

Osun State High Court (Civil Procedure) Rules 2008 (as amended)

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Date of commencement: 2ND DAY OF JANUARY, 2008.

In exercise of the powers conferred on me by section 274 of the Constitution of the Federal Republic of Nigeria 1999, and of all other powers enabling me in that behalf I, Hon, Justice FASASI OLANIYI OGUNSOLA, (OFR) Chief Judge of the High Court of Osun State of Nigeria, hereby make the following Rules:

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Order 1 - APPLICATION AND INTERPRETATION

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Rule 1 - Application

(1) These Rules shall apply to all proceedings including all part-heard cases and matters in respect of steps to be further taken in such causes and matters.

(2) Application of these Rules shall be directed towards the achievement of a just, efficient and speedy dispensation of justice.

Rule 2 - Interpretation of Terms [Return to Main Menu](#)

(1) These Rules shall be interpreted in accordance with the Interpretation Law, Cap. 59 Laws of Ogun State 2002 or any re-enactment thereof.

(2) Where in these Rules, depositions and affidavits are required to be made, if the deponent does not understand English Language, such depositions or affidavit shall be made in language he understands and shall be accompanied by interpretation thereof in English Language.

(3) In the construction of these Rules, unless there is anything in the subject or context contrary thereto, the several words hereinafter mentioned or referred to shall have or include the following meanings.

"Plaintiff" shall include a Plaintiff in a counter claim.

"Court" means the High Court of Ogun State;

"Court Process" or "Process" includes writ of summons, originating summons, originating process, notices, petitions, pleadings, orders, motions, summons, warrants and all, documents or written communication of which service is required;

"Decision" means any decision of a Court and includes judgment, ruling, decree, order, conviction, sentence or recommendation;

"Defendant" shall include defendant to a counterclaim;

"Guardian" means any person who has for the time being, the charge of or control over a person under legal disability and includes a person appointed to institute or defend an action on behalf of any person under legal disability;

"Governor" means the Governor of Osun State.

"Law" means the High Court Law, Cap.51 Laws of Osun State, 2002 or any re-enactment thereof;

"Minor" means a person who has not attained the age of 18 years;

"Originating process" means any court process by which a suit is initiated;

"Persons under Legal Disability" means persons who lack capacity to institute or defend any proceedings by reason of age, insanity, unsoundness of mind or otherwise;

"Probate action" means an action for the grant of probate of the Will, or letters of administration of the estate of a deceased person or for the revocation of such a grant or for a decree pronouncing for or against the validity of an alleged will, not being an action which is non-contentious or common form probate business;

"Registrar" means the Chief Registrar, Deputy Chief Registrar, Assistant Chief Registrar, Principal Chief Registrar, Senior Registrar, Higher Registrar, or any other officer acting or performing the functions of Registrar.

"Registry" means the Registry of the High Court of Ogun State in the appropriate judicial division;

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

Order 2 - PLACE OF INSTITUTING AND TRIAL OF SUITS

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Subject to the provisions of the Law respecting transfer, the place for the trial of any suit or matter shall be regulated as follows:

Rule 1 - Suits relating to Land and Personality distrained or seized

All suits relating to land, or any mortgage or charge on or any interest in land, or any enquiry or damage to land and actions relating to personal property distrained or seized for any cause, shall be commenced and determined in the Judicial Division in which the land is situated, or the distraint took place.

Rule 2 - Suits for recovery penalties, forfeitures

All actions for recovery of penalties, forfeitures, and all actions against public officers shall be commenced and tried in the Judicial Division in which the cause of action arose.

Rule 3 - Suits upon contract

All Suits for specific performance, or upon the breach of any contract, shall be commenced and determined in the Judicial Division in which such contract ought to have been performed or in which the defendant resides or carries on business.

Rule 4 - Other Suits

(1) All other suits shall be commenced and determined in the Judicial Division in which the defendant resides or carries on business.

(2) Where there are several defendants who reside or carry on business in different Judicial Divisions, the suit may be commenced in anyone of those Judicial Divisions subject to any order or direction a Judge may take or give as to the most convenient arrangement for the trial of the suit.

Rule 5 - Suits commenced in wrong judicial division

If any suit is commenced in the wrong Judicial Division, it may be tried in that Division unless the Chief Judge otherwise directs.

Order 3 - FORM AND COMMENCEMENT OF ACTION

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Rule 1 - Proceedings which must be begun by writs

Subject to the provisions of these rules or any applicable law requiring any proceedings to be begun otherwise than by writ, a writ of summons shall be the form of commencing all proceedings;

(a) where a plaintiff claims:-

(i) any relief or remedy for any civil wrong or

(ii) damages for breach of duty, whether contractual, statutory or otherwise, or

(iii) damages for personal injuries to or wrongful death of any person, or in respect of damage or injury to any person, or property.

(b) where the claim is based on or includes an allegation of fraud, or

(c) where an interested person claims a declaration.

Rule 2 - Mode of beginning civil proceedings

[Return to Main Menu](#)

(1) All civil proceedings commenced by writ of summons shall be accompanied by:

(a) statement of claim;

(b) list of witnesses to be called at the trial;

(c) written statements on oath of the witnesses and

(d) copies of every document to be relied on at the trial.

(2) Where a plaintiff fails to comply with Rules 2(1) above, his originating process shall not be accepted for filing by the Registry.

Rule 3 - Form of Writ: Civil Form 1

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Except in the cases in which any different forms are provided in these Rules, the writ of summons shall be in Form 1 with such modifications or variations as circumstances may require.

Rule 4 - Form of Writ for Service out of Nigeria: Civil Form 2 [Return to Main Menu](#)

A writ of summons to be served out of Nigeria shall be in Form 2 with such modifications or variations as circumstances may require.

Rule 5 - Proceedings which may be begun by originating Summons [Return to Main Menu](#)

Any person claiming to be interested under a Deed, Will, Enactment 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.

Rule 6 - Construction of enactment [Return to Main Menu](#)

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

Rule 7 - Discretion of the Judge [Return to Main Menu](#)

A Judge shall not be bound to determine any such question of construction if in his opinion it ought not to be determined on originating summons but may make any such orders as he deems it.

Rule 8 - Forms of originating summons [Return to Main Menu](#)

(1) An originating summons shall be in the Forms 3, 4, or 5 to these rules, with such variations as circumstances may require. It shall be prepared by the applicant or his Legal Practitioner, and shall be sealed and filed in the Registry, and when so sealed and filed shall be deemed to be issued.

(2) An originating summons shall be accompanied by;

- (a) an affidavit setting out the facts relied upon;
- (b) all the exhibits to be relied upon;
- (c) a written address in support of the application.

(3) The person filing the originating summons shall leave at the Registry sufficient number of copies thereof together with the documents in sub-rule 2 above for service on the respondent or respondents.

Rule 9 - Service outside Osun State [Return to Main Menu](#)

Subject to the provisions of the Sheriffs and Civil Process Act, a writ of summons or other originating process issued by the Court for service in Nigeria outside Osun State shall be endorsed by the Registrar of the Court with the following notice:

"This summons (or as the case may be) is to be served out of Osun State of Nigeria and in the.....State".

Rule 10 - Originating process to be tested by its dates [Return to Main Menu](#)

(1) The Registrar shall indicate the date and time of presentation for filing on every

originating process presented to him and shall arrange for service thereof to be effected.

(2) An originating process shall not be altered after it is sealed except upon application to a Judge.

Order 4 - INDORSEMENT OF CLAIM AND OF ADDRESS

Rule 1 - Indorsement [Return to Main Menu](#)

Every originating process shall contain the claim, the relief or remedy to be sought and the names and address of the Plaintiff.

Rule 2 - Indorsement to show representative capacity [Return to Main Menu](#)

Where a Plaintiff sues, or the defendant or any of several defendants is sued in a representative capacity, the originating process shall state that capacity.

Rule 3 - Probate actions [Return to Main Menu](#)

In probate actions the originating process shall state whether a Claimant claims as creditor, executor, administrator, beneficiary, next of kin, or in any other capacity.

Rule 4 - What is indorsed where the claim is liquidated [Return to Main Menu](#)

(1) Where the claim is for debt or liquidated demand only, the originating process shall state the amount claimed for debt or in respect of such demand with costs and shall further state that the defendant may pay the amount with costs to the plaintiff's Legal Practitioner within the time allowed for appearance and that upon such payment the proceedings shall terminate.

(2) The defendant may notwithstanding payment under this rules, have the costs taxed and if more than one sixth of the costs shall be disallowed, the plaintiff's Legal Practitioner shall pay the cost of taxation.

Rule 5 - Ordinary account [Return to Main Menu](#)

In all cases where a plaintiff in the first instance desires to have an account taken, the originating process shall so state.

Rule 6 - Indorsement of address by Plaintiff or by legal practitioner [Return to Main Menu](#)

(1) A plaintiff suing in person shall state on the originating process his residential or business address as his address for service. If he lives and carries on business outside the jurisdiction he shall state an address within the jurisdiction as his address for service.

(2) Where a plaintiff sues through a Legal Practitioner the Legal Practitioner shall state on the originating process his chamber's address as the address for service. If the Legal Practitioner is based outside the jurisdiction he shall state a chamber's address within the jurisdiction as his address for service.

Rule 7 - Indorsement of address [Return to Main Menu](#)

Where an originating process is to be served on a defendant outside the jurisdiction the process shall state the address as required in Rule 6.

Rule 8 - Originating process without an address or with fictitious address

[Return to Main Menu](#)

If the originating process does not state an address for service, it shall not be accepted and if any such address is illusory, fictitious or misleading the process may be set aside by a Judge on the application of the defendant.

Order 5 - EFFECT OF NON-COMPLIANCE

Rule 1 - Non-compliance with rules

[Return to Main Menu](#)

(1) Where in beginning or purporting to begin any proceeding there has by reason of anything done or left undone, been a failure to comply with the requirements of these rules, the failure shall be treated as an irregularity and if so treated will not nullify the proceedings.

(2) Where at any stage in the course or in connection with any proceedings there has by reason of anything done or left undone, been a failure to comply with the requirements as to time, place, manner or form, the failure shall be treated as an irregularity and may not nullify such steps taken in the proceedings. The Judge may give any direction as he thinks fit to regularize such steps.

(3) The Judge shall not wholly set aside any proceedings or the writ or other originating process by which they were begun on the ground that the proceedings were required by any of these rules to be begun by an originating process other than the one employed.

Rule 2 - Application to set aside for irregularity

[Return to Main Menu](#)

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

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

Order 6 - ISSUE OF ORIGINATING PROCESS

Rule 1 - Preparing Originating Process

[Return to Main Menu](#)

Originating process shall be prepared by a plaintiff or his Legal practitioner, and shall be clearly printed on Opaque A4 paper of good quality.

Rule 2 - Sealing of Originating Process

[Return to Main Menu](#)

(1) The Registrar shall seal every originating process whereupon it shall be deemed to be issued.

(2) A plaintiff or his Legal Practitioner shall, on presenting any originating process for sealing leave with the Registrar as many copies of the process as there are defendants to

be served and one copy for endorsement of service on each defendant.

(3) Each copy shall be signed by the Legal Practitioner or by a plaintiff where he sues in person and shall be certified after verification by the Registrar as being a true copy of the original process filed.

Rule 3 - What is to be done after sealing [Return to Main Menu](#)

The Registrar shall after sealing an originating process, file it and note on it the date of filing and the number of copies supplied by the plaintiff or his Legal Practitioner for service on the defendants. The Registrar shall then make an entry of the filing in a book to be called the cause book and identify the action with a suit number that may comprise abbreviation of the Judicial Division, a chronological number and the year of filing.

Rule 4 - Copies to be served [Return to Main Menu](#)

The Registrar shall promptly arrange for personal service on each defendant of a copy of originating process and accompanying documents duly certified as provided by Rule 2 (3) of this order.

Rule 5 - Probate action: affidavit with originating process [Return to Main Menu](#)

The originating process in probate actions shall be accompanied by an affidavit sworn to by a claimant or one of several claimants verifying the contents of the process (es).

Rule 6 - Renewal of Originating Process: Civil Form 6 [Return to Main Menu](#)

(1) The life span of every originating process shall be 6 months.

(2) If a Judge is satisfied that it has proved impossible to serve an originating process on any defendant within its life span and a claimant applies before its expiration for renewal of the process, the Judge may renew the original or concurrent process for 3 months from the date of such renewal. A renewed originating process shall be in Form 6 with such modifications or variations as circumstances may require.

Rule 7 - Indorsement of Renewal [Return to Main Menu](#)

A Judge may order two renewals in each case strictly for good cause and upon prompt application, provided that no originating process shall be in force for longer than a total of 12 months. The Registrar shall state the fact, date, and duration of renewal on every renewed originating process.

Rule 8 - Loss of Originating Process [Return to Main Menu](#)

Where an originating process is lost after issue, a Judge upon being satisfied of the loss and of the correctness of the process may order the copy to be filed and sealed in place of the lost originating process.

Rule 9 - Concurrent originating process [Return to Main Menu](#)

A plaintiff may at the issuance of an originating process or at any time during its life span, cause to be issued one or more concurrent originating processes each to bear the same date as the initial process marked "CONCURRENT" and have stated on it the date of issue.

Rule 10 - Concurrent originating process for service within and out of jurisdiction [Return to Main Menu](#)

An originating process for service within jurisdiction may be issued and marked as a concurrent originating process with one for service out of jurisdiction and an originating process for service out of the jurisdiction may be issued and marked as a concurrent originating process with one for service within jurisdiction.

Order 7 - SERVICE OF ORIGINATING PROCESS

Rule 1 - By whom service is to be effected [Return to Main Menu](#)

(1) Service of originating process shall be made by a Sheriff, Deputy Sheriff, Bailiff, Special Marshal or other official of the Court. The Chief Judge may also appoint and register any law Chambers, Courier Company or any other person to serve Court processes and such person shall be called process server.

(2) Where a party is represented by a Legal Practitioner, service of Court process of which personal service is not required may be made on such Legal Practitioner or on a person under his control.

Rule 2 - Service of originating process, etc: how effected [Return to Main Menu](#)

The process server shall serve an originating process by delivering to the party to be served a copy of the process duly certified as prescribed by Order 6 Rule 2(3).

Rule 3 - When originating process need not be served personally [Return to Main Menu](#)

No personal service of an originating process shall be required where the defendant has authorized his Legal Practitioner in writing to accept service and such Legal Practitioner enters an appearance. Provided that such written authority shall be attached to the memorandum of appearance filed by such Legal Practitioner.

Rule 4 - Mode of service when not personal [Return to Main Menu](#)

All processes in respect of which personal service is not expressly required by these rules or any applicable law shall be sufficiently served if left with an adult person resident or employed at the address for service given under Order 4 Rule 6.

Rule 5 - Substituted service [Return to Main Menu](#)

(1) Where personal service of an originating process is required by these Rules or otherwise and a Judge is satisfied that prompt personal service cannot be effected, the Judge may upon application by the plaintiff make such order for substituted service as may seem just.

(2) Every application to the Judge for substituted or other service, or for the substitution of notice for service shall be supported by an affidavit setting forth the grounds upon which the application is made.

Rule 6 - Persons under legal disability [Return to Main Menu](#)

(1) Where a person under legal disability is a defendant, service on his guardian shall be deemed good and sufficient personal service, unless a Judge otherwise orders. Provided that personal service on a minor who is over 16 years of age living independently or doing business is good and sufficient

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

Rule 7 - Prisoner or detainee [Return to Main Menu](#)

Where a detainee or prisoner is a defendant, service on the head or other officer in charge of the station, facility or prison where the defendant is, or an officer of the agency in charge of the station, facility or prison shall be deemed good and sufficient personal service on the defendant.

Rule 8 - Partners [Return to Main Menu](#)

Where persons are sued as partners in the name of their firm the originating process shall be served upon anyone or more of the partners at the principal place of business within jurisdiction or upon any person having control or management of the partnership business there; and such service shall be deemed good service upon the firm whether any of the members are out of the jurisdiction or not, and no leave to issue an originating process against them shall be necessary. Provided that in the case of a partnership that has been dissolved to the knowledge of the claimant before the commencement of the action, the originating process shall be served upon every person within the jurisdiction sought to be made liable;

Rule 9 - Corporation or company [Return to Main Menu](#)

Subject to any statutory provision regulating service on a registered company, corporation or body corporate, every originating process or other process requiring personal service may be served on the organisation by delivery to a director, secretary, trustee or other senior, or principal officer of the organisation, or by leaving it at the registered, principal or advertised office or place of business of the organisation within the jurisdiction.

Rule 10 - Foreign corporation or company: Cap. 59 LFR 1990 [Return to Main Menu](#)

When the suit is against a foreign corporation or company within the meaning of Section 54 of the Companies and Allied Matters Act having an office and carrying on business within the jurisdiction, and such suit is limited to a cause of action which arose within the jurisdiction, the originating process or other documents requiring personal service may be served on the principal officer or representative of such foreign corporation or company within the jurisdiction. Provided that where a foreign company has complied with the provision of Chapter 3 of the Companies and Allied Matters Act, personal service be effected on one of the persons authorised to accept service on behalf of the said company.

Rule 11 - Local agent of principal who is out of jurisdiction [Return to Main Menu](#)

Where a contract has been entered into within the jurisdiction by or through an agent residing or carrying on business within the jurisdiction on behalf of a principal residing or

carrying on business out of the jurisdiction, an originating process in an action relating to or arising out of such contract may, before the determination of such agent's authority or of his business relations with the principal, be served on such agent. A copy of the originating process shall be sent promptly by the claimant by courier to the defendant at his address out of the jurisdiction.

Rule 12 - Where violence threatened [Return to Main Menu](#)

Where a person to be served, whether alone or in concert with others, resists service or applies or threatens violence to the process server, the process server may leave the process within the reach of person to be served, and this shall be deemed good and sufficient service for all purposes.

Rule 13 - Proof of service generally [Return to Main Menu](#)

(1) After serving any process, the process server shall promptly depose to and file an affidavit setting out the fact, date, time, place and mode of service, describing the process served and shall exhibit the acknowledgment of service.

(2) After service the affidavit shall be prima facie proof of service.

Rule 14 - Expenses of service [Return to Main Menu](#)

(1) The party requiring service of any process shall pay in advance all costs and expenses of and incidental to service.

(2) The rate for service shall be as directed by the Chief Judge in Practice Directions from time to time.

Rule 15 - Time of service on certain days [Return to Main Menu](#)

(1) Service of originating and other processes, pleadings, notices, summons, orders and documents whatsoever shall be effected between the hours of six in the morning and six in the evening.

(2) Save in exceptional circumstances and as may be authorised by a Judge, service shall not be effected on a Sunday or on a public holiday.

Rule 16 - Recording of services [Return to Main Menu](#)

(1) A register shall be kept at the Registry in such form as the Chief Judge may direct for recording service of processes by any process server. The Registrar shall record therein the names of the claimant and defendant, the method of service, whether personal or otherwise, and the manner used to ascertain that the right person was served.

(2) Where any process was not served the cause of failure shall be recorded in the register. Every entry in such register or certified copy thereof shall be prima facie evidence of the several matters stated therein.

Order 8 - SERVICE OUT OF NIGERIA AND SERVICE OF FOREIGN PROCESS

Rule 1 - Cases where service of originating process, etc. are allowed out of Nigeria [Return to Main Menu](#)

A Judge may allow any originating or other processes to be served outside Nigeria where:

- (a) the whole subject matter of the claim is land situate within the jurisdiction, or
- (b) any act, deed, will, contract, obligation, or liability affecting land or hereditaments situate within the jurisdiction, is sought to be construed, rectified, set aside, or enforced.
- (c) any relief sought against any person domiciled or ordinarily resident within the jurisdiction, or

- (d) the claim is for the administration of the personal estate of any deceased person, who at the time of his death was domiciled within the jurisdiction or for the execution (as to property situate within the jurisdiction) of the trusts of any written instrument, which ought to be executed according to the law in force in Osun State, or

- (e) the claim is brought against the defendant to enforce, rescind, dissolve, annul or otherwise affect 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 residing or carrying on business within the jurisdiction on behalf of a principal residing or carrying on business out of the jurisdiction and

- (iii) which by its terms or by implication to be governed by the applicable laws in Osun State, or the parties have agreed that the court shall have jurisdiction to entertain any claim in respect of such contract, or is brought against the defendant in respect of a breach committed within the jurisdiction, of a contract wherever made notwithstanding that such breach was preceded or accompanied by a breach out of the jurisdiction which rendered impossible the performance of the contract which ought to have been performed within Jurisdiction.

- (f) the claim is founded on a tort committed within the jurisdiction, or

- (g) an injunction is sought as to anything to be done within the jurisdiction, or any nuisance within the jurisdiction is sought to be prevented or removed, whether or not damages are sought in respect thereof, or

- (h) any person out of the jurisdiction is a necessary or proper party to an action properly brought some other person duly served within jurisdiction, or

- (i) the claim 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 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 (e) of this Rule) any judgment or order for payment of any monies due under the mortgage, or

- (j) the proceedings relate to a person under legal disability, or,

- (k) the proceedings relate to probate matters, or

- (l) where any proceedings under any law or rule of court has been instituted by any originating process.

Rule 2 - Agreement as to service [Return to Main Menu](#)

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

Rule 3 - Service abroad by letter of request [Return to Main Menu](#)

Where leave is granted to serve an originating process in any foreign country with which no convention in that behalf has been made, the following procedure may be adopted:

- (a) the process to be served shall be sealed with the seal of the Court for service out of

Nigeria, and shall be transmitted to the Solicitor General of the Federation by the Chief Registrar, together with the copy translated into the language of that country if not English, and with the request for its further transmission to the appropriate authority in that country. The request shall be in Form 7 with such modifications or variations as circumstances may require.

(b) a party wishing to serve a process under this rule shall file a praecipe in Form 8 with such modifications or variations as circumstances may require;

(c) a certificate, declaration, affidavit or other notification of due service transmitted through diplomatic channels by a court or other appropriate authority of the foreign country, to the Court, shall be deemed good and sufficient proof of service;

(d) where a certificate, declaration, affidavit or other notification transmitted as aforesaid states that efforts to serve a process have failed, a Judge may, on an ex-parte application, order substituted service whereupon the process' and a copy as well as the order for substituted service shall be sealed and transmitted to the Solicitor General of the Federation together with a request in Form 9 with such modifications or variations as circumstances may require: Provided that notwithstanding the foregoing provision a claimant may with leave of a Judge serve any originating process by courier. Nothing herein contained shall in any way affect any power of a Judge in case where lands, funds, choses in action, rights or property within the jurisdiction are sought to be dealt with or affected. The Court may, without assuming 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.

Service of Process on behalf Foreign Tribunals

Rule 4 - Where leave is granted or not required [Return to Main Menu](#)

(1) Where leave is granted or is not required in a civil suit and it is desired to serve any process in a foreign country with which a Convention in that behalf has been made, the following procedure shall, subject to any special provisions contained in the Convention, be adopted:

(a) the party desiring such service shall file in the registry a request in Form 10 with such modifications or variation as circumstance may require and the request shall state the medium through which it is desired that service shall be effected, either.

- (i) directly through diplomatic channels or
- (ii) through the foreign judicial authority:

(b) the request shall be accompanied by the original document 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 further copies which the Convention may require (unless the service is required to be made on a Nigerian subject directly through 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):

(c) the documents to be served shall be sealed with the seal of the Court for use out of the jurisdiction and shall be forwarded by the Chief Registrar to the Permanent Secretary, Federal Ministry of Foreign Affairs for onward transmission to the foreign country.

(d) 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 service within requirements of these Rules.

(2) A Judge, in granting leave to serve a process out of jurisdiction under this order, may upon request in appropriate cases direct that courier shall be used by the party effecting service.

Rule 5 - Service of foreign processes [Return to Main Menu](#)

Where in any civil or commercial matter pending before a court or tribunal of a foreign country a Letter of Request from such Court or tribunal for service on any person or citation- in such matter is transmitted to the Court by the Osun State Attorney-General with intimation that it is desirable that effect be given to the same, the following procedure shall be adopted.

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

(b) service of the process or citation shall be effected by a process server unless a Judge otherwise directs.

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

(d) after service has been effected by the process server he shall file an affidavit of service in which he shall furnish particulars of charges for the cost of effecting the service, The affidavit shall be transmitted to the Chief Registrar with one copy of the process annexed;

(e) the Chief Registrar shall examine and verify the process server's particulars of charges and may approve it or approve some lesser figure, whereupon the Chief Judge shall forward to the AttorneyGeneral a letter of request for service, the approved amount for service, evidence of service and a certificate appended to it.

Rule 6 - Inapplicability of Rule 4 [Return to Main Menu](#)

Rule 4 of this Order shall not apply to or render invalid, defective or insufficient any otherwise valid or sufficient mode of service in any foreign country with which a Convention has been made, provided that no mode of service expressly excluded by the Convention shall be allowed.

Rule 7 - Service on behalf of foreign tribunals [Return to Main Menu](#)

Where in any civil suit pending before a court or tribunal in foreign country with which a Convention in that behalf has been made, request for service of any process or document on any person within the jurisdiction is received by the Chief Judge appropriate authority in that country, the following procedure shall, subject to any special provisions in the Convention, shall be adopted.

(a) the process server shall deliver the original or a copy thereof, along with a copy of its translation to the party to be served.

(b) the process server shall submit the particulars of the costs and expenses of service to

the Chief Registrar who shall certify the amount payable in respect of the service;

(c) the Chief Registrar shall transmit to the appropriate foreign authority a certificate establishing the fact and date of service, or indicating reasons for failure to serve, and also notify the authority as to the amount certified under paragraph (b) of this rule.

Rule 8 - Substituted service of foreign process [Return to Main Menu](#)

In appropriate cases, upon application, a Judge may order substituted or other service of the foreign process.

Order 9 - APPEARANCES

Rule 1 - Mode of entry of appearance [Return to Main Menu](#)

(1) A defendant served with an originating process shall, within the period prescribed in the process for appearance, file in the registry the original and copy of a duly completed and signed memorandum of appearance as in Form 11 with such modifications or variations as circumstances may require.

(2) On receipt of the memorandum of appearance, the Registrar shall make entry thereof and stamp the copy with the seal showing the date he received it and return the sealed copy to the person making the appearance.

(3) A defendant entering appearance shall within 2 days serve a sealed copy of the memorandum of appearance on a Plaintiff's Legal Practitioner or on the Plaintiff if he sues in persons.

Rule 2 - Defendant appearing in person or represented by Legal Practitioner [Return to Main Menu](#)

(1) A defendant appearing in person shall state in the memorandum of appearance an address for service which shall be within Osun State.

(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 Osun state, and where any such 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.

Rule 3 - Fictitious address [Return to Main Menu](#)

The Registrar shall not accept any memorandum of appearance which does not contain an address for service within Osun State. If any such address is illusory, fictitious or misleading, the appearance may be set aside by a judge on the application of a Plaintiff.

Rule 4 - Defendants appearing through same Legal Practitioner [Return to Main Menu](#)

If two or more defendants in the same action appear through the same Legal Practitioner the memorandum of appearance shall include the names of all defendants so appearing.

Rule 5 - Late appearance [Return to Main Menu](#)

If a defendant files an appearance after the time prescribed in the originating process, shall pay to the Court an additional fee of N200.00 (two hundred naira) for each day of default. If the defendant appears late but within the time prescribed for filing the defence, he shall file his defence with that time.

Rule 6 - Intervener in probate matters [Return to Main Menu](#)

In probate matters any person not named in the originating process for recovery of land may with leave of a Judge appear and defend, on filing an affidavit showing that he is in possession of the land either by himself or through his tenant.

Rule 7 - Recovery of land [Return to Main Menu](#)

Any person not named as a defendant in an originating process for recover of land may with leave of a Judge appear and defend, on filing an affidavit showing that he is in possession of the land either by himself or through his tenant.

Rule 8 - Landlord appearing [Return to Main Menu](#)

Any person appearing to defend an action for the recovery of land as landlord, in respect of property of which he is in possession only through his tenant, shall state in his appearance that he appears as landlord.

Rule 9 - Person under legal disability appearing [Return to Main Menu](#)

A person under legal disability shall enter an appearance by his guardian.

Rule 10 - Tenant [Return to Main Menu](#)

In this order the word "Tenant" includes a sub-tenant or any person occupying any premises whether on payment of rent or otherwise.

Order 10 - DEFAULT OF APPEARANCE

Rule 1 - Default of appearance by person under legal disability [Return to Main Menu](#)

Where no appearance has been entered for a person under legal disability, a plaintiff shall apply to a Judge for an order that some person be appointed guardian for such defendant and when appointed the person may appear and defend the application shall be made after service of the originating process.

Notice of the application shall be served on the person intended to be appointed the guardian of the defendant.

Rule 2 - Default of appearance generally [Return to Main Menu](#)

Where any defendant fails to appear, a Plaintiff may proceed upon default of appearance under the appropriate provisions of these rules upon proof of service of the originating process.

Rule 3 - Liquidated demand [Return to Main Menu](#)

Where the claim in the originating process is a liquidated demand and the defendant or

all of several defendants fail to appear, a Plaintiff may apply to a Judge for Judgments for the claim on the originating process or such lesser sum and interest as a Judge may order.

Rule 4 - Liquidated demand: several defendants [Return to Main Menu](#)

Where the claim in the originating process is a liquidated demand and there are several defendants of whom one or more to the process and another or others fail to appear, a Plaintiff may apply to a Judge for Judgment against those who have not appeared and may execute the Judgment without prejudice to his right to proceed with the action against those who have appeared.

Rule 5 - Detention of goods [Return to Main Menu](#)

Where the claim in the originating process is for pecuniary damages, or for detention of goods with or without a claim for pecuniary damages, and the defendant or all of several defendants fail to appear, a Plaintiff may apply to a Judge for Judgment. The value of the goods and the damage only as the case may be shall be ascertained in such manner and subject to the filing of such particulars as a Judge may direct before Judgment in respect of that part of the claim.

Rule 6 - Several defendants [Return to Main Menu](#)

Where the claim in the originating process is as in Rule 5 of this Order and there are several defendants one or some of whom appear while another or others do not appear, a Plaintiff may apply for Judgment against the defendant(s) failing to appear. The value of the goods and the damage or damages only as the case may be shall be ascertained in such manner and subject to the filing of such particulars as a Judge may direct before Judgment in respect of that part of the claim.

Rule 7 - Detention of goods, damages and liquidated demand [Return to Main Menu](#)

Where the claim in the originating process is for pecuniary damages or for detention of goods with or without a claim for pecuniary damages, and includes a liquidated demand and any of the defendants fail to appear, a claimant may apply to a Judge for Judgment. The value of the goods and the damages, or the damages only as the case may be ascertained in such manner and subject to the filing of such particulars as a Judge may direct in respect of that part of the claim.

Rule 8 - Recovery of land [Return to Main Menu](#)

If no appearance is entered within the time prescribed in the originating process in a claim for recovery of land or if appearance is entered but the defence is limited to part only, a Plaintiff may apply to a Judge for Judgment stating that the person whose title is asserted in the originating process shall recover possession of the land, or of that part of it to which the defence does not apply.

Rule 9 - Mesne profits [Return to Main Menu](#)

Where in an originating process for recovery of land a plaintiff claims mesne profits, arrears of rent, damages, for breach of contract or wrong or injury to the premises, he may apply for Judgment as in Rule 8 of this Order for the land, may proceed to prove the other claims.

Rule 10 - Judgment of costs: upon payment satisfaction, etc. [Return to Main Menu](#)

In any case to which Rules 3-8 of this order do not apply, and the defendant or all of several defendants fail to appear, but by reason of payment, satisfaction, abatement of nuisance, or any other reason, it is unnecessary for a Plaintiff to proceed, he may apply to a Judge for judgment for costs: Provided that such summons 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 shall direct.

Rule 11 - Setting aside judgment [Return to Main Menu](#)

Where judgment is entered pursuant to any of the preceding rules of this Order, a Judge may set aside or vary such judgment on just terms upon an application by the defendants. The application shall be made within a reasonable time, show a good defence to the claim and a just for the default.

Rule 12 - Default of appearance in actions not otherwise specifically provided for [Return to Main Menu](#)

In all claims not specially provided for under this Order, where the party served with the originating process does not appear within the time prescribed in the originating process, a plaintiff may proceed as if appearance had been entered

Rule 13 - Compulsory service [Return to Main Menu](#)

Notice of any application under this order shall be served on the other party.

Order 11 - SUMMARY JUDGMENT

Rule 1 - Where Plaintiff believes there is no defence [Return to Main Menu](#)

Where a plaintiff believes that there is no defence to his claim, he shall file with his originating process the statement of claim, the exhibits, the depositions of his witnesses and an application for summary judgment which application shall be supported by an affidavit stating the grounds for his belief and a written brief in respect thereof.

Rule 2 - Delivery of extra copies [Return to Main Menu](#)

A plaintiff shall deliver to the Registrar as many copies of all the processes and documents referred to in Rule 1 of this Order as there are defendants.

Rule 3 - Service [Return to Main Menu](#)

Service of all the processes and documents referred to in Rule 1 of this Order shall be effected in the manner provided under Order 7.

Rule 4 - Where defendant intends to defend [Return to Main Menu](#)

Where a party served with the processes and documents referred to in Rule 1 of this Order intends to defend the suit he shall, not later than the time prescribed for defence, file;

- (a) his statement of defence,
- (b) depositions of his witnesses

(c) the exhibits to be used in his defence; and
(d) a written brief in reply to the application for summary judgment.

Rule 5 - Where defendant has good defence, or has no good defence or has good defence to part of the claim. [Return to Main Menu](#)

(1) Where it appears to a Judge that a defendant has good defence and ought to be permitted to defend the claim he may be granted leave to defend.

(2) Where it appears to a Judge that the defendant has no good defence the Judge may thereupon enter judgment for a plaintiff.

(3) Where it appears to a Judge that the defendant has a good defence to part of the claim but no defence to other parts of the claim, the Judge may thereupon enter judgment for that part of the claim to which there is no defence and grant leave to defend that part to which there is a defence.

Rule 6 - Where there are several defendants [Return to Main Menu](#)

Where there are several defendants and it appears to a judge that any of the defendants has a good defence and ought to be permitted to defend the claim and other defendants have no good defence and ought not to be permitted to defend the former may be permitted to defend and the Judge shall enter judgment against the latter.

Rule 7 - Oral submission on written brief [Return to Main Menu](#)

Where provision is made for written briefs under these rules, each party shall be at liberty to advance before a Judge oral submission to expatiate his written brief.

Order 12 - APPLICATION FOR ACCOUNT

Rule 1 - Order for account [Return to Main Menu](#)

(1) Where in an originating process a plaintiff seeks an account under Order 4 Rule 5 or where the claim involves taking an account, if the defendant either fails to appear, or after appearance fail to satisfy a judge shall, on application make an order for the proper account, with all necessary inquiries and direction.

Rule 2 - Application how made [Return to Main Menu](#)

An application for account shall be supported by an affidavit filed on a plaintiff's behalf, stating concisely the ground of his claim to an account. The application may be made at any time after the time prescribed for defence.

Rule 3 - Account may be taken by a Judge or Referee [Return to Main Menu](#)

Where an order is made for account under this Order, the account may be taken by a Judge or a Referee appointed by the judge.

Order 13 - PARTIES GENERALLY

Rule 1 - Persons claiming jointly or severally [Return to Main Menu](#)

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

Rule 2 - Action in name of wrong Plaintiff [Return to Main Menu](#)

Where an action has been commenced in the name of the wrong person as Plaintiff or where it is doubtful whether it has been commenced in the name of the right Plaintiff, a judge may order the substitution or addition of any other person as Plaintiff on such terms as may be just.

Rule 3 - Misjoinder and counter-claim [Return to Main Menu](#)

Where in commencing an action any person has been wrongly or improperly included as a Plaintiff and a defendant has set up a counter-claim or set-off, such defendant may establish his set-off or counter-claim as against the parties other than a Plaintiff so included, notwithstanding the inclusion of such Plaintiff or any proceeding based thereon.

Rule 4 - Any person may be joined as defendant [Return to Main Menu](#)

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

Rule 5 - Action in name of wrong defendant [Return to Main Menu](#)

Where an action has been instituted against a wrong defendant or where the name of a defendant has been incorrectly stated a Judge may upon application order a substitution or addition of any person as defendant or correction of any such name on any term as may be just.

Rule 6 - Defendant need not be interested in all the reliefs sought [Return to Main Menu](#)

(1) It shall not be necessary that every defendant shall be interested as to all the reliefs prayed for, or as to every cause of action included in any proceeding against him.

(2) A judge upon considering the defence filed by any defendant may on application by that defendant make such order as may appear just to prevent him from being embarrassed or put to expense by being required to attend any proceedings in which he may have no interest.

Rule 7 - Joinder of persons severally or jointly and severally liable [Return to Main Menu](#)

A Plaintiff may at his option join as parties to the same action all or any of the person severally, or jointly and severally liable on anyone contract, including parties to bills of exchange and promissory notes.

Rule 8 - Plaintiff in doubt as to person from whom redress is to be sought [Return to Main Menu](#)

Where a Plaintiff is in doubt as to the person from whom he is entitled to redress, he

may, in such manner as hereinafter mentioned, or as may be prescribed by any special order, join two or more defendants, to the intent that the question as to which, if any, of the defendants is liable and to what extent, may be determined as between all parties.

Rule 9 - Persons under legal disability [Return to Main Menu](#)

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

Rule 10 - Guardian [Return to Main Menu](#)

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

Rule 11 - Trustees, executors, etc. may be sued as representing the estate [Return to Main Menu](#)

Trustees, executors and administrators may sue and be sued on behalf of or as representing the property or estate of which they are trustee or representatives, without joining any of the persons beneficially interested in the trust or estate, and shall be considered as representing such person, but a judge may, at any stage of the proceeding order any of such persons to be made parties in addition to or in lieu of the previously existing parties. This rule shall apply to trustees, executors and administrators in proceeding to enforce a security by foreclosure or otherwise.

Rule 12 - Numerous persons [Return to Main Menu](#)

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

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

Rule 13 - Representation of persons or class of persons in certain Proceedings [Return to Main Menu](#)

(1) Where in any proceeding concerning:

(a) the administration of an estate or

(b) property subject to a trust or

(c) land held under customary law as family or community property or

(d) the construction of any written instrument, including a statute, a Judge is satisfied that:

(i) the person, the class or some members of the class interested cannot be ascertained or cannot readily be ascertained;

(ii) the person, the class or some members of the class interested if ascertained cannot be found;

(iii) though the person or the class and the members thereof can be ascertained and found; it is expedient for the purpose of efficient procedure that one or more persons be appointed to represent that person or class or member of the class, the Judge may make the appointment. The decision of the Judge in the proceedings shall be binding on the person or class of person so represented.

(2) Notice of appointment made by a Judge under this rule and all processes filed in Court shall be served on a person(s) so appointed.

(3) If in any proceedings mentioned in sub - rule 1 of this Rule several persons having the same interest in relation to the matter to be determined attend the hearing by separate Legal Practitioners, then, unless the Judge considers that the circumstances justify separate representation, not more than one set of costs of the hearing shall be allowed to these persons, and the judgment or order shall be framed accordingly.

(4) In this Rule, the word "class" includes the persons recognized by Customary Law as members of a family or as members of a land owing community.

Rule 14 - Power to approve compromise [Return to Main Menu](#)

Where in any proceedings mentioned in sub - rule (1) of Rule 13 of this Order, a compromise is proposed and some of the absent persons who are interested in or may be affected by the compromise are not parties to the proceedings (including unborn or unascertained persons) but where:

- (i) there are some other persons having the same interest before the Court who assent to the compromise or on whose behalf the Court sanctions the compromise or
- (ii) the absent persons are represented by a person under Rule 13 of this Order who so assents; a Judge if satisfied that the compromise Will be for the benefit of the absent persons and that it is expedient to exercise this power, may approve the compromise and order that such compromise shall be binding on the absent persons, and they shall be bound accordingly, except where the order has been obtained by fraud or non - disclosure of material facts.

Rule 15 - Where there is no personal representative [Return to Main Menu](#)

(1) If in any proceedings it appears to a Judge that any deceased person who was interested in the proceedings has no legal personal representative, the Judge may proceed in the absence of any person representing the estate or the deceased person, or may appoint some person to represent his estate for the purpose of the proceeding, on such notice to such persons (if any) as the Judge shall deem fit, either specifically or generally by public advertisement, and the order so made and any order consequent thereon shall bind the estate of the deceased person in the same manner in every respect as if a duly constituted legal personal representative of the deceased had been a party to the proceedings.

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

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

Rule 16 - Proceedings not defeated by misjoinder or non joinder [Return to Main Menu](#)

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

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

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

(4) No person under legal disability shall be added as a Plaintiff suing without a guardian and no person shall be added as the guardian, of a Plaintiff under legal disability without his own consent in writing.

(5) Every party whose name is added as defendant shall be served with the originating process or notice in the manner prescribed in these rules or in such manner as may be prescribed by a Judge and the proceedings against such person shall be deemed to have begun on the service of such originating process or notice.

Rule 17 - Application to add or strike out [Return to Main Menu](#)

(1) Any application to add or strike out or substitute or vary the name of a Plaintiff or defendant may be made to a Judge by motion.

(2) Where the application is to add a Plaintiff or a defendant, the application shall be accompanied by the statement of claim or defence as the case may be, all the exhibits intended to be sued and the depositions of all the witnesses: Provided that where the application is to substitute a deceased party which another person the application may not be accompanied by the documents specified above.

Rule 18 - Where defendant is added [Return to Main Menu](#)

Where a defendant is added or substituted the originating process shall be amended accordingly and the Plaintiff shall unless otherwise ordered by a Judge file an amended originating process and cause the new defendant to be served in the same manner as the original defendant.

Rule 19 - Third parties may be joined by any of the parties [Return to Main Menu](#)

(1) Where it appears to a Judge that any person not a party in the proceedings may bear eventual liability either in whole or in part, the Judge may upon an ex-parte application allow that person to be joined as a Third Party by any of the defendants. The application shall state the grounds for the applicant's belief that such Third Party may bear eventual liability.

(2) The order and existing processes shall be served on the Third Party within the time prescribed for delivering the defence.

Rule 20 - Appearance by Third Party [Return to Main Menu](#)

Where a party is joined to any proceedings as a Third Party he may after service enter appearance within 8 days or within 30 days if he resides or carries on business outside jurisdiction or within such further time as a Judge may order.

Rule 21 - Default by Third Party [Return to Main Menu](#)

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

Rule 22 - Subsequent Third Party [Return to Main Menu](#)

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

Rule 23 - Claim against co-defendant [Return to Main Menu](#)

A Defendant may in his pleading make a claim against a co-defendant.

II. Actions against Firms and Persons carrying on Business in names other than their own.

Rule 24 - Actions by and against firms [Return to Main Menu](#)

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

Rule 25 - Disclosure of partner's names [Return to Main Menu](#)

(1) When an originating process is issued by partners in the name of their firm, the Plaintiffs or their Legal Practitioner shall, on demand in writing by or on behalf of any defendant declare in writing the names and residential addresses of all the persons constituting the firm on whose behalf the action is brought.

(2) Where the Plaintiffs or their Legal Practitioners fail to comply with such demand, all proceedings in the action may, upon an application for that purpose, be stayed upon terms as a Judge may direct.

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

Rule 26 - Appearance of partner [Return to Main Menu](#)

(1) Where persons are sued as partners in the name of their firm, they shall appear individually in their own names, but all subsequent proceedings shall continue in the name of the firm.

(2) Where an originating process is served upon a person having the control or management of the partnership business, no appearance by him shall be necessary unless he is a member of the firm sued.

Rule 27 - Application of rules to actions between co-partners [Return to Main](#)

The above rules in this Part shall apply to proceedings between a firm and one or more of its partners and between firms having one or more partners in common, provided such firm or firms carry on business within the jurisdiction.

Rule 28 - Persons trading as firms [Return to Main Menu](#)

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

III. Change of parties by Death or Otherwise, etc.

Rule 29 - Action not abated where cause of action survives [Return to Main Menu](#)

No proceedings shall abate by reason of death or bankruptcy of any of the parties, if the cause of action survives and shall not become defective by the assignment, creation or devolution of any estate or title pendent elite, and, whether the cause or action survives or not, there shall be no abatement by reason of the death of either party between the findings on issues of fact and judgment, but judgment may in such case be entered notwithstanding the death.

Rule 30 - Order to carryon proceedings [Return to Main Menu](#)

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

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

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

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

Rule 31 - In case of assignment, creation or devolution of estate or title [Return to Main Menu](#)

In case of an assignment, creation or devolution of any estate or title pendent elite, the cause or matter may be continued by or against the person or upon whom such estate or

title has come or devolved.

Rule 32 - Application to discharge order by person under disability having a guardian [Return to Main Menu](#)

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

Rule 33 - By persons under disability having no guardian [Return to Main Menu](#)

Where any person under any legal disability and not having a guardian in the proceedings is served with an order under Rule 30, such a person may apply to a Judge to discharge or vary such order at anytime within 14 days from the appointment of a guardian for such party, and until such period of 14 days had expired such order shall have no effect as against the person under legal disability.

IV. Legal Practitioners or Agents

Rule 34 - Acts may be done by legal practitioner or agents [Return to Main Menu](#)

Where by these rules any act may be done by party in any proceedings, such act may be done either by the party in person, or by his Legal Practitioner, or by his agent (unless an agent is expressly barred under these rules).

Order 14 - JOINDER OF CAUSES OF ACTION

Rule 1 - All causes of actions may be joined [Return to Main Menu](#)

Subject to the following rule of this Order, the Plaintiff may unite in the same action several causes of action; but if it appears that they cannot be conveniently tried or disposed of together a Judge may order separate trials of any such causes of action or may make such order as may be necessary or expedient for the separate disposal thereof.

Rule 2 - Recovery of Land [Return to Main Menu](#)

(1) An action for recovery of land may be joined with an action for declaration of title, mesne profit or arrears of rent, damages for breach of any contract under which the land or any part thereof is held, or for any wrong or injury to the premises.

(2) An action for foreclosure or redemption may be joined with a claim for delivery of possession of the mortgaged property and a claim for payment of principal money or interest secured by or any other relief in respect of the mortgage of or charge on such land.

Rule 3 - Executor and administer [Return to Main Menu](#)

Claims by or against an executor or administrator as such may be joined with claims by or against him personally provided the last mentioned claims are alleged to arise with

reference to the estate in respect of which the Plaintiff or defendant sue or is sued as executor or administrator.

Rule 4 - Claims by joint Plaintiffs [Return to Main Menu](#)

Claims by Plaintiffs jointly may be joined with claims by them or any of them separately against the same defendant.

Order 15 - PLEADINGS

Rule 1 - Filing of Pleadings [Return to Main Menu](#)

(1) A statement of claim shall include the relief or remedy to which a Plaintiff claims to be entitled.

(2) A defendant shall file his statement of defence, set off or counterclaim, if any, not later than 42 days after service on him of the Plaintiff's originating process and accompanying documents. A counterclaim shall have the same effect as a cross action, so as to enable the Court pronounce a final judgment in the same proceeding. A set - off must be specifically pleaded.

(3) A Plaintiff shall within 14 days of service of the statement of defence and counterclaim if any, file his reply, if any, to such defence or counterclaim. Provided that where a defendant sets up a counterclaim, if a Plaintiff or any other person named as party to such counter claim contends that the claim thereby raised ought not to be disposed of by way of counterclaim, but in an independent proceeding, a Judge may at any time order that such counter claim be excluded.

Rule 2 - Pleadings to state material facts and not evidence [Return to Main Menu](#)

Every pleading shall contain a statement in a summary form of the material facts on which the party pleadings 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 numbered consecutively. Dates, sums and numbers shall be expressed in figures. Pleadings shall be signed by a Legal Practitioner or by the party if he sues or defends in person.

Rule 3 - Particulars to be given where necessary [Return to Main Menu](#)

(1) In all cases in which the party pleading relies on any misrepresentation, fraud, breach of trust, willful default, or undue influence and in all other cases, in which particulars may be necessary, particulars (with dates and items if necessary) shall be stated in the pleadings.

(2) In an action for libel or slander if the Plaintiff alleges that the words or matter complained of were used in a defamatory sense other than their ordinary meaning, he shall give particulars of the facts and matters on which he relies in supports of his allegation.

Rule 4 - Further and better statement or particulars [Return to Main Menu](#)

An application for 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 requiring

particulars shall be made to a Judge at the first pre - trial conference. The Judge may grant such application upon such terms as may be just.

Rule 5 - Denial [Return to Main Menu](#)

(1) Every allegation of fact in any pleadings if not specifically denied in the pleadings of the opposite party shall be taken as admitted except as against a person under legal disability.

(2) A general denial in any pleadings shall not operate as denial of any specific fact in the pleadings of the opposing party.

Rule 6 - Conditions precedent [Return to Main Menu](#)

Each party shall specify distinctly in his pleadings any condition precedent, the performance or occurrence of which is intended to be contested.

Rule 7 - Defence, reply, certain facts to be specifically pleaded [Return to Main Menu](#)

(1) All ground of defence or reply which makes an action reply, not maintainable or if not raised will take the opposite party by surprise or Will raise issues of facts not arising out of the preceding pleadings shall be specifically pleaded.

(2) Where a party raises any ground which makes a transaction void or voidable or such matters as fraud, Limitation Law, release, payment, performance, facts showing insufficiency in contract or illegality either by enactment or by common law, he shall specifically plead same.

Rule 8 - Pleadings to be consistent [Return to Main Menu](#)

No pleading shall raise any new ground of claim or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same.

Rule 9 - Joinder of issue [Return to Main Menu](#)

A party may by his pleadings join issues upon the pleadings of the opposing party and such joinder of issues shall operate as a denial of every material allegation of fact in the pleading upon which issues is joined except any fact which the party may be willing to admit.

Rule 10 - Effect of documents to be stated [Return to Main Menu](#)

Wherever the contents of any documents are materials 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 documents or any part thereof are material.

Rule 11 - Notice [Return to Main Menu](#)

Wherever it is material to allege notice to any person of any fact, matter or things, it shall be sufficient to allege such notice as fact, unless the forms or the precise terms of such notice or the circumstances from which such notice is to be inferred are material.

Rule 12 - Implied contract or relation [Return to Main Menu](#)

Wherever 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 such contract or relation as a fact, and to refer generally to such letters, conversation or circumstances without setting them out in detail. If in such case the person so pleading desires to rely in the alternative upon more contracts or relations than one to be implied from such circumstances, he may state the same in the alternatives.

Rule 13 - Presumption of Law [Return to Main Menu](#)

A party may not allege in any pleadings any matter or fact 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.

Rule 14 - Stated or settled account [Return to Main Menu](#)

In every case in which the cause of action is stated or settled account the same shall be alleged with particulars but in every case in which a statement of account is relied on by way of evidence or admission of any other cause of action which is pleaded, the same shall not be alleged in the pleadings.

Rule 15 - Technical objection [Return to Main Menu](#)

No technical objection shall be raised to any pleading on the ground of any alleged want of form.

Rule 16 - Striking out of pleadings [Return to Main Menu](#)

A Judge may at the pre-trial conference in any proceedings order to be struck out or amended, any matter in any indorsement or pleading which may be unnecessary or scandalous or which may tend to prejudice, embarrass or delay the fair trial of the action; and may in any such case, if the Judge shall deem fit, order costs of the application to be paid as between Legal Practitioner and client.

Rule 17 - Defamation [Return to Main Menu](#)

(1) Wherever it is material to allege malice, fraudulent intention, knowledge or other condition of the mind of any person, it shall be sufficient to allege the same as a fact without setting out the circumstances from which the same is to be inferred.

(2) Where in an action for libel or slander the defendant pleads that any of the words or matters complained of are fair comment on a matter of public interest or were published upon a privileged occasion, the Plaintiff shall, if he intends to allege that the defendant was actuated by express malice, deliver a reply giving particulars of the facts and matters from which such malice is to be inferred.

(3) Where in an action for libel or slander the defendant alleges that in so far as the words complained of consists of statement of fact, they are true in substance and in fact, and in so far as they consist of expressions of opinion, they are fair comment on a matter of public interest, or pleads to the like effect, he shall give particulars stating which of the facts and matters he relies on in support of the allegation that the words are true.

Rule 18 - Where pleading discloses no reasonable cause of action [Return to Main Menu](#)

(1) The Judge may at any stage of the proceedings order to be struck out or amended any pleadings or the indorsement of any writ in the action, or anything in any pleading or in the indorsement, on the ground that:

- (a) it discloses no reasonable cause of action or defence, as the case may be; or
- (b) it is scandalous, frivolous or vexatious; or
- (c) it may prejudice, embarrass or delay the fair trial of the action; or
- (d) it is otherwise an abuse of the process of the court, the Judge may order the action stayed or dismissed or judgment to be entered accordingly, as the case may be.

(2) No evidence shall be admissible on application under paragraph (1) (a).

(3) This rule shall, so far as applicable, apply to an originating summons and a petition as if the summons or petition, as the case may be, were a pleading or not.

(4) No proceedings shall be open to objection on the ground that only a declaratory judgment or order is sought thereby and a Judge may make a binding declaration or right whether any consequential relief is or could be claimed or not.

Rule 19 - Close of pleadings. [Return to Main Menu](#)

(1) Where a pleading subsequent to reply is not ordered, then, at the expiration of 7 days from the service of the defence or reply (if a reply has been filed) pleadings shall be deemed closed.

(2) Where a pleading subsequent to reply is ordered, and the party who has been ordered or given leave to file the same fails to do so within the periods limited for that purpose, then, at the expiration of the period so limited the pleadings shall be deemed closed. Provided that this rule shall not apply to a defence to counterclaim and unless the Plaintiff files a defence to counterclaim, the statements of fact contained in such counterclaim shall at the expiration of 14 days from the service thereof or of such time (if any) as may by order be allowed for filing of a defence thereto be deemed to be admitted, but the Judge may at any subsequent time give leave to the Plaintiff to file a defence to counterclaim.

Order 16 - STATEMENT OF CLAIM

Rule 1 - Statement of claim [Return to Main Menu](#)

(1) Every statement of claim, defence or counter claim shall state specifically the relief claimed either singly or in the alternative, and it shall not be necessary to ask for general or other relief, which may be given as a Judge may think just as it had been asked for Court; and

(2) Where the Plaintiff seeks relief in respect of several distinct claims or causes of complaint founded upon separate and distinct grounds, they shall be stated, as far as may be, separately and distinctly. The same rule shall apply where the defendant relies upon several distinct grounds of defence, set - off or counterclaim founded upon separate and distinct facts.

Rule 2 - Claim beyond indorsement [Return to Main Menu](#)

Whenever a statement of claim is filed, the Plaintiff may alter, modify or extend his claim without any amendment of the indorsement of the writ: Provided that the Plaintiff may

not completely change his cause of action indorsed on the writ without amending the writ.

Order 17 - DEFENCE AND COUNTER-CLAIM

Rule 1 - Statement of defence [Return to Main Menu](#)

The statement of defence shall be a statement in summary form and shall be supported by copies of documentary evidence, list of witnesses and their written statements on oath.

Rule 2 - Evasive denial [Return to Main Menu](#)

When a party in any pleading denies an allegation of fact in the previous pleading of the opposite party, he shall not do so evasively, but answer the point of substance. If an allegation is made with diverse circumstance, it shall not be sufficient to deny it along with those circumstances.

Rule 3 - Denials generally [Return to Main Menu](#)

(1) In an action for debt or liquidated demand in money, a mere denial of the debt shall not be sufficient defence.

(2) In an action for money had and received, a defence in denial must deny the receipt of the money or the existence of those facts which are alleged to make such receipt by the defendants a receipt to the use of the Plaintiff.

(3) In an action for goods sold and delivered, the defence must deny the order or contract, the delivery, or the amount claimed.

(4) In an action upon a bill of exchange, promissory note or cheque, a defence in denial must deny some matter of fact, e.g. the drawing, making, indorsing, accepting, presenting or notice of dishonour of the bill or note.

Rule 4 - Persons in representative capacity [Return to Main Menu](#)

If either party wishes to deny the right of any other party to claim as executor, or a trustee or in any representative or other alleged capacity, or the alleged constitution of any partnership firm, he shall deny the same specifically.

Rule 5 - Pleading to damages [Return to Main Menu](#)

No denial or defence shall be necessary as to damages claimed or their amount: they are deemed to be in issue in all cases, unless expressly admitted.

Rule 6 - Set-off and counter-claim [Return to Main Menu](#)

Where any defendant seeks to rely upon any ground as supporting a right of set-off or counter claim, he shall in his defence state specifically that he does so by way of supporting a right of set off or counterclaim.

Rule 7 - Title of counter-claim [Return to Main Menu](#)

Where a defendant by his defence sets up any counter-claim which raises questions

between himself and the Plaintiff along with any other persons, he shall add to the title of his defence a further title similar to the title in a statement of claim, setting forth the names of all persons who, if such counterclaim were to be enforced by cross action, would be defendants to such cross action, and shall deliver his defence to such of them as are parties to the action within the period which he is required to deliver it to the Plaintiff.

Rule 8 - Claim against persons not party: Civil Form 12 [Return to Main Menu](#)

Where any such person as in Rule 7 of this Order is not a party to the action he shall be summoned to appear by being served with a copy of the defence and counterclaim, and such service shall be regulated by the same rules as those governing the service of the originating process, and every defence and counter claim so served shall be indorsed in Form 12, with such modifications or variations as circumstances may require.

Rule 9 - Appearance by added parties [Return to Main Menu](#)

Any person not already a party to the action, who is served with a defence and counterclaim as aforesaid, must appear thereto as if he had been served with an originating process to appear in an action.

Rule 10 - Reply to counter-claim [Return to Main Menu](#)

Any person not already a party to the action, who is named in a defence as a party to a counterclaim thereby made, shall deliver a defence in a mode and manner prescribed under this Order and the provisions of the Order shall apply to such a person.

Rule 11 - Discontinuance of the Plaintiff's claim [Return to Main Menu](#)

If, in any case in which the defendant sets up a counter-claim, the action of the Plaintiff is stayed, discontinued or dismissed, the counter-claim may nevertheless be proceeded with.

Rule 12 - Judgment for balance [Return to Main Menu](#)

Where in an action, a set off or counterclaim is established as a defence against the Plaintiff's claim, the Judge may, if the balance is in favour of the defendant, give judgment for the defendant for such balance, or may otherwise adjudge to the defendant such relief as he may be entitled to upon the merits of the case.

Rule 13 - Grounds of defence after action brought [Return to Main Menu](#)

(1) Any ground of defence which arises after the action has been filed, but before the defendant has delivered his defence, and before the time limited for doing so has expired, may be raised by the defendant in his defence, either alone or together with other grounds of defence.

(2) If after a defence has been delivered along with a set-off or counterclaim, any basis for answer or ground of defence arises to any such set-off or counterclaim respectively. It may be raised by the Plaintiff in his reply (in the case of a set-off) or defence to counterclaim, either alone or together with any other ground of reply or defence to counter-claim.

Rule 14 - Concession to defence: Civil Form 13 [Return to Main Menu](#)

Where any ground of defence arises after the defendant has delivered a defence, or after the time limited for his doing so has expired the defendant may, and where any ground of defence to any set - off or counterclaim arises after reply, or after the time limited for delivery of a reply has expired, the Plaintiff may, within 8 days after such ground of defence has arisen or at any subsequent time by leave of a Judge deliver a further defence or further reply, as the case may be setting forth the same.

Rule 15 - Defence to originating summons [Return to Main Menu](#)

Whenever any defendant in his defence or in any further defence pursuant to Rule 14 of this Order alleges any ground of defence which has arisen after the commencement of the action, the Plaintiff may concede to such defence (which concession may be in Form 13 with such modification as circumstances may require) and may thereupon obtain judgment up to the time of the pleading of such defence, unless the Judge either before or after the delivery of such concession otherwise orders.

Rule 16 [Return to Main Menu](#)

A respondent to an originating summons shall file a counter to affidavit together with all the exhibits he intends to rely upon and a written address within 21 days after service of the originating summons.

Order 18 - REPLY

Rule 1 - Filing of reply [Return to Main Menu](#)

Where the Plaintiff desires to make a reply, he shall file it within 14 days from the service of the defence.

Rule 2 - Reply to counter-claim [Return to Main Menu](#)

Where a counterclaim is pleaded, a reply thereto is called a defence to counterclaim and shall be subject to the rules applicable to defences.

Order 19 - ADMISSIONS

Rule 1 - Notice of admission of facts [Return to Main Menu](#)

Any party to a proceeding may give notice by his pleading or otherwise in writing, that he admits the truth of the whole or any facts of part of the case of any other party.

Rule 2 - Notice to admit documents [Return to Main Menu](#)

(1) Either party may, not later than 7 days before the first pre-trial conference, by notice in writing filed and served, require any other party to admit any document and the party so served shall not later than 4 days after service give notice of admission or non - admission of the document, failing which he shall be deemed to have admitted it unless a Judge otherwise orders.

(2) When a party decides to challenge the authenticity of any document, he shall not later than 7 days of service of that document give notice that he does not admit the document and requires it to be proved at the trial.

(3) Where a party gives notice of non - admission and the document is proved at the trial, the cost of proving the document which shall not be less than a sum of five thousand naira, shall be paid by the party who has challenged it, unless at the trial or hearing the Judge shall certify that there were reasonable grounds for not admitting the authenticity of the document

Rule 3 - Notice to admit facts [Return to Main Menu](#)

(1) Either party may not later than 7 days before the first pre-trial conference by notice in writing filed and served require any other party to admit any specific fact or facts mentioned in the notice, and the party so served shall not later than 4 days after service give notice of admission or non - admission of the fact or facts failing which he shall be deemed to have admitted it unless a Judge otherwise orders.

(2) Any admission made pursuant to such notice shall be deemed to be made only for the purposes of that particular proceedings and not as an admission to be used against the party or any other party than the party giving the notice.

(3) Where there is a refusal or neglect to admit the same within 4 days after service of such notice or within such further time as may be allowed by the Judge, the cost of proving such fact or facts which shall not be less than a sum of five thousand naira, shall be paid by the party so refusing or neglecting whatever the result of the proceedings, unless the Judge certifies that the refusal to admit was reasonable or unless the Judge at any time otherwise orders or directs.

Rule 4 - Judgment or Order upon admission of facts [Return to Main Menu](#)

The Judge may, on application, at a pre-trial conference or at any other stage of the proceedings where admissions of fact have been made, either on the pleadings or otherwise, make such orders or give such judgment as upon such admissions a party may be entitled to, without waiting for determination of any other question between the parties.

Rule 5 - Cost of notice where documents unnecessary [Return to Main Menu](#)

Where a notice to admit or produce comprises document that are not necessary, the costs occasioned thereby which shall not be less than five thousand naira shall be borne by the party giving such notice.

Order 20 - DEFAULT OF PLEADING

Rule 1 - Claim for debt or liquidated demand [Return to Main Menu](#)

If the claim is only for a debt or liquidated demand, and the defendant does not within the time allowed for the purpose, file a defence, the Plaintiff may, at the expiration of such time, apply for final judgment for the amount claimed with costs.

Rule 2 - Several defendants: default of one [Return to Main Menu](#)

When in any such action as in Rule 1, of this Order there are several defendants, if one of them makes default as mentioned in Rule 1 of this Order, the Plaintiff may apply for final judgment against the defendants making default and issue execution upon such judgment without prejudice to his right to proceed with his action against the other defendants.

Rule 3 - Damages and detention of goods [Return to Main Menu](#)

If the Plaintiff's claim be for pecuniary damages or for detention of goods with or without a claim for pecuniary damages only, and the defendant or all the defendants, if more than one, make default as mentioned in Rule 1 of this Order, the Plaintiff may apply to a Judge for interlocutory judgment against the defendant or defendants and the value of the goods and the damages, or the damages only as the case may be, shall be ascertained in any way which the Judge may order.

Rule 4- Default of one or more defendants [Return to Main Menu](#)

When in any such action as in Rule 3 of this Order there are several defendants, if one or more of them make default as mentioned in Rule 1 of this Order, the Plaintiff may apply to a Judge for interlocutory judgment against the defendant or defendants so making default and proceed with his action against the others. In such case the value and amount of damages against the defendant making default shall be assessed at the trial of the action or issues therein against the other defendants, unless the Judge shall otherwise order.

Rule 5 - Debt or damages and detention of goods or damages [Return to Main Menu](#)

Where the claim is for debt or liquidated demand and also for pecuniary damages or for detention of goods with or without a claim for pecuniary damages and includes a liquidated demand and any defendant makes default as mentioned in Rule 1, the Plaintiff may apply to a Judge for final judgment for the debt or liquidated demand, and may also apply for interlocutory judgment for the value of the goods and damages, or the damages only as the case may be, and proceed as mentioned in Rule 3 and 4.

Rule 6 - Recovery of land [Return to Main Menu](#)

In an action for the recovery of land, if the defendant makes default as mentioned in Rule 1, the Plaintiff may apply for a judgment that the person whose title is asserted in the writ of summons shall recover possession of the land with his costs.

Rule 7 - Claim for Mesne Profits, arrears or damages [Return to Main Menu](#)

Where the Plaintiff has indorse a claim for mesne profits or arrears of rent in respect of the premises claimed, or any part of profits, then or damages for breach of contract or wrong or injury to the premises claimed upon a writ for the recovery of land, if the defendant makes default as mentioned in Rule 1, or if there be more than one defendant, some or one of the defendants make such default, The Plaintiff may apply for final judgment against the defaulting defendant or defendants and proceed as mentioned in Rules 3 and 4.

Rule 8 - Where a defence is filed to part of claim only [Return to Main Menu](#)

If the Plaintiff's claim is for a debt of liquidated demand or for pecuniary damages only, or for detention of goods with or without a claim for pecuniary damages, or for any such matters, or for the recovery of land, and the defendant files a defence which purports to offers an answer to part only of the Plaintiff's alleged cause of action, the Plaintiff may apply for judgment, final or interlocutory, as the case may be, for the part unanswered. Provided that the unanswered part consists of a separate cause of action or is severable from the rest, as in the case of part of a debt or liquidated demand. Provided also that

where there is a counterclaim, execution on any such judgment as above mentioned in respect of the Plaintiff's claim shall not issue without leave of the Judge.

Rule 9 - Defendant in default [Return to Main Menu](#)

In all actions other than those in the preceding rules of this Order, if the defendant makes default in filing a defence, the Plaintiff may apply to a Judge for judgment, and such judgment shall be given upon the statement of claim as the Judge shall consider the Plaintiff to be entitled to.

Rule 10 - One, of several defendants in default [Return to Main Menu](#)

Where in any such action as mentioned in Rule 9 of this Order, there are several defendants, if one of such defendants makes such default as aforesaid, the Plaintiff may apply for judgment against the defendant so making default, and proceed against the other defendants.

Rule 11 - Default of third party [Return to Main Menu](#)

In any case in which issues arise in a proceeding other than between Plaintiff and defendant, if any party to any such issue makes default in filing any pleading, the opposite party may apply to a Judge for such judgment, if any, as upon the pleadings he may appear to be entitled to, and the Judge may order judgment to be entered accordingly or may make such other order as may be necessary to do justice between the parties.

Rule 12 - Setting aside judgment by default [Return to Main Menu](#)

Any judgment by default whether under this Order or under any Order of these Rules shall be final and remain valid and may only be set aside upon application to the Judge on grounds of fraud, non-service or lack of jurisdiction upon such terms as the Court may deem fit.

Order 21 - PAYMENT INTO AND OUT OF COURT

Rule 1 - Payment into and out of court [Return to Main Menu](#)

(1) Where after service in any proceedings for debt or damages, a defendant envisages an intention to pay money into Court in respect of the proceeding, he shall notify the Chief Registrar who will thereupon direct him to pay the money into an interest yielding account in a commercial bank and he shall file the teller for such payment with the Chief Registrar.

(2) Where a teller for payment is filed with the Chief Registrar, he shall forthwith give notice of the payment to the Plaintiff who may apply to a Judge for an order to withdraw the amount so paid.

(3) Where a defence of tender before action is set up, the sum of money alleged to have been tendered shall be brought into Court.

(4) The defendant may without leave give a written notice to the Registrar of an intention to increase the amount of any sum paid into Court.

(5) Where the money is paid into Court in satisfaction of one or more of several causes of

action, the notice shall specify the cause or causes of action in respect of which payment is made and the sum paid in respect of each such cause of action unless a Judge otherwise directs.

(6) The notice shall be in Form 14 with such modifications or variations as circumstances may require. The receipt of the notice shall be acknowledged in writing by the Plaintiff within 3 days. The notice may be modified or withdrawn or delivered in an amended form by leave for a Judge upon such terms as may be just.

(7) Where money is paid into Court with denial of liability the Plaintiff may proceed with the action in respect of the claim and if he succeeds, the amount paid shall be applied so far as is necessary in satisfaction of the claim, and the balance; if any, shall on the order of a Judge be repaid to the defendant. Where the defendant succeeds in respect of such claim, the whole amount paid into Court shall be repaid to him on the order of a Judge.

Rule 2 - Claimant may take out money: Civil Form 15 [Return to Main Menu](#)

(1) Where money is paid into Court under Rule 1, the Plaintiff may within 14 days of the receipt of the notice of payment into Court, or where more than one payment into Court has been made, within 14 days of the receipt of the notice of the last payment into Court, accept the whole sum or anyone or more of the specific sum in satisfaction of the cause or causes of action to which the specified sum or sums relate by giving notice to the defendant in Form 15 with such modifications or variations as circumstances may require and thereupon shall be entitled to receive payment of the accepted sum or sums in satisfaction as aforesaid.

(2) Payment shall be made to the Plaintiff or on his written authority to his Legal Practitioner and thereupon proceedings in the action or in respect of the specified cause or causes of action (as the case may be) shall abate.

(3) If the Plaintiff accepts money paid into Court in satisfaction of his claim, or if he accepts a sum of sums paid in respect of one or more specified causes of action, and gives notice that he abandons the other causes of action, he may after 4 days from payment out and unless a Judge otherwise orders, tax his costs incurred to the time of payment into Court, and 48 hours after taxation may sign judgment for his taxed costs.

(4) Where in an action for libel or slander, the Plaintiff accepts money paid into Court, either party may apply for summons to a Judge for leave for the parties or either of them to make a statement in open Court in terms approved by the Judge.

Rule 3 - Money remaining in court [Return to Main Menu](#)

If the whole of the money in Court is not taken out under Rule 2, the money remaining in Court shall not be paid out except in satisfaction of the claim or specified cause or causes of action in respect of which it was paid in pursuance of an order of a Judge which may be made at any time before at or after trial.

Rule 4 - Several defendants [Return to Main Menu](#)

(1) Money may be paid into Court under Rule 1 of this Order by one or more of several defendants sued jointly or in the alternative upon notice to the other defendant or defendants.

(2) If the Plaintiff elects within 14 days after receipt of notice of payment into Court to accept the sum or sums paid into Court, he shall give notice as in Form 16 with such

modifications or variations as circumstances may require to each defendant and thereupon all further proceedings in the action or in respect of the specified cause or causes of action (as the case may be) shall abate.

(3) The money shall not be paid out except in pursuance of an order of a Judge dealing with the whole cause or causes of action.

(4) In an action for libel or slander against several defendants sued jointly, if any defendant pays money into Court, the Plaintiff may within 14 days elect to accept the sum paid into Court in satisfaction of his claim against the defendant making the payment and shall give notice to all the defendants as in Form 15 with such modifications or variations as circumstances may require. The Plaintiff may tax this cost against the defendant who has made such payment in accordance with Rule 2(3) of this Order and the action shall abate against that defendant.

(5) The Plaintiff may continue with the action against any other defendant but the sum paid into Court shall be set off against any damages awarded to the Plaintiff against the defendant or defendants against whom the action is continued.

Rule 5 - Counter-claim [Return to Main Menu](#)

A persons made a defendant to a counter-claim may pay money into Court in accordance with the foregoing rules, with necessary modifications.

Rule 6 - Persons under legal disability [Return to Main Menu](#)

(1) In any proceeding in which money or damages is or are claimed by or on behalf of a person under legal disability suing either alone or in conjunction with other parties, no settlement or compromise or payment or acceptance of money paid into Court, whether before, at or after the trial, shall as regards the claims of any such person be valid without the approval of a Judge.

(2) No money (which expression for the purposes of this Rule includes damages) in any way recovered or adjudged or ordered or awarded or agreed to be paid in any such proceedings in respect of the claims of any such person under legal disability whether by judgment, settlement, compromise, payment into Court or otherwise, before, at or after the trial, shall be paid to the Plaintiff or to the guardian of the Plaintiff or to the Plaintiff's Legal Practitioner unless a Judge shall so direct.

(3) All money so recovered or adjudged or ordered or awarded or agreed to be paid shall be dealt with as the Judge shall direct. The directions thus given may include any general or special directions that the Judge may deem fit to give, including directions on how the money is to be applied or dealt with and as to any payment to be made either directly or out of money paid into Court to the Plaintiff to the guardian in respect of money paid or expenses incurred or for maintenance or otherwise for or on behalf of or for the benefit of the person under legal disability or otherwise or to the Plaintiff's Legal Practitioner in respect of costs or the difference between party and party and Legal Practitioner and client costs.

Rule 7 - Payment into and withdrawal of money from Court [Return to Main Menu](#)

Every application or notice for payment into or transfer out of Court shall be made on notice to the other side.

Order 22 - PROCEEDINGS IN LIEU OF DEMURRER

Rule 1 - Demurrer abolished [Return to Main Menu](#)

No demurrer shall be allowed.

Rule 2 - Points of law may be raised by pleading [Return to Main Menu](#)

(1) Any party may by his pleading raise any point of law and the Judge may dispose of the point so raised before or at the trial.

(2) If in the opinion of the Judge, the decision on such point of law substantially disposes of the whole proceedings or of any distinct part thereof, the Judge may make such decision as may be just.

Order 23 - DISCONTINUANCE

Rule 1 - Plaintiff may discontinue before defence [Return to Main Menu](#)

(1) The Plaintiff may at any time before receipt of the defence or after the receipt thereof, before taking any other proceeding in the action, by notice in writing duly filed and served, wholly discontinue his claim against all or any of the defendants or withdraw any part of his claim. He shall thereupon pay such defendant's costs of the action, or if the action be not wholly discontinued, the costs occasioned by the matter so withdrawn.

(2) A discontinuance or withdrawal as the case may be, shall not be a defence to any Subsequent claim.

(3) Where a defence has been filed, the Plaintiff may with the leave of a Judge discontinue the proceedings or any part thereof on such terms and conditions as the Judge may order.

(4) Where proceedings have been stayed or stuck out upon a Plaintiff's withdrawal or discontinuance under this Order no subsequent claim shall be filed by him on the same or substantially the same facts until the terms imposed on him by the Judge have been fully complied with.

(5) The Judge may in like manner and like discretion as to terms, upon the application of a defendant order the whole or any part of his alleged grounds of defence or counter claim to be withdrawn or struck out.

Rule 2 - Withdrawal by consent [Return to Main Menu](#)

When a cause is ready for trial, it may be withdrawn by either Plaintiff or defendant upon producing to the Registrar a consent in writing signed by the parties and thereupon a Judge shall strike out the matter without the necessity of attendance of the parties or their Legal Practitioner.

Order 24 - AMENDMENT

Rule 1 - Amendment of originating process and pleadings [Return to Main Menu](#)

A party may amend his originating process and pleadings at any time before the close of pretrial conference and not more than twice during the trial but before the close of the case.

Rule 2 - Application [Return to Main Menu](#)

Application to amend may be made to a Judge. Such application shall be supported by an exhibit of the proposed amendment and may be allowed upon such terms so as to costs or otherwise as may be just.

Rule 3 - Amendment of originating process [Return to Main Menu](#)

Where any originating process and or a pleading is to be amended a list of any additional witness to be called together with his written statement on oath and a copy of any document to be relied upon consequent on such amendment shall be filed with the application.

Rule 4 - Failure to amend after order [Return to Main Menu](#)

If a party who has obtained an order 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 7 days from the date of the order, such party shall pay an additional fee of N20.00 (twenty naira) for each day of default.

Rule 5 - Filing and service of amended process [Return to Main Menu](#)

Whenever any originating process or pleading is amended, a copy of the document as amended shall be filed in the Registry and additional copies served on all the parties to the action.

Rule 6 - Date of order and amendment to be displayed [Return to Main Menu](#)

Whenever any endorsement or pleading is amended it shall be marked in the following manner. "Amended..... day ofpursuant to Order to (name of Judge) dated the..... day of"

Rule 7 - Clerical mistakes and accidental omissions [Return to Main Menu](#)

A Judge may at anytime correct clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission upon application, without an appeal being filed.

Rule 8 - General power to amend [Return to Main Menu](#)

Subject to the provisions of Rule 1 of this Order, a Judge may at any time and on such terms as to costs or otherwise as may be just, amend any defect or error in any proceedings.

Order 25 - PRE-TRIAL CONFERENCES AND SCHEDULING

Rule 1 - Pre-Trial conference notice [Return to Main Menu](#)

(1) Within 14 days after close of pleading, the Plaintiff shall apply for the issuance of a

pre-trial conference Notice as in form 17.

(2) Upon application by a plaintiff under sub-rule 1 above the judge shall cause to be issued to the parties and their Legal practitioners (if any) a pre-trial conference notice as in Form 17 for the accompanied by a pre-trial information sheet as in Form 18 for the purposes set out hereunder:

- (a) disposal of matters which must or can be dealt with on interlocutory application.
- (b) giving such directions as to the future course of the action as appear best adapted to secure its just, expeditious and economical disposal;
- (c) promoting amicable settlement of the case or adoption of alternative dispute resolution.

(3) If the plaintiff does not make the application in accordance with sub-rule 1 of this rule, the defendant(s) may do so or apply for an order to dismiss the action.

Rule 2 - Scheduling and planning [Return to Main Menu](#)

At the pre-trial conference, the judge shall enter a scheduling Order for:

- (a) joining other parties;
- (b) amending pleadings or any other processes;
- (c) filing motions;
- (d) further pre - trial conference;
- (e) any other matters appropriate in the circumstances of the case.

Rule 3 - Agenda [Return to Main Menu](#)

At the pre - trial conference, the Judge shall consider and take appropriate action with respect to such of the following (or aspects of them) as may be necessary or desirable:

- (a) formulation and settlement of issues;
- (b) amendments and further and better particulars;
- (c) the admission of facts, and other evidence by consent of the parties;
- (d) control and scheduling of discovery, inspection and production of documents;
- (e) narrowing the field of dispute between expert witnesses, by their participation at pre - trial conference or in any other manner;
- (f) hearing and determination of objections on point of law;
- (g) giving orders or directions for separate trial of a claim, counterclaim, set-off, cross-claim or third party claim or of any particular issue in the case.
- (h) settlement of issues, inquiries and accounts under Order 27;
- (i) securing statement of special case of law or facts under Order 28;
- (j) determining the form and substance of the pre-trial order;
- (k) such other matters as may facilitate the just and speedy disposal of the action.

Rule 4 - Time Table [Return to Main Menu](#)

The pre - trial conference or series of pre - trial conferences with respect to any case shall be completed within 3 months of its commencement, and the parties and their Legal Practitioners shall cooperate with the Judge in working within this time table. As far as practicable, pre - trial conference shall be held from day to day or adjourned only for purposes of compliance with pre - trial conference orders, unless extended by the Chief Judge.

Rule 5 - Report [Return to Main Menu](#)

After a pre - trial conference or series of pre - trial conferences, the Judge shall issue a Report. This Report shall guide the subsequent course of the proceedings unless

modified by the trial Judge.

Rule 6 - Sanctions [Return to Main Menu](#)

If a party or his Legal Practitioner fails to attend the pre - trial conference or obey a scheduling or pre - trial order or is substantially unprepared to participate in the conference or fails to participate in good faith the Judge shall:

(a) in the case of the Plaintiff dismiss the claim;

(b) in the case of a defendant enter final judgment against him. Any judgment given under this rule may be set aside upon an application made within 7 days of judgment or such other period as the Pre - trial Judge may allow not exceeding the pre - trial conference period. The application shall be accompanied by an undertaking to participate effectively in the pre - trial conference.

Rule 7 - Management [Return to Main Menu](#)

The Judge shall direct the pre - trial conference with due regard to its purposes and agenda as provided under this order, and shall require parties or their Legal Practitioners to co - operate with him effectively in dealing with the conference agenda.

Order 26 - DISCOVERY AND INSPECTION

Rule 1 - Discovery by Interrogatories [Return to Main Menu](#)

In any cause or matter the Plaintiff or defendant may deliver interrogatories in writing for the examination of the opposite parties or any one or more of such parties and such interrogatories when delivered shall have a note at the end of it stating which of the interrogatories each person is required to answer. Interrogatories shall be delivered within 7 days of close of pleadings and shall form part of the agenda of pre - trial conference.

Rule 2 - Civil Form 19 [Return to Main Menu](#)

Interrogatories shall be in Form 19 with such modifications or variations as circumstances may require.

Rule 3 - Corporation or Companies [Return to Main Menu](#)

If any party to a cause or matter is a limited or unlimited company, body corporate, firm, enterprise, friendly society, association or any other body or group of persons, whether incorporated or not, empowered by law to sue or be sued, whether in its own name in the name of any officer or other person, any opposite party may deliver interrogatories to any member or officer of such party.

Rule 4 - Objection to interrogatories by answer [Return to Main Menu](#)

Any objection to answering anyone or more of several interrogatories on the ground that it is or they are scandalous or irrelevant may be taken in the affidavit in answer at the pre-trial conference.

Rule 5 - Affidavit in answer: filing of [Return to Main Menu](#)

Interrogatories shall be answered by affidavit to be filed within 7 days, or within such other time as the Judge may allow. Two copies of the affidavit in answer shall be supplied

to Registrar.

Rule 6 - Form of affidavit in answer: Civil Form 20 [Return to Main Menu](#)

An affidavit in answer to interrogatories shall be in Form 20 with such modifications or variations as circumstances may require.

Rule 7 - Order to answer or answer further [Return to Main Menu](#)

If any person interrogated omits to answer or answers insufficiently, the pre - trial Judge shall on application issue an order requiring him to answer or to answer further as the case may be.

Rule 8 - Application for discovery of documents [Return to Main Menu](#)

(1) Any party may in writing request any other party to any cause or matter to make discovery on oath of the documents that are or have been in his possession, custody, power or control, relating to any matter in question in the case. Request for discovery shall be served within 7 days of close of pleadings and shall form part of the agenda of pre - trial conference. The party on whom such a request is served shall answer on oath completely and truthfully within 7 days of the request or within such other time as the Judge may allow and it shall be dealt with at pre - trial conference.

(2) Every affidavit in answer to a request for discovery of documents shall be accompanied by office copies of documents referred to therein.

(3) The affidavit to be made by any person in answer to a request for discovery of documents shall specify which, if any, of the listed documents he objects to producing, stating the grounds of his objection, and it shall be in Form 21 with such modifications or variations as circumstances may require.

Rule 9 - Processes filed after pre-trial conference [Return to Main Menu](#)

(1) Any process to be filed after the pre - trial conference shall be accompanied by copies of documents referred to in the process.

(2) Where a process filed is not accompanied by a document referred to therein, a Judge may on application strike out the process.

Rule 10 - Verification of business books [Return to Main Menu](#)

(1) Where any document required to be attached to any process or produced under this or any other rule is a business book a Judge may upon application order a copy of any entry therein to be furnished and verified in an affidavit. Such affidavit shall be made by a person who keeps the book or under whose supervision the book is kept.

(2) Notwithstanding that a copy has been supplied a Judge may order inspection of the book from which the copy was made.

(3) The Judge may upon application whether or not an affidavit or document has been ordered or filed, make an order requiring any party to state by affidavit whether any particular document or any class of documents is or has at any time been in his possession, custody, power or control, when he parted with the same and what has become of it.

[Rule 11 - Committal of party after service on legal practitioner](#) [Return to Main Menu](#)

An order for interrogatories or discovery or inspection made against any party if served on his Legal Practitioner shall be sufficient service to found an application for attachment of a party for disobedience to the order.

Rule 12 - Committal of Legal Practitioner [Return to Main Menu](#)

A Legal Practitioner upon whom an order against any party for interrogatories or discovery or inspection is served under the last preceding Rule, who neglects without reasonable excuse to give notice thereof, to his client, shall be liable to attachment.

Rule 13 - Using answers to interrogatories at trial [Return to Main Menu](#)

Any party may, at the trial of a cause, matter or issue, use in evidence anyone 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. Provided that the Judge may look at the whole of the answers and other that any of them may be put in.

Rule 14 - Discovery against Sheriff [Return to Main Menu](#)

In any action against or by a Sheriff in respect of any matters connected with the execution of his office, a Judge may, on application of either party, order that the affidavit to be made in answer either to interrogatories or to any order for discovery shall be made by the officer actually concerned.

Rule 15 - Order to apply to person under legal disability [Return to Main Menu](#)

This Order shall also apply to persons under legal disability and their guardians.

Order 27 - ISSUES, INQUIRIES, ACCOUNTS AND REFERENCES TO REFEREES

Rule 1 - Issues of facts [Return to Main Menu](#)

(1) In all proceedings, issues of facts in dispute shall be defined by each party and filed within 7 days after close of pleadings.

(2) If the parties differ on the issues the pre - trial Judge may settle the issues.

Rule 2 - Reference to referee [Return to Main Menu](#)

In any legal proceedings the Judge may at any time order the whole cause or matter or any questions or issue of facts arising therein, to be tried before an official referee or officer of the Court, notwithstanding that it may appear that there is a special or other relief sought or some special issue to be tried, as to which it may be proper that the cause or matter should proceed in the ordinary manner.

Rule 3 - Instructions to referee. [Return to Main Menu](#)

In any case in which a matter is referred to a referee the Court shall furnish the referee with such part of proceedings and such information and details instructions as may appear necessary for his guidance, and shall direct the parties if necessary to attend

upon the referee during the inquiry.

Rule 4 - General powers of referee [Return to Main Menu](#)

The referee may, subject to the order of the Judge, 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. He shall, so far as practicable, proceed with the inquiry from day to day.

Rule 5 - Evidence [Return to Main Menu](#)

(1) Subject to any order made by the Judge 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 Judge in the same manner as such attendance may be enforced before the Court; and every such inquiry shall be conducted in the same manner or as nearly as circumstances will admit as trials before a Court.

(2) The referee shall have the same authority in the conduct of any inquiry as a Judge when presiding at any trial.

(3) Nothing in these rules shall authorize any referee to commit any person to prison or to enforce any order by attachment or otherwise; but the Judge may, in respect of matters before a referee, make such order of attachment or commitment as he may consider necessary.

Rule 6 - Reports made in pursuance or reference under order [Return to Main Menu](#)

(1) The report made by a referee in pursuance of a reference under this Order shall be made to the Judge and notice thereof served on the parties to the reference.

(2) A referee may by his report submit any question arising therein for the decision of the Judge or make a special statement of facts from which the Judge may draw such inference as he deems fit.

(3) On the receipt of a referee's report, the Judge may;

(a) adopt the report in whole or in part;

(b) vary the report;

(c) require an explanation from him;

(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;

(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 Judge for the further consideration of the cause or matter, after giving not less than 4 days notice thereof and any other application with respect to the report may be made on that hearing without notice.

(5) Where on a reference under this Order a Judge orders that the further considerations 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 this rule shall have effect subject to any such directions.

Rule 7 - Special directions as to mode of taking account [Return to Main Menu](#)

The Judge may order or direct an account to be taken or by any subsequent order give special directions with regard to the mode in which the account is to be taken or vouched and in particular may direct that in taking the account, the books of accounts in which the accounts in question have been kept shall be taken as prima facie evidence of the truth of their contents, with liberty to the interested parties to object.

Rule 8 - Accounts to be verified by affidavit, numbered and left in the registry [Return to Main Menu](#)

Where any account is directed to be taken, the accounting party shall make out his account and verify the same by affidavit. The items on each side of the account shall be numbered consecutively, and the account shall be referred to by the affidavit as an exhibit and left in the Registry.

Rule 9 - Mode of vouching accounts [Return to Main Menu](#)

Upon the taking of any account the Judge may direct that the voucher be produced at the chambers of the accounting party's Legal Practitioner or at any other convenient place and that only such items as may be contested or surcharged shall be brought before the Judge.

Rule 10 - Surcharge [Return to Main Menu](#)

Any party seeking to charge any accounting party beyond what he had by his account admitted to have received shall give notice to the accounting party, stating so far as he is able, the amount sought to be charged with particulars.

Rule 11 - Accounts and inquiries to be numbered: Civil Form 22 [Return to Main Menu](#)

Where by any judgment or order any accounts are directed to be taken or inquiries to be made, each such direction shall be numbered so that as far as may be each distinct account and inquiry may be designated by a number and such judgment or order shall be in Form 22 with such modifications or variations as the circumstances of the case may require.

Rule 12 - Just allowances [Return to Main Menu](#)

In taking any account directed by any judgment or order, all just allowances shall be made without any direction for that purpose.

Rule 13 - Expediting proceedings in case of undue delay [Return to Main Menu](#)

If it shall appear to the Judge that there is any undue delay in the prosecution of any proceedings, the Judge may require the party having the conduct of the proceedings or any other party, to explain the delay and may thereupon make such order with regard to expediting the proceedings or the conduct thereof, or the stay thereof and as to the costs of proceedings as the circumstance of the case may require; and for the purposes aforesaid any party may be directed to summon the persons whose attendance is required, and to conduct any proceeding and carry out any directions which may be

given.

Order 28 - SPECIAL CASE

Rule 1 - Special case by consent [Return to Main Menu](#)

At the pre-trial conference parties may concur in stating the questions of law arising in their case in the form of a special case for the opinion of the judge. every such special case shall be divided into paragraphs numbered consecutively and shall concisely state such facts and document as may be necessary to enable the court to decide the questions. Upon the argument of such case the judge and the parties may refer to all the contents of such document and the judge may draw from the fact and document stated in any such special case any inference, whether of fact or law, which might have been drawn from them if proved at a trial.

Rule 2 - Special case by order before trial [Return to Main Menu](#)

If at the pre-trial conference it appears to the judge that there is in any cause or matter a question of law, which could be conveniently decided before any evidence is given or any question or issue of fact is tried, the judge may make an order accordingly, and may raise such question of law or direct them to be raised at the trial either by special case or in such other manner as the judge may deem expedient, and all such further proceedings as the decision of such question of law may render unnecessary may thereupon be stayed.

Rule 3 - Special case to be signed [Return to Main Menu](#)

Every special case agreed pursuant to Rule 1 shall be signed by the several parties or their Legal Practitioners and shall be filed by the Plaintiff or other party having conduct of the proceedings.

Rule 4 - Application to set down where a person under legal disability is a party [Return to Main Menu](#)

An application to set down a special case in any cause or matter to which a person under legal disability is a party shall be supported by sufficient evidence that the statements contained in such case, so far as the same affects the interest of such persons are true.

Rule 5 - Agreement as to payment of money and costs [Return to Main Menu](#)

(1) The parties to a special case may, if they think fit, enter into an agreement in writing, which shall not be subject to any stamp duty, that on the judgment of the Court being given in the affirmative or negative on the question of law raised by the special case, a sum of money fixed by the parties or to be ascertained by the Court or in such manner as the Court may direct, shall be paid by one of the parties to the other of them, either with or without costs as the case may be.

(2) The judgment of the Court may be entered for the sum so agreed or ascertained, with or without costs, as the case may be, and execution may issue upon such judgment forthwith unless otherwise agreed or unless stayed on appeal.

Rule 6 - Application of order [Return to Main Menu](#)

This Order shall apply to every special case stated in a cause or matter and in any

proceedings incidental thereto.

Order 29 - CAUSE LISTS

Rule 1 - List of causes for hearing [Return to Main Menu](#)

(1) The Registrar shall keep a list (hereinafter called the Pre-Trial List) of actions directed to be set down for pre - trial conference under Order 25 Rule 3.

(2) The Registrar shall also keep a Weekly Cause List of all other actions which are ready for trial or hearing.

Rule 2 - Pre- Trial and weekly cause list [Return to Main Menu](#)

(1) The Registrar shall post up every Friday a Pre - Trial and Weekly Cause List which shall set out the arrangement of causes before each of the Judges sitting in Court during the following week.

(2) Nothing in this rule shall preclude the Chief Judge from making special arrangements whenever necessary or convenient, for the disposal of causes and matters included in the list.

Rule 3 - Public Holidays [Return to Main Menu](#)

Where any Friday is a public holiday, the Pre-Trial List and Weekly Cause List shall be posted up on the day last preceding which is not a public holiday.

Rule 4 - Judge unable to sit [Return to Main Menu](#)

On any day when a Judge shall be unable to sit in Court and deal with any cause or matter fixed for hearing, a minute, recording the parties present and the step taken by the Registrar, shall be entered on the Court file.

Rule 5 - Notice boards [Return to Main Menu](#)

Pre-Trial Lists and Weekly Cause Lists and other such lists shall be posted up on one or more notice boards set up in such place or places within or near the Court premises as the Chief Judge may designate.

Order 30 - PROCEEDING AT TRIAL

Rule 1 - Non-appearance of both parties [Return to Main Menu](#)

When a cause on the Weekly Cause List has been called for hearing and neither party appears, the Judge shall, unless he sees good reason to the contrary, strike the cause out.

Rule 2 - Default of appearance by defendant at trial [Return to Main Menu](#)

When a cause is called for hearing, if 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.

Rule 3 - Default of appearance by claimant [Return to Main Menu](#)

When a cause is called for hearing, if the defendant appears and the Plaintiff does not appear, the defendant, if he has no counterclaim, shall be entitled to judgment dismissing the action, but if he has a counterclaim, then he may prove such counterclaim, so far as the burden of proof lies upon him.

Rule 4 - Judgment by default may set aside on terms [Return to Main Menu](#)

(1) Where a cause is struck out under Rule 1 of this order either party may apply that the cause be replaced on the cause list on such terms as the Judge may deem fit.

(2) Any judgment obtained where any party does not appear at the trial may be set aside by the Judge upon such terms as he may deem fit.

(3) An application to re-list a cause struck out or to set aside a judgment shall be made within 6 days after the order or judgment or such other larger period as the Judge may allow.

Rule 5 - Adjournment of trial [Return to Main Menu](#)

The Judge may, if he thinks it expedient in the interest of justice, postpone or adjourn a trial for such time and upon such terms, if any, as he shall deem fit.

Rule 6 - Times of commencement and termination of trial [Return to Main Menu](#)

The Registrar or other proper officer present at any trial or hearing shall make a note of the times at which the trial or hearing commences and terminates respectively and the time it actually occupies on each day it goes on for communication to the Taxing officer if required.

Rule 7 - Order of proceedings [Return to Main Menu](#)

The order of proceeding at the trial of a cause shall be as prescribed in the following rules.

Rule 8 - Burden of proof by party to begin [Return to Main Menu](#)

The party on whom the burden of proof lies by the nature of the issues or questions between the parties shall begin.

Rule 9 - Documentary evidence [Return to Main Menu](#)

Documentary evidence shall be put in and may be read or taken as read by consent.

Rule 10 - Additional witness [Return to Main Menu](#)

(1) A party who desires to call any witness not being a witness whose deposition on oath accompanied his pleading shall apply to the Judge for leave to call such witness.

(2) An application for leave in sub-rule 1 above shall be accompanied by the deposition on oath on such witness.

Rule 11 - Close of case of parties [Return to Main Menu](#)

(1) A party shall close his case when he has concluded his evidence. Either the Plaintiff or defendant may make oral application to have the case closed.

(2) Notwithstanding the provisions of sub-rule 1 above, the Judge may suo-motu where he considers that either party fails to conclude his case within a reasonable time, lose the case for the party.

Rule 12 - Exhibits during trial [Return to Main Menu](#)

(1) The Registrar shall take charge of every document or object put in as an exhibit during the trial of an action and shall mark 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 proved) and with a number, so that all the exhibits put in by a party (or proved by a witness) are numbered in one consecutive series.

(2) The Registrar shall cause a list of all the exhibits in the action to be made.

(3) The list of exhibits when completed shall form part of the record of the action.

(4) For the purpose of this rule a bundle of documents may be treated and counted as one exhibit.

(5) In this rule a witness by whom an exhibit is proved includes a witness in the course of whose evidence the exhibit is put in.

Rule 13 - Written address by party beginning [Return to Main Menu](#)

When the party beginning has concluded his evidence, the Judge shall ask the other party if he intends to call evidence. If the other party does not intend to call evidence, the party beginning shall within 21 days after close of evidence file a written address. Upon being served with the written address, the other party shall within 21 days file his own written address.

Rule 14 - Written address by the other party [Return to Main Menu](#)

Where the order party calls evidence he shall within 21 days after the close of evidence file a written address.

Rule 15 - Written address of party beginning [Return to Main Menu](#)

Upon being served with other party's written address the party beginning shall within 21 days file his own written address.

Rule 16 - Right of Reply [Return to Main Menu](#)

The party who files the first address shall have a right of reply on points of law only. The reply shall be filed within 7 days after service of the other party's address.

Rule 17 - Custody of exhibits after trial [Return to Main Menu](#)

(1) An exhibit shall not be released after the trial to the exhibit after party who has put it in unless the period during which notice of appeal may be given has elapsed without such notice having been given, and then only if the trial Judge (or in his absence, another Judge) grants leave to release such exhibit on being satisfied:

(a) that the exhibit Will be kept duly marked and labelled and Will be produced, if

required at the hearing of an appeal (if any such appeal is lodged), or
(b) that the release of the exhibit Will not in any way prejudice any other party.

(2) After a notice of appeal has been filed, an exhibit produced at the trial shall not be released by the High Court unless leave to release such exhibits is granted by the Court of Appeal.

Rule 18 - Office copy of list of exhibits [Return to Main Menu](#)

(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.

(2) Where there is an appeal an office copy of the list of exhibits shall be included amongst the documents supplied for the purpose of the appeal.

Rule 19 - Indolent prosecution [Return to Main Menu](#)

A Judge may, suo motu or on application strike out any proceedings not being prosecuted diligently.

Order 31 - FILING OF WRITTEN ADDRESS

Rule 1 - Application [Return to Main Menu](#)

This order shall apply to all applications and final addresses.

Rule 2 - Contents of written address [Return to Main Menu](#)

A written address shall be printed on white opaque A4 size paper and set out in paragraphs numbered serially and shall contain:

- (i) the claim or application on which the address is based;
- (ii) a brief statement of the facts with reference to the exhibit attached to the application or tendered at the trial;
- (iii) the issues arising from the evidence;
- (iv) a succinct statement of argument on each issue incorporating the purport of the authorities referred to together with full of each such authority.

Rule 3 - Summation of address [Return to Main Menu](#)

All written addresses shall be concluded with a numbered summary of the points raised and the party's prayer. A list of all authorities referred to shall be submitted with the address. Where any unreported judgment is relied upon the Certified True Copy shall be submitted along with the written address.

Rule 4 - Oral argument [Return to Main Menu](#)

Oral argument of not more than twenty minutes shall be allowed for each party.

Rule 5 - Copies of written address [Return to Main Menu](#)

Each party shall file two copies of his written address in Court and serve a copy thereof on every party.

Order 32 - EVIDENCE GENERALLY

Rule 1 - Facts how proved [Return to Main Menu](#)

(1) Subject to these rules and to any enactment relating to evidence, any fact required to be proved at the trial of any action shall be proved by written deposition and oral examination of witnesses in open Court.

(2) All agreed documents or other exhibits shall be tendered from the bar or by the party where he is not represented by a Legal Practitioner.

(3) The oral examination of a witness during his evidence-in-Chief shall be limited to confirming his written deposition and tendering in evidence all disputed documents or other exhibits referred to in the deposition.

(4) Real evidence shall be tendered during the trial.

Rule 2 - Particular facts [Return to Main Menu](#)

(1) A Judge may, at or before the trial of an action, order or direct that evidence of any particular fact be given at the trial in such manner as may be specified by the order or direction.

(2) The power conferred by sub-rule 1 of this rule extends in particular to ordering or directing that evidence of any particular fact be given at the trial:

(a) by statement on oath of information or belief;

(b) by the production of documents or entries in books;

(c) by copies of documents or entries in books; or

(d) in the case of a fact which is or was a matter of common knowledge either generally or in a particular district, by the production of a specified newspaper which contains a statement of that fact.

Rule 3 - Limitation of medical and expert evidence [Return to Main Menu](#)

A Judge may, at or before the trial of an action order or direct that the number of medical or expert witnesses who may be called at the trial be limited as specified by the order or direction.

Rule 4 - Limitation on use of documentary evidence [Return to Main Menu](#)

Unless, at or before trial, or Judge for special reasons otherwise orders or directs, no document, plan, photograph or model shall be receivable in evidence at the trial of an action unless it has been filed along with the pleadings of the parties under these rules.

Rule 5 - Revocation and variation [Return to Main Menu](#)

Any order of direction under this Order may, on sufficient cause being shown, be evoked or varied by a subsequent order or direction of a Judge made or given at or before the trial.

Rule 6 - Office copies admissible in evidence [Return to Main Menu](#)

Office copies of all writs, processes, records, pleadings, and documents filed in the High Court shall be admissible in evidence in all matters to the same extent as the original would be admissible.

Rule 7 - Examination of witnesses abroad [Return to Main Menu](#)

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 such order shall file in the Registry an undertaking in the Form 23 which form may be varied as may as necessary to meet the circumstance of the particulars case in which it is used;

(b) such undertaking shall be accompanied by:

(i) a request in Form 24, with such modifications or variations as may be directed in the order for its issue, together with a translation in the language of the country in which it is to be executed (if not English)

(ii) a copy of the interrogatories (if any) to accompany the requests, with a translation if necessary;

(iii) a copy of the cross - interrogatories (if any) with a translation if necessary.

Rule 8 - Form of order for examination of witnesses abroad [Return to Main Menu](#)

Where an order is made for the examination of a witness or witnesses before the Nigerian Diplomatic Agent in any foreign country with which is Convention in that behalf have been made the order, shall be in Form 25, the form may be modified or varied as may be necessary to meet the circumstances of the particular case in which it is used.

Rule 9 - Order for attendance of person to produce document [Return to Main Menu](#)

The Judge may at any stage of any proceedings order the attendance of any person for the purpose of producing any writings of or other documents named in the order; Provided that 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.

Rule 10 - Disobedience to order for attendance [Return to Main Menu](#)

Any person willfully disobeying any order requiring his attendance for the purpose of being examined or producing any document shall be in contempt of Court, and may be dealt with accordingly.

Rule 11 - Expenses of persons ordered to attend [Return to Main Menu](#)

Any person required to attend for the purpose of being examined or of producing any document, shall be entitled to payment for expenses and loss of time occasioned by his attendance.

Rule 12 - Contempt of court [Return to Main Menu](#)

If any person duly summoned by subpoena to attend for examination shall refuse to attend or if having attended, he shall refuse to be sworn or to answer any lawful question he shall be in contempt of Court and may be dealt with accordingly by the judge.

Rule 13 - Examination of witnesses [Return to Main Menu](#)

When the examination of any witness before any examiner under Rule 7 above shall

have been conducted, the original depositions authenticated by the signature of the examiner, shall be transmitted by him to the Registry and filed.

Rule 14 - Depositions not to be given in evidence without or by leave of a Judge [Return to Main Menu](#)

Except where by this Order otherwise provided or directed by a judge, no deposition shall be given in evidence at the hearing or trial of the cause or matter without the consent of the party against whom the same may be offered, unless the judge 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 case the depositions certified under the hand of the person taking the examination shall be admissible in evidence, saving all just exception, without proof of the signature to such certificate.

Rule 15 - Oaths [Return to Main Menu](#)

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 be hereafter be made with any foreign country, may administer oaths.

Rule 16 - Attendance of witness under subpoena for examination or to produce documents [Return to Main Menu](#)

A party may by subpoena ad testificandum or duces tecum require the attendance of any witness before an officer of the Court or other person appointed to take the examination, for the purpose of using his evidence upon any proceeding in the cause or matter in like manner as such witness would be bound to attend and the examined at the hearing or trial; and any party or witness having made an affidavit to be used in any proceeding in the cause or matter shall be bound on being so subpoenaed to attend before such officer or person for cross examination.

Rule 17 - Practice as to taking evidence at any stage of cause or matter [Return to Main Menu](#)

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 cause or matter at any stage.

Rule 18 - Special directions as to taking of evidence [Return to Main Menu](#)

The practice of the Court with respect to evidence at a trial, when applied to evidence to be taken before an officer of the Court or other person in any cause or matter after the hearing or trial, shall be a subject to any special directions which may be given in any case.

Rule 19 - Evidence in proceedings subsequent to trial [Return to Main Menu](#)

Subject to the provisions of Section 34 of the Evidence Act, 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.

Rule 20 - Form of praecipe for a subpoena [Return to Main Menu](#)

Where it is intended to issue out a subpoena a praecipe for that purpose in Form 26

containing the name or firm and the place of business or residence of the Legal Practitioner intending to issue out the same, and where such Legal Practitioner is 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. 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.

Rule 21 - Form of Subpoena [Return to Main Menu](#)

A subpoena shall be in one of Form 27, 28 or 29 with such variations as circumstances may require.

Rule 22 - Subpoena for attendance of witness in Chambers [Return to Main Menu](#)

Where a subpoena is required for the attendance of a witness for the purpose of proceedings in Chambers, such subpoena shall issue from the Registry upon the Judge's directive.

Rule 23 - Correction of errors in subpoena [Return to Main Menu](#)

In the interval between the issue and service of any subpoena the Legal Practitioner issuing it may correct any error in the names of parties or witnesses, and may have the writ resealed upon leaving a corrected praecipe of the subpoena marked with the words "altered and resealed", with the signature, name and address of the Legal Practitioner.

Rule 24 - Personal service of subpoena [Return to Main Menu](#)

A subpoena shall be served personally unless substituted service has been ordered by a Judge in a case where a person persistently evades service. The provisions of Order 7 shall so far as possible apply to service and proof of service of a Subpoena.

Rule 25 - Duration of subpoena [Return to Main Menu](#)

Any subpoena shall remain in force from the date of issue until the trial of the action or matter in which it is issued.

Rule 26 - Action to perpetuate testimony [Return to Main Menu](#)

Any person who would under the circumstances alleged by him to exist become entitled, upon the happening of any future event, to any honour, title, dignity or office, or to any estate or interest in any property, real or personal the right or claim which cannot be brought to trial by him before the happening of such event, may commence an action to perpetuate any testimony which may be material for establishing such right or claim.

Rule 27 - Examination of witnesses to perpetuate testimony [Return to Main Menu](#)

A witness shall not be examined to perpetuate his testimony unless an action has been commenced for that purpose.

Rule 28 - Such action not to be set down for trial [Return to Main Menu](#)

No action to perpetuate the testimony of a witness shall be set down for trial

Order 33 - AFFIDAVITS

Rule 1 - Evidence on motions etc [Return to Main Menu](#)

Upon any motion, petition, summons or other application, evidence may be given by affidavit, but the Judge may, suo motu or on application, order the attendance for cross-examination of the deponent and where, after such an order has been made the person in question does not attend, his affidavit shall not be used as evidence save by special leave.

Rule 2 - Title of affidavit [Return to Main Menu](#)

Every affidavit shall bear the title in the cause or matter in which it is sworn but in every case in which there is more than one Plaintiff or defendant, it shall be sufficient to state the full name of the first Plaintiff or defendant respectively, and that there are other Plaintiffs or defendants, as the case may be.

Rule 3 - Use of defective affidavit [Return to Main Menu](#)

The Judge may received any affidavit sworn 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, any may direct a memorandum to be made on the document that it has been so received.

Rule 4 - Special time for filing affidavits [Return to Main Menu](#)

Where a special time is limited for filing affidavit, no affidavit filed after that time shall be used, unless by leave of the Judge.

Rule 5 - Affidavits in support of ex-parte applications [Return to Main Menu](#)

Except by leave of the Judge no order made ex-parte in Court founded on any affidavit shall be of any force unless the affidavit on which the application was based was made before the order was applied for, and produced or filed at the time of making the application.

Rule 6 - Notice of intentions to use affidavit [Return to Main Menu](#)

The party intending to use any affidavit in support of any application made by him shall give notice to the other parties concerned.

Rule 7 - Alterations in accounts to be initiated [Return to Main Menu](#)

Every alteration in any account verified by affidavit shall be marked with the initials of the commissioner before whom the affidavit is sworn and such alterations shall not be made by erasure.

Rule 8 - Exhibits [Return to Main Menu](#)

Accounts, extracts from registers, particulars of creditors' debt, and other documents referred to by affidavit, shall not be annexed to the affidavit or referred to as annexed, but shall be referred to as exhibits.

Rule 9 - Certificate of exhibit [Return to Main Menu](#)

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.

Rule 10 - Application of the Evidence Act LFN Cap. 112 [Return to Main Menu](#)

The provisions of sections 79 to 90 of the Evidence Act which set out provisions governing affidavit shall be applicable under these rules.

Order 34 - NON-SUIT

Rule 1 - Non-suit abolished [Return to Main Menu](#)

Where satisfactory evidence is not given entitling the Plaintiff or defendant to the judgment of the Court, the Judge may suo motu or on application non - suit the Plaintiff, but the parties' Legal Practitioners shall have the right to make submissions about the propriety or otherwise of making such order.

Rule 2 [Return to Main Menu](#)

The Judge may upon a motion for a new trial or review of judgment, order a non - suit or judgment to be entered, although no leave has been reserved at the trial.

Order 35 - JUDGMENT, ENTRY OF JUDGMENT

Rule 1 - Delivery of judgment at or after trial [Return to Main Menu](#)

The Judge shall, at the pre - trial conference or after trial, deliver judgment in open Court and shall direct judgment to be entered.

Rule 2 - Date of judgment pronounced in court [Return to Main Menu](#)

Where any judgment is pronounced by a Judge the judgment shall be dated as of the day on which such judgment is pronounced and shall take effect from that date unless the Judge otherwise orders.

Rule 3 - Date of judgment directed to be entered [Return to Main Menu](#)

When any judgment is directed to be entered by an order made on application for judgment, the judgment shall, unless the Judge otherwise orders, be dated as of the day on which the order is made and take effect from that date. Provided that the order may direct that the judgment shall not be entered until a given date, in which case it shall take effect from that date.

Rule 4 - Judge may direct time for payment or performance and interest [Return to Main Menu](#)

The Judge at the time of making any judgment or order or at any time afterwards, may direct the time within which the payment is to be made or other act is to be done, reckoned from the date of judgment or order, or from some other point of time, as the Judge deems fit and may order interest at a rate not less than 10% per annum to be paid upon any judgment.

Rule 5 - Time to be stated for doing any act [Return to Main Menu](#)

Every judgment or order made in any cause or matter requiring any person to do an act shall state the time or the time after service of the judgment or order, within which the act is to be done, there shall be indorsed on the judgment or order a memorandum by the Registrar in the following words, viz: "If you, the within-named A, B, neglect to obey this judgment (or order) by the time therein limited, you Will be liable to process of execution for the purpose of compelling you to obey the said judgment (or order)" and same shall be served upon the person required to obey the judgment or order.

Rule 6 - Judgment by consent where defendant appears by a Legal Practitioner [Return to Main Menu](#)

In any cause or matter where the defendant has appeared by Legal Practitioner, no order for entering judgment shall be made by consent unless the consent of the defendant is given by his Legal Practitioner or agent.

Rule 7 - Judgment by consent where defendant has no Legal Practitioner [Return to Main Menu](#)

Where the defendant has no Legal Practitioner such order shall not be made unless the defendant gives his consent in person in open Court.

Order 36 - DRAWING UP OF ORDERS

Rule 1 - Date of order, when drawn [Return to Main Menu](#)

Every order shall bear the date on which it was made, unless the Judge otherwise directs and shall take effect accordingly.

Rule 2 - What orders need not be drawn up [Return to Main Menu](#)

Where an order has been made not embodying any special terms, nor including any special directions, but simply enlarging time for taking any proceeding or doing any act or giving leave.

- (a) for the issue of any writ other than a writ of attachment;
- (b) for the amendment of any writ or pleading;
- (c) for the filing of any document; or

(d) for any act to be done by any officer of the Court other than a Legal Practitioner, it shall not be necessary to draw up such other unless the Judge otherwise directs, but the production of a note or memorandum of such other signed by a Judge shall be sufficient authority for such enlargement of time, issue, amendment, filing or other act. A direction that the costs of such order shall be costs in any cause or matter shall not be deemed to be a special direction within the meaning of this rule.

Rule 3 - Form of order [Return to Main Menu](#)

An order shall be sealed, and shall be marked with the name of the Judge by whom it is made.

Order 37 - TRANSFERS AND CONSOLIDATION

I. TRANSFERS

Rule 1 - Order transferring proceedings to High Court [Return to Main Menu](#)

Where the Chief Judge has in exercise of any powers conferred on him by any relevant law, ordered the transfer of any action or matter from a lower Court to the High Court, a copy of the order duly certified by the Registrar shall forthwith be sent to the registrar of the lower Court and the latter shall forthwith transmit to the High Court the documents referred to in the relevant law and other necessary documents and processes.

Rule 2 - Payment of filing fees [Return to Main Menu](#)

(1) On receipt by the Court of the relevant document and processes, the Registrar shall notify the party who applied for the transfer, or where the transfer was not made on the application of any party, the Plaintiff, to attend at the registry and pay the fees for filing the documents. Such payment shall be without prejudice to the question of how the cost shall ultimately be borne.

(2) Such notification shall be effected by serving a notice personally on the party concerned, or, where an address for service has been given by such party, at that address.

Rule 3 - Duties of Registrar [Return to Main Menu](#)

(1) The Registrar shall on payment of the prescribed fees, in any case not later than 7 days:

- (a) file the documents received from the Lower Court ;
- (b) make an entry of the filing in the Cause Book; and
- (c) transmit the documents to the Chief Judge or such other judge appointed by the Chief Judge.

(2) The Registrar shall then give notice to the parties to attend in person or by counsel before a named judge on the day and at the time specified in the notice. The fees for the service of this notice shall be borne in the first instance by the party who has paid the fees for filing as provided by Rule 2 of this Order.

Rule 4 - Directions [Return to Main Menu](#)

(1) The Chief judge or such other judge appointed by him shall, not later than 14 days after receiving the documents referred to in Rule 3 of this order:

- (a) hear the parties or their Legal Practitioners;
- (b) take cognizance of the documents; and thereafter;
- (c) give directions for the trial or hearing of the action or matter.

(2) Direction given under this rule may include directions for the filing and service of pleadings.

Rule 5 - Party failing to attend [Return to Main Menu](#)

(1) If the Plaintiff fails to attend in compliance with a notice given under sub-rule 2 of Rule 3 of this Order, the judge shall record his default and may, suo motu or on application, dismiss the action or matter. Upon an application by a defendant to dismiss the action or matter, the judge may either dismiss the action or matter upon such terms as may be just or make such other order on such terms as he deems just.

(2) If the defendant fails or all of several defendants fails to attend in compliance with a notice given under sub-rule 2 of Rule 3, the plaintiff may obtain judgment with costs or obtain the order prayed for in the transferred proceedings.

Rule 6 - Construction [Return to Main Menu](#)

In the preceding rule of this Order, the references to the Plaintiff and the defendant shall, in relation to proceedings commenced otherwise than by writ, be construed as references to the applicant and the respondent.

II. CONSOLIDATION

Rule 7 - Consolidation of actions [Return to Main Menu](#)

(1) The judge may on application consolidate several action pending before him where it appears that the issues are the same in all the actions, and can therefore be properly tried and determined at the same time.

(2) Where actions are pending before different judges, a party desiring consolidation shall first apply to the Chief Judge or such other judge appointed by the Chief Judge for transfer of the matter to a judge before whom one or more of the matter is pending.

(3) An order to consolidate may be made where two or more actions are pending between the same Plaintiff and the same defendant or between the same Plaintiff and different defendants or between different Plaintiffs and the same defendant or between different Plaintiffs and different defendants. Provided that where the same Plaintiff brings actions against different defendants, they will not be consolidated without the consent of all parties unless the issues to be tried are identical.

(4) Where an order for consolidation has been made, it shall be drawn up at the expenses of the party or parties who applied for consolidation and shall be recorded in the Cause Book.

Rule 8 - Appointed by the Chief Judge [Return to Main Menu](#)

Order 38 - INTERLOCUTORY ORDERS, ETC

Rule 1 - Preservation or interim custody of subject-matter of disputed contract [Return to Main Menu](#)

(1) When by any contract a prima facie case of liability is established and there is alleged as a matter of defence a right to be relieved wholly or partially from such liability, a Judge may make an order for the preservation or interim custody of the subject- matter of the litigation or may order that the amount in dispute be brought in court or otherwise secured.

(2) An application for an order under Rule 1 sub-rule 1 of this order may be made by the Plaintiff at any time after his right thereto appears from the pleadings.

Rule 2 - Early trial of cause [Return to Main Menu](#)

Whenever an application shall be made before trial for an injunction or other order and on the opening of such application, or at any time during the hearing thereof, it shall appear to the Judge that the matter in controversy in the cause or matter is one which can be most conveniently dealt with by an early trial without first going into the whole merits of affidavit or other evidence for the purpose of the application, it merits on affidavit or other evidence for the purpose of the application, it shall be lawful for the Judge to make and order for such trial accordingly and in the meantime to make such a order as the Justice of the cause may require.

Rule 3 - Order for sale of perishable goods, etc [Return to Main Menu](#)

The Judge may upon the application of any party make any order for the sale by any person or persons named in such order and in such manner and on such terms as the judge may seem desirable, of any goods m wares, or merchandise which may be of a perishable nature, or likely to injure from keeping or which for any other just and sufficient reason it may be desirable to sell at once.

Rule 4 - Detention, preservation or inspection of property; the subject of an action. [Return to Main Menu](#)

(1) A Judge may upon the application of any party to an action or matter and upon such terms as may be just, make any order for the detention, preservation or inspection of any property or thing, being the subject of such an action or matter or as to which any question may arise therein, and for all or any of the purposes aforesaid authorize any person to enter upon or into any land or building in the possession of any party to such action or matter, and for all or any of the purposes aforesaid authorize any sample, to be taken or any observation to be made or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence.

(2) Where an order for the inspection of any property or thing is made on application under this rule (including an application made before any pleadings have been delivered in the action or matter) it appears that inspection was requested in writing by the applicant and was not given, then, unless the Judge is satisfied that the respondent did not unreasonably fail or refuse to permit the inspection, the Judge is satisfied that the respondent did not unreasonably fail or refuse to permit the inspection , the Judge shall order the costs to be paid by the respondent in any event and except where the respondent is a "Poor Person", shall order the costs to be paid forthwith .

(3) The Judge by whom any action or matter may be heard or tried, may inspect any property or thing concerning which any question may arise therein.

Rule 5 - Sale of property in possession of Court [Return to Main Menu](#)

(1) Where any property is in possession of the Court either before or after judgment and it has remained so for a period of 2 months, a Judge may suo motu make an order for the sale of that property and the proceeds thereof to be paid into an interest yielding account in a commercial bank directed by the Judge for the benefit of the person that succeeds at the trial or on appeal.

(2) The money paid after disposal of any goods or chattel shall be withdrawn from the

bank by the successful party who shall present to the Chief Registrar a certified true copy of the emolument of the judgment.

Rule 6 - Order for recovery of specific property other than land subject to lien, etc. [Return to Main Menu](#)

Where an action or counterclaim is filed to recover specific property and the party from whom such recovery is sought does not dispute title but claims to retain the property by virtue of a lien or otherwise as security for any sum of money, the Judge may at the pre-trial conference order that the party claiming 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 lien or security is claimed and such further sum, if any for interest and costs as the Judge may direct and that upon such payment into Court being made, the property claimed be given up to the party claiming it.

Rule 7 - Allowance of income of property pendent elite [Return to Main Menu](#)

Where any real or personal estate or property forms the subject of any proceedings and the Judge is satisfied that the same Will be more than sufficient to answer all the claims therein which ought to be provided for in such proceedings, the Judge may at any time after the commencement of the proceedings, allow the parties interested therein or anyone or more of them, the whole or part of the annual income of the real estate or a part of the personal estate or property or the whole or part of the income thereof, up to such time as the Judge shall direct.

Rule 8 - Injunction against repetition of wrongful act for breach of contract [Return to Main Menu](#)

In any action or matter in which an injunction has been or might have been claimed, the Plaintiff may, before or after judgment, apply for an injunction to restrain the defendant or respondent from the repetition or continuance of the wrongful act or breach of contract complained of or from the commission of any injury relating to the same property or right or arising out of the same contract and the Judge may grant the injunction either upon or without terms as may be just.

Rule 9 - Appointment of a receiver by way of equitable execution [Return to Main Menu](#)

In every case in which an application is made for the appointment of a receiver by way of equitable execution, the Judge in determining whether it is just or convenient that such appointment should be made shall have regard to the amount of the debt claimed by the applicant, to the amount which may probably be obtained by the receiver and to the probable costs of his appointment and may if the Judge shall deem fit, direct any inquiries on these or other matters before making the appointment.

Rule 10 - Receivers: Security and remuneration [Return to Main Menu](#)

Where an order is made directing a receiver to be appointed, unless otherwise ordered, the person to be appointed shall first give security, to be approved by the Judge, duly to account for what he shall receive as such receiver, and to pay the same as the Judge shall direct; and the person so to be appointed shall, unless otherwise ordered be allowed a proper salary or allowance. The security to be given shall be by guarantee or by an undertaking in from 30 and 31 with such variations as circumstances may require. The undertaking shall be filed in the Registry and form part of the record of proceedings until it has been duly vacated.

Rule 11 - Where receiver appointed in court: adjournment to give security
[Return to Main Menu](#)

Where any judgment or order is pronounced or made in Court appointing a person therein named to be receiver the Court may adjourn the proceedings then pending, in order that the person named as receiver may give security as in the last preceding rule mentioned, and may there upon direct such judgment or order to be drawn up.

Rule 12 - Fixing days for receivers to leave and pass their accounts and pay in balances and neglect of receiver
[Return to Main Menu](#)

When a receiver is appointed with a direction that he shall pass accounts, the Judge shall fix the days upon which he shall (quarterly or at shorter periods) leave and pass such accounts, and also the days upon which he shall pay the balances appearing due on the accounts so left, or such part of them as shall be certified as proper to be paid by him. With respect to any such receiver as neglects to leave and pass his account and pay the balances at the times fixed for the purpose as aforesaid, the Judge may from time to time, when his subsequent accounts are produced to be examined and passed, disallow the salary claimed by such receiver and may also charge him with interest at a rate not exceeding twenty - five per cent per annum upon the balances to neglected to be paid by him during the time the same appears to have remained in his hands.

Rule 13 - Form of receiver's account
[Return to Main Menu](#)

Receiver's accounts shall be in Form 32 with such variations as circumstances may require.

Rule 14 - Leaving account at the Registry
[Return to Main Menu](#)

Every receiver shall deliver to the Registrar his account, together with an affidavit verifying the same in Form 33 with such variations as circumstances may require. An appointment shall thereupon be obtained by the Plaintiff or person having the conduct of the action for the purpose of passing such account.

Rule 15 - Consequences of default by receiver
[Return to Main Menu](#)

Where any receiver fails to leave any account or affidavit or to pass such account or to make any payment or otherwise, the receiver or the parties or any of them, may be required to show cause why such account passed or such payment was made or any other proper proceedings taken and thereupon such directions as shall be proper may be given, including the discharge of any receiver and appointment of another and payment of costs.

Rule 16 - Passing of guardian's account
[Return to Main Menu](#)

The accounts of guardians shall be passed and verified in the same manner as is by this Order directed as to receiver's accounts.

Order 39 - MOTIONS AND OTHER APPLICATIONS

Rule 1 - Application by motion
[Return to Main Menu](#)

(1) Where by these rules any application is authorized to be made to a Judge, such

application shall be made by motion which may be supported by affidavit and shall state under what rule of Court of Law the application is brought. Every motion shall be served within 5 days of filing.

(2) Every such application shall be accompanied by a written address in support of the relief sought.

(3) Where the other party intends to oppose the application, he shall within 7 days of the service on him of such application, file his written address and may accompany it with a counter affidavit.

(4) The applicant may on being served with the written address of the opposing party file and serve an address in reply on point of law within 7 days of being served. Where a counter affidavit is served on the application he may file further affidavit with his reply.

Rule 2 - Restriction on rule nisi and other to show cause [Return to Main Menu](#)

No motion for application for a rule nisi or order to show cause shall be made in any action.

Rule 3 - When notice of motion should be given - [Return to Main Menu](#)

(1) Except where an application ex-parte is required or permitted under and law or rules, every motion shall be on notice to the other party.

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

(3) An order of injunction made upon an application ex-parte shall abate after 7 days.

(4) A Judge may upon application extend the effective period of an order made ex-parte if he is satisfied that the motion on notice have been served and that such extension is necessary in the interest of justice or to prevent an irreparable or serious mischief. The application for such an extension shall be made before abatement of the order and the extension shall not be for a period exceeding 7 days from the day the extension is granted.

Rule 4 - Motion on arbitral award - [Return to Main Menu](#)

(1) Every motion on notice to set aside, remit or enforce an arbitral award shall state in general terms the grounds of the application and where any such motions is founded on evidence by affidavit, a copy of any affidavit intended to be used shall be served with the notice of motion.

(2) The party relying on an award, on applying for its enforcement shall supply;

(a) the duly authenticated original award or a duly certified copy thereof;

(b) the original arbitration agreement or a duly certified copy thereof;

(3) An award made by an arbitrator or a decision reached at the Multi-Door Court House may by leave of a Judge be enforced in the same manner as a judgment or order of Court.

(4) An application to set aside or remit any award may be made at any time within 6 weeks after such award has been made, and published to the parties: Provided that a

Judge may by order extend the said time either before or after the same has elapsed.

Rule 5 - Special leave [Return to Main Menu](#)

Unless a Judge grants special leave to the contrary, there must be at least 2 clear days between the service of all processes in respect of a motion and the day named in the notice for hearing the motion.

Rule 6 - Motions may be dismissed or adjourned where necessary notice not given [Return to Main Menu](#)

If on the hearing of a motion or other application the Judge shall be of opinion that any person to whom notice has not been given ought to have had such notice, the Judge may either dismiss the motion or application or adjourn the hearing thereof, in order that such notice may be given upon such terms, if any, as the Judge may deem it fit to impose.

Rule 7 - Adjournment of hearing [Return to Main Menu](#)

The hearing of any motion or application may from time to time be adjourned upon such terms, if any as the Judge shall deem fit: Provided that application for adjournment at the request of a party shall not be more than two times.

Rule 8 - Service of motion with writ [Return to Main Menu](#)

A Plaintiff may file any application along with an originating process and may serve both on any defendant simultaneously.

Rule 9 - Account by Legal Practitioner [Return to Main Menu](#)

Where the relationship of Legal Practitioner and client exists or has existed a summons may be issued by the client or his representative for the delivery of a cash account or the payment of moneys or the delivery of securities, and a Judge may from time to time order the respondent to deliver to the applicant a list of the moneys or securities which he has in the custody or control on behalf of the applicant or to bring into Court the whole or any part of the same, within such time as the Judge may order. In the event of the respondent alleging that he has a claim for costs, the Judge may make such provision for the taxation and the payment or security thereof or the protection of the respondent's lien (if any) as he may deem fit.

Rule 10 - Interim certificate [Return to Main Menu](#)

If during the taxation of any bill of costs or the taking of any account between Legal Practitioner and client, it shall appear to the taxing officer that there must, in any event be moneys due from the Legal Practitioner to the client, the taxing officer may from time to time make an interim certificate as to the amount so payable by the Legal Practitioner. Upon the filing of such certificate, a Judge may order the money so certified to be forthwith paid to the client or brought into Court.

Order 40 - Application for Judicial Review

Rule 1 - Cases appropriate for application for judicial review [Return to Main Menu](#)

(1) An application for:

(a) an order for mandamus, prohibitions 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 in rule (1) (b) of this Rule) may be made by way of an application for judicial review and the Court may grant the declaration or injunction if it deems it just and convenient to grant it by way of judicial review, having regard to:

- (a) the nature of the matters in respect of which relief may be granted by way of an order of mandamus, prohibition or certiorari ;
- (b) the nature of the persons and bodies against whom relief may be granted by way of such an order;
- (c) all the circumstances of the case.

Rule 2 - Joinder of claims for relief [Return to Main Menu](#)

On an application for judicial review any relief mentioned therein may be claimed as an alternative or in addition to any other relief so mentioned if it arises out of, relates to or is connected with the same matter.

Rule 3 - Grant of leave to apply for judicial review [Return to Main Menu](#)

(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 Judge and shall be supported by:

- (a) a statement setting out the name and description of the applicant, the reliefs sought and the grounds on which they are sought;
- (b) an affidavit verifying the facts relied on and
- (c) a written address in support of application for leave.

(3) The Judge hearing an application for leave may allow the applicant's statement to be amended, whether by specifying different or additional grounds of relief or otherwise on such terms, if any, as he deems fit.

(4) The Judge shall not grant leave unless he considers that the applicant has a sufficient interest in the matter to which the application relates.

(5) 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 proceeding which is subject to appeal and a time is limited for the bringing of the appeal, the Judge may adjourn the application for leave until the appeal is determined or the time for appealing has expired.

(6) Where leave to apply for judicial review is granted, then:

- (a) if the relief sought is an order or prohibition or certiorari and the Judge 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 Judge otherwise orders;
- (b) if any other relief is sought, the Judge may at any time grant in the proceedings such interim relief as could be granted in an action begun by writ.
- (c) the Judge may impose such terms as to costs and as to giving security as he deems fit.

Rule 4 - Time within which to bring application [Return to Main Menu](#)

An application for judicial review shall be brought within 3months of the date of occurrence of the subject of the application.

Rule 5 - Mode of applying for judicial review [Return to Main Menu](#)

(1) When leave has been granted the application shall be made by motion or by originating the summons.

(2) The notice of motion or summons shall be served on all persons directly affected and where it relates to any proceedings before a Lower Court Judge and the object of the application is either to compel the Lower Court Judge or an officer of the Lower Court to do any act in relation to the proceeding, or to quash them or any order made therein, the notice or summons shall also be served on the Clerk or Registrar of the Lower Court and where any objection to the conduct of the Lower Court Judge is to be made, on the Lower Court Judge.

(3) Unless the Judge granting the leave has otherwise directed, there shall be at least 7 days between the service of the notice of motion or summons and the day named therein for the hearing.

(4) A motion shall be entered for hearing within 14 days after the grant of leave.

(5) An affidavit giving the names and addresses of and the places and dates of service on all persons who ought to be served 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 Judge on the hearing of the motion or summons.

(6) If on the hearing of the motion or summons the Judge is of the opinion that any person who ought, whether under this rule or otherwise to have been served has not been served, the Judge may adjourn the hearing on such terms, if any, as he may direct in order that the notice of summons may be served on that person.

Rule 6 - Statements and affidavits [Return to Main Menu](#)

(1) Copies of the statement in support of an application for leave under Rule 3 shall be served with the notice of motion or summons and subject to sub rule 2, no grounds shall be relied upon or any relief sought at the hearing except the grounds and relief set out in the statement.

(2) The Judge may an the hearing of the motion or summons allow the applicant to amend his statement whether by specifying different or additional ground of relief or otherwise, on such terms, if any, as he deems fit and may allow further affidavits 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 affidavit, 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 a copy 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.

Rule 7 - Claim for damages [Return to Main Menu](#)

On an application for judicial review the Judge may, subject to Rule 2, award damages to the applicant if:

(a) he has included in the statement in support of his application for leave under Rule 3 a claim for damages arising from any matter to which the application relates and

(b) the judge 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.

Rule 8 - Interlocutory application [Return to Main Menu](#)

Any interlocutory application in proceedings on an application for judicial review may be made to the Judge.

Rule 9 - Hearing of application for judicial review [Return to Main Menu](#)

(1) On the hearing of any motion or summons under Rule 5, any person who desires to be heard on the motion or summons, and appears to the Judge 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 Judge 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, the order shall, subject to sub-rule 4, direct that the proceedings shall be quashed forthwith on their removal into Court.

(4) Where the relief sought is an order of certiorari and the Judge is satisfied that there are grounds for quashing the decision to which the application relates, the Judge 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 Judge.

(5) Where the relief sought is a declaration, an injunction or damages and the Judge 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 Judge may, instead of refusing the application, order the proceedings to continue as if they had been begun by writ.

Rule 10 - Person acting in obedience to an order of mandamus [Return to Main Menu](#)

No action or proceeding shall be brought or prosecuted against any person in respect of any thing done in obedience to an order of mandamus.

Rule 11 - Consolidation of applications [Return to Main Menu](#)

Where there is more than one application pending against several persons in respect of the same matter and on the same ground, the Judge may order the applications to be

Order 41 - Jurisdiction of Chief Registrar

Rule 1 - Chief Registrar [Return to Main Menu](#)

In this order, any reference to the Chief Registrar means the Chief Registrar of the High Court and includes the Deputy Chief Registrar.

Rule 2 - Business to be transacted by Chief Registrar [Return to Main Menu](#)

The Chief Registrar may transact all such business and exercise all such authority and jurisdiction as may be transacted or exercised by a Judge in respect of the following matters:

- (a) application for the taxation and delivery of bills of costs and applications for the delivery by any Legal Practitioner of deeds, documents and papers;
- (b) the taking of an account in any case where a Judge has ordered that the account be taken by the Chief Registrar;
- (c) the taxation of bills of costs;
- (d) application leading to the issue of the grant of probate of the Wills of Letters of Administration of the estates of deceased person in non-contentious or common form probate business.

Rule 3 - Chief Registrar may refer matters to the Chief Judge [Return to Main Menu](#)

If any matter appears to the Chief Registrar proper for the decision of a Judge, he may refer the same to the Chief Judge or the Judge who referred the matter to the Chief Registrar. The Chief Judge or the Judge may either dispose of the matter or refer the same back to the Chief Registrar with such directions as he may deem fit.

Rule 4 - Appeal from order of Chief Registrar [Return to Main Menu](#)

Any person affected by an order or decision of the Chief Registrar in the exercise of the jurisdiction conferred upon him by this order may appeal therefore to a Judge. Such appeal shall be by notice in writing to attend before the Judge without a fresh summons within five days after the decision complained of or such further time as may be allowed by the Judge. Unless otherwise ordered, there shall be at least 2 clear days between service of the notice of appeal and the day of hearing. An appeal from the decision of the Chief Registrar shall not operate as a stay of proceedings unless so ordered by the Judge.

Rule 5 - Chief Registrar's list [Return to Main Menu](#)

Lists of matters to be heard by the Chief Registrar shall be made out and published by being posted on the Courts notice boards.

Rule 6 - Legal Practitioner may represent party [Return to Main Menu](#)

In any proceedings before the Chief Registrar under the jurisdiction vested in him by this order, a Legal Practitioner may represent any party.

I- Chief Registrar's Certificate

Rule 7 - Certificate [Return to Main Menu](#)

Except as otherwise provided for in these rule, the directions to be given for or concerning any proceedings before the Chief Registrar shall require no particular form, but the result of such proceedings shall be stated in a concise certificate.

Rule 8 - Reference to judgment etc. [Return to Main Menu](#)

The certificate of the Chief Registrar regarding accounts and inquiries shall not, unless the circumstances of the case render it necessary, set out the judgment or order, or any documents or evidence or reasons but shall refer to the judgment or order, document and evidence or particular paragraphs thereof, so that it may appear upon what the result stated in the certificate is founded.

Rule 9 - Form of certificate [Return to Main Menu](#)

(1) In case of accounts and inquiries the certificate of the Chief Registrar shall be in form 34 with such variations as the circumstances may require.

(2) The certificate shall state the result of the account and not set the same out by way of schedule, but shall refer to the account verified by the affidavit filed and shall specify by the numbers attached to the items in the account which (if any) of such items have been disallowed or varied and shall state what additions (if any) have been made by way of surcharges or otherwise and where the account verified by the affidavit has been so altered that it is necessary to have a fair transcript of the account so altered, such transcript may be required to be made by the party prosecuting the judgment or order and shall then be referred to by the certificate. The accounts and the transcripts (if any) referred to by the certificate shall be filed therewith.

Rule 10 - When certificate becomes binding [Return to Main Menu](#)

Every certificate with the account (if any) to be filed therewith shall be transmitted by the Chief Registrar for filing and shall thenceforth be binding on all the parties to the proceedings unless discharged or varied upon an application made to a Judge before the expiration of 8 clear days after the filing of the certificate.

Rule 11 - Bill of costs [Return to Main Menu](#)

When taxing a bill of cost the Chief Registrar shall insert in red ink against every item disallowed, reduced or altered by him the substance of the modification made by him and at the bottom of the bill of cost he shall certify the net result of the taxation. The bill of costs shall then be transmitted by the Chief Registrar to the registry for filing and the provisions of Rule 10 of this order shall apply in respect of such certificate.

Rule 12 - Discharge or variation of certificate after lapse of time [Return to Main Menu](#)

The Judge may, if the special circumstances of the case require, upon an application direct a certificate to be discharged or varied at any time after the same has become binding on the parties.

Order 42 - HABEAS CORPUS, ATTACHMENT FOR CONTEMPT

I. HABEAS CORPUS

Rule 1 - Application how made [Return to Main Menu](#)

An application for an order of habeas Corpus Ad Subjiciendum shall be made to the Court, except that:

- (a) in vacation or at any time when no Judge is sitting in Court it may be made to a Judge sitting otherwise than in Court.
- (b) in cases where the application is made behalf of a child, it shall be made in first instance to a Judge sitting otherwise than in Court.

Rule 2 - Affidavit to accompany ex-parte application [Return to Main Menu](#)

(1) The application may be made ex-parte and shall be accompanied by an affidavit by the person restrained showing that it is made at his instance and setting out the nature of the restraint.

(2) Where the person restrained is unable owing to the restraint to make the affidavit, the application shall be accompanied by an affidavit to the like effect made by some other person which shall state that the person restrained is unable to make the affidavit himself.

Rule 3 - Power to issue order of release immediately [Return to Main Menu](#)

(1) A Judge to whom the application is made may make the order for with.

(2) Where the applications is made to a Judge sitting otherwise than in Court he may direct the order to issue or that an application therefore be made by notice of motion to the Judge or to a Judge.

(3) A Judge to whom the application is made may adjourn it so that notice thereof may be given to the jailer.

(4) Where the person detained is produced before a Judge he may discharge him immediately with or without conditions.

Rule 4 - Service of notice [Return to Main Menu](#)

(1) The summons or notice of motion aforesaid shall be served on the person against whom the order is sought and on such other persons as the Judge may direct.

(2) Unless the Judge otherwise directs, there shall be at least 2 clear days between the service of the notice and the date named for the hearing of the application.

Rule 5 - Copies of affidavits [Return to Main Menu](#)

Every party to the application shall supply to the other party or parties copies of the affidavits which he proposes to use at the hearing of the application.

(1) The order or notice of motion may be served personally or by courier on a jailer where the person is confined or restrained or on any other public official and copies of the order or motion may be served in like manner on each person connected with or having authority over the place of confinement or restraint.

(2) The order shall contain the date on which the person restrained is to be brought before a Judge and that in default of obedience, proceedings for attachment of the party disobeying will be taken.

Rule 6 - Service of order to release [Return to Main Menu](#)

Rule 7 - Statement and verifying affidavit [Return to Main Menu](#)

Upon service of the order to notice of motion on the jailer, he shall within 2 days file a statement stating the reasons for the detention, the period of the detention and any other matter that may be directed by the Judge, The statement shall be verified by an affidavit deposed to by the jailer.

Rule 8 - Procedure at hearing [Return to Main Menu](#)

(1) Where the prisoner is brought up in accordance with the order, his Legal Practitioner shall be heard first, then the Legal Practitioner for the state and then the Legal Practitioner for the prisoner in reply.

(2) Where the prisoner is not brought in accordance with the order, a Judge may upon the application of his Legal Practitioner order that he be discharged or make any other order.

II. Attachment for Contempt

Rule 9 - Committal for contempt of court [Return to Main Menu](#)

(1) The procedure in applications for attachment for contempt of Court in cases to which this rule applies shall be the same as for applications for an order for judicial review under order 40 so far as may be applicable.

(2) The notice of motion shall be personally served unless the Judge dispenses with such service.

(3) This rule applies to cases where the contempt is committed:

(a) in connection with proceedings to which this order relates.

(b) in connection with criminal proceedings.

(c) subject to provisions of the Sheriff and Civil Process Act, any proceedings in the High Court or where the contempt consists of disobedience to an Order of the Court;

(d) in connection with the proceedings in an inferior Court. Provided that this rule shall not apply where the contempt is committed in facie curiae.

Rule 10 - Proceedings which must be begun by writs [Return to Main Menu](#)

When an order enforceable by committal has been made against a judgment debtor, and if the order is for delivery of goods without the option of paying their value or is in the nature of an injunction the Registrar shall when the order is drawn up immediately endorse it as follows:

Notice of Consequence of Disobedience to Court Order:

To..... of.....

TAKE NOTICE that unless you obey the direction(s) contained in this order you will be guilty of contempt of Court and will be liable to be committed to prison.

Registrar

Rule 11 - Response [Return to Main Menu](#)

Upon service of the application for committal issued in a case to which Rule 9 of this order applies, the Respondent shall before the return date stated in the application files a statement stating the reason why an order for attachment should not be issued. The statement shall be verified by an affidavit deposed to by the respondent.

Rule 12 - Return [Return to Main Menu](#)

Every order of attachment issued in a case to which Rule 9 of this order applies shall be made returnable before the Judge. If a return of non est inventus (not found) is made, a subsequent order or orders may be issued on the return of the previous order.

Order 43 - INTERPLEADER

Rule 1 - When relief by interpleader is granted [Return to Main Menu](#)

Relief by way of interpleader may be granted where the person seeking relief (" the applicant") is under liability for any debt, money, goods, or chattels, for or in respect of which he is, or expects to be sued by two or more parties ("the Plaintiffs") making adverse claims thereto: Provided that where the applicant is a Sheriffs or other officer charged with the execution of process by or under the authority of the High Court, the provisions of section 34 of the Sheriff and Civil Process Act and the rules made under it shall apply.

Rule 2 - Matter to be proved by application [Return to Main Menu](#)

The applicant must satisfy the Judge by affidavit or otherwise that he:
(a) claims no interest in the subject matter in dispute other than for charges or costs;
(b) does not collude with any of the Plaintiffs and
(c) is willing to pay or transfer the subject matter into Court or to dispose of it as the Judge may direct.

Rule 3 - Adverse titles of claimants [Return to Main Menu](#)

The applicant shall not be disentitled to relief by reason only that the titles of the Plaintiffs have not a common origin, but are adverse to and independent of one another.

Rule 4 - When application to be made by a defendant [Return to Main Menu](#)

Where the applicant is defendant, application for relief may be made at any time after service of the originating process.

Rule 5 - Summons by applicant [Return to Main Menu](#)

The applicant may take out summons calling on the Plaintiffs to appear and state the nature and particulars of their claims, and either to maintain or relinquish them.

Rule 6 - Stay of action [Return to Main Menu](#)

If the application is made by a defendant in an action the Judge may stay all further proceedings in the action.

Rule 7 - Order upon summons [Return to Main Menu](#)

If the Plaintiffs appear in pursuance of the summons, the Judge may order either that any Plaintiff 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 Plaintiffs be stated and tried, and in the latter case may direct which of the Plaintiffs is to be Plaintiff and which is to be defendant.

Rule 8 - Questions of law [Return to Main Menu](#)

Where the question is a question of law and the facts are not in dispute, the Judge may either decide the questions without directing the trial of an issue or order that a special case be stated for the opinion of the Judge, if a special case is stated, Order 28 shall as far as applicable apply thereto.

Rule 9 - Failure of claimant to appear, or neglect to obey summons [Return to Main Menu](#)

If a Plaintiff, 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 Judge may make an order declaring him and all persons claiming under him, for every barred against the applicants and persons claiming under him but the order shall not affect the rights of the Plaintiffs as between themselves.

Rule 10 - Costs etc. [Return to Main Menu](#)

The Judge may, in or for the purpose of any interpleader proceedings, make all such orders as to costs and all other matters as may be just.

Order 44 - COMPUTATION OF TIME

Rule 1 - Rules for computation of time [Return to Main Menu](#)

Where by any law or order made by a Judge a time is appointed or limited for the doing of any act, the period shall be reckoned.

- (a) as excluding the day on which the order is made or on which the event occurs;
- (b) where the last day of the period is a holiday the time shall continue until the end of the next day following which is not a public holiday;
- (c) where the act is required to be done within a period which does not exceed 6 days, holidays shall be left out of account in computing the period.

Rule 2 - Holiday

[Return to Main Menu](#)

In this order holiday means a day which is a Sunday or a public holiday.

Rule 3 - Time of service [Return to Main Menu](#)

No pleading, summons, motions, order, originating process, document and other processes shall be served before 6.00a.m. or after 6.00p.m. Service effected after 6.00p.m. shall be deemed to have been effected the following day, provided that service effected after 6.00p.m. on Saturday shall be deemed to have been effected to the

following Monday.

Rule 4 - Court may extend time [Return to Main Menu](#)

The Judge may, as often as he deems fit, and either before or after the expiration of the time appointed by these rules or by any judgment or order of the Court, extend or adjourn the time for doing any act or taking any proceedings. Provided that any party who defaults in performing any act within the time authorized by the Judge or under this rule, shall pay to the Court an additional fee of N200.00 (two hundred naira) for each day of such default at the time of compliance.

Order 45 - MISCELLANEOUS PROVISIONS

I. COURT SITTINGS AND VACATION

Rule 1 - Days of sittings [Return to Main Menu](#)

Subject to the provision of the law, the Judge may, in his discretion, appoint any day or days and any place or places from time to time for the hearing of the causes as circumstances required.

Rule 2 - Public or Private Sittings of the court [Return to Main Menu](#)

The sitting of the Judge for the hearing of causes shall ordinarily be public but subject to the provisions of the constitution of Federal Republic of Nigeria, the Judge may for special reasons, hear any particular cause or matter in the presence only of the parties, with their Legal Practitioner if any, and the officers of Court.

Rule 3 - Office hours [Return to Main Menu](#)

The several offices of the Court shall be open at such time as the Chief Judge shall direct.

Rule 4 - Days of sittings and long vacation [Return to Main Menu](#)

Subject to the directions of the Chief Judge, sittings of the High Court for the dispatch of civil matters will be held on every week day except:

- (a) on any public holidays;
- (b) during the week beginning with Easter Monday;
- (c) during the period beginning on Christmas eve and ending on the 2nd January next following;
- (d) during the long vacation i.e. the period beginning middle of July and ending on a date not more than 6 weeks later as the Chief Judge may be by notification in the Gazette appoint.

Rule 5 - Vacation [Return to Main Menu](#)

(1) Notwithstanding the provisions of rule 4, any cause or matter may be heard by a Judge during any of the periods mentioned in paragraphs (b), (c) or (d) of rule 4 (except on a Sunday or public holiday) where such cause or matter is urgent or a Judge, at the request of all the parties concerned, agrees to hear a cause or matter.

(2) An application for an urgent hearing shall be made by motion ex-parte and the decision of the Judge on such an application shall be final.

Rule 6 - Vacation not reckoned in time for pleadings [Return to Main Menu](#)

The time for filing and service of pleadings shall not run during the annual vacation unless otherwise directed by the Judge.

II. General

Rule 7 - Recovery of penalties and costs [Return to Main Menu](#)

All fines, forfeitures, pecuniary penalties and costs ordered to be paid may be levied by distress, seizure and sale of the movable and immovable property of the person making default in payment.

Rule 8 - Notice [Return to Main Menu](#)

When the publication of any notice is required the same may be made by advertisement in the Gazette, unless otherwise provided in any particular case by any rule of Court or otherwise ordered by the Judge.

Rule 9 - Filing [Return to Main Menu](#)

A document shall not be filed unless it has indorsed on it the name and the number of the cause, the date of filing and whether filed by Plaintiff or defendant; and on being filed such endorsement shall be initialed by the registrar and recorded in the process register.

Rule 10 - How process addressed [Return to Main Menu](#)

All warrants and orders of whatever description shall be sufficiently addressed for execution by being directed to the Sheriff; but this provision shall not prevent any order or warrant from being addressed to a person by name or to a person named and to officers of Court generally or to a local government authority.

Rule 11 - No fees where proceedings by Government Department [Return to Main Menu](#)

No fees are to be taken in respect of any proceedings where such fees would be payable by any government department. Provided however that when any person is ordered to pay the cost of the state or of any government department in any case, whether criminal or civil, all fees which would have been payable but for the provisions of this rule shall be taken as paid and shall be recoverable from such person.

Rule 12 - Regulations [Return to Main Menu](#)

The regulations regarding fees shall govern the payment and disposal of fees and the duties of Court officers in regard thereto.

Rule 13 - Saving [Return to Main Menu](#)

Where no provision is made by these rules or by any other written law, the Court shall adopt such procedure as Will in its view do substantial justice between the parties concerned.

Rule 1 - Defendant leaving jurisdiction or removing property [Return to Main Menu](#)

If in any action the defendant is about to leave Nigeria the Plaintiff may, either at the institution of the suit ,or at any time thereafter until final judgment, apply by ex-parte motion to the Judge for an order that the defendant do show cause why security should not be taken for his appearance to answer and satisfy any judgment that may be passed against him in the suit.

Rule 2 - Warrant to arrest [Return to Main Menu](#)

(1) If the Judge after making such investigation as he may consider necessary shall be of opinion that there is probable cause for believing that the defendant is about to leave Nigeria and that by reason thereof the execution of any judgment which may be made against him is likely to be obstructed or delayed, the Judge shall issue a warrant to bring the defendant before him, that he may show cause why he should not give good and sufficient bail for his appearance.

(2) The defendant shall be brought to Court within 2 days of the execution of the warrant.

Rule 3 - Bail for appearance or satisfaction [Return to Main Menu](#)

If the defendant fails to show cause, the Judge 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.

Rule 4 - Deposit in lieu of bail [Return to Main Menu](#)

(1) Where a defendant offers to deposit a sum of money in lieu of bail for his appearance, sufficient to answer the claim against him, with cost of the suit, the Judge may accept such deposit and direct that the deposit be paid in to an interest yielding account in a bank.

(2) Where a defendant offers security other than money in lieu of bail for his appearance, sufficient to answer the claim against him, the Judge may accept such security and make such order as he may deem fit in the circumstances.

Rule 5 - Defendant may be committed to custody [Return to Main Menu](#)

(1) If the defendant fails to furnish security or offer a sufficient deposit, the Judge may commit him into custody until the decision of the suit or if judgment has been given against the defendant until the execution of the judgment.

(2) Committal to custody under this rule shall not exceed a period of 6 months.

(3) The Judge may at any time upon reasonable cause being shown and upon such terms as the security or otherwise as may seem just, release the defendant.

Rule 6 - Cost of subsistence of persons arrested [Return to Main Menu](#)

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 amount so disbursed may be recovered by the Plaintiff in the suit, unless the Judge shall otherwise order. The Judge 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 47 - PROCEEDINGS IN FORMA PAUPERIS

Rule 1 - Application [Return to Main Menu](#)

This order shall apply to proceedings in respect of which there is no statutory provision for Legal Aid.

Rule 2 - Who may sue or defend in forma pauperis [Return to Main Menu](#)

A Judge may admit a person to sue or defend Informa Pauperis if satisfied that his means do not permit him to employ legal representation in the prosecution of his case and that he has reasonable grounds for suing or defending as the case may be.

Rule 3 - Conditions to be fulfilled [Return to Main Menu](#)

(1) A person seeking relief under this order, shall write an application to the Chief Judge accompanied by an affidavit, signed and sworn to by the applicant himself stating that by reason of poverty he is unable to afford the service of a Legal Practitioner.

(2) If in the opinion of the Chief Judge the application is worthy of consideration, the Chief Judge shall appoint a Legal Practitioner to act for the applicant.

(3) Where a legal Practitioner is so appointed the applicant shall not discharge the Legal Practitioner except with the leave of the Chief Judge.

Rule 4 - Fees and costs [Return to Main Menu](#)

Court fees payable by a person admitted to sue or defend in forma pauperis may be remitted either in whole or in part as a Judge may deem fit and a person so admitted to sue or defend shall not, unless the Judge otherwise orders, be liable to pay or be entitled to receive any costs.

Rule 5 - Procedure to be followed [Return to Main Menu](#)

(1) The Legal Practitioner shall not, except by leave of the Chief Judge, take or agree to take any payment whatsoever from the applicant or any other person connected with the applicant or the action taken or defended thereunder.

(2) If the applicant pays or agrees to pay any money to any person whatsoever either in connection with his application or the action taken or defended thereunder, the order appointing the Legal Practitioner shall be revoked.

(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 one report the matter in writing to the Registrar.

Rule 6 - Revocation or order, discontinuance, etc [Return to Main Menu](#)

(1) The Chief Judge may at any time revoke the order granting the application and

thereupon the applicant shall not be entitled to the benefit of this Order 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 a Judge.

Rule 7 - Payment to Legal Practitioner [Return to Main Menu](#)

The Judge may order payment to be made to the Legal Practitioner out of any money recovered by the applicant or may charge in favour of the Legal Practitioner upon any property recovered by the applicant, such sum as in all the circumstances may deem fit.

Rule 8 - Duty of Legal Practitioner [Return to Main Menu](#)

Every order, 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.

Rule 9 - Appeals [Return to Main Menu](#)

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 48 - CHANGE OF LEGAL PRACTITIONER

Rule 1 - Legal Practitioner to conduct cause or matter to final judgment [Return to Main Menu](#)

Every Legal Practitioner who shall be engaged in any cause or matter shall be bound to conduct same on behalf of the Plaintiff or defendant as the case may be, by or for whom he shall have been so engaged until final judgment, unless allowed for any special reason to cease acting therein.

Rule 2 - Application for change of Legal Practitioner or withdrawal [Return to Main Menu](#)

An application for a change of Legal Practitioner or withdrawal may be made by the Plaintiff or defendant or the Legal Practitioner as the case may be, not less than 3 clear days before the date fixed for hearing.

Rule 3 - Service of application by Legal Practitioner [Return to Main Menu](#)

Where the application is made by a Legal Practitioner, it shall be served on all parties to the cause or matter and where applicable also on the outgoing Legal Practitioner if he is not the applicant.

Rule 4 - Re-appearance of Legal Practitioner [Return to Main Menu](#)

Order 49 - COSTS

Rule 1 - Principle to be observed in fixing costs [Return to Main Menu](#)

(1) 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 the proceedings, as well as compensated for his time and effort in coming to Court. The Judge may take into account all the circumstances of the case.

(2) When costs are ordered to be paid, the amount of such costs shall, if practicable, be summarily determined by the Judge at the time of delivering the judgment or making the order.

(3) When the Judge deems it to be impracticable to determine summarily the amount of any costs which he has adjudged or ordered to be paid, all questions relating thereto shall be referred by the Judge to a taxing officer for taxation.

Rule 2 - Security for costs [Return to Main Menu](#)

In any cause or matter in which security for costs is required, the security shall be of such amount and be given at such times and in such manner and form as the Judge shall direct.

Rule 3 - Security for costs by claimant temporarily within jurisdiction [Return to Main Menu](#)

A Plaintiff ordinarily resident out of the jurisdiction may be ordered to give security for costs, though he may be temporarily resident within the jurisdiction.

Rule 4 - Action founded on judgment or bill of exchange [Return to Main Menu](#)

In actions brought by persons resident out of the jurisdiction when the Plaintiff's claim is founded on a judgment or order or on a bill of exchange or other negotiable instrument, the power to require the Plaintiff to give security for cost shall be exercised at the Judge's discretion.

Rule 5 - Bond as security for costs [Return to Main Menu](#)

Where a bond is to be given as security for costs, it shall, unless the Judge otherwise directs, be given to the party or person requiring the security and not on an officer of the Court.

Rule 6 - Costs at discretion of court [Return to Main Menu](#)

Subject to the provisions of any applicable law and these rules, the cost of and incidental to all proceedings in the High Court, including the administration of estates and trust, shall be at the discretion of the Judge, and the Judge shall have full power to determine by whom and to what extent the costs are to be paid.

Rule 7 - Costs out of fund or property [Return to Main Menu](#)

The Judge may order any costs to be paid out of any fund or property to which a suit or proceeding relates.

Rule 8 - Stay of proceedings till costs paid [Return to Main Menu](#)

Where the Judge orders costs to be paid or security to be given for costs by any party, the Judge may order all proceedings costs by or on behalf of that party in the same suit or proceeding or connected with it, to be stayed until the costs are paid or security given accordingly, but such order shall not supersede the use of any other lawful method of enforcing payment.

Rule 9 - Stage of proceedings at which costs to be dealt with [Return to Main Menu](#)

(1) Costs may be dealt with by the Judge at any stage of the proceedings.

(2) Costs when ordered becomes payable forthwith and shall be paid within 7 days of the order, otherwise the defaulting party or his Legal Practitioner may be denied further audience in the proceedings.

Rule 10 - When costs to follow the event [Return to Main Menu](#)

In additions to any penalty payable for default under these rules, the costs of and occasioned by any application to extend the time fixed by the rules or any direction or order there under, for delivering or filing any document or doing any other act, including the costs of any order made on the application, shall be borne by the party making the application unless the Judge otherwise orders.

Rule 11 - Matters to be taken into account in exercising discretion [Return to Main Menu](#)

The Judge in exercising his discretion as to costs shall take into account any offer or contribution made by any of the parties and any payment into Court and the amount of such payment.

Rule 12 - Costs arising from misconduct or neglect [Return to Main Menu](#)

(1) Where in any cause or matter anything is done or omission is made improperly or unnecessarily by or on behalf of a party, the Judge may direct that any costs to that party in respect of it shall not be allowed to him and that any costs occasioned by it to other parties shall be paid by him to them.

(2) Without prejudice to the generality of sub- rule 1 of this rule, the Judge, shall for the purpose of that sub- rule have regard in particular to the following matters, that is to say;
(a) the omission to do anything the doing of which would have been calculated to save costs;

(b) the doing of any thing calculated to occasion or in a manner or at a time calculated to occasion unnecessary costs;

(c) any unnecessary delay in the proceedings.

(3) The Judge may instead of giving a direction under sub - rule 1 of this rule in relation to anything done or any omission made, direct the taxing officer to inquire into it and if it appears to him that such a direction as aforesaid should have been given in relation to it, to act as if the appropriate direction had been given.

Rule 13 - Personal liability of Legal Practitioner for costs [Return to Main Menu](#)

(1) Subject to the following provisions of this rule, where in any proceedings costs are incurred improperly or without reasonable cause or are wasted by undue delay or by any

other misconduct or default, the Judge may make against any Legal Practitioner whom he considers to be responsible, whether personally or through a servant or agent, an order.

(a) disallowing the costs as between the Legal Practitioner and his client; and

(b) directing the Legal Practitioner to pay to his client costs which the client has been ordered to pay to other parties to the proceedings; or

(c) directing the legal practitioner personally to indemnify such other parties against costs payable by them.

(2) The provisions of rule 13 sub - rule 1 shall apply where proceedings in Court cannot conveniently proceed or fails or are adjourned without useful progress being made:

(a) because of the failure of the Legal Practitioner to attend in person or by a proper representative: or

(b) because of the failure of the Legal Practitioner to deliver any document for the use of the Court which ought to have been delivered or to be prepared with any proper evidence or account or otherwise to proceed.

(3) No order under this rule shall be made against a Legal Practitioner unless he has been given a reasonable opportunity to appear before the Judge to show cause why the order should not be made.

(4) The Judge may direct that notice of any proceedings or order against a Legal Practitioner under this rule shall be given to his client in such manner as may as specified in the direction.

(5) If on the taxation of costs to be paid out of a fund, one-sixth or more of the amount of the bill for those costs is taxed off, the Legal Practitioner whose bill it is shall not be allowed the fees to which he would otherwise be entitled for drawing the bill and for attending the taxation.

Rule 14 - Taxation of costs [Return to Main Menu](#)

Every bill of costs (other than a bill delivered by a Legal Practitioner to his client which falls to be taxed under the Legal Practitioner Act) shall be referred to the Registrar for taxation and may be taxed by him or such other taxing officer as the Chief Judge may appoint.

Rule 15 - Notice to other party [Return to Main Menu](#)

The party applying for taxation shall file the bill and give notice to any other parties entitled to be heard on the taxation, and shall at the same time, if he has not already done so, supply them with a copy of bill.

Rule 16 - Power of taxing officer [Return to Main Menu](#)

A taxing officer shall have power to tax any costs the taxation of which is required by any law or directed by order of a Judge.

Rule 17 - Supplementary powers of taxing officers [Return to Main Menu](#)

A taxing officer may, in the discharge of his functions with respect to the taxation of costs:

(a) take an account of any dealings in money made in connection with the payment of the costs being taxed. If the Judge so directs;

(b) require any party represented jointly with any other party in any proceedings before

- him to be separately represented;
- (c) examine any witness in those proceedings;
- (d) direct the production of any document which may be relevant in connection with those proceedings.

Rule 18 - Extension of time [Return to Main Menu](#)

- (1) A taxing officer may:
 - (a) extend the period within which a party is required by or under these rules to begin proceedings for taxation or to do any thing in or in connection with proceedings before that officer;
 - (b) Where no period is specified by or under these rules or by the Judge for the doing of any thing in or in connection with such proceedings, specify the period within which the thing is to be done.
- (2) Where an order of the Court specifies a period within which anything is to be done by or before a taxing officer, then unless the Judge otherwise directs, the taxing officer may from time to time extend the period so specified on such terms as he deems fit.
- (3) A taxing officer may extend any such period as is referred to in the foregoing provisions of this rule although the application for extension is not made until after the expiration of that period.

Rule 19 - Power of taxing officer where party liable to be paid and to pay costs. [Return to Main Menu](#)

- Where a party entitled to be paid costs is also liable to pay costs, the taxing officer may;
- (a) tax the costs which that party is liable to pay and set off the amount allowed against the amount he is entitled to be paid and direct payment of any balance; or
 - (b) delay the issue of a certificate for the cost he is entitled to be paid until he has paid or tendered the amount he is liable to pay.

Rule 20 - Mode of beginning proceedings for taxation [Return to Main Menu](#)

- (1) A party entitled to require any costs to be taxed shall begin proceedings for the taxation of those costs by filing in the registry a bill of costs and obtain a day and time for the taxation thereof. Such party shall give at least 7 days notice to every other party of the day and time appointed for taxation proceedings and at the same time serve a copy of his bill of costs to the other party if he has not already done so.
- (2) A notice under sub- rule 1 of this rule need to be given to any party who has not entered an appearance or taking any part in the proceedings which gave rise to the taxation proceeding.

Rule 21 - Provisions as to bills of costs [Return to Main Menu](#)

- (1) In any bill of costs the professional charge and the disbursements shall be entered in separate columns and every column shall be cast before the bill is left for taxation.
- (2) Before a bill of costs is left for taxation it shall be indorsed with:
 - (a) the name of firm and business address of the Legal Practitioner whose bill it is; and
 - (b) if the Legal Practitioner is the agent of another, with the name or firm and business address of that other Legal Practitioner.

Rule 22 - Provisions as to taxation proceedings [Return to Main Menu](#)

(1) If any party entitled to be heard in any taxation proceedings does not attend within a reasonable time after the time appointed for the taxation, the taxation officer, if satisfied by affidavit or otherwise that the party had due notice of the time appointed, may proceed with the taxation.

(2) The taxing officer by whom any taxation proceedings are being conducted may, if he deems it necessary, adjourn those proceedings from time to time.

Rule 23 [Return to Main Menu](#)

(1) Subject to rule 20, and the following provisions of this rule, the scale of costs contained in appendix II of the High Court of Osun State (fees law) together with the notes and general provisions contained in that appendix, shall apply to the taxation of all costs incurred in relation to continuous business done after the commencement of these rules.

(2) Where the amount of Legal Practitioner's remuneration in respect of non-continuous business connected with sales, purchases, leases, mortgages and other matters of conveyancing or in respect of any other non-continuous business is regulated in the absence of agreement to the contrary, the amount of the costs to be allowed on taxation in respect of the like continuous business shall be the same, notwithstanding anything in the scale contained in the said appendix of these rules.

Rule 24 - Certificate of taxing officer [Return to Main Menu](#)

Upon the completion of the taxation of any bills of costs the taxing officer shall certify the result of his taxation including the costs thereof

Rule 25 - Fees in taxation [Return to Main Menu](#)

The fees payable on taxation shall be paid by the party on whose application the bill is taxed and shall be allowed as part of the bill.

Rule 26 - Application for review [Return to Main Menu](#)

Any party to any taxation proceeding who is dissatisfied with allowance or disallowance in whole or in part of any item by a taxing officer or with the amount allowed by a taxing officer in respect of any item, may apply to a Judge for an order to review the taxation as to that item.

Rule 26 - Application by summons [Return to Main Menu](#)

(1) An application under the proceeding rules shall be made by summons at any time within 14 days after taxing officer's certificate.

(2) Unless the Judge otherwise directs, no further evidence shall be received on the hearing of an application under this rule, and no ground of objection shall be raised which was not raised on taxation but, save as aforesaid, on the hearing of any such application the Judge may exercise all such powers and discretion as are vested in the taxing officer in relation to the subject matter of the application.

(3) On an application under this rule the Judge may make such order as the circumstances require and in particular may order the taxing officers decision to be amended or, except where the dispute as to the item under review is as to amount only,

order the item to be remitted to the same or another taxing officer for taxation.

Order 50 - BUSINESS IN CHAMBERS

I. Business in Chambers

Rule 1 - Representation in Chambers [Return to Main Menu](#)

In any proceedings before a Judge in Chambers, any party may, if he so desires, be represented by a Legal Practitioner.

Rule 2 - Matters to be disposed of in Chambers [Return to Main Menu](#)

Unless the opposite party or his counsel objects, the Judge may, on application, conduct any proceeding, except actual trial, in Chambers, and may also on application, adjourn any such proceeding from Court to Chamber or vice versa.

II. Proceeding Relating to Persons under Legal Disability

Rule 3 - Evidence upon applications for appointment of guardians and for maintenance [Return to Main Menu](#)

Upon application for the appointment of guardians of infants and allowance for maintenance, the evidence shall show:

- (a) the ages of the infants;
- (b) the nature and amount of the infants' fortunes and incomes; and
- (c) what relations the infants have.

Rule 4 - Guardian with reference to proceedings in Chambers [Return to Main Menu](#)

At any time during the proceeding under any judgment or order, the Judge may, if he deems fit, require a guardian to be appointed for any person under legal disability not adjudged a lunatic, who has been served with notice of such judgment or order.

III. Further Consideration

Rule 5 - Further consideration of matter originating in Chambers [Return to Main Menu](#)

Where any matter originating in Chambers shall, at the original or any subsequent hearing have been adjourned for further consideration in chambers, such matter may, after the expiration of 8 days and within 14 days from the filing of the certificate, be brought on for further consideration by a summons to be taken out by the party having the conduct of the matter, and after the expiration of such 14 days by a summons to be taken out by any other party. Such summons shall be in the form following:

"That this matter, the further consideration where of was adjourned.....20..... may be further considered",

and shall be served 7 clear days before the return. Provided that this Rule shall not apply to any matter, the further consideration whereof shall, at the original or any subsequent hearing, have been adjourned in Court.

IV. Registering and Drawing up of Orders in Chambers Costs

Rule 6 - Notes of proceedings in Chambers [Return to Main Menu](#)

Notes shall be kept of all proceedings in the Judge's Chambers with proper dates, so that all such proceedings in such cause or matter may appear consecutively and in chronological order, with a short statement of the question or points decided or ruled at every hearing.

Rule 7 - Drawing up any entry of orders made in Chambers [Return to Main Menu](#)

Orders made in Chambers shall, unless the Judge otherwise directs, be drawn up by the Registrar and signed by the Judge. Such orders shall be entered in the same manner as orders made in Court.

Rule 8 - Costs [Return to Main Menu](#)

Subject to the provision of the Law and of these Rules, the costs of, and incident to all proceeding in Chambers shall be at the discretion of the Judge.

Rule 9 - Decisions given in Chambers: How set aside or varied [Return to Main Menu](#)

(1) Where any party to proceeding in Chambers does not intend to accept the decision of the Judge in Chambers as final, he shall forthwith request to have the summons adjourned into Court for argument. If such request is refused, the party may proceed by way of motion with notice in Court to discharge, set aside or vary the order made or the judgment given or order made in Chambers.

(2) The notice of motion shall be filed not later than 7 days after the drawing up of the Order made in Chambers unless the Court grants an extension of time on good and sufficient reason being shown, and the motion shall be heard and determined by the Judge who has dealt with the matter in Chambers, unless this proves impossible or inconvenient owing to such Judge's death or retirement or prolonged absence from Osun State.

(3) This rule shall apply to decisions given by a Judge in Chambers on appeal from the Chief Registrar under Rule 4 of Order 41.

Order 51 - - FORECLOSURE AND REDEMPTION

Rule 1 - Originating Summons for foreclosure, etc. [Return to Main Menu](#)

Any mortgage or mortgagor, whether legal or equitable, or any person entitled to or having property subject to a legal or equitable charge, or any person having the right to foreclose or redeem any mortgage, whether legal or equitable, may take out an originating summon, for such relief of the nature or kind following as may by the summons be specified, and as the circumstances of the case may require; that is:

- (a) payment of money secured by the mortgage or charge;
- (b) sale;
- (c) foreclosure;
- (d) delivery of possession, whether before or after foreclosure, to the mortgagee or person entitled to the charge, by the mortgagor or person having the property subject to

the charge, or by any other person in, or alleged to be in possession of the property;
(e) redemption;
(f) reconveyance;
(g) delivery of possession by the mortgagee.

Rule 2 - Civil Forms 35, 36, 37 [Return to Main Menu](#)

Orders for payment and for possession shall be in Forms 35, 36 and 37 of these Rules with such variations as the circumstances of the case may require, and the like forms shall be used under corresponding circumstances in actions for the like relief commenced by writ.

Rule 3 - Service and execution of judgment [Return to Main Menu](#)

The Judge may give any special directions concerning the execution of the judgment, or the service thereof upon person not parties to the cause or matter as he deem fit.

Order 52 - FORM AND COMMENCEMENT OF ACTION

I. SUMMONS TO PROCEED

Rule 1 - Bringing in judgment etc. directing accounts and inquiries [Return to Main Menu](#)

Every judgment or order directing accounts or inquires to be taken or made shall be brought to a Judge by the party entitled to prosecute the same within 10 days after such judgment or order shall have been entered or filed, and in default thereof any other party to the cause or matter shall be at liberty to bring in the same, and such party shall have the prosecution of such judgment or order unless the Judge shall otherwise direct.

Rule 2 - Summons to proceed with accounts and inquiries: Directions [Return to Main Menu](#)

Upon a copy of the judgment or order being left, a summons shall be issued to proceed with the accounts or inquires directed, and upon the return of such summons the Judge, if satisfied by proper evidence that all, necessary parties have been served with notice of the judgment or order, shall thereupon give the directions as to:

- (i) the manner in which each of the accounts and inquires is to be prosecuted;
- (ii) the evidence to be adduced in support thereof;
- (iii) the parties who are to attend on the several accounts and inquires; and
- (iv) the time within which each proceeding is to be taken and a day or days may be appointed for the further attendance of the parties, and all such directions may afterwards be varied by addition thereto or otherwise, as may be found necessary.

Rule 3 - Settling deed where parties differ [Return to Main Menu](#)

Where by a judgment or order a deed is directed to be settled by a Judge in case the parties differ, a summons to proceed shall be issued, and upon the return of the summons the party entitled to prepare the draft deed shall be directed to deliver a copy thereof, within such time as the Judge shall deem fit, to the party entitled to object thereto, and the party so entitled to object shall be directed to deliver to the other party a statement in writing of his objections within 8 days after the delivery of such copy, and the proceeding shall be adjourned until after the expiration of the said period of 8 days.

Where upon the hearing of the summons to proceed, it appears to the Judge that by reason of absence, or for any other notice of sufficient cause, the service of notice of the judgment or order upon any party cannot be made; the Judge may if he shall deem fit, order any substituted service or notice by advertisement or otherwise in lieu of such service.

Rule 5 - Stoppage of proceedings where all necessary parties have not been served with notice of judgment or order [Return to Main Menu](#)

If on the hearing of the summons to proceed it shall appear that all necessary parties are not parties to the action or have not been served with notice of the judgment or order, directions may be given for advertisement for creditors, and for leaving the accounts in Chambers. Adjudication on creditors' claims and the accounts are not to be proceeded with, and no other proceeding is to be taken, except for the purpose of ascertaining notice of the parties to be served, until all necessary parties shall have been served and until directions shall have been given as to the parties who are to attend the proceedings.

Rule 6 - Documents: Copies for use of Judge [Return to Main Menu](#)

Copies, abstracts, extracts of or from accounts, deeds or other documents and pedigree and concise statements shall, if directed be supplied for the use of the Judge, and where so directed, copies shall be handed over to the other parties; Provided that no copies shall be made of deeds or documents where the originals can be brought in unless the Judge shall otherwise direct.

II. Summons to Proceed Book

Rule 7 - Entry in summons to proceed Book [Return to Main Menu](#)

At the time any summons to proceed is obtained, an entry thereof shall be made in the Summons book, stating the date on which the summons issues, the name of the cause or matter; and by what party, and shortly for what purpose such summons is obtained, and at what time such summons is returnable.

Order 53 - SUMMARY PROCEEDINGS FOR POSSESSION OF LANDED PROPERTY OCCUPIED BY SQUATTERS OR WITHOUT THE OWNER'S CONSENT

Rule 1 - Application of this Order [Return to Main Menu](#)

(1) This Order shall not apply where the person in occupation of land is:

- (a) a tenant; or
- (b) a tenant holding over after termination of his tenancy; or
- (c) a licensee of the owner or person entitled to possession; or
- (d) a person who had the consent of the predecessor in title of the person who is entitled to possession.

(2) Where a person claims possession of land which he alleges is occupied solely by a person listed in subrule 1 above, proceedings may be brought by originating summons in accordance with the provisions of this Order.

Rule 2 - Form of Originating Summons: Civil Form 38 [Return to Main Menu](#)

The originating summons shall be in Form 38 and no acknowledgement of service shall be required.

Rule 3 - Affidavit in support [Return to Main Menu](#)

The Plaintiff shall file in support of the originating summons an affidavit stating:

- (a) his interest in the land;
- (b) the circumstances in which the land has been occupied without license or consent and in which his claim to possession arises; and
- (c) that he does not know the name of any person occupying the land who is not named in the summons.

Rule 4 - Service of Originating Summons [Return to Main Menu](#)

(1) Where any person in occupation of the land is named in the originating summons, the summons together with a copy of the affidavit in support shall be served on him:

- (a) personally or in accordance with Order 7 Rule 1 sub-rule 2, or
- (b) by leaving a copy of the summons and of the affidavit or sending them to him at the premises; or
- (c) in such other manner as the Judge may direct.

(2) The summons shall, in addition to being served on the named defendants, if any, in accordance with sub - rule 1 of the rule be served, unless the Judge otherwise directs by:

- (a) affixing a copy of the summons and a copy of the affidavit to the main door or other conspicuous part of the premises; and
- (b) if practicable, inserting through the letter box at the premises, a copy of the summons and a copy of the affidavit enclosed in a sealed envelope addressed to "the occupiers".

(3) Every copy of an originating summons for service under sub-rule 1 or 2 of this rule shall be sealed with the seal of the Court out of which the summons was issued.

Rule 5 - Application by occupier to be made a party [Return to Main Menu](#)

Without prejudice to Rule 16 of Order 13, any person not named as a defendant who is in occupation of the land and wishes to be heard on the question whether an order for possession should be made may apply at any stage of the proceedings to be joined as a defendant.

Rule 6 - Order for Possession [Return to Main Menu](#)

(1) An order for possession in proceedings under this Order shall be in Form 39 with such variations as circumstances may require.

(2) The Judge may forthwith order a writ of possession to issue.

(3) Nothing in this Order shall prevent the judge from ordering possession to be given on a specified date, in the exercise of any power which could have been exercised if possession had been claimed in an action begun by writ.

Rule 7 - Writ of possession [Return to Main Menu](#)

(1) No writ of possession to enforce an order for possession under this Order shall be

issued after the expiration of 3 months from the date of the order without the leave of the Judge.

(2) The application for leave may be made ex-parte unless the Judge otherwise directs.

Rule 8 - Setting aside of orders [Return to Main Menu](#)

(1) The Judge may, on such terms as he deems fit, set aside or vary any order made in proceedings under this Order.

(2) In this Order "landed property" means land with or without building thereon.

Order 54 - STAY OF EXECUTION PENDING APPEAL

Rule 1 - Stay of execution pending appeal [Return to Main Menu](#)

Where any application is made to a Judge for a stay of execution or 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.

Rule 2 - Compilation of record [Return to Main Menu](#)

An applicant for stay of execution of a judgment shall compile the records of appeal within 90 days from the date of filing a notice of appeal and where the record is not so compiled, the respondent may apply to strike out the application or discharge the order if already granted.

Rule 3 - Court may grant or refuse order for stay [Return to Main Menu](#)

(1) Application for stay of execution shall be regarded as an urgent matter.

(2) Where a Judge has struck out an application for stay, no further application to stay of execution shall be made in the same matter.

Rule 4 - Formal order to be drawn up [Return to Main Menu](#)

Where any application is made to the Judge under this order, a formal order shall be drawn up embodying the terms of the decision of the Judge and bearing the date upon which the order is made.

Order 55 - PROBATE AND ADMINISTRATION

I. Grant of probate or administration in General

Rule 1 - Petition to be made to Probate Registrar [Return to Main Menu](#)

(1) Subjects to the provisions of rules 44 and 45 of this order when any person subject to the jurisdiction of the Court dies, all petitions for the granting of any letters of administration of the estate of the deceased person, with or without a Will attached, and all applications on other matters connected therewith shall be made to the Probate Registrar of the Court.

(2) The Chief Judge shall request a Judge of any judicial division to take measures and make such orders as may appear necessary or expedient for the interim preservation of the property of the deceased within such Judicial Division, for the discovery or preservation of the Will of the deceased or for any other purposes connected with the duties of the Judge under this Order, and every Judge shall carry out any such request as far as practicable and report to the Chief Judge.

(3) No grant of administration with the Will annexed shall issue within 7 days of the death of the deceased, and no grant of administration, without the Will annexed, shall issue within 14 days of such death.

Rule 2 - Preservation of property [Return to Main Menu](#)

The Judge shall, when the circumstances of the case appear so to require, forthwith on the death of a person, or as soon after as may be, appoint and authorize an officer of the Court, or some other fit person, to take possession of his property within its jurisdiction, or put it under seal and so keep it until it can be dealt with according to law.

Rule 3 - Unauthorized persons intermeddling with property [Return to Main Menu](#)

If any person other than the named executor or administrator, or an officer of the Court, or person authorized by the Judge, takes possession of and administers or otherwise deals with the property of any deceased person, he shall, besides the other liabilities he may incur, be liable to a fine of not less than N50,000.00 (fifty thousand naira) as the Judge, having regard to the condition of the person so interfering with the property and the other circumstances of the case, may deem fit to impose.

Rule 4 - Production of testamentary papers [Return to Main Menu](#)

Any person having in his possession or under his control any paper or writing of any deceased person, being or purporting to be testamentary, shall forthwith deliver the original to the Probate Registrar of the Court. If any person fails to do so within 3 months after having had knowledge of the death of the deceased, he may be liable to a fine of N5,000.00 (five thousand naira) as the Judge having regard to the condition of such person in default and other circumstances of the case deem fit to impose.

Rule 5 - Judge may order production [Return to Main Menu](#)

Where it appears that any paper of the deceased, being or purporting to be testamentary is in the possession of, or under the control of any person, a Judge may upon an ex-parte application, whether a suit or proceeding respecting probate or administration is pending or not, order him to produce the paper and bring it into Court.

Rule 6 - Examination respecting papers [Return to Main Menu](#)

Where it appears that there are reasonable grounds for believing that any person had knowledge of any paper being or purporting to be testamentary, although it is not shown that the paper is in his possession or under his control, a Judge may upon an ex-parte application, whether a suit or proceedings in respect of probate or administration is pending or not, order that he be examined in respect of the same in Court, or on interrogatories, and that he attend for that purpose, and after examination that he produce the paper and bring it into Court.

Rule 7 - Notice to executor to come in and prove [Return to Main Menu](#)

The Judge may on the application of any person claiming an interest under a Will, give notice to the executors therein named, to come in and prove the Will, or to renounce probate, and they, or some or one of them, shall within 21 days after notice, come in and prove or renounce accordingly.

Rule 8 - Liability of executor neglecting to apply for probate [Return to Main Menu](#)

If any named executor in the Will of the deceased takes possession and administers or otherwise deals with any part of the property of the deceased, and does not apply for probate within 3 months after the death, or after the termination of any suit for or dispute in respect of probate or administration, he may, independent of any other liability be deemed to be in contempt of Court, and shall be liable to such fine of not less than N50,000.00 (fifty thousand naira), as the Judge deems fit to impose.

Rule 9 - Identity [Return to Main Menu](#)

The Judge require evidence in addition to that offered by the applicant, where additional evidence in that behalf seems to the Judge necessary or desirable, in regard to the identity of the deceased or of the applicant, or in regard to the relationship of the applicant to the deceased, or in regard to any person or persons in existence with a right equal or prior to that of the applicant to the grant of a probate or administration sought by the applicant or in respect of any other matter which may be considered by the Judge relevant to the question whether the applicant is the proper person to whom the grants should be made; Provided that the Judge may refuse the grant unless the applicant produces the required evidence on these points or any of them as required by the Judge.

Rule 10 - Judge may refuse grant until all persons interested are given due notice [Return to Main Menu](#)

Where it appears to the Judge that some person or persons other than the applicant may have at least an equal right with the applicant to the grant sought, the Judge may refuse the grant until due notice of the application has been given to such other or persons and an opportunity given for such person or persons to be heard in respect of the application: Provided that the Judge may in his discretion refuse the grant unless and until all persons entitled to the grant in priority to the applicant shall have expressly renounced their prior right.

Rule 11 - Value of property [Return to Main Menu](#)

Every applicant for a grant of letters of administration shall file in the Court a true declaration of all the personal property of the deceased and the value thereof: Provided that for the purpose of the fees payable on Letters of Administration, the value of the property in respect of which the grant is made shall be deemed not to include:

- (a) any gratuity payable by the Government of the Federation of Nigeria or of a State to the estate of any person formerly employed by either of such government or by a statutory corporation;
- (b) any sum of money payable to an estate from a Provident Fund established under the provisions of any applicable law.

Rule 12 - Answers required before grant [Return to Main Menu](#)

All inquiries a Judge sees fit to institute shall be answered to his satisfaction before the

issuance of letters of administration. The Judge shall afford as great a facility for the obtaining of Letters of Administration as is consistent with due regard to the prevention of error and fraud.

Rule 13 - Forms of suits [Return to Main Menu](#)

Suits in respects of administration shall be instituted and carried on as nearly as may be in the like manner and subject to the same rules of procedure as suits in respect of ordinary claims.

A. Custody of Wills

Rule 14 - Testator may deposit Will [Return to Main Menu](#)

Any person may deposit his Will for safe custody in the Probate Registry, sealed this under his own seal and the seal of the Court.

Rule 15 - Custody of writs which probate granted [Return to Main Menu](#)

Every original Will, of which probate or administration with Will annexed is granted, shall be filed and kept in the Probate Registry in such manner as to secure at once its due preservation and convenient inspection. A copy of every such Will and of the probate or administration shall be preserved in the Registry.

Rule 16 - Will not given out without Order of Court [Return to Main Menu](#)

No original Will shall be given out for any purpose without the direction in writing of a Judge A certified transcript under the seal of the Court of the probate or administration with the Will annexed may be obtained from the Court.

B. Probate or Administration with Will annexed

Rule 17 - Examination of Will as to its execution [Return to Main Menu](#)

(1) On receiving an application for administration with Will annexed, a Judge shall inspect the Will, and see whether it appears to be signed by the testator or by some other person in his presence, and by his direction, and subscribed by two witnesses according to the applicable law, and shall not proceed further if the Will does not appear to be so, signed and subscribed.

(2) If the Will appears to be so signed and subscribed, the Judge shall refer to the attestation clause and consider whether the wording thereof state the Will to have been in fact executed in accordance with those enactments.

Rule 18 - Evidence as to due execution of Will [Return to Main Menu](#)

(1) Where a Will contains no attestation clause or the attestation clause is insufficient or where it appears to the Judge that there is some doubt about the due execution of the Will, he shall before admitting it to proof, require an affidavit as to due execution from one or more of the attesting witnesses or, if no attesting witness is conveniently available, from any other person who was present at the time the Will was executed.

(2) If no affidavit can be obtained in accordance with the foregoing paragraph, the Judge may, if he deems fit having regard to the desirability of protecting the interest of any person who may be prejudiced by the Will, accept evidence on affidavit from any person

he may deem fit to show that the signature on the Will is the hand writing of the deceased, or of any other matter which may raise a presumption in favour of the due execution of the Will.

(3) If the Judge, after considering the evidence is satisfied that the Will was not duly executed, he shall refuse probate and marks the Will accordingly;

Rule 19 - Evidence on failure of attesting witnesses [Return to Main Menu](#)

When both subscribing witnesses are dead or if from other circumstances such an affidavit cannot be obtained from either of them. resort for such an affidavit shall be had to other persons present at the execution of the Will, but if no such affidavit can be obtained, proof shall be requires of that fact, and of the handwriting of the deceased and of the subscribing witnesses, and also of any circumstances raising a presumption in favour of the due execution of the Will.

Rule 20 - Evidence as to terms: condition and dates of execution of Will [Return to Main Menu](#)

(1) Where in a Will, there is any obliteration, interlineations or other alteration which is not authenticated in the manner prescribed by law or by the re - execution of the Will or by the execution of a codicil, the Judge shall require evidence to show whether the alteration was present at the time the Will was executed and shall give directions as to the form in which the Will is to be proved: Provided that this sub-rule shall not apply to any alteration which appears to the Judge to be of no practical importance.

(2) Where from any mark on the Will it appears to the Judge that some other document has been attached to the Will or if a Will contains any reference to another document in such terms as to suggest that it ought to be incorporated in the Will, the Judge may require the document to be produced and may call for such evidence in respect of the attachment or incorporation of the document as he may deem fit.

(3) Where there is doubt as to the date on which a Will was executed, the Judge may require such evidence as he deems necessary to establish the date.

Rule 21 - Attempted revocation of a Will [Return to Main Menu](#)

Any Appearance of attempted revocation of a Will by burning, tearing or otherwise and every other circumstances leading to a presumption of revocation by the testator, shall be accounted for the satisfaction of the Judge.

Rule 22 - Affidavit as to due execution terms, etc of Will [Return to Main Menu](#)

The Judge may require an affidavit from any person he may deem fit for the purpose of satisfying himself as to any of the matters referred to in rules 18, 20 and 21. In any such affidavit sworn by an attesting witness or other person present at the time of the execution of a Will, the deponent shall depose to the manner in which the Will was executed.

Rule 23 - Will of persons in military service and seamen [Return to Main Menu](#)

When it appears to the Judge that there is a prima facie evidence that a Will is one to which section 9 of the Wills Act 1837 or any provision of the equivalent enactment in

force in the state applies, the Will may be admitted to proof if the Judge is satisfied that it was made by the testator in accordance with the provisions of that section or enactment as the case maybe.

Rule 24 - Evidence of foreign law [Return to Main Menu](#)

Where evidence of foreign law is required on any application for a grant, the Judge may accept an affidavit from any person whom, having regard to the particulars of his knowledge or experience given in the affidavit, he regards as suitably qualified to give expert evidence of the law in question.

Rule 25 - Order of priority for grant where deceased left a Will [Return to Main Menu](#)

Where the deceased died after the commencement of this order, the person or persons entitled to a grant of probate or administration with the Will annexed shall be determined in accordance with the following order of priority:

- (a) the executor;
- (b) any residuary legatee or devisee holding in trust for any other person;
- (c) any residuary legatee or devisee for life;
- (d) the ultimate residuary legatee or devisee, including one entitled on the happening of any contingency or where the residue is not wholly disposed of by the Will, any person entitled to share in the residue not so disposed of; or the personal representative of any such person: Provided that:
 - (i). unless the Judge otherwise directs. a residuary legatee or devisee whose legacy or devise is vested in interest shall be preferred to one entitled on the happening of a contingency; and
 - (ii). where the residue is not in terms wholly disposed of, the Judge may. if he is satisfied that the testator has nevertheless dispose of the whole or substantially the whole of the estate as ascertained at the time of the application for the grant, allow a grant to be made subject to rule 68 of this order to any legatee or devisee entitled to. or to a share in the estate so disposed of, without regard to the person entitled to share in any residue not disposed of by Will.
- (e) any specified legatee or devisee or any creditor or, subjects to sub - rule 3 of rule 59, the personal representative of any such person or where the estate is not wholly disposed of by Will, any person who, notwithstanding that the amount of the estate is such that he has no immediate beneficial interest therein, may have a beneficial interest in the event of an accretion to it;
- (f) any specific legatee or devisee entitled on the happening of any contingency, or any person having no interest under the Will who would have been entitled to a grant if the deceased had died wholly intestate.

Rule 26 - Joinder of Administrator [Return to Main Menu](#)

(1) An application to join with a person entitled to a grant of administration, a person entitled in a lower degree shall, in default of renunciation by all persons entitled in priority to the latter, be made to the Judge and shall be supported by an affidavit by the person entitled, the consent of the person proposed to be joined as personal representative and such other evidence as the Judge may require:

(2) An application to join with a person entitled to a grant of administration, a person having no right to it, shall be made to the Judge and shall be supported by an affidavit by the person entitled, the consent of the person proposed to be joined as personal representative and such other evidence as the Judge may require. Provided that there

may, without any such application be joined with a person entitled to administration;
(a) on the renunciation of all other persons entitled to join in the grant, any kin of the deceased having no beneficial interest in the estate;
(b) unless the Judge otherwise directs, any person whom the guardian of a minor may nominate for the purpose;
(c) a trust corporation.

Rule 27 - Will of blind or illiterate testator [Return to Main Menu](#)

Where the testator was blind or illiterate, the Judge shall not grant administration with the Will annexed, unless the Judge is first satisfied, by proof or by what appears on the face of the Will, that the Will was read over to the deceased before its execution or that he had at that time knowledge of its contents.

Rule 28 - Interlineations, erasures, obliterations [Return to Main Menu](#)

(1) The Judge, on being satisfied that the Will was duly executed, shall inspect it to see whether there are any interlineations, alterations, erasures, or obliterations appearing in it and requiring to be accounted for.

(2) Interlineations, alterations, erasures, and obliterations are invalid unless they existed in the Will at the time of its execution or unless, if made afterwards, they have been executed and attested in the mode required by the said enactments; or unless they have been made valid by the re-execution of the Will or by the subsequent execution of some codicil thereto.

(3) Where interlineations, alterations, erasures, or obliterations appear in the will, unless duly executed or recited in or otherwise identified by the attestation clause, an affidavit in proof of their having existed in the Will before its execution shall be filed.

(4) Where no satisfactory evidence is adduced respecting the time when an erasure or obliteration was made and the words erased or obliterated are not entirely effaced, and can, on inspection of the Will, be ascertained, they shall form part of the probate. Where any words have been erased which might have been of importance, an affidavit shall be required.

Rule 29 - Document referred to in a Will or annexed or attached thereto.

[Return to Main Menu](#)

(1) Where a Will contains reference to any document of such a nature as to raise the question whether it ought or ought not to form a constituent part of the Will, the Judge shall require the production of the document, with a view to ascertaining whether or not it is entitled to probate; and if it is not produced, a satisfactory account of its non production shall be given. A document cannot form part of a Will unless it was in existence at the time when the Will was executed.

(2) If there are vestiges of sealing wax or wafers, or other marks on the Will, leading to the inference that some document has been at sometimes annexed or attached thereto, a satisfactory account of them shall be required, and if it is not produced, a satisfactory account of its non production shall be given.

Rule 30 - Executor dying without proving or not appearing [Return to Main Menu](#)

Where a person appointed executor in a Will survives the testator but either dies without

having taken probate or having without been called on by the Court to take probate and does not appear; his right in respect of the executorship wholly ceases; and, further renunciation, the representation to the testator and the administration of his property may go and be committed as if that person had not been appointed executor.

Rule 31 - Making of Wills [Return to Main Menu](#)

Every Will in respect of which an application for a grant is made shall be marked by the signatures of the applicant and the person before whom the oath is sworn, and shall be exhibited to any affidavit which may be required under this Order as to the validity, terms, condition or date of execution of the Will. Provided that where the Judge is satisfied that compliance with this Rule might result in the loss of the Will, he may allow a photocopy to be marked or exhibited in lieu of the original document.

Rule 32 - Viva voce examination of person making affidavits [Return to Main Menu](#)

In every case where evidence is directed or allowed to be given by affidavit, the Judge may require the personal attendance of the deponent if within jurisdiction, before the Court, to be examined viva voce respecting the content of his affidavit. The examination may take place before any affidavit has been sworn or prepared if the Judge deems fit.

C. Administration (not with Will)

Rule 33 - Letters of Administration [Return to Main Menu](#)

- (1) A Judge in granting Letters of Administration shall proceed as far as may be as in cases of probate.
- (2) The Judge shall ascertain the time and place of the deceased's death and the value of the property to be covered by the administration.

Rule 34 - Administration bond [Return to Main Menu](#)

- (1) The person to whom administration is granted shall give a bond with two or more responsible sureties to the satisfaction of the Judge. The bond shall affirm that the administrator shall be duly conditioned to collect, getting in and administering the personal property of the deceased.
- (2) The Judge may if he deems fit to take one surety only where the gross value of the estate does not exceed N250,000.00 (two hundred and fifty thousand naira) or where a corporation is proposed as a surety.
- (3) The bond shall be in form of a penalty which is twice the sum value of the estate of the deceased unless the Judge deems it fit expedient to reduce the amount.
- (4) The Judge may also in any case direct that more bonds than one shall be given, so as to limit the liability of any surety to such amount as the Court deems reasonable.

Rule 35 - Guarantee [Return to Main Menu](#)

- (1) The Judge shall not require a guarantee as a condition of making a grant where it is proposed to make it:-
 - (a) by virtue of rule 25 (e) to a creditor or the personal representative of a creditor or to a person who has no immediate beneficial interest in the estate of the deceased but may

have such an interest in the event of an accretion to the estate;
(b) under Rule 61 to a person or some of the persons who would, if the person beneficially entitled to the whole of the estate died intestate be entitled to his estate;
(c) under Rule 63 to the attorney of a person entitled to a grant;
(d) under Rule 64 for the use and benefit of a minor;
(e) under Rule 66 for the use and benefit person who by reason of mental or physical incapacity is incapable of managing his affairs;
(f) to an applicant who appears to the Judge to be resident elsewhere than in the State;
or
(g) except where the Judge considers that there are special circumstances making it desirable to require a guarantee.

(2) Notwithstanding that it is proposed to make a grant as aforesaid, a guarantee shall not be required except in special circumstances, on an application for administration where the applicant or one of the applicants is the Administrator - General or a trust corporation.

(3) Every guarantee entered into by a surety for the purpose of the Order shall be in Probate Form 1 with such variations as circumstances may require.

(4) Except where the surety is a corporation, the signature of the surety on every such guarantee shall be attested by an authorised officer, commissioner for oaths or other person authorized by law to administer an oath.

(5) Unless the Registrar otherwise directs;

(a) if it is decided to require a guarantee, it shall be given by two sureties, except where the gross value of the estate does not exceed N250,000.00 (two hundred and fifty thousand naira) or a corporation is a proposed surety and in those cases one will suffice;

(b) no person shall be accepted as a surety unless he is resident in the State;

(c) no officer of the judiciary shall be a surety;

(d) the limit of the liability of the surety or sureties under a guarantee shall be the gross amount of the estate as sworn on the application for the grant.

(e) every surety other than a corporation shall justify his eligibility.

(6) Where the proposed surety is a corporation, there shall be filed an affidavit by the proper officer of the corporation to the effect that it has power to act as surety and has executed the guarantee in the manner prescribed by its constitution, and containing sufficient information as to the financial position of the corporation to satisfy the Judge that its assets are sufficient to satisfy all claims which may be made against it under any guarantee which it has given or is likely to give.

Rule 36 - Assignment of bond [Return to Main Menu](#)

The judge may, on being satisfied that the condition of the bond has been broken, assign to some person, and that person may thereupon sue on the bond in his own name as if it has been originally given to him, and may recover thereon, as trustee for persons interested, the full amount recoverable in respect of any breach of the bond.

D. Administration of Property

Rule 37 - Administration summons [Return to Main Menu](#)

Any person claiming to be a creditor or legatee or the next of kin or one of the next of kin of a deceased, may apply for and obtain a summons from the Court requiring the executor or administrator, as the case may be, of the deceased to attend the Court and

show cause why an order for the administration of the property of the deceased should not be made.

Rule 38 - Orders for Administration [Return to Main Menu](#)

(1) On proof of service of the summons or on appearance of the executor or administrator, and on proof of all such other things as the Judge may direct, the Judge may, if the deems fit, make an order for the administration of the property of the deceased.

(2) The Judge may make or refuse any such order or give any special directions in respect of the carriage or execution of it and where there are applications for such an order by two or more different persons or classes of persons, to grant the same to such one or more of the Plaintiffs or classes of Plaintiffs, as the Judge deems fit.

(3) Where the Judge deems fit the carriage of the order may subsequently be given to such person, and on such terms, as he may direct.

Rule 39 - Order relating to property [Return to Main Menu](#)

Where the Judge makes such an order or at any time afterwards, he may, if he deems fit, make any further or other order which may appear requisite to secure the proper collection, recovery for safe -keeping and disposal of the property or any part thereof.

Rule 40 - Administration may be granted to officer [Return to Main Menu](#)

In a case of intestacy, where the special circumstances of the case require, the Judge may, if he deems fit on the application of any person having interest in the estate of the deceased or of its own notion, grant Letters of Administration to an officer of the Court, to a Consular Officer or to a person in the service of the Government.

Rule 41 - Officer to act under direction of Judge [Return to Main Menu](#)

(1) The officer or person so appointed shall act under the direction of the Judge, and shall be indemnified thereby.

(2) The Judge shall require and compel him to file in Court the accounts of his administration at intervals not exceeding 12 months.

Rule 42 - Court may appoint person to be administrator [Return to Main Menu](#)

Where a person has died intestate as to his personal estate or leaving a Will affecting personal estate, but without having appointed an executor thereof Willing and competent to take probate or where the executor shall, at the time of the death of such person, be resident out of the jurisdiction, and it shall appear to the Judge to be necessary or convenient in any such case to appoint some person as administrator of the estate of the deceased or of any part thereof, the Judge may appoint such person as he shall deem fit to be such administrator upon his giving such security, if any as the Judge shall direct, and every such administrator may be limited as the Judge shall deem fit.

Rule 43 - Remuneration of administrators [Return to Main Menu](#)

The Judge may direct that any administrator (with or without the Will annexed) shall receive out of the personal and real estate of the deceased such reasonable

remuneration as he shall deem fit not exceeding 10% per centum on the amount of the realized property, or, when not converted into money, on the value of the property duly administered and accounted for by him: Provided that where the Judge is satisfied that by reason of exceptional circumstances the administration of the property has required an extra ordinary amount of labour to be bestowed on it, he may allow in respect of such property a higher rate of remuneration.

Rule 44 - Securing and collection of estate [Return to Main Menu](#)

Where any citizens of any foreign country dies within the jurisdiction without living within the jurisdiction, a widower, widow or next of kin, the Probate Registrar shall collect and secured all moneys and other property belonging to the deceased, and shall then inform the nearest consular officer of such country of the death, and transmit to him a list of the money and property of the deceased.

Rule 45 - Application by consular officer or person authorized by him to administer estate [Return to Main Menu](#)

Application may be made to the Court by any such consular officer or by any person authorized by him in writing and under the consular seal, for leave to administer the estate of the deceased, and the Judge may make such order as to security for payment of debts and the method of administration as the Judge shall deem fit, and vary such order when and so often as it is expedient.

E. Administration Generally

Rule 46 - Accounts to be filed [Return to Main Menu](#)

(1) Every person to whom a grant of probate or Letter of Administration shall have been made, and every administrator appointed by the Judge shall, file in Court the accounts of his administration every 12 months from the date of the grant or the appointment until the completion of the administration.

(2) Any executor or administrator who fails to file his accounts within the prescribed period as aforesaid shall be liable to penalty of N100.00 (one hundred naira) for every day of default. A fine for nonpayment shall be enforceable by distress, and failing sufficient distress, by imprisonment for a term not exceeding 6 months.

(3) When accounts is filed in Court under this rule, the Judge shall scrutinize such account and if it appears to the Judge that by reason of improper, unvouched or unjustifiable entries or otherwise such account is not a full and proper account, the Judge shall require the person filling the account to remedy such defects as there may be within such time as the Judge may deem reasonable for the purpose; and on failure to remedy such defect within such time, the person who filed such defective account shall be deemed to have failed to file an account within the meaning of this rule and proceedings may be taken against such person accordingly.

(4) The Registrar shall bring to the notice of the Judge the fact that any executor or administrator has failed to file his accounts as required by this Rule.

(5) The Judge may, on the motion of any party interested, or suo motu, summon any executor or administrator failing as aforesaid, to show cause why he should not be punished.

(6) The Judge may for good cause shown extend the time for such filing of accounts.

(7) Any executor or administrator who has been granted an extension of time to file such accounts, and who fails within such extended time to file such accounts, shall be liable to the penalty set out above, and the procedure for bringing him before the Court shall be as set out above.

(8) The accounts shall be open to the inspection of any person who satisfies the Registrar that he is interested in the administration.

(9) In this rule, the word "accounts" shall mean and include an inventory, an account of the administration, the vouchers in the hand of the executor or administrator relating thereto and an affidavit in verification.

Rule 47 - Court may refuse application to review [Return to Main Menu](#)

The Judge may refuse to entertain any application under rule 2 of this order if he considers that there has been unreasonable delay by the applicant in making the application.

Rule 48 - Grant to be signed by probate registrar [Return to Main Menu](#)

The grant of Letters of Administration under this Order shall be signed by the Registrar on behalf of the Court.

II. Probate (Non - Contentious) Procedure

Rule 49 - Application [Return to Main Menu](#)

In this part, Rules 1,4,5,6,7,8,11,12,14,15,16,17,19,26,27, 28,29,30, 31,71 (1) and 72 (1) or (4) of this Order shall also apply.

Rule 50 - Application for grants through Legal Practitioner [Return to Main Menu](#)

Every Legal Practitioner through whom an application for grant is made shall give the address of his place of business within the jurisdiction.

Rule 51 - Personal applications [Return to Main Menu](#)

(1) An applicant for a grant may apply in person.

(2) A personal applicant may not apply through an agent, whether paid or unpaid, and may not be represented by any person acting or appearing to act as his adviser.

(3) No personal application shall be received or proceeded with if:

- (a) It becomes necessary to bring the matter before the Court by motion or by action;
- (b) An application has already been made by a Legal Practitioner on behalf of the applicant and has not been withdrawn;
- (c) The Judge otherwise directs.

(4) After a Will has been deposited in the Registry by a personal applicant, it may not be delivered to the applicant or to any other person unless in special circumstances the Judge so directs.

(5) A personal applicant shall produce a certificate of the death of the deceased or such

other evidence of the death as the Judge may approve.

(6) A personal applicant shall supply all information necessary to enable the papers leading to the grant to be prepared in the Registry or may himself prepare such papers and lodge them unsworn.

(7) Unless the Judge otherwise directs, every oath, affidavit or guarantee required of a personal application shall be sworn or executed by all the deponents or sureties before an authorized officer.

Rule 52 - Duty of Registrar on receiving application for grant [Return to Main Menu](#)

(1) The Judge shall not allow any grant to issue until all enquires which he may deem fit to make have been answered to his satisfaction.

(2) The Judge may require proof of the identity of the deceased or of the applicant for the grant beyond those contained in the Oath.

(3) No grant of probate or of administration with the Will annexed shall issue within 3 months of the death of the deceased; and no grant of administration (not with the Will annexed) shall issue within 3 months of such death.

Rule 53 - Oath in support of grant [Return to Main Menu](#)

(1) Every application for a grant shall be supported by an oath in the form applicable to the circumstances of the case, which shall be contained in an affidavit sworn by the applicant, and by such other papers as the Judge may require.

(2) Unless otherwise directed by the Judge, the oath shall state where the deceased was domiciled at the time of death.

Rule 54 - Grant in additional name [Return to Main Menu](#)

Where it is necessary to describe the deceased in a grant by some name in addition to his true name, the applicant shall state in the oath the in true name of the deceased and shall depose that some part of the estate, specifying it, was held in the other name; or as to any other reason that there may before the inclusion of the other name in the grant.

Rule 55 - Engrossment for purposes of record [Return to Main Menu](#)

(1) Where the Judge considers that in any particular case a photocopy of the original Will would be satisfactory for purpose of record, he may require that an engrossment suitable for photo reproduction be lodged.

(2) Where a Will contains alterations which are not admissible to proof, there shall be lodged an engrossment of the Will in the form in which it is to be proved.

(3) Any engrossment lodged under this rule shall reproduce the punctuation, spacing and division into paragraph of the Will and, if it is one to which sub-rule 2 of the rule applies, it shall be made bookwise on durable paper following continuously from page to page.

(4) Where any pencil writing appears on a Will, there shall be lodged a copy of the Will or of the pages or sheets containing the pencil writing there shall be underlined in red ink those portions which appear in pencil in the original.

Rule 56 - Grants to attesting witnesses, etc [Return to Main Menu](#)

Where a gift to any person fails by reason of the fact that he is an attesting witness or the spouse of an attesting witness, such persons shall not have any right to a grant as a beneficiary named in the Will, without prejudice to his right to a grant in any other capacity.

Rule 57 - Right of assignee to a grant [Return to Main Menu](#)

(1) Where all the persons entitled to the estate of the deceased under a Will have assigned their whole interest in the estate to one or more persons, the assignee or assignees shall replace in order of priority for a grant of probate the assignor or if there are two or more assignors, the assignors with the highest priority, in the absence of a proving executor.

(2) Where there are two or more assignees, probate may be granted with the consent of the others to anyone or more but not exceeding four of them.

(3) In any case where probate is applied for by an assignee, a copy of the instrument of assignment shall be lodged in the Registry.

Rule 58 - Additional personal representatives [Return to Main Menu](#)

(1) An application to add a personal representative shall be made to the Judge and shall be supported by an affidavit by the personal applicant, the consent of the person proposed to be added as personal representative and such other evidence as the Judge may require.

(2) On any such application the Judge may direct that a note shall be made on the original grant of the addition of a further personal representative, or he may impound or revoke the grant or make such order as the circumstances of the case may require.

Rule 59 - Grants where two or more persons entitled in the same degree [Return to Main Menu](#)

(1) A grant may be made to any person entitled thereto without notice to other persons entitled in the same degree.

(2) A dispute between persons entitled to a grant in the same degree shall be brought by application before the Judge.

(3) If an application under this rule is brought before the Judge, he shall not allow any grant to be sealed until such application is finally disposed of.

(4) Unless the Judge otherwise directs, administration shall be granted to a living person in preference to the personal representative of a deceased person who would, if living, be entitled in the same degree and to a person not under disability in preference to an infant entitled in the same degree.

Rule 60 - Prevention of grants [Return to Main Menu](#)

(1) Nothing in Rules 57, 60 or 62 shall operate to prevent a grant being made to any person to whom a grant may, or may require to be made under any enactment.

(2) The rules mentioned in the last foregoing paragraph shall not apply where the deceased died domiciled outside the State, except in a case to which the provisions of Rule 63 apply.

Rule 61 - Grants to person having spes successions [Return to Main Menu](#)

When the beneficial interest in the whole estate of the deceased is vested absolutely in a person who has renounced his right to a grant of administration with the Will attached and has consented to such administration being granted to the person or person who would be entitled to his estate if he himself had died intestate, administration may be granted to such person or one or more but not exceeding four of such persons: Provided that a surviving spouse shall not be regarded as person in whom the estate has vested absolutely unless he would be entitled to the whole of the estate, whatever its value may be.

Rule 62 - Grants where deceased died domiciled outside the State [Return to Main Menu](#)

Where the deceased was domiciled outside the State, the Judge may order that a grant should issue:

- (a) to the person entrusted with the administration of the estate by the Court having jurisdiction at the place where the deceased died domiciled;
- (b) to the person entitled to administer the estate by the law of the place where the deceased died domiciled;
- (c) if there is no such person as is mentioned in paragraph (a) or (b) of this rule or if in the opinion of the Judge the circumstances so require, to such person as the Judge may direct;
- (d) if a grant required to be made to, or if the Judge in his discretion considers that a grant should be made to, not less than two administrators, to such person as the Judge may direct jointly with any such person as is mentioned in paragraph (a) or (b) of this rule or with any other person: Provided that without any such order as aforesaid:
 - (a) Probate of any Will which is admissible to proof may be granted:
 - (i) Where the Will is in English or in the local language, to the executor named therein;
 - (ii) Where the Will described the duties of a named person in terms sufficient to constitute him executor according to the tenor of the Will, to that person;
 - (b) Where the whole of the estate in the state consists of immovable property, a grant limited thereto may be made in accordance with the law that would have been applicable if the deceased had died domiciled in the State;

Rule 63 - Grants to Attorneys [Return to Main Menu](#)

(1) Where a person entitled to a grant resides outside the State, a grant may be made to his lawful attorney for his use and benefit, until such person shall obtain a grant or in such other way as the Judge may direct; Provided that where the person so entitled is an executor administration shall not be granted to his attorney without notice to the other executors, if any.

(2) Where the Judge is satisfied by affidavit that it is desirable for a grant to be made to the lawful attorney of a person entitled to a grant and resident in the State, he may direct the grant to be made to the attorney for the use and benefit of such person, until such person obtains a grant or in such other way as the Judge may direct.

Rule 64 - Grants on behalf of minors [Return to Main Menu](#)

(1) Where the person to whom a grant would otherwise be made is a minor, a grant for his use and benefit until he attains the age of 18 years shall subject to sub- rule 3 and 5 of this rule, be granted.

(a) to both parents of the minor jointly or to any guardian appointed by a Judge; or

(b) where there is no such guardian able and Wiling to act and the minor has attained the age of 16 years, to any next of kin nominated by the minor, or where the minor is a married woman, to any such next of kin or to her spouse if nominated by her.

(2) Any person nominated under sub - rule 1 (b) if this rule may represent any other minor whose next of kin he is, being a minor below the age of 18 years entitled in the same degree as the minor who made the nomination.

(3) Notwithstanding anything is this rule, administration for the use and benefit of the minor until he attains the age of 18 years may be granted to any person assigned as guardian by order of a Court in default of, or jointly with, or to the exclusion of any such person as is mentioned in sub - rule; and such an order may be made on application by the intended guardian, who shall file an affidavit in support of the application and, if required by the Court, an affidavit to fitness sworn by a responsible person.

(4) Where a grant is required to be made to not less than two persons and there is only one person competent and Wiling to take a grant under the foregoing provisions of this rule, a grant may, unless the Judge otherwise directs, be made to such person jointly with any other person nominated by him as a fit and proper person to take the grant.

(5) Where a minor who is sole executor has no interest in the residuary estate of the deceased, administration with the Will attached for the use and benefit of the minor until he attains the age of 18 years shall, unless the Judge otherwise directs, be granted to the person entitled to the residuary estate.

(6) A minor's right to administration may be renounced only by a person assigned as guardian under subrule 3 of this rule and authorized to renounce by the Judge.

Rule 65 - Grants where minors co-executor [Return to Main Menu](#)

(1) When one of the several executor is a minor, probate may be granted to the adult executors, with power reserved for making the like grant to the minor on his attaining the age of 18 years and administration for the use and benefit of the minor until he attains the age of 18 years may be granted under Rule 64 only if the adult executors renounce or, on being cited to accept or refuse a grant, fail to make an effective application.

(2) A minor executor's right to probate on attaining the age of 18 years shall not be renounced by any person on his behalf.

Rule 66 - Grants in case of mental or physical incapacity [Return to Main Menu](#)

(1) Where the Judge is satisfied that a person entitled to a grant by reason of mental or physical infirmity incapable of managing his affairs, a grant for his use and benefit, during his incapacity may be made:

(a) in the case of mental incapacity, to the person authorized by the Judge to apply for the grant;

(b) where there is no person so authorized or in the case of physical incapacity:

(i) if the person incapable is entitled as executor and has no interest in the residuary estate of the deceased to the person entitled to such residuary estate;

(ii) where the person incapable is entitled otherwise than as executor or is an executor having an interest in the residuary estate of the deceased, to the person who would be entitled to a grant in respect of his estate if he had died intestate; or to such other person as the Judge may by order direct.

(2) Unless the Judge otherwise directs, no grant shall be made under this rule unless all persons entitled in the same degree as the person incapable have been considered and excluded.

(3) Where legal disability arises out of unsoundness of mind or insanity, notice of intended application for a grant under this rule shall, unless the Judge otherwise directs, be given to his guardian.

(4) Where there is physical disability notice of intended application for a grant under this rule shall unless the Judge otherwise direct be given to the person alleged to be incapable.

Rule 67 - Renunciation of probate and administration [Return to Main Menu](#)

(1) Renunciation of probate by an executor shall not operate as renunciation of any right which he may have to a grant of administration in some other capacity unless he expressly renounces such right.

(2) Unless the Judge otherwise directs, no person who has renounced a grant in one capacity may obtain a grant in some other capacity.

(3) A renunciation of probate or administration may be retracted at any time on the order of the Judge. Provided that only in exceptional circumstances may leave be given to an executor to retract a renunciation of probate after a grant has been made to such other person entitled in a lower degree.

Rule 68 - Notice to state of intended application for grant [Return to Main Menu](#)

Where the State is or may beneficially interested in the estate of a deceased person, notice of intended application for a grant shall be given by the applicant to the Osun State Attorney - General and the Judge may direct that no grant shall issue within a specified time after the notice has been given.

Rule 69 - Resealing [Return to Main Menu](#)

(1) An application for the resealing of probate or administration with the Will attached granted by a Court outside the State shall be made by the person to whom the grant was made or by any person authorized in writing to apply on his behalf.

(2) On any such application;

(a) an Inland Revenue Affidavit shall be lodged as if the application were one for a grant in the State;

(b) the application shall be advertised in such manner as the Judge may direct and shall be supported by an oath sworn by the person making the application.

(3) On an application for the resealing of such a grant:

(a) the Judge shall not require sureties except where it appears to him that the grant is made to a person or for a purpose mentioned in paragraphs (a) to (f) of Rule 35(1) or except where he considers that there are special circumstances making it desirable to

require sureties:

(b) Rules 35(2), (4), (5), (6) and 51 (4) shall apply with any necessary modifications; and
(c) a guarantee entered into by a surety shall be in Probate Form 2 with such variations as circumstances may require.

(4) Except by leave of the Judge, no grant shall be resealed unless it was made to such a person as is mentioned in paragraph (a) or (b) of Rule 62 or to a person to whom a grant could be made under a proviso to that rule.

(5) No limited or temporary grant shall be resealed except by leave of the Judge.

(6) Every grant lodged for resealing shall include a copy of any Will to which the grant relates or shall be accompanied by a copy certified as correct by or under the authority of the Court by which the grant was made.

(7) The Registrar shall send notice of the resealing to the Court which made the grant.

(8) Where notice is received in the Registry from outside the State of the resealing of a grant made in the State, notice of any amendment or revocation of the grant shall be sent to the Court by which it was resealed.

Rule 70 - Amendment and revocation of grant [Return to Main Menu](#)

If a Judge is satisfied that a grant should be amended or revoked, he may make an order accordingly; Provided that except in special circumstances no grant shall be amended or revoked under this rule except on the application or with the consent of the person to whom the grant was made.

Rule 71 - Notice to prohibit grant; caveats [Return to Main Menu](#)

(1) A notice to prohibit a grant of administration may be filed in Court.

(2) Any person who wishes to ensure that no grant is sealed without notice to himself may enter a caveat in the Registry.

(3) Any person who wishes to enter a caveat, in this rule called "the caveator", may do so by completing Probate Form 3 in the appropriate book at the Registry and obtaining an acknowledgement of entry from the proper officer, or by sending through the post at his own risk a notice in Probate Form 3 to the Registry in which he wishes the caveat to be entered.

(4) Where the caveat is entered by a Legal Practitioner on behalf of the caveator the name of the caveator shall be stated in Probate Form 4.

(5) Except as otherwise provided by this rule, a caveat shall remain in force for 3 months from the date on which it is entered and shall then cease to have effect, without prejudice to the entry of a further caveat or caveats.

(6) The Registrar shall maintain an index of caveats entered in the Registry and on receiving an application for a grant in the Registry he shall cause the index to be searched and shall notify the applicant in the event of any caveat having been entered against the sealing of a grant for which application has been made.

(7) The Registrar shall not allow any grant to be sealed if he has knowledge of an effective caveat in respect thereof; Provided that no caveat shall operate to prevent the

sealing of a grant on the day on which the caveat is entered.

(8) A warning to Probate Form 5 may issue from the Registry against a caveator at the instance of any person interested, in this rule called "the person warning", which shall state his interest and, if the claims under a Will, the date of the Will, and shall require the caveator to give particulars of any contrary interest which he may have in the estate of deceased; and every warning or a copy thereof shall be served on the caveator.

(9) A caveator having an interest contrary to that of the person warning may, within 8 days of service of the warning upon him inclusive of the day of such service; or at any time thereafter if no affidavit has been filed under sub-rule 12 of this rule, enter an appearance in the Registry by filing Probate Form 6 and making an entry in the appropriate book, and shall forthwith serve on the person warning a copy Probate Form 6 sealed with the seal of the Registry.

(10) A caveator who has not entered an appearance contrary to that of the person warning may at any time withdraw his caveat by giving notice at the Registry and the caveat shall then cease to have effect and if he has been warned, the caveator shall forthwith give notice or withdrawal of the caveat to the person warning.

(11) A caveator having no interest contrary to that of person warning but wishing to show cause against the sealing of a grant to that person may, within 8 days of service of the warning upon him inclusive of the day of such service, or at any time thereafter if no affidavit has been filed under sub-rule 12 of this rule, issue and serve a notice, which shall be returnable before the Registrar.

(12) If the time limited for appearance has expired and the caveator has not entered an appearance, the person warning may file in the Registry an affidavit showing that the warning was duly served and that he has not received a summons for directions under the last foregoing sub-rule, and thereupon the caveat shall cease to have effect.

(13) Upon commencement of a probate action the Probate Registrar shall, if a caveat is in force, other than a caveat entered by the Plaintiff, give to the caveator notice of the commencement of the action and, upon the subsequent entry of a caveat at any time when the action is pending, shall likewise notify the caveator of the existence of the action.

(14) Unless the Judge otherwise directs.

(a) any caveat in force at the commencement of proceedings by way of citation or motion shall, unless withdrawn pursuant to sub-rule 9 of this rule, remain in force until an application for a grant is made by the person shown to be entitled thereto by the decision of the Court in such proceedings, and upon such application any caveat entered by a party who had notice of the proceedings shall cease to have effect;

(b) any caveat in respect of which an appearance to a warning has been entered shall remain in force until the commencement of a probate action;

(c) the commencement of a probate action shall whether or not any caveat has been entered, operate to prevent the sealing of a grant until application for a grant is made by the person shown to be entitled thereto by the decision of the Judge in such action, and upon such application any caveat entered by a party who had notice of the action, or by a caveator who was given notice under sub-rule 13 of this rule, shall cease to have effect.

(15) Except with the leave of the Judge, no further caveat may be entered by or on behalf of any caveator whose caveat has ceased to have effect under sub-rule 12 or 14 of this rule.

Rule 72 - Citations [Return to Main Menu](#)

- (1) Notices in the nature of citation shall be given in such manner as the Judge directs.
- (2) Every citation shall be settled by the Registrar before being issued.
- (3) Every averment in a citation and such other information as the Registrar may require shall be verified by an affidavit sworn to by the person issuing the citation, in this Order called "the citor", or, if there are two or more citors, by one of them: Provided that the Registrar may in special circumstances accept an affidavit sworn to by the citor's Legal Practitioner.
- (4) The citor shall enter a caveat before issuing a citation
- (5) Every citation shall be served personally on the person cited unless a Judge, on cause shown by affidavit, directs some other mode of service, which may include notice by advertisement.
- (6) Every Will referred to in a citation shall be lodged in the Registry before the citation is issued, except where the Will is not in the citor's possession and the Judge is satisfied that it is impracticable to require it to be lodged.
- (7) A person who has been cited to appear may, within 8 days of service of the citation upon him inclusive of the day of such service, or at any time thereafter if no application has been made by the citor under sub-rule 5 of Rule 35 or sub-rule 3 of Rule 69 of this Order enter an appearance in the Registry by filing Probate Form 6 and making an entry in the appropriate book, and shall thereafter serve on the citor a copy of Form 5 sealed with the seal of the Registry.

Rule 73 - Citation to accept or refuse to take a grant [Return to Main Menu](#)

- (1) A citation to accept or refuse a grant may be issued at the instance of any person who would himself be entitled to a grant in the event of the person cited renouncing his right thereto.
- (2) Where power to make a grant to an executor has been reserved, a citation calling on him to accept or refuse a grant may be issued at the instance of the executors who have proved the Will or the executors of the last survivor of deceased executors who have proved.
- (3) A citation calling on an executor who has intermeddled in the estate of the deceased to show cause why he should not be ordered to take a grant may be issued at the instance of any person interested in the estate at any time after the expiration of 6 months from the death of the deceased. Provided that no citation to take a grant shall issue while proceedings as to the validity of the Will is pending.
- (4) A person cited who is Willing to accept or take a grant may apply ex-parte to the Judge for an order for a grant on filing an affidavit showing that he has entered an appearance and that he has not been served by the citor with notice of any application for a grant to himself.
- (5) If the time limited for appearance has expired and the person cited has not entered an appearance, the citor may:
 - (a) in the case of a citation under sub-rule 1 of this rule apply to the Judge for an order

for a grant to himself.

(b) in the case of a citation under sub-rule 2 of this rule, apply to the Judge for an order that a note be made on the grant that the executor in respect of whom power was reserved has been duly cited and has not appeared and that all his rights or interest in respect thereof have ceased;

(c) in the case of a citation under sub - rule 3 of this rule, apply to the Judge by summons, which shall be served on the person cited, for an order requiring such person to take a grant within a specified time or for a grant to himself or some other person specified in the summons.

(6) An application under sub-rule 5 of this rule shall be supported by an affidavit showing that the citation was duly served and that the person cited has not entered an appearance.

(7) If the person cited has entered an appearance but has not applied for a grant under sub rule 4 of this rule, or has failed to prosecute his application with reasonable diligence, the citor may;

(a) in the case of a citation under sub - rule 1 of this rule, apply by summons to the Judge for an order for a grant to himself;

(b) in the case of a citation under sub-rule 2 of this rule, apply by summons to the Judge for an order striking out the appearance and for the endorsement on the grant of such a note as is mentioned in paragraph (b) of sub-rule 5 of this rule;

(c) in the case of a citation under sub - rule 3 of this rule, apply by summons to the Judge for an order requiring the person cited to take a grant within a specified time or for a want to himself or some other person specified in the summons; and the summons shall be served on the person cited in each case.

Rule 74 - Citation to propound a Will [Return to Main Menu](#)

(1) A citation to propound a Will shall be directed to the executors named in the Will and to all persons interested thereunder, and may be issued at the instance of any citor having any interest contrary to that of the executors or such other persons.

(2) Where the time limited for appearance has expired, the citor may:

(a) Where no person cited has entered an appearance, apply to the Judge for an order for a grant as if the Will were invalid.

(b) in the case of a citation under sub-rule 2 of Rule 73 of this Order apply by summons to the Judge for an order striking out the appearance and for endorsement on the grant of such a note as mentioned in paragraph (b) of sub-rule 5 of Rule 73 of this Order.

(c) in the case of a citation under sub-rule 3 of Rule 73 of this Order apply by summons to the Judge for an order requiring the person cited to take a grant within a specified time or for a grant to himself or some other person specified in the summons; and the summons shall be served on the persons cited in each case.

Rule 75 - Address for service [Return to Main Menu](#)

All caveats, citations, warnings and appearance shall contain an address for service within the jurisdiction.

Rule 76 - Application for order to bring or to attend for examination [Return to Main Menu](#)

(1) An application for an order requiring a person to bring in a Will or to attend for examination may, unless a probate action has been commenced, be made to the Court by summons, which shall be served on every such person as aforesaid.

(2) An application for the issue by the Judge of a subpoena to bring in a Will shall be supported by an affidavit setting out the grounds for the application, and if any person served with the subpoena denies that the Will is in his possession or control he may file an affidavit to that effect.

Rule 77 - Limited grants [Return to Main Menu](#)

An application for an order for a grant limited to part of an estate may be made to the Judge and shall be supported by an affidavit stating;

- (a) whether the application is made in respect of the real estate only or any part thereof, or real estate together with personal estate, or in respect of a trust estate only;
- (b) whether the estate of the deceased is known to be insolvent;
- (c) that the persons entitled to a grant in respect of the whole estate in priority to the applicant have been considered and excluded.

Rule 78 - Grants and colligenda bona [Return to Main Menu](#)

An application for an order for grant of administration where the goods in the estate are of perishable nature may be made to the Judge and shall be supported by an affidavit setting out the grounds of the application.

Rule 79 - Application for Leave to Swear to death of a person [Return to Main Menu](#)

An application for leave to swear to the death of a person in whose estate a grant is sought may be made to the Judge and shall be supported by an affidavit setting out the grounds of the application and containing particulars of any policies of insurance effected on the life of the presumed deceased.

Rule 80 - Grants in respect of codicil and copies of Wills [Return to Main Menu](#)

(1) An application for an order admitting to proof a codicil or a Will contained in a copy, a completed draft, a reconstruction or other evidence of its contents where the original Will is not available may be made to the Judge. Provided that where a Will is not available owing to its being retained in the custody of a foreign Court or official, a duly certified copy of the Will may be admitted to proof without any such order as aforesaid.

(2) The application shall be supported by an affidavit setting out the grounds of the application and by such evidence on affidavit as the applicant can adduce as to:

- (a) the due execution of the Will;
- (b) its existence after the death of the testator; and
- (c) the accuracy of the copy or other evidence of the contents of the Will, together with any consent in writing to the application given by any person not under disability who would be prejudiced by the grant.

Rule 81 - Grants durante absentia [Return to Main Menu](#)

An application for an order for a grant of special administration where a personal representative resides outside the State shall be made to the Judge by a motion.

Rule 82 - Notice of election by surviving spouse to redeem life interest [Return to Main Menu](#)

(1) Where a surviving spouse who is the sole personal representative of the deceased is entitled to a life interest in part of the residuary estate and elects to have the life interest redeemed, he may give written notice of the election to the Registrar by filing a notice in Probate Form 7 with such variations as circumstances may require.

(2) A notice filed under this rule shall be notice on the grant and the record shall be open to inspection.

Rule 83 - Photocopy of Wills or other documents may be certified and sealed [Return to Main Menu](#)

(1) Where copies are required of original Wills or other documents deposited under the provisions of any written law such copies may be photocopies sealed with the seal of the Registry and issued as office copies and where such office copies are available copies certified under the hand of a Registrar to be true copies shall be issued only if it is required that the seal of the court be affixed thereto.

(2) Copies, not being photocopies of original Wills or other documents deposited as aforesaid shall be examined against the documents of which they purport to be copies if so required by the person demanding the copy, and in such case the copy shall be certified under the hand of a Registrar to be a true copy and may in addition be sealed with the seal of the Court.

Rule 84 - Power to require application to be made by summons or motion [Return to Main Menu](#)

The Registrar may require any application under this Order to be made by motion or summons to a Judge.

Rule 85 - Exercise of powers of Judge [Return to Main Menu](#)

(1) A Judge may direct that a notice of motion or summons for the service of which no other provision is made in this Order shall be served on such person or persons as the Judge may direct. (2) Where by the provisions of this Order or by any direction given under sub-rule 1 of this rule a notice of motion or summons is required to be served on any person, it shall be served not less than 5 days, before the hearing of the motion or summons.

Rule 86 - Service of Notices of motion and summons [Return to Main Menu](#)

Unless the Judge otherwise directs or this Order provides, any notice or other document required to be given or served on any person may be given or served by leaving it at, or by sending it by courier to that person's address for service, or if he has no address for service, his last known address.

Rule 87 - Affidavits [Return to Main Menu](#)

Every affidavit used in non-contentious probate business shall satisfy the requirements of Order 33.

Rule 88 - Time [Return to Main Menu](#)

The provisions of Order 44 shall apply to the computation, enlargement and abridgement of time under this Order.

Rule 89 - Application [Return to Main Menu](#)

Subject in any particular case to any direction given by a Judge, this Order shall apply to any proceeding which is pending on the date on which these rules come into operation as well as to any proceeding commenced on or after this date: Provided that where the deceased died before the commencement of these rules, the right to a grant shall, subject to the provisions of any enactment, be determined by the principles and rules in accordance with which the Court would have acted at the date of the death.

Rule 90 - Contentious probate; forms of suits [Return to Main Menu](#)

Suits in respect of probate shall be instituted and carried on as nearly as possible in the like manner and subject to the same rules of procedure as suits in respect of civil claims.

III. Proceeding Generally**Rule 91 - Probate actions** [Return to Main Menu](#)

In probate actions, the originating process shall state whether the Plaintiff claims as creditor, executor, administrator, beneficiary, next of kin or in any other capacity.

Rule 92 - Service of writ of summons [Return to Main Menu](#)

In probate actions service of a writ of summons may by leave of a Judge be allowed out of Nigeria.

Rule 93 - Pleadings and further actions [Return to Main Menu](#)

In probate actions a party shall state with regard to every defence which is pleaded, what is the substance of the case on which it is intended to rely; and further where it is pleaded that the testator was not of sound mind, memory and understanding, particulars of any specific instances of delusion shall be delivered before the case is set down for trial and except by leave of a Judge no evidence shall be given of any other instances at the trial.

Rule 94 - Where Plaintiff disputes defendant's interest [Return to Main Menu](#)

In probate actions where the Plaintiff disputes the interest of the defendant, he shall allege in his statement of claim that he denies the defendant's interest.

Rule 95 - Notice of opposition to will [Return to Main Menu](#)

In probate actions the party opposing a Will may, with his defence, give notice to the party setting up the Will that he merely insists upon the Will being proved in solemn form of law and only intends to cross-examine the witnesses produced in support of the Will, and he shall thereupon be at liberty to do so and shall not in any event be liable to pay the costs of the other side unless the Judge finds that there was no reasonable ground for opposing the Will.

Rule 96 - Inquiry as to outstanding personal estate [Return to Main Menu](#)

Every judgment or order for a general account of the personal estate of a testator or intestate shall contain a direction for any inquiry as to what parts of such personal estate are outstanding or undisposed of, unless the Judge shall otherwise direct.

Rule 97 - Discretion to order cost [Return to Main Menu](#)

Where a person is or has been a party to any proceedings in the capacity of trustee, personal representative or mortgagee, he shall, unless the Judge otherwise orders be entitle to the costs of such proceedings in so far as they are not recovered from or paid by any other person out of the fund held by the trustee or personal representative or the mortgaged property, as the case may be; and the Judge may otherwise order only on the ground that the trustee, personal representative or mortgagee has acted unreasonably or, in the case of a trustee or personal representative, has in substance acted for his own benefit rather than for the benefit of the fund.

Rule 98 - Originating summons relating to deceased person [Return to Main Menu](#)

The executors of administrators of a deceased person or any of them I and the trustee under any deed or instrument or any of them, and any person claiming to be interested in the relief sought as creditor, beneficiary, next of kin, heir-at-law of a deceased person, or as Cestui que trust under the trust under the trust of any deed or instrument, as in claiming by assignment or administration otherwise under any such creditor or other person as aforesaid, may take out, an originating summons for relief as listed hereunder as may be specified by the summons and as the circumstances of the case may require, that is, the determination without an administration of the estate or trust of any of the following questions or matters:

- (a) any question affecting the rights or interest of the person claiming to be creditor, beneficiary, next of kin, or heir-at-law or cestui que trust;
- (b) the ascertainment of any class of creditors, beneficiary, next of kin, or others;
- (c) the furnishing of any particular accounts by the executors or administrators or trustee and the vouching, when necessary, of such accounts;
- (d) the payment into Court of any money in the hands of the executors or administrators or trustee;
- (e) directing the executors or administrators or trustee to do or abstain from doing any particular act in their character as such executors or administrators or trustees;
- (f) the approval of any sale, purchase, compromise, or other transaction;
- (g) the determination of any question arising in the administration of the estate or trust.

Rule 99 - Order for administration or deceased and of trust [Return to Main Menu](#)

Any of the persons named in Rule 98 of this Order may in like manner apply for and obtain an order for;

- (a) the administration of the personal or real estate of the deceased;
- (b) the administration of the trust;
- (c) any act to be done or step to be taken which the Judge could have ordered to be done or taken if any such administration order as aforesaid had previously been made.

Rule 100 - Person to be served [Return to Main Menu](#)

The persons to be served with the summons under Rules 98 and 99 of this Order in the first instance shall be the following: Where the summons is taken out by an executor or administrator or trustee:

- (a) for the determination of any question, under paragraph (a), (c), (f) or (g) of Rule 98 of this Order, the persons, or one of the persons, whose rights or interest, are sought to be affected.
- (b) for the determination of any question, under paragraph (b) of Rule 98 of this Order any member or alleged member of the class;

- (c) for the determination of any question under paragraph (c) of Rule 98 of this Order, any person interested in taking such accounts;
- (d) for the determination of any question under paragraph (d) of Rule 98 of this Order, any person interested in taking such money;
- (e) for relief under paragraph (a) of Rule 99 of this Order, the residuary legatee, or next of kin, or some of them, or the residuary devisees, or heirs, or some of them, as the case maybe;
- (f) for relief under paragraph (b) of Rule 99 of this Order, the Cestui que trust or some of them;
- (g) if there are more than one executor or administrator or trustee and they do not all concur in taking out the summons, those who do not concur;
- (h) where the summons is taken out by the any person other than the executors, administrators or trustees the executors, administrators or trustee, or some of them must be served.

Rule 101 - Judge not bound to order administration [Return to Main Menu](#)

It shall not be obligatory on the Judge to pronounce or make judgment or order, whether on summons or otherwise for the administration of any trust or of the estate of any deceased person if the questions between the parties can be properly determined without such judgment or order.

Rule 102 - Order which may be made on application for administration of execution of trusts, when no account or insufficient account [Return to Main Menu](#)

Upon an application for administration or execution of trust by a creditor or beneficiary under a Will, intestacy, or deed of trust, where no accounts or insufficient accounts have been rendered, the Judge may in addition to the powers already existing:

- (a) order that the application shall stand over for a certain time, and that the executors; administrators or trustees in the meantime shall render to the applicant proper statement of their accounts, with an intimation that if this is not done they may be made to pay the costs of the proceedings.
- (b) when necessary, to prevent proceedings by other creditors, or by persons beneficially interested, make the usual judgment or order for administration with a proviso that no proceedings are to be taken under such judgment or order without leave of the Judge.

Rule 103 - Interference with discretion of trustee [Return to Main Menu](#)

The issue of a summons under Rule 98 of this Order shall not interfere with or control any power or discretion vested in any executor, administrator trustee except so far as such interference or control may necessarily be involved in the particular relief sought.

Rule 104 - Application by summons appointment of new trustee and vesting order: Vesting order on sale, etc Payment out of court. [Return to Main Menu](#)

Any of the following applications may be made by summons. (a) an application for the appointment of a new trustee with or without a vesting or other consequential order;

- (b) an application for a vesting order or other order consequential on the appointment of a new trustee where the appointment is made by a Judge;
- (c) an application for vesting or other consequential order in any case where a judgment or order has been given or made for the sale, conveyance, or transfer of any land or stock or the suing for or recovering any chose in action;
- (d) an application relating to a fund paid into Court in any case coming within the provisions of Rule 8 of this Order.

- (1) The provisions of the Interpretation Law shall apply to the interpretation of this Order,
- (2) In this Order, unless the context otherwise requires:
"authorized officer" means any officer of the Registry who is for the time being authorized by law to administer any oath or to take any affidavit required for any purpose connected with his duties;
"gross" value in relation to any estate means the value of the estate without deduction for debts, encumbrances, funeral expenses or estate duty;
"oath" means the oath required by this Order to be sworn by every applicant for grant;
"personal applicant" means a person other than a trust corporation who seeks to obtain a grant without employing a Legal Practitioner, and
"personal application" has a corresponding meaning;
"Registrar" means the Probate Registrar.
"Registry" or "Probate Registry" means the Probate Registry of the Court.
"Will" includes a codicil and any testamentary document or copy or reconstruction of it.
- (3) Unless the context otherwise requires, any reference in this Order to any rule or enactment shall be construed as a reference to that rule or enactment as amended, extended or applied by any other rule or enactment.

Regulating regarding fees [Return to Main Menu](#)

1. No process shall, except by special order of Court, be issued until;
(a) all fees payable thereon as provided shall have been paid, and
(b) an account thereof, initialed as received shall have been set forth by the officer issuing the process both in the margin and in the counterfoil thereof.
2. All such fees shall be carried to account immediately the process is issued.
3. Every document, for or in respect of which any fess or fees shall have been paid, shall bear an indorsement initialed by the Registrar or other officer showing the amount of the fee or fees so paid and the receipt referring to the payment, provided that when any form of process specified the fees thereof, it shall be sufficient for the number of Registrar or other officer to initial the amount of such fees appearing thereon, and to quote the number of the receipt.
4. Every Registrar or the officer submitting any writ of summons or other process whatever for signature by a Judge shall at the same time produce the stamp of the receipt given for the fees of such process.
5. No document in respect whereof a fees is payable shall be used in any legal proceeding, unless it shall have been initialed as aforesaid by the Registrar or other officer or unless the Court shall be at same time produce the stamp(s) of the receipt given for the fees of such process.
6. All fees for service, execution and mileage shall be paid into revenue.
7. No hearing fee or other fee shall be returned, except upon a voucher, payable at the Treasury, in favour of the party entitled to receive the same and prepared at the direction of the Judge before whom the cause or matter is set down and comes on for hearing.

(0. 3. r. 3)

20.....

(Here put the letter and number (see note (a) following this form).

In the High Court of Osun State.

In

the.....Judicial Division

Between:

A.B.....Claimant

and

C. D.....Defendant

To C.D, of..... in the..... of

You are hereby commanded that within forty - two days after the service of this writ on you, inclusive of the day of such service you do cause an appearance to be entered for you in an action at the suit A.B. and take notice that in default of your so doing the claimant may proceed therein, and judgment may be given in your absence.

DATED this day of 20
.....

Registrar

N. B.: This writ is to be served within three calendar months from the date thereof, or, if renewed, within three months from the date of the last renewal, including the day of such date, and not afterwards.

Forms of Writs of Summons, etc - continued

The defendant may enter appearance personally or by Legal Practitioner either by r handing in the appropriate forms duly completed, at the Registry of the High Court of the Judicial Division in which the action is brought or by sending them to Registry by registered post.

Indorsement to be made on the writ before issued thereof:

The claimant's claim is for, etc (b)

This writ was issued by G. H" of who address for service(s) is agent for of Legal Practitioner for the said claimant who the city, town or district and also the name of the street and number of the house of the claimant's residence, if any) Indorsement to be made on copy of writ of forthwith after service.

This writ was served by me at on the defendant (here insert mode of service) on the day of 20

Indorsed the day of 20.....

.....
(Signed)

.....
(Address)

Note:

(a) Heading and Title - if the action is for administration the writ must be headed "In the matter of the Estate of..... deceased. 'If it is a debenture holder's action the writ must be headed in the matter of company, and in a probate action. "In the Estate of A. B. deceased."A writ of summons claiming administration of a trust or settlement may be instituted "In the matter of the (Trust or settlement)".

(b) Indorsement of Claim -If the claimant sues, or defendant is sued, in a representative capacity, the indorsement must state in what capacity the claimant sues or the defendant is sued. See 0.4.r.s. If the claim is for a debt or liquidate demand only, the Indorsement even though not special, must strictly comply with the provision of 0.4.rA, including a claim for four days' costs.

(c) Address for Service see 0.4.r.6. The address must be within the jurisdiction.

(d) Address of Claimant -In the case of company in liquidation the claimant's address should run claimants, who are a company in liquidation. The liquidator is (name of liquidator), of (address of liquidator)".

In the case of a foreign corporation within the meaning of part 10 of the Companies and Allied Matters Act the claimants' address should run thus;

..... claimants I who are a foreign corporation within the meaning of the Companies and Allied Matters Act. The registered name and address of the person to be served are (here add registered name and address).

(e) Indorsement of Service -see 0.7.r.13.

(f) Probate Actions - In these actions the indorsement of claim just show the nature of the claimant's interest, under which he claims (OA.r.3); and the alleged interest of the defendant Before the writ is issued the following certificate must be indorsed on it:

The Registry, High Court of Osun State

In the Judicial Division

A sufficient affidavit in verification of the indorsement on this writ to authorize the sealing thereof has been produced to me this .. "

Day of 20
.....

FORM 2 - Writ for Service out of the jurisdiction [Return to Main Menu](#)

(0. 3. r.4)

To C. D. of..... you are hereby commanded that within (here insert the number of days directed by the Court of Judge ordering the service or notice) days after service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in the Judicial Division of the High Court of Osun State in an action at the suit of AS; and take notice, that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence.

Dated this..... day of 20 by order of the court .

.....

Registrar

Memorandum to be subscribed on the writ

N.B:

This writ is to be served within three calendar months from the date thereof, or, if renewed, within three calendar month from the date of the last renewal, including the day of such date, and not afterwards.

The defendant (or defendants) may appear hereto by entering appearance (or appearances) either personally or by Legal Practitioner at the Registry of the Judicial Division in which the writ is issued.

This writ was served (as in Form No.1)

Indorsement to be made on the writ before the issue thereof:

N. B:

This writ is to be used where the defendant or all the defendants or one or more defendant or defendants is or are out of the jurisdiction.

Note:

The above indorsement "N. B" must be on every writ or concurrent writ for service out of the jurisdiction.

The indorsement "N. B" need not be made on a writ against defendants domiciled abroad, but whom it is intended to serve within the jurisdiction.

Indorsement - If the claim is for a debt or liquidated demand only, the indorsement, even though not special, must strictly comply with the provisions of 04.r.4. (1), including a claim for costs.

See also notes to Form No.1 supra.

FORM 3 - General Form or Originating Summons [Return to Main Menu](#)

(0. 3. r.8)

In the High Court of Osun State

In the.....Judicial
Division

(If the question to be determined arises in the administration of an estate or a trust
entitles it: In the matter of the estate or trust).

In

The Judicial Division

Between:

A.B Claimant

and

C. D and E.F..... Defendant

Let of in
..... within forty-two days after service of this summons
on him, inclusive of the day of such service, cause an appearance to be entered for him
to this summons which is issued upon the application of of
.....

who claims to be (state the nature of the claim), for the determination of the following
questions. (State the questions)

DATED the day of 20
.....

This summons was taken out by Legal Practitioner for
the above named

FORM 4 - Originating Summons under (0.3. r. 8 (1)) [Return to Main Menu](#)

No..... of 20.....

In the High Court of Osun State

In the..... Judicial Division

In the matter of A. 8, a Legal Practitioner (Re Taxation of costs, etc) (or as may be)

Let A.B. of attend the Court (or Chief Registrar's
Office) HIGH COURT OSUN STATE, on the..... day of
..... 20 at 9 O'clock in the forenoon (on the
hearing of an application on the part of) (State relief sought).

(If for leave to endorse award under the Arbitration Law,)

Add,

"And that the respondent to pay the costs of this application to be taxed".

DATED the day of 20

This summons was taken out by.....

Note:

It will not be necessary for you to enter an appearance in the HIGH COURT REGISTRY, but if you do not attend either in person or by your Legal Practitioner, at the time and place above mentioned (or at the time mentioned in the endorsement thereon), such order will be made and proceedings taken as the Judge may think just and expedient.

FORM 5 - Forms of ex-parte Originating Summons [Return to Main Menu](#)

(O. 3. r. 8 (1))

In the High Court of Osun State

In the.....Judicial Division

Suit No.....

In the matter of A. B. an infant (or, as may be). Let all parties concerned attend before the Judge or (Chief Registrar's Office), High Court, Osun State, at the time specified in the margin hereof, on the hearing of an application on the part of the above named A. B, and in fact, by C. D. his next friend, that etc.

This summons was taken out by of
..... agents for of
..... Legal Practitioner for the applicant.

FORM 6 - Form of Memorandum for Renewed Originating Process [Return to Main Menu](#)

(O. 6, r.6(2))

(Heading as in Form No.1)

Seal renewed Originating Process in this action indorsed as follows:-

The Originating Process renewed on the day
of 20 pursuant to
Order of Court madeday of
..... 20.....for 3 months.

(Copy original Originating Process and the indorsements)

FORM 7 - Requests to Minister of Foreign Affairs to transmit Writ to Foreign Government [Return to Main Menu](#)

(O. 8. r. 3 (a))

The Chief Judge of Osun State presents his compliments to the Minister of Foreign Affairs, and encloses herewith a notice of a writ of summons issued in an action of
..... A.B versus
C. D pursuant to order out of the Judicial Division

of the High Court of Osun State for transmission to the Ministry of Foreign Affairs in (name of country) with the request that the same may be served personally upon (name of defendant to be served) against who proceedings have been taken in the

.....

Judicial Division of the High Court of Osun State and with the further request that such evidence of the service of the same upon the said defendant may be officially certified to the High Court of Osun State, or declared upon oath, or otherwise, in such manner as is consistent with the usage or practice of the courts of the (name of country) in proving service of legal process.

The Chief Judge further requests-that in the event of efforts to effect personal' service of the said notice of writ proving ineffectual the Government or Court of the said country be requested to certify the same to the High Court of Osun State .

FORM 8 - Request for service Abroad (Title as in Form No.4) [Return to Main Menu](#)

(0. 8. r. 3 (b))

I (or we) hereby request that the writ of summons in this actions be transmitted through the proper channels to (name or country) for service (or substituted service) on the defendant (naming him) at (address of defendant) or elsewhere in (name of country). And I (or we) hereby personally undertake to be responsible for all expenses incurred by the Ministry of Foreign Affairs. in respect of the service hereby requested and on receiving due notification of the amount of such expenses I (or we) undertake to pay the same into the High Court Registry for transmission to the Director - General of the Ministry of Foreign Affairs.

DATED this day of 20

.....

.....

Signature of Legal Practitioner

FORM 9 - Letter Forwarding Request for Substituted Service [Return to Main Menu](#)

(0. 8. r. 3 (d))

The Chief Judge of Osun State presents his compliments to the Minister of Foreign Affairs and encloses herewith a writ of summons in the case of versus

.....

In which the claimant has obtained as order of the

..... Judicial Division of the High Court of the said writ may be served by substituted service on the defendant

..... atin the (name of country). The Chief Judge requests that the said writ and order may be forwarded to the proper authority in (name of country) with the request that the same may be transmitted by post addressed to the defendant at (the last known place of abode or the place of business) of the said defendant, or there delivered in such manner as may be consistent with the usage or practice of the courts of (name of country) for service of legal process

where personal service cannot be effected, and with the further request that the same may be officially certified to the Judicial Division of the High Court of Osun State, or declared upon oath, or otherwise, in such manner as is consistent with the practice of the courts of the (name of country) in proving service of legal process.

FORM 10 - Request to Minister of Foreign Affairs to transmit Notice of writ to a Foreign Government [Return to Main Menu](#)

(0. 8. r, 4 (1) (a))

The Chief Judge of Osun State presents his compliments to the Minister of Foreign Affairs and encloses herewith a writ of summons issued in an action

..... of

Versus the (insert name of the defendant Contracting Party) pursuant to order, of the High Division of the High Court of Osun State for delivery to the Government of (insert name of the country of the High Contracting Party and to request that an official certificate may in due course be dispatched to the Judicial Division of the High Court of Osun State, stating that the writ of summons has been delivered and on what date.

FORM 11 - Memorandum of Appearance [Return to Main Menu](#)

(0. 9. r. 1 (1))

IN THE HIGH COURT OF OSUN STATE

In the.....Judicial
Division

Suit No.....

Between: Claimant(s) and
..... Defendant(s)

Please enter an appearance for 1 (a).....
sued as (b).....

In this action.

DATED the day of 20

Signed

whose address for service is 1 (c)

N.B: Additional notes for the guidance of defendants seeking to enter an appearance are given on the back. Please read carefully.

Notes:

(a) The defendant must give his or her full name

(b) Give name by which the defendant is described in the writ if this differs from defendants' full name, otherwise delete words "such as".

(c) A defendant appearing in person must give his residence or some other place within the Judicial Division of Osun State to which communication for him should be sent. Where he appears by a Legal Practitioner, the Legal Practitioner's place of business.

2. Where the defendant is a firm, the appearance must be entered by the individual partners by name with the description "Partner in the firm of

.....

3. Where the defendant is an individual trading in a name other than his own, the appearance must be entered by him in his name with the addition of the description. Trading as.....'

4. Where the defendant is a limited liability company, the appearance must be entered by a Legal Practitioner.

5. Where the appearance is being entered by leave of the court, a copy of the order granting leave must accompany this form.

6. Where the defendant has no defence or admits the claimant's claim, the entry of appearance will delay judgment and may increase the costs payable by the defendant.

7. Acknowledgement of service shall be as follows:

I, acknowledge that on the day of 20 At (time and place) received the following documents:

(a)

(b)

(c)

I also acknowledge that I am the person referred to in the sealed copy of the originating process.

DATED this day of 20.....

.....

Signature

FORM 12 - Notice of Counterclaim [Return to Main Menu](#)

(0.17. r. 8)

In the High Court of Osun State

In the.....Judicial
Division

Between:

A.B Claimant(s)
and

C. D..... Defendant(s)

To the within - named X, Y.

Take notice that if you do not appear to the counter claim of the within -named C. D, within 8 days from the service of this defence and counterclaim upon you, you will be liable to have judgment given against you in your absence.

Appearance to be entered at theJudicial Division,
High Court Registry, Osun State. **FORM 13 - Concession to Defence** [Return to Main Menu](#)

(0. 17. r. 15)

In the High Court of Osun State

In theJudicial Division

Between:

A. B Claimant
and
C. D, E, F, and G.
H Defendant

The claimant concedes to the defence stated in the paragraph
..... of the defendant's defence (or, of the defendant's further
defence).

FORM 14 - Notice of Payment into Court [Return to Main Menu](#)

(0. 21. r. 1 (6))

In the High Court of Osun State

In the Judicial Division
Between:

A. BClaimant
and
C. D. E. F. and G. H Defendant

Take notice that the defendant has paid into Court N
..... and says that (..... part of) that sum is
enough to satisfy the claimant's claim (for and N the other part of that
sum is enough to satisfy the claimant's claim for.....)

DATED the Day of 20
.....

.....

P. O. Legal Practitioner for defendant, C. D.
To X, Y, the claimant's Legal Practitioner, and to Mr. R. S. Legal Practitioner for the
defendant E. F.
To be filed in by the Cashier, High Court

Received the above sum of naira kobo
..... into court in this action.

Dated the..... Day of20.....

FORM 15 - Acceptance of Sum paid into Court [Return to Main Menu](#)

(0.21. r. 2 (1))

In the High Court of Osun State
In
the Judicial Division

Between:
A.B Claimant and
C.D, E, F, and G.
H Defendant

Take notice that the claimant accepts the sum of N..... paid by the defendant (C. D) into court in satisfaction of the claim in respect of which it was paid in (and abandons his other claims in the action).

Dated the Day of 20
.....

X. Y. Claimant's Legal Practitioner
To

Mr. P. O, Legal Practitioner for the defendant C. D. and Mr. R. S. Legal Practitioner for the defendant E,F.

FORM 16 - Acceptance of Sum paid into Court By one of Several Defendant
[Return to Main Menu](#)

(0. 21. r. 4 (2))

In the High Court of Osun State
In
the Judicial Division

Between: A.B.....Claimant and C. D.E.F. and
G.HDefendant

Take notice that the claimant accepts the sum of N..... paid by the defendant (C. D) into court in satisfaction of his claim against the defendant C. D.

Dated the..... day of.....20

X. Y. Claimant's Legal Practitioner
To

Mr. P. O. Legal Practitioner for the defendant C. D. and Mr. R. S. Legal Practitioner for the defendant E. F.

FORM 17 - Hearing Notice for Pre-Trial Conference[Return to Main Menu](#)

(0.25, r.1)

In the High Court of Osun State

In the.....Judicial Division

20.....

Between:

A.B.....Claimant

and

C. D.....Defendant

To (insert name of parties)

Take Notice that you are required to attend the Court Noat the High Court of Osun State at the Judicial Division, on the day of 20 at 9 O'clock in the forenoon, for a Pre - Trial Conference for the purposes set out of hereunder.

1. (a) disposal of non - contentious matters which must or can be dealt with on interlocutory application.
 - (b) giving such directions as to the future course of the action as appear best adopted to secure its just, expeditious and economical disposal;
 - (c) promoting amicable settlement of the case or adoption or alternative dispute resolution.
2. Please answer the questions in the attached Pre - Trial Information Sheet (Form 18) on a separate sheet and submit 7 clear days before the above mentioned date.

Take Notice that if you do not attend in person or by Legal Practitioner at the time and place mentioned, such proceedings will be taken and such order will made as the Judge may deem just and expedient.

Dated the day of 20

.....

Signed.....

Chief Registrar

FORM 18 - Pre-Trial Information Sheet[Return to Main Menu](#)

(0.25, r.1)

In the High Court of Osun State

In the..... Judicial Division 20

Between:

A.BClaimant

and

C. DDefendant

This Pre - Trial Information Sheet is intended to include reference to all applications which the parties would wish to make at the Pre - Trial Conference. Application not covered by the standard questions raised in this Pre - Trial Information Sheet should be entered under item 12 below.

All parties shall not later than 7 days before the first Pre - Trial Conference, file and serve on all parties.

(a) all applications in respect of matters to be dealt with before trial" including but not limited to the matters listed hereunder;

(b) written answer to the questions contained in this Pre - Trial Information Sheet.

1. Do you require that this action be consolidated with any other action(s)? If so give particulars.

2. Are amendments to any originating or other process required?

3. Are further and better particulars of any pleading required? it is required what particulars are required.

4. Do you object to any interrogatories that may have been delivered pursuant to Order 26 rule 1 of the High Court (Civil Procedure) Rules? If so, state the grounds of such objection in compliance with Order 26 rule 4 of the Rules.

5. Do you object to producing any document in respect of which a request for discovery has been made pursuant to Order 26 Rule 8(1) of the High Court (Civil Procedure) Rules? If so, state the grounds of such objection in compliance with Order 26 rule 8(3) of the Rules.

6. If you intend to make any additional admissions, give details

7. Will interpreters be required for any witness? If so, state in what language.

8. In this a case in which the use of a single or joint expert might be suitable? If not state reasons.

9. Is there any way in which the court can assist the parties to resolve their dispute or particular issues in it without the need for a trial or full trial?

10. Have you considered some form of Alternative Dispute Resolution (ADR) procedure to resolved or narrow the dispute or particular issues in it? If yes state the steps that have been taken. If not state reasons.

11 State any question or questions or law arising in your case, if any, which you require to be stated in the form of a special case for the opinion of the Judge in accordance with Order 28 of the Rules.

12. List the applications you wish to make at the Pre - Trial Conference.

DATED this day of 20
.....

Signed.....

(Legal Practitioner for the.....)

For service on:

.....

FORM 19 - Interrogatories [Return to Main Menu](#)

(0.26. r. 2)

In the High Court of Osun State

In

The Judicial Division

Suit No

Between:

A.B Claimant

and

C. D.E.F. and G.H Defendant

Interrogatories on behalf of the above named (claimants of defendants C.O) for the examination of the above - named (defendants E. F., and G. or claimant).

1. Did not, etc

2. Has not, etc

(The defendant E. F. is required to answer the interrogatories numbered)

(The defendant G. H. is required to answer interrogatories numbered)

Dated the day of 20
.....

FORM 20 - Answer to interrogatories [Return to Main Menu](#)

(0. 26. r.6)

In the High Court of Osun State

In the.....Judicial Division

Suit No

Between:

A.B Claimant

and

C. D.E.F. and G.HDefendant

The answer of the above - named defendant E. F, to the interrogatories for his examination by the above named claimant.

In answer to the said interrogatories, I the above-named E. F. made oath and say as follows: I, the above-named defendant E.F, do hereby solemnly swear by Almighty God that this is my name and handwriting and that the facts deposed by me in this affidavit are the truth, the whole truth and nothing but the truth.

FORM 21 - Affidavit as to Documents [Return to Main Menu](#)

(0. 26. r. 8(3))

In the High Court of Osun State

In

the Judicial Division

Suit No

Between:

A.B Claimant

and

C. D.E.F. and G.H Defendant

I, the above named defendant C.D., make oath and say as follows:

1. I have in my possession or power the documents relating to the matters in question in this suit set forth in the first and second parts of the first schedule hereto.

2. I object to produce the said documents set forth in the second part of the said first schedule hereto (state grounds of objection)

3. I have had, but have not now, in my possession or power the documents relating to the matters in question in this suit set forth in the second schedule hereto.

4. The last - mentioned documents were last in any possession or power on (state when, and what has become of them and in whose possession now are)

5. To the best of my knowledge, information and belief I have not now, and never had in my possession, custody or power or in the possession, custody or power of my Legal Practitioner or agent, or in the possession, custody of power of any other persons, or person on my behalf, any deed account, book of account, voucher, receipt, letter, memorandum, paper, or writing or any copy of or extract any such document, or any copy of extract any such document, or any other document whatsoever, relating to the matters in question in this suit, or any of them, or wherein any entry has been made relative to such matters, or any of them, other than and except them documents set forth in the said first and second schedule hereto.

Dated at Osun state thisday of
.....20.....

(ILLITERATE JURAT)

.....

.....

FORM 22 - Form of order for Accounts and Inquiries [Return to Main Menu](#)

(0.27. r. 11)

In the High Court of Osun State

In the Judicial Division

Suit No.....

Between:

A.B Claimant

and

C. D.E.F. and G.H Defendant

This Court doth order that the following accounts and inquiry be taken and made; that is to say.

- 1.
- 2.
- 3.
- 4

And it is ordered that the following further inquiries and accounts be made and taken; that is to say,

- 5.
- 6.
- 7.
- 8.

And it is ordered that the further consideration of this cause be adjourned, and any of the parties are to be at liberty to apply as they may be advised.

FORM 23 - Legal Practitioner's Undertaking as to Expenses [Return to Main Menu](#)

(0.32. r. 7(a))

(Heading as in Form No.1)

I (or we) hereby undertake to be responsible for all expenses incurred by the Ministry of Foreign Affairs in respect of the letter of request issued herein on the and on receiving due notification of the amount of such expenses undertake to pay the same as directed by the Chief Registrar of the High Court.

The following have been appointed as agents for the parties in connection with the execution of the above letter of request:

Chairman's Agent..... of

Defendant's Agent..... of

DATED the..... day of 20

.....

.....

Legal Practitioners for

.....

.....

FORM 24 - FORM 24 - Letter of Request to take Evidence Abroad [Return to Main Menu](#)

(Convention Country)

(0.32. r. 7(b))

To The Competent Judicial Authority of in the of

Whereas a civil (commercial) action is now pending in the..... Judicial Division of the High Court of Osun State Nigeria, in which is the claimant and is the defendant And in the said

action the claimants claims

And whereas it has been represented to the said court that it is necessary for the purpose of justice and for due determination of the matters in dispute between the parties, that the following persons should be examined as witnesses upon oath touching such matters, that is of and of and it appears that such witnesses are resident within your jurisdiction.

Now, I the Chief Judge of the High Court of Osun State, Nigeria have the honour to request, and do hereby request, that for the reasons aforesaid and for the assistance of the said court, you will be pleased to summon the said witnesses (and such other witnesses as the agents of the said claimant and defendant shall humbly request you in writing so to summon) to attend at such time and place as you shall appoint before you, or such other person as according to your procedure is competent to take the examination of witnesses, and that you will cause such witnesses to be examines (upon the interrogatories which accompany this letter of request and via voce) touching the said matters in question in the presence of the agents of the claimant and defendant or such of them as shall on due notice given, attend such examination.

And I further have the honour to request that you will permit the agents of both the said claimant and defendant or such of them as shall be present to be at liberty to examine (upon interrogatories and viva voce upon the subject matter thereof arising out of the answers thereto) such witnesses as may, after due notice in writing, be produced on their behalf, and give liberty to the other party to cross -examine the said witnesses (upon cross - interrogatories and viva voce upon the subject-matter thereof or arising out of the answers thereto) such witnesses as may, after due notice in writing, be produced on their behalf, and give liberty to the other party to cross-examine the said witnesses (upon cross-interrogatories and viva voce) and the party producing the witness for examination liberty to reexamination him viva voce.

And I further have the honour to request that you will be pleased to cause the answers of the said witnesses and all additional viva voce questions, whether on examination cross-examination or reexamination the evidence of such witnesses to be reduced into writing and all books, letters, papers, and document produces upon such examination to be duly marked for identification, and that you will be further pleased to authenticate such examination by the seal of your tribunal, or in such other way as is in accordance with your procedure, and to return the same together with (the interrogatories and cross - interrogatories, and) a note of the charges and expenses payable in respect of the execution of this request through the Ministry of Foreign Affairs from whom the name was received for transmission to the said High Court of Osun State.

And I further beg to request that you will cause me, or the agents of the parties of appointed, to be informed of the date and place where the examination is to take place.

DATED the.....day of.....20.....

FORM 25 - FORM 25 - Order of Appointment of the Nigeria Diplomatic Agent As Special Examiner (in Convention Country) [Return to Main Menu](#)

(0.32. r. 8)

(Heading as in Form No.1)

Upon hearing the Legal Practitioner on both sides and upon reading the affidavit of.....

It is ordered that the Nigerian Diplomatic Agent or his deputy at be appointed as Special

Examiner for the purpose of making the examination, cross-examination and reexamination, viva voce, on oath or affirmation, of..... witnesses on the part of the.....at.....Aforesaid. The examiner shall be at liberty to invite the attendance of the said witnesses and the production of documents, but shall not exercise any compulsory power, otherwise such examination shall be taken in accordance with the Nigeria High Court procedure.

The..... Legal Practitioners to give to the

In Legal Practitioners days notice in writing of the date on 'which they propose to send out this order to for execution and that days after the service of such notice the legal practitioners for the claimants and defendants respectively do exchange the names of their parents at to whom notice relating to the examination of the said witnesses may be sent.

That days (exclusive of Sunday) prior to the examination of any witness hereunder notice of such examination shall be given by the agent of the other party unless such notice be dispensed with). That the depositions when taken together with any documents referred to therein or certified copies of documents, or of extracts therefrom, be transmitted by the examiner, under seal, to the Chief Registrar of the High Court, Osun State, Nigeria, on or before the day of.....next, or such further or other day as may be ordered, there to be filed in the proper office. That either party be at liberty to read and give such depositions in evidence on the trial of this action, saving all just exceptions. That the trial of this action be stayed until the filing of such depositions. That the costs of and incident to this application and such examination be costs in the action.

Note:

If the Convention requires that the invitation or notice or the witnesses must expressly state that no compulsory powers may be used, this requirements must be compiled with.

FORM 26 - Form of Praeipie (0. 32. r. 20) [Return to Main Menu](#)

In the High Court of Osun State

In the Judicial Division

Suit No

Between:

A.B Claimant

and

C. D. and othersDefendant

Seal Writ of Subpoena on behalf of the Directed No returnable

DATED this day of 20
.....

(Signed).....

(Address).....

Legal Practitioner for the

FORM 27 - Subpoena and Testificandum

[Return to Main Menu](#)

(0. 32. r. 21)

In the High Court of Osun State

In

the.....Judicial

Division

Suit No.....

Between:

..... Claimant

and

..... Defendant

You are commanded in the name of the Governor of Osun State to attend before this Court aton the

..... day of 20 at
O'clock in the forenoon, and so from day to day till the above cause is tried, to give evidence on behalf of the.....

DATED this..... day of 20
.....
.....

Judge

FORM 28 - Habeas Corpus Ad Testificandum

[Return to Main Menu](#)

(0. 23. r. 21)

In the High Court of Osun State

In

the.....Judicial Division

Suit No

Between:

.....Claimant
and
.....Defendant

The Controller of Prison, at.....

You are commanded in the name of the Governor of Osun State to
..... is detained in your custody in Prison,
at.....before the court at on
..... the day..... at
.....O' clock in the forenoon and so from day to day until the above action is
tried, to give evidence in the above-named cause, and immediately after the
said..... shall have so given his evidence you shall duly conduct
him to the prison from which the shall have been brought.

DATED thisday of 20

.....

.....

Judge

FORM 29 - Subpoena duces Tecum [Return to Main Menu](#)

(0. 32. r. 21)

In the High Court of Osun State

In
the Judicial Division

Suit No

Between:

..... Claimant

and

..... Defendant

To..... of

.....

You are commanded in the name of the Governor of Osun State to attend before the
Court at on the
day of
20..... at the hours of.....O'clock in the forenoon, and
so from day to day
until the above cause is tried, to give evidence on behalf of the
..... and also to
bring with you and produce at the time and place aforesaid
..... (Specify documents to be produced)

DATED this..... day of 20

.....

.....

Judge

(0. 38. r. 10)

In the High Court of Osun State

In the.....Judicial Division

PARTIES

Suit No.....

Between:

Re..... vGuarantee for
..... Annual premium N.....

This guarantee is made the day of
.....20.....

Between (X Y Z) of hereunder called "the Receiver") of the
first part, the above named the registered office
of which is at..... in..... (hereinafter called
"the surety") of the second part and

The Governor of Osun State, by an Order of the High Court of Osun State
..... Judicial Division dated the day of
..... 20 and made in the above-mentioned
action the Receiver has been appointed to receive (and manage) (follow words of the
order) And it was ordered that the Receiver should give security to the satisfaction of the
Judge on or before the day of 20
.....

And whereas the Surety has agreed at the request of the Receiver to issue this
guarantee in consideration of the annual premium above mentioned (the first payment
of which the surety hereby acknowledges) which guarantee has been accepted by the
Judge as a proper security pursuant to the said order in testimony whereof one of
Registrar of the High Court has signed an allowance in the margin hereof: Now this
guarantee witnesses as follows:

1. The Receiver and the Surety hereby jointly and severally covenant with the Governor
of Osun State and his successors that the Receiver shall will from time to time duly
account for what he has already received since the date of the said order appointing him
he has or shall hereafter be or become liable to pay or account for as such Receiver (and
manager) as aforesaid including as well every sum of money or other property so
received during the period for which he has been appointed so also every sum of money
or other property so received in respect of any extended period for which he may be
appointed and shall will pay or deliver every such sum or property as the court or a
Judge thereof may direct.

2. Provided always that it is hereby mutually agreed as follows:-

(a) If the Receiver shall not for every successive twelve months to be computed from the
date of his appointment as such Receiver as aforesaid or within fifteen days after the
expiration of such twelve months pay at the office of the Surety the annual premium or
sum of Nthen the Surety shall be at liberty to apply by
summons in the said action to be relieved from all further liability as such surety under

this guarantee save and except in respect of any damage or loss occasioned by any act or default of the receiver in relation to his duties as such Receiver (and manager) prior to the hearing and determination of such summons.

(b) A statement under the hand of any Registrar of the High Court of Osun State of the amount which the Receiver is liable to pay and has not paid under this guarantee and that the loss or damage has been incurred through the act of the Receiver shall be conclusive evidence in any action or information by the Governor of Osun State against the Receiver and Surety or either of them or by the Surety against the Receiver of the truth of the contents of such statement and shall constitute a binding charge not only against the Receiver and his personal representatives but also against the Surety and his funds and property without being necessary for the Governor of Osun State to take any legal or other proceedings against the receiver for the recovery thereof and without any further or other proof being given in that behalf in any action to enforce this guarantee.

(c) The liability of the Surety under this guarantee is limited to the sum of N Provided nevertheless that a Registrar of the High Court may by his signature to the indorsement on this guarantee (in the form printed thereon) reduce the said liability of the Surety still further or (but only with the consent of the Surety by an instrument in writing duly executed) increase such liability as may be necessary and upon such indorsement this guarantee shall continue in full force but in that case the premium shall be correspondingly reduced or increased.

3. It is hereby further agreed between the Receiver and the Surety as follows:
- (a) The Receiver will on being discharge from his office on ceasing to act as such receiver (and manager) as aforesaid forthwith give written notice thereof to the Surety registered post and also within 7 days of such notice furnish to the surety free of charge an office copy of the order, if any of the Judge discharging him.
- (b) The Receiver and his personal representatives shall and will at all times hereafter indemnify the Surety and it property and funds against all loss, damage, costs and expenses which the Surety or its funds or property mayor might otherwise sustain by reason of the Surety having executed this guarantee at his request.

In witness whereof the Receiver has hereunder set his hand and seal and the surety has caused its Common Seal to be affixed the day of 20 In the matter of..... Increased Liability.

To be attached by way of Indorsement to Guarantee

The liability of the Surety under the within written guarantee has with the consent of the receiver and the Surety been increased from N in respect of any acts or omission to which the within written guarantee relates committed by the Receiver subsequent to the date hereof the total liability of the Surety in respect of both the within written guarantee and his indorsement being limited to the increased sum above stated.

Sealed with the seal of the receiver and also the Common Seal of the surety this Day of 20

.....as evidence of such increased liability and the admission thereof by the Receiver and the Surety respectively.

Signed, sealed and delivered by the Receiver in the presence of

The Common Seal of the Surety was hereunto affixed in the presence of

FORM 31 - Receiver's Security by Undertaking [Return to Main Menu](#)

(0. 38. r. 10)

In the High Court of Osun State

In

the..... Judicial

Division

PARTIES

Suit No.....

Between:

Re..... v Guarantee for

I,..... of the

Receiver (and manager) appointed by order dated or proposed to be appointed) in this action hereby undertake with the court to duly account for all moneys and property received by me as such Receiver (or Manager) or for which I may be held liable and to pay the balances from time to time found from me and to deliver and property received by me as such Receiver (or Manager) at such times in such manner in all respect as the court or a Judge shall direct.

And we hereby jointly and severally (in the use of guarantee or other Company strike out "jointly and severally") undertake with the Court to be answerable for any default by the said..... as such receiver (or manager) and upon such default to pay to any person or persons or otherwise as the Court or a Judge shall direct any sum or sums not exceeding in the whole

N..... That may from time to time be certified by a Registrar of the High Court to be due from the said receiver and we submit to the jurisdiction of the Court in this action to determine any claim made under this undertaking.

DATED this.....day

of.....20..... Signatures of Receiver and his surety or sureties. In the case of a surety being a guarantee or other company, it must be sealed or otherwise duly executed.

FORM 32 - Receiver's Account [Return to Main Menu](#)

(0.38.r.10)

(TITLE)

Suit No..... of 20

.....

The (.....) account or A. B, the receiver appointed in this cause (or, pursuant to an order made in this cause, dated the to accord day of to receive the rents and profits of the real estate, and to collect and get in the outstanding personal estate of with the order C.D, the testator (or, intestate) in this cause named, from the..... day of

REAL ESTATE - RECEIPTS

No. Of item

Date

When received

Tenant's Name

Description of Premises

Annual Rent

Arrears Due

at.....

Amount Due

at.....

Amount Received

Arrears Remaining due

Observations

#

#

#

PAYMENTS AND ALLOWANCES ON ACCOUNT OF REAL ESTATE

No. of Item

Due of Payment or Allowance

Names of person to whom paid or allowance

For what Purpose

Paid or Allowed Amount N

One year's insurance of Due.....

Bill for repairs at house

Let to.....

Allowance for a half-years' Income.....

Tax Due.....

.....

Tax Payments.....

.....N

RECEIPT ON ACCOUNT OF PERSONAL ESTATE ACCOUNT PAYMENT AND ALLOWANCES ON PERSONAL ESTATE

No. of item Date

When received

Names of Persons from whom received

On what account received

Amount received

No. of item

Date when paid or allowance

Names of person whom paid or allowed

For what purpose paid or allowed

Amount paid of allowance

FORM 33 - Affidavit Verifying Receiver's Account

[Return to Main Menu](#)

(a. 38. r. 14)

In the High Court of Osun state

In the..... Judicial Division Osun, Nigeria

Between:

A.BClaimant

and

C.D. and E.F v Defendants

I.....of.....the Receiver
appointed.....in this cause, make oath and say as follows:

1. The document now shown to me marked A is, as it purports to be specified.

2. and my Sureties named in the guarantee (or undertaking)
dated 20..... are both alive and neither of them has
become bankrupt or insolvent.

3. The..... Co. Ltd, my surety named in the
..... Guarantee (or undertaking) dated 20
..... is still carrying on business and no petition or other proceeding for
its winding-up is pending). Additional paragraphs as to wages and petty cash are
sometimes necessary.

FORM 34 - Certificate of the Chief Registrar [Return to Main Menu](#)

(0.41. r. 9(1))
PARTIES

Pursuant to the directions given to me by Hon. Justice

I hereby certify that the result of the accounts and inquires which have been taken and
made in pursuance of the judgment for order), in this cause dated
the..... day of.....is as follows:

1. The defendants
of.....have received the amount of
N.....and they have paid, or are entitled to be allowed an
account thereof, sums of the amount of N.....leaving a balance
due from (or to), them of Non that account.

2. The particulars of the above receipts and payments appear in the account marked
..... verified by the affidavit of filed on the
..... day of and which account is to be filed
with this certificate, except that in addition to the sums appearing on such account to
have been received, the said defendants are charged with the following sums (state the
same here or in a schedule), and except that I have disallowed the items of
disbursement if the said account numbered
and..... (or in cases where a transcript has been made).

3. The defendants.....have brought in an account verified by the
affidavit of.....filed on the day
of.....and which account is marked.....
and is to be filed with this certificate. The account marked and
which is also to be filed with this certificate, is a transcript of the account as altered and
passed.

N.B:

The above numbers are to correspond with the number in the order after each
statement; the evidence produced is to be stated as follows:

The evidence produced on this account (or, inquiry) consist of the following document
..... filed on day of 20
.....of the affidavit of C.D. filed

FORM 16 - Acceptance of Sum paid into Court By one of Several Defendant
[Return to Main Menu](#)

Subject to the provisions of these rules or any applicable law requiring any proceedings to be begun otherwise than by writ, a writ of summons shall be the form of commencing all proceedings; (a) where a plaintiff claims:-

FORM 35 - FORM 35 - Order for Payment of Principal Money or Interest secured by Mortgage or charge. [Return to Main Menu](#)

(0. 51. r.2)

It is ordered that the claimant do recover against the defendant N
Secured by a mortgage (or charge) dated the day of
..... 20 (being the total of the principal sum, of N
..... and N.....for interest thereon at Nper
cent, per annum less tax to the.....day of (date of order) and N
..... for costs (or his costs of the summons to be taxed).

And it is ordered that upon the defendant paying to the claimant the moneys ordered to be recovered and all other moneys (if any) secured to the claimant by the said mortgage (or charge) the claimant (subject and without prejudice to the due exercise of any power of sale for the time being vested in him) do release to the defendant the security constituted by the said mortgage (or charge).

And it is ordered that all parties be at liberty to apply to the Court as they may be advised.

FORM 36 - Order for Possession of Property forming a security for payment to the Claimant of any principal Money or Interest [Return to Main Menu](#)

(0. 51. r.2)

It is ordered that the defendant do give the claimant possession on or before the
..... day of 20 of the land
hereinafter described and comprised in a mortgage (or charge) dated the
..... day of 20 that is to say
(description of the property).

And it is ordered that upon the defendant paying to the claimant the moneys remaining due to the claimant upon the security of the said mortgage (or charge) the claimant (subject and without prejudice to the due exercise of any power of sale for the time being vested in him) do release to the defendant possession of the property subject to the said mortgage (or charge) and release to the defendant the security constituted by the said mortgage (or charge).

And it is ordered that all parties be at liberty to apply to the Court as they may be advised.

FORM 37 - FORM 37 - Order for Payment of Principal Money- or Interest Secured by Mortgage or charge and for Possession of Property comprised therein [Return to Main Menu](#)

(0. 51. r.2)

It is ordered that the claimant do recover against the defendant
N secured by a mortgage (or charge) dated the
..... day of..... 20 (being the total of the principal
sum of N and N..... for interest thereon at N
..... per cent, per annum less tax to the
day of (date of order), and N for costs for his costs of this
summons to be stated).

And it is ordered that upon the defendant do give the claimant the moneys hereby
ordered to be recovered and all other moneys (if any) secure to the claimant by the said
mortgage (or charge) the claimant (subject and without prejudice to the due exercise of
any power of sale for the time being vested in him) do re-deliver to the defendant
possession of the property subject to the said mortgage (or charge) and release to the
defendant the security constituted by the said mortgage (or charge).

And it is ordered that all parties be at liberty to apply to the Court as they may be
advised.

FORM 38 - FORM 38 - Originating Summons for Possession [Return to Main](#)
[Menu](#)

(O. 53. r.2)
In the High Court of Osun State
In the Judicial Division Osun,
Nigeria
Suit No.....

Between:
A.B Claimant
and
C.D. and E.F v Defendants (if any)
whose name is known to the Claimant
.....

To (C.D and) every (other) person in occupation of
Let all persons concerned attend beforeat the High
Court of the Judicial Division Osun State
.....

The day of 20
.....at 9 O'clock in the forenoon for the hearing of an application
by AB for an order than he do recover possession of on the ground
that he is entitled to possession and that the person(s) in occupation is (are) in
occupation without his licence of consent.

Dated this day or 20
.....

This Summons was taken out by of
..... Legal Practitioner for the said Claimant whose address
is..... (or This Summons was taken out byof
..... For of
.....Legal Practitioner for the said claimant whose address
is) (or when the Claimant acts in present)

This Summons was taken out by the said Claimant who resides at..... and is (state occupation) and (of the claimant does not reside within the jurisdiction) whose address for service is.....

Note:

Any person occupying the premises who is not named as a defendant by this Summons may apply to the Court personally or by Legal Practitioner to be joined as Defendant. If a person occupying the premises does not attend personally or by Legal Practitioner at the time and place above-mentioned, such order will be made as the Court may think just and expedient.

FORM 39 - Order for Possession [Return to Main Menu](#)

(0.53. r. 6(1))

(Heading as in Form 1)

Upon hearing and upon reading the affidavit of

Filed on the..... day of 20 it is ordered that the Claimant AB, Do recover possession of the land described ordered that the Originating Summons as.....(and the defendant..... do give possession of the said land on.....) (and that the defendant.....do pay the Claimant N costs (or costs to be taxed)

(The above costs have been taxed and allowed at N as appears by a taxing Officer's certificate dated the..... day of 20.....)

DATED this day of..... 20

Judge

PROBATE FORM 1 (0. 55. R. 35(3)) Surety's Guarantee [Return to Main Menu](#)

I in the High Court of.....State

Probate Registry Suit No.....

In the Estate ofdeceased

Whereas of 20

And (and)

(hereinafter called "the Administrators" is/are the intended administrator(s) of his estate.

Now therefore:

1. I/WE..... of

(and..... of

(and..... of

..... hereby (jointly and severally) guarantee that I/WE will, when lawfully required to do so, make good any loss which may person interested in the administration of the estate of the decease may suffer in consequence of the breach by the administrator(s) of his/her/their day.

(a) to collect and get in the estate of the deceased and administer it according to law;

(b) when required to do so by the Court to exhibit on oath in the Court a full inventory of the estate and when so required, to render an account of the estate; or

(c) when so required by the Court, to deliver up the grant to the Court.

2. The giving of time to the administrator(s) or any other forbearance or indulgence shall not in any way affect my/our liability under this guarantee.

3. The liability under this guarantee shall be continuing and shall be for the whole amount to the loss mentioned in paragraph 1 above, but (my) (our) aggregate) total liability shall not in any event exceed the sum of N

Dated this.....day of.....20

Signed, sealed and delivered by the above named in the presence of
.....a Commissioner for Oaths, (or other person authorised by law to administer an oath).

(The Common Seal ofwas hereunto affixed in the presence of
.....)

PROBATE FORM 2 (0. 55. r. 69(3)c)) Surety's Guarantee on Application for resealing [Return to Main Menu](#)

In the High Court of State

Probate Registry Suit No

In the Estate of deceased

Where as of died
on the day of 20

..... and letters of administration of his estate were on the
..... day of 20.....

granted by the to (and
.....) and are about to be sealed in the State under the
Succession Law:

Now therefore:

1. I/WE..... of

.....

(and..... of

(and..... of

.....hereby

(jointly and severally) guarantee that I/WE will, when lawfully required to do so, make good any loss which may person interested in the administration of the estate of the decease may suffer in consequence of the breach by the administrator(s) of his/her/their duty.

(a) to collect and get in the estate of the deceased and administer it according to law;

(b) when required to do so by the Court to exhibit on oath in the Court a full inventory of the estate and when so required, to render an account of the estate; or

(c) when so required by the Court, to deliver up the grant to the Court.

2. The giving of time to the administrator(s) or any other forbearance or indulgence shall not in any way affect my/our liability under this guarantee.

3. The liability under this guarantee shall be continuing and shall be for the whole amount of the loss mentioned in paragraph 1 above, but (my) (our) aggregate) total liability shall not in any event exceed the sum of N

Dated this..... day of 20
.....

Signed, sealed and delivered by the above named in the presence of
..... a Commissioner for Oaths, (or other person authorised by law to administer an oath).

(The Common Seal of.....was hereunto affixed in the presence of.....)

PROBATE FORM 3 (0. 55. r. 71 (3) Notice to Prohibit Grant [Return to Main Menu](#)

IN THE MATTER OF DECEASED

LET NOTHING be done in the matter of late

Of deceased, who died on the
..... day of 20
..... atand had at the time of his death his fixed place of abode atwithin the jurisdiction of this Court, without warning being given to of
.....

DATED this..... day of.....
20.....
.....

Signature

PROBATE FORM 4 (0. 55. r. 71 (4) Caveat [Return to Main Menu](#)

In the High Court
of.....State

Probate Registry Suit
No.....

Let no grant be sealed in the Estate of.....

Late of..... who died on the day of
..... 20 without notice
to.....

DATED this.....day of 20
.....

(Signed)..... legal practitioner for the said caveator whose address for service is

In the High Court ofState
Probate Registry Suit No

To..... of
..... a party who has entered a caveat in
the estate of deceased
You are hereby warned within 8 days after service hereof upon you, inclusive of the day
of such service:-

1. to enter an appropriate either in person or by your Legal Practitioner at the Probate
Registry..... setting forth what interest you have in the estate of the above n a
me.. . . . late of deceased, contrary to that of the party at
whose instance this warning is issues; or

2. If you have no contrary interest but wish to show cause against the sealing of a grant
to such party to issue and serve a summons for direction by the registrar of the said
registry. And take notice that in default of your so doing the Court may proceed to issue
a grant of probate or administration in the said estate notwithstanding your caveat.

Dated this day of 20
.....
.....

Registrar

Issued at the instance of (Here set out the name and interest including the date of the
will, if any under which the interest arose) the party warning, the name of his Legal
Practitioner and the address for service, if the party warning is acting in person, this
must be stated.

In the High Court of..... The
Probate Registry

Caveat No..... dated the..... day of
..... 20.....

Full name and address of person warning (or
Citor).....
.....

Interest of person warning or
(Citor):.....
.....

Full name and address of Caveator (or person Cited)
.....
.....
.....

Date of Will
Interest of Caveator
Enter an appearance for the above named caveator (or person cited) in this matter.

Dated this day of 20
.....

.....
Legal Practitioner or ("In person")

PROBATE FORM 7 (0. 55. R. 82(1)) Notice of Election to redeem Life Interest
[Return to Main Menu](#)

In the High Court ofState
Probate Registry Suit No

In the Estate of
Whereas..... of day of
..... 20 wholly/partially intestate leavinghis/her
lawful wife/husband and lawful issue of the said
.....

And whereas Probate I Letters of Administration of the Estate of the said
..... were granted to me, the said (and to
..... of)

And whereas (the said has ceased to be a personal representative
because) and I am now the sale personal representative:

Now, I the said hereby give notice that I elect to redeem the life
interest to which I am entitled in the estate of the late
..... by retaining N it
capital value, and N..... the cost of the transaction.

Dated thisday of.....20
(Signed.....
(To the Probate Registry)___