ORDER 1:

CITATION AND INTERPRETATION

1. Citation

These Rules shall be cited as the High Court of Lagos State (Civil Procedure) Rules 2019

2. Interpretation

(1) These Rules shall be interpreted in accordance with the Interpretation Laws for the time being in force in Lagos State.

(2) Where in these Rules, Written Statements on Oath and affidavits are required to be made, if the deponent does not understand English Language such Written Statement on Oath or affidavit shall be made in a 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 repugnant thereto, the several words hereinafter mentioned or referred to shall have or include the following meanings:

“ADR” means “Alternative Dispute Resolution”

"Claimant" includes a Claimant in a Counter Claim;

"Court" means the High Court of Lagos 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 determination of the Court and includes judgment, ruling, decree, order, conviction, sentence or recommendation;

"Defendant" includes a Defendant to a Counter-Claim;

"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;

"Law" means the High Court Law, Ch. H5 Laws of Lagos State, 2015;

"Legal Practitioner" means a legal practitioner or counsel within the meaning of the Legal Practitioners' Act;

"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 proceeding by reason of age, insanity, unsoundness of mind or otherwise;

"Pre-Action Protocol" means steps that parties are required to take before initiating proceedings in Court as set out in Form 01 of these Rules.
"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, and all other incidental matters;

"Referee" means any person who has been appointed by the Court to determine any matter or question or issue of fact in a suit;

"Registrar" means the Chief Registrar, Deputy Chief Registrar, Assistant Chief Registrar, Principal Registrar, Senior Registrar, Higher Registrar, or any other Officer acting or performing the functions of a Registrar;

"Registry" means the Registry of the High Court of Lagos State in the appropriate Judicial Division;

"Statement of case" as used in Order 28 Rule 2 means the summary of the case of the parties as contained in the pleadings;

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

ORDER 2: OVERRIDING OBJECTIVE

1. The overriding objectives of these Rules shall be as follows:

(a) to deal with every civil proceeding in ways that are proportionate, considering the nature and importance of the case, complexity of the issues, the amount of money involved and the financial position of each party.

(b) To allot to every civil proceeding an appropriate share of the Court's resources, while taking into account the need to allot resources to other cases.

(c) The Court shall further the overriding objectives by actively managing cases and active case management includes

(i) Mandating the parties to use an Alternative Dispute Resolution (ADR) mechanism where the Court considers it appropriate and facilitating the use of such procedure.

(ii) Assisting the parties to settle the whole or part of the case.

(iii) Fixing timetables or otherwise controlling the progress of the case.

(iv) Giving directions to ensure that the trial of the case proceeds quickly and efficiently.

(v) Requiring the Claimant and his Legal Practitioner, to cooperate with the Court to further the overriding objectives by complying with the requirement of the Pre-Action Protocol to wit:

(a) that he has made attempts at amicable resolution of the dispute through mediation, conciliation, arbitration or other dispute resolution options.

(b) That the dispute resolution was unsuccessful and that by a written memorandum to the Defendants, he set out his claim and options for settlement;
and

(c) That he has complied as far as practicable, with the duty of full and frank disclosure of all information relevant to the issues in dispute.

(d) The Court may impose appropriate sanctions if a party does not comply with these Rules or an Order of the Court.

ORDER 3: APPLICATION

1. These Rules shall apply to all civil proceedings in the High Court of Lagos State including all part heard causes and matters.
2. Where no adequate provision is made in this Rule concerning any matter, the Court shall adopt such procedure as will in its view do substantial justice between the parties concerned.
3. The High Court of Lagos State (Civil Procedure) Rules 2012 shall cease to apply to all civil proceedings in the High Court of Lagos State including all part heard causes and matters from the Commencement of these Rules.`

ORDER 4: PLACE OF INSTITUTING AND TRIAL OF SUITS

1. Place of Trial

Subject to the provisions of the Law on transfer of suits, the place for trial of any suit shall be regulated as follows:

(1) Actions relating to land or any mortgage or charge or any interest in land, or any inquiry 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 situate, or the distrain took place.

(2) Actions for recovery of penalties, forfeitures, and against public officers shall be

commenced and tried in the Judicial Division in which the cause of action arose.

(3) Actions for the specific performance, or upon the breach of any contract, may 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.

(4) All other actions may be commenced and determined in the Judicial Division in which the Defendant resides or carries on business.

2. Place of Trial for Several Defendants

Without prejudice to the provisions of sub Rule (4) of Rule 1, where there are several Defendants who reside or carry on business in different Judicial Divisions, the suit may be commenced in any of the Judicial Divisions subject to any order or direction a Judge may make or give as to the most convenient arrangement for trial of the suit.

3. Commencement of action in wrong 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 5: FORM AND COMMENCEMENT OF ACTION.

1. Proceedings to be commenced by Writ

(1) Subject to the provisions of these Rules or any applicable law requiring any proceeding to be commenced otherwise than by Writ, a Writ of Summons shall be the form of commencing all proceedings where:

(a) a Claimant 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 injury to or wrongful death of any person, or in respect of damage or injury to property;

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

(c) an interested person claims a declaration.

(2) All civil proceedings commenced by Writ of Summons shall be accompanied by a list and copies of the following documents:

(a) a Statement of Claim;
(b) a list of witnesses to be called at the trial;
(c) written statements on oath of the witnesses except witnesses on subpoena;
(d) copies of every document to be relied on at the trial;
(e) Pre-Action Protocol Form 01 with necessary documents.

(3) Failure to comply with sub Rule (2) above shall nullify the action.

2. Form of Writ.

Except in cases in which 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.

3. Forms of Writ for service out of Nigeria.

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

4. Proceedings to be commenced by Originating Summons.

(1) Any person claiming to be interested or claiming any legal or equitable right 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.

(2) 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.

(3) 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 fit.

5. Form of Originating Summons.

(1) An Originating Summons shall be in Forms 3, 4 or 5 to these Rules with such variations as circumstances may require.

(2) Subject to the provisions of sub Rule (1) above, an Originating Summons shall be deemed to be issued when-

(a) prepared by the Claimant or his Legal Practitioner;

(b) sealed and filed in the Registry.

(3) 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;

(d) Pre-Action Protocol Form 01 with necessary document.

(4) Failure to comply with Rule 2 shall nullify the action.

6. Transferred Cases

Where a matter has been transferred from any other Court of competent jurisdiction, any of the parties shall re-file the action in compliance with Order 4 Rules 1 and 42.

7. Filing of Originating Process to be determined by Date.

(1) The Registrar shall indicate the date and time of presentation on every Originating Process presented to him for filing and arrange for service of the process.

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

8. Screening for ADR.

All Originating Processes filed in the Registry shall be screened to determine suitability for ADR and may be referred to the Lagos Multi Door Court House or any appropriate ADR institution or Practitioner in line with the Practice Directions issued by the Chief Judge.

ORDER 6: INDORSEMENT OF CLAIM AND OF ADDRESS.

1. Indorsement.

Every Originating Process shall contain the claim, the relief or remedy sought, the full names and address of the Claimant.

2. Indorsement to show representative capacity.

Where a Claimant sues, or the Defendant is sued in a representative capacity, the Originating Process shall state that capacity.

3. Probate Actions.

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

4. Indorsement where the claim is liquidated.

(1) Where the claim is for a debt or liquidated demand only, the Originating Process shall state the amount claimed with cost and shall further state that the Defendant shall pay the amount with costs to the Claimant'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 Rule, have the costs taxed and if more than one sixth of the costs shall be disallowed, the Claimant's Legal Practitioner shall pay the costs of taxation.

5. Ordinary account.

In all cases where a Claimant in the first instance desires to have an account taken, the Originating Process shall so state.

6. Indorsement of address by Claimant or by Legal Practitioner.

(1) A Claimant suing in person shall state on the Originating Process his residential or business address as his address for service and shall include his telephone numbers and e-mail address.

(2) If he lives and carries on business outside the jurisdiction, he shall state an address within the jurisdiction as his address for service.

(3) Where a Claimant sues through a Legal Practitioner, the Legal Practitioner shall

state on the Originating Process, his chambers' address, as the address for service and shall include telephone numbers and e-mail address.

(4) If the Legal Practitioner is based outside the jurisdiction, he shall state in addition a chambers' address within the jurisdiction as address for service and shall include telephone numbers and e-mail address.

7. Indorsement of Address.

Where an Originating Process is to be served on a Defendant outside the jurisdiction the process shall state the address required in Rule 6.

8. Originating Process without an address or with fictitious address.

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 7: EFFECT OF NON - COMPLIANCE.

1. Non-Compliance with Rules.

(1) Any Action filed without compliance with provisions of Order 5 Rule 1 (2) or Order 5 Rule 5 shall be a nullity.

(2) Failure to comply with the requirement of these Rules as to time, place, manner, form in connection with any proceeding shall be treated as an irregularity and may not nullify any action taken at any stage of the proceeding.

(3) Where any proceeding is commenced by an Originating Process other than the process prescribed by these Rules, the Judge shall not wholly set aside the proceeding or the Originating Process.

(4) Without prejudice to the provisions of sub Rules (2) and (3), the Judge may give any direction as he thinks fit to regularize the error, act or omission.

2. Application to set aside for irregularity.

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

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

ORDER 8: ISSUE OF ORIGINATING PROCESS.

1. Preparing Originating Processes.

Originating Process shall be prepared by a Claimant or his Legal Practitioner, and shall be clearly printed on opaque A4 paper of good quality.

2. Sealing of Originating Process.

(1) The Registrar shall seal every Originating Process whereupon it shall be deemed issued.

(2) A Claimant 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 Claimant where he sues in person and shall be certified after verification by the Registrar as being a true copy of the original process filed.

3. Steps to be taken after sealing.

(1) The Registrar shall after sealing an Originating Process, file it and note on it the date of filing and the number of copies supplied by a Claimant or his Legal Practitioner for service on the Defendants.

(2) The Registrar shall then make an entry of the filing in 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.

4. Copies to be served.

The Registrar shall promptly arrange for personal service on each Defendant of a copy of the Originating Process and accompanying documents duly certified as provided by Rule 2 (3) of this Order.

5. Originating Process with Affidavit for Probate Actions.

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.

6. Lifespan of Originating Process.

(1) The life span of every Originating Process shall be 6 (six) 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 (three) months from the date of such renewal.

(3) A renewed Originating Process shall be in Form 6 with such modifications or variations as circumstances may require.

7. Indorsement of Renewal.

(1) A Judge may order two renewals in each case strictly for good cause and upon prompt application, provided that no Originating Process that has not been served shall be in force for more than 12 (twelve) months.

(2) The Registrar shall state the fact, date, and duration of renewal on every renewed Originating Process.

8. Loss of Originating Process.

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.

9. Concurrent Originating Process.

A Claimant 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.

10. Concurrent Originating Process for service within and out of jurisdiction.

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 9: SERVICE OF ORIGINATING PROCESS.

1. Person to Effect Service.

(1) Service of Originating Process shall be effected by a Sheriff, Deputy Sheriff, Bailiff, Special Marshal or other officer of the Court.

(2) 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 a Process Server.

(3) 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.

2. Service of Originating Process, etc. how effected.

The Process Server shall effect service of an Originating Process on a party by delivering a copy of the process duly certified as prescribed by Order 8 Rule 2(3) and Rule 4 personally on the party to be served.

3. When Originating Process need not be served personally

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 appearance: Provided that such written authority shall be attached to the Memorandum of Appearance filed by such Legal Practitioner.

4. Mode of Service When not Personal.

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 6 Rule 6.

5. Substituted Service.

(1) Where personal service of an Originating Process is required by these Rules and a Judge is satisfied that prompt personal service cannot be effected, the Judge may upon application by the Claimant make such order for substituted service as may seem just, including service by electronic mails.

(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.

6. Service on Persons under Legal Disability.

Where a person under legal disability is a Defendant, service on him or 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 and living independently or doing business shall be good and sufficient

7. Service on prisoner or detainee.

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 on an officer of the agency in charge of the station, facility or prison shall be deemed good and sufficient personal service on the Defendant.

8. Service on a Firm or Partners.

(1) Where persons are sued as partners in the name of a firm, the Originating Process shall be served upon any one or more of the partners or any person having control or management of the partnership business at the principal place of business within the jurisdiction.

(2) Service effected in accordance with sub Rule (1) 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.

(3) 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.

9. Service on Corporation or Company.

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 organization by delivery to a Director, Secretary, Trustee or other senior, principal or responsible officer of the organization, or by leaving it at the registered, principal or advertised office or place of business of the organization within the jurisdiction.

10. Service on Foreign Corporation or Company.

(1) 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.

(2) Where a foreign corporation or company has complied with the provisions of Chapter 3 of the Companies and Allied Matters Act, personal service shall be effected on one of the persons authorized to accept service on behalf of the said company.

11. Service on Local Agent of Principal who is out of Jurisdiction.

(1) An Originating Process in an action relating to or arising out of a contract entered into within jurisdiction through an agent residing or carrying on business within jurisdiction on behalf of a Principal residing or carrying out business outside jurisdiction may, before the determination of such agent's authority or of his business relations with the principal, be served on such agent.

(2) A copy of the Originating Process shall also be sent promptly by the Claimant by courier to the Defendant at his address out of the jurisdiction.

12. Service Where Violence Threatened.

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 the person to be served, and this shall be deemed good and sufficient service.

13. Expenses of Service.

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

(2) The cost for service shall be as directed by the Chief Judge in the Practice Directions.

14. Time of service on certain days.

(1) Service of Court process shall be effected between the hours of 6 (six) in the morning and 6 (six) in the evening.

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

15. Recording of service.

(1) A register shall be kept at the Registry in such form as the Chief Judge may direct for recording service of Court process by any Process Server.

(2) The Registrar shall record in the register 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.

(3) Where any process was not served, the cause of failure shall be recorded in the register and every entry in such register or the certified copy shall be prima facie evidence of the matters stated in the register.

16. Service out of Lagos State

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 but outside Lagos State shall be endorsed by the Legal Practitioner of the Claimant with the following notice:
"This Summons (or as the case may be) is to be served out of Lagos State of Nigeria and in the.....State".

ORDER 10: SERVICE OUT OF NIGERIA AND SERVICE OF FOREIGN PROCESS.

1. Cases where service of Originating Process, etc, are allowed out of Nigeria.

A Judge may allow any Originating Process or other process to be served outside Nigeria where:

(a) the whole subject matter of the claim is land situate within jurisdiction, or

(b) any act, deed, will, contract, obligation, or liability affecting land or hereditaments situate within jurisdiction, is sought to be construed, rectified, set aside or enforced; or

(c) any relief is sought against any person domiciled or ordinarily resident within 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 jurisdiction or for the execution (as to property situate within jurisdiction) of the trusts of any written instrument, which ought to be executed according to the law in force in Lagos 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 in respect of a contract:

(i) made within jurisdiction, or

(ii) made by or through an agent residing or carrying on business within jurisdiction on behalf of a principal residing or carrying on business out of jurisdiction and

(iii) which by its terms or by implication is to be governed by the applicable Law in Lagos State, or the parties have agreed that the Court shall have jurisdiction to entertain any claim in respect of such contract,

(f) a claim is brought against the Defendant in respect of contract for breach committed within jurisdiction notwithstanding that such was preceded or accompanied by a breach out of jurisdiction which rendered performance of the contract which ought to have been performed within jurisdiction impossible;

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

(h) an injunction is sought in respect of anything to be done, or any nuisance to be prevented or removed within jurisdiction, whether or not damages are claimed, or

(i) any person out of the jurisdiction is a necessary or proper party to an action properly brought against any person duly served within jurisdiction, or

(j) the claim is by a mortgagee or mortgagor in relation to a mortgaged property situate within jurisdiction, seeking any of the following reliefs –

(i) sale, foreclosure, delivery of possession by the mortgagor,

(ii) redemption, reconveyance, delivery of possession by the mortgagee but does not seek (except as permitted under paragraph (e) of this Rule)

(iii) any judgment or order for payment of any monies due under the mortgage;

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

(l) the proceedings relate to probate matters, or

(m) any proceedings under any law or Rule of Court has been instituted by any Originating Process.

2. Agreement as to service.

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

3. Service abroad by Letter of Request.

(1) Where leave is granted to serve an Originating Process in any foreign Country with which no Convention in that regard has been made, the following procedure may be adopted:

(a) 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;

(b) 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 a copy translated into the language of that country if not English, and with a request for its further transmission to the appropriate authority in that country.

(c) the request shall be in Form 7 with such modifications or variations as circumstances may require;

(d) 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;

(e) where a certificate, declaration, affidavit or other notification transmitted under paragraph (d) of this Rule states that efforts to serve a process have failed, a Judge may, on an ex-parte application, order substituted service, which shall be effected by transmitting the sealed order, process and its copy to the Solicitor General of the Federation together with a request in Form 9 with such modifications or variations as circumstances may require.

(2) Notwithstanding the provisions of sub Rule (1), a Claimant may with the leave of a Judge serve any originating process by courier.

(3) Despite the provisions of this Rule where lands, funds, choses in action, rights or property within the jurisdiction are sought to be dealt with, the Court may, without assuming jurisdiction over any person outside jurisdiction, cause such person to be informed of the nature or existence of the proceedings.

4. Where leave is granted or not required.

(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 regard 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 a request in Form 10 with such modifications or variations as circumstances may require and the request shall indicate whether service shall be effected:

(i) directly through diplomatic channels or;

(ii) through the foreign judicial authority;

(b) the request shall be certified by or on behalf of the person making the request and accompanied by:

(i) the original document with its translation in the language of the country where service is to be effected;

(ii) a copy of the document with the translation for every person to be served and further copies as the Convention may require;

(c) subject to specific provision of the Convention, where service is required to be made on a Nigerian subject directly through diplomatic channel, translation and copies of the document need not accompany the request;

(d) the documents to be served shall be sealed with the seal of the Court for use out of the jurisdiction and forwarded by the Chief Registrar to the

Permanent Secretary, Federal Ministry of Foreign Affairs for onward transmission to the foreign country;

(e) 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.

(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.

5. Service of Foreign Processes.

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 Lagos State Attorney General indicating or suggesting that effect be given to same, the following procedure shall be adopted:

(a) the Letter of Request for service shall be and two copies of the process or citation to be served shall be accompanied by a translation 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 each of the process or citation, and the translation in accordance with the Rules and practice of the Court regulating service;

(d) after service has been effected, the Process Server shall file an affidavit of service furnishing particulars of charges for effecting the service. The affidavit shall be transmitted to the Chief Registrar with one copy of the process;

(e) the Chief Registrar shall examine the Process Server's particulars of charges and certify the amount payable in respect of the service;

(f) the Chief Judge shall forward to the Attorney General, the approved amount for service, evidence of service and a certificate appended to it.

6. Inapplicability of Rule 4.

The provisions of 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.

7. Service on behalf of foreign tribunals.

Where request for service of any process or document on a person jurisdiction is received by the Chief Judge in respect of a civil suit pending before a Court or Tribunal from the appropriate authority in a foreign country with which a Convention in that regard has been made, the following procedure shall subject to any provision in the Convention, be adopted:

(a) the Process Server shall deliver the original or a copy, 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 a certificate establishing the fact and date of service or indicating reasons for failure to serve, to the appropriate foreign authority and also notify the authority as to the amount certified under paragraph (b) of this Rule.

8. Substituted service of foreign process.

Upon application, a Judge may order substituted or other mode of service of the foreign process.

ORDER 11: APPEARANCE.

1. Mode of entry of Appearance.

(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 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 not later than seven (7) days thereafter serve a sealed copy of the Memorandum of Appearance on a Claimant's Legal Practitioner or the Claimant if he sues in person.

2. Defendant appearing in person or represented by Legal Practitioner.

(1) A Defendant appearing in person shall state in the Memorandum of Appearance an address for service which shall be within Lagos State.

(2) Where a Defendant appears by a Legal Practitioner, the Legal Practitioner shall state in the Memorandum of Appearance, his full names, chamber's address within Lagos State, Telephone numbers and E-mail address.

(3) Where any such Legal Practitioner is the agent of another Legal Practitioner he shall state his full names, full address of chambers, telephone numbers within Lagos State and E-mail address, and the full names, full address of chambers, telephone numbers within Lagos State, E-mail address of the principal Legal Practitioner.

3. Fictitious address.

Where any Memorandum of Appearance does not contain an address or where the address for service is illusory, fictitious or misleading, the appearance may be set aside by a Judge upon the application of a Claimant on notice to the Defendant.

4. Defendants appearing through same Legal Practitioner.

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 the Defendants.

5. Late Appearance.

If a Defendant files an appearance after the time prescribed in the Originating Process, he shall pay to the Court a fee of One Thousand Naira (₦1,000.00) for each day of default.

6. Intervener in Probate matters.

In Probate matters, any person not named in the Originating Process may intervene and appear in the matter on filing an affidavit showing his interest in the Estate of the deceased.

7. Recovery of Land.

Any person not named as a Defendant in an 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.

8. Landlord Appearing.

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

9. Person under legal disability appearing.

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

10. Tenant.

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

ORDER 12: DEFAULT OF APPEARANCE.

1. Default of appearance generally.

Where any Defendant fails to appear upon proof of service of the Originating Process, a Claimant may proceed under the appropriate provisions of these Rules.

2. Default of appearance by person under legal disability.

(1) Where no appearance has been entered for a person under legal disability after service of Originating Process, a Claimant may apply to a Judge for an order that a guardian be appointed for the Defendant.

(2) Notice of the application shall be served on the person intended to be appointed as a guardian, who when appointed may appear and defend.

3. Liquidated demand.

(1) Where the claim in the Originating Process is for a liquidated demand and the Defendant or all of several Defendants fail to appear, a Claimant may apply to a Judge for a judgment in respect of the claim on the Originating Process or such lesser sum and interest as a Judge may order.

(2) Where the claim in the Originating Process is for a liquidated demand against

several Defendants and one or more of the Defendants fails to enter appearance, a Claimant may apply to a Judge for judgment against the Defendants who failed to appear and may execute the judgment without prejudice to his right to proceed with the action against those who have appeared.

4. Judgment in default of appearance.

(1) 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 Claimant may apply to a Judge for judgment.

(2) Judgment may be granted upon the application of the Claimant under the provisions of sub Rule (1) of this Rule, subject to the filing of such particulars as a Judge may direct, and ascertaining the value of the goods and the damages or the damages only as the case may be.

(3) Where the claim in the Originating Process under this Rule is against several Defendants and one or more of the Defendants failed to enter appearance, a Claimant may apply for judgment against the Defendant(s) who failed to appear.

(4) Judgment may be granted upon the application of the Claimant under the provisions of sub Rule (3) of this Rule, subject to the filing of such particulars as a Judge may direct, and ascertaining the value of goods and the damages or damages only as the case may be.

5. Detention of goods, damages and liquidated demand.

(1) Where the claim in the Originating Process is for pecuniary damages or for detention of goods with or without a claim for pecuniary damages, including a liquidated demand and any of the Defendants fails to appear, a Claimant may apply for judgment.

(2) Judgment may be granted upon the application of the Claimant under sub Rule (1) of this Rule, subject to the filing of such particulars as a Judge may direct, and ascertaining the value of the goods and the damages, or the damages only as the case may be.

6. Recovery of land.

If no appearance is entered within the time prescribed in the Originating Process in a claim for recovery of land, a Claimant may apply for judgment stating that the person whose title is asserted in the Originating Process is entitled to possession of the land.
or if appearance is entered but the defence is limited to part only, a Claimant 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.

7. Mesne Profits.

Where the claim in an Originating Process is for recovery, mesne profits, arrears of rent, damages for breach of contract or wrong or injury to the premises, a Claimant may apply for judgment as in Rule 6 of this Order for the land, and may proceed to prove the other claims.

8. Judgment for Costs: upon payment, satisfaction etc.

(1) In any case to which Rules 3 to 6 of this Order do not apply and one or more of the Defendants failed to appear, but by reason of payment, satisfaction, abatement of nuisance, or any other reason, it is unnecessary for a Claimant to proceed, he may apply for judgment as to costs.

(2) Such application referred to under sub Rule (1) of this Rule shall be filed and served in the manner in which service of the Originating Process was effected or in

such manner as a Judge may direct.

9. Setting aside Judgment.

(1) Where judgment is entered pursuant to any of the preceding Rules of this Order, a Judge may set aside or vary such judgment on terms upon an application by the Defendant.

(2) The application shall be made within a reasonable time, showing a good defence to the claim and a just cause for the default.

10. Default of appearance in actions not otherwise specifically provided for.

In all claims not specifically 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 Claimant may proceed as if appearance had been entered.

11. Compulsory Service.

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

ORDER 13: SUMMARY JUDGMENT.

1. Where Claimant believes there is no defence.

Where a Claimant believes that there is no defence to his claim, he may file with his Originating Process, the Statement of Claim, a list and copies of documents to be relied upon, a list and the depositions of his witnesses and an application for summary judgment supported by an affidavit stating the grounds for his belief, and a written brief in respect of same.

2. Delivery of extra Copies.

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

3. Service.

Service of all the processes and documents referred to in Rule 1 of this Order shall be effected in the manner provided under Order 8.

4. Where Defendant intends to defend.

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) a list of depositions of the witnesses;

(c) a list and copies of all documents to be used in his defence; and

(d) a Counter Affidavit and a written brief in reply to the application for summary judgment.

5. Leave to Defend.

(1) Where it appears to a Judge that a Defendant has a 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 enter judgment for a Claimant.

(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 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.

6. Where there are several Defendants.

Where there are several Defendants and it appears to a Judge that one or more of the Defendants have a good defence, the Judge may permit such Defendants to defend and enter Judgment against the other Defendants.

ORDER 14: APPLICATION FOR ACCOUNT.

1. Application how Made.

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

2. Order for account.

Where an Originating Process for an account under Order 5 Rule 4 or involves taking an account, and the Defendant fails to appear or appearance fails to satisfy a Judge that there is a preliminary question to be tried, the Judge shall on application make an order for the proper accounts, with all necessary inquiries and directions.

3. Account may be taken by a Judge or Referee.

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 15: PARTIES.

1. Persons claiming jointly or severally.

(1) Any person claiming right to relief whether jointly or severally may be joined as Claimants in one action.

(2) Judgment may be entered without any amendment for any of the Claimants found to be entitled to the relief sought or any part of such relief.

2. Action in name of wrong Claimant.

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

3. Misjoinder and Counter-Claim.

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

4. Any person may be joined as Defendant.

(1) Any person against whom the right to any relief is alleged to exist, whether jointly, severally or in the alternative may be joined as Defendant.

(2) Judgment may be entered without any amendment against one or more of the Defendants as may be found to be liable, according to their respective liabilities.

5. Action in name of wrong Defendant.

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 terms as may be just.

6. Defendant need not be Interested in all the Reliefs Sought.

(1) A Defendant may not be interested in every cause of action or the relief prayed for included in any proceeding against him.

(2) Upon considering the defence filed and an application by the Defendant, the Judge may make such Order to prevent Defendant from being embarrassed or put to expense by being required to attend any proceedings in which he may have no interest.

7. Joinder of Persons severally or jointly and severally liable.

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

8. Claimant in doubt as to person against who redress is to be sought.

(1) Where a Claimant is in doubt as to the person against whom he is entitled to claim redress, he may join two or more Defendants in such manner as may be prescribed by

these Rules or an order of the Court.

(2) The extent to which any of the Defendants is liable shall be determined by the Judge.

9. Persons under legal disability

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

10. Guardian.

Any person who is to be named in an action as guardian of a person under legal disability or other party or as a relation shall file a written authority for that purpose in the Registry.

11. Trustees, Executors, etc. May be sued as Representing the Estate.

(1) Any Trustee, Executor or Administrator may sue and be sued on behalf of the property or Estate for which they are trustees or representatives without joining any beneficiary of the trust or Estate, and shall be considered as representing such person.

(2) The Judge may, at any stage of the proceedings order any beneficiary to be made parties in addition to or in lieu of the Trustees, Executors or Administrators.

(3) This Rule shall apply to Trustees, Executors and Administrators in proceedings to enforce a security by foreclosure or otherwise.

12. Numerous Persons.

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

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

13. Representation of Persons or Classes of Persons in Certain Proceedings.

(1) The Judge may, if satisfied that 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,

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

(ii) the person or the class and the members of the class can be ascertained and found but it is expedient that one or more persons be appointed to represent that person or class or some members of the class, make an order appointing one or more persons to represent such person, class or some members of the class.

(2) The decision of the Judge shall be binding on the person or class of persons so represented and notice of the appointment made under this Rule including all processes filed in Court shall be served on any person so appointed.

(3) If in any proceeding mentioned in sub-Rule (1) of this Rule, several persons having the same interest in relation to the matter to be determined appear by separate Legal Practitioners, not more than one set of costs of the hearing shall be allowed to these persons unless the Judge considers that the circumstances justify separate representation, 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 owning community.

14. Power to approve Compromise.

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

(a) 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

(b) the absent persons are represented by a person under Rule 13 of this Order who so assents;

A Judge may if satisfied that it is expedient and in the interest of absent persons approve the compromise and order that such compromise shall be binding.

(2) The absent persons shall not be bound where the Order under sub-Rule (1) (b) of this Rule has been obtained by fraud or non-disclosure of material facts.

15. Where there is no Personal Representative.

(1) Where a person interested in any proceeding dies and it appears that the deceased has no personal representative the Judge may, by Order appoint any person to represent the Estate with Notice to any person as the Judge may deem fit.

(2) Notice of such Order under sub Rule (1) pursuant to the appointment shall be given to the person so appointed either personally or as the Judge may direct.

(3) The Order and any subsequent Order made under sub Rules (1) and (2) 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.

(4) Where a sole or sole surviving Claimant or Defendant in a proceeding dies and the cause of action survives but the person entitled to proceed with the suit 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,

(5) 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.

16. Proceedings not defeated by Misjoinder or Non-joinder.

(1) No proceedings shall be defeated by reason of misjoinder or non-joinder of parties, and a Judge may deal with the matter in controversy as it relates to the rights and interest of the party actually before him.

(2) A Judge may at any stage of the proceeding upon application of either party or suo motu, and on such terms as may appear just order that the names of any party improperly joined be struck out.

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

(4) A person under legal disability shall not be added as a Claimant, suing without a guardian and any person added as the guardian of such Claimant must give a written consent.

(5) Any person whose name is added as a 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 upon the service of such Originating Process or Notice.

17. Application to add or strike out a party.

(1) Any application to add, strike out, substitute or vary the name of a Claimant or Defendant may be made to a Judge by motion on Notice.

(2) Where the application is to add a Claimant or a Defendant, it shall be accompanied by the proposed Statement of Claim or Defence as the case may be, all the documents intended to be used and the depositions of all the witnesses, but where the application is to substitute a deceased party with another person, the application may not be accompanied by the documents specified in this sub-Rule.

18. Where Defendant is added.

(1) Where a Defendant is added or substituted the Claimant shall amend the originating process accordingly.

(2) The amended originating process shall be filed and served on the new Defendant in the same manner as the original Defendant unless otherwise directed by the Judge.

19. Third Parties may be joined by any of the Parties.

(1) Where it appears to a Judge that any person not being a party to the proceedings may bear eventual liability either wholly or in part, the Judge may upon an application ex-parte stating the grounds for believing that such Third Party may bear liability allow the person to be joined as a Third Party by any of the Defendants.

(2) The Order and existing processes shall be served on the Third Party within the time prescribed for filing the Defence.

20. Appearance by Third Party.

Where a person is joined 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.

21. Default by Third Party.

If a Third Party duly served with the Order and all existing processes does not enter an appearance or fails to file appropriate pleadings he shall be deemed to have admitted the claims and be bound by the judgment of the Court in respect of such claims.

22. Subsequent Third Party.

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

23. Claim against co-Defendant.

A Defendant may make a claim against a Co-Defendant in his Counter-Claim.

24. Actions by and against Firms.

(1) Persons carrying on business within jurisdiction as partners in the name of a firm or business, when the cause of action arose may sue or be sued in the name of such firm or business.

(2) Upon an application by any party to such an action the Judge may direct that a statement of the names and addresses of the persons who were partners in the firm or business when the cause of action arose be furnished and verified on oath or as the Judge may otherwise direct.

25. Disclosure of Partners' names.

(1) When an Originating Process is issued by partners suing in the name of a Firm, the Claimants or their Legal Practitioners shall, upon written demand by or on behalf of any Defendant, declare the names and addresses of all the persons constituting the firm on whose behalf the action is brought in writing.

(2) Where the Claimants or their Legal Practitioners fail to comply with the demand under sub-Rule (1) the Judge may upon application by the Defendant and such terms as may be considered just, stay proceedings in the action.

(3) Where the names of the partners are declared, the suit shall proceed in the same manner and respect as if the partners had been named as Claimants in the Originating Process but the proceedings may continue in the name of the Firm.

26. Appearance of Partners.

(1) Persons sued as partners in the name of a Firm, shall appear individually in their own names; but 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 a partnership business not being a member of the firm, the person shall not be required to enter appearance

27. Application of Rules to Actions between Co-Partners.

This Order shall apply to proceedings between a Firm and one or more of its partners; and between Firms having one or more partners in common, provided such Firms carry on business within the jurisdiction.

28. Persons trading as Firms.

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

29. Action not abated where cause of action survives.

No proceeding shall abate or become defective by:

(a) reason of death or bankruptcy of any of the parties, if the cause of action survive;

(b) the assignment, creation or devolution of any Estate or title pendent lite whether the cause or action survives or not,

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

30. Order to carry on Proceedings.

(1) Where by reason of –

(a) death or bankruptcy, or any other event occurring after the commencement of a proceeding, a change or transfer of interest or liability occurs; or

(b) any person interested coming into existence after the commencement of the proceeding, it becomes necessary or desirable that a person be made a party or that a person being a party should continue in another capacity, an order may be granted upon an application ex parte for the continuation of the proceedings between such existing parties or the existing party and any new party.

(2) An Order obtained under this Rule shall be served upon the new party and existing party or the Legal Representative unless the application is made by the new party.

(3) A new party served with the Order granted under sub-Rule (2), shall –

(a) where applicable enter an appearance in the same manner as if he had been served with the Originating Process;

(b) subsequently be served with the Originating Process and all existing processes.

(4) Upon being served under sub-Rule (3) of this Rule, the party shall file his pleadings and other documents as if he had been an original party in the proceedings.

31. In Case of Assignment, Creation or Devolution of Estate or Title.

In case of an assignment of title pendent lite, creation or devolution of any Estate, the cause or matter may be continued by or against the person to whom title has been assigned or upon whom such Estate has devolved.

32. Application to Discharge Order by Person under Disability having a Guardian.

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 fourteen 14 days from the service of the Order.

33. By persons under disability having no guardian.

(1) An Order under Rule 30 served on a person under legal disability without a guardian in any proceeding shall have no effect

(2) The person may within fourteen (14) days from the appointment of a guardian apply to a Judge to discharge or vary such Order

34. Acts may be done by Legal Practitioner or Agent.

Where by these Rules an act may be done by any party in a proceeding, such act may be done by the party either in person, or by his Legal Representative or agent unless where an agent is expressly barred under these Rules.

ORDER 16: JOINDER OF CAUSES OF ACTION.

1. All Causes of Action May be Joined.

Subject to the provisions of this Order, the Claimants may join several causes of action in the same action, but if it appears that they cannot be conveniently tried or disposed of together, a Judge may order separate trial of such causes of action or make such order as may be necessary or expedient for the separate disposal of the action.

2. Recovery of Land.

(1) An action for recovery of land may be joined with an action for declaration of title, mesne profits or arrears of rent, damages for breach of any contract under which the land or any part of it 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 or interest secured by or any other relief in respect of the mortgage of or charge on such land.

3. Executor and Administrator.

Where personal claims are alleged to arise with reference to the Estate in respect of which the Claimant sues or Defendant is sued as Executor or Administrator, claims by or against the Executor or Administrator may be joined with claims by or against him personally.

4. Claims by Joint Claimants.

Claims by different Claimants against the same Defendant may be joined and disposed

together.

ORDER 17: PLEADINGS.

1. Filing of Pleadings.

(1) A Claimant shall file a Statement of Claim together with the accompanying documents, which shall include the relief or remedy being claimed.

(2) A Defendant shall file his Statement of Defence, Set-off or Counter-claim within 42 days of receiving the Claimant's Originating Process and accompanying documents.

(3) A Counter-Claim shall have the same effect as a cross action, to enable the Court pronounce a final judgment in the same proceedings.
A set-off must be specifically pleaded.

(4) A Claimant shall file his reply within 14 days of receiving the Statement of Defence and Counter-Claim.

(5) Where a Claimant or any other person named as party to a Counter-Claim contends that the claim ought not to be disposed by way of Counter-Claim, but in an independent proceeding, a Judge may at any stage of the proceeding order that such Counter-claim be excluded.

2. Pleading to State Material Facts and not Evidence.

(1) Every pleading shall contain a statement of the material facts on which the party pleading relies for his claim or defence, but not the evidence by which they are to be proved.

(2) Pleadings shall be divided into paragraphs and numbered consecutively, with dates, sums and numbers expressed in figures.

(3) Pleadings shall be signed by a Legal Practitioner or the party, if he sues or defends in person.

3. Particulars to be given where Necessary.

(1) In all cases where a party relies on any misrepresentation, fraud, breach of trust, default, or undue influence and in all other cases where such particulars may be necessary, the particulars shall be stated in the pleadings.

(2) In an action for libel or slander, if the Claimant 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 support of his allegation.

4. Further and better Statement or Particulars.

The Judge may during Case Management Conference grant upon such terms as may be just an application for further and better-

(a) statement of the nature of the claim or defence; or

(b) particulars of any matter stated in any pleading requiring particulars.

5. Denial.

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

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

6. Conditions Precedent.

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

7. Facts to be Specifically Pleaded in Defence and Reply.

(1) All grounds of Defence or Reply which makes an action not maintainable shall be specifically pleaded.

(2) A party shall not introduce issues of fact not arising out of the pleadings or ground which may take the opposite party by surprise

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

8. Pleadings to be Consistent.

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.

9. Joinder of Issue.

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

10. Effect of documents to be stated.

Wherever the contents of documents are material, it shall be sufficient in any pleading to state the effect as briefly as possible, without setting out the whole or any part, unless the precise words of the document or any part are material.

11. Notice.

Wherever it is material to allege notice of any fact, matter or thing was given to any person, it shall be sufficient to state such allegation as a fact, unless the form or the precise terms of

such notice or the circumstances from which such notice is to be inferred are material.

12. Implied Contract or Relationship.

(1). Wherever any contract or any relation between any person is to be implied from a series of letters or conversations, or otherwise from a set of circumstances, it shall be sufficient to allege such contract or relationship as a fact, and to refer generally to such letters, conversations or circumstances without setting them out in detail.

(2). Where more than one contract or relation is to be implied from such circumstances, the person pleading may state the same in the alternative.

13. Presumptions of Law.

A party may not allege any matter or fact which the law presumes in his favour or which the other party has the burden of proving unless the same has been specifically denied.

14. Stated or Settled Account.

Where the cause of action is a stated or settled account, the pleadings shall contain 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 included in the pleadings.

15. Striking out of Pleadings.

(1). Any matter in an indorsement or pleading which may be unnecessary or scandalous; or which may tend to prejudice, embarrass or delay the fair trial of the action, may be amended or stuck out by the order of a Judge at the Case Management Conference upon such terms as the Judge may deem fit, including payment of the application cost by the party or legal representative.

16. Defamation.

(1) Where malice, fraudulent intention, knowledge or other condition of the mind of any person is alleged, it shall be sufficient to state the fact of such allegation without setting out the circumstances from which the fact can be inferred.

(2) Where the Defendant in an action for libel or slander 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 Claimant 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 the Defendant in an action for libel or slander alleges that in so far as the words complained of consist 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.

17. Where Pleading Discloses no Reasonable Cause of Action.

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

(a) discloses no reasonable cause of action or defence, as the case may be; or

(b) is scandalous, frivolous or vexatious; or

(c) may prejudice, embarrass or delay the fair trial of the action; or

(d) is otherwise an abuse of the process of the Court; and may order the action to be stayed or dismissed or judgment to be entered accordingly, as the case may be.

(2) No evidence shall be admissible on an application under Rule 17(1) (a) of this Order.

(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.

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

18. Close of Pleading.

(1) Where a Defendant fails to file his Defence within the Forty-two (42) days prescribed by the Rules, pleadings shall be deemed closed.

(2) Where no pleading is ordered subsequent to Reply, pleading shall be deemed closed at the expiration of 7 (seven) days of the service of the Defence or Reply, if a Reply has been filed.

(3) Where pleading is ordered subsequent to reply and the party who has been ordered or given leave to file the same fails to do so within the period limited for that purpose; pleading shall be deemed closed at the expiration of the period so limited.

(4). Without prejudice to the provisions of this Rule, where the Claimant files a Defence to a Counter-Claim, the statements of fact contained in such Counter-Claim shall, at the expiration of 14 (fourteen) days from the service of the Counter claim or such time as may by order be allowed for filing the defence be deemed to be admitted, but the Judge may at any subsequent time give leave to the Claimant to file a Defence .

ORDER 18: STATEMENT OF CLAIM.

1. Statement of Claim.

(1) Every Statement of Claim and Counter-Claim shall specifically state the relief claimed either in the main or in the alternative, and it shall not be necessary to ask for general or other relief which may be granted as a Judge may think just.

(2) Where the Claimant or Counter- Claimant seeks relief in respect of several distinct claims or causes of complaint founded upon separate and distinct grounds, they shall be stated, as far as may be, separately and distinctly.

2. Claim beyond Indorsement.

Whenever a Statement of Claim is filed, the Claimant may alter, modify or extend his claim without any amendment of the indorsement on the Writ:
Provided that the Claimant may not completely change his cause of action endorsed on the Writ without amending the Writ.

ORDER 19: DEFENCE AND COUNTER-CLAIM.

1. Statement of Defence.

The Statement of Defence shall be in summary form and supported by-

(a) list and copies of all documents and

(b) a list of witnesses and their deposition.

2. Evasive Denial.

When a party in any pleading denies an allegation of fact in the pleading of the opposite party, he shall not do so evasively, but shall answer the point of substance and where applicable, each diverse circumstance upon which an allegation is brought shall be specifically denied.

3. Denials Generally.

(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 denial by the Defendant must specifically contend the receipt of the money or existence of facts which are alleged to support the Claimant's claim for receipt of money.

(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 contend matter of fact such as the drawing, making, indorsing, accepting, presenting or notice of dishonour of the bill or note.

4. Persons in Representative capacity.

The denial by a party of 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 shall be specifically stated.

5. Pleading to Damages.

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.

6. Set-off and Counter-Claim.

Where a 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 Set-Off or Counter-Claim.

7. Title of Counter-Claim.

Where a Defendant by his Defence sets up any Counter-Claim which raises questions between himself and the Claimant 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 the Counter-Claim were to be enforced by cross action, would be Defendants to such cross action.
(2). The Defendant shall deliver his defence to such persons who are existing parties to the action within the period required for delivering same to the Claimant.

8. Claim against a non -party.

(1) Where the person referred to 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 Counter-Claim, and such service shall be in accordance with the provisions of these Rules in respect of Originating Process,

(2). The Defence and Counter-Claim so served shall be indorsed in Form 12 with such modifications or variations as circumstances may require.

9. Appearance by added parties.

Any person not already a party to the action, who is served with a Defence and Counter-Claim as provided in Rule 8 of this Order, must enter appearance as if he had been served with an Originating Process to appear in an action.

10. Defence to Counter-Claim.

Any person not already a party to the action, who is named in a Defence as a party to a Counter-Claim, shall deliver a defence in the manner prescribed under this Order.

11. Discontinuance of the Claimant's Claim.

Where Defendant sets up a counter claim the action of the Claimant is stayed, discontinued or dismissed in a case where the Defendant sets up a Counter-Claim, the Counter-Claim may nevertheless be proceeded with.

12. Judgment for balance.

Where in an action, a Set-Off or Counter-Claim is established as a Defence against the Claimant's claim, the Judge may, if the balance is in favour of the Defendant, enter judgment for the Defendant in respect of such balance, or may otherwise grant the Defendant such relief as he may be entitled to upon the merits of the case.

13. Grounds of defence after action brought.

(1) Any ground of defence which arises after the action has been filed, but before the Defendant has delivered his Defence or 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 Counter-Claim, any basis for answer or ground of defence arises, the Claimant may raise same either alone or together with any other ground of Reply or Defence to Counter-Claim, in the Reply to the Defence or Defence to Counter-Claim respectively;

14. Further Defence or Reply.

Where any ground of Defence arises –

(a) After Defendant has delivered the defence or the time limited for his doing so has expired;

(b) In respect of a set off or counter claim after the Claimant has filed the reply or the time limited for delivery of reply has expired;

(c) The Defendant or Claimant may within eight (8) days after such ground of defence has arisen or at any time by leave of a Judge deliver a further Defence or further reply as the case may be.

15. Concession to Defence.

(1). 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 Claimant may concede to such Defence in Form 13 of these Rules with such modification as circumstances may require.

(2). The Claimant may obtain Judgement in respect of proceedings held prior to the pleading of the Defence to which he conceded, unless the Judge either before or after the delivery of such concession otherwise orders.

16. Defence to Originating Summons.

A Respondent to an Originating Summons shall file a Counter 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 20: REPLY.

1. Filing of Reply.

Where the Claimant has a Reply to the Statement of Defence, he shall file same within fourteen (14) days from the service of the Defence.

2. Reply to Counter-Claim.

Reply to Counter-Claim is subject to the Rules applicable to Defence.

ORDER 21: ADMISSIONS.

1. Notice of Admission.

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

2. Notice to Admit Document.

(1) A party may by notice filed and served not later than Seven (7) days before the first Case Management Conference require any other party to admit any document.

(2) The party served with the notice shall, not later than four (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 directs otherwise.

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

3. Notice to admit facts.

(1) Any party may by notice filed and served not later than seven (7) days before the first Case Management Conference require any other party to admit any specific fact mentioned in the notice.

(2). The party served with the notice shall not later than four (4) days after service give notice of admission or non-admission of the fact, failing which he shall be deemed to have admitted it unless a Judge directs otherwise.

(3) Any admission made under sub-Rule (2) shall be deemed to be made only for the purpose of the proceeding and shall not be used against any other party other than the party giving the notice.

(4) Where there is a refusal or neglect to give notice as provided under sub-Rule (2) of this Rule or within such further time as may be allowed by the Judge, the cost of proving such fact shall be paid by the party so refusing or neglecting whatever the result of the proceedings, unless the Judge is satisfied that the refusal to give notice was reasonable or the Judge otherwise directs.

4. Judgment or Order upon admission of facts.

Where admissions of fact have been made, either on the pleadings or otherwise at Case Management Conference or at any other stage of the proceedings, the Judge may upon application make such orders or grant Judgment in favour of any party in respect of the admissions, pending the determination of any other question between the parties.

5. Cost of notice where documents unnecessary.

Where a notice to admit or produce comprises documents which are not necessary, the Judge may order the party giving the notice to bear the cost occasioned by same, which shall not be less than N10,000.00 (Ten Thousand Naira)

ORDER 22: DEFAULT OF PLEADING.

1. Claim for debt or liquidated demand.

Where the claim is for a debt or liquidated demand only and the Defendant does not within the time allowed by these Rules file a Defence, the Claimant may at the expiration of such time apply for final judgment for the amount claimed with costs.

2. Default by one of Several Defendants

Where one or more of several Defendants default under the provisions of Rule 1 of this Order, the Claimant may without prejudice to his right to proceed against the other Defendants, apply that final judgment be entered against the Defendant in default.

3. Damages and detention of Goods.

(1) If the Claimant's claim is for pecuniary damages or for detention of goods with or without a claim for pecuniary damages, and the Defendant defaults as provided in Rule 1 of this Order, the Claimant may apply to a Judge for interlocutory judgment against the Defendant.

(2). The value of the goods and the damages, or the damages only as the case may be, shall be ascertained as the Judge may order.

(3) Where damages are to be ascertained and in all cases where declaratory reliefs are sought the Judge shall set down the matter for trial.

4. Default of one or more Defendants.

(1) Where one or more of several Defendants default in any action as provided under Rule 3 of this Order, the Claimant may apply to a Judge for interlocutory judgment against the defaulting Defendant and proceed with his action against the other Defendants.

(2) In such case, the value and amount of damages against the defaulting Defendant shall be assessed at the trial of the action or issues against the other Defendants, unless the Judge orders otherwise.

5. Debt or damages and detention of Goods or damages.

(1) Where in a claim for debt or liquidated demand and also for pecuniary damages or for detention of goods with or without a claim for pecuniary damage but includes a liquidated demand the Defendant is in default as provided in Rule 1 of this Order, the Claimant may apply to a Judge to enter-

(a) final judgment for the debt or liquidated demand;

(b). interlocutory Judgment for the value of the goods and damages, or the damages only as the case may be, and proceed as provided in Rules 3 and 4.

6. Recovery of Land.

In an action for the recovery of land, if the Defendant is in default as provided in Rule 1, the Claimant may apply for judgment stating that the person whose title is asserted in the Originating Process shall recover possession of the land.

7. Claim for Mesne profits, arrears or damages.

Where in an action for recovery of land the Claimant has endorsed a claim for mesne profits or arrears of rent in respect of the premises claimed or part of the premises; or damages for breach of contract or wrong or injury to the premises claimed; one or more Defendants defaults as provided in Rule 1, the Claimant may apply for final judgment against the defaulting Defendant and proceed as provided in Rules 3 and 4.

8. Defence to part of Claim only.

If the Claimant's claim is for –

(a) a debt or liquidated demand or for pecuniary damages only; or

(b) detention of goods with or without a claim for pecuniary damages; or

(c) the recovery of land or any such matters; and the Defendant files a Defence which purports to offer an answer to part of the Claimant's alleged cause of action, the Claimant may apply for final or interlocutory judgment as the case may be, for the part unanswered.

(2) Without prejudice to the provisions of sub-Rule (1) of this Rule where –

(a) the unanswered part consists of an inseparable or inseverable cause of action or is severable Judgment may not be granted;

(b) there is a Counter-Claim, execution of any Judgment in respect of the Claimant's claim shall not issue without the leave of a Judge

9. Default of Defence.

(1) In all actions other than those in the preceding Rules of this Order, if the Defendant defaults in filing a Defence, the Claimant may apply to a Judge for judgment, and such judgment shall be given upon the Statement of Claim as the Judge may consider just and appropriate.

(2) Where there is no Defence and the matter before the Court cannot be adjudged without the Claimant adducing evidence to prove the case, the Claimant shall apply to set the matter down for trial and the Judge shall proceed to hear the matter.

10. One of several Defendants in default.

Where in any such action as provided in Rule 9 of this Order, there are several Defendants, if one of such Defendants is in default as aforesaid, the Claimant may apply for judgment against the Defendant in default, and proceed against the other Defendants.

11. Default of Third Party.

Where issues arise in a proceeding other than between the Claimant and Defendant, if any party to any such issue is in default of filing any pleading, the opposing party may apply for judgment, and the Judge may enter judgment accordingly or make such other order as may be deemed fit.

12. Setting aside judgment by default.

(1) Any judgment entered upon default under this Order or any provision of these Rules shall be final and valid.

(2) The Judgment may be set aside upon application to the Judge on grounds of fraud, non-service or lack of jurisdiction and on such terms as the Court may deem fit.

ORDER 23: PAYMENT INTO AND OUT OF COURT.

1. Payment into and out of Court.

(1) Where, after service in any proceeding for debt or damages, a Defendant intends to pay money into Court in respect of the proceeding, he shall notify the Chief Registrar who will 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 immediately give notice of the payment to the Claimant 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, proof of such 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 in Form 14 with such modifications or variations as circumstances may require, 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 may be modified or withdrawn or delivered in an amended form by leave of a Judge upon such terms as may be just and receipt of same shall be acknowledged by the Claimant within three (3) days.

(7) Where money is paid into Court with denial of liability, the Claimant 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.

(8). 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.

2. Claimant may take out Money.

(1) Where money is paid or more than one payment has been made into Court under Rule 1, the Claimant -

(a). may within fourteen (14) days of the receipt of the notice of payment or the last payment if more than one payment is made, accept the whole sum or any one or more of the specific sums in satisfaction of the cause of action to which the specified sum relate by giving notice to the Defendant in Form 15, with such modifications or variations as circumstances may require; and

(b). shall be entitled to receive payment of the accepted sum or sums in satisfaction of the claim.

(2) Proceedings in the action or in respect of the specified cause or causes of action as the case may be shall abate upon payment to the Claimant or on his written authority to his Legal Practitioner.

(3) If the Claimant accepts money paid into Court in satisfaction of his claim, or if he accepts a sum or 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-

(a) after four (4) days from payment out of Court, unless a Judge otherwise orders, tax his costs incurred prior to the time of payment into Court in accordance with Rule 21 of Order 53 of these Rules and;

(b) forty-eight (48) hours after taxation shall sign Judgment for the taxed costs.

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

3. Money remaining in Court.

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 by an order of a Judge made at any time before during or after trial, in satisfaction of the claim or specified cause or causes of action in respect of which it was paid

4. Several Defendants.

(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 Claimant elects within fourteen (14) days after receipt of notice of payment into Court to accept the sum paid into Court, he shall give notice in Form 16 with such modifications or variations as circumstances may require, to each Defendant and 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 accepted under Sub-Rule (2) shall not be paid out except in pursuance of an order of a Judge dealing with the 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 Claimant may within fourteen (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 in Form 16 with such modifications or variations as circumstances may require.

(5) The Claimant may –

(a) tax his costs 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;

(b) continue with the action but the sum paid into Court shall be set-off against the damages awarded to the Claimant against the Defendant in respect of whom the action is continued.

5. Counter-Claims.

A person made a Defendant to a Counter-Claim may pay money into Court in accordance with the above Rules, with necessary modifications.

6. Persons under legal disability.

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

(2) No money or damages in any way recovered or adjudged; ordered or awarded or agreed to be paid in any such proceedings regarding the claims of any person under legal disability whether by judgment, settlement, compromise, payment into Court or otherwise, before, during or after the trial, shall be paid to the Claimant or to the guardian of the Claimant or to the Claimant's Legal Representative unless by the direction of a Judge which may be general or specific and include how:

(a) the money is to be applied or dealt with; or

(b) any payment is to be made either directly or out of money paid into Court, to the Claimant or the guardian for expenses incurred or for maintenance or otherwise for or on behalf of or for the benefit of the person under legal disability ;

(c) any payment is to be made to the Claimant's Legal Practitioner in respect of costs,

7. Payment into and withdrawal of Money from Court.

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

ORDER 24: PROCEEDINGS IN LIEU OF DEMURRER.

1. Demurrer Abolished.

No demurrer shall be allowed.

2. Points of law may be raised by pleading.

(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 any part of it, the Judge may make such decision as may be just.

(3) This provision shall be without prejudice to the Arbitration Act or any other Law under which a Defendant must apply for stay of proceedings before filing a Statement of Defence or other Statement of Case on the merits.

ORDER 25: WITHDRAWAL OR DISCONTINUANCE.

1. Claimant may withdraw or discontinue before Defence.

(1) The Claimant may by notice in writing duly filed and served, at any time before service of the Defence, wholly withdraw or discontinue his claim against all or any of the Defendants or withdraw or discontinue any part of his claim.

(2) The Claimant shall pay such Defendant costs of the action, or if the action is not wholly withdrawn or discontinued, cost occasioned by the matter so withdrawn or discontinued.

(3) A withdrawal or discontinuance as the case may be shall not be a Defence to any subsequent claim**.**

2. Claimant May Withdraw or Discontinue after Defence.

(1) Where a Defence has been filed and served, the Claimant may, with the leave of a

Judge, before taking any other step in the proceedings withdraw or discontinue the proceedings or any part of it on such terms and conditions as the Judge may order.

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

3. Withdrawal by consent.

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

4. Claimant may withdraw at trial.

Where trial has commenced, the Claimant may with the leave of Court withdraw or discontinue the claim or any part of it and the Judge may dismiss the claim wholly or in part or make such order as the Judge shall deem fit

ORDER 26: AMENDMENT.

1. Amendment of Originating Process and pleadings.

A party may amend his Originating Process and Pleadings at any time before the close of Case Management Conference and not more than twice during the trial but before judgment.

2. Application.

(1) An application for amendment shall-

(a) exhibit the proposed amendment; and

(b) be supported by an affidavit.

(2) The Judge may allow the application upon such terms as to costs or otherwise as may be just.

3. Amendment of Originating Process.

An application to amend an Originating Process or Pleading must be filed-

(a) with a list of any additional witness to be called together with the deposition on oath of such witness;

(b) in the case of an existing witness, with a further written deposition on oath;

(c) with a list and copies of any document to be relied on by the party amending.

4. Failure to amend after Order.

If a party who has obtained an Order to amend fails to amend within the time allowed by the order of a Judge or if no time is specified in the order, within seven (7) days from the date of the Order, the party shall pay an additional fee of =N=1000.00 (One thousand naira) for each day of default.

5. Filing and Service of amended process.

Upon amendment of an Originating Process or Pleading, a copy of the document as amended shall be filed in the Registry and additional copies served on all the parties to the action.

6. Date of Order and amendment to be displayed.

Whenever any Indorsement or Pleading is amended, it shall be marked in the following manner:
"Amended.....day of.....pursuant to Order of (name of Judge) dated the.....day of....."

7. Clerical mistakes and accidental omissions in Judgments etc..

A Judge may upon application at any time correct errors arising from accidental slip or clerical mistakes in Judgments or Orders without an appeal being filed.

8. General powers to amend.

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, grant an order to amend any defect or error in any proceeding.

ORDER 27: CASE MANAGEMENT CONFERENCE AND SCHEDULING.

1. Case Management Conference Notice

(1) Within 14 (fourteen) days after close of Pleadings, the Claimant shall apply for the issuance of a Case Management Conference Notice as in Form 17.

(2) Upon the application by a Claimant under sub-Rule (1) above, the Judge shall cause to be issued to the parties and their Legal Practitioners where applicable, a Case Management Conference Notice in Form 17 accompanied by a Case Management Information Sheet in Form 18 for the following purposes :

(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 appears best adapted to secure its just, expeditious and economical disposal;

(c) promoting amicable settlement of the case or adoption of ADR

(3) If the Claimant does not make the application within the time specified under sub-Rule (1) of this Rule, the Defendant may do so or apply for an order to dismiss the action.

2. Agenda

At the Case Management Conference, the Judge shall consider and take appropriate action with respect to any of the following or aspect of same as may be deemed necessary or desirable:

(a) formulation and settlement of issues;

(b) amendments, 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) settlement of documents to be admitted as exhibits at the trial;

(f) narrowing the field of dispute between expert witnesses, by their participation at Case Management Conferences or in any other manner;

(g) hearing and determination of applications and objections on points of law;

(h) giving orders or directions for separate trial of a Claim, Counter-Claim, Set-Off, Cross-Claim or Third Party Claim or of any particular issue in the case;

(i) settlement of issues, inquiries and accounts under Order 30;

(j) securing statement of Special Case of law or facts under Order 31;

(k) determining the form and substance of the Case Management Order;

(l) making referrals to the Lagos Multi-Door Courthouse or other relevant ADR bodies;

(m) implementing any ADR Order made under (1) above;

(n) any other matter as may facilitate the just and speedy disposal of the action.

3. Time - Table.

(a) The duration of the case Management Conference stage with respect to any matter shall not exceed three (3) months from its commencement.

(b) As far as practicable, Case Management Conferences shall be held from day to day or adjourned only for purposes of compliance with Case Management Conference Orders

(c) A Judge may extend Case Management Conference period where he deems it expedient to do so.

(d) The parties and their Legal Practitioners shall co-operate with the Judge in working within this time-table".

4. Report.

The Judge shall issue a report after close of the Case Management stage which shall guide the subsequent course of the proceedings unless modified by the Trial Judge.

5. Sanctions.

If a party or his Legal Practitioner fails to attend the Case Management Conference or obey a Scheduling 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 Claimant dismiss the Claim;

(b) in the case of a Defendant enter Judgment against him where appropriate.

6. Application to set aside Judgement and ADR directives

(1) A Judgment entered under Rule 5 of this Order may be set aside upon an application within seven (7) days of the judgment or such other period as may be allowed by the Judge or ADR Judge.

(2) The application shall be accompanied by an undertaking to participate effectively in the Case Management Conference or ADR, as the case may be.

7. Management.

The Judge shall direct the Case Management Conference with due regard to its purpose and agenda as provided under this Order and require the effective cooperation of parties or their Legal Practitioners in dealing with the Conference agenda.

ORDER 28: ALTERNATIVE DISPUTE RESOLUTION (ADR) PROCEEDINGS

1. Application

This Order applies to-

(a) cases screened to ADR under Order 2 Rule 1(c);

(b) Matters referred to ADR pursuant to Order 27 Rule 1(c), 2c and Rule2L;

(c) Applications for enforcement of arbitral awards

2. All applications to be taken by the ADR Judge.

(1). When pleadings are deemed closed; the case shall be referred to Lagos Multi-Door Court House or other appropriate ADR institution or Practitioner.

(2) Where a case has been referred to ADR under Order 27 of these Rules, , the referral Judge shall, in case of recalcitrant parties consider and give appropriate directives on the filing of Statement of Case and other necessary issues.

(3) Upon the directive of the Judge in sub-Rule (2) of this Rule, the Claimant shall, within fourteen (14) days file his Statement of Case and the Defendant shall file his response within fourteen (14) days of service of the Statement of Claim.

(4) Any Judgment given under sub-Rule (3) above may be set aside upon an application made within 7 (seven) days of the judgment or such other period as may be allowed by the ADR Judge.

(5) The Judge shall direct the ADR proceedings with due regards to its purpose and agenda as provided under this Order and shall require parties or their Legal Practitioners to co-operate with him effectively .

3. Mode of ADR Application.

(1) An application in any ADR proceeding under these Rules shall be by Originating Motion on Notice.

(2) The application may be brought to-
(a) revoke an arbitration agreement;
(b) appoint an Arbitrator;
(c) stay proceedings;
(d) remove an Arbitrator or umpire;
(e) seek injunction against arbitration (or suit pending arbitration)
(f) enforce or set aside an award;
(g) subpoena a witness to attend arbitral proceeding.

(3) The originating motion, as provided under this Order shall –

(a) state in general terms the grounds of the application;

(b) where the motion is founded on evidence by Affidavit, be companied by a copy of the Affidavit intended to be used; and

(c) be supported by a Written Address.

(4) A party applying for enforcement of an award, shall supply the-
(a) duly authenticated original award or certified copy of the award;
(b) original arbitration agreement or a duly certified copy of same;

(5) A party served with an application under this Order may oppose the application by filling a Written Address or a Counter-affidavit supported by a written address within Fourteen (14) days from the date of service of the application.

(6) The Applicant may file a Reply on Point of Law and or Further Affidavit within Seven (7) days from the date of receiving the Counter Affidavit or any other process filed by the Respondent.

4. Enforcement of Award

(1) An award made by an arbitrator or a decision reached at the Multi-Door Court-House maybe enforced by leave of a Judge in the same manner as a Judgement or Order of Court.

(2) An application to set aside or remit any award may be brought at any time within three (3) months after such award has been made and published to the parties:
Provided that a Judge may by Order before or after the expiration of three (3) months extend the time allowed by this Rule to set aside or remit an award.

5. Report by ADR Judge.

Where a cause or matter is not resolved, the ADR Judge shall issue a status report and the matter shall be remitted for assignment to a trial Judge.

ORDER 29: DISCOVERY AND INSPECTION.

1. Discovery by interrogatories.

(1) In any cause or matter, the Claimant or Defendant may deliver Interrogatories as provided in form 19 with such modifications or variations as circumstances may require for the examination of the opposing party

(2) Where such Interrogatories relate to more than one party it shall have a note at the end of it stating which of the Interrogatories each person is required to answer.

(3) Interrogatories shall be delivered within seven (7) days of close of Pleadings and shall form part of the agenda for the Case Management Conference.

2. Corporation or companies.

If a party to any cause or matter is a-

(a) limited or unlimited company, body corporate;

(b) firm, enterprise, friendly society, association; or

(c) any other body or group of persons, whether incorporated or not,

empowered by law to sue or be sued, whether in its own name or in the name of any officer or other person, the opposing party may deliver Interrogatories to any member or officer of such party.

3. Objection to interrogatories.

An objection to answering any of the Interrogatories on the ground that it is scandalous or irrelevant may be taken at the Case Management Conference.

4. Answer by Affidavit

(1) Interrogatories shall be answered by affidavit as provided in Form 20 with such modifications or variations as circumstances may require.

(2) Two (2) copies of the Affidavit shall be filed and supplied to the Registrar within seven (7) days, or such time as the Judge may allow.

(3) Where a process filed under this Order is not accompanied by a document referred to in the process a Judge may on application strike out such process.

5. Order to answer or answer further.

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

6. Application for discovery of documents.

(1) A party to a proceeding may, serve a written request on any other party to make discovery on oath of the documents relating to any matter in question in the action that are or have been in his possession, custody, or under his power or control.

(2) The request for discovery shall be served within seven (7) days of the close of Pleadings and form part of the agenda of the Case Management Conference.

(3) The party on whom the request is served shall within seven (7) days of the request or such time as the Judge may allow answer on oath completely and truthfully.

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

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

7. Processes filed after Case Management Conference.

(1) Any process to be filed after the Case Management Conference shall be accompanied by copies of documents referred to in the process.

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

8. Verification of Business Books.

(1) Where any document required to be attached to any process or produced under this Order or any other provision of these Rules is a business book, a Judge may upon application order a copy of any entry in the book to be furnished and verified in an affidavit deposed to by a person in charge of the book or under whose supervision the book is kept.

(2) Notwithstanding that a copy of the business book 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 of document has been ordered or filed, make an order requiring any party to state by affidavit –

(a) whether any particular document or class of document is or has at any time been in his possession or custody; or under his power or control,

(b) when he parted with the document and what has become of it.

9. Attachment of Party after service on Legal Practitioner.

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 citation of the party for disobedience of the Order.

10. Citation of Legal Practitioner.

A Legal Practitioner upon whom an Order against any party for Interrogatories or Discovery or Inspection is served under Rule (9), who neglects without reasonable excuse to give notice of the order to his client, shall be liable to committal.

11. Using answers to interrogatories at Trial.

A party may, at the trial of any cause or matter use any one or more of answers or any part of an answer of the opposite party to interrogatories in evidence without putting in the others or the whole of such answer:
Provided that the Judge may look at the whole of the answers and order that any of them be put in.

12. Discovery against Sheriff.

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

13. Person under Legal disability.

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

ORDER 30: ISSUES, INQUIRIES, ACCOUNTS AND REFERENCES TO REFEREES.

1. Issues of facts.

(1) Issues of facts in dispute in any proceeding shall be defined by each party and filed within fourteen (14) days after close of Pleadings.

(2) If the parties differ on the issues the Case Management Judge may settle the issues.

2. Reference to Referee.

The Judge may at any time order the whole cause or matter or any question or issue of facts arising in the matter 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, which may require that the cause or matter should proceed in the ordinary manner.

3. Instructions to Referee.

In any case in which a matter is referred to a Referee, the Court shall furnish the Referee with such part of the proceedings and information with detailed instructions as may appear necessary for his guidance, and shall direct the parties if necessary to appear before the Referee during the inquiry.

4. General Powers of Referee.

The Referee may, subject to the Order of the Judge-

(a) hold the inquiry at or adjourn it to any place and hold any inspection or view which may be deemed expedient for the disposal of the controversy before him; and

(b) so far as practicable, proceed with the inquiry from day to day.

5. Evidence.

(1) Subject to any Order made by the Judge under Rule 2 of this Order, 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 attendance of such witness may be enforced before the Court;

(2) The inquiry shall be conducted in the same manner or as nearly as circumstances will admit, as trials before a Court.

(3) The Referee shall have the same authority in the conduct of any inquiry as a Judge when presiding at atrial.

(4) 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.

6. Reports made in pursuance of reference under order.

(1) The Referee shall submit a report of the inquiry held pursuant to a reference under this Order to the Judge and a notice of the report shall be served on the parties.

(2) A Referee may by his Report submit any question arising in the report for the decision of the Judge or make a special statement of facts from which the Judge may draw such inferences 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 the Referee 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) An application to vary the report or remit the whole or any part of the question or issue originally referred, may be made at the hearing for the further consideration of the cause or matter by the Judge, after giving not less than 4 days' notice, and any other application with respect to the Report may be made at such hearing without notice.

(5) Where in respect of a reference under this Order a Judge orders that the further consideration of the cause or matter in question shall not stand adjourned until the receipt of the Referee's Report, the order may contain directions with respect to the proceedings on the receipt of the Report and the above provisions of this Rule shall have effect subject to any such directions.

7. Special directions as to mode of taking account.

(1) The Judge may 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.

(2) Subject to the right of objection by any interested party the Judge 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 the content. .

8. Accounts to be verified by affidavit.

(1) Where any Account is directed to be taken, the accounting party shall make out his Account and verify the same by Affidavit which must be left in the Registry.

(2) The items on each side of the Account shall be numbered consecutively, and the Account shall be attached to the Affidavit as an exhibit.

9. Mode of vouching accounts.

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.

10. Surcharge.

Any party seeking to surcharge any accounting party beyond what he has 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.

11. Accounts and inquiries to be numbered.

(1) Where any Account is directed to be taken or Inquiries to be made by any Judgment or Order each such direction shall be numbered.

(2) The 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.

12. Just Allowances.

In taking any Account pursuant to any Judgment or Order, all just allowances shall be made without any direction for that purpose.

ORDER 31: SPECIAL CASE.

1. Special Case by consent.

(1) At the Case Management 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.

(2) Every such Special Case shall be divided into paragraphs, numbered consecutively and shall concisely state such facts and documents as may be necessary to enable the Court decide the questions.

(3) Upon the argument of the Special Case the Judge and the parties may refer to the contents of such documents and the Judge may draw any inference of facts or law from the facts and documents stated in such Special Case; which might have been drawn if proved at a trial.

2. Special Case by Order before Trial.

(1) If at the Case Management 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 questions of law or direct the questions to be raised at the trial either by Special Case or in such other manner as the Judge may deem expedient.

(2) Further proceedings in the matter may be stayed as the decision of such question of law may render such proceeding unnecessary.

3. Special Case to be signed.

Any Special Case by consent under Rule 1 of this Order shall be signed by the parties or their Legal Practitioners and be filed by the Claimant or other party having conduct of the proceedings.

4 Application to set down where a person under disability is a party

An application to set down a Special Case in any cause or matter where 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 affect the interest of the person are true.

5. Agreements for payment of Money and Costs.

(1) The parties to a Special Case may enter into a written agreement 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 questions 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 party with or without costs.

(2) The Judgment of the Court may be entered for the sum so agreed or ascertained with or without costs, and execution may issue immediately after such Judgment, unless otherwise agreed or stayed on appeal.

6. Application of Order.
This Order shall apply to every Special Case stated in a cause or matter and in any incidental proceedings.

ORDER 32: CAUSE LISTS.

1. List of causes for hearing.

(1) The Registrar shall keep a Case Management List which shall consist of actions directed to be set down for Case Management Conference under Order 27 Rule3

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

2. Case Management and Weekly Cause List.

(1) The Registrar shall on every Friday post a Case Management 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 arrangement, whenever necessary or convenient, for the disposal of causes and matters included in the list.

3. Public holiday.

Where any Friday is a public holiday, the Case Management List and Weekly Cause List shall be posted on the day last preceding which is not a public holiday.

4. Judge unable to sit.

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 named Registrar, shall be entered in the Court file.

5. Notice Boards.

The Case Management and Weekly Cause Lists or any other such lists shall be posted on one or more notice boards set up in any place within or near the Court premises as the Chief Judge may designate

ORDER 33: PROCEEDINGS AT TRIAL.

1. Order of Proceedings

The order of proceeding at the trial of a cause shall be as prescribed under this Order.

2. Non-appearance of both parties.

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.

3. Default of appearance by Defendant.

Where the Claimant appears when a cause is called for hearing but the Defendant does not appear, the Claimant may prove his claim, so far as the burden of proof lies upon him.

4. Default of appearance by Claimant.

Where the Defendant appears when a cause is called for hearing but the Claimant does not appear, the Defendant shall if he has no Counter-Claim, be entitled to judgment dismissing the action, but if he has a Counter-Claim, he may prove such Counter-Claim so far as the burden of proof lies upon him.

5. Judgment by default may be set aside on terms.

(1) Where a cause is struck out under this Order, either party may apply that it be restored on the cause list on such terms as the Judge may deem fit.

(2) A Judgment obtained upon the non- appearance of any party at the trial may be set aside by the Judge on 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 brought within seven (7)days after the Order or Judgment has been granted or such extended period as the Judge may allow.

6. Adjournment of Trial.

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

7. Times of commencement and termination of Trial..

The Registrar or other designated officer present at any trial or hearing shall make a note of the times at which the trial or hearing commences and terminates and the duration of such trial on each day it goes on for communication to the Taxation Officer if required.

8. Party with burden of proof to begin.

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

9. Documentary evidence.

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

10. Additional Witness.

(1) A party who desires to call any witness not being a witness whose deposition 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 of such witness.

11. Close of case of Parties.

(1) A party shall close his case when he has concluded his evidence; however the Claimant or Defendant may make an oral application to have the case of the other party 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, close the case of the party.

12. Exhibits during Trial

(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 who put in the exhibit or where more convenient mark the witness by whom the exhibit is tendered with a number.

(2) The exhibits put in by a party or proved by a witness shall be numbered in one consecutive series and the Registrar shall cause a list of all the exhibits in the action to be made.

(3) The list of exhibits when compiled 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 through whom the exhibit is tendered.

13. Written Address by Party beginning.

When the party beginning has concluded his evidence-

(a) the Judge shall ask the other party if he intends to call evidence;

(b) 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;

(c) Upon being served with the written address, the other party shall within 21 days file his own written address.

14. Written Address by the other Party.

Where the other party calls evidence he shall within 21 days after the close of his evidence file a Written Address.

15. Written Address of Party beginning.

Upon being served with the other party's Written Address, the party beginning shall within 21 days file his own Written Address.

16. Reply on point of Law.

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

17. Custody of exhibits after trial.

(1) An exhibit shall not be released to the party who put it in after the trial except by leave of a Judge:
Provided that the exhibit shall not be released unless the-

(a) period during which Notice of Appeal may be given has lapsed without such notice having been given.

(b) exhibit will be kept duly marked and labeled and will be produced, if required, at the hearing of an appeal if any such appeal is lodged, or

(c) 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 unless leave to release such exhibit is granted by the Court of Appeal.

18. Office copy of list of exhibits.

(1) Any party may apply for and on payment of the prescribed fee obtain an office copy of the list of exhibits.

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

ORDER 34: DILIGENT PROSECUTION

1. Party to ensure Diligent Prosecution

All parties to the cause or matter shall ensure diligent prosecution of their case.

2. Indolent Prosecution

A Judge may, at any stage of the proceedings in a matter, upon application or *suo motu* strike out a matter not being prosecuted diligently.

3. Expediting Proceedings in case of undue delay.

(1) If it appears to the Judge that there is any undue delay in the prosecution of any proceeding, the Judge may require the party having the conduct of the proceedings or any other party, to explain the delay and make such order with regard to expediting the proceedings including orders for the conduct or stay of the proceedings relating to the costs of the proceedings as the circumstances of the case may require.

(2) For the purpose of sub-Rule (1) of this Rule, any party may be directed to summon the person whose attendance is required, and to conduct any proceeding or carry out any directions which may be given

(3) When a matter is pending in Court, and no proceeding is held or application filed in the case for a period of twelve (12) months, the Court shall
strike out the case.

ORDER 35: FILING OF WRITTEN ADDRESSES.

1. Application.

This Order shall apply to all applications and final addresses.

2. Content of a written address.

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

(a) the claim or application on which the address is based;

(b) a brief statement of the facts and reference to the exhibits attached to the application or tendered at the trial:

(c) the issues arising from the evidence;

(d) a succinct statement of argument on each issue incorporating the purport of the authorities referred to together with full citation of each such authority.

3. Summation of address.

(1) All Written Addresses shall be concluded with a numbered summary of the points raised and the party's prayer.

(2) A list of all authorities referred to shall be submitted with the Address and where any unreported Judgment is relied upon, the Certified True Copy shall be submitted along with the Written Address.

(3) The Written Address of any party shall not exceed twenty (20) pages and a reply on point of law shall not exceed five (5)pages except with the leave of Court.

4. Oral Argument.

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

(2) If any party or Legal Practitioner appearing for him does not appear to present oral arguments, the Written Address will be treated as having been duly adopted.

5. Copies of Written Address

Each party shall file two copies of his Written Address and serve a copy on every party.

ORDER 36: EVIDENCE GENERALLY.

1. Facts how proved.

(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 deposition and oral examination of witnesses in open Court.

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

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

(4) The oral examination of a witness during his evidence in-chief shall be limited to confirming his deposition and tendering in evidence all disputed documents or other evidence referred to in the deposition, provided that a Judge may allow a witness on subpoena to lead oral evidence in examination-in-chief without having sworn a written statement in appropriate cases.

2. Particular facts.

(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 by:

(a) statement on oath of information or belief;

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

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

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

3. Limitation of medical and expert evidence.

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.

4. **Limitation on use of documentary evidence**

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 or the Judge for special reason before or at trial otherwise directs or orders

5. Revocation and variation.

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

6. Certified True Copies admissible in evidence.

Certified True Copies of all Writs, Processes, Records, Pleadings, and documents filed in Court shall be admissible in evidence in all matters to the same extent as the original would be admissible.

7. Examination of Witnesses abroad.

Where an Order is made for the issuance of a request to examine a witness in any foreign country with which a Convention in that regard has been made, the following procedure shall be adopted:

(a) the party obtaining such Order shall file in the Registry an Undertaking as provided in the Form 23 with such variation as may be necessary to meet the circumstances of the particular 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.

8. Form of order for examination of Witnesses abroad

Where an Order is made for the examination of a witness before the Nigerian Diplomatic Agent in any foreign country with which a Convention in that regard has been made, the Order shall be in Form 25, with such modification and variation as may be necessary to meet the circumstances of the particular case in which it is used.

9. Order for attendance of person to produce document.

The Judge may at any stage of a proceeding order the attendance of any person for the purpose of producing any writing or other document 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.

10. Disobedience to Order for attendance.

Any person who willfully disobeys 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.

11. Expenses of persons ordered to attend.

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

12. Contempt of Court.

If any person duly summoned by subpoena to attend for examination refuses to attend or if having attended, refuses 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.

13. Examination of Witnesses.

When the examination of any witness before any examiner under Rule 7 above has been conducted, the original depositions authenticated by the signature of the examiner, shall be transmitted by him to the Registry and filed.

14. Depositions not to be given in evidence without consent or leave of a Judge.

(1) Except where by this Order or as may be 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, by reason of sickness or other infirmity, to attend the hearing or trial.

(2) The depositions shall be certified under the hand of the person taking the examination and be admissible in evidence, without proof of the signature to such certificate subject to such exceptions as the Judge may deem just.

15. Oaths.

Any Officer of the Court or other person directed to take the examination of any witness or person or any person nominated or appointed to take the examination of any witness or person pursuant to the provisions of any Convention made with any foreign country, may administer oaths.

16. Attendance of Witness under Subpoena for examination or to produce documents.

(1) A party may by subpoena ad testificandum or ducestecum 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 for any proceeding in the cause or matter in the same manner such witness would be bound to attend and be examined at the hearing or trial;

(2) Any party or witness having made an affidavit to be used in any proceeding in the cause or matter shall be bound on being so subpoenaed to attend before the Court for cross-examination.

17. Practice as to taking of Evidence at any stage of cause or matter.

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.

18. Special direction as to taking of Evidence.

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

19. Evidence in Proceedings subsequent to Trial.

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.

20. Form of Praecipe of a Subpoena;

(1) Where it is intended to issue a Subpoena, a praecipe for that purpose in Form 26 containing-

(a) the name or Firm and the place of business, telephone number and email address of the Legal Practitioner intending to issue the same;and

(b) the name or Firm and place of business, telephone number and email address of the Principal Legal Practitioner where such Legal Practitioner is an agent,

shall in all cases be delivered and filed at the Registry.

(2) No Subpoena shall be issued unless all Court fees have been paid including fee for service and unless sufficient conduct money on the prescribed scale is deposited to cover the first day's attendance.

21. Form of Subpoena.

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

22. Subpoena for attendance of Witness in Chambers.

Where a Subpoena is required for the attendance of a witness in respect of proceedings to be held in Chambers, such Subpoena shall issue from the Registry upon the directive of the Judge.

23. Correction of errors in Subpoena.

In the interval between the issue and service of any Subpoena, the Legal Practitioner issuing it may-

(a) correct any error in the names of parties or witnesses, and

(b) 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.

24. Personal service of Subpoena.

(1) A Subpoena shall be served personally unless substituted service has been ordered

by a Judge in a case where a person persistently evades service.

(2) The provisions of Order 10 shall so far as possible apply to service and proof of service of a Subpoena.

25. Duration of Subpoena.

A Subpoena shall be effective from the date of issue until the trial of the action or matter in which it is issued.

26. Action to perpetuate testimony.

A person may commence an action to perpetuate any testimony which may be material for establishing a right or claim which he cannot bring to trial before the happening of a future event, where such person by the circumstances alleged by him is entitled to any honour, title, dignity or office, or to any Estate or interest in any property, real or personal

27. Examination of Witnesses to perpetuate Testimony.

A witness shall not be examined to perpetuate his testimony unless an action has been commenced for that purpose.

28. Such action not to be set down for Trial.

No action to perpetuate the testimony of a witness shall be set down for trial.

ORDER 37: AFFIDAVITS.

1. Evidence on Motions, etc.

Upon any Motion, Petition, Summons or other application, evidence may be given by Affidavit, but the Judge may, *suomotu* or on application, order the attendance of the deponent for cross-examination 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.

2. Title of affidavit.

Every Affidavit shall bear the title in the cause or matter in respect of which it is sworn but in every case in which there is more than one Claimant or Defendant, it shall be sufficient to state the full name of the first Claimant or Defendant respectively, and that there are other Claimants or Defendants, as the case may be.

3. Use of defective affidavit.

The Judge may receive any Affidavit sworn for the purpose of being used in any cause or matter, notwithstanding any defect by mis-description of parties or otherwise in the title or jurat, or any other irregularity in the form of the Affidavit , and may direct a Memorandum to be made on the document indicating that it has been so received.

4. Special time for filing affidavits.

Where a special time is limited for filing Affidavits, no Affidavit filed after that time shall be used, unless by leave of the Judge.

5. No Retroactive Affidavit.

Except by leave of the Judge no order granted ex-parte in respect of an application based on any Affidavit shall have effect unless the Affidavit was made before the order was applied for, and produced or filed at the time of making the application.

6. Alterations in accounts to be initialed.

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.

7. Exhibits.

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.

8. Certificate of exhibit.

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.

9. Application of Evidence Act and Oath Law

The provisions of the Evidence Act and the Oaths Law governing Affidavits shall be applicable under these Rules.

10. Deposition in Deponent's language

Where in these Rules, depositions and affidavits are required to be made and the deponent does not understand English Language such deposition or affidavit shall be in a language the deponent understands but must be accompanied by an interpretation of the deposition in English language.

ORDER 38: NON-SUIT.

1. Power of Court to non-suit.

Where satisfactory evidence i entitling the Claimant or Defendant to Judgment is not given , the Judge may *suomotu* or on application non-suit the Claimant, but the parties' Legal Practitioners shall have the right to make submissions about the propriety or otherwise of making such Order.

2. Non-suit where no leave reserved.

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 39: JUDGMENT, ENTRY OF JUDGMENT

1. Delivery of judgment at or after trial.

The Judge shall, at the Case Management Conference or after trial, deliver Judgment in open Court, and shall direct Judgment to be entered.

2. Date judgment pronounced in Court.

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.

3. Date of judgment directed to be entered.

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.

4. Judge may direct time for payment or performance and interest.

The Judge may at the time of granting any Judgment or Order or at any time afterwards, direct the time within which the payment is to be-

(a) made or other act is to be done,

(b) reckoned, from the date of the Judgment or Order, or some other date or time, as the Judge deems fit; and may order interest at a rate not less than 10% per annum to be paid upon judgment.

5. Time to be stated for doing any act Memorandum to be indorsed.

(1) 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;.

(2) There shall be indorsed on the Judgment or Order, a Memorandum by the Registrar in the following words, and same shall be served upon the person required to obey the Judgment or Order:

"If you, the within named A.B, neglect to obey this Judgment (or Order) by the time therein limited, you will be liable to the process of execution for the purpose of compelling you to obey the said Judgment (or Order)"

6. Judgment by consent where Defendant appears by a Legal Practitioner.

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.

7. Judgment by consent where Defendant has no Legal Practitioner.

Where the Defendant has no Legal Practitioner such order shall not be made unless the Defendant gives his consent personally in open Court.

ORDER 40: DRAWING UP OF ORDERS.

1. Date of Order, when drawn.

Every Order shall bear the date on which it was made and shall take effect accordingly unless the Judge otherwise direct.

2. Orders that need not be drawn up.

(1) 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 for –

(a) the issuance of any Writ other than a Writ of attachment;

(b) the amendment of any Writ or Pleading;

(c) 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 Order unless the Judge otherwise directs but the production of a note or memorandum of such Order signed by a Judge shall be sufficient authority for such enlargement of time, issuance, amendment, filing or other act.

(2) 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.

3. Form of Order.

An Order shall be sealed and shall be marked with the name of the Judge by whom it is made.

ORDER 41: TRANSFERS AND CONSOLIDATION.

1. Order transferring proceedings to High Court.

(1) The Chief Judge may, in exercise of powers conferred under any enactment ,order the transfer of any action or matter from a lower Court to the High Court.

(2) The Order shall be duly certified by the Registrar and immediately forwarded to the Registrar of the lower Court.

(3) The Registrar of the lower Court shall immediately transmit the documents referred to in the relevant law and processes or relevant documents to the High Court.

2. Payment of filing fees.

(1) Upon receipt of the relevant documents and processes, the Registrar shall notify the party who applied for the transfer, or the Claimant, where the order of transfer was not made on the application of any party.

(2) Without prejudice to the question of how costs shall ultimately be borne, the Claimant or such other party upon whose application the order for transfer was made shall, pay the fees for filing the processes and other documents.

(3) The notification under sub-rule (1) of this Rule shall be effected by serving a notice personally on the party concerned.

3. Duties of Registrar.

(1) The Registrar shall within seven (7) days of payment of the prescribed fees –

(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 after transmitting the documents notify parties to attend in person or by Counsel before a named Judge on the day and at the time specified in the notice.

(3) The fees for the service of this notice shall be borne in the first instance by the party who paid the fees for filing as provided by Rule 2 of this Order.

4. Directions.

(1) The Chief Judge or any Judge appointed by him shall, not later than fourteen (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

(c) give directions for the trial or hearing of the action or matter.

(2) Directions given under this Rule may include directions for the filing and service of Pleadings.

5. Party failing to attend.

(1) If the Claimant fails to attend in compliance with a notice given under Rule 3 of this Order, the Judge shall record his default and may, suo motu or on application by the defendant, dismiss the action or make such other Order on such terms as he deems just.

(2) If the Defendant fails or all of several Defendants fail to attend in compliance with a notice given under Rule 3, the Claimant may enter judgment with costs or obtain the Order prayed for in the transferred proceedings.

6. Construction.

In the preceding Rule of this Order, reference to the Claimant and the Defendant shall, in relation to proceedings commenced otherwise than by Writ, be construed as reference to the Applicant and the Respondent.

7. Consolidation of actions.

(1) The Judge may on application consolidate several actions pending before him where it appears that the issues in all the actions are the same and may be properly tried and determined at the same time.

(2) Where actions are pending before different Judges, a party desiring consolidation shall apply to the Chief Judge for transfer of the matter to a Judge before whom any of the matter is pending.

(3) An order to consolidate may be made where more than one action is pending between–

(a) the same Claimant and Defendant;or

(b) the same Claimant and different Defendants;or

(c) different Claimants and the same Defendant;or

(d) different Claimants and different Defendants:

Provided that where the same Claimant brings actions against different Defendants, the actions 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

expense of the party who applied for consolidation and shall be recorded in the Cause Book.

ORDER 42: INTERLOCUTORY ORDERS, ETC.

1. Preservation or interim custody of subject matter of disputed contract.

(1) Where 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 into Court or otherwise secured.

(2) An application for an order under sub-rule (1) may be made by the Claimant at any time after asserting the right by his pleadings.

2. Early trial of Cause.

Upon an application for an injunction or other Order before trial the Judge may, before or at the hearing of such application make an order for trial or such order as the justice of the case may require if it appears that the issues in controversy can be most conveniently dealt with by an early trial, without first going into the whole merits on affidavit or other evidence for the purpose of the application.

3. Order for sale of perishable goods, etc.

(1) The Judge may upon the application by a party make any order for the sale of any goods, wares, or merchandise which may be of a perishable nature, or likely to inure from keeping, or which for any other just and sufficient reason is desirable to sell at once by any person named in such order and in such manner or on such terms as the Judge may deem desirable,

4. Detention, preservation or inspection of property, the subject of an action; Inspection by Judge.

(1) A Judge may upon the application of a party to an action and subject to such terms as may be just-

(a) make an order for the detention, preservation or inspection of any property or thing, being the subject of such action or in respect of which questions may

arise in the action;

(b) authorise any person to enter upon or into any land or building in the possession of any party to such action or

(c) authorise any sample to be taken or any observation to be made or experiment to be carried out, which may be necessary or expedient for the purpose of obtaining full information or evidence

(2) Where it appears, after granting an order for the inspection of any property or thing under this rule,whether the application for such inspection was brought before or after pleading has been filed; that the inspection was requested in writing by the applicant but was not permitted the Judge shall, unless he is satisfied that the failure or refusal of the respondent to permit the inspection was reasonable, order that cost be paid to the applicant immediately, except where the respondent is a "Poor Person",

(3) The trial Judge may inspect any property or thing in respect of which any question may arise in the matter.

5. Sale of property in possession of Court.

(1) Where any property has remained in possession of the Court for a period of twelve (12) months, same having been in the Court's possession before or after judgment, a Judge may suo motu make an Order for the sale of that property and the proceeds of the sale shall be paid into an interest yielding account in a commercial bank as may be 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 chattels shall be withdrawn from the bank by the successful party who shall present to the Chief Registrar a certified true copy of the enrolment of the judgment.

6. Order for recovery of specific property other than land subject to lien, etc.

Where an action or Counter-Claim 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 Case Management Conference order that the property claimed be given up to the party claiming it where such party agrees to pay into Court, 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.

7. Allowance from income of property pendente lite.

Where the Judge is satisfied that any real or personal Estate or property being the subject matter of any proceeding, will be more than sufficient to Answer all the claims in respect such property regarding the proceedings the Judge may at any time after the commencement of the proceedings, allow any party interested in the property or Estate the whole or part of the annual income on the real Estate or a part of the personal Estate or property; or the whole or part of the income in respect of the property or Estate , up to such time as the Judge shall direct.

8. Injunction against repetition of wrongful act or for breach of contract.

The Judge may in any action or matter in which an injunction has been or might have been claimed grant an injunction, upon an application by the Claimant and such terms as may be just, 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.

9. Appointment of a Receiver by way of equitable execution.

In every case in which an application is made for the appointment of a Receiver by way of equitable execution, the Judge, shall in determining whether it is just or convenient that such appointment be made, have regard to and may direct inquiries on the following or other matters -

(a) amount of the debt claimed by the Applicant,

(b) amount which may probably be obtained by the Receiver and probable costs of his appointment .

10. Receivers' Security and Remuneration.

(1) Where an Order is made directing a Receiver to be appointed, the person to be appointed shall unless otherwise ordered –

(a) give security, as may be approved by the Judge to duly account for what he shall receive as such Receiver, and to pay the same as the Judge shall direct and

(b) be allowed a proper salary or allowance.

(2) The security shall be -

(a) by Guarantee or by an Undertaking as prescribe in Forms 30 and 31 with such variations as circumstances may require;and

(b) filed in the Registry and form part of the record of proceedings until it has been duly vacated.

11. Adjournment to give Security Where Receiver appointed in Court.

Where an Order or Judgment has been granted appointing a person as a Receiver in the course of any proceeding, the Court may adjourn the proceedings to allow the person named in the Order as Receiver to give security as provided under Rule 10 of this Order and may direct such Judgment or Order to be drawn up.

12. Fixing days for Receivers to leave and pass their accounts and pay in balances and neglect of Receiver.

(1) When a Receiver is appointed with a direction that he shall pass Accounts, he shall leave and pass such accounts quarterly or within a shorter period.

(2) The days when the Receiver shall leave and pass accounts or 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 shall be fixed by the Judge

(3) Where any receiver neglects to leave and pass Accounts or pay the balances at the times fixed for that purpose, the Judge may when his subsequent Accounts are produced to be examined and passed disallow the salary claimed by such Receiver and also charge him with interest at a rate not exceeding twenty-five per cent (25 %) per annum upon the balances so neglected to be paid by him during the time the same appears to have remained in his hands.

13. Receivers' accounts.

Receivers' Accounts shall be in Form 32 with such variations as circumstances may require.

14. Delivery of account to the Registry.

(1) A Receiver shall deliver his account together with an Affidavit verifying the same in Form 33 with such variations as circumstances may require, to the Registrar.

(2) Upon delivering the account to the Registrar, the Claimant or person having conduct of the action shall obtain an appointment for the purpose of passing such Account.

15. Consequences of default by a Receiver.

(1) Where Receiver fails to deliver any Account or Affidavit or to pass such Account or to otherwise make any payment , the Receiver or the parties may be required to show cause why such Account was not passed or such payment was not made or any other proper proceeding taken.

(2) The Judge shall after the parties or the Receiver have shown cause give such directions as may be proper; including the discharge of any Receiver or appointment of another receiver and payment of costs.

16. Passing of Guardians' accounts.

The accounts of guardians shall be passed and verified in accordance with the provisions of this Order

ORDER 43: MOTIONS AND OTHER APPLICATIONS.

1. Application by motion.

(1) Where by these Rules any application is authorised to be made to a Judge, such application shall be made by motion which may be supported by an affidavit and shall state the Rule of Court or Law under which the application is brought.

(2) The application shall be-

(a) accompanied by a Written Address in support of the relief sought.

(b) served within five (5) days of filing and where the application is not served within the stipulated period, the Judge may strike out the application.

(3) Where the other party intends to oppose the application, he shall file his Written Address and may accompany it with a counter affidavit within seven (7) days of the service on him of such application.

(4) The Applicant may within seven (7) days file and serve a reply on point of law to the Counter Affidavit served on the Applicant and he may file Further Affidavit with his Reply.

2. Restriction on rule nisi

The provisions of Rule 1 in respect of service of motion or application on the other party shall not apply to any motion or application for an ORDER NISI

3. When notice of motion should be given.

(1) Except where an application ex-parte is required or permitted under any 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 seven (7) days.

(4) A Judge may if satisfied upon an application, extend the effective period of an order made ex parte that the motion on notice has 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 seven (7) days from the day the extension is granted.

4. Special leave.

Unless a Judge grants special leave to the contrary, there must be at least two (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.

5. Motions may be struck out or adjourned where necessary notice not given..

Where the Judge at the hearing of a motion or other application is of the opinion that any person to whom notice ought to have been given was not given such notice, he may strike out the motion or application; or adjourn the hearing of such application upon such terms as may be deemed just to impose to allow such notice to be given.

6. Adjournment of hearing.

The hearing of any motion or application may be adjourned upon such terms, as the Judge may deem fit:

Provided that an application for an adjournment at the request of a party shall not be made more than twice.

7. Service of motion with Originating Process.

A Claimant may file any application along with an Originating Process and may serve both on any Defendant simultaneously.

8. **Summons for account by Legal Practitioner..**

(1) 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 order the Respondent to deliver to the Applicant a list of the moneys or securities which he has in his custody or control on behalf of the Applicant or bring into Court the whole or any part of the same, within such time as the Judge may order.

(2) In the event of the Respondent alleges that he has a claim for costs, the Judge may make provision for the taxation and the payment or security on the account or moneys or the protection of the Respondent's lien as any be deemed fit.

9. Taxation of bill of cost.

(1) If during the taxation of any bill of costs or the taking of any Account between Legal Practitioner and client, it appears to the Taxing Officer that there must be any event moneys due from the Legal Practitioner to the client, the Taxing Officer may from time to time issue an interim certificate in respect of the amount payable by the Legal Practitioner.

(2) Upon the filing of such certificate, a Judge may order the moneys so certified to be forthwith paid to the client or brought into Court.

ORDER 44: APPLICATION FOR JUDICIAL REVIEW.

1. Cases appropriate for judicial review.

(1) An application for an:

(a) Order of mandamus, prohibition or certiorari; or

(b) 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 under sub rule (1) of this Rule may be made by way of an application for judicial review and the Court may grant the declaration or injunction by way of judicial review as may be deemed just and convenient having regards to:

(a) the nature of the matter 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.

2. Joinder of claims for relief.

On an application for judicial review any relief mentioned in Rule 1 may be claimed as an alternative or in addition to any other relief if same arises out of, relates to or is connected with the same matter.

3. Grant of leave to apply for judicial review.

(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 upon 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 may be deemed fit.

(4) The Judge shall not grant leave unless he considers that the Applicant has 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 proceedings which is subject to appeal and a time is limited for bringing 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 -

(a) for an order of prohibition or certiorari and the Judge so directs the grant shall operate as a stay of the proceedings to which the application relates until the determination of the application or until the Judge otherwise orders;

(b) for any other relief the Judge may at any time in the proceedings grant such interim relief as could be granted in an action commenced by Writ;

(c) the Judge may impose such terms as to costs and as to giving security as he deems fit.

4. Time within which to bring application.

An application for judicial review shall be brought within three (3) months from the date of occurrence of the subject of the application.

5. Mode of application.

(1) When leave has been granted, the application for judicial review shall be made by Motion or by Originating 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 Judge and the object of the application is either to compel the Judge or an Officer of the Court to do any act in relation to the proceedings, or to quash such acts or any order made in the proceedings , the Notice or Summons shall be served on the Clerk or Registrar of the

Court and on the Judge where any objection to the conduct of the Judge is to be made.

(3) Unless the Judge granting leave otherwise directs , there shall be at least seven (7)days between the service of the Notice of Motion or Summons and the day named for hearing of the application.

(4) A Motion shall be entered for hearing within fourteen (14) days after the grant of leave.

(5) An affidavit giving the names, addresses; the place and dates of service on all persons who have been served with the Notice of Motion or Summons shall be filed before the Motion or Summons is entered for hearing.

(6) If any person who ought to be served under this Rule has not been served, the Affidavit shall state the reason for the non-service and the Affidavit shall be before the Judge at the hearing of the Motion or Summons.

(7) If at the hearing of the Motion or Summons the Judge is of the opinion that any person who ought, to have been served under this Rule or otherwise, has not been served, he may adjourn the hearing on such terms, as he may direct to allow the Notice or Summons to be served on such person.

6. Statements and Affidavits.

(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) of this Rule, 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 on the hearing of the Motion or Summons allow –

(a) the Applicant to amend his Statement by specifying additional grounds or reliefs, or otherwise modifying the existing grounds or reliefs or as he deems fit

(b) Further Affidavits to be used where such Affidavits deal with new matters arising out of an Affidavit of any other party to the application.

(3) An Applicant who intends to amend his Statement or to use further Affidavits shall give notice of his intention and of any proposed amendment to the other party.

(4) A party to the application shall supply to the other party a copy of each Affidavit intended to be used at the hearing including, in the case of the Applicant, the Affidavit in support of the application for leave under Rule 3.

7. Claim for damages.

On an application for judicial review the Judge may, subject to Rule 2, award damages to the Applicant if:

(a) the Applicant has included in the Statement in support of his application for leave under Rule 2 a claim for damages arising from any matter to which the application relates and

(b) he is satisfied that if the claim had been made in an action commenced by the Applicant at the time of making his application, he could have been awarded damages.

8. Interlocutory application.

Any interlocutory application may be made to the Judge in proceedings on an application for judicial review.

9. Hearing of application for judicial review.

(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 such proceedings , 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

(a) has filed a copy of same verified by Affidavit or

(b) 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 immediately 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 commenced by Writ at the time of making the application, the Judge may, instead of refusing the application, order the proceedings to continue as if it had been commenced by Writ.

10. Consolidation of Applications.

Where there is more than one application pending against several persons in respect of the same matter and on the same grounds, the Judge may order the applications to be consolidated.

ORDER 45: JURISDICTION OF CHIEF REGISTRAR.

1. Chief Registrar

In this Order, any reference to the Chief Registrar means the Chief Registrar of the High Court and includes the Deputy Chief Registrar.

2. Business to be transacted by Chief Registrar.

The Chief Registrar may transact all such business and exercise all such authority and jurisdiction as may be transacted or exercised by a Judge in respect of the following matters:

(a) applications for :

(i) the taxation and delivery of bills of costs and

(ii) 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) applications leading to the issue of the grant of probate of the Wills or Letters of Administration of the Estates of deceased persons.

3. Chief Registrar may refer matter to the Chief Judge

(1) If it appears to the Chief Registrar that it is proper that any matter be referred for the decision of a Judge, he may refer such matter to the Chief Judge or the Judge who referred the matter to the Chief Registrar.

(2) 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.

4. Appeal from order of Chief Registrar.

(1) 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 to a Judge.

(2) Such appeal shall be by notice in writing, without a fresh summons to appear before the Judge within five (5) days after the decision complained of or such further time as may be allowed by the Judge.

(3) Unless otherwise ordered by the Judge-

(a) there shall be at least two (2) clear days between service of the Notice of Appeal and the day of hearing;

(b) an appeal from the decision of the Chief Registrar shall not operate as a stay of proceedings.

5. Chief Registrar's List.

The List of matters to be heard by the Chief Registrar shall be made out and published by being posted on the Court's notice boards.

6. Legal Practitioner may represent Party.

In any proceeding before the Chief Registrar under this Order, a Legal Practitioner may represent any party.

7. Chief Registrar's Certificate.

Except as otherwise provided for in these Rules, the directions concerning any proceeding before the Chief Registrar shall require no particular form, but the result of such proceedings shall be stated in a concise certificate.

8. Reference to Judgment, etc.

The certificate of the Chief Registrar regarding accounts and inquiries shall not set out the judgment, order or any documents evidence or reasons unless the circumstances of the case render it necessary, but shall refer to the judgment or order, documents and evidence or particular paragraphs of same as basis for the contents of the certificate.

9.Form and contents of certificate in cases of accounts and inquiries.

(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 and

(a) state the result of the account and not set same out by way of schedule;

(b) refer to the account verified by the affidavit filed;

(c) specify which of the items have been disallowed or varied by the numbers attached to the terms in the Account

(d) state what additions if any have been made by way of surcharge or otherwise;

(e) refer to transcript of an altered account, where the Account verified by the Affidavit has been altered and a fair transcript of the Account so altered is necessary or has been made by the party prosecuting the Judgment or Order

(2) The Accounts and transcripts, referred to by certificate, if any, shall be filed together.

10. When certificate becomes binding.

The certificate with the accounts (if any) to be filed shall be transmitted by the Chief Registrar to the Registry for filing and shall be binding on all the parties to the proceedings unless discharged or varied upon an application made to a Judge before the expiration of

eight (8) clear days after the filing of the certificate.

11. Taxing of Bill of costs.

When Taxing a bill of costs, 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 costs 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.

12. Discharge or variation of certificate after lapse of any time.

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 46: HABEAS CORPUS, ATTACHMENT FOR CONTEMPT.

1. Application: How made.

(1) An application for an Order of Habeas Corpus Ad Subjiciendum shall be made to the Court, except that:

(a) during vacation or at any time when no Judge is sitting in Court, it may be made to a Judge sitting in chambers ;

(b) where the application is made on behalf of a child, it shall be made to a Judge sitting in chambers.

(2) The application may be made ex-parte and shall be accompanied by an Affidavit setting out the nature of the restraint and deposed to by the person restrained showing that it is made at his instance .

(3) Where the person restrained is unable to depose to the affidavit, owing to the restraint the application shall be accompanied by an Affidavit deposed to by another person stating that the person restrained is unable to make the Affidavit himself.

2. Power to issue order of release immediately

(1) A Judge to whom the application is made may make the order immediately.

(2) Where the application is made to a Judge sitting in chambers, he may direct the Order to issue or that such application be made by Notice of Motion to the Judge or to any other Judge.

(3) A Judge to whom the application is made may adjourn it so that notice may be given to the person or authority holding the restrained person in custody.

(4) Where the person detained is produced before a Judge, he may discharge him immediately with or without conditions.

3. Service of Notice

(1) The Notice of Motion under Rule 3 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 two (2)clear days between the service of the Notice and the date named for the hearing of the application.

4. Copies of Affidavit.

A party to the application shall supply to the other party copies of the Affidavit which he intends to use at the hearing of the application.

5. Service of Order to Release

(1) The Order or Notice of Motion may be served personally or by courier on the person or authority confining or restrain the person 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 state the date on which the person restrained is to be brought before a Judge and that in default of obedience, contempt proceedings may be initiated against such person.

6. Statement and Verifying Affidavit

The person or authority restraining or confining the prisoner , shall within two (2)days of being served with the Order or Notice of Motion file a statement which shall be verified by an affidavit deposed to by such person or authority stating the reasons for the detention, the period of the detention and any other matter that as may be directed by the Judge.

7. Procedure at hearing.

(1) Where the prisoner is brought up in accordance with this Order, his Legal Practitioner shall be heard first; before the Legal Practitioner for the State and he shall have a right of reply.

(2) Where the prisoner is not brought, a Judge may, upon the application of his Legal Practitioner, order his discharge or make any other Order.

8. Procedure on disobedience of Court Order.

(1) The procedure in respect of Applications for judicial Review under Order 44 shall as far as may be practicable apply in applications for contempt of Court under this Rule.

(2) The Notice of Motion shall be personally served unless the Judge dispenses with such service.

(3) This Rule shall apply where the contempt is committed:

(a) in connection with proceedings to which this Order relates;

(b) in connection with criminal proceedings;

(c) subject to the provisions of the Sheriff and Civil Process Act, in any High Court proceedings 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.

9. Return.

(1) Upon service of the application for committal issued in a case to which Rule 8 of this Order applies, the Respondent shall before the return date stated in the application, file an Affidavit stating the reasons why an Order for contempt should not be issued.

(2) An Order for contempt issued in a case to which Rule 8 of this Order applies shall be made returnable before the Judge and if a return of non- estinventus (not found) is made, a subsequent Order may be issued on the return of the previous Order.

ORDER 47: INTERPLEADER

1. When relief by Interpleader is granted.

Relief by way of Interpleader may be granted where the person seeking the relief ("the Applicant") is under liability in respect of any debt, money, goods, or chattels, for which he is, or expects to be sued by two or more parties ("the Claimants") making adverse claims: Provided that where the Applicant is a Sheriff 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 Sheriffs and Civil Process Act and the Rules made under it shall apply

2. Interpleader summons

(1) An Applicant seeking relief by way of interpleader shall file an Interpleader Summons supported by an Affidavit inviting the Claimants to -

(a) appear, state the nature and particulars of their claims, and

(b) maintain or relinquish the claims.

(2) The Applicant must satisfy the Judge by the 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 Claimants; and

(c) is willing to pay or transfer the subject matter into Court or to dispose of it as the Judge may direct.

3. Adverse titles of Claimants.

The Applicant shall not be disentitled to relief by reason only that the title alleged by the Claimants are adverse to and independent of one another.

4. When application to be made by a Defendant.

Where the Applicant is a Defendant, application for relief may be made at any time after service of the Originating Process.

5. Stay of Action.

If the application is made by a Defendant in an action, the Judge may stay all further proceedings in the action.

6. Order upon Summons.

If the Claimants appear to the Summons, the Judge may order either that any Claimant be made a Defendant in an action already commenced in respect of the subject matter in dispute in lieu of or in addition to the Applicant or that an issue between the Claimants be stated and tried, and in the latter case may direct which of the Claimants is to be Claimant and which is to be Defendant.

7. Questions of law

(1) 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

(2) If a special case is stated, the provisions of Order 31 shall as far as practicable apply.

8. Failure of Claimant to appear, or neglect to obey Summons. Costs, etc.

If a Claimant, having been duly served with a Summons inviting him to appear and maintain or relinquish his claim, fails to appear 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, perpetually barred against the Applicant and persons claiming under the Claimants but the order shall not affect the rights of the Claimants as between themselves.

9. **Orders as to Cost etc**

The Judge may, in any interpleader proceeding, make Orders as to costs and for such other matters as may be just.

ORDER 48: COMPUTATION OF TIME.

1. Rules for computation of time.

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 as follows-

(a) by excluding the day on which the Order is made or on which the event occurred ;

(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 six (6 (six)) days, Saturdays and holidays shall be left out of account in computing the period.

2. Holiday.

In this Order holiday means a day which is a Sunday or a public holiday.

3. Time of Service.

(1) No Pleading, Summon, Motion, Order, Originating Process, document and other processes shall be served before 6.00 a.m. or after 6.00 p.m.

(2) Service effected after 6.00 p.m. shall be deemed to have been effected the following day, provided that service effected after 6.00 p.m. on a Saturday shall be deemed to have been effected on the following Monday.

4. Court may extend time.

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 proceeding:
Provided that any party who defaults in performing an act within the time authorized by the Judge or under these Rules, shall pay to the Court a fee of N1000.00 (One Thousand Naira) for each day of such default at the time of compliance.

ORDER 49: MISCELLANEOUS PROVISIONS.

1. Days of sittings.

Subject to the provision of the Law, the Judge may, in his discretion, appoint any day and place for the hearing of causes as circumstances require.

2. Public or Private sittings of the Court.

The sittings 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 Practitioners if any, and the officers of Court.

3. Office hours.

The several offices of the Court shall be open at such times as the Chief Judge shall direct.

4. Day of sittings and long vacation.

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 being the period beginning by the middle of July and ending on a date no later than 42 working days as the Chief Judge may by notification in a Public Notice appoint.

5. Vacation.

(1) Notwithstanding the provisions of Rule 4, any cause or matter may be heard by a Judge during the period 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.

6. Vacation not reckoned in time for pleadings.

The time for filing and service of pleadings shall not run during the long vacation unless otherwise directed by the Judge.

7. Recovery of penalties and costs.

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.

8. Publication of Notice.

When the publication of any notice is required same may be made by advertisement in the Gazette, unless otherwise provided in any particular case by any Rule of Court or ordered by the Judge.

9. Filing of Documents.

(1) A document shall not be filed unless it has indorsed on it the –

(a) name and number of the cause;

(b) date and party of filing(as Claimant or Defendant

(2) On being filed such indorsement shall be initialed by the Registrar and recorded in the Process Register.

10. How Process addressed.

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.

11. No fees where proceedings by Government Department.

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 costs 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.

12. Regulations.

The Regulations regarding fees shall govern the payment, disposal of fees and the duties of Court officers in respect of same

ORDER 50: ARREST OF ABSCONDING DEFENDANT.

1. Application.

The following Rules shall apply to proceedings under Section 77 High Court of Lagos State Laws.

2. Defendant leaving Nigeria.

If in any action the Defendant is about to leave Nigeria, the Claimant may at or after the institution of the suit until final judgment apply to the Judge by a motion ex parte for an order directing the Defendant to 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.

3. Warrant to arrest.

(1) If the Judge after making such investigation as he may consider necessary is of the opinion that there is probable cause for believing that the Defendant is about to leave Nigeria and that the execution of any judgment which may be made against him is likely to be obstructed or delayed by reason of such exit, the Judge shall issue a warrant to bring the Defendant before him to show cause why he should not give good and sufficient bail for his appearance.

(2) The Defendant shall be brought to Court within 2 (two) days of the execution of the warrant.

4. Bail for appearance or satisfaction.

(1) If the Defendant fails to show cause, the Judge shall order him to give for –

(a) his appearance at any time when called upon while the suit is pending and until execution or satisfaction of any judgment that may be given against him in the suit; or the satisfaction of such judgment.

(2) The surety 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.

5. Deposit in lieu of bail.

(1) Where a Defendant offers to deposit a sum of money sufficient to Answer the claim against him, with costs of the suit in lieu of security for his appearance, the Judge may accept such deposit and direct that the deposit be paid into an interest yielding account in a bank.

(2) Where a Defendant offers security sufficient to Answer the claim against him for his appearance other than money, the Judge may accept the security and make such order as he may deem fit in the circumstance.

6. Committal in default.

(1) If the Defendant fails to furnish security or offer a sufficient deposit, the Judge may commit him into custody until the determination 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 three (3) months.

(3) The Judge may at any time upon reasonable cause being shown and upon such terms as to security or otherwise as may seem just, release the Defendant.

7. Cost of subsistence of person arrested.

(1) The expenses incurred for the subsistence of the person so arrested in prison shall be paid in advance by the Claimant , and the amount so disbursed may be recovered by the Claimant in the suit, unless the Judge otherwise orders.

(2) The Judge may upon failure of the Claimant to pay the subsistence allowance release the person so imprisoned, or in case of serious illness, order his removal to hospital.

ORDER 51: PROCEEDINGS IN FORMA PAUPERIS.

1. Application.

This Order shall apply to proceedings in respect of which there is no statutory provision for Legal Aid.

2. Who may sue or defend in forma pauperis.

The Chief Judge may admit a person to sue or defend in forma 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.

3. Conditions to be fulfilled.

(1) A person seeking relief under this Order shall forward to the Chief Judge a written application accompanied by an affidavit deposed to by the Applicant, stating that by reason of poverty he is unable to afford the services 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.

4. Fees and Costs.

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.

5. Procedure to be followed.

(1) The Legal Practitioner shall not, except by leave of the Chief Judge, take or agree to take any payment from the Applicant or any person connected with the Applicant or the Applicant's action.

(2) If the Applicant pays or agrees to pay any money to any person in connection with his application or the action relating to the application 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, he shall at once report in writing to the Chief Registrar.

6. Revocation of Order, Discontinuance, e.t.c.

(1) The Chief Registrar may at any time revoke the order granting the application, and the Applicant shall consequently not be entitled to the benefit of this Order in any proceeding to which the application relates unless otherwise ordered.

(2) Neither the Applicant nor the Legal Practitioner assigned to him shall discontinue, settle or compromise the action without the leave of the Judge.

7. Payment to Legal Practitioner.

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 he may deem fit.

8. Duty of Legal Practitioner.

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.

9. Appeals.

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 in the appeal.

ORDER 52: CHANGE OF LEGAL PRACTITIONER.

1. Legal Practitioner to conduct cause or matter to final Judgment.

A Legal Practitioner who is engaged in any cause or matter shall be bound to conduct same on behalf of the Claimant or Defendant until final judgment, unless allowed for any special reason to cease acting in the proceeding.

2. Application for change of Legal Practitioner or withdrawal of services.

An application for a change of Legal Practitioner may be made by any party or the legal practitioner or a Legal Practitioner may apply to withdraw his services not less than three (3) clear days before the date fixed for hearing.

3. Service of application by Legal Practitioner.

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.

ORDER 53: COSTS.

1. Principle to be observed in fixing costs.

(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 necessary expenses he has incurred in the course of proceedings and compensated for his time and effort in coming to Court.

(2) The expenses shall include the:

(a) cost of legal representation and assistance of the successful party to the extent that the Judge determines that the amount of such cost is reasonable;

(b) travel and other expenses of parties and witnesses to the extent that the Judge determines that the amount of such expenses is reasonable, and such other expenses that the Judge determines ought to be recovered, having regard to the circumstances of the case.

(3) 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.

(4) 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 to such costs shall be referred by the Judge for determination by an assessment officer

2. Rejection of offer of settlement: costs.

Where an offer of settlement made in relation to the Pre-Action Protocol or in the course of Case Management or ADR is rejected by a party and the said party eventually succeeds at trial but the award is not in excess of the offer of settlement earlier made, the winning party shall pay the costs of the losing party from the time of the offer of settlement up to judgment.

3. Security for costs.

In any cause or matter in which security for costs is required, the security shall be such amount to be given at such times and in such manner or form as the Judge may direct.

4. Security for costs by Claimant temporarily within jurisdiction.

A Claimant ordinarily resident out of the jurisdiction may be ordered to give security for costs, notwithstanding that he may temporarily reside within jurisdiction.

5. Action founded on judgment or bill of exchange.

In an action brought by any person resident out of the jurisdiction, when the Claimant's claim is founded on a judgment or order or on a bill of exchange or other negotiable instrument, the power to require the Claimant to give security for costs shall be exercised at the Judge's discretion.

6. Bond as Security for costs.

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 to an officer of the Court.

7. Costs at discretion of Court.

Subject to the provisions of any applicable law and these Rules, the costs of and incidental to

all proceedings in the High Court, including the administration of Estates and trusts, shall be at the discretion of the Judge, who shall have the power to determine the extent of costs to be paid and the party to pay such cost

8. Costs out of fund or property.

The Judge may order Costs to be paid out of any fund or property to which a suit or proceedings relates.

9. Stay of proceedings till payment of costs.

Where the Judge orders costs to be paid or security to be given for costs by any party, the Judge may order all proceedings 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 , but such order shall not supersede the use of any other lawful method of enforcing payment.

10. Stage of proceedings at which costs to be dealt with.

(1) Costs may be dealt with by the Judge at any stage of the proceedings.

(2) Costs when ordered become payable immediately , and shall be paid within seven(7) days of the Order, otherwise the defaulting party or his Legal Practitioner may be denied further audience in the proceedings.

11. When costs follow events.

In addition 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 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.

12. Matters to be taken into account in exercising discretion.

The Judge in exercising discretion as to costs shall take into account any offer or contribution made by any of the parties including any payment into Court and the amount of such payment.

13. Costs arising from misconduct or neglect.

(1) Where in any cause or matter, anything is improperly or unnecessarily done or omitted by or on behalf of a party, the Judge may direct that any costs to that party in respect of the matter shall not be allowed to him and that the costs occasioned by such act or omission to the other party shall be paid by him.

(2) Without prejudice to the generality of sub-rule (1) of this Rule, the Judge, shall for - have regard in particular to the following matters:

(a) The omission to do anything the doing of which would have been calculated to save costs;

(b) The doing of anything calculated to occasion or in a manner or at a time calculated to occasion unnecessary costs;

(c) Any unnecessary delay in the proceedings.

(3) Without prejudice to sub-rule (1), the Judge may, direct the Taxing Officer to-inquire into the act or omission and if it appears to him that the direction provided under sub rule (1) should have been given and act as if the appropriate direction had been given.

14. Personal liability of Legal Practitioner for costs.

(1) Subject to the following provisions of this Rule, where in any proceedings, costs are incurred improperly or without reasonable cause or by undue delay or any other misconduct or default, the Judge may make an order against any Legal Practitioner whom he considers to be responsible, whether personally or through a servant or agent- :

(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 ; or

(c) directing the Legal Practitioner to personally indemnify such other parties against costs payable by them.

(2) The provisions of Rule 13 sub-rule (1) shall apply where proceedings cannot conveniently proceed or fails or are adjourned without useful progress being made because of the failure of the Legal Practitioner to-:

(a) attend in person or by a proper representative; or

(b) 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 proceeding or order against a Legal Practitioner under this Rule shall be given to his client in such manner as may be specified in the direction.

(5) If, on the assessment of costs to be paid out of a fund, one sixth or more of the amount of the bill for those costs is net off, the Legal Practitioner liable to pay the bill shall not be allowed the fees to which he would otherwise be entitled .

15. Taxation of costs.

Every bill of costs (other than a bill delivered by a Legal Practitioner to his client which falls to be taxed under the Legal Practitioners 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.

16. Notice to other party.

The party applying for taxation shall file the bill and give notice to any other party entitled to be heard on the taxation, and shall at the same time, if he has not already done so, supply the party with a copy of the bill.

17. Power of Taxing Officer.

A Taxing Officer shall have power to tax any costs, as may be required by any law or directed by order of a Judge.

18. Supplementary powers of Taxing officer.

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 jointly represented in any proceeding 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 proceeding.

19. Extension of time.

(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 anything in connection with proceedings before that Officer;

(b) Where no period is specified by these Rules or the Judge for the doing of anything 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 the Taxing Officer may from time to time extend the period so specified on such terms as he deems fit, unless the Judge otherwise directs.

(3) A Taxing Officer may extend any such period as is referred to in this Rule although the application for extension is not made until after the expiration of the period.

20. Power of Taxing officer where party liable to be paid and to pay costs.

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;

(b) delay the issue of a certificate for the costs he is entitled to be paid until he has paid or tendered the amount he is liable to pay.

21. Mode of beginning Proceedings for taxation.

(1) A party entitled to require any costs to be taxed shall begin proceedings for the taxation of the costs by filing in the Registry, a bill of costs and securing the date of the taxation

(2) The party shall give at least seven (7) days' notice of the day and time appointed for taxation proceedings to the party and serve a copy of his bill of costs if he has not already done so.

(3) A notice under sub-rule (1) of this Rule need not be given to any party who has not entered an appearance or taken any part in the proceedings which gave rise to the taxation proceedings.

22. Provisions as to bills of costs.

(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 or firm and business address, e-mail and telephone number 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, e-mail and telephone number of the principal.

23. Provisions as to taxation Proceedings.

(1) If any party entitled to be heard in any taxation proceeding does not attend within a reasonable time after the time appointed for the taxation, the Taxing 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.

24. Scale of costs.

(1) Subject to Rule 21, and the following provisions of this Rule, the scale of costs contained in the High Court of Lagos State (Fees) Rules for the time being in force together with the notes and general provisions contained in the Rules as may be amended , shall apply to the taxation of all costs incurred in relation to contentious business done after the commencement of these Rules

(2) Where the remuneration of a Legal Practitioner in respect of non-contentious business connected with sales, purchases, leases, mortgages and other matters of conveyancing or any other non-contentious 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 contentious business shall be the same, notwithstanding anything in the scale contained in the High Court of Lagos State (Fees) Rules .

25. Certificate of Taxing Officer.

Upon completion of the taxation of any bill of costs, the Taxing Officer shall certify the result of the taxation and the costs of same.

26. Fees on Taxation.

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.

27. Application for review.

A party to any taxation proceeding who is dissatisfied with the 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 on that item.

28. Application by Summons.

(1) An application under Rule 27 shall be made by Summons at any time within fourteen (14) days after the Taxing Officer's certificate.

(2) Unless the Judge otherwise directs, no further evidence shall be received at the hearing of an application under this Rule, and no ground of objection shall be raised which was not raised on taxation but at the hearing of 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 –

(a) make such order as the circumstances may require and

(b) in particular order the Taxing Officer's decision to be amended or order the item to be remitted to the same or another Taxing Officer for taxation. except where the dispute as to the item under review is as to amount only.

ORDER 54: BUSINESS IN CHAMBERS.

1. Representation in Chambers.

In any proceeding before a Judge in Chambers, a party may, if he so desires, be represented by a Legal Practitioner.

2. Matter to be disposed of in Chambers.

The Judge may upon application, conduct any proceeding except actual trial, in Chambers or adjourn such proceedings from Court to Chamber or vice versa, unless the opposite party or his Counsel objects.

3. Evidence upon application for appointment of Guardians and maintenance.

Upon application for the appointment of a guardian for any infant and maintenance allowance the evidence shall show the :

(a) age of the infant ;

(b) nature and amount of the infants' fortunes and incomes; and

(c) relations of the infants.

4. Guardian with reference to proceedings in Chambers.

The Judge may at any time during the proceeding under any Judgment or Order, 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.

5. Further consideration of matter originating in Chambers.

(1) 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 date of the adjournment, be brought 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.

(2) The Summons shall be –

(a) in the following form:

"That this matter, the further consideration whereof was adjourned by the Order of the Hon. Justice.....made on the.....day of .....20.....may be further considered,"

(b) served seven (7) clear days before the return:

Provided that this Rule shall not apply to any matter which was adjourned for further consideration at the original or subsequent hearing in Court .

6. Notes of proceedings in Chambers.

Notes of proceedings in the Judges' Chambers shall be kept 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.

7. Drawing up and entry of orders made in Chambers.

(1) Orders made in Chambers shall, unless the Judge otherwise direct, be drawn up by the Registrar and signed by the Judge.

(2) Such Orders shall be entered in the same manner as Orders ***made in Court.***

8. Costs.

Subject to the provisions of the Law and of these Rules, the costs of, and incidental to all proceedings in Chambers shall be at the discretion of the Judge.

9. Decisions given in Chambers, how set aside or varied.

(1) Where a party to any proceeding in Chambers does not intend to accept the decision of the Judge in Chambers as final, he shall immediately request to have the Summons adjourned into Court for argument and if such request is refused, the party may proceed by way of Motion on Notice in Court to discharge, set aside or vary the Order made or the Judgment given in Chambers.

(2) The Motion on Notice shall be –

(a) filed not later than seven (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

(b) heard and determined by the Judge who has dealt with the matter in Chambers, unless this proves impossible or inconvenient owing to the death, retirement or prolonged absence of such Judge from Lagos State.

(3) This Rule shall apply to decisions given by a Judge in Chambers on appeal from

the Chief Registrar under Order 45 Rule 4

ORDER 55: FORECLOSURE AND REDEMPTION.

1. Originating Summons for foreclosure and redemption.

Any mortgagee or mortgagor, whether legal or equitable, or any person –

(a) entitled to or having a property which is subject to a legal or equitable charge, or

(b) having the right to foreclose or redeem any mortgage, whether legal or equitable, may take out an Originating Summons, for any of the following reliefs as may be specified in the Summons and as the circumstances of the case may require:

(a) payment of money secured by the mortgagee or charge;

(b) sale;

(c) foreclosure;

(d) delivery of possession, whether before or after foreclosure, to the mortgage 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) re-conveyance;

(g) delivery of possession by the mortgagee.

2. Civil Forms for foreclosure and redemption.

(1) Orders for payment and possession shall be in Forms 35, 36 and 37 of these Rules with such variations as the circumstances of the case may require.

(2) The forms shall be used under corresponding circumstances in actions commenced by Writ for the same relief.

3. Service and execution of Judgment.

The Judge may give any special directions concerning the execution of the Judgment, or the service of same on persons who are not parties to the cause or matter.

ORDER 56: SUMMONS TO PROCEED WITH ACCOUNT AND INQUIRIES AFTER JUDGMENT.

1. Bringing in Judgment etc. directing accounts and inquiries.

Any Judgment or Order directing Accounts or Inquiries to be taken or made shall be brought to a Judge by the party entitled to prosecute same within 10 days after such Judgment or Order shall have been entered or filed but where such party defaults any other party to the cause or matter shall be at liberty to bring in same, and the party shall have the prosecution of such Judgment or Order unless the Judge shall otherwise direct.

2. Summons to proceed with accounts and inquiries: Directions.

(1) Upon a copy of the Judgment or Order being left, a Summons shall be issued to proceed with the Accounts or Inquiries as directed.

(2) On the return date of the Summons the Judge shall, if satisfied by proper evidence that necessary parties have been served with notice of the Judgment or Order give directions relating to the:

(a) manner in which each of the Accounts and Inquiries is to be prosecuted.

(b) evidence to be adduced in support of such account and inquiries; ;

(c) parties who are to attend on the several Accounts and Inquiries; and

(d) time within which each proceeding is to be taken and day appointed for the further attendance of the parties.

(3) The directions may subsequently be varied by addition or otherwise, as may be found necessary.

3. Settling Deed where parties differ.

(1) 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 of the deed , within such time as the Judge may direct , to the party entitled to object to same.

(2) The party entitled to object shall be directed to deliver to the other party within 8 days after the delivery of such copy, a statement of his objection in writing and the proceeding shall be adjourned until after the expiration of such period

4. Where service of notice of Judgment or Order may be dispensed with.

Where at the hearing of the Summons to proceed, it appears to the Judge that by reason of absence, or for any other sufficient cause, the service of notice of the Judgment or Order upon any party cannot be made, the Judge may order any substituted service or notice by advertisement or otherwise in lieu of such service.

5. Non-service of notice of Judgment or Order: Stoppage of Proceedings.

(1) If at the hearing of the Summons to proceed it appears 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 to creditors, and for leaving the Accounts in Chambers.

(2) No proceeding or Adjudication on creditors' claims and the Accounts shall be continued or taken except for the purpose of ascertaining notice of the parties to be served, until all necessary parties have been served and directions given as to the parties who are to attend the proceedings.

6. Documents: Copies for use of Judge.

Copies, abstracts, extracts of accounts, deeds or other documents and pedigrees or concise statements shall be supplied for the use of the Judge if directed , such copies shall be handed over to the other party: :
Provided that no copy of deed or other document shall be made where the original can be brought in unless the Judge otherwise directs.

7. Entry in Summons Book.

At the time any Summons to proceed is obtained, an entry stating the -

(a) date on which the Summons was issued;

(b) name of the cause or matter;

(c) party issuing the summons and the purpose for obtaining such Summons; and

(d) return date for such Summons,

shall be made in the Summons Book.

ORDER 57: SUMMARY PROCEEDINGS FOR POSSESSION OF LANDED PROPERTY OCCUPIED BY SQUATTERS OR WITHOUT THE OWNER'S CONSENT.

1. Application of this Order.

(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) Proceedings to be brought by Originating Summons.

(1) Where a person claims possession of land which he alleges is occupied solely by a person not listed in Rule 1 of this Order, proceedings may be brought by Originating Summons in accordance with the provisions of this Order

(2) The Originating Summons shall be in Form 38 and no acknowledgement of service shall be required.

3. Affidavit.

The Claimant 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 licence or consent and from which his claim to possession arises; and

(c) that he does not know the name of a person occupying the land who is not named in the Summons.

4. Service of Originating Summons.

(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 8 Rule 4; or

(b) by leaving a copy of the Summons the Affidavit or sending them to him at the premises; or

(c) in such other manner as the Judge may direct.

(2) The Summons may , in addition to being served on the named Defendants, if any, in accordance with sub-rules (1) of this 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 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";

(b) placing stakes in the ground at conspicuous parts of the occupiers land, to which shall be affixed a sealed transparent envelope addressed to "the occupiers" and containing a copy of the Summons and the Affidavit.

(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 issuing the Summons.

5. Application by occupier to be made a Party.

Without prejudice to Rule 16 of Order 15, any person who is in occupation of the land but not named as a Defendant, who desires to be heard on whether an order for possession should be made, may apply at any stage of the proceedings to be joined as a Defendant.

6. Order for Possession.

(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 immediately order a Writ of possession to issue.

(3) Nothing in this Order shall prevent the Judge from exercising any power which could have been exercised if possession had been claimed in an action commenced by Writ or ordering possession to be given on a specified date,

7. Writ of Possession.

(1) No Writ of possession to enforce an Order for possession under this Order shall be issued after the expiration of three (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.

8. Setting aside of Order.

(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 a building on it. .

ORDER 58: STAY OF EXECUTION OR PROCEEDINGS PENDING APPEAL.

1. Stay pending Appeal.

Where any application is made to a Judge for a stay of execution or of proceedings in respect of any Judgment or decision appealed from, such application shall be made by Motion on Notice supported by Affidavit stating the grounds upon which a stay of execution or of proceedings is sought.

2. Compilation of Record.

An Applicant for stay of execution of a Judgment or stay of proceedings shall compile the Record 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.

3. Court may grant or refuse Order for Stay.

(1) Application for stay of execution or of proceedings shall be regarded as an urgent matter.

(2) Where a Judge has struck out an application for a stay of execution, no further application for a stay of execution shall be made in the same matter.

4. Formal Order to be drawn up.

Where any application is made to the Judge under this Order, a formal Order bearing the date the Order is made and embodying the terms of the decision of the Judge shall be drawn up

ORDER 59: FAST TRACK PROCEDURE

1. Objective.

The main objective of the Fast Track procedure is to reduce the time spent on litigation to a period not exceeding nine (9) months from the commencement of the action till final Judgment.

2. Cases qualified for Fast Track.

A suit shall qualify for fast track where the:

(a) action is commenced by Writ of Summons; and

(b) claim or counterclaim is for liquidated monetary relief of a sum not less than N100,000,000.00 (One Hundred Million Naira); or

(c) claim involves a mortgage transaction, charge or other securities

3. Marking and payment of Filing Fees.

Where a case satisfies any of the criteria in Rule 2 of this Order , the Assistant Chief Registrar or any other person in charge of the Litigation Section shall cause the Originating Process to be marked "QUALIFIED FOR FASTTRACK" and direct the Applicant to pay appropriate filing fees.

4. Service of Originating Process.

The Originating Process under this Order shall be served within fourteen (14) days of filing.

5. Filing of Defence and Reply.

(1) Upon service of the Originating Process the Defendant shall file his Statement of Defence and other frontloaded processes within 30 (thirty) days.

(2) The Claimant shall be entitled to file a Reply within 7 (seven) days of service of the Statement of Defence.

6. Applying for Case Management Conference.

(1) The Claimant shall apply for the Case Management Conference Notice as in Forms 17 and 18 within seven (7) days of the close of pleadings.

(2) Where the Claimant does not apply in accordance with sub-rule 1 of this Rule, the Defendant may do so or apply for an Order to dismiss the action.

7. Time limited for Case Management Conference.

(1) The Case Management Conference shall be held from day to day and adjourned only for the purpose of compliance with Case Management Conference Orders:

Provided that, the Case Management Conference stage shall be completed within a period of Thirty (30) days.

(2) Where the Judge determines that an extension of time is necessary or an application is made by either party, he may allow the Case Management Conference to continue for a further period of fourteen (14) days or such other period as he may deem fit.

8. Trial Directions.

(1) Upon completion of the Case Management Conference and issuance of the Case

Management Report, the case file shall be forwarded to the Chief Judge or other designated Judge for assignment to a Trial Judge.

(2) At the first appearance of the parties before the Trial Judge, the Court shall give directions for trial including a trial time table which it considers appropriate.

9. Variation of Trial Directions.

(1) Where there has been a change in circumstances after trial directions were issued, the Court may set aside or vary any of the directions based on an application or *suo motu*.

(2) Where variation of the trial direction is upon application of any party and the other party consents to such variation, the parties must immediately apply for an Order by consent, including an agreed statement of the reasons why the variation is sought.

(3) Where the Court varies any direction because of a defaulting party or his Legal Practitioner, it may impose costs and daily default fees as prescribed in the Rules.

(4) The Court may make an Order of variation without a hearing.

10. Enforcement of Trial Directs.

(1) Where a party has failed to comply with a Court's direction, any other party may apply for an Order to enforce compliance or for a sanction to be imposed or both.

(2) Where a party intends to make an application which is not included in the trial time table, he must do so as soon as possible to minimize the need to change the time table

11. Trial from day to day

Unless the trial Court otherwise directs, the trial will be conducted from day to day and in accordance with any Order previously made.

12. Adjournments

No trial shall be adjourned unless under exceptional circumstances as the Judge may deem fit.

13. Period for Trial and Addresses.

(1) The trial period including the final address by counsel, shall not be later than ninety (90) days from the date the trial directions are made. Provided that:-

(a) when the party beginning has concluded his evidence, the Judge shall ask the other party if he intends to call evidence;

(b) if the other party does not intend to call evidence, the party beginning shall within fourteen (14) days after close of evidence file a Written Address;

(c) Upon being served with the Written Address, the other party shall within fourteen (14) days file his own Written Address;

(d) where the other party calls evidence he shall within 14 days after the close of evidence file a Written Address;

(e) Upon being served with the other party's Written Address the party beginning shall within fourteen (14) days file his own Written Address;

(2) The party who files the first Address shall have a right of Reply on Point of Law only, which shall be filed within seven (7) days after service of the other party's address.

14. Delivery of Judgment.

In all Fast Track cases, the Judge shall endeavor to deliver Judgment within sixty (60) days of completing trial.

ORDER 60: PROCEEDINGS IN REVENUE MATTERS

1. Application

(1) This order shall apply to cases and proceedings relating to the revenue of the State Government; in which the State Government or any of its departments, agencies or parastatals is suing or being sued.

(2) The Deputy Chief Registrar or any other person in charge of the Litigation section shall cause the Originating Process to be marked as "QUALIFIED FOR FAST TRACK"

2. Revenue Court.

The Chief Registrar shall designate such number of Courts as may be sufficient in each Division of the High Court of Lagos State for as "Revenue Courts" for the purpose of hearing all cases under this order.

3. Commencement by Form 40

(1) An action under this Order shall be commenced by filling a Petition setting out the name and description of the Petitioner(s) and the Respondent(s) in Form 40 with such modifications and variations as the circumstances may require.

(2) The Petition shall be accompanied by an Affidavit verifying the facts deposed to by the Petitioner (s), together with the Exhibits and Written Address

(3) Subject to the provisions of this Rule, where the Petition is for recovery of taxes as debt due to the State tax authority, the petition shall be accompanied by a Certificate issued by the authority pursuant to Section 78(3) of the Personal Income Tax Act 2004 as amended.

4. Further information

(1) A petition under this Order shall refer to the enactment under which the claim for payment, account, information or the production of books is claimed or required.

(2) Where information is required, the Petitioner shall show sufficient particulars of the information required.

(3) The production of certificate referred to under Rule 3(3) of this Order shall be sufficient evidence of the amount due and ground for the Court to give Judgment for the amount.

5. Payment into Court

(1) Where the Respondent is a taxpayer and does not dispute the reliefs in the Petition, he shall within fourteen (14) days after service of the petition on him, pay into Court or to the tax authority, the amount alleged to be due from him as revenue to the Government.

(2) Upon payment into Court as provided in sub-rule (1) of this Rule, the proceedings against the Respondent shall be discontinued by the Petitioner or struck out by the Court and the Court shall make consequential order for the release of the amount paid into Court to the Petitioner.

6. Payment by installments

Where the Respondent does not dispute the reliefs in the petition but is unable to pay the total amount alleged to be due from him to Court within fourteen (14) as provided in sub-rule 5(1), he shall file a memorandum of debt repayment before the Court, stating the total debt owed and a repayment schedule which shall not exceed three (3) months from the date Judgment is entered against him.

7. Filing of the Answer

(1) Where the Respondent denies knowledge of the tax assessment and other notices in the petition, he shall file his Answer within fourteen (14) days from the service of the petition.

(2) The Answer shall be by an Affidavit deposed to by the Respondents with accompanying Exhibits and a Written Address setting out the facts relied upon in opposition to the petition.

8. Further Affidavit

Upon being served with the Answer the Petitioner may within seven (7) days of such service, file a Further Affidavit together with a Written Address and shall serve same on the Respondent within three (3) days of filing.

9. Hearing

(1) A Petition shall be heard within fourteen (14) days after the expiration of the time limited for filing and service of the Reply under this Order.

(2) Where there is conflict in the affidavits of the parties, the Court may decide the matter upon the affidavits having recourse to the relevant tax enactment.

9. Duration

The hearing of a Petition may as far as practicable be held from day to day.

10. Default of Answer

Where the Respondent fails to file his Answer within the time provided in this Order, the Petitioner shall apply to the Court that Judgment be entered against the Respondent as on reliefs in the Petition.

11. Proceedings under other provision

Nothing in this Order shall preclude any person from proceeding under any provision of these Rules or any other law as may be appropriate.

12. Interpretation

In this Order, unless the context otherwise requires:
"Government" means the Government of Lagos State or of a Local Government Council or any person authorized on its behalf.
"Revenue" means any sum due or alleged due to the Government in form of levy, charge, tax, rate or dues under any law.

ORDER 61: PROBATE AND ADMINISTRATION.

GRANT OF PROBATE OR ADMINISTRATION IN GENERAL

1. Petitions to be made to the Probate Registrar.

(1) Subject to the provisions of Orders 61 to 63 when any person subject to the jurisdiction of the Court dies, all petitions for the Grant of Letters of Administration

of the Estate of the Deceased person, with or without a Will attached, and all applications on matters relating to Administration of the Deceased Estate shall be made to the Probate Registrar of the Court in Probate Form 1 or 2 as applicable.

(2) No grant of Administration with the Will annexed shall issue within fourteen (14) days of the death of the deceased, and no Grant of Administration, without the Will annexed, shall issue within twenty-one (21) days of such death.

2. Preservation of Property.

(1) The Judge shall, on the death of a person, when the circumstances of the case so requires, immediately or as soon as practicable appoint and authorize an officer of the Court, or any person as may be deemed appropriate, to take possession of the Deceased property within its jurisdiction, or put such property under seal until it can be dealt with according to law.

(2) The Judge may refuse to entertain any application under Rule 2(1) of this Order if he considers that there has been unreasonable delay by the Applicant in making the application.

3. Personal application.

(1) A Personal Applicant for a Grant may –

(a) apply in person;

(b) not apply through an agent, whether paid or unpaid; and

(c) not be represented by any person acting or appearing to act as his adviser.

(2) 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.

(3) After a Will has been deposited in the Registry by a personal Applicant, it may not be delivered to the Applicant or any other person, unless the Judge so directs under special circumstances

(4) A Personal Applicant shall –

(a) Produce a Certificate of the registration of death of the Deceased or such other evidence of the death as the Judge may approve;

(b) supply all information necessary to facilitate preparation of appropriate documentation required for processing of the Grant in the Registry or may by himself prepare such documents and lodge them unsworn.

(5) 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.

4. Application for grants through Legal Practitioners.

Every Legal Practitioner through whom an application for a grant is made shall give his telephone number, e-mail address and address of his place of business within the jurisdiction of the Court.

5. Further enquiries by Judge.

(1) The Judge shall not allow any Grant to issue until all enquiries which he may deem fit to make have been answered to his satisfaction.

(2) The Judge may require proof of identity of the deceased or of the Applicant beyond those contained in the Oath for the Grant.

6. Oath in support of Grant.

(1) Every application for a Grant shall be supported by an Affidavit in the form applicable to the circumstances of the case sworn by the Applicant and by such other documents 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.

7. Grant in additional Name.

Where it is necessary to describe the deceased in a Grant by some name in addition to his true name, the Applicant shall state the true name of the deceased in the Oath and depose-

(a) that some part of the Estate specified in the Oath was held in the other name; or

(b) to any other reason for the inclusion of the other name in the Grant.

8. Additional evidence for Grant.

(1) The Judge may where it appears or desirable require additional evidence in respect of;

(a) the identity of the deceased or of the Applicant;

(b) the relationship of the Applicant to the deceased;

(c) any person or persons in existence with a right equal or prior to that of the Applicant in respect of the grant of Probate or Administration sought by the Applicant;

(d) any other matter which may be considered relevant by the Judge in determimg whether the Applicant is the proper person to whom the Grant should be made.

(2) The Judge may refuse the Grant where the Applicant fails or neglects to produce any required evidence as provided in sub-rule (1) of this Rule.

9. Notice to other persons.

Where it appears to the Judge that any other person 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 person and an opportunity given for the person to be heard in respect of the application.

10. Grants where deceased is domiciled outside the State.

(1) 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 was domiciled at the time of death; or .

(b) to the person entitled to administer the Estate by the law of the place where the deceased was domiciled at the time of death;

(c) if there is no such person as mentioned in Paragraphs (a) or (b) of this Rule or if in the opinion of the Judge the circumstances so requires, to such person as the Judge may direct;

(d) if a Grant is required to be made to, or 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 of the persons mentioned in paragraph (a) or (b) of this Rule or with any other person.

(2) Where no Order has been made as stated in Rule 1 of this Sub-rule 10

(a) Probate of any Will which is admissible to proof may be Granted where the Will:

(i) is in English or in an indigenous language, to the Executor named in the Will;

(ii) describes the duties of a named person in terms sufficient to constitute him Executor according to the tenor of the Will, to that person.

(b) Probate may be Granted, where the whole of the Estate in the State consists of immovable property,, in accordance with the law that would have been applicable if the deceased had died domiciled in the State but the Grant shall be limited to such Estate.

11. Grant to Attorney.

(1) Where a person entitled to a Grant resides outside the State, a Grant may be made to his lawful attorney, 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 he obtains a Grant or in such other way as the Judge may direct.

12. Grants on behalf of minors.

(1) Where the person entitled to a Grant is a minor, a Grant for his use and benefit until he attains the age of 18 (eighteen) years shall, subject to sub-rules (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 willing to act and the minor has attained the age of sixteen (16) years, to a kin nominated by the minor.

(2) A person nominated under sub-rule 1 (b) of this Rule may represent any other minor below the age of sixteen (16) years who is related to him and entitled in the

same degree as the minor who made the nomination.

(3) Notwithstanding anything in this Rule, Administration may be Granted for the use and benefit of the minor until he attains the age of 18 (eighteen) years to any person assigned under sub-rule (1) of this Rule, upon application by the intended guardian who shall file an Affidavit in support of the application and, if required by the Court, an Affidavit of fitness sworn by a responsible person

(4) Where a Grant is required to be made to not less than two persons but there is only one person competent and Willing to take a Grant under the above provisions of this Rule, a Grant may be made to such person jointly with any other person nominated by him as a fit and proper person to take the Grant, unless the Judge otherwise directs.

(5) Where a minor who is a 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 (eighteen) years shall, unless the Judge otherwise directs, be Granted to the person entitled to the residuary Estate.

(6) Subject to the direction or order of the Judge, the right of a minor to a Grant of Administration may be renounced solely by a person assigned as a Guardian under sub-rule (3) of this Rule

13. Grant where minor is co-Executor.

(1) Where one of several Executors is a minor, Probate may be Granted to the adult Executors, with power reserved for making the Grant to the minor on attaining the age of eighteen (18) years and Administration for the use and benefit of the minor until he attains the age of 18 (eighteen) years may be Granted under Rule 12 if the adult Executors renounce or, on being cited to accept or refuse a Grant, fail to make an effective application.

(2) The right of a minor to Probate on attaining the age of 18 (eighteen) years shall not be renounced by any person on his behalf.

14. Grants in cases of mental or physical incapacity.

(1) Where the Judge is satisfied that a person entitled to a Grant is 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 the Guardian of such person entitled to the Grant.

(4) Where there is physical disability, notice of intended application for a Grant under this Rule shall, unless the Judge otherwise directs, be given to the person alleged to be incapable.

15. Notice of application to State.

Where the State is or may be beneficially interested in the Estate of a Deceased person, notice of intended application for a Grant shall be given by the Applicant to the Attorney-General of Lagos State and the Judge may direct that no Grant shall issue within a specified time after the notice has been given.

16. Accounts to be filed.

(1) A person who has been granted Probate or Letters of Administration and or appointed as Administrator by the Judge shall file the accounts of his Administration in Court annually from the date of the Grant or the appointment until the completion of the Administration.

(2) An Executor or Administrator who fails to file his accounts within the prescribed period shall be liable to a penalty of One Hundred Thousand Naira (N100,000.00) for every year of default failing which a fine for non-payment shall be enforceable by distress or imprisonment for a term not exceeding 6 (six) months where distress is insufficient.

(3) When an account is filed in Court under this Rule, the Judge shall scrutinize such account and if it appears that the account by reason of improper, un-vouched or unjustifiable entries or for any other reason, it is not a full and proper account, the Judge shall require the person filing the account to remedy such defect within such time as the Judge may deem reasonable.

(4) Failure to remedy the defect within the time prescribed by the Judge the person referred to under Rule 16 (1) of this Order shall be deemed to have failed to have filed an account within the meaning of this Rule and proceedings may be taken against such person.

(5) The Registrar shall notify the Judge that an Executor or Administrator has failed to file his accounts as required by this Rule.

(6) The Judge may, upon application by a party interested, summon any Executor or Administrator to show cause why he should not be sanctioned.

(7) The Judge may for good cause shown, extend the time for filing such accounts.

(8) Any Executor or Administrator who fails to file his accounts after being granted an extension of time is liable to the penalty set out in sub-rule (2) above, and the procedure for bringing him before the Court shall be as set out in sub-rule (5).

(9) The accounts shall be open to the inspection of any person who satisfies the Registrar that he is interested in the administration of the Estate.

(10) In this Rule, the word "accounts" shall mean and include an inventory, an account of the administration, the vouchers in the hands of the Executor or Administrator relating thereto and an Affidavit in verification.

17. Penalty for intermeddling.

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 the Deceased person, he shall, in addition to any other penalty or liability be liable to a fine of not less than Five hundred Thousand Naira (N500,000.00)

18. Evidence of foreign Law.

Where evidence of foreign law is required in respect of an any application for a Grant, the Judge may accept an Affidavit from any person who, having regard to the particulars of his knowledge or experience given in the Affidavit, may be regarded as suitably qualified to give expert evidence of the law in question.

19. Amendment or revocation of Grant.

(1) If a Judge is satisfied that a Grant should be amended or revoked, he may make an Order upon the application by or with the consent of the person to whom the Grant was made

(2) The Judge may in Special circumstances upon an application by any person interested in the Estate on notice to whom the Grant was made, make an Order to amend or revoke the Grant.

ORDER 62: GRANT OF PROBATE OR LETTERS OF ADMINISTRATION WITH WILL.

1. Deposit of Will.

Any person may deposit his Will for safe custody in the Probate Registry, sealed under his own seal and the seal of the Court.

2. Custody of Wills.

(1) An 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 its convenient inspection.

(2) A copy of such Will and of the Probate or Administration shall be immediately preserved in the Registry.

3. Will to be given out with Order of Judge.

(1) No original Will shall be given out for any purpose without the Order of a Judge.

(2) A certified transcript of the Probate or Administration with the Will annexed may be obtained under the seal of the Court.

4. Examination of Will as to due execution.

(1) On receiving an application for Administration with Will annexed, a Judge shall inspect the Will, to ascertain whether it appears to be-

(a) signed by the Testator or by some other person in his presence and by his direction and;

(b) subscribed by two witnesses according to the applicable law.

(2) If the Will appears to be so signed and subscribed, the Judge shall refer to the attestation clause and consider whether the wording states that the Will has been executed in accordance with the law; but the Judge shall not proceed further unless the Will appears to be so signed and subscribed.

5. Evidence as to due execution of Will.

(1) Where a Will contains no attestation clause or the attestation clause is insufficient or where it appears to the Judge that there is 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 sub –rule (1), the Judge may, having regard to the desirability of protecting the interest of any person who may be prejudiced by the Will, accept evidence by Affidavit from any person he deems fit, to show that the signature on the Will is the handwriting of the deceased, or on 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 mark the Will accordingly.

6. Proof of due execution where attesting witnesses are dead.

Where both subscribing witnesses are dead or if from other circumstances such an Affidavit cannot be obtained from either of them, resort shall be had to an Affidavit sworn to by other persons present at the execution of the Will; but if no such Affidavit can be obtained, proof shall be required of-

(a) that fact, and of the handwriting of the deceased and the subscribing witnesses, and;

(b) any circumstances raising a presumption in favour of the due execution of the Will.

7. Evidence as to terms, condition and date of execution of Will.

(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 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.

8. Attempted revocation of Will.

Any appearance of attempted revocation of a Will by burning, tearing or otherwise and every other circumstance leading to a presumption of revocation by the Testator, shall be accounted for to the Judge.

9. Affidavit as to due execution.

(1) The Judge may require an Affidavit from any person for the purpose of satisfying himself regarding any matter referred to in Rules 5, 7 and 8.

(2) 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.

10. Will of blind or illiterate Testator.

Where the Testator was blind or illiterate, the Judge shall not grant Administration with the Will annexed, unless the Judge is 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.

11. Interlineations, erasures and obliterations in Wills.

(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 such:

(a) existed in the Will at the time of its execution; or

(b) if made afterwards, have been executed and attested in the mode required by the applicable law; or

(c) have been made valid by the re-execution of the Will or by the subsequent execution of some Codicil to the Will.

(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 stating that same existed in the Will before its execution shall be filed.

(4) Where no satisfactory evidence is adduced in respect of the time when an erasure or obliteration was made and the words erased or obliterated are not entirely effaced, but can, on inspection of the Will, be ascertained, same shall form part of the Probate.

Where any words have been erased which might have been of importance, an Affidavit shall be required.

12. Documents referred to, annexed or attached to a Will.

(1) Where a Will contains reference to any document of such nature that may raise the question whether or not it ought to form a constituent part of the Will, the Judge shall require the production of the document to ascertain whether it is entitled to Probate; and if it is not produced, a satisfactory account for its non-production shall be given.

(2) Where there are vestiges of sealing wax or wafers, or other marks on a Will, leading to the inference that any document has at some time been annexed or attached to the Will, a satisfactory account of the document shall be required, and if it is not produced, a satisfactory account for its non-production shall be given.

(3) A document cannot form part of a Will unless it was in existence at the time when the Will was executed

13. Executor dying or not appearing to prove Will.

Where a person appointed as Executor in a Will survives the Testator but dies after appearing to prove the Will without having taken Probate or, having been called on by the Court to take Probate does not appear; his right in respect of the executorship shall entirely cease without any further renunciation by such Executor and the administration of the Estate of the Testator shall proceed as if that person had not been appointed Executor.

14. Production of testamentary papers.

(1) Any person having in his possession or under his control any paper or writing of a Deceased person, being or purporting to be testamentary, shall immediately deliver the original to the Probate Registrar of the Court.

(2) Where any person fails to deliver such paper or writing within 3 months after having had knowledge of the death of the Deceased, he shall be liable to a fine of not less than Fifty Thousand Naira (N50,000.00)

15. Judge may order production.

Where it appears that any paper of the Deceased, being or purporting to be testamentary is in the possession or under the control of any person, a Judge may upon an application ex parte, whether a suit or proceeding in respect of Probate or Administration is pending or not, order the person to produce the paper and bring it into Court.

16. Examination in respect of purported testamentary papers.

(1) Where it appears that there is reasonable ground 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 application made ex-parte, whether a suit or proceedings in respect of Probate or Administration is pending or not, order such person to appear in Court for examination in respect of same, or on interrogatories.

(2) If satisfied after examination the Judge may order the person to produce the paper and bring it to Court.

17. Notice to Executor to come in and prove or renounce Probate.

The Judge may on the application of any person claiming an interest under a Will, give notice to any Executors named in the Will, to come in and prove the Will, or to renounce Probate, and such Executor shall within twenty-one (21) days after the notice, come in and prove or renounce the Will.

18. Liability for intermeddling before Grant.

If any Executor named in the Will of the deceased takes possession and administers or otherwise deals with any part of the property of the deceased, without applying for Probate within three (3 months after the death of the Testator, or the termination of any suit or dispute in respect of Probate or Administration, he may in addition to any other liability be deemed to be in contempt of Court, and shall be liable to a fine of not less than Fifty Thousand Naira (N50,000.00).

19. Engrossment of Will.

(1) Where the Judge considers that in any particular case a photocopy of the original Will would not be satisfactory for purposes of record, he may require that an engrossment suitable for photo reproduction be lodged.

(2) Where a Will contains traces of 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 paragraphs of the Will and, if it is one to which sub-rule (2) of this Rule applies, it shall be made book wise on durable paper following continuously from page to page.

(4) Where any pencil writing appears on a Will, a copy of the Will or of the pages or sheets containing the pencil writing with portions of the original which appears in pencil underlined in red ink, shall be lodged.

20. Grants to attesting Witnesses.

Without prejudice to the right of an attesting witness or spouse of an attesting witness to a Grant in any other capacity, the witness or spouse of such witness shall not have any right to a Grant as a beneficiary named in the Will,

21. Right of assignee to a Grant.

(1) Where all the persons entitled under a Will to the Estate of the Deceased have assigned their whole interest in the Estate to any person, the assignee shall replace the assignor for a grant of Probate, in order of priority or, if there are more than one assignor, the assignor with the highest priority, in the absence of a proving Executor

(2) Where there are two or more assignees, Probate may be Granted to any one or more but not exceeding four of them with the consent of the other assignee.

(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.

22. Order of priority of Grant.

Where the deceased died after the commencement of this Order, entitlement of any person to a grant of Probate or Administration with the Will annexed shall be determined based on priority as follows:-

(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:

(a) 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 unless the Judge otherwise directs

(b) where the residue is not in terms wholly disposed of, the Judge may, if he is satisfied that the Testator has nevertheless disposed 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 Order 62 Rule 14 of this Rules to any Legatee or Devisee entitled to, or to a share in the Estate so disposed of, without regard to the persons entitled to share in any residue not disposed of by the Will;

(c) any specific Legatee or Devisee or any creditor or, subject to Order 63 Rule 14(3) 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 in the Estate, may have a beneficial interest in the event of an accretion to it;

(d) 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.

23. Grants to successor of beneficiary.

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 any person who would be entitled to his own Estate if he himself had died intestate, Administration may be granted to not more than four (4) such persons:

Provided that a surviving spouse shall not be regarded as a person in whom the Estate has vested absolutely unless he would be entitled to the whole of the Estate, whatever its value may be.

24. Renunciation of Probate.

(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) No person who has renounced a Grant in one capacity may obtain a Grant in another capacity without the leave of the Court.

(3) A renunciation of Probate or Administration may be retracted at any time on the Order of the Judge:
Provided that leave to retract renunciation of Probate may only be granted in exceptional circumstances after a Grant has been made to such other person entitled in a lower degree.

25. Resealing.

(1) A person granted Probate or Administration with Will attached by a Court outside the State or any person authorized in writing on his behalf, may apply for the resealing of the Probate or Administration.

(2) Upon an application for resealing which shall be supported by an Oath sworn by the person making the application, a Tax Clearance Certificate shall be lodged as if the application is for a Grant in the State and an advertisement placed in such a manner as the Judge may direct

(3) On an application for the resealing of 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 Order 63 Rule 4 or except where he considers that there are special circumstances making it desirable to require sureties;

(b) Order 63 Rule 4 (2), (4), (5), (6) and Order 63 Rule 3(4) shall apply with

necessary modifications: and

(c) a guarantee entered into by a surety shall be in Probate Form 4 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 Order 62 Rule 25(3) or to a person to whom a Grant could be made under Order 61 Rule 10(2) .

(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 Order of 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 that resealed the Will.

26. Citations.

(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 by the person issuing the Citation, or by any of them if more than one:
Provided that the Registrar may in special circumstances accept an Affidavit sworn by the Legal Practitioner of such person.

(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-

(a) may, within eight (8)days of service of the Citation upon him inclusive of the day of such service, or at any subsequent time if no application has been made by the Citor under sub-rule 5 of Rule 27 or sub-rule (2) of Rule 28 of this Order enter an appearance in the Registry by filing Probate Form 8 and making an entry in the appropriate book, and;

(b) shall serve on the Citor a copy of Form 7 sealed with the seal of the Registry.

27. Citation to accept or refuse Grant.

(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 to the Grant.

(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 the deceased.

(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 six (6) months from the death of the deceased:
Provided that no Citation to take a Grant shall issue while proceeding regarding the validity of the Will is pending.

(4) A person cited who is Willing to accept or take a Grant may upon 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. apply ex parte to the Judge for a Grant

(5) If the time limited for appearance has expired and the person cited has not entered an appearance, the Citor may in the case of a citation:

(a) under sub-rule (1) of this Rule apply to the Judge for an Order for a Grant to himself;

(b) 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 not appeared after being duly cited and that his rights or interest in respect of the Grant have ceased;

(c) 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 any other person specified in the Summons.

(6) An application under sub-rule (5) of this Rule shall be supported by an Affidavit stating 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 in the cae of a Citation under:

(a) sub-rule (1) of this Rule, apply by Summons to the Judge for an Order for a Grant to himself;

(b) sub-rule (2) of this Rule, apply by Summons to the Judge for an Order striking out the appearance and for endorsement on the Grant of such a note as is mentioned in paragraph (b) of sub-rule (5) of this Rule;

(c) 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 Grant to himself or some other person specified in the Summons; and the Summons shall be served on the person cited in each case.

28. Citation to propound a Will.

(1) A Citation to propound a Will may be issued at the instance of a Citor having any interest contrary to that of the Executors or such other persons and shall be directed to the Executors named in the Will and to the persons interested in the Will.

(2) Where the time limited for appearance has expired, the Citor may where:

(a) no person cited has entered an appearance, apply to the Judge for a Grant as if the Will was invalid and such application shall be supported by an Affidavit stating that the citation was duly served;

(b) the person who has entered an appearance has failed to propound the Will with reasonable diligence apply to a Judge by Summons, which shall be served on the person cited who has entered an appearance for the Order mentioned in paragraph (a) above.

ORDER 63: GRANTING LETTERS OF ADMINISTRATION WITHOUT WILL.

1. Letters of Administration.

A Judge in granting Letters of Administration shall ascertain the –

(a) time and place of the Deceased's death; and

(b) value of the property to be covered by the Administration.

2. Declaration of value of personal property.

An Applicant for a Grant of Letters of Administration shall file a full declaration of the personal property of the Deceased and the value of such property in Court:
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 such Governments or a Statutory

Corporation;

(b) sum of money payable to an Estate from a Provident or Pension Fund established under the provisions of any applicable law.

3. Administration Bond.

(1) The person to whom Administration is Granted shall-give a bond and provide two or more responsible sureties acceptable to the Judge; affirming that the Administrator shall duly collect, get in and administer the personal property of the Deceased.

(2) The Judge may accept one surety only where the gross value of the Estate does not exceed One Million Naira (N1,000,000.00 or where a Corporation is proposed as a surety.

(3) The bond shall be in form of a penalty representing twice the monetary value of the Estate of the Deceased unless the Judge deems it fit or expedient to reduce the amount.

(4) The Judge may in any case direct that the Applicant provides additional bonds in order to limit the liability of any Administrator to such amount as the Court deems reasonable.

4. Guarantee.

(1) The Judge shall not require a guarantee as a condition of making a Grant where the Grant is to be made -

(a) under – Order 62

(i) Rule 22 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;

(ii) Rule 23 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;

(b) Order 63

(i) Rule 11, to the attorney of a person entitled to a Grant;

(ii) Rule 12, for the use and benefit of a minor;

(iii) Rule 14, for the use and benefit of a person of mental or physical incapacity who is incapable of managing his affairs;

(c) to an applicant who appears to the Judge to be resident elsewhere than in the State; or

(d) Except where the Judge considers that there are special circumstances making it desirable to require a guarantee.

(2) Without prejudice to sub-rule (1) of this Rule, a guarantee shall not be required, except in special circumstances, where the Applicant or one of the Applicants is the Administrator-General or a Trust Corporation.

(3) A guarantee entered into by a surety for the purpose of this Order shall be in Probate Form 3 with such variation as circumstances may require.

(4) Except where the surety is a Corporation, the signature of the surety on the guarantee shall be attested by an authorized officer, Commissioner for Oaths or other person authorized by law to administer an Oath.

(5) Unless the Registrar otherwise directs:

(a) where a guarantee is required it shall be given by two sureties, except where the gross value of the Estate does not exceed One Million Naira (N1,000,000.00) or a Corporation is a proposed surety, in those cases, one surety 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 under a guarantee shall be the valued amount of the Estate;

(e) any surety, other than a Corporation, shall justify his eligibility.

(6) Where the proposed surety is a Corporation, an Affidavit shall be filed by an authorized officer of the Corporation stating –

(a) that the Corporation is empowered to act as surety and has executed the guarantee in the manner prescribed by its constitution,

(b) sufficient information as to the financial position of the Corporation to the satisfaction of the Judge and 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

5. Assignment of Bond.

The Judge may, upon being satisfied that the condition of the bond has been broken, assign the bond to another person who may sue on the bond in his own name as if it had been originally given to him, and may recover the full amount recoverable in respect of any breach of the bond as trustee for any persons interested

6. Inquiries before Grant.

(1) The Judge shall in Granting Letters of Administration afford appropriate facility consistent with due regard for the prevention of error and fraud

(2) Before the issuance of Letters of Administration, all inquiries a Judge sees fit to make shall be answered to his satisfaction.

7. Administration Summons.

(1) Any person claiming to be a Creditor or Legatee or 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, to attend Court and show cause why an Order for

the Administration of the property of the Deceased should not be made.

(2) The Judge may, upon proof of service of the Summons or appearance of the Executor or Administrator, and proof of all such other things as the Judge may direct, make an Order for the Administration of the property of the Deceased.

(3) The Judge may –

(a). make or refuse to make any Order or give any special directions under sub rule (1) of this Rule; and

(b). where there are applications for such an Order by more than one person or classes of persons, grant the Administration to any Claimant or Class of Claimants

(4) The service of the Order may subsequently be effected on such persons, and on such terms, as the Judge may direct.

(5) Where the Judge makes such an Order, he may at any subsequent time make any further or other Orders which may appear requisite to secure the proper collection, recovery for safekeeping and disposal of the property or any part thereof.

8. Grant of Administration in special circumstances.

(1) In a case of intestacy, where the special circumstances of the case require, the Judge may, on the application of any person having interest in the Estate of the deceased, grant Letters of Administration to an officer of the Court, Consular Officer or to a person in the service of the Government.

(2) The officer or person so appointed shall act under the direction of the Judge, and shall be indemnified.

(3) The Judge shall require and compel such person or officer to file in Court the accounts of his Administration at intervals not exceeding twelve (12) months.

9. Court may appoint Administrator.

(1) Where a person dies intEstate regarding his personal Estate or left a Will in respect of such Estate without having appointed an Executor who is willing to take Probate or where the Executor is at the time of the death of such person resident out of jurisdiction, the Judge may, where it appears necessary or convenient, appoint another person as Administrator of the Estate of the deceased or any part of the Estate

(2) Such Administrator shall give such security, as the Judge shall direct and may be limited as the Judge shall deem fit.

10. Remuneration of Administrator.

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, not exceeding 10% of the income of the Estate:
Provided that where the Judge is satisfied that the Administration of the property requires an extra amount of work he may allow a higher rate of remuneration.

11. Securing and Administering Estate of foreign National.

(1) Where a citizen of any foreign country dies within jurisdiction without leaving a widower, widow or next of kin within jurisdiction, the Probate Registrar shall –

(a) collect and secure all moneys and other property belonging to the deceased; and

(b) 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.

(2) Application may be made to the Court under Consular seal by such Consular Officer or any person authorized by him in writing, for leave to administer the Estate of the deceased, and the Judge may-

(a) make such Order in respect of security for the payment of debt; and for method of Administration as the Judge shall deem fit,; and

(b) vary such Order when and so often as it is expedient.

12. Addition of personal representative.

(1) An application to add a personal representative shall be made to the Judge and supported by an Affidavit deposed to by the 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 of the addition of a personal representative shall be made on the original Grant, or he may impound or revoke the Grant or make such Order as the circumstances of the case may require.

13. Grant where two or more persons entitled in same degree

(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) a living person in preference to the personal representative of a deceased person who would, if living, be entitled in the same degree; and

(b) a person not under disability in preference to an infant entitled in the same degree.

14. Joinder of Administrator.

(1) An application to join a person entitled in a lower degree, with a person entitled to a Grant of Administration, shall in default of renunciation by the persons entitled in priority to the former, be made to the Judge and be supported by an Affidavit sworn by the person entitled, the consent of the person proposed to be joined as

Administrator 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 such Grant , shall be made to the Judge and be supported by an Affidavit sworn the person entitled, the consent of the person proposed to be joined as administrator 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) any kin of the deceased having no beneficial interest in the Estate on the renunciation of all other persons entitled to join in the grant; or

(b) any person whom the guardian of a minor may nominate for the purpose unless the Judge otherwise directs ; or

(c) a Trust Corporation.

15. Grant under other enactment.

Nothing in these Rules shall operate to prevent a Grant from being made to any person who is entitled to a Grant under any enactment.

16. Grant of Special Administration.

An application for a Grant of special Administration where a personal representative resides outside the State shall be made to the Judge by a Motion.

17. Election to redeem life interest.

(1) A surviving spouse who being 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, may give written notice of the election to the Registrar by filing a notice in Probate Form 9 with such variations as circumstances may require.

(2) A notice filed under this Rule shall be noted on the Grant and the record shall be open to inspection.

18. Notice to prohibit Grant; Caveats.

(1) For the purpose of this Rule
"**Caveator**" means any person who intends to enter a Caveat.

(2) A notice to prohibit a Grant of Administration may be filed in Court.

(3) A person who desires to be notified before a Grant is sealed may enter a caveat in the Registry.

(4) A **Caveator** may enter a caveat by completing Probate Form 5 in the appropriate book at the Registry and obtaining an acknowledgement of entry or sending a notice in Probate Form 3 to the Registry where the Caveat is to be entered by registered post or email (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 5.

(5) Subject to the provisions of this Rule, a Caveat shall remain in force for 3 (three) months from the date on which it is entered but the caveat may be renewed or further caveat may be entered after the expiration of the effective period.

(6) The Registrar shall maintain an index of Caveats entered in the Registry and on receiving an application for a Grant he shall cause the index to be searched and shall notify the applicant if any Caveat has 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 of same:
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 in Probate Form 7 may issue from the Registry against a **Caveator** at the instance of any person interested called "The Person Warning",

(9) The Warning or a copy of same shall be served on the **Caveator** and shall

(a) State the interest of The Person Warning and the date of the Will, if he claims under a Will;

(b) require the **Caveator** to give in Probate Form 8 particulars of any contrary interest which he may have in the Estate of the deceased

(10) A **Caveator** having an interest contrary to that of The Person Warning-

(a) may within eight (8) days of service of the Warning upon him inclusive of the day of such service or at any subsequent time, if no Affidavit has been filed under sub-rule (13) of this Rule, enter an appearance in the Registry by filing Probate Form 8 and making an entry in the appropriate book; and

(b) shall immediately serve on The Person Warning a copy of Probate Form 8 sealed with the seal of the Registry.

(11) A **Caveator**-

(a) who has not entered an appearance to a Warning may at any time withdraw his Caveat by giving notice at the Registry and the Caveat shall cease to have effect;

(b) shall immediately give notice of the withdrawal to The Person Warning

(12) A **Caveator** having no interest contrary to that of The Person Warning but who desires to show cause against the sealing of a Grant to such person may, within 8 (eight) days of service of the Warning upon him inclusive of the day of such service, or at any subsequent time if no Affidavit has been filed under sub-rule (13) of this Rule, issue and serve a notice, which shall be returnable before the Registrar.

(13) The Caveat shall cease to have effect if –

(a) the **Caveator** fails to enter an appearance within the time limited for same; and

(b) The Person Warning files an Affidavit in the Registry showing that the Warning was duly served and that he has not received a notice under sub-rule 12,

(14) Upon commencement of a Probate action the Probate Registrar shall -

(a) if a Caveat is in force, other than a Caveat entered by the Claimant, give to the **Caveator** notice of the commencement of the action; and

(b) shall upon the subsequent entry of a Caveat at any time when the action is pending notify the **Caveator** of the existence of the action.

(15) Unless the Judge otherwise directs:

(a) a Caveat in force at the commencement of any proceeding by way of citation or motion shall, unless withdrawn pursuant to sub-rule (11) of this Rule, remain in force until an application for a Grant is made by the person shown to be entitled to the Grant by 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 to the Grant by a 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 (14)) of this Rule, shall cease to have effect.

(16) 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 (13) or (15)) of this Rule.

19. Grant to be signed by Probate Registrar.

The Grant of Letters of Administration under this Order shall be signed by Probate Registrar on behalf of the Court.

ORDER 64: PROCEEDINGS IN PROBATE AND ADMINISTRATION ACTIONS.

1. Form of suits.

Suits in respect of Probate or Letters of Administration shall, as nearly as possible, be subject to the same Rules of procedure as suits in respect of civil claims.

2. Capacity of Claim

The Originating Process shall state whether the Claimant claims-

(a) as Creditor, Executor, Administrator, Beneficiary, Next of kin; or

(b) in any other capacity.

3. Service outside Nigeria

The service of a Writ of Summons may be allowed out of Nigeria by leave of a Judge.

4. Defences to be pleaded with particulars

(1) A party shall state with regard to every defence which is pleaded-

(a) the substance of the case on which the defence intends to rely; and

(b) where it is pleaded that the Testator was not of sound mind, memory and understanding, particulars of any specific instances of delusion shall be pleaded before the case is set down for trial.

(2) Except by leave of a Judge, no evidence shall be given at the trial of any other issue apart from the issues mentioned in sub-rule (1).

5. Dispute of Defendant's interest

Where the Claimant disputes the interest of the Defendant, he shall allege in his Statement of Claim that he denies the Defendant's interest.

6. Notice of opposition to Will.

The party opposing a Will shall be at liberty to cross-examine the witnesses produced in support of the Will 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' where he gives notice with his defence to the other party setting up the Will that he merely insists upon the Will being proved in solemn form of law

7. Inquiry as to outstanding personal Estate.

A Judgment or an Order for a general account of the personal Estate of a Testator or an IntEstate shall contain a direction for an inquiry as to what part of such personal Estate is outstanding or undisposed of, unless the Judge shall otherwise direct.

8. Discretion to order costs.

(1). A person who is or has been a party to any proceeding in the capacity of Trustee, Personal Representative or Mortgagee shall, unless the Judge otherwise orders, be entitled to the costs of such proceedings in so far as such cost is not recovered from or paid by any other person out of the fund held by the Trustee or Personal Representative or the Mortgagee, as the case may be.

(2) The Judge may otherwise order only on the ground that the Trustee, Personal Representative or Mortgagee has acted.

9. Originating Summons for Reliefs.

(1) An Originating Summons may be taken out for the Reliefs provided under sub-rule (2) of this Rule by:-

(a) the Executors or Administrators of a deceased person ;or

(b) the Trustees under any deed or instrument; or

(c) any person claiming to be interested in the relief sought as creditor, beneficiary, next of kin, Heir-at-law of a deceased person; or

(d) a Cestui que trust under any deed of trust or instrument; or

(e) a person claiming by assignment or Administration under any such creditor or other person.

(2) The reliefs referred to in sub-rule (1) of this Rule include-

(a) any question affecting the rights or interests 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 Trustees 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 Trustees;

(e) directing the Executors or Administrators or Trustees to do or abstain from doing any particular act in their capacity as 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.

10. Order for Administration of Estate and Trust.

Any of the persons named in Rule 9 of this Order may 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 had previously been made.

11. Persons to be served.

The Originating Summons under Rules 9 and 10 of this Order shall in the first instance be served-

(a) where the Originating Summons is taken out by an Executor or Administrator or Trustee:-

(i) for the determination of any question under paragraph (a), (c), (f) or (g) of Rule 9(2) of this Order; on any person, whose rights or interests, are sought to be affected;

(ii) for the determination of any question under paragraph (b) of Rule 9(2)of this Order, on any member or alleged member of the class;

(iii) for the determination of any question under paragraph (c) of Rule 9(2)of this Order, on any person interested in taking such Accounts;

(iiii) for the determination of any question under paragraph (d) of Rule 9(2)of this Order, on any person interested in taking such money;

(v) for relief under paragraph (a) of Rule 10 of this Order, on the residuary Legatees, or Next of kin, or the Residuary Devisees, or Heirs, as the case may be;

(vi) for relief under paragraph (b) of Rule 10 of this Order, on the Cestui que trust;

(vii) if there is more than one Executor or Administrator or Trustee who do not concur in taking out the Originating Summons, on such Executor or Administrator or Trustee who do not concur.

(b) Where the Originating Summons is taken out by any person other than the Executors, Administrators or Trustees, the Executors, Administrators or Trustees, must be served

12. Interference with Trustee's discretion.

The issue of a Summons under Rule 9 of this Order shall not interfere with or control any power or discretion vested in any Executor, Administrator or Trustee except where such interference or control may be necessarily involved in the particular relief sought.

13. Judge not bound to order Administration

The Judge may not 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.

14. Orders to be made where no account or insufficient account has been rendered.

Upon an application for Administration or Execution of trusts 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 the application to be stayed and the Executors, Administrators or Trustees to render proper statement of their accounts to the Applicant, failing which such Executors, Administrators or Trustees may pay the costs of the proceedings;

(b) when necessary, to prevent proceedings by other creditors or by persons beneficially interested, make the judgment or order for Administration with a proviso that no proceeding shall be taken under such Judgment or Order without leave of the Judge.

15. Application for Order to produce Will.

(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 Originating Summons, which shall be served on any Executor, Administrator or Trustee

(2) An application for the issue 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.

16. Limited Grants.

An application 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 of same , 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.

17. Grants in respect of perishable goods.

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.

18. Application to swear to the death of a Person.

An application for leave to swear to the death of a person in whose Estate a Grant is sought shall be supported by an Affidavit setting out the grounds of the application; and stating particulars of any policies of insurance effected on the life of the presumed deceased.

19. Applications by Originating Summons

An Originating Summons may be issued in respect of an application :-

(a) for the appointment of a new Trustee with or without a vesting or other consequential order;

(b) for a Vesting Order or other Order consequential on the appointment of a new Trustee where the appointment is made by a Judge;

(c) 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) to a fund paid into Court in any case coming within the provisions of Orders 61-63 of these Rules.

20. Service of Originating Summons.

(1) Where provision for the service of an Originating Summons is not made under this Order the Originating Summons shall be served on any person 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 an Originating Summons is required to be served on any person, it shall be served not less than five (5) days before the hearing of the Summons.

21. Mode of service.

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.

22. Application.

Subject in any particular case to the 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 that date:

Provided that where the Deceased died before the commencement of these Rules, the right to a grant shall, subject to the provision 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.

23. Interpretation.

Unless the context otherwise requires, for the purpose of Orders 61-64 :
"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 values" in relation to any Estate means the value of the Estate without deduction of debts, encumbrances, funeral expenses or Estate duty;

"Oath" means the Oath required to be sworn by an Applicant for a 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.

ORDER 65: COMMENCEMENT

These Rules shall come into effect on the **31st** day of **January**, 2019

Made at the High Court of Lagos State, Ikeja this **14th** day of **January**, 2019

……

HON. JUSTICE OPEYEMI OLUFUNMILAYO OKE.
CHIEF JUDGE OF LAGOS STATE

FORM 01

STATEMENT OF COMPLIANCE WITH PRE-ACTION PROTOCOL

(Order 5 Rule 1(2)(e), Order 5 Rule 5(3)(d))

In the High Court of Lagos State

In the.....Judicial Division

Holden at.....

Suit No.....

Between:

……

Claimant

And

……Defendant

I/WE.....make

(Claimant/ Claimant's Legal Practitioner)

Oath and say as follows:

1. I/We have compiled with the directions of the Pre-Action Protocol as set out in Order 5 Rule 1 (2) (e) of the High Court Rules.

2. (a) I/WE have made attempts to have this matter settled out of Court with the Defendant and such attempts were unsuccessful (Claimant must state what attempts he has made to have the matter settled and attach evidence of same).

(b)If not state reason(s) and set out your options for settlement hereunder.

3. I/We have by a Written Memorandum to the Defendant set out my/our claim and options for settlement.

Dated at Lagos this.....Day of.....20.....

_____

Signature

Before Me

COMMISSIONER FOR OATHS.

FORM 1

General Form of Writ of Summons

(*Order 5 Rule 2*)

20……

(Here put the letter and number {see note (a)} following this form).

In the High Court of Lagos 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 42 (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 of A.B. 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.....

……

Signature of Registrar

Memorandum to be subscribed on the writ.

N.B: This Writ is to be served within 6 (six) months from the date thereof, or, if renewed, within 3 (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 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 the Registry by registered post or by electronic means.

Indorsements to be made on the Writ before issue thereof -

The Claimant's claim is for, etc.(b).....

The Writ was issued by G.H... of.....whose email, phone number and address for service (c) is ……agent for ……of ……Legal. Practitioner for the said Claimant who resides at (d).....

(mention the city, town or district and also the name of the street and number of the house of the Claimant's residence, if any) Indorsement of email, phone number and address for service of Legal Practitioner to be made on the copy of the Writ.

This Writ was served by me …….. on the Defendant accompanied by

(a) a Statement of Claim;

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

(c) written statements on oath of the witnesses except witnesses on subpoena;

(d) a list and copies of all document to be relied on at the trial;

(e) Pre-Action Protocol Form 01

(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 Probate or Administration the Writ must be

Headed "In the matter of the Estate of.....AB deceased". If the action is in respect of Administration of a Trust or

Settlement, The Writ must be headed "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 issued. See 0.6 r.2. If the claim is for a debt or liquidated demand only, the Indorsement, even though not special, must strictly comply with the provisions of 0.6.r.4. including a claim for Costs.

(c) **Probate Actions** – In these actions the indorsement of claim must show the nature of the Claimant's interest, under which he claims (0.6.r.3); and the alleged interest of the Defendant.

(d) **Address for Service** - see 0.6.r.6. The address must be within jurisdiction.

(e) **Address of Claimant** - In the case of a company in liquidation the Claimant's address should read"..... Claimant, who is 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 II of the Companies and Allied Matters Act, the Claimant's address should read…….. (Claimant): a foreign corporation within the meaning of the Companies and Allied Matters Act. The registered name and address of the person to be served on behalf of the foreign corporation are (here add name and address)".

(f). **Indorsement of Service - See 0.9.r. 13.**

Before the Writ is issued the following certificate must be indorsed on it:

'The Registry, High Court of Lagos 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…….day of .....20……

…… ……

Signature

FORM 2 -

Writ for Service out of jurisdiction.

(Order 5 Rule 3)

To C.D. of.....you are hereby commanded that within (here insert the number of days directed by the Court or 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 Lagos State in an action at the suit of A.B.; and take notice, that in default of your so doing the Claimant may proceed therein, and judgment may be given in your absence.

Dated this.....day of.....20.....by Order of Court.

……..

Signature of Registrar

Memorandum to be subscribed on the Writ

N.B: This Writ is to be served within 6 (six) months from the date thereof, or, if renewed, within 3 (three) months 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 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 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 provision of 0.6. r. 4(1), including a claim for Costs. See also Notes to Form No. 1, supra

FORM 3

General Form of Originating Summons

(*Order 5 Rule 5(1)*)

In the High Court of Lagos State

In the.....Judicial Division

Suit No….....

Note:

1. (Heading and Title - if the action is for Probate or Administration, the Originating Summons must be headed: "In the matter of the Estate of ..... AB deceased. If the action is in respect of administration of a Trust or Settlement must be headed "In the matter of the Trust or settlement."

A.B.....Claimant

and

C.D. and

E.F.....Defendants

Let.....of…….....in .....within 21 (twenty-one) 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 …….whose email, phone number and address are.....and who claims (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 Practitioners for the above named

…….

Indorsement of email, phone number and address of Legal Practitioner. See Order 6 Rule 6.

FORM 4

Originating Summons for taxation of Costs and arbitral awards etc. under

(***Order 5 Rule 5(1)***)

In the High Court of Lagos State

In the.....Judicial Division

Suit No……

In the matter of A.B. 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 Lagos, 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 do pay the Costs of this application to be taxed."

DATED the.....day of.....20……

This Summons was taken out by.....Legal Practitioner for the above named indorsement of email, phone number and address of Legal Practitioner to be made on the copy of the Summons or forthwith after service.

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 proceeding taken as the Judge may deem just and expedient.

FORM 5

Form of Ex-Parte Originating Summons

(***Order 5 Rule 5(1)***)

In the High Court of Lagos State

In the .....Judicial Division

Suit No….....

In the matter of AB an infant (or, as may be) Let all parties concerned attend before the Judge or (Chief Registrar's Office), High Court Lagos State, on the.....day of ..... 20 .....at.....in the forenoon or so soon thereafter as Counsel may be heard on the above application on the part of the above named AB an infant by C D his next friend that (state nature of Claim and relief sought)

This Summons was taken out by

.....of email, phone number and address

…….agents

.....of email, phone number and address

…….....Legal Practitioner for the Applicant.

FORM 6

Form of Memorandum for Renewed Originating Process

(***Order 8 Rule 6(3)***)

Seal renewed Originating Process in this action indorsed as follows-

The Originating Process renewed on the day of 20…….

pursuant to Order of Court made day of 20……

…… ..... for 3 (three) months.

(copy original Originating Process and the indorsements)

FORM 7

Request to Minister of Foreign Affairs to transmit Writ to Foreign Government

(***Order 10 Rule 3(c))***

The Honourable Chief Judge of Lagos State presents compliments to the Honourable Minister of Foreign Affairs and encloses herewith a Notice of a Writ of Summons issued in……..... an action of..... AB..... And..... C.D. ..... pursuant to an Order issued out of the High Court of Lagos 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 Lagos State and with the further request that such evidence of service of the same upon the said Defendant may be officially certified to the High Court of Lagos 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 Honourable 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 Lagos State.

……..

SIGNATURE OF CHIEF REGISTRAR

FORM 8

Request for Service Abroad (Title as in Form No. 1)

(***Order 10 Rule 3(a)***)

I /we hereby request that the Writ of Summons in this action be transmitted through the proper channels to (name of country) for service (or substituted service) on the Defendant (naming him) at (address of Defendant) or elsewhere in (name of country). And I /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 Permanent Secretary of the Ministry of Foreign Affairs.

DATED this.....day of.....20……..

……

Signature of Legal Practitioner

FORM 9 -

Letter Forwarding Request for Substituted Service

(***Order 10 Rule 3(1)(e)***)

The Honourable Chief Judge of Lagos State presents his compliments to the Minister of Foreign Affairs and encloses herewith a Writ of Summons in the case of AB. ..... and ..... CD in which the Claimant has obtained an order of the ..... Judicial Division of the High Court of Lagos State (which is also enclosed) giving leave to make a request that the said Writ may be served by substituted service on the Defendant.....at .....in the (name of the country).

The Honourable 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 Lagos 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.

…….

SIGNATURE OF CHIEF REGISTRAR

FORM 10 -

Request to Honourable Minister of Foreign Affairs to transmit

Notice of Writ to a Foreign Government

(***Order 10 Rule 4(1)(a)***)

The Honourable Chief Judge of Lagos State presents his compliments to the Minister of Foreign Affairs and encloses herewith a Writ of Summons issued in an action ..... of ..... And (insert name of the Defendant High Contracting Party) pursuant to an Order, issued out of the..... Judicial Division of the High Court of Lagos 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 Lagos State, stating that the Writ of Summons has been delivered, and on what date.

……
SIGNATURE OF CHIEF REGISTRAR

FORM 11 -
MEMORANDUM OF APPEARANCE
(*Order 11 Rule 1(1)*)
IN THE HIGH COURT OF LAGOS STATE

In the…….....Judicial Division
Suit No……..
Between:
……Claimant(s)
And
……Defendant(s)
Please enter an appearance for l(a).....sued as 1(b) ……
……. in this action.
DATED the ……. day of …… 20……
Signed.....
whose address for service is……

N.B. - Additional notes for the guidance of Defendants seeking to enter an appearance are given overleaf. Please read carefully.

Notes:-

1. (a) The Defendant must give his or her full name and telephone number.
(b) Give name by which the Defendant is described in the Writ if this differs from Defendant's full name; otherwise delete words "such as"
(c) A Defendant appearing in person must give his email, phone number and address within Lagos State to which communications for him should be sent.
Where he appears by a Legal Practitioner, the Legal Practitioner's place of business, e- mail address and telephone number.

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 own name with the additional description 'Trading under the name and style of ....."

4. Where the Defendant is a Limited Liability Company, the appearance must be entered by a Legal Practitioner.

DATED this.....day of.....20……

……
Signature

FORM 12 -
Notice of Counter-Claim
(***Order 19 Rule 8 (2)***)
In the High Court of Lagos State
In the.....Judicial Division
Suit No….....
Between:
A.B.
…….....Claimant
And
CD.....Defendant
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 42 (forty-two) days from the service of this Defence and Counter-Claim upon you, you will be liable to have judgment given against you in your absence.
Appearance to be entered at the..... Judicial Division, High Court Registry, Lagos State.

FORM 13 -
Concession to Defence
(***Order 19 Rule15(1)***)

In the High Court of Lagos State

Suit No.....

In the.....Judicial Division

Between:

A.B.....Claimant

And

C D, E.F and GH.....Defendants

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
(***Order 23 Rule 1 (4)***)

In the High Court of Lagos State

Suit No.....

In the..... Judicial Division

Between:

A.B.....Claimant

And

CD., E. F. and G H.....Defendants

Take Notice that the Defendant.....has paid into Court

N.....and says that (.....part of) that sum is enough to satisfy theClaimant's claim (for N and the other part of that sum is enough to satisfy the Claimant's claim for)

DATED the day of 20 .....

……..

Legal Practitioner for the Defendant, C. D.

To X. Y., the Claimant's Legal Practitioner, and to 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 of 20 .....

FORM 15

Acceptance of Sum Paid into Court

(***Order 23 Rule 2 (1) (a)***)

In the High Court of Lagos State

Suit No……..

In the.....Judicial Division

Between:

A.B.....Claimant

And

CD., E.F. and G H.....Defendants

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

P. O. Legal Practitioner for the Defendant, CD.and R. S, Legal Practitioner for the Defendant, E.F.

FORM 16

Acceptance of Sum Paid into Court By one of Several Defendants

(***Order 23 Rule 4 (2) and (4)***)

In the High Court of Lagos State

Suit No:……..

In the.....Judicial Division

Between:

A. B.....Claimant

And

C. D. E.F., and GH.....Defendants

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 Defendants, CD.

Dated the.....day of.....20……..

……

X. Y. Claimant's Legal Practitioner

To

P. O., Legal Practitioner for the Defendant, CD, and. R. S, Legal Practitioner for the Defendant, E. F.

FORM 17 -

Hearing Notice for Case Management Conference

(***Order 27 Rule 1 (1) and (2)***)

Hearing Notice for Case Management Conference

In the High Court of Lagos State

Suit No.....

In the.....Judicial Division

Between:

A.B.....Claimant

And

C. D. E.F., and GH.....Defendants

To (insert name of parties) ……..

Take Notice that you are required to attend Court No.....at the High Court of Lagos State at the .....Judicial Division, on the.....day of.....

20.....at 9 O'clock in the forenoon, for a Case Management Conference for the purposes set out hereunder:

1. (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 appears best adopted to secure its just, expeditious and economical disposal;

(c) promoting amicable settlement of the case or adoption of ADR.

2. Please answer the questions in the attached Case Management Information Sheet (Form 18) on a separate sheet and submit 7(seven) clear days before the above mentioned date.

3. Parties shall file the issue for determination along with the case management sheet attached. Form 18 after No 02.

Take Notice that if you do not attend in person or by Legal Practitioner at the time and place mentioned, such proceeding will be taken and such Order will be made as the Judge may deem just and expedient.

Dated the day of 20 .....

Signed: .....

Chief Registrar

FORM 18 -

Case Management Information Sheet

(***Order 27 Rule 1 (1) and (2)***)

Case Management Information Sheet

In the High Court of Lagos State

Suit No:…….

In the ……..... Judicial Division

Between:

A.B ……. Claimant

And

C.D…… Defendant

This Case Management Information Sheet is intended to include reference to all applications which the parties would wish to make at the Case Management Conference. Applications not covered by the standard questions raised in this Case Management Information Sheet should be entered under item 12

All parties shall, not later than 7 (seven) days before the first Case Management Conference, file and serve

(a) all applications in respect of matters to be dealt with before trial including but not limited to the matters listed hereunder;

(b) written answers to the questions contained in this Case Management 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? If so, specify what particulars are required.

4. Do you object to any interrogatories that may have been delivered pursuant to Order 29 Rule 1 of the High Court (Civil Procedure) Rules?
If so, state the grounds of such objection in compliance with Order 29 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 29 Rule 8 (1) of the High Court (Civil Procedure) Rules?
If so, state the grounds of such objection in compliance with Order 29 Rule 6 (4) 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. Is 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 ADR procedure to resolve 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 of 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 31 of the Rules.

12. List the applications you wish to make at the Case Management Conference.

DATED this …….. day of…… 20……..

Signed ……

(Legal Practitioner for the …….)

For Service on:

……..

Notes:

1:Reproduce each question an furnish your answer below.

2: Parties shall file their Issues for Determination along with this Form

FORM 19

Interrogatories

(***Order 29 Rule 1 (1)***)

In the High Court of Lagos State

Suit No.....

In the.....Judicial Division

Between:

A.B.....Claimant

And

C. D. E.F., and

G.H.....Defendants

Interrogatories on behalf of the above-named (Claimant or Defendant C. D.) for the examination of the above-named (Defendants E. E, and GH. or Claimant).

1. Did not, etc.

2. Has not, etc.

(The Defendant E.F. is required to answer the interrogatories numbered…….)

(The Defendant GH. is required to answer the interrogatories numbered…….)

Dated the day of 20 .....

……..

SIGNATURE

FORM 20 -

Answer to Interrogatories

(***Order 29 Rule 4 (1)***)

In the High Court of Lagos State

Suit No.....

In the.....Judicial Division

Between:

A.

B.....Claimant

And

C. D. E.F., and G.H…….....Defendants

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, make 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.

…….

DEPONENT.

Sworn to at the High Court

Registry, this.....day of .....20.....

BEFORE ME

……

COMMISSIONER FOR OATHS

FORM 21 -

Affidavit as to Document

(***Order 29 Rule 6 (5)***)

In the High Court of Lagos State

Suit No.....

In the.....Judicial Division

Between:

A.

B.....Claimant

And

C. D. E.F., and G.H…….....Defendants

I, the above-named Defendant CD., 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 my possession or power on (state when, and what has become of them and in whose possession they 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 or power of any other person or persons on my behalf, any deed, account, book of account, voucher, receipt, letter, memorandum, paper, or writing, or any copy of or extract of 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 the documents set forth in the said First and Second Schedule hereto.

Dated at Lagos this.....day of ..... 20 …….

(ILLITERATE JURAT)

……

……

DEPONENT

Sworn to at the High Court
Registry, this.....day of.....20.....
BEFORE ME

…….

COMMISSIONER FOR OATHS

FORM 22 -

Form of Order for Accounts and Inquiries

(***Order 30 Rule 11(2)***)

In the High Court of Lagos State

Suit No.....

In the.....Judicial Division

Between:

A.

B.....Claimant

And

C. D. E.F., and GH.....Defendants

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

(***Order 36 Rule7(a) and (b)***)

(Heading as in Form No. 1)

I /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.

Claimant's

Agent…….. of.....

.....

Defendant's

Agent.....

….. of……

Dated the.....day of.....20…….

……

Legal Practitioners for

……..

……

FORM 24

Letter of Request to take Evidence Abroad

(Convention Country)

(***Order 36 Rule7 (b) (i)***)

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 Lagos State, Nigeria, in which.....is the Claimant

and

.....is the Defendant.

And in the said action the Claimant claims.....

And whereas it has been represented to the said Court that it is necessary for the purpose of justice and for the 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 Lagos 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 examined (upon the interrogatories which accompany this Letter of Request and viva voce) touching the said matters in question in the presence of the agents of the Claimant and Defendant or such of them as shall, on due notice given, attend such examination.

I further have the honour to request that you will permit the agents of both the said Claimant and Defendant or such of them as shall be present to be at liberty to examine (upon interrogatories and viva voce upon the subject-matter thereof or arising out of the 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 the party producing the witness for examination, liberty to re-examine 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 additional viva voce questions, whether on examination, cross-examination or re-examination) the evidence of such witnesses to be reduced into writing and all books, letters, papers and documents produced upon such examination to be duly marked for identification, and that you will 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 Lagos State. And I further beg to request that you will cause me, or the agents of the parties if appointed, to be informed of the date and place where the examination is to take place.

Dated the.....day of.....20……..

…….

HONOURABLE CHIEF JUDGE

FORM 25 -

Order for Appointment of the Nigerian Diplomatic Agent as Special Examiner (in Convention Country)

(***Order 36 Rule 8***)

(Heading as in Form No. 1)

Upon hearing the Legal Practitioners 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 re-examination, 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 powers, otherwise such examination shall be taken in accordance with the Nigerian High Court of Lagos Procedure.

The.....Legal Practitioners to give to the.....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 party on whose behalf such witness is to be examined to the agent of the other party unless such notice be dispensed with. That the Written Statement on Oaths 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, Lagos 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 Written Statement on Oaths 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 Written Statement on Oaths. That the Costs of and incidental to this application and such examination be Costs in the action.

Note:

If the Convention requires that the invitation or notice of the witnesses must expressly state that no compulsory powers may be used, this requirement must be complied with.

DATED this.....day of.....20.....

……

Judge

FORM 26 -
Forms of Praecipe
(***Order 36 Rule20 (1)***)

In the High Court of Lagos State

Suit No:.....

In the.....Judicial Division

Between:

A.B.....Claimant

And

C.D. and others.....Defendants

Seal Writ of Subpoena.....on behalf of the.....directed to E.F. of .....returnable.....day of.....

DATED this.....day of.....20.....

(Signed).....

(Address).....

Legal Practitioner for the.....

FORM 27 -
Subpoena ad Testificandum
(***Order 36 Rule21***)

In the High Court of Lagos State

Suit No:.....

In the.....Judicial Division

Between:

.....Claimant

And

…….....Defendant

To.....of.....

...

You are commanded in the name of the Governor of Lagos State to attend before this Court at

on the day of……

20 at O' clock in the forenoon, and so from day to day until the above cause is tried, to give evidence on behalf of the

……

……..

……

DATED this day of 20

……..

Judge

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High Court of Lagos State (Civil Procedure) Rules 2019

FORM 28 -

Habeas Corpus Ad Testificandum

(***Order 36 Rule 21***)

In the High Court of Lagos State

Suit No.....

In the.....Judicial Division

Between:

.....Claimant

And

.....Defendant

The Controller of Prisons at.....

You are commanded in the name of the Governor of Lagos State to have.....

who it is said is detained in your custody in Prisons, 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 he shall have been brought.

DATED this.....day of.....20.....

……

Judge

FORM 29 -

Subpoena DucesTecum

(***Order 36 Rule 21***)

In the High Court of Lagos State

Suit No:.....

In the.....Judicial Division

Between:

.....Claimant

And

.....Defendant

To ..... of.....

You are commanded in the name of the Governor of Lagos State to attend before this Court at.....on.....the.....day of.....20.....at the hour of ..... O' clock in the forenoon, and so from day to day until the above cause is tried, and bring with you and produce at the time and place aforesaid (Specify documents to be produced)

……
…

DATED this …… day of …… 20…….

……

Judge

FORM 30 -

Form of Guarantee for the Acts and Defaults of a Receiver

(***Order 42 Rule 10 (2) (a)***)

In the High Court of Lagos State

Suit No.....

In the.....Judicial Division

.....CLAIMANT

And

.....DEFENDANT

RE; Guarantee for

N.....
.....Annual Premium N.....

This Guarantee is made the.....day of.....20 .....Between (XYZ) of.....(hereinafter 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 Lagos State. By an Order of the High Court of Lagos 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 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 the Registrars of the High Court, has signed an allowance in the margin hereof.

Now this Guarantee witnesses as follows -

2. The Receiver and the Surety hereby jointly and severally covenant with the Governor of Lagos State and his successors that the Receiver shall and will from time duly account for what he has already received since the date of the said Order appointing him and shall hereafter receive or for what 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 as 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.

3. 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 12 (twelve) months, pay at the office of the Surety the annual premium or sum of N.....then 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 Lagos 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 or default of the Receiver shall be conclusive evidence in any action or information by the Governor of Lagos 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 Lagos 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 discharged from his office on ceasing to act as such Receiver (and Manager) as aforesaid forthwith give written

notice thereof to the Surer}' by registered post and also within seven (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 its property and funds against all loss, damage, Costs and expenses which the Surety or its funds or property may or
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 omissions 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 hereto affixed.

In the presence of: …….....

FORM 31 -
Receiver's Security by Undertaking
(***Order 42 Rule 10 (2) (a)***)
In the High Court of Lagos State
Suit No.....
In the.....Judicial Division
Between
.....CLAIMANT
And
.....DEFENDANT
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 beheld liable and to pay the balances from time to time found from me and to deliver any property received by me as such Receiver (or Manager) at such times in such manner in all respects as the Court or a Judge shall direct.
And we,..... hereby jointly and severally (in the case of a 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 company, it must be sealed or otherwise duly executed).

FORM 32 -
Receiver's Account
(***Order 42 Rule 13***)
In the High Court of Lagos State
Suit No
…….
……..CLAIMANT
AND
……
DEFENDANT

The (…….) account of A.B., the Receiver appointed in this cause to Receive
the rents and the profits of the real Estate, and to collect and get in the outstanding personal Estate of C.D., the Testator (or intEstate) in this cause named, from the
…….. day

REAL ESTATE - RECIEPTS

No. of item	Date When receiv ed	Tenant 's name	Descripti on of premises	Annua l Rent	Arrear s due	Amount due at …… …	Amou nt at …….	Arrear s Receiv ed	Observati on remaining

PAYMENTS AND ALLOWANCE ON A ACCOUNT OF REAL ESTATE

No. of item	Date of Payment or allowance	Names of persons to whom paid or allowed	For what purpose paid or allowed	Amount N

RECEIPT ON A ACCOUNT OF PERSONAL ESTATE					PAYMENT AND ALLOWANCE ON PERSONAL ESTATE				
No. of item	Date When receiv ed	Names of person s from whom	On what amoun t receiv ed	Amoun t receive d	No. of item	Date When paid or allowe d	Names of person s to whom paid allowe d	For What purpos e paid or allowe d	Amou nt paid or allowe d

High Court of Lagos State (Civil Procedure) Rules 2019

SUMMARY

	N : k
Amount of balance due from Receiver on account of real Estate on last account ……	

Amount of receipts on the above account of real Estate
……
Balance of last account paid into Court …….

_____
_____

Amount of Receiver's Costs of passing this account of personal

Estate …….. N
Amount of Receiver's Costs of passing this account as to real Estate Balance due from the Receiver on Account of real Estate

_____
Amount of balance due from Receiver on last account of personal Estate …… N Amount of receipts on the above of personal Estate …….

_____
Balance of last account paid into Court ……
Amount of payments and allowances on the above account of personal Estate
……
Amount of Receiver's Costs of passing this account as to personal Estate _____
…… …… N

Balance due from the Receiver on account of personal Estate …… N

_____
_____

FORM 33 -
Affidavit Verifying Receiver's Account
(***Order 42 Rule 14(1)***)
In the High Court of Lagos State
Suit No.....
In the.....Judicial Division
Between:
A.B.....Claimant
And
C.D. and
E.F.....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 ……. is still carrying on business and no Petition or other proceeding for its winding-up is pending.

Note:- Additional paragraphs as to wages and petty cash are sometimes necessary.

FORM 34 -
Certificate of the Chief Registrar
(***Order 46 Rule 9(1)***)

In the High Court of Lagos State

Suit No.....

In the.....Judicial Division

Between:

.....CLAIMANT

And

.....DEFENDANT

Pursuant to the directions given to me by Hon. Justice.....

1 hereby certify that the result of the accounts and inquiries which have been taken and made in pursuance of the Judgment (or Order), in this cause dated the.....day of.....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 to the amount of N.....leaving a balance due from (or to), them of N.....on that account

2. The particulars of the above receipts and payments appear in the account marked ……. verified by the affidavit of …….. filed on the …….. day of …….. and which account is to be filed with 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 in 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.

Note:

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) consists of the following document ……filed on …….. day of……. or

the affidavit of CD., filed……

FORM 35 -
Order for Payment of Principal Money or
Interest secured by Mortgage or Charge
(***Order 55 Rule 2(1)***)

It is ordered that the Claimant do recover against the Defendant the sum of 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 .....per 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
(***Order 55 Rule 2(1)***)

In the High Court of Lagos State

Suit No.....

In the.....Judicial Division

Between

.....CLAIMANT

And

.....DEFENDANT

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 the Claimant do recover against the Defendant the sum of N.....for Costs (or his Costs of this summons to be taxed).

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 redeliver 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 -
Order for payment of principal money or Interest secured by Mortgage or Charge and for possession of property comprised therein
(***Order 55 Rule 2(1)***)

In the High Court of Lagos State

Suit No.....

In the.....Judicial Division

Between:

.....CLAIMANT

And

.....DEFENDANT

It is ordered that the Claimant do recover against the Defendant the sum of …..... 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.....per cent per annum less tax to the.....day of (date of order), and N.....for Costs (or his Costs of this summons to be taxed).

And 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 the said mortgage (or charge) that is to say.....(description of the property)

And it is ordered that upon the Defendant paying to the Claimant the moneys hereby ordered to be recovered and ah 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 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 -
Originating Summons for Possession
(***Order 57 Rule 2(2)***)

In the High Court of Lagos State

Suit No……

Between:

A.B.....Claimant
And
CD., E.F. and G.H.....Defendants
(if any) whose name is known to the Claimant or the Occupier (if name not known)
To (C.D. and) every (other) person in occupation of.....

Let all persons concerned attend before.....at the High Court of the Lagos State in the..... Judicial Division .....on the.....day of.....20.....at 9 O'clock in the forenoon for the hearing of an application by AB for an order that 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 or consent.

Dated this.....day of.....20.....

This Summons was taken out by.....for.....Legal

Practitioner for the said Claimant whose address is.....
(or this Summons was taken out by.....
of.....for of .....Legal Practitioner for the said Claimant whose address is.....)
(or when the Claimant acts in person).
This Summons was taken out by the said Claimant who resides at .....and is (state occupation) and (if 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 to be joined as Defendant. If a person occupying the premises does not attend personally or by Legal Practitioner at the time and place abovementioned, such Order will be made as the Court may think just and expedient.

FORM 39 -
Order for Possession
(*Order 57 Rule 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 in 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 the.....day of.....20

…….
Judge

FORM 40
Proceedings in Tax and Revenue Matters.
(*Order 60 Rule 3(1)*)
In the High Court of Lagos State

Suit No.....

In the.....Judicial Division
Between
A.B.....Petitioner
And
C.D.
.....Respondent
To C.D..of.....in the.....of.....
You are hereby commanded that within 14 (fourteen) days after the service of this Petition on you, inclusive of the day of such service, to cause appearance to be entered for you in an action at the suit of A. B. and take notice that in default of your so doing, the Petitioner may proceed therein, and Judgment may be given in your absence.
Dated this.....day of.....20.....

……

Registrar

PROBATE FORM 1
APPLICATION FOR GRANT OF PROBATE
(*Order 61 Rule 1*)

Please complete this form using CAPITAL LETTERS, placing a tick in boxes where applicable.

Probate File Number

1 Swearing The Oath

You are required to swear an oath to state that the informaton you provide in this application is true to the best of your Knowledge and belief. Where would you like to do this?

Probate Registry, Ikeja

Probate Registry, Lagos.

1. WILL/CODICIL

Date of the Will/Codicil d m y

Details of Witnesses to the Will (if available) Name

Address

Name
Address

2. DECEASED

Name of Deceased Person — Surname

Other names/Alias

Permanent address upon Death

Date of Birth(if known) d m y

Date of Death d m y

What was the maritall status of the person who has died when they died?

Never married

Widowed

Married

Divorced

Judicially separated

If the divorced or judicial separated, what is the name of the name of their former spouse?

What was the date of the dissolution or judicial separation?

Court of dissolution or judicial separation.

Particulars of the Properties of the Deceased — Person

Real

4 RELATIVES OF THE DECEASED

Did the Deceased who died leave any surviving spouse(s)? Yes

No

Details of surviving spouse(s). Name Address Type of marriage(I.e customary or otherwise)

Details of children (including legally adopted children , if any)	Name	Age	Parent of each child	Address of the child

Details of Parents (state if alive or dead)	Father's name	Address
	Mother's name	Address

Details of Siblings	Name	State whether of whole or half blood	Address

5 EXECUTORS

Details of the Executors.	Name	Age	Occupation	Address	Telephone number	Email address	Relationship to Deceased

6 .DETAILS OF LEGAL PRACTITIONER (where applicable)
Name Address Telephone number Email address

DECLARATION: We the Executors hereby declare that the information provided in this application is true to the best of our knowledge.
SIGNED BY THE EXECUTORS _____

_____
_____
_____

BEFORE ME

COMMISSIONER OF OATHS

PROBATE FORM 2
APPLICATION FOR LETTERS OF ADMINISTRATION (WITHOUT WILL)
(*Order 61 Rule 1*)

Please complete this form using CAPITAL LETTERS, placing a tick in boxes where applcable.

Probate File Number

1 Swearing The Oath

You are required to swear an oath to state that the informaton you provide in this application is true to the best of your Knowledge and belief. Where would you like to do this?

Probate Registry, Ikeja

Probate Registry, Lagos.

2.DECEASED

Name of Deceased Person

Surname

Other names/Alias

Permanent address upon Death

Date of Birth(if known) d M y

Date of Death d M y

What was the maritall status of the person who has died when they died?

Never married

Widowed

Married

Divorced

Judicially separated

If the divorced or judicial separated, what is the name of the name of their former spouse?

What was the date of the dissolution or judicial separation?

Court of dissolution or judicial separation.

Particulars of the Properties of the Deceased

Person

Real

3. RELATIVES OF THE DECEASED

Did the Deceased who died leave any surviving spouse(s)?

Yes

No

Details of surviving spouse(s).	Name	Address	Type of marriage(I.e customary or otherwise)

Details of children (including legally adopted children , if any)	Name	Age	Parent of each child	Address of the child

Details of Parents (state alive or dead)	Father's name	Address
	Mother's name	Address

Details of Siblings	Name	State whether of whole or half blood	Address

Who are the beneficiaries of the Estate?

4. ADMINISTRATORS

Details of the proposed Administrators.	Name	Age	Occupation	Address	Telephone number	Email address	Relationship to Deceased

NOTE Proposed Administrators under 18 shall be represented by his/her Guardian

5. SURETIES

Details of proposed sureties	Name	Age	Occupation	Address	Telephone number	Email address	Relationship with the family

6. DETAILS OF LEGAL PRACTITIONER (where applicable)

Name	Address	Telephone number	Email address

DECLARATION: We the proposed Administrators hereby declare that the information provided in this application is true to the best of our knowledge.

SIGNED BY THE PROPOSED ADMINISTRATORS _____

_____

_____

_____

BEFORE ME

COMMISSIONER OF OATHS
(Probate Registry)

Check list: Please submit this application form in the following requirements

Death certificate issued by hospital/death certificate issued by natinal population commission/affidavit of loss of death certificate and police report

Means of identification of the proposed Administrators (driver's licence/passport/ national identification card/ voter's card)

2 Passport photograph of each of the proposed Administrators

One passport photograph of the Deceased person.

Bank certificate with entries by the Banks and Registrars (where applicable)
Evidence of payment for the application forms
Affidavits of faithful administration and accountability of Administrators
The evidence of ownership of Deceased real property(ies) within Lagos state(where applicable). This may include a copy of a Certificate of Occupancy/a registered Deed of Assignment/ Power of Attorney/ Sublease/ Conveyance/ a Survey Plan/ approved Building Plan
Where the value of the Estate is above 1,500,000.00 (One million Five hundred thousand Naira), Two Sureties will be required to be provided by the Administrators. The documents to be submitted by the sureties are as follows:

a) The Sureties' affidavit of means (this can be disposed at the Registry)

b) 2 (Two) passport photographs of each surety along with copies of their means of identification (driver's licence/ passport/ national identification card/ voter's card).

c) A recent 6 months Bank statement of account for one of the Sureties.

d) Evidence of ownership of real property with Lagos state for one of the sureties. This may include a copy of a Certificate of Occupancy, a registered Deed of Assignment/ Power of Attorney/ Sublease/ Conveyance/ a Survey Plan/ approved Building Plan

OR

a) The Sureties' affidavit of means (this can be disposed at the Registry)

b) 2 (two) passport photographs of each Surety along with copies of their means of identification (driver's licence/ passport/ national identification card/ voter's card)

c) A recent 6 months Bank statement of account for one of the Sureties

d) A Civil servant Grade level 13 or above will be required to submit copies of the letter of employment the Civil Service, the letter of last promotion and a current payslip with originals to be provided for siting in the place title documents.

PROBATE FORM 3
- Surety's Guarantee
(*Order 63 Rule 4(3)*)

Surety's Guarantee

In the High Court
of.....State
Probate Registry Suit
No:.....
In the Estate
of.....deceased.
Whereas.....of.....died on the ..... day 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 any person interested in the administration of the Estate of the deceased may suffer in consequence of the breach by the Administrator (s) of his/her/their duty-

4. to collect and get in the Estate of the deceased and administer it according to law;

5. 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

6. when so required by the Court, to deliver up the grant to the Court.

7. 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.

8. 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 authorized by law to administer an oath)
(The Common Seal of.....was hereunto affixed in the presence of .....)

PROBATE FORM 4
- Surety's Guarantee on Application for resealing
(*Order 62 Rule 25(3)*)

Surety's Guarantee on Application for resealing

In the High Court of.....State Probate Registry Suit No.....
In the Estate of..... deceased
Whereas.....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 any person interested in the administration of the Estate of the deceased in the State may suffer in consequence of the breach by the Administrator(s) of his/her/their duty -

9. to collect and get in the Estate of the deceased which is situated in the State and administer it according to law;

10. when required to do so by the Court, to exhibit on oath in the Court a full inventory of the Estate which is situated in the State and when so required, to render an account of the Estate, or

11. 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.

12. 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 authorized by law to administer an oath)
(The Common Seal of.....was hereunto affixed in the presence of .....)
205

PROBATE FORM 5
- Notice to Prohibit Grant
(*Order 63 Rule 18(4)*)

Notice to Prohibit Grant

IN THE MATTER OF.....DECEASED
LET NOTHING be done in the matter of.....
of.....deceased, who died on the.....day of.....20.....at.....and had at the time of his death
his fixed place of abode at
.....
.....within the
jurisdiction of this Court, without warning being given to .....
of.....
Dated this.....day of.....20.....

……
Signature

PROBATE FORM 6
- Caveat
(*Order 63 Rule 18(4)*)

Caveat

In the High Court of
.....State
Probate Registry Suit
No:.....
.....
Let no grant be sealed in the Estate
of.....
.... Late
day
of..... of.....
.... who died on the..... ..... 20..... without notice
to.....
.....
.....
Dated
this..... day 20.....
..... of..... .. (Signed)

.....Legal Practitioner for the said Caveator whose address for service
is.....

PROBATE FORM 7
- Warning to Caveator
(*Order 62 Rule 18(8)*)

Warning to Caveator

In the High Court of.....
The Probate Registry Suit No:.....

To:.....
.
.....a party who has entered a Caveat in the Estate of
..... deceased.
You are hereby warned that within 8 days after service hereof upon you, inclusive of the day of such service

13. to enter an appearance either in person or by your Legal Practitioner at the Probate Registry:.....setting forth what interest you have in the Estate of the above named.....of.....deceased contrary to that of the party at whose instance this warning is issued; or

14. 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, lithe party warning is acting in person, this must be stated.

PROBATE FORM 8
- Appearance to Warning/Citation
(*Order 63 Rule 18(9)*)

Appearance to Warning/Citation

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 9
Notice of Election to redeem Life Interest
(*Order 63 Rule 17(1)*)

Notice of Election to redeem Life Interest

In the High Court of.....State
The Probate Registry Suit No:.....
In the Estate
of.....deceased.
Whereas.....of.....day
of.....
20.....died.....wholly/partially intEstate leaving his/her lawful wife/husband and.....lawful issue of the said
.....
And whereas Probate / Letters of Administration of the Estate of the
said.....w
ere
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 sole 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's capital value, and N.....the Costs of the transaction.
Dated this.....day of.....20.....
(Signed).....

(To the Probate Registrar)
Regulations regarding fees

15. ***No process, shall, except by special order of Court, be issued until:-***

(2) ***all fees payable thereon as provided shall have been paid, and***

(3) ***an Account thereof, initiated as received shall have been set forth by the officer issuing the process both in the margin and in the counterfoil thereof.***

16. ***All such fees shall be carried to Account immediately the process is issued.***

17. ***all document, for or in respect of which any fee or fees shall have 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 payment, provided that when any form of process specified the fees thereof, it shall be sufficient for the registrar or other officer to initial the amount of such fees appearing thereon, and to quote the number of the Receipt.***

18. ***Every registrar or other officer submitting any Writ of Summons or other Process whatever for signature by a Judge shall at the same time produce the stump of the receipt given for the fees of such process.***

19. ***No document in respect whereof a fee 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 stump of the Receipt given for the fees of such process.***

20. ***All fees for service, execution and mileage shall be paid into revenue.***

21. ***No hearing fee or other 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.***

MEMBERS OF THE 2019 RULES COMMITTEE

1. Hon. Justice K.O Alogba (Chairman)
2. Hon. Justice D.T Okuwobi
3. Hon. Justice O. A Ipaye
4. Hon. Justice S.B. Candide-Johnson
5. Hon. Justice M. Olokoba
6. Hon. Justice A.J. Coker
7. Hon. Justice M. O Obadina
8. Hon. Justice O.A Williams
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13. Hon. Justice A.O Opesanwo
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6. Hon. Justice S.OSolebo

THE CONSULTANTS

1. Hon. Justice O.A Olayinka
2. Hon. Justice M.A Okikiolu-Ighile
3. Hon. Justice O.AAkinlade