Service on local agent of principal who is out of jurisdiction.

B - Service out of jurisdiction

13	Service of writ out of jurisdiction.	14	Application to be supported by affidavit.	15	Order to fix time for appearance.
16	Service of notice.	17	Service of originating summons, etc.	18	Service abroad by letter of request.
19	Service out of the jurisdiction under the Civil Aviation Act.	20	Service of document abroad.	21	Saving for other modes of service.
22	Air mail.	23	Service for foreign tribunals.	24	Substituted service.

25 Order thereon.

C - General Provisions

26	Where violence threatened.	27	Affidavit of service.	28	Expenses of service.
29	Service on Sunday or public holiday.	30	Recording of service.	31	Interpretation.

Order 14
Appearance

1	Mode of entry of appearance.	2	Defendant's address for service.	3	Fictitious address.
4	Defendants appearing by same legal practitioner.	5	Time for appearance.		

Order 15
Default of Appearance

1	Claim for liquidated demand.	2	Liquidated demand: several defendants.	3	Limited defence.
4	Judgments for costs where satisfaction, etc. made.	5	Default of appearance in actions not specifically provided for.	6	Setting aside judgment.
7	Default of appearance to originating summons.	8	Default of appearance by infant or person of unsound mind.		

Order 16
Arrest of Absconding Defendant

1	Defendant leaving jurisdiction or removing	2	Warrant to arrest.	3	Bail for appearance or satisfaction.
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property.

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| 4 | Disposed in lieu of bail | 5 | (1) Defendant may be committed to custody.
(2) In what division proceedings may be taken. | 6 | Cost of subsistence of persons arrested. |
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Order 17
Interim Attachment of Property

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| 1 | In what cases. | 2 | Application for attachment | 3 | Form of order. |
| 4 | Where defendant fails to show cause or give security. | 5 | Rights of third parties not to be affected. | 6 | Removal of attachment. |
| 7 | In what courts proceedings may be taken. | | | | |

Order 18
Needless detention of chattels or Ships and reparation for it

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| 1 | Damages for needless detention, etc. | 2 | Admiralty actions not ruled out. |
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Order 19
Accounts and inquires

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| 1 | Summary order for account. | 2 | Court may direct taking of accounts, etc | 3 | Directions as to manner of taking account. |
| 4 | Account to be made, verified, etc. | 5 | Erroneous account. | 6 | Delay in prosecution of account, etc.. |
| 7 | Distribution of fund before all persons entitled are ascertained | . | | | |

Order 20
Reference to Arbitrator

1	Nomination of arbitrators and appointment.	2	Court may appoint arbitrator.	3	Form of order of reference.
4	Umpire where necessary.	5	Attendance of witness.	6	Extension of time for making award.
7	Power of court in case of death , incapacity or refusal to act.	8	Finding.	9	Special case for opinion of the court.
10	Court may modify or correct award.	11	Power as to costs.	12	Power of court to remit award for reconsideration.
13	Setting aside award.	14	Filing award: effect of.	15	Applications under Arbitration and Conciliation Act.
16	Applications to be made within 21 days.	17	Mode of enforcing awards.	18	Awards made on proceeding in foreign territory.

Order 21
Reference to Referees

1	Instruction to referee.	2	Interim inquiries or accounts.	3	General powers of the referee.
4	Evidence.	5	Referee's authority in the inquiry.	6	Limitation in certain particulars.
7	(1) Reports made in pursuance of reference, (2) Referee may report questions of facts specially.				

Order 22
Receivers

1	Application for receiver	2	Giving of security by	3	Remuneration of a receiver.
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and injunction

receiver.

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| 4 | Receiver's account. | 5 | Payment of balance, etc by receiver. | 6 | Default by receiver. |
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Order 23
Computation of time

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| 1 | Computation of time. | 2 | No enlargement of time by consent of parties. | 3 | Court may extend time. |
| 4 | Notice of intention to proceed after a year's delay. | 5 | Time for application to set aside award. | | |

Order 24
The undefended list

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|---|------------------------------|---|---------------------------------|---|--------------------------------|
| 1 | Undefined List: affidavit. | 2 | Copy of affidavit to be served. | 3 | Notice of intention to defend. |
| 4 | Judgment in undefended suit. | 5 | Oral evidence. | | |

Order 25
Proceedings in lieu of Demurrer

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| 1 | Demurrer abolished. | 2 | Points of law may be raised by pleadings. | 3 | Dismissal of action. |
| 4 | Striking out pleading where no reasonable cause of action disclosed. | 5 | Declaratory judgment. | | |

Order26
Pleadings

1	Service of statement of claim.	2	Service of defence.	3	Service of reply and defence to counter -claim.
4	(1) Pleading to state material facts and not evidence. (2)How facts are to be stated.	5	Particulars to be given where necessary.	6	Matters which must be specifically pleaded.
7	(1) Further and better statement or particulars. (2) Letter for particulars. (3) Particulars before defence	8	Order for particulars not a stay.	9	Specific denial.
10	Denial by joinder of issue.	11	Pleadings to be consistent.	12	(1) Grounds of claim founded on separate facts to be separately stated. (2) The relief claimed to be stated.
13	Allegations shall not be generally but specifically	14	Denial of fact must answer point of substance.	15	Admissions.
16	Set-off or counter-claim to be pleaded.	17	Evidence in denial of allegation or in support of defence not set up in pleading.	18	Further pleadings.
19	Costs in certain cases.	20	Striking out pleadings.	21	Denial of contract.
22	Effects of documents to be stated.	23	Malice, knowledge, or other condition of mind.	24	Notice.
25	Implied contract or relation.	26	Presumptions of law.	27	Technical objection.
28	Stated or settled account.	29	Defence of tender.	30	Defence of set-off.
31	Judgment for balance	32	. Close of pleadings.		

Order 27
Amendment

1	General power to amend.	2	Amendment of	3	Application for leave.
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indorsements and pleadings.

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| 4 | Failure to amend after order | 5 | Amendments: how made. | 6 | Date of order of amendment to be marked. |
| 7 | Clerical mistakes and accidental omissions. | | | | |

Order 28
Default of Pleadings

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|----|---|---|---------------------------------------|---|-----------------------------------|
| 1 | Default of plaintiff in filing statement of claim. | 2 | Claim for debt or liquidated demand. | 3 | Several defendants: one default. |
| 4 | Default of defence: claim for unliquidated damages. | 5 | Default of defence: claim in detinue. | 6 | Default of defence: fixed claims. |
| 7 | Default of defence: other claims. | 8 | Default of defence to counter-claim. | 9 | Setting aside judgment. |
| 10 | Interpretation | | | | |

Order 29
Interpleader

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| 1 | Entitlement to relief by way of interpleader. | 2 | Claim to goods, etc., taken in execution. | 3 | Mode of application. |
| 4 | Matters to be proved. | 5 | When application to be made by defendant | 6 | Stay of action. |
| 7 | Order upon summons. | 8 | Failure of claimant to appear or neglect to obey summons. | 9 | Costs, etc. |

Order 30
Withdrawal and Discontinuance

1	Withdrawal of appearance.	2	Discontinuance of action without leave.	3	Discontinuance of action, etc. with leave.
4	Effect of discontinuance.	5	Stay of subsequent action until costs paid.	6	Withdrawal of summons.

Order 31
Admissions

1	Admission of case of other party.	2	Notice to admit.	3	Documentary evidence.
4	Judgment on admissions of facts.	5	Admissions and production of documents specified in list of documents.		

Order 32
Payment into and out of Court

1	Payment into court.	2	How far admission of claim.	3	Acceptance of sum paid.
4	Non-acceptance of sum paid in.	5	Payment into court with denial of liability.	6	Custody of money: payment into bank.
7	Payment of plaintiff.	8	No payment out without order.	9	Payment out: small intestate estate.

Order 33
Discovery and inspection of documents

1	Discovery by interrogatories	2	Application for leave to deliver interrogatories.	3	Form of application
4	Corporation or companies.	5	Affidavit in answer: filing.	6	Form of affidavit in answer.
7	Objections to answering interrogatories.	8	Order to answer or answer further.	9	Application for discovery of document.

10	Discovery of document in marine insurance policies.	11	Affidavit of documents.	12	Power to order list of documents in lieu of affidavit.
13	Production of document.	14	Inspection of documents referred to in pleadings or affidavit.	15	Notice to produce.
16	Time for inspection when notice given under rule 14.	17	Order for inspection.	18	Affidavit in support of application: when required.
19	Verified copies.	20	Power to order discovery of particular document or class of documents.	21	Premature discovery.
22	Non-compliance with order for discovery.	23	Service on legal practitioner of order for discovery.	24	Liability of legal practitioner.
25	Using answer to interrogatories at trial.	26	Discovery against sheriff.	27	Order to apply to infants.
28	Power to revoke order made				

Order 34

Interlocutory Injunction and Interim preservation of property

1	Application for injunction.	2	Detention, preservation, etc. of subject matter of action.	3	Power to order samples to be taken.
4	Sale of perishable property, etc.	5	Order for early trial.	6	Recovery of personal property subject to lien.
7	Directions.	8	Allowance of income of property pendente lite.		

Order 35

Transfer and Consolidation

1	Transfer of cause or matters.	2	Re-assignment of cause or matters.	3	Action by Chief Judge on transfer of cause.
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4 Evidence of part-heard
cause or matter.

Order 36
Settlement And Trial Of Issues

1	At or before hearing.	2	Court may give directions.	3	When to be settled.
4	Notice to be given.	5	Court may amend or frame additional issues	6	Time, etc. of trial of questions or issues.
7	Dismissal of action, etc. after decision of preliminary issue.	8	Provision subject to other written laws.		

Order 37
Assessor

1	Assessor sitting in court.	2	Assessor not to write judgment.	3	Assessor to give advice only on his subject.
4	Judge not bound to accept his advice.	5	Assessor shall take oath of secrecy.		

Order 38
Trial Proceedings In General

1	Time for setting down.	2	Application for setting down.	3	Defendant may apply for setting down.
4	Default in applying for setting down.	5	Case to be struck out.	6	(1) Attendance by proxy. (2) Failure to appear by both parties.
7	Default of appearance by defendant at trial.	8	Default of appearance by plaintiff.	9	Judgment by default may be set aside on terms.

10	Adjournment of trial.	11	Judgment to be entered at or after trial.	12	Trial with assessors .
13	. Order of proceedings	14	. Burden of proof: party to begin evidence.	15	Summing up
16	Case of other party.	17	General reply.	18	Case closed.
19	Evidence in reply.	20	Address thereon.	21	Documentary evidence.
22	List of exhibits.	23	Rejected exhibits.	24	Custody of exhibit after trial.
25	Office copy of list of exhibits.	26	Where written pleadings not filed or parties are illiterates.	27	Disallowance of various questions.

Order 39
Proceedings In forma pauperis

1	Duration of provisions.	2	Who may sue or defend in forma pauperis.	3	Conditions to be fulfilled.
4	Fees and costs.	5	Assignment of legal practitioner.	6	Procedure to be to followed.
7	Revocation of order; discontinuance, etc.	8	Payment to legal practitioner.	9	Duty of legal practitioner.
10	Appeals.				

Order 40
Originating Summons Proceedings

1	Power to make declaration on summons.	2	Construction of enactment	3	Service.
4	Evidence.	5	Discretion of court.	6	Court may make the order prayed for.
7	Applications affecting	8	Counter-claim by		

party in default of appearance.

defendant.

Order 41
Procedure Relating To Evidence

1	Witness to be examined orally.	2	Evidence by affidavits.	3	Particular facts
4	Limitation of medical and expert evidence.	5	Limitation of plans, etc in evidence.	6	Plan and expert evidence in accident actions.
7	Extension to all proceedings.	8	Office copies admissible in evidence.	9	Court or judge in chambers may order depositions to be taken.
10	Forms of orders for a commission.	11	Letters of request	12	Examination of witness abroad.
13	Form of order of examination of witnesses abroad.	14	Order for attendance of person to produce.	15	Disobedience to order for attendance.
16	Expenses of persons ordered to attend.	17	Examiner to have copy of writ and pleadings.	18	Examination: how taken.
19	Depositions to be taken down in writing, etc.	20	Refusal of witnesses to attend or be sworn	21	. Objection by witness to question
22	Costs occasioned by refusal or objection.	23	Depositions to be transmitted to registry	24	. Special report by examiner
25	Depositions not to be given in evidence without consent or by leave of judge	26	Oaths.	27	Attendance of witness under subpoena for examination or to produce.
28	Practice as to taking evidence at any stage of action.	29	Special directions as to taking evidence.	30	Notice to use affidavit or depositions at trial.
31	Evidence in proceedings subsequent to trial.	32	Form of praecipe for subpoena.	33	Form or writ of subpoena.
34	Subpoena for attendance of witness in chambers.	35	Correction of errors in subpoena.	36	Service of subpoena.

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| 37 | Duration of subpoena. | 38 | Facilities for proving deeds, etc | 39 | Obtaining evidence for foreign tribunal. |
| 40 | Banker's book: court may order inspection. | | | | |

Order 42
Judgments and Orders

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|----|--|----|--------------------------------|---|---|
| 1 | Delivery of judgment in open court. | 2 | Notice when judgment reserved. | 3 | When parties deemed to have had notice. |
| 4 | Minutes of judgment: its effect. | 5 | Where set-off allowed. | 6 | Decree to be obeyed without demand. |
| 7 | Court may direct time for payment or performance and interest. | 8 | Payment by installments. | 9 | Date of order: when drawn. |
| 10 | What orders need not be drawn up. | 11 | Filing of orders. | | |

Order 43
Writ of Execution: General

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|---|--|---|---|---|--|
| 1 | Definition. | 2 | When leave to issue any writ of execution is necessary. | 3 | Leave required for issue of writ in aid of other writ. |
| 4 | Application for leave to issue writ. | 5 | Application for leave to issue writ of sequestration | 6 | Issue of writ of execution. |
| 7 | Duration and renewal of writ of execution. | 8 | Return of writ of execution. | | |

Order 44
Garnishee Proceedings

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| 1 | Attachment of debt due to judgment debtor. | 2 | Application for order. | 3 | Service and effect of order to show cause. |
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| 4 | No appearance or dispute of liability by garnishee | 5 | Dispute of liability of garnishee. | 6 | Claims of third persons. |
| 7 | Discharge of garnishee. | | | | |

Order 45
Habeas Corpus Proceedings

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|----|--------------------------------|----|--|----|-------------------------------------|
| 1. | Habeas corpus ad subjiciendum. | 2. | Application for leave | 3. | Producing person detained in court. |
| 4. | Service of order. | 5. | Return to the order for release. | 6. | Procedure at hearing. |
| 7. | Order to be clear. | 8. | Bring up prisoner to give evidence, etc. | 9. | Form of writ. |

Order 46
Committal For Contempt Of Court

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| 1 | Committal for contempt of court. | 2 | Application to court. | 3 | Saving for power to commit without application for the purpose. |
| 4 | Provisions as to hearing. | 5 | Contempt in face of court: saving for. | 6 | Power to suspend execution of committal order. |
| 7 | Discharge of person committed. | 8 | Saving for other powers. | 9 | Return. |

Order 47
Application For Judicial Review

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| 1 | Cases appropriate for application for judicial review. | 2 | Joinder of claims for relief. | 3 | Grant of leave to apply for judicial review. |
| 4 | Delay in applying for relief. | 5 | Mode of applying for judicial review. | 6 | Statements and affidavits. |

7	Claim for damages.	8	Application for discovery, interrogatories, cross-examination, etc.	9	Hearing of application for judicial review.
10	Saving for person acting in obedience to mandamus	11	Consolidation of applications.		

Order 48
Appeals and Applications under the
Trade Marks Act and Patents and Designs Act.

1	(1) Application of general procedure rules. (2) Appeal from Registrar.	2	Notice of motion, etc.	3	Time within which appeal may be heard.
4	Amendment of notice of motion.	5	Power of Court of Appeal.	6	Reference by the Registrar.
7	Procedure for action on infringement of registered trade mark	8	Procedure for nullification of patent or design.	9	Restriction on evidence.
10	Procedure for action on infringement of patent or design.	11	Appointment of scientific adviser.	12	Interpretation under this order.

Order 49
Appeals to the Court from decisions of Professional bodies

1	Application.	2	Method of appeal.	3	Evidence.
4	Service.	5	Contents of notice, date of hearing.	6	Reasons for appeal to be filed.
7	Copy of affidavits to be served on the parties.				

Order 50
Stay of execution pending appeal to the Court of Appeal

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| 1 | Stay of execution pending appeal. | 2 | Court may grant or refuse order for stay. | 3 | Formal order to be drawn. |
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Order 51
Sitting of the Court and vacation

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| 1 | Days of sitting. | 2 | Public or private sittings of court. | 3 | Office hours. |
| 4 | Days of sittings: long vacation | 5 | Vacation courts. | 6 | Vacation not reckoned in time for pleading. |
| 7 | Chambers. | | | | |

Order 52
Costs
Security for costs

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| 1 | Security for costs by plaintiff or defendant | 2 | Manner of giving security. | 3 | Costs in discretion of court. |
| 4 | Powers of court. | 5 | Costs out of funds or property. | 6 | Court to determine amount of costs. |
| 7 | Principles to be observed in fixing costs. | 8 | Stay of proceedings till costs paid. | 9 | Taxation of costs. |
| 10 | Discretion of taxing master. | 11 | Taxation. | 12 | Where more than one-sixth of amount of bill of costs deduced on taxation. |

Order 53
Fees and Allowances

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| 1 | (1) Fees.
(2) Allowances. | 2 | Regulations. |
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Order 54

Miscellaneous Provisions

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| 1 | What orders to be made. | 2 | Other procedure rules in Appendix 1. | 3 | Recovery of penalties and costs. |
| 4 | Notices. | 5 | Filing. | 6 | Fees. |
| 7 | Days of opening registry to the public. | 8 | Where no rules exist. | 9 | Part-heard matter. |
| 10 | Forms of writs of summons, etc. | | | | |

Appendixes

S.I. 8 OF 2000
CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA
FEDERAL HIGH COURT (CIVIL PROCEDURE) RULES 2000

Commencement: 1st May 2000

In exercise of the powers conferred on me by section 254 of the Constitution of the Federal Republic of Nigeria 1999 and all powers enabling me in that behalf, I, Mahmud Babatunde Belgore, Chief Judge of the Federal High Court hereby make the following Rules:

Order 1
Citation, application, etc.

1. (1) Any reference in these Rules to anything done under these Rules includes a reference to the thing done before the commencement of these Rules under any corresponding law or Rules of Court ceasing to have effect on the commencement of these Rules.

- (2) 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, extended or applied by or under any other enactment.
2. The Federal High Court (Civil Procedure) Rules 1999 contained in the Schedule to the Federal High Court (Civil Procedure Rules) Decree 1999 are hereby revoked.
3. (1) In these Rules, unless the context otherwise requires-
- "Act" means the Federal High Court Act;
- "Attorney-General" means the Attorney-General of the Federation;
- "Chief Judge" means the Chief Judge of the Federal High Court;
- "Court" means the Federal High Court;
- "legal practitioner" means a Law Officer, a State Counsel or a Legal Practitioner entitled to practice before the Court;
- "pleading" does not include a petition, summons or preliminary act;
- "Registry" means the Registry of the Federal High Court in Lagos or other Divisions;
- "return date" means the day endorsed on a writ for the first appearance of the parties before the Court or any other day the Court may appoint or direct and in the case of Order 23 of these Rules, where a writ is marked "Undefended List", it means the day fixed for hearing.
- (2) Any word other than those defined in subsection (1) of this section shall have the same meaning as is assigned to it in the Federal High Court Act.
4. These Rules may be cited as the Federal High Court (Civil Procedure Rules) 2000 and shall come into force on 1st May 2000.

Order 2
Form and Commencement of action

1. Subject to the provision of any enactment, civil proceedings may be begun by writ, originating summons, originating motion or petition, or any other method required by other rules of court governing any special subject matter as provided in those rules

2. (1) Subject to the provisions of any enactment or of these Rules by virtue of which any proceedings are expressly required to be begun otherwise than by writ, proceedings in which a claim-
 - (a) is made by a plaintiff for any relief or remedy for civil wrong;
 - (b) made by the plaintiff is based on an allegation of fraud;
 - (c) is made by the plaintiff for damages for breach of duty (whether the duty exists by virtue of a contract or of a provision made by or under a law or independently of any contract or any such provision) or where the damages claimed consist of or includes damages in respect of death of any person or in respect of injuries to any person or in respect of damage to any property;
 - (d) is made by the plaintiff in respect of the infringement of a patent, trade mark, copyright, intellectual or any other proprietary interest of whatever kind;
 - (e) for a declaration is made by an interested person,shall be begun by writ.
 - (2) Proceedings may be begun by originating summons where-
 - (a) the sole or principal question at issue is, or is likely to be, one of the construction of a written law or of any instrument made under any written law, or of any deed, will, contract or other document or some other question of law; or
 - (b) there is unlikely to be any substantial dispute of fact.
 - (3) Proceedings may be begun by originating motion or petition where by these Rules or under any written law the proceedings in question are required or authorized to be so begun, but not otherwise.
3. The Forms in Appendix 6 to these Rules or Forms to the like effect, may be used in all matters, causes and proceedings to which they are applicable, with such variations as circumstances may require.

Order 3
Effect of Non-compliance

1. (1) Where in beginning or purporting to begin any proceedings or at any stage in the course of or in connection with any proceedings, there has, by reason of anything done or left undone, been a failure to comply with the requirements of

these Rules, whether in respect of time, place, manner, form or content or in any other respect, the failure may be treated as an irregularity and if so treated, will not nullify the proceedings, or any document, judgment or order therein.

- (2) The court may on the ground that there has been such a failure as mentioned in sub-rule (1) of this rule and on such terms as to costs or otherwise as it thinks just, set aside either wholly or in part the proceedings in which the failure occurred, any step taken in those proceedings or any document, judgment or order therein, or it may exercise its powers under these Rules to allow such amendments (if any) to be made and to make such order (if any) dealing with the proceedings generally as it thinks fit.
2. (1) An application to set aside for irregularity any proceedings, any step taken in any proceedings or any document, judgment or order therein, shall not be allowed unless it is made within a reasonable time and before the party applying has taken any fresh step in the proceedings with leave of court by any interlocutory application, but the application may be raised in defence.
 - (2) Any application under sub-rule (1) of this rule may be made by summons or motion on notice, and the grounds or objection shall be stated in the summons or motion on notice.

Order 4 Particulars of claim

1. The court may, on the application of the defendant, or on its own motion, order further or better particulars to be supplied by the plaintiff.
2. Subject to any amendment granted by the court, the plaintiff shall not, at the hearing, obtain judgment for any sum exceeding that stated in the particulars, except for subsequent interests and the costs of suit, notwithstanding that the sum claimed in the writ for debt or damages exceeds the sum stated in the particulars.
3. (1) Where a party seeks, in addition to or without any order for the payment of money -
 - (a) to obtain as against any person, any general or special declaration of his rights under contract or instrument; or
 - (b) to set aside any contract, or to have any bond, bill, note, or instrument in writing delivered up to be cancelled; or
 - (c) to restrain any defendant by injunction; or
 - (d) to have an account taken between himself and any other party, and in such other cases as the nature of the circumstances makes it necessary or

expedient, the plaintiff or defendant may, in the writ of summons or in any pleading, refer to and briefly describe any documents on the contents of which he intends to rely, and annex copies of such documents to the writ or pleading, or may state any reason for not annexing copies which he may have to allege.

- (2) The party shall allow the opposite party to inspect any such documents as are in his possession or power, otherwise those documents shall not be admitted.
 - (3) Parties shall settle between themselves or before the Registrar or a Judge in chambers in a Division of the court where there is no legally qualified Registrar and where the settlement is before the Registrar, the Registrar shall pass the documents to a Judge in Chambers, but any document not before the registrar or the judge in chamber shall not be admitted unless the court thinks otherwise.
4. (1) Particulars of claim shall not be amended except by leave of the court, and the court may, on any application for leave to amend, grant the application if it appears to the court that the defendant shall not be prejudiced by the amendment; otherwise the court may refuse leave to grant the application.
- (2) Leave to amend shall be granted, where appropriate, on such terms as to notice, postponement of trial or costs, as justice may require.
3. Any variance between the items contained in the particulars, and the items proved at the hearing, may be amended at the hearing, either at once or on such terms as to notice, adjournment, or costs, as justice may require.

Order 5 Causes of Action

1. (1) Subject to rule 3 of this Order, a plaintiff may in one action claim relief against the same defendant in respect of two or more causes of action -
 - (a) if the plaintiff claims, and the defendant is alleged to be liable, in the same capacity, in respect of all the causes of action; or
 - (b) if the plaintiff claims, or the defendant is alleged to be liable, in the capacity of executor or administrator of an estate in respect of one or more of the causes of action and in his personal capacity but with reference to the same estate in respect of the other or others; or
 - (c) with leave of court.
- (2) An application for leave under this shall be made ex-parte by motion before the writ or originating summons, as the case may be, is issued and the affidavit in support of the motion shall state the grounds of the application.

2. (1) Subject to sub-rule (2) of this rule, a defendant in any action who alleges that he has any claim or is entitled to any relief or remedy against the plaintiff in the action in respect of any matter (whenever and however arising) may, instead of bringing a separate action, make a counter-claim in respect of that matter; and where he does so he shall add the counter-claim to his defence.
- (2) Sub-rule 1 of this rule shall apply in relation to a counter-claim as if the counter-claim were a separate action and as if the person making the counter-claim were a plaintiff and the person against whom it is made a defendant.
- (3) A counter-claim may be proceeded with notwithstanding that judgment is given for the plaintiff in his action, or that the action is stayed, discontinued or dismissed.
3. (1) If claims in respect of two or more causes of action are included by a plaintiff in the same action or by a defendant in a counter-claim, or if two or more plaintiffs or defendant are parties to the same action, and it appears to the court that the joinder of such causes of action or of parties, as the case may be, may embarrass or delay the trial or is otherwise inconvenient, the court may order separate trials or make such other order as may be expedient.
- (2) If it appears on the application of any party against whom a counter-claim is made, that the subject matter of the counter-claim ought for any reason to be disposed of by a separate action, the court may order it to be tried separately or make such other order as may be expedient.
4. (1) Where two or more causes or matters are pending in the court and it appears to the court that -
 - (a) some question of law or fact arises in both or all of them; or
 - (b) the rights to relief claimed therein are in respect of or arise out of the same or similar transaction or series of transactions; or
 - (c) the interest of justice of the trial so demands,
the Court may order that the causes or matters be consolidated on such terms as it thinks just and the court shall give such directions as may be necessary with respect to the hearing of the causes or matters so consolidated.
- (2) An order to consolidate may be made where two or more causes or matters are pending between -
 - (a) the same plaintiffs and the same defendants; or
 - (b) the same plaintiffs and different defendants; or

- (c) different plaintiffs and different defendants.
- (3) Application for consolidation may be made by summons or notice for directions in chambers, or they may be made by motion in Court on notice.

Order 6
Writ of Summons

1. (1) A writ of summons shall be issued by the Registrar, other officer of the Court empowered to issue summons, on application.

(2) The application shall ordinarily be made in writing by the plaintiff's solicitor by completing Form 1 in Appendix 6 to these Rules, but the Registrar or other officer empowered to do so may, where the applicant for a writ of summons is illiterate, or has no solicitor, dispense with a written application and instead himself record full particulars of an oral application made and on that record a writ of summons may be prepared, signed and issued.
2. The writ of summons shall -
 - (a) contain the name and place of abode of the plaintiff and of the defendant so far as they can be ascertained; and
 - (b) state briefly and clearly -
 - (i) the subject matter of the claim, and the relief sought , and
 - (ii) the date of the writ, and place (called the return-place) of hearing.
3. An alteration of a writ without the leave of the Court shall render the writ void.
4. A plaintiff may unite in the same suit several causes of action, but the Court may if it thinks that the causes of action, or some of them, cannot be conveniently tried together, order separate trials or make such other order as may be necessary or expedient for the separate disposal thereof, and may make such order as to adjournment and costs as justice requires.
5. For the purposes of service of a writ of summons or for serving any other processes relating to an action in the Court, the whole Federation is within the jurisdiction of the Court.
6. (1) Every writ shall be in Form 1, 2, 3, or 4 in Appendix 6 to these Rules or forms to the like effect in all matters, causes and proceedings to which they are applicable, with such variations as circumstances may require.

- (2) In proceedings for which forms are not provided or prescribed by these Rules or by any subsequent Rules or orders of Court, the Registrar may, subject to the approval of the Chief Judge, from time to time, frame the forms required.
7. The sealing of any writ or process shall not be necessary in addition to the signature of the Registrar or a Judge in Chambers except in cases where sealing may be expressly directed by these Rules or any written law or Rule of Court, or by any prescribed Form.
8. Before a writ is issued it shall be accompanied -
- (a) by a statement of claim;
 - (b) copies of documents mentioned in the statement of claim to be used in evidence
 - (c) where the claim made by the plaintiff is for a debt or a liquidated demand only, by a statement of amount claimed in respect of the debt or demand, and for costs.
9. (1) Before a writ is issued it shall be endorsed -
- (a) where the plaintiff sues in a representative capacity; with a statement of the capacity in which he sues;
 - (b) where a defendant is sued in a representative capacity, with a statement of the capacity in which he is sued.
- (2) Before a writ is issued in an action brought by a plaintiff who in bringing it, is acting by order or on behalf of a person resident outside the jurisdiction, it shall be endorsed with a statement of that fact and with the address of the person so resident.
10. (1) Where a plaintiff sues by a legal practitioner, the writ shall be endorsed with the plaintiff's address and the Legal Practitioners name or firm and a business address of his within the jurisdiction and also, if the legal practitioner is the agent of another, the name or firm and business address of his principal.
- (2) Where the plaintiff sues in person, the writ shall be endorsed with -
- (a) the address of his place of residence and, if his place of residence is not within the jurisdiction or if he has no place of residence, the address of a place within the jurisdiction at or to which documents for him may be delivered or sent;
 - (b) his occupation; and

(c) an address for service.

11. (1) One or more concurrent writs may, at the request of the plaintiff, be issued at the time when the original writ is issued or at any time thereafter before the original writ ceases to be valid.
 - (2) Without prejudice to the generality of the provisions of sub-rule (1) of this rule, a writ for service within the jurisdiction may be issued as a concurrent writ with one which, or notice of which, is to be served out of the jurisdiction; and a writ which or notice of which, is to be served out of the jurisdiction may be issued as a concurrent writ with one for service within the jurisdiction.
 - (3) A concurrent writ is a true copy of the original writ with such differences only (if any) as are necessary having regard to the purpose for which the writ is issued.
12. (1) No writ which, or notice of which, is to be served out of the jurisdiction shall be served without leave of the Court.
 - (2) If any claim made by a writ is one which by virtue of an enactment the Court has power to hear and determine notwithstanding that the person against whom the claim is made is not within the jurisdiction of the Court or that the wrongful act, neglect or default giving rise to the claim did not take place within its jurisdiction, the foregoing provisions shall not apply to the writ.
13. Issue of a writ takes place upon its being signed by a Judge in Chambers
14. (1) For the purpose of service, a writ (other than a concurrent writ) is valid in the first instance for twelve months beginning with the date of its issue, and a concurrent writ is valid in the first instance for the period of validity of the original writ which is unexpired at the date of issue of the concurrent writ.
 - (2) Where a writ has not been served on a defendant, the Court may by order extend the validity of the writ from time to time for such period, not exceeding twelve months at any one time, beginning with the day next following that on which it would otherwise expire, as may be specified in the order, if an application for extension is made to the Court before that day 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 served, it shall be marked with an official stamp showing the period for which the validity of the writ has been so extended.
 - (4) Where the validity of a writ is extended by order made under this rule, the order shall operate in relation to any other writ (whether original or concurrent) issued

in the same action which has not been served, so as to extend the validity of that other writ until the expiration of the period specified in the order.

Order 7 Originating Summons

1. The provisions of this order shall apply to all originating summonses subject, to any special provisions relating to originating summonses under any enactment or law.
2. (1) Every originating summons shall be in Forms 53, 54, 55, 56 or 57 in Appendix 6 to these Rules, whichever is appropriate.

(2) The party taking out an originating summons (other than an ex parte summons) shall be described as plaintiff and the party against whom it is taken out shall be described as defendant.
3. Every originating summons shall include a statement of the questions on which the plaintiff seeks the determination or direction of the Court or, as the case may be, concise statement of the relief or remedy claimed in the proceeding begun by the originating summons with sufficient particulars to identify the causes or causes of action in respect of which the plaintiff claims that relief or remedy.
4. (1) Before an originating summons is issued it shall be endorsed -
 - (a) where a plaintiff sues in a representative capacity, with a statement of the capacity in which he sues;
 - (b) where a defendant is sued in a representative capacity, with a statement of the capacity in which he is sued.
(2) Before an originating summons is issued in an action brought by a plaintiff who, in bringing it is acting by order or on behalf of a person resident outside the jurisdiction, it shall be endorsed with a statement of that fact and the address of the person so resident.
5. (1) Where a plaintiff sues by a legal practitioner, the originating summons shall be endorsed with the plaintiff's address and the legal practitioner's name or firm and a business address of his within the jurisdiction and also, if the legal practitioner is the agent of another, the name or firm and business address of his principal.

(2) Where the plaintiff sues in person, the originating summons shall be endorsed with -
 - (a) the address of his place of residence and, if his place of residence is not within the jurisdiction or if he has no place of residence, the address of a

place within the jurisdiction at or to which documents for him may be delivered or sent;

(b) his occupation; and

(c) an address for service.

6. (1) An originating summons for service within the jurisdiction may be issued and marked as a concurrent originating summons with one for service out of the jurisdiction; and an originating summons for service of jurisdiction may be issued and marked as a concurrent originating summons with one for service within the jurisdiction.
7. (1) No originating summons which, or notice of which, is to be served out of the jurisdiction shall be issued without leave of the Court.

(2) If any claim made by an originating summons is one which by virtue of an enactment the court has power to hear and determine, notwithstanding that the person against whom the claim is made is not within the jurisdiction of the court or that the wrongful act, neglect or default giving rise to the claim did not take place within its jurisdiction, the provisions of this rule shall not apply to the summons.
8. An originating summons is issued upon its being signed by a Judge in Chambers.
9. (1) For the purpose of service, an originating summons (other than a concurrent one) shall be valid in the first instance for twelve months beginning with the date of its issue and a concurrent originating summons shall be valid in the first instance for the period of validity of the original summons which is unexpired at the issue of the concurrent summons.

(2) Where an originating summons has not been served on a defendant, the Court may by order extend the validity of the summons from time to time for such period, not exceeding twelve months at any one time, beginning with the day next following that on which it would otherwise expire, as may be specified in the order, if an application for extension is made to the Court before that day or such later day (if any) as the Court may allow.

(3) Before an originating summons, the validity of which has been extended under this provision is served, it shall be marked with an official stamp showing the period for which the validity of the summons has been so extended.

(4) Where the validity of an originating summons is extended by order made under this rule, the order shall operate in relation to any summons (whether original or concurrent) issued in the same action which has not been served, so as to extend

the validity of that other summons until the expiration of the period specified in the order.

10. Rules 2 (1) and 3 of this Order shall, so far as applicable, apply to an ex parte originating summons; but, save as foresaid, the foregoing provisions of this order shall not apply to ex parte originating summonses.

Order 8
Petition: General Provisions

1. This Order shall apply to petitions by which civil proceedings in the Court are begun, subject, in the case of petitions of any particular class, to any special provisions relating to petitions of that class made by or under any Decree or other enactment.
2.
 - (1) Every petition shall include a concise statement of the nature of the claim made or relief or remedy required in the proceedings begun thereby.
 - (2) Every petition shall include at the end thereof a statement of the names of the persons, if any, required to be served therewith or, if no person is required to be served a statement to that effect.
 - (3) Where a person brings a petition by a legal practitioner, the petition shall be endorsed with that person's address and the legal practitioner's name or firm and a business address of his within the jurisdiction and also, if the legal practitioner is the agent of another, the name or firm and business address of his principal.
 - (4) Where a person brings a petition in person, the petition shall be endorsed with -
 - (a) the address of his place of residence and, if his place of residence is not within the jurisdiction or if he has no place of residence, the address of a place within the jurisdiction at or to which documents for him may be delivered or sent;
 - (b) his occupation; and
 - (c) an address for service.
3. A petition shall be presented in the Court Registry.
4.
 - (1) A day and time for the hearing of a petition which is required to be heard shall be fixed by the Judge.

- (2) Unless the Court otherwise directs, a petition which is required to be served on any person shall be served on him not less than seven days before the day fixed for the hearing of the petition.
5. No application in any pending cause or matter may be made by petition.

Order 9
Interlocutory Applications

A - Motions Generally

1. Subject to these Rules, interlocutory applications may be made at any stage of an action.
2.
 - (1) Where by these Rules an application is authorized to be made to the Court or to a Judge in Chambers, such application may be made by motion.
 - (2) The Registrar shall make up, for each day on which there are any motions to be heard, a motion list, on which he shall enter the names of each cause in which a motion is made, the party moving, and the terms of the order sought by him.
3. Every motion shall be supported by an affidavit setting out the grounds on which the party moving intends to rely, and no affidavit shall be used at the hearing unless it is duly filed.
4. Where service of a motion is required by these Rules or directed by the Court or Judge, the motion shall be served together with all affidavit on which the party moving intends to rely.
5. A motion may be heard at any time while the Court is sitting.
6. The hearing of any motion may from time to time be adjourned upon such terms as the Court may deem fit.
7.
 - (1) No motion shall be made without previous notice to the parties affected thereby.
 - (2) Notwithstanding sub-rule (1) of this rule, the Court may, if satisfied that to delay the motion till after notice is given to the parties affected would entail irreparable damage or serious mischief to the party moving, make an order ex parte upon such terms as to costs or otherwise and subject to rule 12 of this Order and such understandings, if any, as the justice of the case demands.

B - Ex parte Motions

8. A motion ex parte shall be supported by affidavit which, in addition to the requirements of rule 3 of this Order, shall state sufficient grounds why delay in granting the order sought would entail irreparable damage or serious mischief to the party moving.
9. Any party moving the Court ex parte may support his motion by argument addressed to the Court on the facts put in evidence, and no party to the suit or proceedings, although present, other than the party moving, shall be entitled to be then heard.
10. Where a motion is made ex parte, the Court may make or refuse to make the order sought, or may grant an order to show cause why the order sought should not be made, or may direct the motion to be made on notice to the parties to be affected thereby.
11. Where an order is made on a motion ex parte, any party affected by it may, within seven days after service of it, or within such further time as the Court shall 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 otherwise, as seems just.
12. (1) No order made on a motion ex parte shall last for more than 14 days after the party affected by the order has applied for the order to be varied or discharged or last for another 14 days after application to vary or discharge it had been concluded.

(2) If a motion to vary or discharge an ex parte order is not taken within 14 days of its being filed, the ex parte order shall automatically lapse.

C - Orders to show Cause

13. An order to show cause shall specify a day when cause is to be shown, to be called the return-day to the order, which shall ordinarily be not less than three days after service.
14. A person served with an order to show cause may, before the return-day, produce evidence to contradict the evidence used in obtaining the order, or setting forth other facts on which he relies to induce the Court to discharge or vary such order.
15. On the return-day, if the person served does not appear and it appears to the Court that the service on all proper parties has not been duly effected, the Court may enlarge the time and direct further service or make such other order as seems just.

16. If the person served appears, or the Court is satisfied that service has been duly effected, the Court may proceed with the matter.
17. The Court may either discharge the order or make the same absolute, or adjourn the consideration thereof, or permit further evidence to be produced in support of or against the order, and may modify the terms of the order so as to meet the merits of the case.

D - Notice of Motion

18. Unless the Court gives special leave to the contrary, there shall be at least two clear days between the service of a motion and the day named in the notice for hearing the motion.
19. Notice of motion may, with leave of the Court, be served by any person, notwithstanding that such person is not an officer of the Court.
20. Where a party acts by a solicitor, service of notice of motion on the solicitor shall be deemed good service on that party.
21. There shall be served along with the notice of motion a copy of any affidavit on which the party moving intends to rely at the hearing of the motion.
22. If at the hearing of any motion, the Court is of opinion that any person, to whom notice has not been given, ought to have or to have had such notice, the Court may either dismiss the motion, or adjourn the hearing thereof in order that the notice may be given, upon such terms as to the Court may deemed fit.
23. The plaintiff may, by leave of the Court, cause any notice of motion to be served upon any defendant with the writ of summons.

E - Evidence in Interlocutory Proceedings.

24. Oral evidence shall not be heard in support of any motion unless by leave of the Court.
25. The Court may, in addition to or in lieu of affidavits if it thinks it expedient, examine any witness viva voce, or receive documents in evidence, and may summon any person to attend to produce documents before it, or to be examined or cross-examined before it in like manner as at the hearing of a suit.
26. Such notice as the Court in each case, according to the circumstances, considers reasonable, shall be given to the persons summoned and to such persons (parties to the cause or matter or otherwise interested) as the Court considers are entitled to

inspect the documents to be produced, or to examine the person summoned, or to be present at his examination, as the case may be.

27. The evidence of a witness on any such examination shall be taken in like manner as nearly as may be as at the hearing of a suit.
28. Upon the hearing of any motion the Court may, on such terms as to cost and adjournment as it may deem fit, allow any additional affidavit to be used, after the affidavit has been duly filed and served on the opposite side.

Order 10
Affidavit

1. Upon any motion, petition or summons, evidence may be given by an affidavit, but the Court or a Judge in Chambers may, on the application of either party, order the attendance for cross-examination of the person making the affidavit, and where, after such an order has been made, the person in question does not attend, his affidavit shall not be used as evidence unless by special leave of the Court or a Judge in Chambers.
2. Every affidavit shall be titled in the cause or matter in which it is sworn, but in every case in which there are more than one plaintiff or defendant, it shall be sufficient to state the full name of the first plaintiff and first defendant respectively, and indicate that there are other plaintiffs or defendants, as the case may be.
3. The Court or a Judge in Chambers may receive any affidavit sworn to for the purpose of being used in any cause or matter notwithstanding any defect by misdescription 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.
4. Where a special time is limited for filling affidavit, no affidavit filed after that time shall be used, unless by leave of the Court or a Judge in Chambers.
5. Except by leave of the Court or a Judge in Chambers, no order made ex parte in Court founded on any affidavit shall be of any force unless the affidavit on which the application was made was actually made before the order was applied for and produced or filed at the time of making the motion.
6. A party intending to use any affidavit in support of an application made by him in chambers shall give notice to the other parties concerned in that behalf.
7. All affidavits, which have been previously made and read in Court upon any proceeding in a cause or matter, may be used before the Judge in Chambers.

8. Every alteration in an account verified by affidavit to be left at Chambers shall be marked with the initials of the commissioner before whom the affidavit is sworn, and the alterations shall not be made by erasure.
9. Accounts, extracts from registers, particulars of creditors, debts, and other documents referred to by affidavit, shall not be annexed to the affidavit, or referred to in the affidavit as annexed, but shall be referred to as exhibits.
10. 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.
11. Sections 77 to 89 of the Evidence Act, which set out provisions governing affidavits, shall apply as if they were part of these Rules.
12. A document purporting to have affixed or impressed thereon or subscribe thereto the seal or signature of a Court, Judge, Notary Public or person having authority to administer oath in any part of the Commonwealth outside Nigeria in testimony of an affidavit being taken before it or him in that part shall be admitted in evidence without proof of the seal or signature of that Court, Judge, Notary Public or person.

Order 11

Place of instituting and of trial of Suits

1. (1) Subject to the provisions of any law with respect to transfer of suits or to specific subject matters, the place for the trial of any suit or matter shall be as provided in this Order.
 - (2) All suits or actions relating to taxation of companies and of other bodies established or carrying on business in Nigeria and of all other persons subject to Federal taxation shall be commenced and determined in the Judicial Division of the Court in which the headquarters or the principal office of the company or body is situate and in the case of a person subject to Federal taxation, where the person resides or carries on substantial part of his business.
 - (3) All actions for recovery of revenue, penalties and forfeitures, and also all actions against public officers, shall be commenced and tried in the Judicial Division of the Court in which the cause of action arose.
 - (4) All suits for specific performance, or upon the breach of any contract, shall be commenced and determined in the Judicial Division of the Court in which the contract is supposed to have been performed or in which the defendant resides or carries on substantial part of his business.

- (5) All suits and actions under the Customs and Excise Tariff, Etc. Decree 1995 or under the Admiralty Jurisdiction Decree 1991 shall be commenced and determined in the jurisdiction of the Division of the Court in which the breach of the law, or contract took place or in which the port or boarder where the breach took place is situate.
 - (6) All suits and actions in respect of diplomatic, consular or foreign trade representation shall be commenced and determined in the Division of the Court in which the diplomatic, consular or foreign trade is carried out.
 - (7) All suits and actions in respect of citizenship, naturalisation and aliens, repatriation of persons who are not citizens of Nigeria, passports and visas shall be commenced and determined in the Division of the Court in which the persons resides.
 - (8) All suits and actions relating to copyright, patents, designs, trade marks and merchandise marks shall be commenced and determined in the Division in which the defendant resides.
 - (9) All other suits shall be commenced and determined in the Judicial Division in which the defendant resides or carries on substantial part of his business or in which the cause of action arose.
2. If there are more defendants than one resident in different Judicial Divisions, the suit may be commenced in any one of those Judicial Divisions, subject, however, to any order which the Court may, upon the application of any of the parties, or on its own motion, think fit to make with a view to the most convenient arrangement for the trial of the suit.
 3. Where a suit is commenced in any other Judicial Division of the Court than that in which it ought to have been commenced, it may, notwithstanding, be tried in the Judicial Division in which it has been commenced, unless the Court otherwise directs or the defendant pleads specially in objection to the jurisdiction before or at the time when he is required to state his answer or to plead in the cause.
 4. No proceedings which have been taken before the plea in objection shall be in any way affected thereby, but the Judge shall order the cause be transferred to the Judicial Division to which it is proved to his satisfaction, to belong, or, failing such proof, order that it be retained and proceed in the Court in which it has been commenced, and the order shall not be subject to appeal.

ORDER 12
Parties

A - General

1. (1) All persons may be joined in one action as plaintiffs in whom any right to relief (in respect of or arising out of the same transaction or in a series of transactions) is alleged to exist whether jointly, severally, or in the alternative, where, if such persons brought separate actions, any common question of law or fact would arise and judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to, without any amendment.
 - (2) If, upon the application of a defendant, it appears that the joinder may embarrass any of the parties or delay the trial of the action, the court or a Judge in Chambers may order separate trial, or make such other order as may be expedient in the circumstances.
2. Where an action is commenced in the name of the wrong person, whether juristic or non-juristic as plaintiff, or where it is doubtful whether it has been commenced in the name of the right plaintiff, the Court or a Judge in Chambers, may, if satisfied that it was commenced through a bona fide mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person whether juristic or non-juristic to be substituted or added as plaintiff upon such terms as may be just.
3. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative and judgment may be given against such one or more of the defendants as may be found to be liable according to their respective liabilities without any amendment.
4. Where in an action a person, whether juristic or non-juristic, has been improperly or unnecessarily joined as a co-plaintiff, and a defendant has set up a counter-claim or set-off, the defendant may obtain the benefit thereof by establishing his set-off or counter-claim as against the parties other than the co-plaintiff so joined, notwithstanding the misjoinder of the plaintiff or any proceeding consequent thereon.
5. (1) If it appears to the Court, at or before the hearing of a suit, that all the persons may be entitled to or who claim some share or interest in the subject matter of the suit, or whom may likely to be effected by the result, have not been made parties, the Court may adjourn the hearing of the suit to a future day, to be fixed by the Court, and direct that such persons shall be made either plaintiffs or defendants in the suit, as the case may be.
 - (2) Where the Court directs persons to be made plaintiffs or defendants as in sub-rule (1) of this rule, the Court shall issue a notice to such persons which shall be served in the manner provided by these rules for the service of a writ of summons or in such other manner as the Court thinks fit to direct; and on proof of the due service of such notice, the person served, whether he appears or not, shall be bound by all proceedings in the cause but that a person so served, and

failing to appear within the time limited by the notice for his appearance, may at any time before judgment in the suit, apply to the Court for leave to appear, and such leave may be given upon such terms (if any) as the Court thinks fit.

- (3) The Court may, at any stage of the proceeding and on such terms as appear to the Court to be just, order that the name or names of any party or parties whether as plaintiffs or defendants, improperly joined, be struck out.
6. Where a person has a joint and several demand against more persons than one, either as principals or sureties, it is not necessary for him to bring before the court as parties to a suit concerning that demand all persons liable or more of the persons serially or jointly and severally liable.
7.
 - (1) If the plaintiff sues, or any defendant counter-claims in any representative capacity, it shall be so expressed on the writ.
 - (2) The Court may order any of the persons represented to be made parties either in lieu of, or in addition to the previously existing parties.
8. Where more persons than one have the same interest in one suit, one or more may, with the approval of the Court, be authorised by the other persons interested to sue or to defend the suit for the benefit of or on behalf of all parties so interested.
9. Any two or more persons claiming or alleged to be liable as partners may sue or be sued in the name of the firm in which they were partners when the cause of action arose and any party to an action may in such case apply to the Court for a statement of the names and addresses of the persons who were, when the cause of action arose, partners in any such firm, to be furnished in such manner, and verified on oath or otherwise, as the Court may direct.
10. Infants may sue as plaintiffs by their next friend and may defend by guardians appointed for that purpose.
11. Lunatics and persons of unsound mind may respectively sue as plaintiffs by their committees or next friend, and may in like manner defend any action by their committees or guardians appointed for that purpose.
12.
 - (1) An infant shall not enter an appearance except by his guardian ad litem.
 - (2) No order for the appointment of a guardian shall be necessary if the legal practitioner applying to enter such appearance makes and files an affidavit in Form 14 in Appendix 6 to these Rules with such variations as circumstances may require.
 - (3) This provision shall also apply in case where an infant is served with a petition or notice of motion, or a summons, in any matter.

13. Before the name of a person is used in any action as next friend of an infant or other party, or as relator, that person shall sign a written authority for that purpose, and the authority shall be filed in the Registry.
14. (1) Trustees, executors, and administrators may sue and be sued on behalf of or as representing the property or estate of which they are trustees or representatives, without joining any of the persons beneficially interested in the trust or estate, and shall be considered as representing such persons but the Court or a Judge in Chambers may at any stage of the proceedings, order any such persons to be made parties either in addition to or in lieu of the previously existing parties.
 - (2) Sub-rule (1) of this rule shall also apply to trustees, executors and administrators sued in proceedings to enforce a security by foreclosure or otherwise.
15. Where a defendant is added or substituted, the writ of summons shall be amended accordingly and the plaintiff shall, unless otherwise ordered by the Court or a Judge in Chambers, file an amended writ and cause the new defendant to be served in the proceedings shall be continued as if the new defendant had originally been made a defendant.
16. An application to add or strike out or substitute a plaintiff or defendant may be made to the Court or Judge in Chambers at any time before trial by motion or summons or in a summary manner at the trial of the action.
17. (1) Where in any action a defendant claims as against any person not already a party to the action (in this section called "the third party") that -
 - (a) he is entitled to contribution or indemnity; or
 - (b) he is entitled to any relief or remedy relating to, or connected with the original subject matter of the action and substantially the same as one relief or remedy claimed by the plaintiff; or
 - (c) any question or issue relating to or connected with the said subject matter is substantially the same as some question or issue arising between the plaintiff and the defendant and should properly be determined not only as between the plaintiff and the defendant but also as between the plaintiff and the defendant and the third party or between any or either of them,

the court or a Judge in Chambers may give leave to the defendant to issue and serve a third party notice.
- (2) The Court or a Judge in Chambers may give leave to issue and serve a third party notice on ex-parte application supported by affidavit, or, where the Court

or Judge in Chambers directs a summons to the plaintiff to be issued, upon the hearing of the summons but that leave shall not be granted in cases where action was begun and an order for pleading made before the date of the commencement of this rule.

18. (1) The notice shall -
 - (a) state the nature and grounds of the claim or the nature of the question or issue sought to be determined and the nature and extent of any relief or remedy claimed;
 - (b) be in accordance with Form 23 or Form 24 in Appendix 6 to these Rules with such variations as circumstances may require; and
 - (c) be sealed and served on the third party in the same manner as a writ of summons is sealed and served.
- (2) The notice shall, unless otherwise ordered by the Court or by a Judge in Chambers, be served within the time limited for delivering the defence, or, where the notice is served by a defendant to a counter-claim, the reply and with it also shall be served a copy of the writ of summons or originating summons and of any pleadings filed in the action.
19. The third party shall, as from the time of the service upon him of the notice, be a party to the action with the same rights in respect of his defence against any claim made against him and otherwise as if he had been duly sued in the ordinary way by the defendant.
20. The third party may enter an appearance in the action within eight days from service or within such further time as may be directed by the Court or Judge in Chambers as specified in the notice (where the third party is served in Nigeria outside the jurisdiction of the Court, the period for entering appearance shall be at least thirty days) but a third party failing to appear within that time may apply to the Court or Judge in Chambers for leave to appear, and the leave may be given upon such terms, if any, as the Court or Judge in Chambers thinks fit.
21. If a third party duly served with a third party notice does not enter an appearance or makes default in filing any pleading which he has been ordered to file, he shall be deemed to admit any claim stated in the third party notice and shall be bound by any judgment given in the action, whether by consent or otherwise, and by any decision therein or any question specified in the action, and when contribution or indemnity or other relief for remedy is claimed against him in the notice, he shall be deemed to admit his liability in respect of the contribution or indemnity or other relief or remedy.

22. (1) Where a third party makes default in entering an appearance or filing any pleading which he had been ordered to file and the defendant giving the notice suffers judgment by default, the defendant shall be entitled at any time, after satisfaction of the Judgment against himself, or before the satisfaction by leave of the Court or a Judge in Chambers -
 - (a) Judge in Chambers shall direct.
 - to enter judgment against the third party to the extent of any contribution or indemnity claimed in the third party notice, or by leave of the Court or a Judge in Chambers,
 - (b) to enter such judgment in respect of any other relief or remedy claimed as the Court or a
 - (2) It shall be lawful for the Court or a Judge in Chambers to set aside or vary the judgement against the third party upon such terms as may seem just.
23. (1) If the third party enters an appearance, the defendant giving notice may, after notice of the intended application has been served upon the plaintiff, the third party, and on any other defendant, apply to the Court or a Judge in Chambers for directions, and the Court or Judge in Chambers may -
 - (a) where the liability of the third party to the defendant giving the notice is established on the hearing of the application, order such judgement as the nature of the case may require to be entered against the third party in favour of the defendant giving the notice; or
 - (b) if satisfied that there is a question or issue properly to be tried as between the plaintiff and the defendant and the third party or between any or either of them as to the liability of the defendant to the plaintiff or as to the liability of the third party to make any contribution or indemnity claimed, in whole or in part, or as to any other relief or remedy claimed in the notice by the defendant or that a question or issue stated in the notice should be determined not only as between the plaintiff and the defendant but as between the plaintiff, the defendant and the third party or any or either of them, order that question or issue to be tried in such manner as the Court or Judge in Chambers may direct; or
 - (c) dismiss the application.
 - (2) Any directions given pursuant to this rule may be given either before or after any judgement has been entered in favour of the plaintiff against the defendant in the action, and may be varied from time to time and may be rescinded.
 - (3) The third party proceedings may at any time be set aside by the Court or a Judge in Chambers.

24. The Court or a Judge in Chambers upon the hearing of the application for directions may, if it appears desirable to do so, give the third party liberty to defend the action either alone or jointly with the original defendant upon such terms as may be just, or to appear at the trial and take such part therein as may be just, and generally may order such proceedings to be taken, pleading or documents to be filed, or amendments to be made, and give such directions as to the Court or Judge in Chambers may appear proper for having the question and the rights and the liabilities of the parties most conveniently determined and enforced, and as to the mode and extent in or to which the third party shall be bound or made liable by the decision or judgement in the action.
25. (1) Where the action is tried, the Judge who tries the action may, at or after the trial, enter such judgement as the nature of the case may require for or against the defendant giving the notice or against or for the third party, and may grant to the defendant or to the third party, any relief or remedy which might properly have been granted if the third party had been made a defendant to an action duly instituted against him by the defendant but execution shall not be issued without leave of the Court or of a Judge in Chambers until after satisfaction by the defendant of the judgement against him.

(2) Where the action is decided otherwise than by trial, the Court or a Judge in Chambers may, on application by motion or summons, make such order as the nature of the case may require, and, where the plaintiff has recovered judgement, may cause such judgement as may be entered for or against the defendant giving notice or against or for the third party.
26. Any person carrying on business within the jurisdiction in a name or style other than his own name may be sued in that name or style as if it were a firm name and, so far as the nature of the case will permit, all provisions relating to proceedings against firms shall apply.
27. If it appears on oath or affidavit to the satisfaction of the Court that the defendant has a bona fide counter-claim against the plaintiff 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 the plaintiff until he provides such security to comply with the orders and judgment of the Court with respect to such counter-claim as the court thinks fit.
28. Where by these Rules an act may be done by any party in an action that act may be done either by the party in person, or by his legal practitioner, or by his agent (unless an agent is expressly debarred under these Rules or any written law in force in any part of Nigeria).

29. (1) Where after the institution of a suit a change or transmission of interest or liability occurs in relation to any party to the suit, or any party to the suit dies or becomes incapable of carrying on the suit, or the suit in any other way becomes defective or incapable of being carried on, any person interested may obtain from the Court an order requisite for curing the defect, or enabling or compelling proper parties to carry on the proceedings.
 - (2) A person served with an order made pursuant to sub-rule (1) of this rule may, within such time as the Court in the order directs, apply to the court to discharge or vary the order.
30. The death of a plaintiff or defendant shall not cause the suit to abate if the cause of action survives.
31. If there are two or more plaintiffs or defendants, and one of them dies, and if the cause of action survives the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, and against the surviving defendant or defendants.
32. (1) If there are two or more plaintiffs and one of them dies, and if the cause of action does not survive to the surviving plaintiff or plaintiffs alone, but survives to them and the legal representative of the deceased plaintiff jointly, the Court may, on the application of the legal representative of the deceased plaintiff, enter the name of the legal representative in the suit in the place of the deceased plaintiff, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs and the legal representative of the deceased plaintiff.
 - (2) If no application is made to the Court by any person claiming to be the legal representative of the deceased plaintiff, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs and the legal representative of the deceased plaintiff shall, after notice to appear, be interested in, and shall be bound by the judgment given in the suit, in the manner as if the suit had proceeded at his instance conjointly with the surviving plaintiff or plaintiffs, unless the Court otherwise to directs.
33. (1) In case of the death of a sole plaintiff, or sole surviving plaintiff, the Court may, on the application of the legal representative of the deceased sole plaintiff, enter the name of the legal representative in the place of the plaintiff in the suit, and the suit shall thereupon proceed.
 - (2) If no such application is made to the Court within what it may consider a reasonable time by any person claiming to be the legal representative of the deceased sole plaintiff or sole surviving plaintiff, it shall be competent for the Court to make an order that the suit shall abate, and award to the defendant the

reasonable costs which he may have incurred in defending the suit, to be recovered from the estate of the deceased sole plaintiff or surviving plaintiff.

- (3) The court may, if it thinks proper, on the application of the defendant and upon such terms as to costs as may seem just, make such order for bringing in the legal representative of the deceased sole plaintiff or surviving plaintiff, and for proceeding with the suit in order to come to a final determination of the matters in dispute, as may appear just and proper in the circumstances of the case.
34. If any dispute arises as to who is the legal representative of a deceased plaintiff, the Court may either stay the suit until the fact has been duly determined in another suit, or decide at or before the hearing of the suit who shall be admitted to be the legal representative for the purpose of prosecuting that suit.
35.
 - (1) If there are two or more defendants, when one of them dies the cause of action survives but does not survive against the surviving defendant or defendants alone.
 - (2) In the case of the death of a sole defendant, or sole surviving defendant, where the action survives, the plaintiff may make an application to the Court, specifying the name, description and place of abode of any person who the plaintiff alleges to be the legal representative of the defendant and whom he desires to be made the defendant in his stead
 - (3) The Court shall thereupon enter the name of the legal representative in the suit in the place of the defendant, and issue an order to him to appear on a day to be therein mentioned to defend the suit and the case shall thereupon proceed in the same manner as if the legal representative had originally been made a defendant, and had been a party to the former proceedings in the suit.
36.
 - (1) The bankruptcy of the plaintiff, in any suit which the assignee or trustee might maintain for the benefit of the creditors, shall not be valid objection to the continuance of the suit, unless the assignee or trustee, declines to continue the suit, or neglects or refuses to give security for the costs thereof, within such reasonable time as the Court may order.
 - (2) If the assignee or trustee neglects or refuses to continue the suit and to give the security within the time limited by the order, the defendant may, within eight days after such neglect or refusal, plead the bankruptcy of the plaintiff as a reason for abating the suit.
37. Where any cause or matter becomes abated or in the case of any such change of interest as is by these Rules provided for, the legal practitioner for the plaintiff or person having the conduct of the cause or matter, as the case may be, shall certify the fact to the registrar who shall cause an entry thereof to be made in the Cause Book opposite to the name of such cause or matter.

C - Change of Counsel of parties.

38. (1) A party to any cause or matter who sues or defends by a Counsel, may change his legal practitioner without an order for that purpose but, unless and until notice of the change is filed and copies of the notice are served on every other party to the cause or matter and on the former legal practitioner, the former legal representative shall be considered the legal practitioner of the party until the final conclusion of the cause or matter
- (2) A copy of the notice endorsed with an affidavit stating that the notice has been duly filed in the registry shall also be filed.
- (3) The party giving the notice may perform the duties prescribed by this order in person or by his new legal representative.
39. (1) Where a legal practitioner who has acted for a party in a cause or matter ceases so to act and the party has not given notice of change in accordance with sub-rule (1) of rule 38 of this Order, the legal practitioner may apply to the Court for an order declaring that the legal representative has ceased to be the one acting for the party in the cause or matter and the Court may make an order accordingly.
- (2) An order under sub-rule (1) of this rule shall not be made until the legal practitioner serves on every party to the cause or matter a copy of the notice otherwise he shall be considered the legal practitioner of the party till the final conclusion of the cause or matter.
- (3) An application for an order under this rule shall be made by originating motion supported by an affidavit stating the grounds of the application
- (4) An order made under this rule shall not affect the rights of the legal representative and the party for whom he acted for as between themselves.
40. After an order is made under rule 38 or 39 of this Order, the address of the party shall be his last known address or where the party is a body corporate, its registered or principal office for the purpose of the service on him of any document not required to be served personally.

Order 13
Service Of Process

A - Service Within Jurisdiction

1. Service of writs of summons, notices, petitions, pleading, orders, summonses, warrants and all other proceedings, documents or written communication of which service is required, shall be made by -
 - (a) the sheriff or a deputy sheriff, bailiff, officer of the Court; or
 - (b) a person appointed therefor (either especially or generally) by the Court or by a Judge in Chambers, unless another mode of service is prescribed by these Rules; or
 - (c) a solicitor filing the document who must give a written undertaking at the time of filing the document to the registrar receiving the document that his Chambers shall serve the document on the other party or his solicitor and that he would file with the registrar a proof of the service signed by the other party or his solicitor; or
 - (d) the Court or a Judge in Chambers by such other method of service as the Court or Judge in Chambers may otherwise direct.
2. Save as otherwise prescribed by any of these Rules, an originating process shall be served personally by delivering to the person to be served a copy of the document, duly certified by the Registrar as being a true copy of the original process filed, without exhibiting the original thereof.
3. No service of a writ of summons or other process on the defendant shall be necessary when the defendant by his legal practitioner undertakes in writing to accept service.
4. (1) The Court may in any civil case, for reasons which seems to it sufficient, appoint any process to be executed by a special bailiff, who for the time being shall have the privileges and liabilities of an officer of Court.
(2) The expenses of the special bailiff shall be defrayed by the party on whose application he is appointed unless the Court in any case sees any reason to vary this rule.
5. Where it appears to the Court (either after or without an attempt at personal service) that for any reason personal service cannot be conveniently effected, the Court may order that service be effected either -
 - (a) by delivery of the document to an adult person at the usual or last known place of abode or business of the person to be served; or
 - (b) by delivery of the document to some person being an agent of the person to be served, or to some other person, on it being proved that there is reasonable probability that the document would in the ordinary course,

through that agent or other person, come to the knowledge of the person to be served;

- (c) by advertisement in the Federal Government Official Gazette, or in some newspaper circulating within the jurisdiction; or
 - (d) by notice put up at the principal Court-House of, or some other place of public resort in, the Judicial Division wherein the proceeding in respect of which the service is made is instituted, or at the usual or last known place of abode, or of business, of the person to be served; or
 - (e) by service where a party is represented by a legal practitioner, of notices, pleadings, petitions, orders, summonses, warrants and all other proceedings, documents or written communications on the legal practitioner or his clerk.
6. When a party to be served is in the service of any Ministry or non-Ministerial Department of Government or of a Local Government, the Court may transmit the document to be served and a copy thereof to the most senior officer of the Department of Government in the Judicial Division or place where the party to be served works or resides or to the Local Government in whose service the party to be served is, and such officer, or Local Government shall cause the same to be served on the proper party, accordingly.
 7. Where partners are sued in the name of the partnership the writ or other document shall be served upon any one or more of the partners, or at the principal place within the Judicial Division of the business of the partnership, upon any person in that place having at the time of the service the control or management of the business and such service shall be deemed good service upon the partnership.
 8. When the suit is against a corporation or a company authorized to sue and be sued in its name or in the name of an officer or trustee, the writ or other document may be served, subject to the enactment establishing that corporation or company or under which the company is registered, as the case may be, by giving the writ or document to any director, secretary, or other principal officer, or by leaving it at the office of the corporation or company.
 9. Where the person on whom service is to be effected is living or serving on board of any ship, it shall be sufficient to deliver the writ or other document to the person on board who is at the time of the service apparently in charge of that ship.
 10. Where the person on whom service is to be effected is a prisoner in a prison or a lunatic in any asylum, it shall be sufficient service to deliver the writ or other document at the prison or asylum to the superintendent or person appearing to be the head officer in charge of the prison or asylum.

11. Where an infant is a party to an action, service on his father or guardian, or if none, then upon the person with whom the infant resides or under whose care he is, shall, unless the court or Judge in Chambers otherwise orders, be deemed good personal service on the infant but that the court or judge may order that service made or to be made on an infant personally shall be deemed good service.
12. Where service is to be made upon a person residing out of, but carrying on business within, the jurisdiction in his own name or under the name of a firm through an authorised agent, and the proceeding is limited to a cause of action which arose within the jurisdiction, the writ or other document may be served by giving it to the agent, and the service shall be equivalent to personal service.

B - Service out of Jurisdiction

13. Service out of jurisdiction of a writ of summons or notice of a writ of summons may be allowed by the Court or a Judge in Chambers whenever -
 - (a) the whole subject matter of the action is land situate within the jurisdiction (with or without rents or profits); or
 - (b) any act, deed, will, contract, obligation, or liability affecting land or hereditament situate within the jurisdiction, is sought to be construed, rectified, set aside, or enforced in the action; or
 - (c) any relief is sought against any person domiciled, or ordinarily resident, within the jurisdiction; or
 - (d) the action is one brought against the defendant to enforce, rescind, dissolve, annul or otherwise effect a contract or to recover damages or other relief for or in respect of a breach of a contract-
 - (i) made within the jurisdiction, or
 - (ii) made by or through an agent trading or residing within the jurisdiction on behalf of a principal trading or residing out of the jurisdiction, or
 - (iii) by its terms or by implication 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 the breach was preceded or accompanied by a breach out of the jurisdiction which rendered impossible the performance of the part of the contract which ought to have been performed within the jurisdiction;
 - (e) the action is founded on tort or other civil wrong committed within the jurisdiction; or

- (f) any injunction is sought as to any thing to be done within the jurisdiction or any nuisance within the jurisdiction is sought to be prevented or removed, whether damages are or are not also sought in respect thereof; or
 - (g) any person out of jurisdiction is a necessary or proper party to an action properly brought against some other party within the jurisdiction; or
 - (h) the action is by a mortgagee or mortgagor in relation to a mortgage of property situate within the jurisdiction and seeks relief of the nature or kind of the following that is to say, sale, foreclosure, delivery of possession by the mortgagor, redemption, reconveyance, delivery of possession by the mortgagee; but does not seek (unless and except so far as permissible under paragraph (d) of this rule) any personal judgment order for payment of any moneys due under the mortgage; or
 - (I) the action is one brought under the Civil Aviation Act or any regulations made in pursuance of the Act or any law relating to carriage by air.
14. (1) Every application for leave to serve a writ or notice on a defendant out of the jurisdiction shall be supported by affidavit or other evidence stating that in the belief of the deponent the plaintiff has a good cause of action and showing in what place or country the defendant is or probably may be found, , and the grounds upon which application is made.
- (2) No such leave shall be granted unless it is made sufficiently to appear to the Court or a Judge in Chambers that the cause is a proper one for service out of jurisdiction under these Rules.
15. Any order giving leave to effect service or give notice shall limit a time after such service or notice within which the defendant is to enter an appearance, such time to depend on the place or country where or within which the writ is to be served or the notice given, and on whether the air mail is available to the defendant.
16. Where leave is given under the foregoing provisions to serve notice of the writ of summons out of jurisdiction, the notice shall be served in the manner in which writs of summons are served.
17. (1) Service out of the jurisdiction may be allowed by the Court or a Judge in chambers of the following processes or of notices thereof, that is to say -
- (a) an originating summons, where the proceedings begun by an originating summons might have been begun by a writ of summons under these Rules;
 - (b) any originating summons, petition, notice of motion or other originating proceedings -

- (i) in relation to an infant or lunatic or person of unsound mind, or
 - (ii) under any law or enactment under which proceedings can be commenced otherwise than by writ of summons, or
 - (iii) under any rule of court whereunder proceedings can be commenced otherwise than by writ of summons;
- (c) without prejudice to the generality of paragraph (b) of this sub-rule, 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 writ of summons or other such originating process as aforesaid.
- (2) The provisions of rules 14, 15 and 16 of this Order shall apply mutatis mutandis to service under this rule.
18. (1) Where leave is given to serve a writ of summons or a notice of writ of summons 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 the jurisdiction, and shall be transmitted to the permanent Secretary to the Ministry of Justice by the Chief Registrar on the direction of the Chief Judge, 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 the further transmission of the same to the Government of the country in which leave to serve the document has been given and the request shall be as in Form 7 in Appendix 6 to these Rules with such variations as circumstances may require;
 - (b) the party requesting a copy of a document for service under this section shall, at the time of requesting the same, file a praecipe as in Form 8 in Appendix 6 to these Rules;
 - (c) an official certificate, or declaration upon oath or otherwise, transmitted through the diplomatic channel 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 that foreign country, or words to that effect, be deemed to be sufficient proof of 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 or declaration transmitted to the Court in the manner provided in paragraph (c) of this sub-rule certifies or declares that efforts to serve document have been without effect, the Court or a Judge may, upon the ex parte application of the plaintiff, order substituted service of the document, and the document and a copy of it and the order shall be sealed and transmitted to the permanent Secretary to the Minister of Justice in manner aforesaid together with a request in Form 9 of Appendix 6 to these Rules, with such variations as circumstances may require.
- (2) Nothing herein contained shall in any way prejudice or affect any practice or power of the Court under which when lands, funds, choses in action, rights or property within the jurisdiction are sought to be dealt with or affected, the Court may, without affecting to exercise jurisdiction over any person out of the jurisdiction, cause such person to be informed of the nature or existence of the proceedings with a view to such person having an opportunity of claiming, opposing or otherwise intervening.
- 19 (1) Where, for the purpose of an action under the Civil Aviation Act and the Convention therein set out, leave is given to serve a notice of writ of summons upon a high contracting party to the convention other than Nigeria, the provisions of this Order shall apply.
- (2) The notice shall specify the time for entering an appearance as limited in pursuance of rule 15 of this Order.
- (3) The notice shall be sealed with the seal of the Court for service out of jurisdiction, and shall be transmitted to the Ministry of Justice, together with a copy thereof transmitted into the language of the country of the defendant, and with a request for transmission to the Minister responsible for matters relating to foreign affairs for further transmission of the same to the Government of that country.
- (4) The request shall be in Form 10 in Appendix 6 to these Rules, with such variations as circumstances may require.
- (5) The party bespeaking a copy of a document for service under this rule shall at the time of bespeaking the document file a praecipe in Form 9 in Appendix 6 to these Rules.
- (6) An official certificate from the Minister responsible for matters relating to foreign affairs transmitted by the Ministry of Justice or otherwise to the Court certifying that the notice was delivered on a specified date to the Government of the country of the defendant shall be deemed to be sufficient proof of service and shall be filed as record of and be equivalent to, an affidavit of service within the requirements of these Rules in that behalf.

- (7) After entry of appearance by the defendant, or, if no appearance is entered after expiry of the time limited for appearance, the action may proceed to judgment in all respects as if the defendant had for the purposes of the action waived all privileges and submitted to the jurisdiction of the Court.
- (8) Where it is desired to serve or deliver a summons, order or notice in the proceedings on the defendant out of the jurisdiction, the provisions of this rule shall apply with such variation as circumstances may require.
20. Where leave is given in a civil cause or matter or where leave is not required, and it is desired to serve any writ of summons, 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 the service shall file in the registry a request in Form 8 or Form 54 in Appendix 6 to these Rules, which form may be varied as may be necessary to meet the circumstances of the particular case in which it is used and the request shall state the medium through which it is desired that the service shall be effected, that is, whether -
- (i) directly through the diplomatic channels, or
- (ii) through the foreign judicial authority,
- and shall be accompanied by the original documents and a 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 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 document 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 for Foreign Affairs for transmission to the foreign country;
- (c) an official certificate, transmitted through the diplomatic channel 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, shall be deemed to be sufficient proof of such service, and shall be filed as record of, and be equivalent to, an affidavit of service within the requirements of these Rules in that behalf.

21. Rule 20 shall not apply to or 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 that foreign country.
22. The Court or Judge, in giving leave to serve a document out of the jurisdiction under these Rules, may in an appropriate case direct that the air mail service shall be used by the party effecting service.
23. 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 or shall be made, a request for service of any document on a person within the jurisdiction is received by the Chief Judge from the consular or other authority of the country, the following procedure shall, subject to any special provisions 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 or a Judge in Chambers thinks fit otherwise to direct;
 - (b) no court fees shall be charged in respect of the service but 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 Chief Judge 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 it, and at the same time shall notify to the said consular or other authority the amount of the charges certified under paragraph (b) of this rule.
24. Upon the application of the Attorney-General of the Federation, the Court or a Judge in Chambers may make all such orders for substituted service or otherwise as may be necessary to give effect to rules 13 to 22 of this Order.
25. Any order giving leave to effect service out of the jurisdiction shall prescribe the mode of service, and shall limit a time after the service within which the defendant is to enter an appearance, such time to depend on the place or country where or within which the writ 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.

C - General Provisions

26. Where the officer of court or person charged with the service of any writ or document on any person is prevented by the violence or threats of such person, or any person in concern with him, from personally serving the writ or documents, it shall be sufficient to inform the person to be served of the nature of the writ or document as near that person as practicable.
27. In all cases where service of any writ or document has been effected by a bailiff or other officer of Court, an affidavit of service sworn to by the bailiff or other officer shall, on production, without proof of signature, be prima facie evidence of service.
28. The costs of and incidental to the execution of any process in a suit shall be paid in the first place by the party requiring the execution, and the sheriff shall not (except by order of the Court) be bound to serve or execute any process unless the fees and reasonable expenses thereof shall have been previously paid or tendered to him.
29. Service shall not be made on a Sunday or public holiday, unless the Court directs otherwise by order endorsed on the document to be served.
30. A book shall be kept at every Court for recording service or process, in such form as the Chief Judge may direct, in which shall be entered by the officer serving the process, or by the registrar, the names of the plaintiff or complaint and the defendant, the particular Court issuing the process, the method, whether personal or otherwise, of the service, and the manner in which the person serving ascertained that he served the process on the right person, and where any process is not duly served, then the cause of failure shall be stated and every entry in the book or an office copy of any entry shall be prima facie evidence of the several matters therein stated.
31. In this order "Out of Jurisdiction" means out of the Federal Republic of Nigeria.

Order 14
Appearance

1. (1) A defendant shall within the time limited in the writ or other originating process enter an appearance in the manner hereinafter prescribed.
 - (2) A defendant shall enter an appearance by delivering to the Registrar, the requisite documents, that is to say, a memorandum of appearance in Form 11, or where leave was obtained before appearance, a notice in Form 12 in Appendix 6 to these Rules and a statement of defence to the action together with copies of documentary evidence therein mentioned.
 - (3) The memorandum or notice shall be accompanied, where the defendant is an infant, by an affidavit sworn to by his legal practitioner and the consent of his guardian as in Form 14 in Appendix 6 to these Rules, with such variations as the circumstances may require, and a copy thereof.

- (4) All the documents shall be signed by the legal practitioner by whom the defendant appears or, if the defendant appears in person, by the defendant.
 - (5) On receipt of the requisite documents, the Registrar shall in all cases enter the appearance in the cause Book and stamp the copies of the memorandum of appearance with the official stamp showing the date on which he received those documents, and deliver one sealed copy thereof to the plaintiff or, as the case may be, his legal practitioner.
2. (1) A defendant appearing in person shall state in the memorandum of appearance an address for service, which shall be within the jurisdiction.
 - (2) Where a defendant appears by a legal practitioner, the legal practitioner shall state in the memorandum of appearance his place of business and an address for service which shall be within the jurisdiction, and where any legal practitioner is only the agent of another legal practitioner, he shall also insert the name and place of business of the principal legal practitioner.
 3. (1) If the memorandum does not contain an address for service, it shall not be accepted.
 - (2) If any address for service is illusory or fictitious or misleading, the appearance may be set aside by the Court or a Judge in Chambers or on the application of the plaintiff.
 4. If two or more defendants in the same action shall appear by the same legal practitioner and at the same time, the names of all the defendants so appearing may be inserted in one memorandum.
 5. (1) A defendant may appear at any time before judgment.
 - (2) Where a defendant appears at any time after the time limited by the writ for appearance, he shall not, unless the Court or a Judge in Chambers shall otherwise order for any purpose, than if he had appeared according to the writ or other originating process.

Order 15
Default Of Appearance

1. Where a writ of summons is endorsed for a liquidated demand, whether specially or otherwise, and the defendant fails, or all the defendants, if more than one, fail, to appear thereto, the plaintiff may have entered in his favour, final judgment for any sum not exceeding the sum endorsed on the writ, together with interest at the rate

specified (if any), or (if no rate is specified) at the rate of six per cent per annum, to the date of the judgment, and costs.

2. Where the writ of summons is endorsed for a liquidated demand, whether specially or otherwise, and there are several defendants, of whom one or more appear to the writ, and another or others of them fail to appear, the plaintiff may have final judgment entered, as in rule (1) of this Order, against those that have not appeared, and may issue execution upon the judgment without prejudice to his right to proceed with the action against those who have appeared.
3. If an appearance is entered but the defence is limited to part only, the plaintiff may have judgment entered for him for the undefended part of his claim, and the rest of the claim may be proceeded with in the normal way.
4. (1) In any case to which rules 1, 2, and 3 of this Order apply, in which the defendant fails, or all the defendants, if more than one, fail to appear, but in which by reason of payment, satisfaction, abatement of nuisance, or for any other reason it is necessary for the plaintiff to proceed with the action, the plaintiff may, by leave of the Court or a Judge in Chambers to be obtained on summons in Chambers, have judgment entered for costs.

(2) The summons under sub-rule (1) of this rule shall be filed and shall be served in the manner in which service of the writ has been effected or in such other manner as the Court or a Judge in Chambers may direct.
5. In all actions not specifically provided for in this Order, if the defendant fails to enter appearance within the stipulated time, the plaintiff may apply for the case to be set down for hearing, and upon the hearing, the Court may give any judgment that the plaintiff appears to be entitled to on the facts.
6. Where judgment is entered pursuant to any of the preceding rules of this Order, it shall be lawful for the Court or a Judge in Chambers to set aside or vary the judgment upon such terms as may be just.
7. Where a defendant or respondent to an originating summons to which an appearance is required to be entered fails to appear within the time limited, the plaintiff or applicant may apply to the Court or a Judge in Chambers for an appointment for the hearing of the summons and upon a certificate that no appearance has been entered, the Court or Judge in Chambers shall appoint a time for the hearing of the summons, upon such conditions (if any) as it or he may think fit.
8. (1) Where no appearance has been entered to a writ of summons for a defendant who is an infant or a person of unsound mind not adjudged a lunatic, the plaintiff shall, before further proceeding with action against the defendant, apply to the Court or a Judge in Chambers for an order that some proper person be assigned guardian of such defendant by whom he may appear and defend the action.

- (2) No order pursuant to rule 1 of this Order shall be made unless it appears that application was, after the expiration of the time allowed for appearance, and at least six clear days before the day named in the notice for hearing the application, served upon or left at the dwelling-house of the person with whom or under whose care the defendant was at the time of serving such writ of summons, and also (in the case of the defendant being an infant not residing with or under the care of his father or guardian) served upon or left at the dwelling-house of the father or guardian (if any) of the infant, unless the Court or Judge in Chambers at the time of hearing the application first dispenses with the last-mentioned service.

Order 16
Arrest Of Absconding Defendant

1. If in any suit for an amount or value of one thousand naira or upwards the defendant is about to leave the jurisdiction of the Court, or has disposed of or removed from the jurisdiction, his property, or any part thereof, or is about to do so, the plaintiff 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 taken for the appearance of the defendant to answer and satisfy any judgment that may be passed against him in the suit.
2. If the Court, after making such investigation as it may consider necessary, is of the opinion that there is probable cause for believing that the defendant is about to leave the jurisdiction of the Court, or that he has disposed of or removed from the jurisdiction, his property, or any part thereof, or is about to do so, and that in either case by reason thereof the execution of any decree which may be made against him is likely to be obstructed or delayed, it shall be lawful for the Court to issue a warrant to bring the defendant before the Court, that he may show cause why he should not give good and sufficient bail for his appearance.
3. If the defendant fails to show such cause, the Court shall order him to give bail for his 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 him in the suit, or to give bail for the satisfaction of such judgment and the surety or sureties shall undertake in default of such appearance or satisfaction to pay any sum of money that may be adjudged against the defendant in the suit, with costs.
4. Where a defendant offers, in lieu of bail for his appearance, to deposit a sum of money, or other valuable property, sufficient to answer the claim against him with costs of the suit, the Court may accept the deposit.
5. (1) In the event of the defendant neither furnishing security nor offering a sufficient deposit, he may be committed to custody until the decision of the suit, or if judgment be given against the defendant, until the execution of the decree,

if the Court so orders but the Court may at any time, upon reasonable cause being shown and upon such terms as to security or otherwise as may seem just, release the defendant.

- (2) The application may be made to the Court in any Judicial Division in which the defendant may be, and the Court may issue the warrant for detaining and bringing the defendant before the Court where the suit is pending, and may make such further order as shall seem just.
 - (3) In case the warrant is issued by a different Court from that in which the suit is pending, the Court shall, on the request of either of the parties, transmit the application and the evidence therein to the Court in which the suit is pending, and the sufficient security for the appearance of the defendant in that Court, or send him there in custody of an officer of Court, and the Court in which the suit is pending shall thereupon inquire into and proceed with the application in accordance with the foregoing provisions, in such manner as shall seem just.
6. (1) The expenses incurred for the subsistence in prison of the person so arrested shall be paid by the plaintiff in the action in advance, and the amount so disbursed may be recovered by the plaintiff in the suit, unless the Court otherwise orders.
- (2) The Court may release the person so imprisoned on failure by the plaintiff to pay the subsistence money, or in case of serious illness, order his removal to hospital.

Order 17
Interim Attachment Of Property

1. (1) Where -
 - (a) the defendant in any suit with intent to obstruct or delay the execution of any decree that may be passed against him, is about to dispose of his property, or any part thereof, or to remove any such property from the jurisdiction; or
 - (b) in any suit founded on contract or for detinue or trover in which the cause of action arose within the jurisdiction -
 - (i) the defendant is absent from the jurisdiction, or there is a probable cause to believe that he is concealing himself to evade service; and
 - (ii) the defendant is beneficially entitled to any property in the State in the custody or under the control of any other person in the State, or such person is indebted to the defendant

then, in either such case, the plaintiff may apply to the Court either at the time of the institution of the suit or at any time thereafter until final judgment, to call upon the defendant to furnish sufficient security to fulfill any decree that may be made against him in the suit, and on his failing to give the security, or pending the giving of such security, to direct that any property movable or immovable belonging to the defendant shall be attached until the further order of the Court.

2. The application for attachment shall contain a specification of property required to be attached, and the estimated value thereof so far as the plaintiff can reasonably ascertain the same, and the plaintiff shall, at the time of making the application, declare that to the best of his information and belief the defendant is about to dispose of or remove his property with such intent as aforesaid.
3. (1) If the Court after making such investigation as it may consider necessary, is satisfied that the defendant is about to dispose of or remove his property with intent to obstruct or delay the execution of the decree, it shall be lawful for the Court to order the defendant, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order or produce and place at the disposal of the Court when required, the said property, or the value of the same or such portion thereof as may be sufficient to fulfil the decree, or to appear and show cause why he should not furnish security.

(2) Pending the defendant's compliance 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.
4. (1) If the defendant 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 fulfil the decree, shall be attached until further order.

(2) If the defendant 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 shall order the attachment to be withdrawn.
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.
6. In all cases of attachment before judgment, the Court shall at any time remove the attachment, on the defendant furnishing security as above required, together with security for the costs of the attachment, or upon an order for a non-suit or striking the matter.

7. (1) The application may be made to the Court in the Judicial Division where the defendant 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.
- (2) In case an order for the attachment of property is issued by a different Court from that in which the suit is pending, that Court shall, on the request of either of the parties, transmit the application and evidence therein 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 inquire into and proceed with the application in accordance with the foregoing provisions, in such manner as shall seem just.

Order 18

Needless Detention Of Chattels Or Ship And Reparation For It

1. Where a Court on an application of a party, makes an order to hold to bail, or of sale, injunction or attachment or any warrant to stop the clearance of, or to arrest any chattel or ship upon any condition and -
 - (a) it later appears to the Court that an order made by it was applied for on insufficient grounds; or
 - (b) the suit in which the application was made is dismissed or judgment is given against the applicant by default or otherwise and it appears to the Court that there was no probable ground for instituting such a suit,

the Court may on application of the defendant made at any time before the expiration of three months from the termination of the suit, award the defendant an amount of compensation not larger than one that could be awarded for damages in any suit.

2. (1) The provisions of Rule 1 of this Order shall not take away any right of action under admiralty action
- (2) Any compensation awarded under the admiralty action shall be taken into consideration in awarding any damages under Rule 1 of this Order

Order 19

Accounts And Inquiries

1. (1) Where a writ is endorsed with a claim of an account or a claim which necessarily involves taking an account, the plaintiff may, at any time, after the defendant has entered an appearance or after the time limited for appearing, apply for an order for an account under this rule.

- (2) An application, under this rule shall be made by summons and supported by affidavit or other evidence.
 - (3) On the hearing of the application, the Court may, unless satisfied by the defendant, by affidavit or otherwise, that there is some preliminary question to be tried, order that an account be taken and may also order that any amount certified on taking the account to be due to either party be paid to him within a time specified in the order.
2.
 - (1) The court may, on application made by summons at any stage of the proceedings in a cause or matter, direct any necessary accounts or inquiries to be taken or made.
 - (2) Every direction for the taking of an account or the making of an inquiry shall be numbered in the judgment or so that, as far as may, be each distinct account and inquiry may be designated by a number.
3.
 - (1) Where the Court orders an account to be taken, it may by the same or subsequent order give directions with regard to the manner in which the account is to be taken or vouched.
 - (2) Without prejudice to the generality of sub-rule (1) of this rule, the Court may direct that in taking the account, the relevant books of account shall be evidence of the matters contained therein with liberty to the parties interested to take such objections thereto as they think fit.
4.
 - (1) Where an account has been ordered to be taken, the accounting party shall make out his account and, unless the court otherwise directs, verify it by an affidavit to which the account shall be exhibited.
 - (2) The items on each side of the account shall be numbered consecutively.
 - (3) Unless the order for the taking of the account otherwise directs, the accounting party shall lodge the account with the Court and shall at the same time notify the other parties that he has done so and of the filing of any affidavit verifying the account and of any supporting affidavit.
5. Any party who seeks to charge an accounting party with an amount beyond that which he has by his account admitted to have received or who alleges that any item in his account is erroneous in respect of amount or in any other respect shall give him notice thereof stating, so far as he is able, the amount sought to be charged with brief particulars thereof or, as the case may be, the grounds for alleging that the item is erroneous.
6.
 - (1) If it appears to the Court that there is undue delay in the prosecution of any accounts, or inquiries, or in any other proceedings under any judgment or order, the Court may require to explain the delay and may then make such order for

staying the proceedings or for expediting them or for the conduct thereof and for costs as the circumstances require.,

- (2) The Court may direct any party or legal practitioner to take over the conduct of proceedings in question and to carry out any directions made by an order under this rule and make such order as it thinks fit as to the payment of legal practitioner's costs.
 7. Where some of the persons entitled to share in a fund are ascertained, and difficulty or delay has occurred or is likely to occur in ascertaining the other persons so entitled, the Court may order or allow immediate payment of their shares to the persons ascertained without reserving any part of the shares to meet the subsequent costs of ascertaining those other persons.
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Order 20

Arbitration

A - Reference to Arbitrator

1. In any case in which a matter is referred to one or more arbitrators under the provisions of the Federal High Court Act the arbitrators shall be nominated by the parties in such manner as may be agreed upon between them.
2. If the parties cannot agree with respect to the nomination, or if the persons nominated refuse to act, and the parties are desirous that the nomination be made by the Court, the Court shall appoint the arbitrators.
3. The court shall by an order under its seal refer to the arbitrators the matters in difference in the suit which they may be required to determine, and shall fix a time for the delivery of the award, and the time so fixed shall be stated in the order.
4. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among them, by the appointment of an umpire, or by declaring that the decision shall be with the majority, or by empowering the arbitrators to appoint an umpire, or otherwise as may be agreed between the parties, or if they cannot agree, as the Court may determine.
5. When a reference to arbitration is made by an order of court, the same process to the parties and witnesses, whom the arbitrators or umpire may desire to have examined, shall issue as in ordinary suits and persons not attending in compliance with such process, or making any other default, or refusing to give evidence, or being guilty of any contempt of the arbitrators or umpire during the investigations of the suit, shall be subject to the like disadvantages, penalties, and punishments, by order of the

Court on the representation of the arbitrators or umpire, as they would incur for the same offences in suits tried before the Court.

6. (1) When the arbitrators are not able to complete the award within the period specified in the order from want of the necessary evidence or information, or other good and sufficient cause, the Court may, from time to time, enlarge the period for delivery of the award, if it thinks it proper.
- (2) In any case in which an umpire is appointed, it shall be lawful for him to enter on the reference in lieu of the arbitrators, if they have allowed their time, or their extended time, to expire without making an award or have delivered to the Court, or to the umpire, a notice in writing stating that they cannot agree.
- (3) An award shall not be liable to be set aside only by reason of its not having been completed within the period allowed by the court, unless on proof that the delay in completing the award arose from misconduct of the arbitrators or umpire, or unless the award shall have been made after the issue of an order by the Court superseding the arbitration and recalling the suit.
7. (1) If, in any case of reference to arbitration by an order of Court, the arbitrators or umpire dies, or refuses or become incapable to act, it shall be lawful for the court to appoint a new arbitrator or arbitrators or umpire in the place of the person or persons so dying or refusing or becoming incapable to act.
- (2) Where the arbitrators are empowered by the terms of the order or reference to appoint an umpire, and do not appoint an umpire, any of the parties may serve the arbitrators with a written notice to appoint an umpire and if within seven days after the notice is served, no umpire is appointed, it shall be lawful for the court upon the application of the party having served such notice as aforesaid and upon proof to its satisfaction of such notice having been served, to appoint an umpire.
- (3) In any case of appointment under this rule, the arbitrators or umpire so appointed shall have the like power to act in the reference as if their names had been inserted in the original order of reference.
8. (1) The award shall contain a conclusive finding, and may not find on the contingency of any matter of fact being afterwards substantiated or deposed to.
- (2) The award shall comprehend a finding on each of the several matters referred.
9. It shall be lawful for the arbitrators or umpire upon any reference by an order of Court, if they think fit, and if it is not provided to the contrary, to state their award as to the whole or any part thereof in the form of a special case for the opinion of the Court.

10. The court may, on the application of either party, modify or correct an award where it appears that a part of the award is upon matters not referred to the arbitrators, (provided that, that part can be separated from the other part, and does not affect the decision on the matter referred), or where the award is imperfect in form, or contains any obvious error which can be amended without affecting the decision.
11. The Court may also on the application, make such order as it thinks just, respecting the costs of the arbitration, if any question arises about the costs or their amount, and the award contains no sufficient provision concerning them.
12. In any of the following cases the Court shall have power to remit the award, or any of the matters referred to arbitration, for reconsideration by the arbitrators or umpire, upon such terms as it thinks proper -
 - (a) if the award has left undetermined some of the matter referred to arbitration;
 - (b) If it has determined matters not referred to arbitration;
 - (c) if the award is so indefinite as to be incapable of execution;
 - (d) if an object to the legality of the award is apparent upon the face of the award.
13. (1) No award shall be liable to be set aside except on the ground of perverseness or misconduct of the arbitrators or umpire

(2) Any application to set aside on award shall be within fifteen days after the publication thereof.
14. If no application is made to set aside the award, or to remit it or any of the matters referred, for reconsideration, or if the Court has refused any such application, either party may file the award in Court, and the award shall thereupon have the same force and effect for all purposes as a judgment.

B - Arbitration Proceedings

15. Every application in this rule to the Court under the Arbitration and Conciliation Act -
 - (a) to revoke an arbitration agreement under section 2 thereof;
 - (b) to appoint an arbitrator under section 7(3) thereof;
 - (c) to stay proceedings under section 5 thereof;

- (d) to remove an arbitrator or umpire under section 30 thereof;
- (e) to direct an arbitrator or umpire to state the reasons for an award under section 26 thereof;
- (f) to ask that a case on trial which is the subject of an arbitration agreement be referred to an arbitration under section 4 thereof;
- (g) to set aside an award under section 29 thereof;
- (h) for declaration that an award is not binding on a party to the award on the ground that it was made without jurisdiction or because the arbitrator misconducted himself or that the proceedings was arbitrary or that the award has been improperly procured under section 30 thereof;
- (i) generally to determine any question of law arising in the course of or concerning any arbitration agreement or proceedings referred to the Court;
- (j) to subpoena a witness to attend under section 23 thereof,

shall be made by originating motion.

16. The application in respect of rule 1 of this Order must be made on notice and within 21 days after the award or the proceedings has been made or commenced.

C - Enforcement of arbitration Awards

17. (1) An application to enforce an award on an arbitration agreement in the same manner as a judgment or order may be made ex-parte, but the Court hearing the application may order it to be made on notice.
- (2) The supporting affidavit shall -
- (a) exhibit the arbitration agreement and the original award or in either case certified copies of each
 - (b) state the name, as usual or last known place of abode or business of the applicant and the person against whom it is sought to enforce the award;
 - (c) state as the case may require either that the award has not been complied with or the extent to which it has not been complied with at the date of the application.

D - Registration of Foreign Arbitration Award

18. When an award is made in proceedings on an arbitration in a foreign territory to which the Foreign Judgment (Reciprocal Enforcement) Act extends, if the award was in pursuance of the law in force in the place where it was made it shall become enforceable in the same manner as a judgment given by a Court in that place and the proceeding of the Foreign Judgments (Reciprocal Enforcement) Act shall apply in relation to the award as it applies in relation to a judgment given by that Court.

Order 21
Reference to Referees

- 1.(1) In any case in which a matter is referred to a referee under the provisions of the Federal High Court Act, the Court shall furnish the referee with such part of the proceedings and such information and detailed instructions as may appear necessary for his guidance, and shall direct the parties, if necessary, to attend upon the referee during the inquiry
 - (2) The instructions shall specify whether the referee is merely to transit the proceedings which he may hold on the inquiry, or also to report his own opinion on the point referred for his investigation.
2. The Court may at any stage of the proceedings direct any such necessary inquiries or accounts to be made or taken notwithstanding that it appears that there is some special or further relief sought for, or some special issues to be tried, as to which it may be proper that the cause or matter should proceed in the ordinary manner.
3. (1) The referee may, subject to the order of the Court, hold the inquiry at, or adjourn it to, any place which he may deem most expedient, and have any inspection or view which he may deem expedient, for the disposal of the controversy before him.
 - (2) The referee shall, as far as practicable, proceed with the inquiry from day to day.
4. Subject to any order to be made by the Court ordering the inquiry, evidence shall be taken at any inquiry before a referee, and the attendance of witnesses to give evidence before a referee may be enforced by the Court in the manner as the attendance may be enforced before the Court and every such inquiry shall be conducted in the same manner as nearly as circumstances will admit, as trials before a judge of the Court, but not so as to make the tribunal of the referee a public court or justice.
5. Subject to any order of Court, the referee shall have the same authority in the conduct of any inquiry as a Judge of the Court when presiding at any trial.

6. Nothing in these provisions contained authorises any referee 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, make any order of attachment or committal it may consider necessary.
7.
 - (1) The report made by a referee in pursuance of a reference under these Rules shall be made to the Court and notice thereof served on the parties to the reference.
 - (2) A referee may in his report submit 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 thinks fit.
 - (3) On the receipt of a referee's report, the Court may -
 - (a) adopt the report in whole or in part;
 - (b) vary the report;
 - (c) require an explanation from the referee;
 - (d) remit the whole or any part of the question or issue originally referred to him for further consideration by him or any other referee; or
 - (e) decide the question or issue originally referred to him on the evidence taken before him, either with or without additional evidence.
4. When the report of the referee has been made, an application to vary the report or remit the whole or any part of the question or issue originally referred may be made on the hearing by the Court to the further consideration of the cause or matters, after giving not less than four days notice thereof, and any other application with respect to the report may be made on the hearing without notice.
5. Where on a reference under this Order the Court or a Judge in Chambers 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 with respect to the proceedings on the receipt of the report and the foregoing provisions of the rule shall have effect subject to any such directions.

Order 22
Receivers

1.
 - (1) An application for the appointment of a receiver may be made by motion on notice.

- (2) An application for an injunction ancillary or incidental to an order appointing a receiver may be joined with the application for the order.
 - (3) Where the applicant wishes to apply for the immediate grant of such an injunction, he may do so ex parte on affidavit in an appropriate case.
 - (4) The Court hearing an application under sub-rule (3) of this rule may grant an injunction restraining the party beneficially entitled to any interest in the property of which a receiver is sought from assigning, charging or otherwise dealing with that property pending the hearing of a summons for the appointment of a receiver and may require such a summons, returnable on such date as the Court may direct, to be issued.
2.
 - (1) Where a judgment is given, or an order is made, directing the appointment of a receiver, then, unless the judgment or order otherwise directs, a person shall not be appointed a receiver in accordance with the judgment or order until he has given security as in Form 45 in appendix 6 to these Rules, in accordance with this rule.
 - (2) Where, by virtue of sub-rule (1) of this rule, or any judgment or order appointing a person named therein to be a receiver, a person is required to give security in accordance with this rule, he shall give security as in Form 46 in Appendix 6 to these Rules, as may be approved by the Court duly to account for what he receives as a receiver and to deal with it as the Court directs.
 - (3) Unless the Court otherwise directs, the security shall be by guarantee or, if the amount for which the security is to be given does not exceed two thousand naira, by an undertaking.
 - (4) The guarantee or undertaking shall be filed in the Court Registry.
3. A person appointed a receiver shall be allowed such proper remuneration, if any, as may be fixed by the Court
4.
 - (1) A receiver shall submit accounts as in Form 44 in Appendix 6 to these Rules, to the Court at such intervals or on such dates as the Court may direct in order that they may be passed.
 - (2) Unless the Court otherwise directs, each account submitted by a receiver shall be accompanied by an affidavit as in Form 44 in Appendix 6 to these Rules, verifying it.
 - (3) The receiver's account and affidavit (if any) shall be left at the Registrar's office, and the plaintiff or party having the conduct of the cause or matter shall thereupon obtain an appointment for the purpose of passing the account.

- (4) The passing of a receiver's account shall be certified by the Registrar.
5. The days on which a receiver shall pay into Court the amount shown by his account as due from him, or such part thereof as the Court may certify as proper to be paid in by him, shall be fixed by the Court.
6. (1) Where a receiver fails to attend for the passing or any account of his, or fails to submit any accounts, make any affidavit or do any other thing which he is required to submit, make or do, he and any or all of the parties to the cause or matter in which he was appointed may be required to attend in Chambers to show cause for the failure, and the Court may either in Chambers or after adjournment into court, give such directions as it thinks proper including if necessary, directions for the discharge of the receiver and the appointment of another and the payment of costs.

(2) Without prejudice to sub-rule (1) of this rule, where a receiver fails to attend for the passing of any account or fails to pay into Court on the date fixed by the Court any sum shown by his account as due from him, the Court may disallow any remuneration claimed by the receiver in any subsequent account and may, where he has failed to pay any such sum into Court, charge him with interest at the rate of ten per centum per annum on that sum while in his possession as a receiver.

Order 23
Computation Of Time

1. Where by any written law or special order made by the Court in the course of any proceedings, any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, and the time is not limited by hours, the following rules shall apply -
 - (a) the limited time does not include the day of the happening of the event, but commences at the beginning of the day next following that day;
 - (b) the act or proceeding shall be done or taken at least on the last day of the limited time;
 - (c) where the time limited is less than five days, public holiday, Saturday or Sunday shall be reckoned as part of the time;
 - (d) when the time expires on a public holiday, Saturday or Sunday the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards not being a public holiday, Saturday or Sunday.

2. The parties may not by consent enlarge or abridge any of the times fixed by the provision of these Rules for taking any step, filing any document, or giving any notice.
3. (1) The Court may, on such terms as it thinks just, by order extend or abridge the period within which a person is required or authorised by these provisions, or by any judgment, order or directions, to do any act in any proceedings.

(2) The Court may extend any such period as is referred to in sub-rule (1) of this rule although the application for extension is not made until after the expiration of that period.
4. (1) Where a year or more has elapsed since the last proceeding in a cause or matter, the party who desires to proceed shall give to every other party not less than 30 days notice of his intention to proceed.

(2) A summons on which no order was made shall not be regarded as a proceeding for the purposes of this provisions.
5. Application to set aside or remit an award may be made at any time within six weeks after the award has been made and published to the parties but the Court or Judge in Chambers may by order extend the time either before or after it has elapsed.

Order 24
The undefended List

1. Whenever application is made to a Court for the issue of a writ of summons in respect of a claim to recover a debt or liquidated money demand and the application is supported by an affidavit setting forth the grounds upon which the claim is based and stating that in deponent's belief there is no defence thereto, the Court shall, if satisfied that there are good grounds for believing that there is no defence thereto, enter the suit for hearing in what shall be called the "Undefended List", and mark the writ of summons accordingly, and enter thereon a date for hearing suitable to the circumstances of the particular case.
2. There shall be delivered by the plaintiff to the Registrar upon the issue of the writ of summons as aforesaid, as many copies of the above mentioned affidavit as there are parties against whom relief is sought, and the Registrar shall annex one such copy to each copy of the writ of summons for service.
3. (1) If the party served with the writ of summons and affidavit delivers to the Registrar, not less than five days before the day fixed for hearing, a notice in writing that he intends to defend the suit, together with an affidavit disclosing a defence on the merit, the Court may give him leave to defend upon such terms as the Court may think just.

- (2) Where leave to defend is given under this rule, the action shall be removed from the Undefended List and placed on the ordinary Cause List and the Court may order pleading, or proceed to hearing without further pleadings.
4. Where any defendant neglects to deliver the notice of defence and affidavit prescribed by rule 3(1) of this Order, or is not given leave to defend by the Court, the suit shall be heard as an undefended suit, and judgment given thereon, without calling upon the plaintiff to summon witnesses before the Court to prove his case formally.
5. Nothing herein shall preclude the Court from hearing or requiring oral evidence, if it so thinks fit, at any stage of the proceedings under rule 4 of this Order.

Order 25
Proceedings In Lieu Of Demurrer

1. No demurrer shall be allowed.
2. (1) A party shall be entitled to raise by his pleading any point of law, and any point so raised shall be disposed of by the Judge who tries the cause at or after the trial.

(2) A point of law so raised may, by consent of the parties, or by order of the Court or a Judge in Chambers on the application of either party, be set down for hearing and disposed of at any time before the trial.
3. If, in the opinion of the Court or a Judge in Chambers the decision of the point of law substantially disposes of the whole action, or of any distinct cause of action, ground of defence, set-off, counter-claim, or reply therein, the Court or Judge in Chambers may thereupon dismiss the action or make such other order therein as may be just.
4. The Court or a Judge in Chambers may order any pleading to be struck out on the ground that it discloses no reasonable cause of the action or defence being shown by the pleadings to be frivolous or vexatious, the Court or a Judge in Chambers may order the action to be stayed or dismissed, or judgment to be entered accordingly, as may be just.
5. No action or proceeding shall be open to objection on the ground that a merely declaratory judgment or order is sought thereby, and the Court may make binding declarations of right whether any consequential relief is or could be claimed or not.

Order 26

Pleadings

1. Unless the Court gives leave to the contrary or a statement of claim is endorsed on the writ, the plaintiff shall serve a statement of claim 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 writ, or notice of the writ, is served on that defendant unless the Court or Judge in Chambers otherwise orders.
2.
 - (1) Subject to sub-rule (2) of this rule, a defendant who enters an appearance in, and intends to defend, an action shall, unless the Court gives leave to the contrary, serve a defence which must include any preliminary objection he wishes to raise to the plaintiff's action together with copies of documentary evidence therein mentioned on the plaintiff at the time he files his memorandum of appearance.
 - (2) If a summons under Order 24 rule 1 of these Rules is served on a defendant, sub-rule (1) of this shall not have effect in relation to him unless by the order of Court made on a motion on notice he is given leave to defend the action and, in that case, shall have effect as if it required him to serve his defence within 14 days after the making of the order or within such other period as may be specified in the order
3.
 - (1) A plaintiff on whom a defendant serves a defence shall serve a reply on that defendant within 14 days of service of the defence on him if it is needed for compliance with rule 6 of this Order and, if no reply is served, rule 10 of this Order shall apply
 - (2) A plaintiff on whom a defendant serves a counter-claim as in Form 25 in Appendix 6 to these Rules, shall, if he intends to defend it, serve on that defendant within 14 days a defence to counter-claim
 - (3) Where a plaintiff serves both a reply and a defence to counter-claim on any defendant, he shall include them in the same document.
 - (4) A reply to any defence shall be served by the plaintiff before the expiration of 15 days after the service on him of that defence, and a defence to a counter-claim shall be served by the plaintiff before the expiration of 15 days after the service on him of the counter-claim to which it relates
4.
 - (1) Every pleading shall contain a statement in a summary form of the material facts on which the party pleading relies for his 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

- (2) Dates, sums and numbers shall be expressed in figures but may also be expressed in words
 - (3) Pleadings shall be signed by a legal practitioner, or by the party if he 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
5. In all cases in which the party pleading relies on any mis-representation, 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
6.
 - (1) A party shall plead specifically any matter (for example, performance, release, any relevant statute of limitation, fraud or any fact showing illegality) which, if not specifically pleaded might take the opposite party by surprise.
 - (2) Any condition precedent, the performance or occurrence of which is intended to be contested, shall be distinctly specified in his pleading by the plaintiff or the defendant, as the case may be; and, subject thereto, an averment of the performance or occurrence of all conditions precedent necessary for the case of the plaintiff or the defendant shall be implied in his pleading.
 - (3) Without prejudice to sub-rule (1) of this rule, a defendant in an action for the recovery of land shall plead specifically every ground of defence on which he relies and a plea that he is in possession of the land by himself or his tenant is not sufficient.
7.
 - (1) 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 written proceeding requiring particulars, may in all cases be ordered, upon such terms as to costs and otherwise, as may be just.
 - (2) Before applying for particulars by summons or notice, a party may apply for them by letter and the costs of the letter and of any particulars delivered pursuant to the delivery of the letter shall be allowable on taxation.
 - (3) In dealing with the costs of any application for particulars by summons or notice, the provisions of this rule shall be taken into consideration by the Court or Judge in Chambers.
 - (4) Particulars of a claim shall not be ordered under this rule to be filed before defence unless the Court or Judge in Chambers is of the opinion that they are necessary or desirable to enable the defendant to plead or ought for any other special reason to be so delivered.

8. (1) The party at whose instance particulars have been filed under a Judge's order shall, unless the order otherwise provides, have the same length of time for pleading after the service of the particulars upon him that he had initially.
- (2) Except as provided in this rule, an order for particulars shall not, unless the order otherwise provides, operate as a stay of proceedings or give any extension of time.
9. Every allegation of fact in any pleading, not being a petition or summons, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of, the opposite party, shall be taken to be admitted, except as against an infant, lunatic, or person of unsound mind not adjudged a lunatic.
10. (1) If there is no reply to a defence, there is an implied joinder of issue on that defence.
- (2) Subject to sub-rule (3) of this rule -
 - (a) there is at the close of the pleadings an implied joinder of issue on the pleadings last served; and
 - (b) a party may in his pleading expressly join issue on the last preceding pleading.
- (3) There shall be no joinder of issue, implied or expressed, on a statement of claim or counter-claim.
- (4) A joinder of issue operates as a denial of every material allegation of fact made in the pleading on which there is an implied or express joinder of issue unless, in the case of an express joinder of issue, any such allegation is excepted from the joinder and is stated to be admitted, in which case, the express joinder of issue operates as a denial of every other such allegation.
11. 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.
12. (1) Where the plaintiff seeks relief in respect of several distinct claims or causes of complaint founded upon separate and distinct facts, they shall be stated, as far as may be, separately and distinctly.
- (2) The same rule shall apply where the defendant relies upon several distinct grounds of set-off or counter-claim founded upon separate and distinct facts.

- (3) Every statement of claim shall state specifically the relief which the plaintiff claims, either simply or in the alternative, and may also ask for general relief and the same rule shall apply to any counter-claim made or relief claimed by the defendant in his defence.
13. It shall not be sufficient to deny generally the facts alleged by the statement of claim, but the defendant shall deal specifically with them, either admitting or denying the truth of each allegation of fact seriatim, as the truth or falsehood of each is within his knowledge, or (as the case may be) stating that he does not know whether any given allegation is true or otherwise.
14.
 - (1) When a party denies all allegation of fact he shall not do so evasively but shall answer the point of substance.
 - (2) When a matter of fact is alleged with diverse circumstances it shall not be sufficient to deny it as alleged along with those circumstances, but a full and substantial answer shall be given.
15. The defence shall admit such material allegations in the statement of claim, as the defendant knows to be true, or desires to be taken as established without proof thereof.
16. Where any defendant seeks to rely upon any fact as supporting a right of set-off or counter-claim, he shall, in his statement of defence, state specifically that he does so by way of set-off or counter-claim as the case may be, and the particulars of such set-off or counter-claim shall be given.
17. The defence of a defendant shall not debar him at the hearing from disproving any allegation of the plaintiff not admitted by the defence, or from giving evidence in support of a defence not expressly set up by the defence, except where the defence is such as, in the opinion of the court, ought to have been expressly set up by the defence, or is, in the opinion of the Court, ought to have been expressly set up by the defence, or is inconsistent with the statements thereof, or is, in the opinion of the Court, likely to the plaintiff by surprise or to raise new issues not fairly arising out of the pleadings, as they stand, and such as the plaintiff ought not to be then called upon to meet
18. The Court, if it considers that the statement of claim and the defence filed in any suit insufficiently disclose and fix the real issues between the parties, may order such further pleadings to be filed as it may deem necessary for the purpose of bringing the parties to an issue
19. Where the Court is of opinion that any allegations of fact, denied or not admitted by any pleading, ought to have been admitted, the Court shall make such order as may be just with respect to costs

20. The Court may at any time, on the application of either party, strike out any pleading or any part thereof, on the ground that it discloses no cause of action, or no defence to the action, as the case may be, or on the ground that it is embarrassing, or scandalous or vexatious, or an abuse of the process of the Court; and the Court may either give or leave to amend the pleading, or may proceed to give judgment for the plaintiff or the defendant, as the case may be, or may make such other order, and upon such terms and conditions, as may seem just
21. When a contract, promise, or agreement is alleged in any pleading, a bare denial of the same by the opposite party shall be construed only as a denial in fact of the express contract, promise, or agreement alleged, or the matters of fact from which the same may be implied by law, and not as a denial of the legality or sufficiency in law of the contract, promise, or agreement, whether with reference to any statute or otherwise
22. Wherever the contents of any document are material, it shall be sufficient in any pleading to state the effect thereof as briefly as possible, without setting out the whole or any part thereof, unless the precise words of the document or any part thereof are material.
23. 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 it as a fact without setting out the circumstances from which it is inferred
24. Wherever it is material to allege notice to any person of any fact, matter or thing, it shall be sufficient to allege the notice as a fact, unless the form or the precise terms of the notice or the circumstances from which the notice is inferred, is material
25. (1) Whenever any contract or any relation between any persons is to be implied from a series of letters or conversations, or otherwise from a number of circumstances, it shall be sufficient to allege the contract or relation as a fact, and to refer generally to those letters, conversations, or circumstances without setting them out in detail

(2) If as in sub-rule (1) of this rule, the person so pleading desires to rely in the alternative upon more contracts or relations than one as to be implied from those circumstances, he may state them in the alternative
26. Neither party needs in any pleadings allege any matter of fact which the law presumes in his favour or as to which the burden of proof lies upon the other side, unless the same has first been specifically denied (such as consideration for a bill of exchange where the plaintiff sues only on the bill, and not for the consideration as a substantive ground of claim)

27. No technical objection shall be raised to any pleading on the ground of any alleged want of form
28. In every case in which the cause of action is a stated or settled account, the same shall be alleged with particulars but in any 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 need not be alleged in the pleadings.
29. Where in any action a defence of tender before action is pleaded, the defendant shall pay into Court in accordance with rule 1 of Order 31 of these Rules the amount alleged to have been tendered, and the tender shall not be available as a defence unless and until payment into Court has been made
30. Where a claim by a defendant to a sum of money (whether of an ascertained amount or not) is relied on as a defence to the whole or part of a claim made by the plaintiff, it may be included in the defence and set-off against the plaintiff's claim, whether or not it is also added as a counter-claim
31. (1) Where in any action a set-off or counter-claim is established as a defence against the plaintiff's claim, the Court may, if the balance is in favour of the defendant, give judgment for the defendant for the balance, or otherwise adjudge to the defendant such relief as he may be entitled to upon the merits of the case

(2) Sub-rule (1) of this rule shall apply mutatis mutandis where the balance is in favour of the plaintiff
- 32 (1) The pleadings in an action are deemed to be closed-
 - (a) at the expiration of 15 days after service of the reply or, if there is no reply but only a defence to counter-claim, after service of the defence to counter-claim; or
 - (b) if neither a reply nor a defence to counter-claim is served, at the expiration of 15 days after service of the defence
(2) The pleadings in an action are deemed to be closed at the time provided by sub-rule (1) of this rule, notwithstanding that any request or order for particulars has been made but has not been complied with at that time

Order 27
Amendment

1. The Court or a Judge in Chambers may at any time, and on such terms as to costs or otherwise as the Court or Judge in Chambers may think just, amend any defect or error in any proceedings, and all necessary amendments shall be made for the

purpose of determining the real question or issue raised by or depending on the proceedings

2. The Court or a Judge in Chambers may, at any stage of the proceedings allow either party to alter or amend his indorsement or pleadings, in such manner and on such terms as may be just, and all the amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties
3. Application for leave to amend may be made by either party to the Court or a Judge in Chambers at the trial of the action, and the amendment may be allowed upon such terms as to costs or otherwise as may be just
4. If a party who has obtained an order for leave to amend does not amend accordingly within the time limited for that purpose by the order, or if no time is thereby limited, then within fourteen days from the date of the order, the order to amend shall, on the expiration of such limited time as aforesaid, or of the fourteen days, as the case may be, become ipso facto void, unless the time is extended by the Court or a Judge in Chambers
5. Whenever any indorsement or pleading is amended, the Court or the Judge in Chambers, as the case may be, may order that a copy of the document as amended be filed in the Registry and served on all parties to the action
6. Whenever any indorsement or pleading is amended, the indorsement or pleading shall be marked with the date of the order, if any, under which it is so amended, and of the day on which the amendment is made, in the following manner -

"Amendedday of
pursuant to order of
dated theday of"
7. Clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Court or a Judge in Chambers on motion or summons without an appeal

Order 28
Default Of Pleadings

1. If the plaintiff, being bound by these Rules or an order of Court or a Judge in Chambers to file a statement of claim, does not file it within the time allowed for that purpose, the defendant may, at the expiration of that time, apply to the Court or a Judge in Chambers to dismiss the action with costs for want of prosecution; and on hearing of the application the Court or Judge in Chambers may, if no statement on claim has been filed, order the action to be dismissed accordingly or may make such other order on such terms as the Court or judge in Chambers thinks just.

2. If the plaintiff's claim is only for a debt or liquidated demand, and the defendant does not, within the time allowed by these Rules of an order of Court of Judge in Chambers for that purpose, file a defence, the plaintiff may, at the expiration of the time, apply for final judgment for the amount claimed, with costs.
3. When in any action for a debt or liquidated demand there are several defendants, and one of them makes default as mentioned in rule 2 of this Order the plaintiff may have final judgment entered against the defendant so making default, and issue execution upon that judgment without prejudice to his right to proceed with his action against the other defendants.
4. Where the plaintiff's claim against a defendant is for unliquidated damages only, then, if that defendant makes defaults in pleading, the plaintiff may, after expiration of the period fixed as aforesaid, for service of defence, have judgment entered against that defendant for damages to be assessed by the Court and costs, and may proceed with the action against the other defendants, if any.
5. Where the plaintiff's claim against the defendant relates to the detention of goods only, then, if that defendant makes default in pleading, the plaintiff may, after the expiration of the period fixed as aforesaid for service of the defence, have entered either -
 - (a) judgment against that defendant for the delivery of the goods or their value to be assessed by the Court and costs; or
 - (b) judgment for the value of the goods to be assessed by the Court and costs, andin either case, he may proceed with the action against the defendants, if any.
6. Where the plaintiff makes against a defendant two or more of the claims mentioned in rules 2 to 5 of this Order and no other claim, then, if the defendant fails to serve a defence on the plaintiff, the plaintiff may, after the expiration of the period fixed as aforesaid for services of the defence, have entered against that defendant, such judgment in respect of each such claim as he would be entitled to under those rules if they were the only claims made, and proceed with the action against the other defendants, if any.
- 7.- (1) Where the plaintiff makes against a defendant or defendants a claim of a description not mentioned in rules 2 to 5 of this Order and defendant or all the defendant (where there are more than one) fails or fail to serve a defence on the plaintiff, the plaintiff may, after the expiration of the period fixed as aforesaid for service of the defence, apply to the court for judgment, and on the hearing of the application the court shall give such judgment as the plaintiff appears entitled to on his statement of claim.

- (2) Where the plaintiff makes such a claim as is mentioned in sub-rule (1) of this rule against more than one defendant, then if one of the defendants makes default as mentioned in that sub-rule, the plaintiff may -
 - (a) if his claim against the defendant in default is severable from his claim against the other defendants, apply under that sub-rule for judgment against that defendant, and proceed with the action against the other defendant; or
 - (b) set down the action on motion for judgment against the defendant in default at the time when the action is set down for trial, or is set down on motion for judgment against the other defendants.
 - (3) an application under sub-rule (1) of this rule shall be summons or motion on notice.
8. A defendant who counter-claims against a plaintiff shall be treated for the purposes of rules 2 to 7 of this Order, as if he were a plaintiff who had made against a defendant the claim made in the counter-claim and, accordingly, where the plaintiff or any other person against whom the counter-claim is made fails to serve a defence to the counter-claim, those rules shall apply as if the counter-claim were a statement of claim, the defence to the counter-claim a defence and the parties making the counter-claim and against whom it is made were plaintiffs and defendants respectively, and as if references to the period fixed by or under these Rules for service of the defence were references to the period so fixed for service of the defence to counter-claim
9. The Court may, on such terms as it thinks just, set aside or vary any judgment entered in pursuance of this Order.
10. In this Order, a party makes default in pleading when he fails to file and serve his statement of claim or defence, as the case may be on the opposite party within the time fixed for doing so by these Rules or by the order of the Court or a Judge in Chambers.

Order 29
Interpleader

1. (1) Where -
 - (a) a person is under a liability in respect of a debt or in respect of any money, goods or chattels and he is, or expects to be sued for or in respect of the debt or money or those goods or chattels by two or more persons making adverse claims thereto; or

- (b) claim is made to any money, goods or chattels taken or intended to be taken by a sheriff in execution under any process, or to the proceeds or value of any such goods or 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.

- (2) 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.

- 2. (1) Any person making a claim to or in respect of any money, goods or chattels taken or intended to be taken under process of the Court or to the proceeds or value of any such goods or chattels, shall give notice of his claim to the sheriff charged with the execution of the process and shall include in his notice a statement of his address, and that address shall be his address for service.
- (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 7 days after receiving the notice, give notice to the sheriff informing him whether he admits or disputes the claim.
- (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.
- (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 mentioned 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.

- 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, goods or chattels claimed and may apply to the Court for relief under this provision of the following kind, that is to say, an order restraining the bringing of an action against him for or in respect of his having taken possession of that money or those goods or chattels.

- 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.
- (2) Where the applicant is a sheriff who has withdrawn from possession of money, goods 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 a claim under rule 2(1) of this Order, to or in respect of that money, or those goods or chattels, and that person may attend the hearing of the application.
- (3) No appearance need be entered to an originating summons under this provision.
4. The applicant shall satisfy the Court or a Judge in Chambers by affidavit or otherwise or otherwise that -
 - (a) the applicant claims no interest in the subject matter in dispute, other than for charges or costs; and
 - (b) the applicant does not collude with any of the claimants; and
 - (c) the applicant is willing to pay or transfer the subject matter into Court or to dispose of it as the Court or Judge in Chambers may direct.
5. Where the applicant is a defendant, application for relief may be made at any time after service of the writ of summons.
6. If the application is made by a defendant, in an action, the Court or a Judge in Chamber may stay all further proceedings in the action.
7. If the claimants appear in pursuance of the summons, the Court or a Judge in Chambers may order 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 that an issue between the claimants be stated and tried, and in the later case may direct which of the claimants is to be plaintiff, and which the defendant.
8. If a claimant, having been duly served with a summons calling on him to appear and maintain, or relinquish, his claim, does not appear in pursuance of the summons, or, having appeared, neglects or refuses to comply with any order made after his appearance, the Court or a Judge in Chambers may make an order declaring him, and all persons claiming under him, forever barred against the applicant and persons claiming under him; but the order shall not affect the rights of the claimants as between themselves.

9. The Court or a Judge in Chambers may, in or for the purposes of any interpleader proceedings, make all such orders as to costs and all other matters as may be just and reasonable.

Order 30
Withdrawal And Discontinuance

1. A party who has entered an appearance in an action may withdraw the appearance at any time with leave of the Court
2. (1) The plaintiff in an action may, without the leave of the Court, discontinue the action, or withdraw any particular claim made by him therein, as against any or all of the defendants at any time, not later than 14 days after service of the defence of him or, if there are two or more defendants, of the defence last served, by serving a notice to that effect on the defendant concerned.
 - (2) A defendant may, without leave of the Court -
 - (a) withdraw his defence or any part of it at any time;
 - (b) discontinue a counter-claim, or withdraw any particular claim made by him therein, as against any or all of the parties against whom it is made, at any time not later than 14 days after service on him of a defence to the counter-claim or, if the counter-claim is made against two or more parties, of the defence to the counter-claim last served, by serving a notice to that effect on the plaintiff or other party concerned.
 - (3) Where there are two or more defendants to an action, not all of whom served a defence on the plaintiff and the period fixed by or under this rule for service by any of those defendants of his defence expires after the latest date on which any other defendant serves his defence, sub-rule (1) of this rule shall have effect as if the reference therein to the service of the defence last served, were a reference to the expiration of the period.
 - (4) Sub-rule (3) of this rule shall apply in relation to a counter-claim as it applies in relation to an action, with substitution for references to a defence, to the plaintiff and to sub-rule (1) of this rule, of references to a defence to counter-claim, to the defendant and to sub-rule (2) of this rule respectively.
 - (5) If all the parties to an action consent, the action may be withdrawn without leave of the Court at any time before trial by producing to the Registrar a written consent to the action being withdrawn signed by all the parties, and the action shall thereafter be struck out.

3. (1) Except as provided by rule 2 of this Order, a party may not discontinue an action or counter-claim, or withdraw any particular claim made by him therein without leave of the Court, and the Court hearing an application for the grant of the leave may order the action or counter-claim to be discontinued or any particular claim made therein to be struck out, as against any or all of the parties against whom it is brought or made on such terms as to costs, the bringing of a subsequent action or otherwise as it thinks just.
 - (2) An application for the grant of leave under this rule may be made by summons or motion on notice.
4. Subject to any terms imposed by the Court in granting leave under rule 3 of this Order, the fact that a party has discontinued an action or counter-claim or withdrawn a particular claim made by him therein shall not be a defence to subsequent action for the same, or substantially the same, cause of action.
5. Where a party has discontinued an action or counterclaim or withdrawn any particular claim made by him therein, and he is liable to pay costs to any other party of the action or counter-claim to the costs occasioned to any other party by the claim withdrawn, then if, before payment of those costs, he subsequently brings an action for the same or substantially the same cause of action, the court may order the proceedings in that action to be stayed until those costs are paid.
6. A party who has taken out a summons or filed a motion in a pending cause or matter may not withdraw it without leave of the Court.

Order 31
Admissions

1. Any party may give notice by his pleading or otherwise in writing that he admits the truth of the whole or any part of the case of any other party.
2. (1) Any party may, by leave of Court obtained in a motion on notice, call upon any other party to admit any document or fact, saving just exceptions.
 - (2) A notice containing a list and where possible true copies of the documents or as the case may be, a clear statement of each fact to be admitted shall be filed with the motion papers and served on the party being called upon to admit the same.
 - (3) The Court, if it grants the leave, shall fix the terms and conditions thereof, including the time within which the admission is to be made.
 - (4) If a party on whom a notice under sub-rule (2) of this rule is served desires to deny the existence or the authenticity of any fact or document therein specified, he shall, before the day fixed for hearing the motion, serve on the party by whom

it was given, a notice stating that motion, serve on the party by whom it was given, a notice stating that he does not admit the facts or the authenticity of the documents and that he requires that the same be proved at the trial.

- (5) A party who fails to give a notice of non-admission in accordance with sub-rule (4) of this rule in relation to any fact or document shall be deemed to have admitted that fact or the authenticity of that document unless the Court otherwise orders.
3. (1) After pleadings shall have been settled and issues joined, the parties or their counsel will settle before the Chief Registrar all documents they wish to use at the trial, and leave with him two copies of each set of documents.

(2) No party will, without leave of the Court, be allowed to use at the trial any other document other than those already settled except those allowed under rules 2 (1) and (3) of this Order.
 4. (1) Where admissions of fact are made by a party either by his pleadings or otherwise, any other party to the action may apply to the Court for such judgment or order as upon those admissions, he may be entitled to, without waiting for the determination of any other question between the parties, and the Court may give such judgment or make such order on the application as it thinks just.

(2) An application for an order under this rule may be made by motion or summons.
 5. (1) Subject to sub-rule (2) this rule and without prejudice to the right of a party to object to the admission in evidence of any document, a party on whom a list of documents is served in pursuance of the provisions of Order 33 of these Rules, shall, unless, the Court otherwise orders, be deemed to admit -
 - (a) that any document described in the list as an original document is such a document and was printed, written, signed or executed as it purports respectively to have been; and
 - (b) that any document described therein as a copy is a true copy.
(2) The provisions of the sub-rule (1) of this rule shall not apply to a document the authenticity of which the party has denied in his pleadings.

(3) If before the expiration of 14 days after inspection of the documents specified in a list of documents or after the time limited for inspection expires, whichever is the later, the party on whom the list is served, serves on the party whose list it is, a notice stating, in relation to any document specified therein, that he does not admit the authenticity of that document and requires it to be proved at the trial,

he shall not be deemed to make any admissions in relation to that document under-rule (1) of this rule.

- (4) A party by whom a list of documents is served on any other party in pursuance of any provision of Order 33 of these Rules shall be deemed to have been served by that other party with a notice requiring him to produce at the trial of the cause or matter such of the documents specified in the list as are in his possession, custody or power.
- (5) The foregoing provisions of this rule shall apply in relation to an affidavit made in compliance with an order under the provisions of Order 33 of these Rules as they apply in relation to a list of documents served in pursuance to any provision of that Order.

Order 32 Payment Into And Out Of Court

1. (1) In any action for a debt or damages the defendant may, at any time after he 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 plaintiff 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.
 - (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 26 in Appendix 6 to these Rules to the plaintiff and every other defendant (if any), and within 7 days after receiving the notice, the plaintiff shall send the defendant a written acknowledgement of its receipt.
2. (1) Payment into Court, whether made in satisfaction of the plaintiff's claim generally or in satisfaction of some specific part thereof, operates, unless the defendant in his defence denies liability, as an admission of liability to the extent of the amount paid in, and no more, and for no other purpose.
 - (2) When money is paid into Court with a defence denying liability, it shall be subject to the provisions of rule 5 of this Order.
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 plaintiff 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 plaintiff may forthwith apply by motion for payment of the money to him 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 plaintiff does not so apply, he shall be considered as insisting that he has sustained damages to a greater amount or (as the case may be) that the defendant was and is indebted to him in a greater amount, than the sum paid in and in that case the Court, in disposing of costs at the hearing, shall have regard to the fact of the payment into Court having been made and not accepted.
5. When the liability of the defendant, in respect of claim or cause of action in satisfaction of which the payment into Court has been made, is denied in the pleading, the following rules shall apply -
 - (a) the plaintiff may accept, in satisfaction of the claim or cause of action in respect of which the payment into Court has been made, the sum so paid in, (whereupon all further proceedings in respect of the claim or cause of action except as to costs, shall be stayed), or the plaintiff may refuse to accept the money in satisfaction, in which case the money shall remain in Court subject to the provisions hereinafter mentioned.
 - (b) if the plaintiff accepts the money so paid in he shall be entitled, with leave of the Court, to have the money paid out to him;
 - (c) if the plaintiff does not accept the sum so paid in, but proceeds with the action in respect of the claim of cause of action or any part thereof, the money shall remain in Court;
 - (d) if the plaintiff proceeds with the action in respect of the 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 plaintiff's claim, and the balance (if any) shall, under Court order, be repaid to the defendant; and
 - (e) if the defendant succeeds in respect of the claim or cause of action, the whole amount shall, under Court order, be repaid to him;
- 6.- (1) Where any 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 a savings account at a reputable commercial bank.
 - (2) The payment shall be done by 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.
7. A plaintiff may, in answer to a counter-claim, pay money into Court in satisfaction thereof subject to the like conditions as to costs and otherwise as upon payment into Court by a defendant.

8. Money paid into Court pursuant to rule 1 or 7 of this Order or under an order of the Court or a Judge shall not be paid out except in pursuance of an Order of the Court or a Judge in Chambers.
9. (1) Where a person entitled to a fund in Court, or a share of the fund, dies intestate and the Court is satisfied that no grant of administration has been made and that the assets of his estate do not exceed two thousand naira in value including the value of the fund or share, it may order that the fund or share shall be paid, transferred or delivered to the person who, being a widower, widow, child, father, mother, brother or sister of the deceased, would be the prior right to a grant of administration of the estate of the deceased.

(2) "Fund in Court" in this rule includes money paid into a bank account under rule 6 of this Order.

Order 33
Discovery And Inspection Of Documents

1. (1) After the close of pleadings in any cause or matter any party by leave of Court or Judge in Chambers may deliver interrogatories in writing for the examination of any other party or parties, and those interrogatories when delivered shall state clearly which of the interrogatories each of the parties is required to answer.

(2) Interrogatories which do not relate to any matter in question in the cause or matter shall be deemed irrelevant, notwithstanding that they might be admissible on the oral cross-examination of a witness
2. (1) A copy of the interrogatories proposed to be delivered shall be filed and served with the summons or notice of application for leave to deliver them at least two clear days before the hearing thereof (unless in any case the Court or Judge in Chambers thinks it fit to dispense with this requirement)

(2) In deciding upon the application, the court or Judge in Chambers shall take into account any offer which may be made by the party sought to be interrogated to deliver particulars, or to make admissions, or to produce documents relating to any matter in question and leave shall be given as to such only of the interrogatories as shall be considered necessary either for disposing fairly of the action saving costs.
3. Interrogatories shall be in Form 29 in Appendix 6 to these Rules with such variations as circumstances may require.
4. If a party to an action is a body corporate of a joint stock company, whether incorporated or not, or any other body of persons, empowered by law to sue or be

sued, whether in its own name or in the name of an officer or other persons any opposite party may apply for an order allowing him to deliver interrogatories to any member or officer of the corporation, company, or body, and an order may be made accordingly.

5. (1) Interrogatories shall be answered by affidavit to be filed within 10 days, or within such other time as the Court or a Judge in Chambers may allow.

(2) Two copies of the affidavit shall be supplied to the Registrar;
6. An affidavit in answer to interrogatories shall be in Form 30 in Appendix 6 to these Rules with such variations as circumstances may require.
7. Any objections to answering any interrogatory on the ground that it is scandalous or irrelevant, or not bona fide for the purpose of the cause or matter, or that the matters inquired into are not sufficiently material at that stage, or on any other ground may be taken in the affidavit in answer.
8. (1) If any person interrogated omits to answer, or answer insufficiently, the party interrogating may apply to the Court or Judge in Chambers for an order requiring him to answer, or to answer further, as the case may be.

(2) An order may be made requiring him to answer or answer further either by affidavit or by viva voce examination, as the Court or Judge in Chambers may direct.
9. (1) Any party may, without filing an affidavit, apply to the Court or a Judge in Chambers, for an order directing any other party to make discovery on oath of the documents which are or have been in his possession or power, relating to any matter in issue.

(2) On the hearing of the application, the Court or Judge in Chambers may either refuse 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, in its or his discretion, be thought fit.

(3) Discovery shall not be ordered when and so far as the Court or Judge in Chambers is of opinion that it is not necessary either for disposing fairly of the action or for saving costs.
10. (1) Where in any action arising on a marine insurance policy, an application for discovery of documents is made by the insurer, the following provisions shall apply -

- (a) on the hearing of the application, the Court or Judge in Chambers may, subject as provided in sub-rule (2) of this rule, make and order in accordance with rule 9 of this Order;
 - (b) where in any case the Court or Judge in Chambers is satisfied, either on the original application or on a subsequent application, that it is necessary or expedient, having regard to the circumstances of the case, to make an order, for the production of ship's papers, the Court or Judge in Chambers may make the order as in Form 66 in Appendix 6 to these Rules;
 - (c) in making an order under this rule the Court or Judge in Chambers may impose such terms and conditions as staying proceedings or otherwise as the Court or Judge in Chambers in its or his absolute discretion thinks just.
- (2) Rule 13 of this Order shall not apply to any application made under this rule.
11. The affidavit to be made by any person against whom an order for discovery of documents has been made under rule 9 of this Order or under sub-rule (a) or (b) of rule 10 of this order shall specify which, if any of the documents therein mentioned he objects to produce, and it shall, except in the case of an order made under sub-rule (b) of rule 10 of this Order be as in Form 31 in Appendix 6 to these Rules with such variations as circumstances may require.
12. (1) On the hearing of any application for discovery of documents the Court or Judge in Chambers in lieu of ordering an affidavit of documents to be filed may order that the party from whom discovery is sought delivers to the opposite party from whom discovery is sought delivers to the opposite party a list of the documents which are or have been in his possession, custody or power, relating to the matters in question.
- (2) The list shall, as nearly as may be, follow the form of the affidavit as in Form 31 in the appendix to these Rules.
- (3) The ordering of the list shall not preclude the Court or Judge in Chambers form afterwards ordering the party to make and file and affidavit of documents:
13. The Court or a Judge in Chambers may at any time during the pendency of an action, order the production by any party, upon oath, of such of the documents in his possession or power, relating to any matter in question in the action as the Court or Judge in Chambers shall think right, and the Court may deal with the document, when produced, in such manner as appears just.
14. (1) Every party to a cause or matter shall be entitled at any time, by notice in writing, to give notice to any other party in whose pleadings or affidavits reference is made to any document to produce the document for the inspection of

the party giving the notice, or of his legal practitioner, and to permit him or them to take copies thereof.

- (2) Any party not complying with the notice shall not afterwards be at liberty to put any such document in evidence on his behalf in that action, unless he shall satisfy the Court or a Judge in Chambers that the document related only to his own title, he being a defendant to the cause or matter, or that he had some other cause or excuse which the Court or Judge in Chambers deems sufficient for not complying with the notice, in which case the Court or Judge in Chambers may allow the same to be put in evidence on such terms as to costs and otherwise as the Court or Judge in Chambers may think fit.
15. Notice to any party to produce any documents referred to in his pleadings or affidavit shall be in Form 22 in Appendix 6 to these Rules with such variations as circumstances may require.
16.
 - (1) The party to whom notice is given under rule 14 of this Order shall, within 2 days from the receipt of the notice, if all the documents therein referred to have been set forth by him in such affidavit as is mentioned in rule 11 of this Order, or if any of the documents referred to in that notice have not been set forth by him in any such affidavit, then within 4 days from the receipt of such notice, deliver to the party giving the same a notice stating a time witting 7 days from the delivery thereof at which the documents, or such of them as he does not object to produce, may be inspected at the office of his legal practitioner, or in the case of banker's books or other books of accounts, or books in constant use for the purpose of any trade or business, at their usual place of custody, and stating which (if any) of the documents he objects to produce, and on what ground.
 - (2) The notice shall be in Form 33 in Appendix 6 to these Rules with such variations as circumstances may require.
17.
 - (1) If the party served with notice under rule 14 of this Order omits to notify a time for inspection, or objects to give inspection, or offers inspection elsewhere than at the office of his legal practitioner, the Court or a Judge in Chambers may, on the application of the party desiring it, make an order for inspection in such place and in such manner as the Courts or Judge in Chambers may think fit.
 - (2) The order shall not be made when and so far as the Court or Judge in Chambers is of opinion that it is not necessary either for disposing fairly of the action or for saving costs.
 - (3) Any application to inspect documents, except such as are referred to in pleadings, particulars of affidavit of the party against whom the application is made, or disclosed in his affidavit of documents, shall be founded upon an affidavit showing of what documents inspection is sought, that the party

applying is entitled to inspect them, and that they are in the possession or power of the other party.

18. (1) Where inspection of any business books is applied for, the Court or a Judge in Chambers may, if it or he thinks fit, instead of ordering inspection of the original books, order a copy of any entries therein to be furnished and verified by the affidavit of some person who has examined the copy with the original entries, and the affidavit shall state whether or not there are in the original books any and what erasures, interlineations, or alterations.
 - (2) Notwithstanding that such copy has been supplied, the Court or Judge in Chambers may order inspection of the book from which the copy was made.
 - (3) Where, on an application for an order for inspection, privilege is claimed for a document, it shall be lawful for the Court or a Judge in Chambers to inspect the document for the purpose of deciding as to the validity of the claim of privilege.
 - (4) The Court or a Judge in Chambers may on the application of any party to an action at any time, and whether an affidavit of documents shall or shall not have already been ordered or made, make an order requiring any other party to state by affidavit whether any particular document or documents of any class or classes of documents, specified or indicated in the application, is or are, or has or have at any time been, in his possession, custody or power, when he parted with the same and what has become of it.
 - (5) Application for the order shall be made on an affidavit stating that in the belief of the deponent the party against whom the application is made has or has at some time had in his possession, custody or power the particular document or documents, or the class or classes of documents specified or indicated in the application and that they relate to the matters in question in the action, or to some or one of them.
19. If the party from whom discovery of any kind or inspection is sought objects to the same, or any part thereof the Court or a Judge in Chambers may, is satisfied that the right to the discovery or inspection sought depends on the determination of any issue or question in dispute in the action or that for any other reason it is desirable that any issue or question in dispute in the action should be determined before deciding upon the right to the discovery or inspection, order that such issue or question be determined first, and reserve the question as to the discovery or inspection.
20. (1) If any party fails to comply with any order to answer interrogatories or for discovery or inspection of documents, he shall be liable to committal.
 - (2) The party shall also, if a plaintiff, be liable to have his action dismissed for want of prosecution, and, if a defendant, to have his defence, if any, struck out and to be placed in the same position as if he had not defended, and the party

interrogating may apply to the Court or a Judge in Chambers for an order to that effect and an order may be made accordingly.

21. (1) Service of an order for interrogatories or discovery or inspection made against any party or his legal practitioner shall be sufficient service to found an application for an attachment for disobedience to the order.
 - (2) The party against whom the application for attachment is made may show in answer to the application that he has had no notice or knowledge of the order.
22. A legal practitioner upon whom an order against any party for interrogatories or discovery or inspection is served under rule 21, who neglects without reasonable excuse to give notice thereof to his client, shall be liable to pay the costs occasioned thereby.
23. (1) Any party may, at the trial of a cause, matter or issue, use in evidence any one or more of the answers or any part of an answer of the opposite party to interrogatories without putting in the others or the whole of such answer.
 - (2) In such case the Judge may look at the whole of the answers, and if he is of opinion that any others of them are so connected with those put in that those put in ought not to be used without them, he may direct them to be put in.
24. In any action against or by a sheriff in respect of any matters connected with the execution of his office, the Court or a Judge in Chambers may, on the application of any party, order that the affidavit to be made in answer either to interrogatories or to an order for discovery shall be made by the officer actually concerned.
25. This Order shall apply to infant plaintiffs and defendants, and to their next friends and guardians ad litem
26. Any order made under the provisions of this Order (including an order made on appeal) may, on sufficient cause being shown, be revoked or varied by a subsequent order or direction of the Court or a Judge in Chambers made or given at or before trial.

Order 34

Interlocutory Injunction and Interim Preservation of Property

1. (1) An application for the grant of an injunction may be made by a party to an action before or after the trial of the action, whether or not a claim for injunction was included in that party's action.

- (2) Where the applicant is the plaintiff and the case is one of urgency, the application may be made ex-parte on affidavit but, except as aforesaid, the application shall be made by motion on notice or summons.
 - (3) The plaintiff may not make such an application before the issue of the process by which the action is to be begun, except where the case is one of urgency, and in that case the injunction applied for may be granted on terms providing for the issue of the process and serve the process together with the ex-parte order obtained on the defendant and such other terms, as the Court thinks fit.
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 therein 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 under sub-rule (1) of this rule to be carried out, the Court may by the order authorise 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 otherwise secured.
 - (4) An order under this rule may be made on such terms, as the Court may think just.
 - (5) An application for an order under this rule shall be made by summons or motion on notice.
 - (6) Unless the Court otherwise directs, an application by the defendant for such an order may not be made before he enters an appearance.
3.
 - (1) Where it considers it necessary or expedient for the purpose of obtaining full information or evidence in any action, the Court may, on the application of a party and on such terms, as it thinks just, by order authorise or require any sample to be taken of any property which is the subject matter of the action or as to which any question may arise therein, any observation to be made on the property or any experiment to be tried on or with the property.
 - (2) For the purpose of enabling any order under sub-rule (1) to be carried out, the Court may by the order authorise any person to enter any land or building in the possession of any party.
 - (3) Sub-rules (5) and (6) of rule 2 of this Order shall apply in relation to an application for an order under this rule as they apply in relation to an application for an order under that rule.

4. (1) 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 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.

(2) Su-rules (5) and (6) of rule 2 of this Order shall apply in relation to an application for an order under this rule as they apply in relation to an application for an order under that rule.
5. (1) Where on the hearing of an application made before the trial of a cause or matter, for an injunction or appointment of a receiver or an order under rule 2, 3, or 4 of this Order, or it appears to the Court that the matter in dispute can be better dealt with by an early trial than by considering the whole merit thereof for the purposes of the application, the Court may make an order accordingly or may make such order as respects the period before trial as the justice of the case requires.

(2) Where the court makes an order for early trial, it shall by the order determine the place and mode of the trial.
6. Where the plaintiff or the defendant by way of counterclaim, 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, at any time after the claim to be so entitled appears from the pleadings or by affidavit or otherwise to its satisfaction, 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 and such further sum if any for interests and costs as the Court may direct and that, upon the payment being made, the property claimed be given up to the party claiming it, but subject to the provisions of any law relating to exchange control.
7. Where an application is made under any of the foregoing provisions of this Order, the court may give directions as to the further proceedings in the action.
8. Where any real or personal property forms the subject matter of any proceedings, and the Court is satisfied that 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 at any time allow 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.

Transfer And Consolidation

1. A cause or matter, may before evidence is taken and at the request of either party to the suit be transferred by a Judge before whom the cause or matter is proceeded to another Court of the same Division.
2. A cause or matter may at any stage of the proceedings be reassigned to another Judge of the same Division or of any other Division by the Chief Judge whether or not the cause or matter is being heard before him
3. If for any reason a Judge hearing a cause or matter, and who has taken any step in the proceedings considers it necessary either at his own opinion or upon application of any party to the proceedings, to have the cause or matter transferred to another Court, the Judge shall refer the cause or matter to the Chief Judge for such necessary action as the Chief Judge may think expedient.
4. Where a Judge retires or is transferred to another Division and having part-heard a cause or matter which is been reheard de novo by another Judge, the evidence already given before the retired Judge or the Judge being transferred out of the Division can be read at the re-hearing without the witness who had given it being recalled, if the witness is dead or cannot be found but the onus of establishing that the witness is dead or cannot be found shall lie on the party that wishes to use the evidence.

Order 36

Settlement And Trial Of Issues A - Settlement of Issues

1. At any time before or at the hearing, the Court may, if it thinks fit, on the application of any party or of its own motion, proceed to ascertain and determine what are the material questions in controversy between the parties, and may reduce the question into writing and settle them in the form of issues which when settled may state questions of law on admitted facts, or questions of disputed facts, or questions partly of the one kind and partly of the other.
2. The Court may, if it thinks fit, direct the parties to prepare the issues and the issues shall be settled by the Court.
3. The 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..
4. If otherwise, notice shall be given to the parties to attend the settlement of the issues.
5. At any time before the decision of the case, if it appears to the Court necessary for the purpose of determining the real question or controversy between the parties, the

Court may amend the issues or frame additional issues on such terms as to it shall deem fit.

B - Trial of Questions and Issues

6. (1) The Court may order any question or issue arising in a cause or matter, whether of fact or of law, or partly of fact and partly of law, and whether raised by the pleadings or on disagreement as to document that should be put in evidence or otherwise, to be tried before, at or after the trial of the cause or matter, and may give directions as to the manner in which the question or issue shall be stated.
- (2) An order under his rule may be made on application by a party or by the Court or a Judge in Chambers on its or his own motion.
- (3) Application by any party for the order shall be by motion on notice stating the question or issue sought to be tried.
7. 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.
8. This order shall be subject to the provisions of these Rules and any written law binding on the Court regarding transfer of cases.

Order 37 Assessor

1. Where an Assessor sits with a Judge during a trial he shall only discuss with or advise the Judge on the issue he was co-opted for.
2. The Assessor shall not write any opinion in form of judgment or order and shall not dissent or concur with the judgment or order the Judge has given.
3. An Assessor shall in advising the Court limit himself to the issue in which he is an expert on and on which account he was appointed to sit with the court.
4. The Judge is not bound to accept and act on the opinion or advice of the Assessor.
5. The Assessor shall subscribe to judicial oath of secrecy before the Judge or another Judge before resuming his duty.

Order 38

Trial Proceedings In General
A - Setting Down for Hearing

1. The plaintiff shall within fifteen days of the close of pleadings apply to the Registrar for the case to be set down for trial.
2. An application for setting down shall be in writing and shall contain the following information -
 - (a) that the pleadings in the case have closed;
 - (b) that all documentary evidence, other than those settled by the Court, have been settled;
 - (c) that all interrogatories have been completed; and
 - (d) the number of witnesses the plaintiff intends to call, and the probable length of time the case is expected to take.
3. If the plaintiff fails to make an application under rule 1 of this Order, the defendant may, within fifteen days after the expiration of the time limited for the plaintiff to make his application, apply to the Registrar for the case to be set down for trial and in that event the provisions of rule 2 of this Order shall apply mutatis mutandis to his application.
- 4.- (1) If neither the plaintiff nor the defendant makes an application under these Rules, the Registrar shall certify that fact to the Court or Judge in Chambers after the time limited for both parties to make the application
- (2) The Court or Judge in Chambers upon receipt of the certificate of the Registrar shall cause the case to be listed for striking out and the parties to the case shall be so notified.
- 5.- (1) Upon the case coming up for striking out, the Court or the Judge shall strike it out unless good cause is shown why the case should proceed to hearing.
- (2) A plaintiff who does not want his case to be struck out under sub-rule (1) of this rule shall file in Court within three days of the service upon him of the notice of striking out, an affidavit containing the reasons for his failure to comply with rule 1 of this Order.

B - Attendance of Parties at Hearing

6. (1) In every cause or matter pending before the Court, in case it appears to the satisfaction of Court that any party who may not be represented by legal

practitioner is prevented by some good or sufficient cause from attending the Court in person, the Court may in its discretion permit any master, servant, clerk or member of the family of that plaintiff or defendant, or officer of the plaintiff or defendant company, who satisfies the Court that he has authority in that behalf, to appear in Court for that party.

- (2) If, when the trial of an action is called on, neither party appears, the action may be struck out of the list, without prejudice, however, to the restoration thereof, on the direction of a Judge.
7. If, when a trial is called on, the plaintiff appears and the defendant does not appear, the plaintiff may prove his claim, so far as the burden of proof lies upon him.
8. If, when a trial is called on the defendant appears, and the plaintiff does not appear, the defendant, if he has no counter-claim, shall be entitled to judgment dismissing the action, but if he has a counter-claim, he may prove such counter-claim, so far as the burden of proof lies upon him but if the defendant admits the cause of action to the full amount claimed, the Court may, if it thinks fit, give judgment as if the plaintiff had appeared.
9. Any judgment obtained where one party does not appears at the trial may be set aside by the Court upon such terms as may seem just, upon an application made within six days after the trial or within such longer period as the Court may allow for good cause shown.
10. The Judge may, if he thinks it expedient for the interest of justice, postpone or adjourn a trial for such time, and upon such terms, if any, as he may think fit.

C - Proceedings At The Hearing

11. The trial Judge shall, at or after trial, direct judgment to be entered as he thinks right, and no motion for judgment shall be necessary in order to obtain the judgment.
12. Trial with assessors shall, where permitted under written law, take place in such a manner and upon such terms as the Court decides.
13. The order of proceeding at the trial of a case where pleadings have been filed shall be as prescribed in the following rules.
14. The party on whom the burden of proof is thrown by the nature of the material issues or questions between the parties, according as the Court may determine, shall begin.
15. (1) The party beginning shall produce his evidence and examine his witnesses.

- (2) When the party beginning has concluded his evidence, he shall ask the other party if he intends to call evidence (in which term is included evidence taken by affidavit or deposition, or under commission, and documentary evidence not already read or taken as read) and if answered in the negative, he shall be entitled to sum up the evidence already given, and comment thereon, but if answered in the affirmative, he shall wait for his general reply.
16. When the party beginning has concluded his case, the other party shall be at liberty to state his case and to call evidence, and to sum up and comment thereon.
17. If no evidence is called or read by the latter party, the party beginning shall have no right to reply, unless he has been prevented from summing up his case by statement of the other party of his intention to call evidence.
18. The case on both sides shall then be considered closed.
19. If the party opposed to the party beginning calls or reads evidence, the party beginning shall be at liberty to reply generally on the whole case, or he may, by leave of the Court, call fresh evidence in reply to the evidence given on the other side, on points material to the determination of the issues, or any of them, but not on collateral matters.
20. Where evidence in reply is tendered and allowed to be given, the party against whom the same has been adduced shall be at liberty to address the Court, and the party beginning shall be entitled to the general reply.
21. Documentary evidence shall be put in and read, or taken as read by consent.
22.
 - (1) The Court clerk shall take charge of every document or object put in as an exhibit during the trial of action and shall mark or label every exhibit with a letter or letters indicating the party by whom the exhibit is put in (or where more convenient, the witness by whom the exhibit is put in) and with a number, so that all the exhibits put in by a party are numbered in one consecutive series.
 - (2) The Court clerk shall cause a list of all the exhibits in the action to be made.
 - (3) The list of exhibits when completed shall be attached to the pleadings and shall form part of the record of the action.
 - (4) For the purpose of this rules, a bundle of documents may be treated and counted as one exhibit.
 - (5) In this rule a witness by whom an exhibit is put in includes a witness in the course of whose evidence the exhibit is put in.

23. (1) Where a document or object is tendered as an exhibit and is rejected by the Court, it shall be marked "Rejected", and shall be retained along with accepted exhibits.
- (2) Where more exhibits than one are rejected in the same action, they shall be numbered serially.
- (3) If the case goes on appeal, a list of the exhibits shall be transmitted to the appeal court.
24. (1) An exhibit shall not be released, after the trial, to the party who has put it in unless the period during which notice of appeal to the Court of Appeal may be given has elapsed without such notice having been given, and then only if the Judge who presided over the trial (or, in his absence, another Judge) grants leave to release such exhibits on being satisfied –
 - (a) that there shall be no appeal;
 - (b) that the exhibit shall be kept duly marked and labeled and shall be produced, if required, at the hearing of an appeal in the Court of Appeal (if any such appeal is lodged), or
 - (c) that the release of the exhibit shall not in any way prejudice any other party.
- (2) After a notice of appeal to the Court of Appeal has been filed, an exhibit produced at the trial shall not be released by the Court unless leave to release the exhibit is granted by the Court of Appeal.
25. (1) Any party may apply for, and on payment of the prescribed fee obtain, an office copy of the list of exhibits for the purpose of an appeal to the Court of Appeal.
- (2) Where there is an appeal to the Court of Appeal, an office copy of the list of exhibits shall be included among the documents supplied to that Court for the purpose of the appeal.
26. (1) In cases where written pleadings have not been filed the parties or either of them are incapable of understanding their effect with sufficient accuracy, the proceeding at the hearing shall be varied by the Court so far as may be necessary.
- (2) In particular, the statement of the defendant in defence where he does not admit the whole cause of action, shall be heard immediately after the plaintiff has concluded the statement of his claim and of the grounds thereof, and before any witness is examined, unless in any case the Court otherwise directs.

27. The Judge may in all cases disallow any question put in cross-examination which may appear to him to be vexatious and not relevant to any matter proper to be inquired into in the action.

Order 39
Proceedings In Forma Pauperis

1. The provision of this Order shall remain in force until statutory provisions are made for legal aid in connection with civil proceedings before the Court and thereupon shall cease to have effect.
2. The Court or a Judge in Chambers may admit a person to sue or defend in forma pauperis, except in bankruptcy proceedings, if satisfied that his means do not permit him to employ legal aid in the prosecution of his case and that he has reasonable ground for suing or defending as the case may be.
3. (1) The application shall, if the Court or a Judge in Chambers so directs, be accompanied by an affidavit signed and sworn by the applicant himself stating that the applicant satisfied the requirements of rule 2 of this Order as to his means, and setting forth all the material facts on which he relies in his desire to sue or defend, distinguishing between those which are within his personal knowledge and those which he bases on information and belief, and in the latter case, setting forth the sources of his information and belief.

(2) If the application is, in the opinion of the Court or a Judge in Chambers, worthy of consideration it shall be referred to a legal practitioner willing to act, and unless the legal practitioner certifies that in his opinion the applicant has good cause of action or good ground of defence, as the case may be, the application shall be refused.
4. Court fees payable by a person admitted to sue or defend in forma pauperis may be remitted either in whole or in part as the Court or a Judge in Chambers may seem right and a person so admitted to sue or defend shall not, unless the Court otherwise orders, be liable to pay or be entitled to receive any costs.
5. On granting the application, the Court or a Judge in Chambers 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 or of a Judge in Chambers.
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 or of a Judge in Chambers, 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 his application or the action taken or defended thereunder, his application shall be refused or, if already granted, the order granting it shall 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, he shall at once report the matter in writing to the Registrar.
7.
 - (1) The Court or a Judge in Chambers 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 proceedings to which the application relates unless otherwise ordered.
 - (2) Neither the applicant nor the legal practitioner assigned to him shall discontinue, settle or compromise the action without the leave of the Court or of a Judge in Chambers.
8. 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 fit.
9. Every writ, notice or application on behalf of the applicant, except an application for the discharge of his legal practitioner, shall be signed by his legal practitioner who shall take care that no application or notice is made or given without reasonable cause.
10. No person shall be permitted to appeal in forma pauperis except by leave of the trial or the appellate court, and then only on grounds of law; but if so permitted the provisions of this Order shall apply mutatis mutandis to all proceedings on the appeal.

Order 40
Originating Summons Proceedings

1. A person claiming to be interested under a deed, will, or other written instrument may apply by originating summons for the determination of any question of construction arising under the instrument and for a declaration of the rights of the persons interested.
2. A person claiming any legal or equitable right in a case where the determination of the question whether he is entitled to the right depends upon a question of construction of an enactment, may apply by originating summons for the

determination of the question of construction and for a declaration as to the right claimed.

3. The Court or Judge in Chambers may direct such persons to be served with the summons as it or he may think fit.
 4. The application shall be supported by such evidence as the Court or a Judge in Chambers may require.
 5. The Court or Judge in Chambers shall not be bound to determine any such question of construction if in its or his opinion it ought not to be determined on originating summons.
 6. The Court by which an originating summons is heard may, if the liability of the defendant to the plaintiff in respect of any claim made by the plaintiff is established, make such order in favour of the plaintiff as the nature of the case may require, but where the Court makes an order under this rule against a defendant who does not appear at the hearing, the order may be varied or revoked by a subsequent order of the Court on such terms as the Court thinks just.
 7. Where in an action begun by originating summons an application is made to the Court for an order affecting a party who has failed to enter an appearance, the Court hearing the application may require to be satisfied in such manner as it thinks fit that the party was served and is in default of appearance.
 8.
 - (1) A defendant to an action begun by originating summons who has entered an appearance to the summons and who alleges that he has any claim or is entitled to any relief or remedy against the plaintiff in respect of any matter (wherever and however arising) may make a counter-claim in the action in respect of that matter instead of bringing a separate action.
 - (2) A defendant who wishes to make a counter-claim under this rule shall at the first or any resumed hearing of the originating summons by the Court but, in any case, at as early a stage in the proceedings as is practicable, inform the Court of the nature of his claim and, without prejudice to the powers of the Court under sum-rule (3) of this rule the claim shall be made in such manner as the Court may direct.
 - (3) If it appears on the application of the plaintiff against whom a counter-claim is made under this rule that the subject matter of the counter-claim ought for any reason to be disposed of by a separate action, the Court may order the counter-claim to be struck out or may order it to be tried separately or make such other order as may be expedient.
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Order 41
Procedure Relating To Evidence

1. Subject to the provisions of these Rules and of the Evidence Act, and any other enactment relating to evidence, any fact required to be proved at the trial of an action begun by writ the evidence of witnesses shall be proved by the examination of the witnesses orally and in open Court.
2. (1) The Court or a Judge in Chambers may at or before the trial of an action, order or direct that all or any of the evidence therein shall be given by affidavit
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(2) An order or direction under this rule may be made or given on such terms as to the filing and giving of copies of the affidavits or proposed affidavits and as to the production of the deponents for cross-examination as the Court or Judge in Chambers may think fit but, subject to any such terms and to any subsequent order or direction of the Court or a Judge in Chambers, the deponents shall not be subject to cross-examination and need not attend the trial for the purpose.
3. (1) Without prejudice to rule 2 of this Order, the Court or a Judge in Chambers may, at or before the trial of an action, order or direct that evidence of any particular fact shall be given at the trial in such a manner as may be specified by the order or direction.
(2) The power conferred by sub-rule (1) of this rule extends in particular to ordering or directing that evidence of any particular fact may be given at the trial
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(a) by statement on oath of information or belief; or
(b) by the production of documents or entries in books; or
(c) by copies of documents or entries in books; or
(d) in the case of a fact which is of 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.
4. The Court or a Judge in Chambers 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 shall be limited as specified by the order or direction.
5. Unless, at or before the trial, the Court or a Judge in Chambers for special reasons otherwise orders or directs, no plan, photograph or model shall be receivable in evidence at the trial of an action unless at least ten days before the commencement of the trial the parties other than the party producing it, have been given an opportunity to inspect it and to agree to the admission thereof without further proof.

6. In an action, of whatever nature, arising out of an accident on land due to a collision or apprehended collision -
 - (a) no plan of the place where the accident happened other than a sketch plan, shall be receivable in evidence unless, at or before the trial, the Court or Judge in Chambers authorises the reception thereof;
 - (b) unless, at or before the trial, the Court or Judge in Chambers otherwise orders or directs that oral expert evidence of an engineer sought to be called on account of his skill and knowledge as respects motor vehicles shall not be receivable unless a copy of report from him containing the substance of his evidence has been made available to all parties for inspection.
7. The preceding provisions of this Order shall apply to trials of issues, references, inquiries and assessments of damages as they apply to the trial of action.
8. Office copies of all writs, records, pleadings and documents filed in the Court shall be admissible in evidence in all causes and matters and between all persons or parties, to the same extent as the original is admissible.
9.
 - (1) The Court or Judge in Chambers may, in any action where it appears necessary for the purpose of justice, make an order for the examination upon oath before the Court, or a Judge in Chambers and at any place, of any witness or person and may empower any party to any such action to give on deposition any evidence therein.
 - (2) Any order under sub-rule (1) of this rule may be made on such terms (including, in particular, terms as to the giving of discovery before the examination takes place) as the Court or Judge in Chambers may think fit.
 - (3) The Court or a Judge in Chambers may order the party who has applied for the appointment of an examiner to pay the fees and expenses of the examiner (without prejudice to any question as to the party by whom the costs of the examination should eventually be borne) but, where the examiner is a Government servant not entitled to receive fees, the fees shall be paid into revenue.
10. An order for a commission to examine witnesses shall be in Form 60 in Appendix 6 to these Rules and the writ of commission shall be in Form 42 in Appendix 6 to these Rules with such variations as circumstances may require.
11.
 - (1) If in any case the Court or a Judge in Chambers so orders, there shall be issued a request to examine witnesses in lieu of a commission.

- (2) Forms 61 and 62 in Appendix 6 to these Rules shall be used for such order and request respectively, with such variation as circumstances may require.
12. Where an order is made for the issue of a request to examine a witness or witnesses in any foreign country with which a Convention in that behalf has been or shall be made, the following procedure shall be adopted –
- (a) the party obtaining the order shall file in the Registry an undertaking in Form 63 in Appendix 6 to these Rules which Form may be varied as may be necessary to meet the circumstances of the particular case in which it is used.
 - (b) The undertaking shall be accompanied by –
 - (i) a request in Form 63 in Appendix 6 to these Rules, with such variation as may be directed in the order for the issue thereof, together with a translation of the request in the language of the country in which the same is to be executed,
 - (ii) a copy of the interrogatories (if any) to accompany the request, and a translation thereof, and
 - (iii) a copy of the cross-interrogatories (if any), and a translation thereof.
13. 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 or shall be made, such order shall be in Form 65 in Appendix 6 to these Rules which Form of order may be varied as may be necessary to meet the circumstances of the particular case in which it is used.
14. (1) The Court or a Judge in Chambers may in any action at any stage of the proceedings order the attendance of any person for the purpose of producing any writings or other documents named in the order which the Court or Judge in Chambers may think fit to be produced.
- (2) No person shall be compelled to produce under any such order any writing or other document which he could not be compelled to produce at the hearing or trial.
15. Any person willfully disobeying any order requiring his attendance for the purpose of being examined or producing any document shall be deemed guilty of contempt of court, and may be dealt with accordingly.
16. 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 at a trial in Court.

17. Where any witness or person is ordered to be examined before officer of the Court, or before any person appointed for that purpose, the person taking the examination shall be furnished by the party on whose application the order was made with a copy of the court and pleadings, if any, or with a copy of the documents necessary to inform the person taking the examination of the questions at issue between the parties.
18. The examination shall take place in presence of the parties, their legal practitioner, or agents and the witnesses shall be subject to cross-examination and re-examination and where the parties, their legal practitioners or agents fail to attend, without good cause, the examination may be proceeded with in their absence.
19.
 - (1) The depositions taken before an officer of the Court or before any other person appointed to take the examination, shall be taken down in writing by or in the presence of the examiner, not ordinarily by question and answer, but so as to represent as nearly as may be the statement of the witness and when completed shall be read over to the witness and signed by him in the presence of the parties or such of them as may think fit to attend.
 - (2) If the witness refuses to sign the depositions, the examiner shall sign them.
 - (3) The examiner may put down any particular question or answer if there appears any special reason for doing so and may put any question to the witness as to the meaning of any answer or as to any matter arising in the course of the examination.
 - (4) Any question which may be objected to shall be taken down by the examiner in the depositions, and he shall state his opinion thereon to the legal practitioners or parties, and shall refer to the statement in the deposition, but he shall not have power to decide upon the materiality or relevancy of any question
20. If any person duly summoned by subpoena to attend for examination refuses to attend, or if, having attended, he refuses to be sworn or to answer any lawful question, a certificate of the refusal, signed by the examiner, shall be filed at the Registry, and thereupon the party requiring the attendance of the witness may apply to the Court or a Judge in Chambers ex parte or on notice for an order directing the witness to attend, or to be sworn or to answer any question, as the case may be.
21. If any witness objects to any question which may be put to him before an examiner, the question so put and the objection of the witness thereto, shall be taken down by the examiner, and transmitted by him to the Registrar to be filed, and the validity of the objection shall be decided by the Court or a Judge in Chambers.
22. In any case under the two last preceding rules, the Court or a Judge in Chambers shall have power to order the witness to pay any costs occasioned by his refusal or objection.

23. When the examination of any witness before any examiner has been concluded, the original depositions, authenticated by the signature of the examiner, shall be transmitted by him to the registry, and there filed.
24. The person taking the examination of a witness under rule 23 of this Order may, and if need be shall, make a special report to the Court touching the examination and the conduct or absence of any witness or other person thereon, and the Court or a Judge in Chambers may direct such proceedings and make order upon the report as the Court or Judge in Chambers may think just.
25. Except where these Rules otherwise provide or the Court or a Judge in Chambers direct, no deposition shall be given in evidence at the hearing or trial of the action without the consent of the party against whom the same may be offered, unless the Court or Judge in Chambers is satisfied that the deponent is dead, or beyond the jurisdiction of the Court or unable from sickness or other infirmity` to attend the hearing or trial, in any of which cases 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 the certificate.
26. 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 now made or which may hereafter be made with any foreign country, may administer oaths.
27. Any party in any action 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 his evidence upon any proceeding in the cause or matter in like manner as such witness would be bound to attend and be examined at the hearing or trial and any party or witness having made an affidavit to be used or which shall be used on any proceeding in the action shall be bound on being served with the subpoena to attend before the officer or person for cross-examination.
28. The practice with reference to the examination, cross-examination, and re-examination of witnesses at a trial shall extend and be applicable to evidence taken in any action at any stage.
29. 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 action after the hearing or trial, shall be subject to any special directions which may be given in any action.
30. No affidavit or deposition filed or made before issue joined in any action shall, without special leave of the Court or a Judge in Chambers, be received at the hearing or trial thereof, unless within 14 days after issue joined or within such longer time as

may be allowed by special leave of the Court or a Judge in Chambers, notice in writing shall have been given by the party intending to use the same to the opposite party of his intention in that behalf.

31. 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.
32. (1) Where it is intended to issue out a subpoena, a praecipe for that purpose, in Form 84 in Appendix 6 to these Rules, containing the name or firm and the place of business or residence of the legal practitioner intending to issue out the same, and where the legal practitioner is an agent only, then also the name or firm and place of business or residence of the principal legal practitioner, shall in all cases be delivered and filed at the 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.
33. A writ of subpoena shall be in one of Forms 39, 40 or 41 in Appendix 6 to these Rules, with such variations as circumstances may require.
34. Where a subpoena is required for the attendance of a witness for the purpose of proceedings in Chambers, the subpoena shall issue from the registry upon a note from the Judge.
35. In the interval between the issuing out and service of any subpoena, the party issuing out the same may correct any error in the names of parties or witnesses, and may have the writ re-sealed upon leaving a corrected praecipe of the subpoena marked with the words "altered and re-sealed", and signed with the name and address of the legal practitioner issuing out the same.
36. (1) A subpoena shall be served personally unless substituted service has been ordered by the Court or a Judge in Chambers in cases where a person evades serve.

(2) The provisions of Order 13 of these Rules shall, so far as possible, apply to service and proof of service of a subpoena.
37. Any subpoena shall remain in force from the date of issue until the conclusion of the trial of the action or matter in which it is issued.
38. (1) Any party desiring to give in evidence any deed or other instrument which shows upon the face of it that it has been duly executed, may deliver to the opposite party not less than four clear days before the return-day a notice in writing specifying the date, nature and party to the deed or instrument, and

requiring the opposite party to admit that the same was executed as it purports to have been, saving all just exceptions as to its admissibility, validity and contents.

- (2) If at or before the hearing of the suit the party notified neglects or refuses to give the admission, the Court may adjourn the hearing in order to enable the party tendering the deed or instrument to obtain proof of the due execution thereof, and upon production of such proof the Court may order the costs of the proof to be paid by the party so neglecting or refusing where he be the successful party or not.
39. Where any civil or criminal matter is pending before a court or tribunal of a foreign country, and it is made to appear to the Court by commission rogatoire, or letter of request, or other sufficient evidence that such court or tribunal is desirous of obtaining the testimony in relation to the 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 the 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 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.
 40. (1) On the application of any party to a legal proceeding, the Court may order that the party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of the proceeding.
 - (2) An order under this rule may be made either with or without summoning the bank or any other party and shall be served on the bank three days before the same is to be obeyed, unless the Court otherwise directs.

Order 42
Judgment And Orders

1. The decision or judgment in any suit shall be delivered in open Court, unless the Court otherwise directs for sufficient cause.
2. If the Court reserves judgment at the hearing, parties to the suit shall be served with notice to attend and hear judgment, unless the Court at the hearing states the day on which judgment will be delivered, in which case there shall be no further notice.
3. All parties shall be deemed to have notice of the decision or judgment if pronounced at the hearing, and all parties served with notice to attend and hear judgment shall be deemed to have notice of the judgment when pronounced.

4. (1) A minute of every judgment, whether final or interlocutory, shall be made, and every such minute shall be a decree of the Court, and shall have the full force and effect of a formal decree.

(2) A formal decree or order may be drawn up on the application of either party.
5. (1) If the defendant has been allowed to set-off any demand or counter-claim against the claim of the plaintiff, the judgment shall state what amount, if any, is due to the defendant, and shall be for the recovery of any sum which appears to be due to either party.

(2) The judgment of the Court, with respect to any sum awarded to the defendant, shall have the same effect, and be subject to the same rules, as if the sum had been claimed by the defendant in a separate suit against the plaintiff.
6. A person directed by a decree or order to pay money or do any other act is bound to obey the decree or order without any demand for payment or performance, and if no time is therein expressed he is bound to do so immediately after the decree or order has been made (except as to costs the amount whereof may require to be ascertained by taxation), unless the Court enlarges the time by any subsequent order.
7. The Court at the time of making any judgment or order or any time afterwards, may direct the time within which the payment or other act is to be made or done, reckoned from the date of the judgment or order or from some other point of time, as the Court thinks fit, and may order interest at a rate not exceeding ten naira per centum per annum to be paid upon any judgment, commencing from the date thereof or afterwards, as the case may be.
8. (1) When any 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 interests.

(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.
9. Every order, if and when drawn up, shall be dated the day of the week, month and year on which the same was made, unless the Court or a Judge in Chambers otherwise directs and shall take effect accordingly.
10. (1) Where an order has been made not embodying any special terms, not including any special directions, but simply enlarging time for taking any proceeding or doing any act, or giving leave for –
 - (a) the issue of any writ other than a writ of attachment;
 - (b) the amendment of any writ or pleadings;

(c) the filing of any document; or

(d) any act to be done by an officer of the Court other than a legal practitioner,

It shall not be necessary to draw up the order unless the Court or a Judge in Chambers otherwise directs, but the production of a note or memorandum of that order signed by a Judge shall be sufficient authority for the enlargement of time, issue, amendment, filing or other act.

(2) A direction that cost of such order shall be costs in any cause or matter shall not be deemed a special direction within the meaning of this rule.

11. (1) Orders, other than final orders, shall not be entered after being drawn up but shall be filed and a note of the filing shall be made in a book kept for the purpose.

(2) Every order so filed shall be deemed to be duly entered and the date of the filing shall be deemed the date of entry.

(3) In the case of procedure orders drawn up in Chambers, no entry thereof shall be necessary before an attachment can be issued for disobedience thereof.

Order 43

Writ Of Execution: General

1. In this Order, unless the context otherwise requires, "writ of execution" includes a writ of fieri facias, a writ of possession, a writ of delivery, a writ of sequestration and any further writ in aid of any of the aforementioned writs

2. (1) A writ of execution to enforce a judgment or order may not issue without the leave of the Court in the following cases, that is to say where -

(a) six years or more have elapsed since the date of the judgment or order;

(b) any change has taken place, whether by death or otherwise, in the parties entitled or liable to execution under the judgment or order;

(c) the judgment or order is against the assets of a deceased person coming to the hands of his executors or administrators after the date of the judgment or order, and it is sought to issue execution against the assets;

(d) under the judgment or order any person is entitled to relief subject to the fulfillment of any condition which it is alleged has been fulfilled;

(e) any goods sought to be seized under a writ of execution are in the hands of a receiver appointed by the Court or a sequestrator.

- (2) Sub-rule (1) of this rule is without prejudice to any enactment or rule by virtue of which a person is required to obtain the leave of the Court for the issue of a writ of execution or to proceed to execution on or otherwise to the enforcement of a judgment or order.
 - (3) Where the Court grants leave, whether under this rule or otherwise, for the issue of a writ of execution and the writ is not issued within one year after the date of the order granting such leave, the order shall cease to have effect, without prejudice, however, to the making of a fresh order.
3. A writ of execution in aid of any other writ of execution shall not issue without the leave of the Court.
4.
 - (1) An application for leave to issue a writ of execution may be made ex-parte unless the Court directs it to be made by summons.
 - (2) Such an application shall be supported by an affidavit -
 - (a) identifying the judgment or order to which the application relates and, if the judgment or order is for the payment of money, stating the amount originally due thereunder and the amount due thereunder at the date of the application;
 - (b) stating, where the case falls within rule 2 (1)(a) of this Order, the reasons for the delay in enforcing the judgment or order;
 - (c) stating, where the case falls within rule 2(1)(b) of this Order, the change which has taken place in the parties entitled or liable to execution since the date of the judgment or order;
 - (d) stating, where the case falls within rule 2(1)(c) or (d) of this Order, that a demand to satisfy the judgment or order was made on the person liable to satisfy it and that he has refused or failed to do so;
 - (e) 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 execution is liable to execution on it.
 - (3) The Court 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.

5. (1) Notwithstanding anything in rules 2 and 4 of this Order, an application for leave to issue a writ of sequestration shall be made to a judge by motion.
 - (2) Subject to sub-rule (3) of this rule, the notice of motion, stating the grounds of the application, shall be served personally on the person against whose property it is sought to issue the writ.
 - (3) The judge hearing an application for leave to issue a writ of sequestration may sit in private in any case in which there is an application to the Judge to sit in private, if the application were for an order.
6. (1) The issue of a writ of execution takes place on its being sealed by an officer of the appropriate office.
 - (2) A praecipe for the issue of a writ shall be filed before the writ is issued.
 - (3) The praecipe shall be signed by or on behalf of the solicitor of the person entitled to execution or if that person is acting in person, by that person.
 - (4) No such writ shall be sealed unless at the time of the tender thereof for sealing -
 - (a) the person tendering it produces -
 - (i) the judgment or order on which the writ is to issue, or an office copy thereof,
 - (ii) where the writ may not issue without the leave of the Court, the order granting the leave or evidence of the granting of it;
 - (b) the officer authorized to seal it is satisfied that the period, if any, specified in the judgment or order for the payment of any money or the doing of any other act thereunder has expired.
 - (5) Every writ of execution shall bear the date of the day on which it is issued.
 - (6) In this rule "the appropriate office "means -
 - (a) where the cause or matter in which execution is to issue is proceeding in a Division registry, that registry;
 - (b) where that cause or matter is an admiralty cause or matter which is not proceeding in a registry, the admiralty registry;
 - (c) in any other case, the Court registry.

7. (1) For the purpose of execution, a writ of execution is valid in the first instance for 12 months beginning with the date of its issue.
 - (2) Where a writ has not been wholly executed the Court may by order extend the validity of the writ from time to time for a period of 12 months at any time beginning with the day on which the order is made, if an application for extension is made to the Court before the day next 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 had 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 him of the making of the order and the date thereof.
 - (4) The production of a writ of execution, or of the notice as is mentioned in sub-rule (3) of this rule purporting in either case can 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.
8. (1) Any party at whose instance a writ of execution was issued may serve a notice on the sheriff to whom the writ was directed requiring him, within such time as may be specified in the notice, to indorse on the writ a statement of the manner in which he has executed it and to send to that party a copy of the statement.
 - (2) If a sheriff on whom such notice is served fails to comply with it, the party by whom it was served may apply to the Court for an order directing the sheriff to comply with the notice.

Order 44
Garnishee Proceedings

1. (1) Where a person (in this Order referred to as "the judgment creditor") has obtained a judgment or order for the payment by some other person (in this Order referred to as "the judgment debtor") of a sum of amount in value to at least N100, not being a judgment or order for the payment of money into Court, and any other person within the jurisdiction (in this Order referred to as "the garnishee") is indebted to the judgment debtor, the Court may, subject to the provisions of this Order and of any enactment, order the garnishee to pay the judgment creditor the amount of any debt due or accruing due 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.

- (2) An order under this rule shall in the first instance be an order to show cause, specifying the time and place for further consideration of the matter, and in the meantime attaching such debt as is mentioned in sub-rule (1) or so much therefore as may be specified in the order, to answer the judgment or order mentioned in that and the costs of the garnishee proceedings.
 - (3) An order under this rule shall not require a payment which would reduce below N5 the amount standing in the name of the judgment debtor in an account with a building society or a credit union.
2. An application for an order under rule 1 of this Order shall be made ex-parte supported by an affidavit -
 - (a) stating the name and last known address of the judgment debtor;
 - (b) identifying the judgment or order to be enforced and stating the amount of the judgment or order and the amount remaining unpaid under it as (at) the time of the application;
 - (c) stating that to the best of the information or belief of the deponent the garnishee (naming him) is within the jurisdiction and is indebted to the judgment debtor and stating the sources of the deponent's information or the grounds for his belief; and
 - (d) stating, where the garnishee is a deposit-taking institution having 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 the number of that account or, if it be the case, that all or part of this information is not known to the deponent.
3. (1) Unless the Court otherwise direct, an order under rule 1 of this Order to show cause shall be served -
 - (a) on the garnishee personally, at least, 15 days before the day appointed thereby for the further consideration of the matter; and
 - (b) on the judgment debtor, at least 7 days after the order has been served on the garnishee and at least 7 days before the day appointed for the further consideration of the matter.
 - (2) An order under rule 1 of this Order shall bind in the hands of the garnishee as from the service of the order on him any debt specified in the order or so much thereof as may be so specified.
4. (1) Where on the further consideration of the matter, the garnishee does not attend or does not dispute the debt due or claimed to be due from him to the judgment

debtor, the Court may make an order absolute under rule 1 of this Order against the garnishee.

- (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.
5. Where on the further consideration of the matter, the garnishee disputes liability to pay the debt due or claimed to be due from him 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 trial before a matter, the need for any consent by the parties.
6. If in garnishee proceedings it is brought to the notice of the Court that some other person 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 it, the Court may order that person to attend before the Court and state the nature of his claim with particulars thereof.
7. Any payment made by a garnishee in compliance with an order absolute under this Order, and any execution levied against him 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 judgment or order from which they arose is reversed.

Order 45 Habeas Corpus Proceedings

1. Where a person is alleged to be wrongfully detained, an application may be made for an order that he be produced in Court for the purpose of being released from detention.
2. (1) No application under rule 1 of this Order shall be made unless leave therefor has been granted in accordance with this rule.
 - (2) Application for such leave shall be made ex parte to the Court and shall be supported by a statement setting out the name and description of the applicant, the relief sought and the grounds on which it is sought and it shall also be supported by an affidavit verifying the facts relied on.
 - (3) The affidavit verifying the facts relied on in making the application shall be made by the person detained, but where the person detained is unable owing to the detention to make the affidavit, the application shall be accompanied by an affidavit to the like effect made by some other person, which shall also state that the person detained is unable to make the affidavit himself.

- (4) The applicant shall file, in the Court, the application for leave not later than the day preceding the date of hearing, and shall at the same time lodge in the Court enough copies of the statement and affidavit for service on any party or parties as the court may order.
 - (5) The Court or Judge in Chambers may, in granting leave, impose such terms as to giving security for costs as it or he thinks fit.
 - (6) The Court or Judge in Chambers may -
 - (a) make an order forthwith for the release of the person being detained, the provision of sub-rule (1) of this rule notwithstanding;
 - (b) direct that an originating summons be issued in Form 2 of the Fundamental Rights (Enforcement Procedure) Rules or that the application be made by notice of motion in Form 3 of the Fundamental Rights (Enforcement Procedure) Rules; or
 - (c) adjourn the ex parte application so that notice thereof may be given to the person against whom the order for the release of the person detained is sought.
 - (7) The summons or notice of motion shall be served on the person against whom the order for the release of the person detained is sought and on such other persons as the Court or Judge in chambers may direct, and unless the Court or Judge in Chambers may direct, and, unless the Court or Judge in Chambers otherwise directs, there shall be at least five clear days between the service of the summons or motion and the date named therein for the hearing of the application.
 - (8) Every party to an application under rule 1 of this Order shall supply to every other party copies of the affidavits which he proposes to use at the hearing of the application.
3. (1) Without prejudice to rule 2(6) of this Order, the Court or Judge in Chambers hearing the application may, in its or his discretion, order that the person detained be produced in Court.
 - (2) An order under sub-rule (1) of this shall be a sufficient warrant to any superintendent of a prison, police officer in charge of a police station, police officer or constable in charge of the person detained or any other person responsible for his detention, for the production in Court of the person detained.
 - (3) Where an order is made for the production of a person detained, the Court or Judge in Chambers by whom the order is made shall give directions as to the Court or Judge before whom, and the date on which, the order is returnable.

4. (1) Subject to sub-rules (2) and (3) of this rule, an order for production of the person detained shall be served personally on the person to whom it is directed.
 - (2) If it is not possible to serve the order personally or if it is directed to a police officer, or a prison superintendent or other public official, it shall be served by leaving it with any other person or official working in the office of the police officer or the prison or office of the superintendent or the office of the public official to whom the order is directed.
 - (3) If the order is made against more than one person, the order shall be served in the manner provided by the rule on the person first named in the order and copies shall be served on each of the other persons in the same manner.
 - (4) There shall be served with the order (in Form in the Fundamental Rights (Enforcement Procedure) Rules) for the production of the person detained a notice (in Form 5 in the Fundamental Rights (Enforcement Procedure) Rules) stating the Court or Judge in Chambers before whom and the date on which the person detained is to be brought.
5. (1) The return to an order for the release of a person detained shall be endorsed on or annexed to the order and shall state all the causes or justifications of the detainer of the person detained.
 - (2) The return may be amended or another return substituted therefor, by leave of the Court or Judge in Chambers before whom the order is returnable.
6. (1) When a return to the order has been made, the return shall first be read in open court and an oral application then made for discharging or remanding the person detained or amending or quashing the return, and where that person is brought up in Court in accordance with the order, his legal representative shall be heard first, then the legal representative for the State or for any other official or person detaining him.
 - (2) The legal representative for the person detained will then be heard in reply.
7. An order for the release of a person detained shall be made in clear and simple terms having regard to all the circumstances.
8. (1) An application for a writ of habeas corpus ad testificandum or of habeas corpus as respondendum shall be made on affidavit.
 - (2) An application for an order to bring up a prisoner, otherwise than by writ of habeas corpus, to give evidence in any cause or matter, civil or criminal, before any court, tribunal or justice, shall be made on affidavit.

9. A writ of habeas corpus shall be in Form 85, 86 or 87 in Appendix 6 to these Rules, whichever is appropriate.

Order 46
Committal For Contempt Of Court

1. (1) The power of the Court to punish for contempt of court may be exercised by an order of committal.
2) An order of committal may be made by the Court where contempt of court -
 - (a) is committed in connection with -
 - (i) any proceedings before the Court
 - (ii) criminal proceedings,
 - (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; or
 - (c) is committed otherwise than in connection with any proceedings.
2. (1) An application for an order of committal shall be made to the Court by motion on notice supported by an affidavit and shall state the grounds of the application.

(2) The notice of motion, affidavit and grounds shall be served personally on the person sought to be committed but the Court may dispense with personal service where the justice of the case so demands.
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.
4. (1) Subject to sub-rule (2), the Court hearing an application for an order of committal may sit in private in the following, cases that is to say where -
 - (a) the application arises out of proceedings relating to the wardship or adoption of an infant or wholly or mainly to the guardianship, custody, maintenance or upbringing of an infant or rights of access to an infant;
 - (b) the application arises out of proceedings relating to a person suffering or appearing to be suffering from mental disorder;

(c) the application arises out of proceedings in which a secret process, discovery or invention was in issue;

(d) it appears to the Court that in the interests of the administration of justice or for reasons of national security the application should be heard in private,

but except as aforesaid, the application shall be heard in open court

(2) If the Court hearing an application in private by virtue of sub-rule (1) of this rule decides to make an order of committal against the person sought to be committed, it shall in open court state -

(a) the name of that person;

(b) in general terms the nature of the contempt of court in respect of which the order of committal is being made; and

(c) if he is being committed for a fixed period, the length of that period.

(3) Except with the leave of the Court hearing an application for an order of committal, no grounds shall be relied upon at the hearing except the grounds set out in the statement under rule 2 of this Order.

(4) If on the hearing of the application the person sought to be committed expresses a wish to give oral evidence on his own behalf he shall be entitled to do so.

5. The foregoing provisions are without prejudice to the power of the Court to commit for contempt committed in the face of the Court.

6. (1) The Court by whom 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 applicant for the order of committal shall, unless the Court otherwise directs, serve on the person against whom it was made a notice informing him of the making and terms of the order under that sub-rule.

7. (1) The Court may, on the application of any person committed to prison for any contempt of court, discharge him.

(2) Where a person has been committed for failing to comply with a judgment or order requiring him to deliver any thing to some other person or 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 that 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.

8. Nothing in the foregoing provisions 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 he had been guilty of contempt of Court to pay a fine or to give security for his good behaviour, 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.
9. (1) Every writ of attachment issued in a case to which this Order applies shall be made returnable before the Court.

(2) If a return of non est inventus is made, one or more writs may be issued on the return of the previous writ.

Order 47
Application For Judicial Review

1. (1) An application for -
 - (a) an order of mandamus, prohibition or certiorari, or
 - (b) an injunction restraining a person from acting in any office in which he is not entitled to act,

shall be made by way of an application for judicial review in accordance with the provisions of this Order.

- (2) An application for a declaration or an injunction (not being an injunction mentioned in sub-rule (1) (b) of this rule) may be made by way of an application for judicial review and on such an application, the Court may grant the declaration or injunction claimed if it considers that 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; and
 - (c) all the circumstances of the case,

it would be just and convenient for the declaration or injunction to be granted on an application for judicial review.

2. On an application for judicial review, any relief mentioned in rule 1 (1) or (2) of this Order may be claimed as an alternative or in addition to any other relief so mentioned if it arises out of or relates to or is connected with the same matter.
3.
 - (1) No application for judicial review shall be made unless the leave of the Court has been obtained in accordance with this rule.
 - (2) An application for leave shall be made *ex parte* to the Court, except during vacation when it may be made to a Judge in Chambers and shall be supported by -
 - (a) a statement, setting out the name and description of the applicant, the relief sought and the grounds on which it is sought; and
 - (b) affidavit to be filed with the application, verifying the facts relied on.
 - (3) The Applicant shall file the application not later than the day before the motion is heard and shall at the same time lodge copies of the statement and every affidavit in support.
 - (4) The Court hearing an application for leave may allow applicant's statement to be amended, whether by specifying different or additional grounds or relief or otherwise on such terms, if any, as it thinks fit.
 - (5) The Court shall not grant leave unless it considers that the applicant has a sufficient interest in the matter to which the application relates.
 - (6) Where leave is sought to apply for an order of certiorari to remove for the purpose of its being quashed any judgment, order, conviction or other proceedings which is subject to appeal and a time is limited for the bringing of the appeal, the Court may adjourn the application for leave until the appeal is determined or the time for appealing has expired
 - (7) If the Court grants leave, it may impose such terms as to costs and as to giving security as it thinks fit.
 - (8) Where an application for leave is refused by a Judge in Chambers, the applicant may after the period of vacation make a fresh application on notice to the Court.
 - (9) An application to a Judge in Court under sub-rule (8) of this rule shall be made within 10 days after the Judge's refusal to give leave.
 - (10) Where leave to apply for judicial review is granted, then -

- (a) if the relief sought is an order of prohibition or certiorari and the Court so directs, the grant shall operate as a stay of the proceedings to which the application relates until the determination of the application or until the Court otherwise orders;
 - (b) if any other relief is sought, the Court may at any time grant in the proceedings such interim relief as could be granted in an action begun by writ.
- 4. (1) Subject to the provisions of this rule, where in any case the Court considers that there has been undue delay in making an application for judicial review or, in a case to which sub-rule (2) of this rule applies, the application for leave under rule 3 of this Order is made after the relevant period has expired, the Court may refuse to grant -
 - (a) leave for the making of the application; or
 - (b) any relief sought on the application,

if in the opinion of the Court the granting of the relief sought would be likely to cause substantial hardship to, or substantially prejudice the rights of, any person or would be detrimental to good administration.

- (2) In the case of an application for an order of certiorari to remove any judgment, order, conviction or other proceeding for the purpose of quashing it, the relevant period for the purpose of sub-rule (1) of this rule is three months after the date of the proceeding.
 - (3) Sub-rule (1) of this rule is without prejudice to any statutory provision which has the effect of limiting the time within which an application for judicial review may be made.
- 5- (1) Subject to sub-rule (2) of this rule, when leave has been granted to make an application for judicial review, the application shall be made by originating motion, except during vacation when it may be made by originating summons to a Judge in chambers.
 - (2) Where leave has been granted and the Court or Judge in chambers so directs, the application may be made by motion to a Judge sitting in open court or, by originating summons to a Judge in Chambers.
 - (3) The notice of motion or summons shall be served on all persons directly affected and where it relates to any proceedings in or before a Court and the object of the application is either to compel the Court or an officer of the court to do any act in relation to the proceedings or to quash them or any order made

therein, the notice or summons shall also be served on the clerk or registrar of the Court and, where any objection to the conduct of the Judge is to be made, on the Judge

- (4) Unless the Court granting leave has otherwise directed, there shall be at least 10 days between the service of the notice of motion or summons and the day named therein for the hearing.
 - (5) A motion shall be entered for hearing within 14 days after the grant of leave
 - (6) An affidavit giving the names and addresses of, and the places and dates of service on, all persons who have been served with the notice of motion or summons shall be filed before the motion or summons is entered for hearing and, if any person who ought to be served under this rule has not been served, the affidavit shall state that fact and the reason for it, and the affidavit shall be before the Court on the hearing of the motion or summons.
 - (7) If on the hearing of the motion or summons the Court is of opinion that any person who ought, whether under this rule or otherwise, 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 notice or summons may be served on that person
6. (1) Copies of the statement in support of an application for leave under rule 3 of this Order shall be served with the notice of motion or summons and, subject to sub-rule (2) of this rule, no grounds shall be relied upon or any relief set out in the statement.
- (2) The Court may on the hearing of the motion or summons allow the applicant to amend his statement whether by specifying different or additional grounds of relief or otherwise, on such terms, if any, as it thinks fit and may allow further affidavit to be used if they deal with new matters arising out of an affidavit of any other party to the application
 - (3) Where the applicant intends to ask to be allowed to amend his statement or to use further affidavits, he shall give notice of his intention and of any proposed amendment to every other party
 - (4) Each party to the application shall supply to every other party on demand and on payment of the proper Court charges copies of every affidavit which he proposes to use at the hearing including, in the case of the applicant, the affidavit in support of the application for leave under rule 3 of this Order
7. On an application for judicial review, the Court may subject to sub-rule (2) of this rule, award damages to the applicant if-

- (a) he has included in the statement in support of his application for leave under rule 3 of this Order a claim for damages arising from any matter to which the application relates; and
 - (b) the Court is satisfied that if the claim had been made in an action begun by the applicant at the time of making his application, he could have been awarded damages.
8. Unless the Court otherwise directs; any interlocutory application in proceedings on an application for judicial review may be made to any Judge notwithstanding that the application for judicial review has been made by motion and is to be heard by the Court.
9.
 - (1) On the hearing of any motion or summons under rule 5 of this Order, any person who desires to be heard in opposition to the motion or summons and appears to the Court to be a proper person to be heard, shall be heard, notwithstanding that he has not been served with notice of the motion or the summons.
 - (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, commitment, conviction, inquisition or record unless before the hearing of the motion or summons he has filed a copy thereof verified by affidavit or accounts for his failure to do so to the satisfaction of the Court hearing the motion or summons.
 - (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), direct that the proceedings shall be quashed forthwith on their removal into the Court.
 - (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.
 - (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 but might have been granted if it had been sought in an action begun by writ by the applicant at the time of making his application, the Court may, instead of refusing the application, order the proceedings to continue as if they had been begun by writ.
10. No action or proceeding shall be begun or prosecuted against any person in respect of anything done in obedience to an order of mandamus.

11. Where there is 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.

Order 48

Appeals And Applications Under The Trade Marks Act And Patents And Designs Act A - General

1. (1) The rules under the general procedure rules shall apply with necessary modifications where there are no specific rules under this Order.
(2) Every appeal or application to the Court under this Order shall be begun by originating motion.
(3) Notice of the motion of the motion by which any appeal or application is made shall be served on the Registrar.
(4) Where the Registrar refers to the Court an application made to him under Trade Marks Act or the Patents and Designs Act, as the case may be, unless within one month after receiving notification of the decision to refer, the applicant makes to that Court the application referred to it by the Registrar,, the applicant shall be deemed to have abandoned the application.
2. (1) Every notice of motion by which an appeal is brought shall state the grounds of the appeal and if the appeal is against a judgment, an order or any other decision of the Registrar, the notice shall state whether the appeal is against the whole or a part of the decision, and if against part only, shall specify the part.
(2) The notice shall be served, and the appeal entered within 30 days after the date of the order, determination or other decision against which the appeal is brought.
(3) The period specified in sub-rule (2) of this rule shall be calculated from the date in which notice of the decision, or, in a case where a statement of the grounds for a decision was given later than that notice, on which the statement was given to the appellant by the person who made the decision or by a person authorized in that behalf to do so.
(4) The filing of an appeal under this Order shall not operate as a stay of proceedings on the judgment, determination or other decision against which the appeal is brought, unless the Court by which the appeal is to be heard so orders.
3. Unless the Court otherwise directs, an appeal under this Order shall not be heard sooner than 21 days after service of notice of the motion by which the appeal is brought.

4. (1) The notice of the motion by which an appeal is brought may be amended by the appellant without leave, by supplementary notice served not less than 7 days before the day appointed for the hearing of the appeal, on each person on whom the notice to be amended was served.
 - (2) Except with the leave of the Court hearing any such appeal, no grounds other than those stated in the notice of the motion by which the appeal is brought or any supplementary notice under sub-rule (1), may be relied upon by the appellant at the hearing; but the Court may amend the grounds so stated or make any other order, on such terms as it thinks just, to ensure the determination on the merits of the real question in controversy between the parties.
5. (1) Upon the first hearing of the motion the Court shall give directions as to the procedure of appeal.
 - (2) The Court shall have power to receive further evidence on questions of fact, and the evidence may be given in such manner as the Court may direct either by oral examination in court, by affidavit, by deposition taken before an examiner or in any other manner.
 - (3) The appellant shall apply to the Registrar for a signed copy of any note made to him of the proceedings and furnish the copy to the Court for the use of the Court; and in default of production of any such note, or if the note is incomplete, in addition to the note, the Court may hear and determine the appeal on any other evidence or statement of what occurred in those proceedings as appears to the Court to be sufficient.
 - (4) That Court may give any judgment or decision or make any order which ought to have been given or made by the Registrar, and make such further or other order as the case may require or may remit the matter with the opinion of the Court for re-hearing and determination by the Registrar.
 - (5) That Court may, in special circumstances, order such security to be given for the costs of the appeal as may be just.
 - (6) The Court shall not allow an appeal on the ground merely of misdirection, or of the improper admission or rejection of evidence, unless in the opinion of the Court, substantial wrong or miscarriage of Justice has been occasioned thereby.
 - (7) Where an appeal is against the refusal of a trademark application by the Registrar, the Registrar shall appear or be represented and be heard in the proceedings on the appeal.
6. (1) The Registrar –
 - (a) may at his option refer any application; or

(b) shall refer any application where the issue refers to a question of law, to the Court for determination.

- (2) Any reference made under sub-rule (1) to the Court shall be made by originating motion and shall be served on every party to the proceedings to which the application relates.
- (3) The notice of motion shall state the grounds of the application, the question of law for determination, the contentions of the registrar and of other parties if any, on the question of law to which the reference relates and other relevant matters
- (4) Unless the Court otherwise directs, the motion shall not be heard sooner than 14 days after service of notice thereof on all parties concerned.
- (5) The Registrar shall appear or shall be represented and heard in proceedings of a matter referred to the Court.

B – Trade Marks

7. (1) Every action for infringement of a registered trade mark shall be commenced by a writ of summons as provided in Order 5 of these Rules.
- (2) Where in any proceedings a claim is made for relief for infringement of the right to the use of a registered trade mark, the party against whom the claim is made may, in his defence, put in issue the validity of the registration of that trade mark or make counter-claim for an order that the Register of Trade Marks be rectified by canceling or varying the relevant entry or both.
- (3) A party to any such proceedings who in his pleadings (whether a defence or counter-claim) disputes the validity of the registration of a registered trade mark shall serve along with the pleadings, particulars of the objections to the validity of the registration on which he relies in support of the allegation of invalidity.
- (4) A party to any such proceedings who counter claims for an order that the Register of Trade Marks be rectified shall serve on the Registrar of Trade Marks, a copy of the counter-claim together with a copy of the particulars mentioned in sub-rule (2); and the Registrar of Trade Marks shall take the part in the proceedings as he may think fit but may not serve a defence or other pleadings unless ordered to do so by the Court.

C – Patents and Designs

8. (1) An application for the nullification of a patent or a design, as the case may be, shall be by petition.

- (2) The Respondent to a petition shall serve an answer to the petition within 21 days after service of the petition on him.
- (3) A Petitioner shall serve along with his petition or other pleadings, particulars of the objections to the validity of the patent or design on which he relies.
- (4) The particulars given pursuant to sub-rule (3) of this rule shall state every ground on which the validity of the patent or design is questioned and shall include such particulars as shall clearly define every issue which it is intended to raise.
- (5) If the grounds stated in the particulars of objections include want of novelty or want of any inventive step, the particulars shall state the manner, time and place of every prior publication or user relied upon and, if prior user is alleged, shall –
 - (a) specify the name of every person alleged to have made the user;
 - (b) state whether the user is alleged to have continued until the priority date of the claim in question or of the invention, as may be appropriate, and, if not, the earliest and latest date on which the user is alleged to have taken place;
 - (c) contain a description accompanied by drawings, if necessary, sufficient to identify the user; and
 - (d) if the user relates to machinery or apparatus, state whether the machinery or apparatus is in existence and where it may be inspected.
- (6) Where in the case of an existing patent or design –
 - (a) one of the grounds stated in the particulars of objections is that the invention, so far as claimed in any claim of the complete specification, is not useful; and
 - (b) it is intended, in connection with the grounds stated in sub-rule 1 of this rule to rely on the fact that an example of the invention which is subject of any claim cannot be made to work, either at all or as described in the specification,

the particulars shall state that fact and identify each such claim and shall also include particulars of each such example, specifying the respect in which it is alleged that it can not work or be made to work as described.

9. (1) Except with the leave of the Judge hearing any action or other proceedings relating to a patent or a design, no evidence shall be admissible in proof of any alleged infringement, or of any objection to the validity of the patent or design, if the infringement or objections was not raised in the particulars of infringement or objection, as the case may be.

- (2) In any action or other proceedings relating to a patent or a design, evidence which is not in accordance with a statement contained in the particulars of objection to the validity of the patent or design shall not be admissible in support of an objection unless the Judge hearing the proceedings, allows the evidence to be admitted.
 - (3) If any machinery or apparatus alleged to have been used before the priority date mentioned in rule 8(5)(b) of this Order is in existence at the date of service of the particulars of objections, no evidence of its user before that date shall be admissible unless it is proved that the party relying on the user offered, where the machinery or apparatus is in his possession, inspection of it to the other parties to the proceedings or where it is not, used all reasonable endeavours to obtain inspection of it for those parties.
10. (1) Every action for infringement of a patent or a design shall be commenced by a writ of summons.
- (2) In an action for infringement of a patent or a design (whether or not any other relief is claimed) and in proceedings by petition for the revocation of a patent or design –
 - (a) the plaintiff or petitioner shall within one month after service of a reply or answer or after the expiration on the period fixed for service thereof, take out a summons for directions as to the place and mode of trial returnable in not less than 21 days; and
 - (b) if the plaintiff or petitioner does not take out a summons in accordance with paragraph (a) this sub-rule, the defendant or respondent, as the case may be may do so, and the summons may be heard in chambers or in Court as the Court thinks fit.
 - (3) The Court hearing a summons under this rule may give directions for –
 - (a) the service of further pleadings or particulars;
 - (b) the discovery of documents;
 - (c) securing the making of admissions;
 - (d) the service of interrogatories and of answers thereto;
 - (e) the taking by affidavit, of evidence relating to matters requiring expert knowledge, and for the filing of such affidavits and the service of copies thereof on the other parties;

- (f) the service on the other parties, by any party desiring to submit experimental proof, of full and precise particulars of the experiments proposed and of the facts which he claims to be able to establish thereby;
- (g) the making of experiments, tests, inspections or reports;
- (h) the hearing, as a preliminary issue, of any question that may arise (including any question as to the construction of the specification or other documents),

and otherwise as the Court thinks necessary or expedient for the purpose of defining and limiting the issues to be tried, restricting the number of witnesses to be called at the trial of any particular issue and otherwise securing that the case shall be disposed of, consistently with adequate hearing, in the most expeditious manner.

- (4) Where evidence is directed to be given by affidavit, the deponents shall attend at the trial for cross-examination unless, with the concurrence of the Court, the parties otherwise agree.
 - (5) On the hearing of a summons under this rule the Court shall consider, if necessary of its own motion, whether an independent scientific adviser shall be appointed under rule 11 to assist the Court.
 - (6) No action for infringement or petition for the revocation of a patent or design shall be set down for trial unless and until a summons under this rule in the action or proceedings, has been taken out and the directions given on the summons have been carried out or the time fixed by the Court for carrying them out has expired.
11. (1) In any proceedings under the Patents and Designs Act, the Court may at any time, and on or without the application of any party, appoint an independent scientific adviser to assist the Court by inquiring and reporting on any question of fact or of opinion not involving a question of law or construction as the Court may direct.
- (2) The Court may nominate the scientific adviser and, where appropriate, settle any question or instructions to be submitted or given to him.
 - (3) Where the Court appoints a scientific adviser to inquire and report under sub-rule (1) of this rule, Order 43 of these Rules shall apply in relation to his report as they apply in relation to a report made by a referee under that Order.
12. In this Order, "Registrar" means the Registrar of Trade Marks or the Registrar of Patents and Designs, as the case may be.

Order 49
Appeals To The Court From Professional Bodies

1. This Order shall apply to any appeal to the Court from decisions of provisions of any written law which confers the right to appeal to the Court against any such decisions.
2. An appeal to the Court from a decision of any professional body other than those specified in this Order shall be by notice of motion.
3. The evidence upon the hearing of the appeal shall be by affidavit except in so far as the Court at the hearing may direct oral evidence to be given.
4. The notice of motion shall be served, before the expiration of six weeks after the date of the decision to which it relates, upon the professional body.
5. The notice of motion shall state the grounds of appeals, and the date mentioned in the notice for the hearing of the appeal shall be not less than twenty-eight days after the service of the notice.
6. (1) The appellant shall within seven days after service on the professional body of the notice of motion, file with the Registrar a copy of the notice of motion, file with the Registrar a copy of the notice and an affidavit or affidavits setting out the reasons stated by the professional body for its decision and the facts upon which the appellant intends to rely at the hearing and thereupon the motion shall be set down for hearing.

(2) If the notice of motion is not set down in accordance with this provision, the professional body may apply to the Court, upon notice to the appellant, for an order discharging the notice of motion and for the costs of the application.
7. The appellant shall deliver forthwith to the professional body, a copy of any affidavit filed under rule 6 to this Order in support of the motion and any person intending to oppose the motion shall, four days at least before the hearing, deliver to the appellant a copy of any affidavit intended to be filed by him in opposition to the motion.

Order 50
Stay Of Execution Pending Appeal To The Court Of Appeal

1. Where any application is made to the Court for a stay of execution of proceedings under any judgment or decision appealed from, such application shall be made by notice of motion supported by affidavit setting forth the grounds upon which a stay of execution or of proceedings is sought.

2. (1) The Court may make or refuse an order for a stay of execution or of proceedings.
- (2) An order for stay may be made subject to such conditions as shall appear just, including the deposit in Court of any money adjudged due to any party in the judgment appealed from.
3. Where any application is made to the Court under this Order, a formal order shall be drawn up embodying the terms of the decision of the Court and bearing the date upon which the order is made.

Order 51
Sitting Of The Court And Vacation

1. Subject to the provisions of the Act, the Court may, at its discretion, appoint any day or days and any place or places from time to time for the hearing of actions as circumstances require.
2. (1) The sittings of the Court for the hearing and determination of the rights and obligations of the parties shall be public
- (2) Subject to the provisions of the Constitution of the Federal Republic of Nigeria, the Court may, for special reasons, hear any particular action in the presence only of the parties, with their legal practitioners (if any) and the officers of Court.
3. The several offices of the Court shall be open at such times as the Chief Judge shall direct.
4. (1) Subject to the directions of the Chief Judge, sittings of the Court for the dispatch of civil matters shall be held on every week-day except
 - (a) on any public holiday;
 - (b) during the week beginning with Easter Monday;
 - (c) during the period beginning on Christmas eve and ending on 2nd January next following.
- (2) There shall be an annual vacation of the Court to commence on such date in August and of such duration, not exceeding six weeks, as the Chief Judge may by notification in the Gazette appoint.

5. (1) Notwithstanding the provisions of rule 4 of this Order, any action may be heard by a Judge in Court during any of the periods mentioned in sub-rule (1)(b) or (C) of rule 4 of this Order (except on a Sunday or public holiday) or sub-rule (2) of this rule where the parties or their counsel agree with the trial Judge before the period of vacation to commence or continue the trial.
- (2) The Chief Judge may assign one or more Judges to be vacation Judge to attend to any urgent matters during the period of vacation.
6. The time for filing and service of pleadings shall not run during the annual Easter and Christmas vacations unless otherwise directed by the Court or a Judge in Chambers.
7. No business shall be transacted in Chambers on Sundays and public holidays.

Order 52
Costs
A – Security for Costs

1. (1) Where on the application of the plaintiff or defendant, as the case may be, to the Court it appears to the Court either at the commencement or at any stage of the proceedings -
 - (a) that the plaintiff or defendant is ordinarily resident out of jurisdiction; or
 - (b) that the plaintiff (not being a plaintiff who is suing in a representative capacity) is a nominal plaintiff who is suing for the benefit of some other person and that there is reason to believe that he 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 plaintiff's address is not stated in writ of other originating process or is incorrectly stated therein; or
 - (d) that the plaintiff or the defendant has changed his address during the course of the proceedings with a view to evading the consequences of the litigation,

then if, having regard to all the circumstances of the case, the Court thinks it just to do so, it may order the plaintiff or the defendant to give such security for the plaintiff's costs or defendant's costs of the action or other proceedings as it thinks just.

- (2) The Court shall not require a plaintiff to give security by reason only of sub-rule (1) (c) of this rule if he satisfies the Court that the failure to state his address

or the mis-statement thereof was made innocently and without intention to deceive.

- (3) The references in the foregoing rule to a plaintiff and a defendant shall be construed as references to the person (howsoever described on the record) who is in the position of plaintiff or defendant, as the case may be, in the proceeding in question, including a proceeding on a counter-claim.
2. 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.

B – Cost Between Party and Party

3. 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 in the discretion of the Court as regards the person by whom they are to be paid.
4. The Court shall not order the successful part in a suit to pay to the unsuccessful party the costs of the whole suit, although the Court may order the successful party, notwithstanding his success in the suit, to pay costs of any particular proceeding therein.
5. The court may order any costs to be paid out of any fund or property to which a suit or proceedings relates.
6. When the Court adjudges or orders any costs to be paid, the amount of the costs shall be, if practicable, summarily determined by the Court at the time of making the judgment or order, and named therein.
7. In fixing the amount of costs, the principle to be observed is that the party who is in the right is to be indemnified for the expenses to which he has been necessarily put in establishing his claim, defence or counter-claim, but the Court may take into account all the circumstances of the case.
8. Where the Court orders costs to be paid or security to be given for costs by any party, the Court may, if it thinks fit, order all proceedings by or on behalf of the party in the same suit or proceedings, or connected therewith, 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.
9. When the Court deems it to be 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 master and be ascertained by him and approved by the Court.

10. 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 responsibility involved.
11. 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.
12. If upon the taxation of any bill of costs more than one sixth is deduced 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.

Order 53
Fees And Allowances

1. (1) subject to the provisions of any written law and of the foregoing Orders the fees set out in Appendix 2 to these Rules shall be payable by any person commencing the respective proceedings or desiring the respective services for which they are specified in the Appendix.
 - (2) The allowances set out in Appendix 4 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 out of public revenue.
2. The regulations set out in Appendix 5 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 the foregoing Order.

Order 54
Miscellaneous Provisions

1. Subject to particular rules, the Court may in all causes and matters make any order which it considers necessary for doing justice, whether the order has been expressly asked for by the person entitled to the benefit of the order or not.
2. (1) Where no specific procedure is given in any of the enactments in Appendix 1 to the Rules, the rules and procedure in these Rules shall apply with necessary modification so as to comply with the subject matter the enactment in Appendix 1 to these Rules deals with.

- (2) The Chief Judge may modify or add to the list of Rules set out in Appendix 1 to these Rules.
3. All fines, forfeitures, pecuniary penalties and costs ordered to be paid may be levied by distress, seizure and sale of both movable and immovable properties of the person making default in payment.
4. In all cases in which 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 ordered by the Court.
5. A document shall not be filed unless it has endorsed on it, the name and number of the case, the date of filing, and whether filed by plaintiff or defendant, and on being filed the endorsement shall be initialed by the Registrar.
6. The fees set out in Appendix 3 to these Rules may be charged in respect of the duties of a notary public or of a notarial act and other duties therein mentioned.
7. The Registries of the Court shall, subject to the directive of the Chief Judge, be opened to the public on every day in the year from 8 o'clock in the forenoon to 2 o'clock in the afternoon, except on Saturdays and Sundays or on any day declared as public holiday under any written law.
8. Where a matter arise in respect of which no provisions or no adequate provisions are made in these Rules, the Court shall adopt such similar procedure in the Rules as will in its views do substantial justice between the parties concerned.
9.
 - (1) These Rules shall not apply to any cause or matter part-heard on the date when these Rules come into operation.
 - (2) Where an action is filled and no further step is taken other than the filling, other subsequent procedure shall be under this Rule.
 - (3) 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
 - (4) The Chief Judge may give practice directions, generally or in respect of a particular case, for carrying out any of the rules in these Rules.
10. All writ of summons, originating summons and petitions shall be recorded in a permanent form by the Registrar as in Forms 1, 2, 3, or 4 in Appendix 6 to these Rules.
