



**The**  
Federal Capital  
**Territory**  
Abuja-Nigeria



CUSTOMARY COURT OF APPEAL RULES  
**AS AMENDED IN 2023**

## TABLE OF CONTENT

S/N	DESCRIPTION	PAGE
1.	FEDERAL CAPITAL TERRITORY, ABUJA CUSTOMARY COURT OF APPEAL DECREE 1991	2 - 11
2.	CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999	12 - 13
3.	ORIGINAL JURISDICTION ACT, 2011	14
4.	THE FEDERAL CAPITAL TERRITORY ABUJA, CUSTOMARY COURT OF APPEAL RULES AS AMENDED IN 2023	15 - 128
5	THE FEDERAL CAPITAL TERRITORY, ABUJA CUSTOMARY COURT OF APPEAL (PROBATE AND ADMINISTRATION) RULES 2023	129 - 135



**THE FEDERAL CAPITAL TERRITORY, ABUJA  
CUSTOMARY COURT OF APPEAL RULES  
AS AMENDED IN 2023**

**FEDERAL CAPITAL TERRITORY, ABUJA,  
CUSTOMARY COURT OF APPEAL RULES, 2023.**

In the exercise of the powers conferred on me by the provision of Section 269 of the Constitution of the Federal Republic of Nigeria (as amended) 1999 and all other powers enabling me in that behalf  
L Hon. Justice Abbazih Musa Abubakar Saddeeq, FICMC, President,  
Customary Court of Appeal, Abuja, hereby makes the following Rules,  
this 1st day of September, 2022.

**CITATION**

To be cited as the Federal Capital Territory  
Customary Court of Appeal Rules, 2023.

**COMMENCEMENT**

This Rules shall come into effect on the 3rd of January, 2023



## ARRANGEMENT OF ORDERS - PART I

### ORDER ONE: GENERAL

- Rule 1 - Citation and Commencement.
- Rule 2 - Interpretation.

### ORDER TWO: REGISTRY

- Rule 1- 3 - Registry and Filing of Documents and Proceedings
- Rule 4 - Hours of Opening.
- Rule 5 - Chief Registrar.
- Rule 6 - Other Registrars.
- Rule 7 - Seal of the Court.
- Rule 8 - Powers of the Chief Registrar.
- Rule 9 - Books to be Kept by Registrar.
- Rule 10 - Files for Documents.

### ORDER THREE: SERVICE

- Rule 1 - 5 - Service.
- Rule 6 - 7 - Substituted Service
- Rule 8 - Proof of Service. Form 7.
- Rule 9 - Service Out of Jurisdiction.

### ORDER FOUR: ADMINISTRATION AND GENERAL PROCEDURES

- Rule 1 - Fees.
- Rule 2 - Sessions.
- Rule 3 - Notification of Sitting.
- Rule 4 - Adjournment.
- Rule 5 - Forms.
- Rule 6 - Right of Audience.

### ORDER FIVE: APPLICATIONS TO COURT

- Rule 1 - Applications. Forms 2 and 3.
- Rule 2 - Stay of Execution.

### ORDER SIX: FILING OF BRIEFS

- Rule 1 - Appellant's Brief.
- Rule 2 - Form and Content of Briefs.
- Rule 3 - Respondent's Brief.

- Rule 4 - Reply Brief.
- Rule 5 - Joint and Several Briefs.
- Rule 6 - Cross-Appeals or Respondent's Notice.
- Rule 7 - Number and Service of Documents.
- Rule 8 - Argument.
- Rule 9 - Consequence of Failure of Briefs
- Rule 10 - Power of Court to Accelerate Hearing in Exceptional Circumstances.

### **ORDER SEVEN: COURT ORDERS**

- Rule 1 - 3 - General Powers of Court.
- Rule 4 - 5 - Security for Appeal.
- Rule 6 - Documents Impounded by Orders of Court.
- Rule 7 - Powers of the Court as to New Trial.
- Rule 8 - Costs.
- Rule 9 - Security for Costs.

### **ORDER EIGHT: APPEALS**

- Rule 1 - Control of Proceedings.
- Rule 2 - Notice and Grounds of Appeal. Form 1.
- Rule 3 - Content, etc of Notice of Appeal.
- Rule 4 - Form 1.
- Rule 4 (1) - Copies of Proceedings.
- Rule 4 (2) - Notice of Appeal; on Whom Served.
- Rule 5 - Enlargement of Time.
- Rule 6 - When Appeal is Deemed Brought.
- Rule 7 - Where Time Expires.
- Rule 8 - Time and Place for Hearing. Form 5.
- Rule 9 (1) - Where Appellant Fails to Appear.
- (2) - Re—listing an Appeal Struck out.
- (3) - Death of Appellant.
- (4) - Appearance by Proxy.
- (5) - Where Respondent Fails to Appear.
- Rule 10 - Application to Set Aside Ex—Parte Judgment.
- Rule 11 - Cross Appeal.
- Rule 12 - Objections to Forms of Grounds For Appeal.
- Rule 13 - Defects in Proceedings Under Appeal.

- Rule 14 - Defects in Notice of Appeal or Recognizance.
- Rule 15 - Additional Evidence.
- Rule 16 - Mode of Taking Evidence.
- Rule 17 - Notice of Preliminary Objection. Form 6.
- Rule 18 - Amendment of Notice of Appeal or Cross Appeal.
- Rule 19 - Exhibits.
- Rule 20 - Interlocutory Judgment Not to Prejudice Appeal.

**ORDER NINE: RESPONDENT'S NOTICE OF CONTENTION**

**ORDER TEN : JUDGMENT**

- Rule 1 - Judgment.
- Rule 2 - Enrolment of Judgment. Form 4.
- Rule 3 - Review of Judgment.
- Rule 4 - Enforcement of Judgment.
- Rule 5 - Execution of Judgment by Court Below.
- Rule 6 - Notification of Judgment. Form 4.
- Rule 7 - Final Disposal of Exhibits, Documents, etc.

**ORDER ELEVEN: COMPUTATION OF TIME**

- Rule 1 - Computation of Time.
- Rule 2 - No Enlargement of Time by Consent of Parties.
- Rule 3 - Court May Extend Time.

**ORDER TWELVE: LEGAL PRACTITIONER**

- Rule 1 - Legal Practitioners Deemed Officers of the Court.
- Rule 2 - Legal Practitioners to Conduct Cause up to Final Judgment.
- Rule 3 - Application for Leave to Cease to Act.

**ORDER THIRTEEN: MISCELLANEOUS**

- Rule 1 - Allowance to Witness — Second Schedule.
- Rule 2 - Non—Compliance with Rule.
- Rule 3 - Day of Sitting and Long Vacation.
- Rule 4 - Where no Rule Exist.

# CUSTOMARY COURT OF APPEAL RULES, 2023

## ORDER 1

### GENERAL

**Citation and Commencement** 1. These Rules may be cited as the Customary Court of Appeal Rules as amended in 2022 and shall come into operation on the 3<sup>rd</sup> of January, 2023.

**Interpretation** 2. In these Rules, unless it is otherwise expressly provided or required by the context:

***“The Decree”*** means the Customary Court of Appeal Decree No. 30 of 1991;

***“Appeal”*** means any issue for determination before the Court emanating from a lower court and includes an application for leave to appeal;

***“Appellant”*** means any person who appeals from a decision of the Court below;

***“Cause”*** means any action, suit or other proceeding between an appellant and a respondent or any applicant and a respondent;

***“Chief Registrar”*** means Chief Registrar of the Court;

***“The Constitution”*** means the Constitution of the Federal Republic of Nigeria;

***“The Court”*** means the Customary Court of Appeal;

***“Court Below”*** or ***“Lower Court”*** means any court from which appeal is brought;

***“Judge”*** means a judge of the Court and includes the President;

***“Legal Representative”*** means a person admitted to practice in the Supreme Court who has been retained by a party to represent him in the Proceedings before the Court;



**“President”** means the President of the Court;

**“Record of Proceeding”** means the aggregate of papers relating to an appeal;

**“Registrar”** includes the Chief Registrar and a Registrar of any other cadre or grade or any other officer of the Court exercising functions analogous to those of a Registrar of the Court;

**“Respondent”** means any party (other than the appellant) directly affected by the appeal;

**“Rules”** means the Rules of the Customary Court of Appeal, Federal Capital Territory, Abuja.

## **ORDER 2**

### **REGISTRY**

**Registry and  
Filing of  
Documents and  
Proceedings**

1. The Registry of the Court shall be situated at Abuja, Federal Capital Territory.
2. Except where otherwise expressly provided, all documents and processes shall be filed in the Registry.
3. A document may be filed in the Registry of the Court either by being delivered to the Registrar by the party or his legal representative or agent, in person or by being sent there by registered post.

**Hours of  
Opening to  
Public**

4. The Registry of the Court shall, subject to the directions of the President, be opened to the public on every day in the year from eight O'clock in the forenoon, to three O'clock in the afternoon, except on Saturdays and Sundays or on any day declared a public holiday.

**Chief Registrar**

5. The Chief Registrar shall have the custody of the records of the Court and shall exercise such other functions as are assigned to him by these Rules and by such directions as the President may from time to time give.

**Other Registrar** 6. The President may assign and the Chief Registrar may, with the approval of the President, delegate to any Registrar of the Court, any functions required by these Rules to be exercise by the Chief Registrar.

**Seal of the Court** 7. The seal of the Court shall be kept in the custody of the President who may entrust same to such officers of the Court as he may deem fit.

**Powers of the Chief Registrar** 8. Except as may be otherwise provided in the Constitution or in any other enactment, the Chief Registrar shall have such jurisdiction, powers and duties provided by this Rules or such further powers and duties as the President may direct.

**Books to be kept by Registrar** 9. (1) The Registrar shall keep an Appeal Book which shall contain an index in serial order.  
(2) The following particulars shall be entered in the Appeal Book:  
(a) the number of the appeal or application;  
(b) the names of the Appellant or Applicant and the Respondent;  
(c) the trial Court;  
(d) the date of hearing the appeal;  
(e) the names of counsel;  
(f) the subject matter of the appeal or application;  
(g) the judgment of the Court;  
(h) any subsequent proceedings and remarks.

**Files for Documents** 10. As soon as notice of appeal is delivered, the Registrar shall prepare a file in which documents relating to the appeal shall be filed and on the front page thereof shall be recorded particulars of such documents and the dates they are received.

## ORDER 3

### SERVICE

- Service**
1. Any reference in these Rules to an address for service means an address within the Federal Capital Territory, Abuja where Notices, Orders, Summons, Warrants and other documents, proceedings and written communication if not required to be served personally, may be left, or to which they may be sent.
  2. Where under these Rules any Notice or other application to the Court, or to the Court below is required to have an address for service endorsed on it, it shall not be deemed to have been properly filed unless such an address is endorsed on it.
  3. Any person desiring to change his address for service shall notify the Registrar and the other parties.
  4. Except as may be otherwise provided in these Rules or in any other written law, no notice or other written communication in proceedings in the Court need be served personally except the notice of appeal and hearing notice.
  5. Where a Minister or Commissioner, or the Attorney-General or any other public officer of the Federal Republic of Nigeria or of a State or Local Government, thereof is party ex-officio or as representing the Federal, State or Local Government, as the case may be, in any proceedings in the Court, any notice or other document may be served on him by leaving it at or by sending it by Registered post to his Chambers or office and service in this manner shall be as effective as if it were personal service.

- Substituted Service**
6. (1) Where it appears to the Court (either after or without an

attempt at personal service) that for any reason, personal service cannot be conveniently effected, the Court may order that service be effected either by-

- (i) delivery of the document to some adult inmate at the usual or last known place of abode or business of the person to be served; or
  - (ii) delivery of the document to some person being an agent of the person to be served, or to some other person, on it being proved that there is reasonable probability that the document would in the ordinary course, through that agent or other person, come to the knowledge of the person to be served; or
  - (iii) advertisement in the Federal Gazette, or in some newspapers circulating within the jurisdiction; or
  - (iv) notice put up at the principal Court house of, or a place of public resort in the Judicial Division where the respective proceeding is instituted or at the usual or last known place of abode or of business, of the person to be served; or
  - (v) courier service or any other means convenient to the court; or
  - (vi) by Electronic means as would in the circumstances, serve the cause of justice; or
  - (vii) in such other manner as the Court may direct, and upon compliance with such order, such service shall be deemed to be good and sufficient service of the said document upon the person served.
- (2) An application to the court for an order of substituted service or other service shall be supported by an affidavit, setting the grounds on which the application is made.

7. Where any document is required by these Rules to be served personally, it shall be sufficiently served if it is served in the manner prescribed by these Rules.

***Proof of Service  
Form 7***

8 (1) Proof of service shall be by evidence on oath.

(2) In all cases where service of any process or other document has been effected by a bailiff or such other person as is appointed by the Court, an affidavit of service shall be sufficient proof of service, unless the contrary is proved.

***Service out of  
Jurisdiction***

9. Where any person out of the jurisdiction of the Court is a necessary or proper party to an appeal before the Court and it is necessary to serve him with the notice of appeal or other document relating to the appeal, the Court may upon application by the appellant, allow service of the notice of appeal or such other document out of jurisdiction.

10. Every application for an Order for leave to serve a notice of appeal or other document on a person out of jurisdiction shall be supported by an affidavit showing in what place or country such a person is or probably may be found and the grounds upon which the application is made.

**ORDER 4**

**ADMINISTRATION AND GENERAL PROCEDURE**

***Fees***

1. The fees set out in the Second Schedule shall be payable in respect of the matters to which they relate, provided that the President may waive payment of such fees on being satisfied that the party applying is indigent.

***Sessions***

2. The President may direct that sessions of the Court shall be held at such time and places as he may deem fit.

- Notification of Sittings** 3. The sittings of the Court and the matters to be disposed of at such sittings shall be published in such manner as the President may direct.
- Provided* that the Court may in its discretion hear any appeal and deal with any other matter whether or not the same has been published.
- Adjournment** 4. The Court may at any time on application or of its own motion adjourn any proceedings pending before it from time to time.
- Forms** 5. The Forms set out in the First Schedule to these Rules, or Forms as near thereto as circumstances permit, shall be used in all cases to which such Forms are applicable.
- Right of Audience** 6. A party may appeal in person or be represented by a legal practitioner in all proceedings before the Court.

## ORDER 5

### APPLICATIONS TO COURT

- Applications Form 2** 1 (1) Every application to the Court shall be by motion supported by an affidavit. It shall state the Rules under which it is brought and the ground for the relief sought.
- Form 3** (2) Any application to the Court for leave to appeal shall be by motion on notice which shall be served on the party or parties affected.
- (3) Wherever under these Rules an application may be made either to the Court below or to the Court, it shall not be made in the first instance to the Court except where there are special circumstances which makes it impossible or impracticable to apply to the Court below.
- (4) Where an application has been refused by the Court below, an application for a similar purpose may be

made to the Court within fourteen (14) days after the date of the refusal.

(5) Unless the Court gives special leave to the contrary, there shall be at least two (2) clear days between the service of a Motion on Notice and the day named in the Notice for hearing the motion.

**Stay of  
Execution**

2

(1) On an application being made for a stay of execution, the Court may impose one or more of the following conditions:

(a) that the Appellant shall deposit a sum not exceeding the judgment debt or the value of the property affected by the decision appealed against or give security to the satisfaction of the Court for the said sum;

(b) that the Appellant shall deposit a sum equal to the costs allowed against him or give security to the satisfaction of the Court for the said sum.

(2) Any Order made on any such application shall limit the time (not being more than thirty days) for the performance of the conditions imposed, and direct that in default of such performance, within the time so limited, execution may issue or proceed.

(3) An application for stay of execution may be made to the lower Court in the first instance at any time after filing the notice of appeal.

*Provided* that where execution has been ordered by the Court, the application shall not be made to the lower Court but to the Court.

(4) The application shall be on notice to the other party to the appeal.

(5) Where the Appellant proposes to give security instead of making a deposit, the application shall state the

nature of the security and the name of the security proposed (if any)

**ORDER 6**  
**FILING OF BRIEFS**

1. Where an Appellant is represented by a Legal Practitioner, the Appellant shall within twenty-one days (21) of his receipt of the record of appeal from the Court below, briefly and in a simple, readable and lucid language file his Brief of argument.
  
- Form and Contents of Briefs* 2. (a) The Brief which may be settled by counsel, shall contain an address or addresses for service and shall contain what are in the Appellant's view, the issues arising in the appeal as well as any points taken in the Court below which the appellant wishes to abandon and any point not taken in the Court below which he intends to seek leave of the Court to argue at the hearing of the appeal.  
  
(b) The parties shall assume that Briefs will be read and considered in conjunction with the documents admitted in evidence as exhibits during the proceedings in the Court below, and, wherever necessary, reference shall also be made to all relevant documents or exhibits on which they propose to rely in argument.  
  
(c) All Briefs shall be concluded with a numbered summary of the points raised and the reasons upon which the argument is founded.
  
- Respondent's Brief* 3 (1) Where a Respondent is represented by a Legal Practitioner, the Respondent shall also within twenty-one days (21) of the service of the Brief for the Appellant on him, file the Respondent's Brief which



shall be duly endorsed with an address or addresses for service.

(2) The Respondent's Brief shall answer all material points of substance contained in the Appellant's Brief and contain all points raised therein which the Respondent wishes to concede as well as reasons why the appeal ought to be dismissed. It shall, mutatis mutandis, also conform with Rules 2(a), (b) and (c) above.

**Reply Brief** 4. The Appellant may also, if necessary, within seven (7) days of the service on him of the Respondent's Brief but not later than five (5) clear days before the date set down for the hearing of the appeal, file and serve or cause to be served on the Respondent, a reply Brief which shall deal with all new points arising from the Respondent's Brief.

**Joint and Several Briefs** 5. All parties represented by legal practitioners whose interests are identical or joint, shall file joint Briefs. Separate Briefs may be filed only by those parties whose interest are separate or in conflict.

**Cross-Appeals or Respondent's Notice** 6. A Respondent may, without leave, include arguments in respect of a cross-appeal in a Respondent's Notice of his Brief for the original appeal and the cross-appeal or Respondent's Notice.

**Number and Services of Documents** 7. Such number of copies of all Briefs in respect of the appeal shall be filed in Court. All such copies shall be duly endorsed for service on the other parties which shall also be duly paid for by the party filing the same.

**Arguments** 8. (a) Oral argument will be allowed at the hearing of the appeal where Briefs are filed to emphasize and clarify the written argument appearing in the Briefs already filed in Court.

- (b) The Appellant shall be entitled to open and conclude the argument. Where there is a cross-appeal or a Respondent's Notice, the appeal and such cross-appeal or Respondents Notice shall be argued together with the appeal as one case and within the time allotted for one case, and the Court may having regard to the nature of the appeal, inform the parties which one is to open and close the argument.
- (c) Unless otherwise directed, one hour on each side will be allowed for oral argument.
- (d) Save with the leave of the Court, no oral argument will be heard on behalf of any party represented by legal practitioner for whom no Brief has been filed, or in respect of a point not covered by the Briefs.
- (e) When an appeal is called and the parties have been duly served with the notice of hearing, and if any party or any legal practitioner appearing for him does not appear to present oral argument even though Briefs have been filed by all the parties concerned in the appeal, the appeal will be treated as having been duly argued.

**Consequences  
of Failure of  
filing of Briefs**

9. (1) Where an Appellant represented by a legal practitioner fails to file his Brief within the time provided for in Rule 1 above, or within the time as extended by the Court, and does not opt for Sub-Rule 2 of this Rule, the Respondent may apply to the Court for the appeal to be dismissed for want of prosecution.

(2) (a) The Appellant if represented by a legal practitioner may within thirty (30) days of service on him of the records of proceedings of the Court below or the respondent may within fourteen (14) days of failure of the Appellant to so do, apply to the Court for the case to be set down for hearing.

(b) The application shall be in writing and contain the following;

(i) that record of the lower Court has been complied, transmitted to the Court and all parties duly served with copies;

(ii) that the Appellant has not opted for the filing of Brief of argument as the time allowed for doing so has lapsed;

(3) If the Respondent who is represented by a legal practitioner fails to file his Brief, he will not be heard in oral argument except by leave of the Court;

(4) Where an Appellant fails to file a Reply Brief within the time specified in Rule 4 above, he shall be deemed to have conceded all the new points or issues arising from the Respondent's Brief.

***Power of Court to accelerate hearing in exceptional circumstances***

10. The Court may, where it considers the circumstances of an appeal to be exceptional, where parties are not represented by legal practitioners or where the hearing of an appeal ought to be accelerated in the interest of justice, waive compliance with the provisions of this Order in so far as they relate to the preparation and filing of Briefs of argument; either wholly or in part or reduce the time limits specified in this Order, to such extent as the Court may deem reasonable in the circumstances of the case.

11. In giving effect to the provision of this Order, the period of the vacation shall not be taken into account for the computation of the period of filing Briefs by either party.

## ORDER 7 COURT ORDER

### *General Powers of Court*

1. The Customary Court of Appeal may from time to time make any Order necessary for determining the real question in controversy in the appeal and may amend any defect or error in the record of appeal and may direct the Court below to inquire into and certify its findings on any question which the Customary Court of Appeal thinks fit to determine before final judgment in the appeal.
2. The Customary Court of Appeal may direct or Order any necessary inquiries or accounts to be made or taken and generally shall have full jurisdiction over the whole proceedings as if the proceedings had been instituted in the Customary Court of Appeal as Court of first instance.
3. The Customary Court of Appeal may re-hear the case in whole or in part or may remit it to the Court below for the purpose of such re-hearing or may give such other directions as to the manner in which the Court below shall deal with the case in accordance with the powers of that Court, or, in the case of an appeal from the Court below in that Court's appellate jurisdiction, order the case to be re-heard by a Court of competent jurisdiction.

### *Security For Appeal*

4. The Court may in special circumstances, order that such security shall be given for the costs of an appeal as may be just.
5. The Court shall have power to make orders by way of injunctions or the appointment of a Receiver or Manager and such necessary orders for the protection of property or person pending the determination of an appeal to it even though no application for such an order was made in the Court below.

### *Documents Impounded by Order of Court*

6. (1) Documents impounded by Order of the Court shall not be delivered out of the custody of the Court except in compliance with an Order of the Court.  
(2) Documents impounded by Order of the Court, whilst in the custody of the Court, shall not be inspected except

by a person authorized to do so by an Order of the Court.

***Powers of the  
Court as to new  
Trials***

7. (1) On the hearing of any appeal, the Court may, if it thinks fit, make any such orders as could be made in pursuance of an application for a re-hearing or to set aside a decision, finding or judgment of the Court below.
- (2) The Court shall not be bound to order a re-hearing on the ground of misdirection, or of the improper admission or rejection of evidence, unless in the opinion of the Court, some substantial wrong or miscarriage of justice has been thereby occasioned.
- (3) A re-hearing may be ordered on any question without interfering with the findings or decision on any other question and if it appears to the Court that any such wrong or miscarriage of justice as is mentioned in paragraph (2) affects part only of the matter in controversy or one or some only of the parties, the Court may Order a re-hearing as to the part only or as to that party or those parties only, and give final judgment as to the remainder.
- (4) In any case where the Court has power to order a re-hearing on the ground that damages awarded by the Court below are excessive or inadequate, the Court may in lieu of ordering a rehearing:
- (a) substitute for the sum awarded by the Court below such sum as appears to the Court to be proper;
  - (b) reduce or increase the sum awarded by the Court below by such amount as appears to the Court to be proper in respect of any distinct head of damages erroneously included or excluded from the sum so awarded; but except as aforesaid, the Court shall not have power to reduce or increase the damages awarded by the Court below.

**Security For  
Cost**

8. The Court may make such order as to the payment of costs as it may deem to be just.
9. (1) The Court may, in special circumstance, upon application on notice by motion supported by affidavit, Order the Appellant to deposit such sum or give such security as it may deem fit for the Respondent's costs of appeal including the cost incidental to the application.  
(2) The Order shall limit the time not exceeding thirty (30) days within which the deposit or security shall be made or given and may direct that in default of its being made or given within the time so limited, the appeal shall without further Order stand dismissed.  
(3) Where an appeal so stands dismissed, the Respondent shall be entitled to all reasonable costs occasioned by the appeal.

**ORDER 8  
APPEALS**

**Control of  
Proceedings**

1. After an appeal has been entered and until it has been finally disposed of, the Court shall be seized of the whole of the proceedings as between the parties thereto and except as may be otherwise provided in these Rules, every application therein shall be made to the Court and not to the Court below.

**Notice and  
Grounds of  
Appeal  
Form 1**

2. (i) Every appeal shall be brought by Notice of Appeal which shall be lodged at the lower Court or the Court within thirty (30) days where the appeal is against a final decision and fourteen (14) days where the appeal is against an interlocutory decision. It shall be served on all other parties affected by the appeal.  
(ii) The Notice of Appeal shall set forth concisely and under distinct heads the grounds upon which the Appellant

intends to rely at the hearing of the appeal without any argument or narrative and shall be numbered consecutively.

- (iii) No ground which is vague or general in terms or which discloses no reasonable ground of appeal shall be permitted, and any ground of appeal or any part thereof which is not permitted under this may be struck out by the Court of its own motion or on application by the Respondent.
- (iv) The Appellant shall not without the leave of the Court urge or be heard in support of any ground of appeal not mentioned in the Notice of Appeal, but the Court may in its discretion allow the Appellant to amend the grounds of appeal upon payment of the fees prescribed for making such amendment and upon such terms as the Court may deem just.
- (v) The Court shall have the power to strike out a Notice of Appeal when an appeal is not competent or for any other sufficient reason.

**Reference  
Numbers,  
Parties etc of  
Notice of  
Appeal**

- 3 (1) The Notice of Appeal shall set out the reference number of the proceedings in which the decision complained of was given, the names of the parties, the date of such decision and the grounds for appeal in full and the reliefs sought.
- (2) Where the Appellant complains only of a part of the decision the Notice of Appeal shall specify the part complained of; otherwise the appeal shall be taken to be against the decision as a whole.
- (3) The Notice of Appeal shall give addresses within the jurisdiction in which is situated the lower Court appealed from, to which notices may be served on parties.

- Form 1** (4) The Notice of Appeal shall be in Form 1 in the First Schedule and may be varied to suit the circumstance of the case but so that no variation of substance shall be made.
- Copies of Proceedings** 4 (1) The Registrar of the lower court shall, within thirty (30) days from the date of the perfection of the conditions of appeal prepare as many certified copies of the proceedings as may be required for the consideration of the appeal and serve same on the parties.
- Notice of Appeal On Whom Served** (2) The Registrar of the Court below shall within seven (7) day (1) The Court may enlarge the time provided by these Rules for the doing of anything to which these Rules apply upon such terms as it deems fit. from the date of the receipt of the Notice and Grounds of Appeal in the cause or matter serve same on the parties.
- Enlargement of Time** 5 (1) The Court may enlarge the time provided by these Rules for the doing of anything to which these Rules apply upon such terms as it deems fit.
- (2) Every application for an enlargement of time in which to appeal shall be supported by:
- (i). an affidavit setting forth good and substantial reasons for failure to appeal within the prescribed period;
  - (ii). the grounds of appeal which prima facie show good cause why the appeal should be heard;
  - (iii). a copy of the judgment appealed against; and
  - (iv). any other document(s) relevant to the application.
- A copy of the Order granting such enlargement shall be annexed to the Notice of Appeal.



**When Appeal is Deemed Brought**

6. An appeal shall be deemed to have been brought when the Notice of Appeal has been filed in the Registry of the Court or the Court below.

**Where Time Expires**

7. Where the time available to the Appellant for the taking of any step has expired before such step has been taken or completed, the Respondent may, on notice to the Appellant, apply to the Court to strike out the appeal, and the Court may strike out the appeal or enlarge time for sufficient reason shown.

**Time and place for hearing Form 5**

8. The appeal shall come on for hearing at such time and at such place as the Registrar of the Court shall notify the parties.

**Where Appellant Fails to Appear**

9. (1) If, on the day of hearing or at any adjournment of the case, the Appellant does not appear and has not filed any Brief, the appeal shall be struck out with or without costs.

**Re-listing an Appeal Struck Out**

(2) When an appeal has been struck out for non-appearance of the Appellant, the Court may upon an application filed within 21 days, direct the appeal to be relisted for hearing on such terms as to costs or otherwise as it may deem just.

**Death of Appellant**

(3) Where on Appellant dies after a Notice of Appeal has been filed by him, or after an appeal has been entered, his heir apparent in an appropriate case may, with leave of Court, proceed with the appeal.

**Appearance by Proxy**

(4) In every appeal or motion pending before the Court, in case it shall appear to the satisfaction of the Court, that any party who may not be represented by a legal practitioner is prevented by some good or sufficient cause from attending to the Court in person, the Court may in its discretion, permit any member of his family who shall satisfy the Court that he had authority in that behalf to appear for such party.

**Where  
Respondent  
Fails to Appear**

(5) If, on the day of hearing and at any adjournment of the case the Appellant appears, the Court shall, whether the Respondent appears or not, proceed to the hearing or further hearing and determination of the appeal, and shall give judgment according to the merits of the case:

*Provided* that if it appears or is proved to the Court that the Appellant has not complied with the requirement precedent to the hearing of an appeal hereinbefore contained, the Court shall dismiss the appeal and affirm the decision with or without costs of the appeal against the Appellant.

**Application to  
Set Aside Ex-  
Parte Judgment**

10 (1) Where an appeal has been heard in default of appearance of the Respondent and any judgment has been given therein adverse to the Respondent, he may apply to the Court to set aside such judgment and to re-hear the appeal.

(2) No application to set aside and re-hear an appeal under this Rule shall be made after the expiration of thirty (30) days from the date of the judgment sought to be set aside.

**Cross Appeal**

11. The Respondent may cross appeal against any part of the judgment of the lower Court within fourteen (14) days of service on him of the Appellant's Notice and Grounds of Appeal, and the Notice and Grounds of the cross appeal shall be served on the Appellant or his legal practitioner before the hearing.

**Objections to  
Form of Grounds  
For Appeal**

12. (1) No objection on account of any defect in the form of setting forth any ground of appeal shall be allowed unless the Court is of the opinion that the ground of appeal is so imperfectly or incorrectly stated as to be insufficient to enable the Respondent to enquire into the subject matter thereof or to prepare for the hearing.

(2) In any case where the Court is of the opinion that any objection to any ground of appeal ought to prevail, the Court may, if it thinks fit, cause the ground of appeal forthwith to be amended upon such terms and conditions, if any, as the Court may deem just.

*Defects In  
Proceedings  
Under Appeal*

13. On any appeal from a decision of a lower Court, no objection shall be taken or allowed to any proceeding in such court for any defect or error which might have been amended by that court, or to any complaint, summons, warrants, or other process to or of such Court for any alleged defect therein in substance or in form or for any variance between any complaint or summons and the evidence adduced in support thereof in such Court:

*Provided*, however, that if any error, defect, or variance mentioned in this Rule appears to the Court at the hearing of any appeal to be such that the appellant has been thereby deceived or misled, it shall be lawful for the Court either to refer the case back to the lower Court with directions to re-hear and determine the same or to reverse the decision appealed from, or to make such other Order for disposing of the case as justice may require.

*Defects In  
Notice of Appeal  
Or Recognisance*

14. No objection shall be taken or allowed, on any appeal, to any Notice of Appeal which is in writing or to any recognizance entered into under this Order for the due prosecution of such appeal for any alleged error or defect therein, but if any such error or defect appears to the Court to be such that the Respondent of such appeal has been thereby deceived or misled, it shall be lawful for the Court to amend the same, and, if it is expedient to do so, also to adjourn the further hearing of the appeal, the amendment and the adjournment, if any, being made on such terms as the Court may deem just.

**Additional  
Evidence**

15. Upon the application by either party to the appeal, the Court may, in any case where it may consider it necessary that evidence should be adduced, either:
- (a) Order such evidence to be adduced, before the Court on some day to be fixed in that behalf; or
  - (b) refer the case back to the lower Court to take such evidence, and may in such case either direct the lower Court to adjudicate afresh after taking such evidence and subject to such directions in law, if any, as the Court may deem fit to give, or direct it, after taking such evidence, to report specific findings of fact for the information of the Court and on any such reference, the case shall so far as may be practicable and necessary be dealt with as if it were being heard in the first instance.

**Mode of taking  
Evidence**

- 16 (1) When additional evidence is to be taken by the lower Court and specific findings of fact reported, it shall certify such evidence to the Court which shall thereupon proceed to dispose of the appeal.
- (2) The parties or their counsel shall be present when the additional evidence is taken.
- (3) Evidence taken in pursuance of Rule 15, shall be taken as if it were evidence taken at the trial before the lower Court.
- (4) When forwarding to the Court any additional evidence taken by a lower Court in pursuance of Rule 15, the lower Court may express its opinion on the demeanour of the witnesses and of the value of their evidence and may also, if it is the same Court against whose decision the appeal has been made, state whether or not it would have come to a different decision had the additional evidence been brought forward at the trial.

**Notice of  
Preliminary  
Objection  
Form 6**

- 17 (1) A Respondent intending to rely upon a preliminary objection on the hearing of an appeal, shall file such notice giving the Appellant seven (7) clear days after

service thereof before the hearing, setting out the ground of objection.

- (2) No objection shall be taken to the hearing of an appeal on the ground that the amounts fixed by the Registrar of the Court were incorrectly assessed.
- (3) If the Respondent fails to comply with this Rule, the Court may refuse to entertain the objection or may adjourn the hearing thereof at the cost of the Respondent or may make such Order as it thinks fit.

*Amendment of Notice of Appeal or Cross-Appeal*

18. A Notice of Appeal or Cross-Appeal may be amended by or with the leave of the Court, at any time upon such terms as the Court may deem fit.

*Exhibits*

19 (1) Subject as hereinafter provided, each party shall, immediately after an appeal becomes pending before the Court, deliver to the Court below all documents (being exhibits in the case or which were tendered as exhibits and rejected) which are in his custody or were produced or put in by him at the trial.

(2) All exhibits delivered to the Court below under this Rule shall remain in the custody of the Court below until the record of appeal has been prepared, and shall then be forwarded with the record to the Registrar and shall remain in the custody of the Court until the determination of the appeal.

*Provided* that the Court may allow the return of any exhibit to any party pending the hearing of the appeal and subject to such conditions as it may impose.

*Interlocutory Judgment Not to Prejudice Appeal*

20. No interlocutory judgment or Order from which there has been no appeal shall operate so as to bar or prejudice the Court from giving such decision upon the appeal as may deem just.

## **ORDER 9**

### **RESPONDENT'S NOTICE OF CONTENTION**

1. A respondent who not having appealed from the decision of the Court below, desires to contend on the appeal that the decision of that court should be varied, either in any event or in the event of the appeal being allowed in whole or in parts, must give notice to that effect, specifying the grounds of that contention and the precise form of the Order which he proposes to ask the Court to make, or to make in that event, as the case may be.
2. A respondent who desires to contend on the appeal that the decision of the court below should affirmed on grounds, other than those relied upon by that court, must give notice to that effect specifying the grounds of that contention.
3. Except with the leave of the court, a respondent shall not be entitled on the hearing of the appeal to contend that the decision of the court below should be varied upon grounds not specified in a notice given under this Rule, to apply for any relief not so specified or to support the decision of the court below upon any grounds not relied upon by that court or specified in such a notice.
4. Any notice given, by a respondent under this Order must be served on the appellant and on all parties to the proceedings in the court below who are directly affected by the contentions of the respondents and must be served-
  - (a) In the case of an appeal against an interlocutory order, within 15 days after the service of the notice of appeal on the respondent; and
  - (b) In any other case, within 30 days, after the service of the notice of Appeal on the respondent.

5. A party by whom a Respondent's Notice is given, shall file with the registry, 10 copies of such notice of which one shall be included in the record and the other copies provided for the use of the Judges.
6. Omission to give such notice shall not diminish any powers of the court but may in the discretion of the court, be a ground for postponement or adjournment of the appeal upon such terms as to cost or otherwise as may be just.
7. A Respondent's Notice may be amended by or with the leave of the Court at any time.

**ORDER 10**  
**JUDGMENT**

***Judgment***

1. The judgment of the Court shall be pronounced in open Court, either on the hearing of the appeal or at any subsequent time as ordered by the Court.

***Enrolment of  
Judgment  
Form 4***

2. (1) Every judgment of the court shall be embodied in an Order.  
(2) Interlocutory Order shall be prepared in like manner.  
(3) A sealed or certified copy of the Order shall be sent by the Registrar to the Court below.

***Review of  
Judgment***

3. The Court shall not review any judgment or Order once given and delivered by it save to correct any clerical mistake or some error arising from any accidental slip or omission or to vary the judgment or Order so as to give effect to its meaning or intention. A judgment or Order shall not be varied when it correctly represents what the Court decides nor shall the operative and substantive part of it be varied and a different form substituted.

- Enforcement of Judgment** 4. Any judgment given by the court may be enforced by the court or by the Court below or by any other court which has been seized of the matter, as the court may direct.
- Execution of Judgment by the Court below** 5. When the Court directs any judgment to be enforced by another Court, a Certificate under the seal of the Court and the hand of the Presiding Judge setting forth the judgment shall be transmitted by the Registrar to such other court and the latter shall enforce such judgment in terms of the Certificate.
- Notification of Judgment Form 4** 6 (1) The Registrar, at the final determination of an appeal, shall notify in such manner as he thinks most convenient to the Registrar of the Court below the decision of the court in relation thereto, and also any Order or direction made or given by the court in relation to such appeal or any matter concerned therewith.
- (2) The Registrar of the court below shall on receiving the notification referred to in this Rule, enter the particulars thereof on the records of such Court.
- Final Disposal of Exhibits, Documents etc.** 7. Subject to any appeal to the Court of Appeal and upon the final determination of an appeal for the purposes of which the Registrar has obtained from the Registrar of the court below, any original depositions, exhibits, information, inquisition, plea or other documents usually kept by the said Registrar or forming part of the record of the court below, the Registrar shall, where practicable, cause the same to be returned to the Registrar of the Court below.

## ORDER 11

### COMPUTATION OF TIME

- Computation of Time** 1. Where by any written law or any special Order made by the Court in the course of any proceedings, any limited



time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceedings, and such time is not limited by hours, the following Rules shall apply:-

- (a) the limited time does not include the day of the date of or the happening of the event, but commences at the beginning of the day next following that day;
- (b) the act or proceeding shall be done or taken at the latest on the last day of the limited time;
- (c) where the time limited is less than five (5) days, no public holiday, Saturday or Sunday shall be reckoned as part of the time; (d) where the time expires on a public holiday, Saturday or Sunday, the act or proceedings shall be considered as done or taken in due time if it is done or taken on the next day afterwards not being a public holiday, Saturday or Sunday.

**No Enlargement  
of Time by  
consent**

2. The parties may not by consent, enlarge or abridge any of the time fixed by the provision of these Rules for taking any Parties step, filing any document, or giving any notice.

**Court may  
extend Time**

3. (1) The Court may, on such terms as it thinks just, by Order, extend or abridge the period within which a person is required or authorized by these provisions, or by any judgment, Order or direction, to do any act in any proceedings.

(2) The Court may extend any such period as is referred to in paragraph (1) although the application for extension is not made until after the expiration of the period.

## ORDER 12

### LEGAL PRACTITIONER

*Legal  
Practitioner to  
Conduct Cause  
Matter to Final  
Judgment*

1. Every Legal Practitioner who shall be engaged in any cause or matter shall be bound to conduct same on behalf of the plaintiff or defendant as the case may be, by or for whom he shall have been so engaged until final judgment, unless allowed for any special reason to cease acting therein.

*Application for  
change of Legal  
Practitioner or  
withdrawal*

2. An application for a change of Legal Practitioner or withdrawal may be made by the plaintiff or defendant or the Legal Practitioner as the case may be, not less than 3 clear days before the date fixed for hearing.

*Service of  
Application by  
Legal  
Practitioner*

3. 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 13

### MISCELLANEOUS

*Allowance to  
Witnesses  
Second Schedule*

1. Allowances may be made to witnesses in accordance with the provisions of the Second Schedule.

*Non-Compliance  
with Rules*

2. Non-compliance on the part of an Appellant or a Respondent with these Rules or with any Rule of Practice for the time being in force shall not prevent the further prosecution of the appeal if the Court considers that such non-compliance was not willful, and that it is in the interest of justice that such non-compliance be waived. The Court may in such manner as it thinks fit direct the Appellant or the Respondent as the case may be to remedy such non-compliance and thereupon the appeal shall

proceed. The Registrar shall forthwith notify the Appellant or the Respondent as the case may be of any directions given by the Court under this Rule where the Appellant or the Respondent was not present at the time when such directions were given.

**Day of Sitting  
and Long  
Vacation**

3. (1) Subject to the directions of the Hon. President, sittings of the Hon. Court for the hearing of any matter shall be held on every week-day except;
- (a) on any public holiday; and
  - (b) on any other day as the Hon. President may direct.
- (2) There shall be an annual vacation of the Hon. Court to commence on such date in July and of such duration, not exceeding ten (10) weeks, as the Hon. President may by notification appoint.

**Where no Rule  
Exist**

4. (1) Where a matter arises in respect of which no provisions or adequate provisions are made in these Rules, the Court shall adopt such procedures as will in its view do substantial justice between the parties concerned.
- (2) The Court may direct a departure from the Rules whenever this is required in the interest of justice.
- (3) Where cases are abandoned, the President shall cause for the striking out of the cases from the Cause List.

**FIRST SCHEDULE**

**FORM 1**

**IN THE CUSTOMARY COURT OF APPEAL  
FEDERAL CAPITAL TERRITORY  
HOLDEN AT UTAKO DISTRICT, ABUJA**

**NOTICE OF APPEAL**

Order 8 Rule 2

**APPEAL NO: .....**  
**ORIGINAL SUIT NO.....**

**Between**

.....**APPELLANT(S) AND**  
..... **RESPONDENT(S)**

TAKE NOTICE that the Plaintiff/Defendant being dissatisfied with the judgment (or order, or decision) of the ..... Court contained in the judgment/Order/decision dated the ..... day of..... 20 ..... doth hereby appeal to the Customary Court of Appeal, Federal Capital Territory Abuja, upon the grounds set out in paragraph 2 and will at the hearing of the appeal seek the relief(s) set out in paragraph 3. And the appellant(s) further states that the names and addresses of the persons directly affected by the appeal are those set out in paragraph 4.

2. Grounds of appeal:

(1)

.....

(2)

.....

(3)

.....

**3. Relief(s) sought from the Customary Court of Appeal**

.....  
.....  
.....

**4. Persons directly affected by the appeal:**

**(1)**  
.....  
.....

**(2)**  
.....

**(3)**  
.....

.....  
**Appellant (or the Legal Practitioner acting for him)**

**Appellant's address for service.**

.....  
.....

**Respondent's address for service:**

.....  
.....

**Note:** Address for service must be given.  
This notice must be filed with the Registrar of the Court from which appeal is brought or the Court.

**FORM 2**

**IN THE CUSTOMARY COURT OF APPEAL  
FEDERAL CAPITAL TERRITORY  
HOLDEN AT UTAKO DISTRICT, ABUJA**

**MOTION ON NOTICE**

Order 5 Rule 1

APPEAL NO: CCA/.....

ORIGINAL SUIT NO.....

**Between**

.....APPELLANT(S)

**AND**

.....RESPONDENT(S)

TAKE NOTICE that the Court will be moved on ..... in the  
..... at.....  
forenoon or as soon thereafter as counsel can be heard on behalf of the above named  
..... for an  
Order that .....

Dated this..... day of ..... 20 .....

.....  
Applicant or his legal representative,  
whose address for service is:

.....  
.....

Respondent's address for service:

.....

\* State whether Appellant or Respondent.

\* State the prayer.

Note: Addresses for service must be given.

**FORM 3**

**IN THE CUSTOMARY COURT OF APPEAL  
FEDERAL CAPITAL TERRITORY  
HOLDEN AT UTAKO DISTRICT, ABUJA**

**MOTION ON NOTICE FOR LEAVE TO APPEAL**

**Order 5 Rules 1(2)**

APPEAL NO: CCA/.....  
ORIGINAL SUIT NO.....

**Between**

.....APPELLANT(S)

**AND**

.....RESPONDENT(S)

TAKE NOTICE that the Customary Court of Appeal will be moved on the .... day of  
.....at .....o'clock in  
the forenoon or as soon thereafter as Counsel/Appellant can be heard on the hearing  
of an application for leave to appeal against the decision of the Grade.....  
.....Court.....given on the  
..... day of ..... 20.....

.....  
Applicant or his legal representative,  
whose address for service is:

.....  
.....

And Address of the Respondent is:-

.....  
.....  
.....

**FORM 4**

**IN THE CUSTOMARY COURT OF APPEAL  
FEDERAL CAPITAL TERRITORY  
HOLDEN AT UTAKO DISTRICT, ABUJA**

**CERTIFICATE OF JUDGMENT**

Order 10 Rule 2 and 6

APPEAL NO: CCA/.....

ORIGINAL SUIT NO.....

**Between**

.....APPELLANT(S)

**AND**

.....RESPONDENT(S)

This is to certify that this Appeal was heard by the Customary Court of Appeal, Abuja sitting at ..... on the ..... day of ..... 20..... and that the

Following Order was made:

**ORDER**

.....  
.....  
.....  
.....  
.....  
.....

Dated at..... this..... day of ..... 20 .....

-----  
**REGISTRAR**



**FORM 5**

**IN THE CUSTOMARY COURT OF APPEAL  
FEDERAL CAPITAL TERRITORY  
HOLDEN AT UTAKO DISTRICT, ABUJA**

**NOTICE OF HEARING**

**Order 8 Rule 8**

APPEAL NO: CCA/.....

ORIGINAL SUIT NO.....

**Between**

.....APPELLANT(S)

**AND**

.....RESPONDENT(S)

TAKE NOTICE that this appeal has been duly filed and will be heard by the  
Court at.....on  
the.....day of ..... 20 .....

at ..... in the..... noon.....

Dated at .....

this.....day of.....20.....

.....

**REGISTRAR**

**FORM 6**

**IN THE CUSTOMARY COURT OF APPEAL  
FEDERAL CAPITAL TERRITORY  
HOLDEN AT UTAKO DISTRICT, ABUJA**

**NOTICE BY RESPONDENT OF INTENTION TO RELY UPON  
PRELIMINARY OBJECTION**

**Order 8 Rule 17**

**APPEAL NO: CCA/.....  
ORIGINAL SUIT NO.....**

**Between**

.....**APPELLANT(S)**

**AND**

.....**RESPONDENT(S)**

TAKE NOTICE that the Respondent herein named intends, at the hearing of this appeal, to rely upon the following preliminary objection notice whereof is hereby given to you.

AND TAKE NOTICE that the grounds of the objection are as follows:-

- 1.
- 2.
- 3. etc

Date this..... day of.....20.....

.....  
**PLAINTIFF/DEFENDANT/  
RESPONDENT**

Appellant's Address for service:

.....  
.....

Respondent's Address for service:

.....  
.....

**FORM 7**

**FOR ENDORSEMENT AND RETURN**

**IN THE CUSTOMARY COURT OF APPEAL  
FEDERAL CAPITAL TERRITORY,  
HOLDEN AT UTAKO DISTRICT, ABUJA.**

**AFFIDAVIT OF SERVICE**

**Order 3 Rule 8**

APPEAL NO: CCA/.....  
ORIGINAL SUIT NO.....

**Between**

.....**APPELLANT(S)**

**AND**

.....**RESPONDENT(S)**

I,..... of .....  
make Oath and say that on the ..... day of .....  
20..... at.....o'clock, I served upon .....  
..... a Notice of Appeal/Hearing Notice/Motion on  
Notice.....  
.....a true copy  
whereof is hereunto Annexed issued out of this Court at .....  
..... upon the complaint of  
.....  
by delivering the same personally to ..... at  
..... before the day I served the Notice of  
Appeal/Hearing Notice/Motion on Notice, I did not know.....  
.....personally but after he was pointed out to  
me by ..... I asked him if he were .....  
..... and he said that he was.



## **ORIGINAL JURISDICTION**

### **ARRANGEMENT OF ORDERS - PART II**

- Order 14. Application and Interpretation of Terms
- Order 15. Place of Instituting and Trial of Suits
- Order 16. Form and Commencement of Action
- Order 17. Endorsement of Claim and Address
- Order 18. Effect of Non-Compliance
- Order 19. Issue of Originating Process
- Order 20. Service of Originating Process
- Order 21. Consolidation
- Order 22. Appearance
- Order 23. Default of Appearance
- Order 24. Parties Generally
- Order 25. Joinder of Causes of Action
- Order 26. Pleadings
- Order 27. Statement of Claim
- Order 28. Defence and Counter-claim
- Order 29. Reply
- Order 30. Admissions

- Order 31. Default of Pleadings
- Order 32. Discontinuance
- Order 33. Amendment
- Order 34. Cause - List
- Order 35. Proceeding at Trial
- Order 36. Filing of Written Address
- Order 37. Evidence Generally
- Order 38. Affidavits
- Order 39. Non-suit
- Order 40. Judgment, Entry of Judgment
- Order 41. Drawing up of Orders
- Order 42. Interlocutory Orders E.T.C.
- Order 43. Motion and Other Applications
- Order 44. Application for Judicial Review
- Order 45. Computation of Time
- Order 46. Miscellaneous Provisions
- Order 47. Change of Legal Practitioner
- Order 48. Costs
- Order 49. Stay of Execution Pending Appeal

## ORDER 14

### APPLICATION AND INTERPRETATION OF TERMS

- Application**
1. (1) These Rules shall apply to all Civil proceedings in matters in which the Customary Court of Appeal, Federal Capital Territory, Abuja has been conferred with original jurisdiction.
  - (2) Application of these Rules shall be directed towards the attainment of a just, efficient, effective and speedy dispensation of justice in the Customary Court of Appeal, Federal Capital Territory, Abuja.

- Interpretation of Terms**
2. (1) The Rules shall be interpreted in accordance with the Interpretation Act, Cap 123, Laws of the Federation of Nigeria or any re-enactment thereof.

- Sworn Affidavit**
- (2) Where in these Rules, depositions and affidavits are required to be made, if the deponent does not understand English Language, such deposition or affidavit shall be made in a language he or she understands and shall be accompanied by an interpretation (translation) 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:

***“Plaintiff”*** shall include a plaintiff in a counter - Claim;

***“Court”*** means the Customary Court of Appeal, Federal Capital Territory, Abuja;

***“Court Process”*** or ***“Process”*** include writ of summons, originating process, notices, petitions, pleadings, orders, motions, summons and all documents or written communication of which service is required.

**“Decision”** means any decision of a Court and includes judgment, ruling, decree, order or recommendation;

**“Defendant”** shall include a defendant to a counter claim;

**“Law”** means the Customary Court of Appeal of the Federal Capital Territory , Abuja (Jurisdiction On Chieftaincy Matters) Act 2011 or any re-enactment thereof.

**“Originating Process”** means any court process by which a suit is initiated; it includes writ of summons, originating summons...e.t.c.

**“President”** means the President of the Customary Court of Appeal, FCT, Abuja

**“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 Customary Court of Appeal, FCT, Abuja.

**“Bailiff”** includes a process server

## ORDER 15

### PLACE OF INSTITUTING AND TRIAL OF SUITS

- Place of Trial of Matter**
1. Subject to the provisions of the law, all civil suits on or relating to Chieftaincy or other matters shall be commenced and determined in the Customary Court of Appeal, FCT, Abuja.



## ORDER 16

### FORM AND COMMENCEMENT OF ACTION

***Proceedings  
Which Must Be  
Begun By Writ***

1. Subject to the provisions of these rules or any applicable law requiring any proceedings to be begun otherwise than by writ, a writ of summons shall be the form of commencing all proceedings:-
  - a. Where a plaintiff claims any right, relief, remedy or interest in a Chieftaincy stool, or other wrongs or declaration on any Chieftaincy stool or matters in the Federal Capital Territory; and
  - b. Where an interested person claims any right, relief or remedy for any civil wrong, or declaration in relation to Chieftaincy stool or other matters.

***Mode of  
Summons***

2. All civil proceedings commenced by way of Writ of Summons shall be accompanied by Statement of claim.

***Form of Writ  
Forms 1 and 2***

3. Except in the cases in which any different forms other than Civil Forms 1 and 2 are provided in these Rules, the writ of Summons shall be in the forms with such modifications or variations as circumstances may require as in Forms 1 and 2 in Appendix A.

***Action Begun by  
Originating  
Summons***

4. Any person claiming to be interested, under a deed, Originating enactment or other written instrument, may apply by Summons 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.

***Construction of  
Enactment***

5. Any person claiming any legal or equitable right in a Enactment 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.

**Discretion of the Court**

6. The court shall not be bound to determine any such the Court question of construction if in its opinion it ought not to be determined by originating summons but may make any such orders as it deems fit.

**Forms of Originating Summons. Civil Forms 3, 4 and 5**

7. (1) An originating summons shall be as in Forms 3, 4 or 5 to these rules, with such variations as circumstances Summons. Civil may require. It shall be prepared by the applicant or his Forms 3, 4 and 5 Legal Practitioner, and shall be sealed and filed in the Registry and accompanied by;
- (i) an affidavit setting out the facts relied upon;
  - (ii) the exhibits to be relied upon; and
  - (iii) a written address in support of the application.
- (2) The person filing the originating summons shall leave at the Registry, sufficient number of copies thereof together with the documents in sub-rule (1) above for service on the respondent(s).

**Service Outside FCT**

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

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

**Originating Process to Be Tested By Its Date.**

9. (1) The Registrar shall indicate the date and time of presentation for filing on every originating process presented to him and shall arrange for service hereof to be effected.

- (2) An originating process shall not be altered after it is sealed except upon application to the court.

## ORDER 17

### ENDORSEMENT OF CLAIM AND ADDRESS

- Endorsement** 1. Every originating process shall contain the claim, the relief or remedy sought and the full names and address of the plaintiff.
- Endorsement of Address by Plaintiff or by Legal Practitioner** 2. (1) A plaintiff suing in person shall state on the originating process his residential or business address as his address for service. If he lives and carries on business outside the jurisdiction, he shall state an address within the jurisdiction as his address for service.
- (2) Where a plaintiff sues through a Legal Practitioner, the Legal Practitioner shall state on the originating process, his chamber's address as the address for service. If the Legal Practitioner is based outside the jurisdiction, he shall state a chamber's address within the jurisdiction as his address for service.
- Endorsement of Address** 3. Where an originating process is to be served on a defendant outside the jurisdiction, the process shall state the address required in Rule 2.
- Originating Process without Address, Fictitious Address** 4. If the originating process does not state an address, it shall not be accepted and if any such address is illusory, fictitious or misleading, the process may be set aside by the court on the application of the defendant.

## ORDER 18

### EFFECT OF NON-COMPLIANCE

***Non-Compliance  
With Rules***

1. (1) Where in beginning or purporting to begin any proceeding, there has by reason of anything done or left undone, been a failure to comply with the requirements of these rules, the failure shall nullify the proceedings.
- (2) Where at any stage in the course of or in connection with any proceedings there has by reason of anything done or left undone been a failure to comply with the requirements as to time, place, manner, or form, the failure shall be treated as an irregularity and may not nullify such steps taken in the proceedings. The court may give any direction as it thinks fit to regularize such steps.
- (3) The court shall not wholly set aside any proceedings or the writ or other originating process by which they were begun on the ground that the proceedings were required by any of these rules to be begun by an originating process other than the one employed.

***Application to  
Set Aside For  
Irregularity***

2. (1) An application to set aside for irregularity any step taken in the course of any proceedings may be allowed where it is made within a reasonable time and before the party applying has taken any fresh step after becoming aware of the irregularity.
- (2) An application under this rule may be made by summons or motion and the grounds of objection shall be stated in the summons or notice of motion.

## ORDER 19

### ISSUE OF ORIGINATING PROCESS

- Preparing  
Originating  
Process*
1. Originating process shall be prepared by a plaintiff or his legal practitioner, and shall be clearly printed on opaque A4 paper of good quality.
- Sealing of  
Originating  
Process*
2. (1) The Registrar shall seal every originating process whereupon it shall be deemed to be issued.
- (2) A Plaintiff or his Legal Practitioner shall, on presenting any originating process for sealing, leave with the Registrar as many copies of the process as there are defendants to be served and one copy for endorsement of service on each Defendant.
- (3) Each copy shall be signed by the Legal Practitioner or by a Plaintiff where he sues in person and shall be certified after verification by the Registrar as being a true copy of the original process filed.
- What is to Be  
Done After  
Sealing*
3. 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 plaintiff or his legal practitioner for service on the defendants. The Registrar shall then make an entry of the filing in the cause book and identify the action with a suit number that may comprise abbreviation of the court, a chronological number and the year of filing.
- Copies to Be  
Served*
4. 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.
- Renewal of  
Originating  
Process Civil  
Form 5*
5. (1) The life span of every originating process shall be 6 months.
- (2) If the court is satisfied that it has proved impossible to serve an originating process on any defendant

within its life span and a plaintiff applies before its expiration for renewal of the process, the court may renew the original or concurrent process for 3 months from the date of such renewal. A renewed originating process shall be in form 5 with such modifications or variations as circumstances may require.

**Endorsement of  
Renewal**

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

**Loss of  
Originating  
Process**

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

## **ORDER 20**

### **SERVICE OF ORIGINATING PROCESS**

**By Whom  
Service Is to  
Be Effected**

1. (1) Service of originating process shall be made by a bailiff, or other officers of the court appointed for that purpose. The President may also appoint and require any law chambers, courier company or any other person to serve court processes and such person shall be called process server.  
(2) Where a party is represented by a Legal Practitioner, service of court process of which personal service is not required may be made on such Legal Practitioner or on a person under his control.

**Service of  
Originating  
Process etc How  
Effected**

2. The process server shall serve an originating process by delivering to the party to be served a copy of the process duly certified as prescribed by Order 17 rule 2.

**When Originating  
Process Need Not  
Be Served  
Personally**

3. 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.

**Mode of  
Service When Not  
Personal**

4. All processes in respect of which personal service is not expressly required by these rules or any applicable law shall Not Personal be sufficiently served if left with an adult person resident or employed at the address for service given under Order 15 rule 2.

**Substituted  
Service**

5. (1) Where it appears to the Court (either after or without an attempt at personal service) that for any reason, personal service cannot be conveniently effected, the Court may order that service be effected either by:-

- i. delivery of the document to some adult inmate at the usual or last known place of abode or business of the person to be served; or
- ii. delivery of the document to some person being an agent of the person to be served, or to some other person, on it being proved that there is reasonable probability that the document would in the ordinary course, through that agent or other person, come to the knowledge of the person to be served; or
- iii. advertisement in the Federal Gazette, or in some newspapers circulating within the jurisdiction; or
- iv. notice put up at the principal Court house of, or a place of public resort in the Judicial Division where the respective proceeding is instituted or

at the usual or last known place of abode or of business, of the person to be served; or

- v. courier service or any other means convenient to the court; or
- vi. by Electronic means as would in the circumstances, serve the cause of justice; or
- vii. in such other manner as the Court may direct, and upon compliance with such order, such service shall be deemed to be good and sufficient service of the said document upon the person served.

(2) An application to the court for an order of substituted service or other service shall be supported by an affidavit, setting the grounds on which the application is made.

**Where Violence  
Threatened**

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

**Proof of  
Service  
Generally.**

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

(2) Affidavit of service shall be prima facie proof of service.

**Expenses of  
Service**

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

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



**Time of Service  
On Certain Days**

8. (1) Service of originating and other process, pleadings, notice, summons, orders, and documents whatsoever shall be effected between the hours of six in the morning and six in the evening.
- (2) Save in exceptional circumstances and as may be authorized by the court, service shall not be effected on a Sunday or on a public holiday.

*Provided* that where on the Order of the Court, service is effected in the evening after 6:00pm, such service shall be deemed to have been effected on the following working day.

**ORDER 21  
CONSOLIDATION**

**Consolidation**

1. The court may on application consolidate several actions pending before it where it appears that the issues are the same in all the actions, and can therefore be properly tried and determined at the same time.
2. Where actions are pending before different panels, a party desiring consolidation shall first apply to the President for transfer of the matter to a panel before whom one or more of the matters is pending.
3. An order to consolidate may be made where two or more actions are pending between the same plaintiff and the same defendant or between the same plaintiff and different defendants or between different plaintiff and the same defendant or between different plaintiffs and different defendants.

*Provided* that where the same plaintiff brings actions against different defendants, they will not be consolidated

without the consent of all parties unless the issues to be tried are identical.

- 4 Where an order for consolidation has been made, it shall be drawn up at the expense of the party or parties who applied for consolidation and shall be recorded in the Cause Book.

## ORDER 22

### APPEARANCE

*Mode of Entry of  
Appearance Civil  
Form 8*

1. (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 8 with such modifications or variations as circumstances may require.
- (2) On receipt of the memorandum of appearance, the Registrar shall make entry thereof and stamp the copy with the seal showing the date he received it and deliver one sealed copy to the plaintiff or his legal practitioner as the case may be.

*Defendant  
Appearing in  
Person or  
Represented  
By Legal  
Practitioner*

2. (1) A defendant appearing in person shall state in the memorandum of appearance, an address for service within the FCT.
- (2) Where a defendant appear by a Legal Practitioner, the Legal Practitioner shall state in the memorandum of appearance his place of business and an address for service within the FCT and where any such Legal Practitioner is only the agent of another Legal Practitioner, he shall also insert the name and place of business of the Principal Legal Practitioner.

*Fictitious  
Address*

3. The Registrar shall not accept any memorandum of appearance which does not contain an address for service.

If any such address is illusory, fictitious or misleading, the appearance may be set aside by the court on the application of a plaintiff.

- Defendants Appearing by Same Legal Practitioner* 4. If two or more Defendants in the same action appear through the same Legal Practitioner, the memorandum of appearance shall include the names of all defendants so appearing.
- Late Appearance* 5. A Defendant may appear at any time before judgment. If the defendant appears late but within the time prescribed for filing his defense, he shall file his defense within that time.

### ORDER 23

#### DEFAULT OF APPEARANCE

- Default of Appearance Generally* 1. Where any defendant fails to appear, a plaintiff may proceed upon default of appearance under the appropriate provisions of these rules upon proof of service of the originating process.
- Setting Aside Judgment* 2. Where judgment is entered pursuant to any of the preceding rules of this Order, the court may set aside or vary such judgment on such terms upon an application by the defendant. The application shall be made within a reasonable time, showing a good defense to the claim and a just cause for the default.
- Compulsory Service* 3. Notice of any application under this Order shall be served on the other party.



## ORDER 24

### PARTIES GENERALLY

- Person Claiming Jointly or Severally*

1. All persons may be joined in one action as plaintiffs in whom any right to relief is alleged to exist whether jointly or severally and judgment may be given for such plaintiff(s) as may be found to be entitled to relief and for such relief as he or they may be entitled to, without any amendment.
- Action In Name of Wrong Plaintiff*

2. Where an action has been commenced in the name of the wrong person as plaintiff or where it is doubtful whether it has been commenced in the name of the right plaintiff, the court may order the substitution or addition of any other person as plaintiff on such terms as may be just.
- Misjoinder and Counter-Claim*

3. Where in commencing an action any person has been wrongly or improperly included as a plaintiff and a defendant has set up a counter claim or set off, such defendant may establish his set-off or counter-claim as against the parties other than a plaintiff so included, notwithstanding the inclusion of such plaintiff or any proceeding based thereon.
- Any Persons May Be Joined As Defendant*

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

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

***Defendant  
Need Not Be  
Interested In  
All the Reliefs  
Sought***

6. (1) It shall not be necessary that every defendant shall be interested as to all the reliefs prayed for, or as to every cause of action included in any proceeding against him.
- (2) The Court upon considering the defense filed by any defendant may on application by that defendant make such order as may appear just to prevent him from being embarrassed or put to expense by being required to attend any proceedings in which he may have no interest.

***Joinder of Persons  
Severally or  
Severally Liable***

7. A plaintiff may at his option join as parties to the same action all or any of the persons severally, or jointly against whom the right to any relief is alleged to exist.

***Plaintiff in  
Doubt As to  
Person From  
Whom Redress  
is to Be Sought***

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

***Numerous  
Persons***

9. (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, the court may allow one or more of such persons to defend the action on behalf or for the benefit of all persons so interested.
- (3) Where a sole plaintiff or sole surviving plaintiff dies, the court may, on an application of the legal representative of the deceased sole plaintiff, enter the name of that legal representative in the place of

the Plaintiff in the suit, and the suit shall then proceed.

- (4) 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.

*Proceedings  
Not Defeated  
By Misjoinder  
Or Nonjoinder*

10. (1) No proceedings shall be defeated by reason of misjoinder or nonjoinder of parties, and the court may deal with the matter in controversy so far as regards the rights and interest of the parties actually before him.
- (2) The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the names of any parties improperly joined be struck out.
- (3) The court may order that the names of any party who ought to have been joined or whose presence before the court is necessary to effectually and completely adjudicate upon and settle the questions involved in the proceedings be added.
- (4) Every party whose name is added as defendant shall be served with the originating processes or notice in the manner prescribed in these rules or in such manner as may be prescribed by the court and the proceedings against such person shall be deemed to have begun on the service of such originating processes or notice.

*Application to  
Add or Strike  
Out.*

11. (1) Any application to add or strike out or substitute or vary the name of a plaintiff or defendant may be made to the Court by motion on notice.

- (2) Where the application is to add or substitute a plaintiff or a Defendant, the application shall be accompanied by the Statement of Claim or defense as the case may be.

***Where  
Defendant Is  
Added.***

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

***Third Parties  
May Be Joined  
By Any of The  
Parties***

13. (1) Where it appears to the court that any person not a party in proceedings may bear eventual liability either in whole or in part, the court may upon an ex-parte application allow that person to be joined as a Third Party by any of the defendants. The application shall state the grounds for the applicant's belief that such Third Party may bear eventual liability.  
(2) The order and existing processes shall be served on the Third Party within the time prescribed for delivering the defense.

***Appearance By  
Third Party***

14. Where a party is joined to any proceeding as a Third Party, he may after service, enter appearance within 7 days or within 21 days if he resides or carries on business outside jurisdiction or within such further time as the court may order.

***Default By  
Third Party***

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

***Subsequent  
Third Party***

16. A party joined as a Third Party in any proceedings may join any other party in the same manner as he was joined

and the expression "Third Party" shall apply to and include every person so joined

*Acts May Be  
Done by Legal  
Practitioner or  
Agent.*

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

## **ORDER 25**

### **JOINDER OF CAUSES OF ACTION**

*All Causes of  
Action May Be  
Joined*

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

*Claims By Joint  
Plaintiffs*

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

## **ORDER 26**

### **PLEADINGS**

*Filing of  
Pleadings*

1. Except the court grants leave to the contrary, a plaintiff shall serve a statement of claim along with the writ of summons on the defendant, or, where there are two or more defendants on each defendant.
2. (1) A statement of claim shall include the relief or remedy to which a plaintiff claims to be entitled.
- (2) A defendant shall file his statement of defense, set off or counter claim, if any, not later than 30 days after service on him of the plaintiff's originating



process and accompanying documents. A counterclaim shall have the same effect as a cross action, so as to enable the court pronounce a final judgment in the same proceedings.

- (3) A plaintiff shall within 14 days of service of the statement of defense and counterclaim if any, file his reply, if any to such defense or counterclaim.

*Provided* that where a defendant sets up a counterclaim, if a plaintiff or any other person named as party to such counter claim contends that the claim thereby raised ought not to be disposed of by way of counter claim but in an independent proceeding, the court may at any time order that such counter-claim be excluded.

***Pleadings to State Material Fact and Not Evidence***

3. Every pleading shall contain and contain only a statement in a summary form of the material facts on which the party pleading relies for his claim or defense, as the case may be, but not the evidence by which they are to be proved and shall when necessary be divided into paragraphs numbered consecutively. Dates, sums and numbers shall be expressed in figures and words. Pleadings shall be signed by a Legal Practitioner or by the party if he sues or defends in person.

***Particulars to be Given Where Necessary***

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

***Further and Better Statement or Particulars.***

5. An application for a further and better statement of the nature of the claim or defense, or further and better particulars of any matter stated in any pleading, notice or written proceedings requiring particulars shall be made to the court. The court may grant such application upon such terms as may be just.

- Denial** 6. (1) Every allegation of fact in any pleading if not specifically denied in the pleadings of the opposite party shall be taken to be admitted except as against a person under legal disability.
- (2) A general denial in any pleadings shall not operate as denial of any specific fact in the pleadings of the opposing party.

**Conditions Precedent** 7. Each party shall specify distinctly in his pleadings, any condition precedent, the performance or occurrence of which is intended to be contested.

- Defense, Certain Facts, Surprise, etc Specifically Pleaded.** 8. (1) All grounds of defense or reply which makes an action and counter claim not to be maintainable and or that the transaction is either void or Voidable on point of law and all such grounds of defense or reply as the case may be and if not raised will take the opposite party by surprise or will raise issues of facts not arising out of the preceding pleadings shall be specifically pleaded.
- (2) Where a party raises any ground which makes the action injusticeable, null and void by any enactment or Customary law, or by common law, he shall specifically plead same.

**Pleadings to Be Consistent** 9. No pleading except by way of amendment shall raise any new ground of claim or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same.

**Joinder of Issue** 10. A party may by his pleadings join issues upon the pleadings of the opposing party and such joinder of issues shall operate as a denial of every material allegation of fact in the pleading upon which issue is joined except any fact which the party may be willing to admit.

- Effect of Documents to Be Stated*** 11. Wherever the contents of any documents are material, it shall be sufficient in any pleading to state the effect thereof as briefly as possible, without setting out the whole or any part thereof, unless the precise words of the document or any part thereof are material.
- Notice*** 12. Wherever it is material to allege notice to any person of any fact, matter or thing, it shall be sufficient to allege such notice as a fact, unless the form or the precise terms of such notice or the circumstances from which such notice is to be inferred are material.
- Implied Contract or Relation*** 13. Wherever any relation between any persons is to be implied from a series of letters or conversations, or otherwise from a number of circumstances, it shall be sufficient to allege such relation as a fact, and to refer generally to such letters, conversations or circumstances without setting them out in detail. If in such case the person so pleading desires to rely in the alternative upon more relations than one as to be implied from such circumstances, he may state the same in the alternative.
- Presumptions of Law*** 14. A party may not allege in any pleading any custom, matter or fact the law presumes in his favour or as to which the burden of proof lies upon the other side, unless the same has first been specifically denied.
- Technical Objection*** 15. No technical objection shall be raised to any pleadings on the ground of any alleged want of form.
- Striking Out of Pleadings*** 16. The court may at any stage of the proceedings order to be struck out or amend, any matter in any endorsement or pleading which may be unnecessary or scandalous or which may tend to prejudice, embarrass or delay the fair trial of the action; and may in any such case, if the court shall deem fit, order costs of the application to be paid as between legal practitioner and client.

**Where Pleading  
Discloses No  
Reasonable  
Cause of Action**

17. (1) The court may at any stage of the proceedings order to be struck out or amended any pleading or the endorsement of any writ in the action, or anything in any pleading or in the endorsement, on the ground that:
- (i) it discloses no reasonable cause of action or defense, as the case may be; or
  - (ii) it is scandalous, frivolous or vexatious: or
  - (iii) it may prejudice, embarrass or delay the fair trial of the action: or
  - (iv) it is otherwise an abuse of the process of the court:

And may order the action to be stayed or dismissed or judgment to be entered accordingly, as the case may be.

- (2) No evidence shall be admissible on application under Sub-Rule 1 (i)
- (3) This rule shall, so far as applicable apply to an originating summons as if the summons were a pleading.
- (4) No proceedings shall be open to objection on the ground that only a declaratory judgment or order is sought thereby and the court may make a binding declaration of right whether any consequential relief is or could be claimed or not.

**Close of Pleading**

18. (1) Where a pleading subsequent to reply is not ordered, then at the expiration of 7 days from the service of the defense or reply (if a reply has been filed) pleadings shall be deemed closed.
- (2) Where a pleading subsequent to reply is ordered and the party who has been ordered or given leave to file the same fails to do so within the period limited for that purpose, then at the expiration of the period so limited, the pleadings shall be deemed closed.

**Provided** that this rule shall not apply to a defense to counterclaim and unless the plaintiff files a defense to counterclaim, the statements of fact contained in such counterclaim shall at the expiration of 14 days from the service thereof or of such time (if any) as may by order be allowed for filing of a defense thereto be deemed to be admitted, but the court may at any subsequent time give leave to the plaintiff to file a defense to counterclaim.

## **ORDER 27**

### **STATEMENT OF CLAIM**

- Statement of Claim*
1. (1) Every statement of claim, shall state specifically the relief claimed either singly or in the alternative, and it shall not be necessary to ask for general or other relief, which may be given as the court may think just as if it had been asked for.
  - (2) Where the plaintiff seeks relief in respect of several distinct claims or causes of complaint founded upon separate and distinct grounds, they shall be stated as far as may be possible, separately and distinctly. The same rule shall apply where the defendant relies upon several distinct grounds of defense, set-off or counterclaim founded upon separate and distinct facts.
- Claim Beyond Endorsement*
2. Whenever a statement of claim is filed, the plaintiff may alter, modify or extend his claim without any amendment of the endorsement of the writ;
- Provided** that the plaintiff may not completely change his cause of action endorsed on the writ without amending the writ.

## ORDER 28

### DEFENCE AND COUNTER-CLAIM

- Statement of Defense*

1. The statement of defense shall be a statement in summary form and may be supported by copies of documentary evidence.
- Evasive denial*

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

3. If either party wishes to deny the right of any other party to claim as representative or other alleged capacity, he shall deny the same specifically.
- Pleading to Damages*

4. No denial or defense shall be necessary as to damages claimed or their amount; they are deemed to be in issue in all cases, unless expressly admitted.
- Set-Off and Counter-Claim*

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

6. Where a defendant by his defense sets up any counter-claim which raises questions between himself and plaintiff along with any other persons, he shall add to the title of his defense a further title similar to the title in a statement of claim, setting forth the names of all persons who, if such counterclaim were to be enforced by cross action, would be defendants to such cross action.
- Claim Against Persons Not Party.*  
*Civil Form 6*

7. Where any such person as in Rule 6 of this order is not a party to the action, he shall be summoned to appear by being served with a copy of the defense and counterclaim, and such service shall be regulated by the

same rules as those governing the service of the originating process, and every defense and counter claim so served shall be endorsed in Form 7 with such modification or variation as circumstances may require.

***Appearance By  
Added Parties***

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

***Reply to  
Counter-Claim***

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

***Grounds of  
Defense After  
Action Brought***

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

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

***Further Defense  
or Reply***

11. Where any ground of defense arises after the defendant has delivered a defense, or after the time limited for his doing so has expired, the defendant may, and where any ground of defense to any set-off or counterclaim arises after reply, or after the time limited for delivery of a reply has expired, the plaintiff may, within 8 days after such

ground of defense has arisen or at any subsequent time by leave of the court, deliver a further defense or further reply, as the case may be setting forth the same.

*Concession to  
Defense. Civil  
Form 7*

12. Whenever any defendant in his defense or in any further defense pursuant to Rule 11 of this order alleges any ground of defense which has arisen after the commencement of the action, the plaintiff may concede to such defense (which concession may be in Form 7 with such modification as circumstances may require) and may thereupon obtain judgment up to the time of the pleading of such defense, unless the court either before or after the delivery of such concession otherwise orders.

*Defense to  
Originating  
Summons*

13. 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 29**

### **REPLY**

*Filing of Reply*

1. Where the plaintiff desires to make a reply, he shall file it within 14 days from the service of the defense.

*Reply to  
Counter-Claim*

2. Where a counter claim is pleaded, a reply thereto is called a defense to counterclaim and shall be subject to the rules applicable to defenses.

## **ORDER 30**

### **ADMISSIONS**

*Notice of  
Admission of  
Facts*

1. Any party to a proceeding may give notice by his pleading or otherwise in writing, that he admits the truth



of the whole or of facts or any part of the case of any other party.

**Notice to Admit  
Document**

2. (1) Either party may, not later than 8 days before the day for which the action has been first set down for trial, by notice in writing filed and served, require any other party to admit any document and, the party so served shall not later than 5 days after service give notice of admission or non-admission of the document, failing which he shall be deemed to have admitted it unless the court otherwise orders.
- (2) When a party decides to challenge the authenticity of any document, he shall not later than 7 days of service of that document give notice that he does not admit the document and requires it to be proved at the trial.
- (3) Where a party gives notice of non-admission and the document is proved at the trial, the cost of proving the document, which shall not be less than a sum of Two Thousand Naira, shall be paid by the party who has challenged it, unless at the trial or hearing the court shall certify that there were reasonable grounds for not admitting the authenticity of the document.

**Notice to Admit  
Facts**

3. (1) Either party may not later than 8 days before the day for which the action has been first set down for trial by notice in writing filed and served require any other party to admit any specific fact or facts mentioned in the notice, and the party so served shall not later than 5 days after service give notice of admission or non-admission of the fact or facts failing which he shall be deemed to have admitted it unless the court otherwise orders.
- (2) Any admission made pursuant to such notice shall be deemed to be made only for the purposes of that particular proceeding and not as an admission to be

used against the party or any other party than the party giving the notice.

- (3) Where there is a refusal or neglect to admit the same within 5 days after service of such notice or within such further time as may be allowed by the court, the cost of proving such fact or facts which shall not be less than a sum of Two Thousands Naira, shall be paid by the party so refusing or neglecting whatever the result of the proceedings, unless the court certified that the refusal to admit was reasonable or unless the court at any time otherwise orders or directs.

*Judgment or  
Order Upon  
Admission of  
Facts*

4. The court may, on application at any stage of the proceedings where admission of facts have been made, either on the pleadings or otherwise, make such orders or give such judgment as upon such admission a party may be entitled to, without waiting for the determination of any other question between the parties.

*Cost of Notice  
Where Documents  
Unnecessary*

5. Where a notice to admit or produce comprises documents that are not necessary, the costs occasioned thereby which shall not be less than Two Thousand Naira shall be borne by the party giving such notice.

## ORDER 31

### DEFAULT PLEADING

*Defendant(s) In  
Default*

1. Where the defendant(s) makes default in filing a defense, the plaintiff may proceed with the case and the court shall deliver its judgment on merit accordingly.

*Default of Third  
Party*

2. In any case in which issues arise in a proceeding other than between plaintiff and defendant, if any party to any such issue makes default in filing any pleading, the opposite party may proceed with the case as upon the

pleadings and the court may order judgment to be entered accordingly or may make such order as may be necessary to do justice between the parties.

***Setting Aside  
Judgment By  
Default***

3. Any judgment by default whether under this order or under any order of these rules shall be final and remain valid and may only be set aside upon application to the court on grounds of fraud, non—service or lack of jurisdiction upon such terms as the court may deem fit.

**ORDER 32**

**DISCONTINUANCE**

***Plaintiff May  
Discontinue  
Before Defense***

1. (1) The Plaintiff may at any time before receipt of the defense or after the receipt thereof, before taking any other proceeding in the action, by notice in writing duly filed and served, wholly discontinue his claim against all or any of the defendants or withdraw any part or parts of his claim. He shall thereupon pay such defendant's costs of the action, or if the action be not wholly discontinued, the costs occasioned by the matter so withdrawn.
- (2) A discontinuance or withdrawal as the case may be, shall not be a defense to any subsequent claim.
- (3) Where a defense has been filed, the plaintiff may with the leave of the court discontinue the proceedings or any part thereof on such terms and conditions as the court may order.
- (4) Where proceedings have been stayed or struck out upon a plaintiff's withdrawal or discontinuance under this order, no subsequent claim shall be filed by him on the same or substantially the same facts until the terms imposed on him by the court have been fully complied with.

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

*Withdrawal By  
Consent*

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

### ORDER 33

### AMENDMENT

*General Power  
to Amend*

1. A court may at any time and on such terms as to cost or as may be just, amend any defect or error in any proceedings and all necessary amendments shall be made for the purpose of determining the real questions or issues raised in the proceedings.

*Amendment of  
Originating  
Process and  
Pleadings*

2. The court may, at any stage of the proceedings allows a party to alter or amend his endorsement or pleadings in such manner and on terms as may be just and all such amendments shall be, as may be necessary for the purpose of determining the real questions in controversy between the parties.

*Application For  
Leave*

3. Application for leave to amend may be made by a party to the court. Such application shall be supported by an exhibit of the proposed amendment and the amendment may be allowed upon terms as to cost or as may be just.

*Failure to Amend  
After Order*

4. Where a party who has obtained an order for leave to amend does not amend accordingly within the time

limited for that purpose by the order, or if no time is thereby limited, then within 7 days from the date of the order, such order to amend shall on the expiration of 7 days become ipso facto void, unless the time is extended further by the court.

*Filing and Service of Amended Process.*

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

*Date of Order and Amendment to Be Displayed*

6. Where an endorsement or pleading is amended, the endorsement or pleading when amended shall be marked, with the date of the Order, if any, under which it is so amended and of the day on which the amendment is made in manner following:

“Amended.....day of..... pursuant to order of.....dated the..... day of .....20.....”

*Clerical Mistakes and Accidental Omissions*

7. Clerical mistakes in judgments or orders, or errors arising from any accidental slip or omission may at any time be corrected by the court on motion or summons without an appeal.

## ORDER 34

### CAUSE LIST

*List of Cause For Hearing.*

1. (1) The Registrar shall keep a list (hereinafter called the Cause List) of actions to be set down for trial accordingly.
- (2) The Registrar shall post up every Weekly Cause List of all other actions which are ready for trial or hearing.

*Pre-Trial  
and Weekly  
Cause List*

2. (1) The Registrar shall post up every Friday Weekly Cause List which shall set out the arrangement of causes before the court sitting in Court during the following week.
- (2) Nothing in this rule shall preclude the President from making special arrangements, whenever necessary or convenient, for the disposal of causes and matters included in the list.

*Public Cause List*

3. Where any Friday is a public holiday, the weekly cause lists shall be posted up on the day last preceding which is not a public holiday.

*Court Unable  
To Sit.*

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

*Notice Boards*

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

### **ORDER 35**

#### **PROCEEDING AT TRIAL**

*Non- Appearance  
of Both Parties*

1. When a cause on the Weekly Cause List has been called for hearing and neither parties appear, the Court shall, unless it sees good reason to the contrary strike out the action from the cause-list.

*Default of  
Appearance By  
Defendant at Trial.*

2. When a cause is called for hearing if the plaintiff appears and the defendant does not appear, the plaintiff may prove his claim, so far as the burden of proof lies upon him.

*Default of  
Appearance of  
Plaintiff.*

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

*Judgment By  
Default May Be  
Set Aside on  
Terms.*

4. (1) Where a cause is struck out under Rule 1 of this order either party may apply that the cause be relisted on the cause list on such terms as the court may deem fit.
- (2) Any judgment obtained where any party does not appear at the trial may be set aside by the court upon such terms as it may deem fit.
- (3) An application to re—list a cause struck out or set aside a judgment shall be made within 8 days after the order or judgment or such other larger period as the court may allow.

*Adjournment  
of Trial*

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

*Times of  
Commencement  
and Termination  
of Trial.*

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

*Order of  
Proceeding.*

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

*Burden of Proof  
By Party to Begin*

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

- Documentary Evidence** 9. Documentary evidence shall be put in and may be read or taken as read by consent.
- Additional Witness** 10. A party who desires to call additional witness shall apply to the court for leave to call such witness.
- Close of Case of Parties** 11. (1) A party shall close his case when he has concluded his evidence. Either the plaintiff or defendant may make oral application to have the case closed.  
(2) Notwithstanding the provision of sub-rule 1 above, the court may *suo-motu* where it considers that either party fails to conclude his case within a reasonable time, close the case for the party.
- Exhibits During Trial.** 12. (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 parties by whom the exhibit is put in (or where more convenient the witness by whom the exhibit is proved) and with a number, so that all the exhibits put in by a party (or proved by a witness) are numbered in one consecutive series.  
(2) The Registrar shall cause a list of all the exhibits in the action to be made.  
(3) The list of exhibits when completed shall form part of the record of the action.  
(4) For the purpose of this rule a bundle of documents may be treated and counted as one exhibit.  
(5) In this rule a witness by whom an exhibit is proved includes a witness in the course of whose evidence the exhibit is put in.
- Written Address By Parties Beginning** 13. When the party beginning has concluded his evidence, the court shall ask the other party if he intends to call evidence. If the other party does not intend to call



evidence, the party beginning shall within 21 days after close of evidence file a written address. Upon being served with the written address, the other party shall within 12 days file his own written address.

- Written Address  
By The Other  
Party.* 14. Where the other party calls evidence he shall within 21 days after the close of evidence file a written address.
- Written Address  
of Party  
Beginning.* 15. Upon being served with other party's written address the party beginning shall within 21 days file his own written address.
- Right of Reply* 16. The party who files the first address shall have a right of reply on points of law only. The reply shall be filed within 7 days after service of the other party's address.
- Custody of  
Exhibit After  
Trial* 17. (1) An exhibit shall not be released after the trial to the party who has put it in unless the period during which notice of appeal may be given has elapsed without such notice having been given, and then only if the trial court grants leave to release such exhibit on being satisfied:
- (i) that the exhibit will be kept duly marked and labeled and will be produced, if required, at the hearing of an appeal (if any such appeal is lodged); or
  - (ii) that the release of the exhibit will not in any way prejudice any other party.
- (2) After a notice of appeal has been filed, an exhibit produced at the trial shall not be released by the Court unless leave to release such exhibit is granted by the Court of Appeal.
- Office Copy of  
List of Exhibits* 18. (1) Any party may apply for and on payment of the prescribed fee obtain an office copy of the list of exhibits for the purpose of an appeal

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

**Indolent  
Prosecution**

19. The court may, *suo motu* or on application strike out any proceedings not being prosecuted diligently.

**ORDER 36**

**FILING OF WRITTEN ADDRESS**

**Application**

1. This order shall apply to all applications and final addresses.

**Content of  
Written Address**

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

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

**Summation of  
Address**

3. All written addresses shall be concluded with a numbered summary of the points raised and the party's prayer. A list of all authorities referred to shall be submitted with the address.

Where any unreported judgment is relied upon the certified true copy shall be submitted along with the written address

**Oral Argument**

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

**Copies of Written Address**

5. Each party shall file four copies of his written address in court and serve a copy thereof on every party.

**ORDER 37**

**EVIDENCE GENERALLY**

**Facts How Proved**

1. (1) Subject to these rules and to any enactment relating to evidence, any fact required to be proved at the trial of any action shall be proved by oral examination of witnesses or written deposition in open court.  
(2) All documents or other exhibits shall be tendered through witnesses.  
(3) The oral examination of a witness during his examination-in-chief shall where applicable be limited to confirming his written deposition and tendering in evidence, all disputed documents or other exhibits referred to in the depositions.

**Particular Facts**

2. (1) The court may, at or before the trial of an action, order or direct that evidence of any particular fact be given at the trial in such manner as may be specified by the order or direction.  
(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:  
(i) by statement on oath of information or belief;

- (ii) by the production of documents or entries in books;
- (iii) by copies of documents or entries in books;
- (iv) in the case of a fact which is or was a matter of common knowledge either generally or in a particular district, by the production of a specified newspaper which contains a statement of that fact.

**Limitation of Medical and Expert Evidence**

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

**Limitation on Use of Documentary Evidence**

4. Unless, at or before trial, the court for special reasons otherwise orders or directs, no document, plans, photograph or model shall be receivable in evidence at the trial of an action unless it has been pleaded by the parties.

**Office Copies Admissible in Evidence**

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

**Contempt of Court**

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

**Attendance of Witness Under Subpoena for Examination or to Produce Documents**

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

made an affidavit to be used in any proceeding in the cause or matter shall be bound on being so subpoenaed to attend before such officer or person for cross-examination.

- Practice as to Taking of Evidence at Any Stage of Cause or Matter*
8. 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.
- Special Directions as to Taking of Evidence*
9. The practice of the court with respect to evidence at a trial, when applied to evidence to be taken before an officer of the court or other person in any cause or matter after the hearing or trial, shall be subject to any special directions which may be given in any case.
- Evidence in Proceedings Subsequent to Trial*
10. 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.
- Form of Praecipe of subpoena*
11. Where it is intended to issue out a subpoena, a praecipe for that purpose containing the name or firm and the place of business or residence of the legal practitioner intending to issue out the same, and where such legal practitioner is agent only, then also the name or firm and place of business or residence of the principal Legal Practitioner, shall in all cases be delivered and filed at the registry. No subpoena shall be issued unless all court fees have been paid (including fee for service) and unless sufficient conduct money on the prescribed scale is deposited to cover the first day's attendance.
- Form of Subpoena Civil Forms 9 and 10*
12. A subpoena shall be in one of Forms 9 or 10 with such variations as circumstances may require.
- Subpoena for Attendance of Witness*
13. Where a subpoena is required for the attendance of a witness for the purpose of proceedings in the court, such

subpoena shall issue from the registry upon the court's directive.

- Correction of Errors in Subpoena** 14. In the interval between the issue and service of any subpoena, the Legal Practitioner issuing it may correct any error in the names of parties or witnesses, and may have the writ rescaled upon leaving a corrected praecipe of the subpoena marked with the words "altered and rescaled", with the signature, name and address of the Legal Practitioner.
- Personal Service of Subpoena** 15. A subpoena shall be served personally unless substituted service has been ordered by the court in a case where a person persistently evades service. The provisions of order 18 shall so far as possible apply to service and proof of service of a subpoena.
- Duration of Subpoena** 16. Any subpoena shall remain in force from the date of issue until the trial of the action or matter in which it is issued.

### ORDER 38

### AFFIDAVITS

- Evidence on Motion etc** 1. Upon any motion, summons or other application, evidence may be given by affidavit, but the court may, *suo motu* or on application, order the attendance for cross-examination of the deponent and where, after such an order has been made the person in question does not attend, his affidavit shall not be used as evidence save by special leave.
- Title of Affidavit** 2. Every affidavit shall bear the title in the cause or matter in which it is sworn but every case in which there is more than one plaintiff or defendant, it shall be sufficient to state the full name of the first plaintiff or defendant

respectively, and that there are other plaintiffs or defendants, as the case may be.

*Use of Defective  
Affidavit*

3. The court may receive any affidavit sworn for the purpose of being used in any cause or matter, notwithstanding any defect by misdescription of parties or otherwise in the title or jurat or any other irregularity in the form thereof, and may direct a memorandum to be made on the document that it has been so received.

*Special Time for  
Filing Affidavit*

4. Where a special time is limited for filing affidavits, no affidavit filed after that time shall be used, unless by leave of court.

*Affidavits in  
Support of Ex  
Parte Application*

5. Except by leave of the court, no order made ex-parte in court founded on any affidavit shall be of any force unless the affidavit on which the application was based was made before the order was applied for, and produced or filed at the time of making the application.

*Notice of  
Intention to Use  
Affidavit*

6. The party intending to use any affidavit in support of any application made by him shall give notice to the other parties concerned.

*Certificate of  
Exhibits*

7. Every certificate on an exhibit referred to in an affidavit signed by the Commissioner for Oaths before whom the affidavit is sworn shall be marked with the short title of the cause or matter.

*Application of  
Evidence Act  
LFN Cap 112*

8. The provisions of sections 79 to 90 of the Evidence Act which set out provisions governing affidavits shall be applicable under these rules.

## ORDER 39

### NON-SUIT

- Power of Court  
to Non – Suit**
1. Where satisfactory evidence is not given entitling the plaintiff or defendant to the judgment of the court, the court may *suo motu* or on application, non-suit the plaintiff, but the parties Legal Practitioners shall have the right to make submissions about the propriety or otherwise of making such order.

## ORDER 40

### JUDGMENT, ENTRY OF JUDGMENT

- Delivery of  
Judgment at or  
After Trial**
1. The court shall, at or after trial, deliver judgment in open court, and shall direct judgment to be entered.
- Date of Judgment  
Directed to be  
Entered**
2. When any judgment is directed to be entered by an order made on application for judgment, the judgment shall, unless the court otherwise orders, be dated as of the day on which the order is made and take effect from that date.  
  
*Provided that* the order may direct that the judgment shall not be entered until a give date, in which case it shall take effect from that date.
- Judge May Direct  
Time For Payment  
or Performance  
and Interest**
3. The court at the time of making any judgment or order or at any time afterwards may direct the time within which the act is to be done, reckoned from the date of the judgment or order, or from some other point of time as the court deems fit.
- Time to Be Stated  
For Doing Any Act:  
Memorandum to  
be Indorsed**
4. Every judgment or order made in any cause or matter requiring any person to do an act shall state the time or the time after service of the judgment or order, within which the act is to be done; there shall be endorsed on the judgment or order a memorandum by the registrar in the following words, viz:

“If you, the within-named A, B., neglect to obey this judgment (or order) by the time therein limited, you will



be liable to process of execution for the purpose of compelling you to obey the said judgment (or order)", and same shall be served upon the person required to obey the judgment or order.

***Judgment by  
Consent Where  
Defendant  
Appears By Legal  
Practitioner***

5. In any cause or matter where the defendant has appeared by Legal Practitioner, no order for entering judgment shall be made by consent unless the consent of the defendant is given by his Legal Practitioner or agent.

***Judgment By  
Consent Where  
Defendant Has No  
Legal Practitioner***

6. Where the defendant has no Legal Practitioner such order shall not be made unless the defendant gives his consent in person in open court.

## **ORDER 41**

### **DRAWING UP OF ORDERS**

***Date of Order,  
When Drawn***

1. Every order shall bear the date on which it was made, unless the court otherwise directs and shall take effect accordingly.

***What Orders  
Need Not Be  
Drawn Up***

2. Where an order has been made not embodying any special terms: nor including any special directions, but simply enlarging time for taking any proceeding or doing any act or giving leave:-
- (a) For the issue of any writ other than a writ of attachment;
  - (b) For the amendment of any writ or pleading
  - (c) For the filing of any documents; 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 court otherwise directs; but the production of a note or memorandum of such order signed by the court

shall be sufficient authority for such enlargement of time, issue, amendment, filing or other act.

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

*Form of Order*

3. An order shall be sealed with the official seal of the Court.

## **ORDER 42**

### **INTERLOCUTORY ORDERS, ETC**

*Preservation or  
Interim Custody of  
Subject Matter  
of Disputed  
Matter or Causes*

1. (1) The court may upon the application of a party make an order for the preservation of the subject matter of the litigation.  
(2) An application for an order under Rule 1 sub rule (1) of this order may be made at any time after his right thereto appears from the pleadings.

*Early Trial of  
Cause*

2. Whenever an application shall be made before trial for an injunction or other order and on the opening of such application, or at any time during the hearing thereof, it shall appear to the court that the matter in controversy in the cause or matter is one which can be most conveniently dealt with by an early trial, without first going into the whole merits on affidavits or other evidence for the purposes of the application, it shall be lawful for the court to make an order for such trial accordingly and in the meantime to make such order as the justice of the case may require.

*Injunction  
Against Repetition  
of Wrongful Act  
for Breach of  
Contract*

3. In any action or matter in which an injunction has been or might have been claimed, the plaintiff may, before or after judgment, apply for an injunction to restrain the defendant or respondent from the repetition or continuance of the wrongful act or breach of contract

complained of and the court may grant the injunction either upon or without terms as may be just.

## ORDER 43

### MOTION AND OTHER APPLICATIONS

**Application By  
Motion**

1. (1) Where by these rules any application is authorized to be made to the court, such application shall be made by motion supported by affidavit and shall state under what rule of court or law the application is brought.
- (2) Every such application shall be accompanied by a written address in support of the relief sought.
- (3) Where the other party intends to oppose the application, he shall file his counter affidavit and his written address within 48 hours before the date of hearing.
- (4) The applicant may on being served with the counter affidavit and written address of the opposing party, file and serve further affidavit and an address in reply on point of law.

**When Notice of  
Motion Should Be  
Given**

2. (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 7 days.
- (4) The court may upon application extend the effective period of an order made ex—parte if it is satisfied that the motion on notice have been served

and that such extension is necessary in the interest of justice or to prevent an irreparable or serious mischief. The application for such an extension shall be made before abatement of the order and the extension shall not be for a period exceeding 7 days from the day the extension is granted.

- Special Leave** 3. Unless the court grants special leave to the contrary, there must be at least 2 clear days between the service of all processes in respect of a motion and the day named in the notice for hearing the motion.
- Motions May Be Dismissed or Adjourned Where Necessary Notice Not Given** 4. If on the hearing of a motion or other application the court shall be of opinion that any person to whom notice has not been given ought to have had such notice, the court may either dismiss the motion or application or adjourn the hearing thereof in order that such notice may be given upon such terms, if any, as the court may deem it fit to impose.
- Adjournment of Hearing** 5. The hearing of any motion or application may from time to time be adjourned upon such terms, if any, as the court shall deem fit.
- Service of Motion With Writ** 6. A plaintiff may file any application along with an originating process and may serve both on the defendant simultaneously.

## ORDER 44

### APPLICATION FOR JUDICIAL REVIEW

- Cases Appropriate for Application for Judicial Review** 1. (1) Application for:
- (i) An order of mandamus, prohibition or certiorari; or
  - (ii) An injunction restraining a person from acting in any office in which he is not entitled to act

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

- (2) An application for a declaration or an injunction (not being an injunction in rule (1) (b) of this rule) may be made by way of an application for judicial review and the court may grant the declaration or injunction if it deems it just and convenient to grant it by way of judicial review, having regards to:
- (i) the nature of the matters in respect of which relief may be granted by way of an order of mandamus, prohibition or certiorari:
  - (ii) the nature of the persons and bodies against whom relief may be granted by way of such an order:
  - (iii) all the circumstances of the case.

***Joinder of Claims  
for Relief***

2. 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 so mentioned if it arises out of, relates to or is connected with the same matter.

***Grant of Leave to  
Apply for Judicial  
Review***

3. (1) No application for judicial review shall be made unless the leave of the court has been obtained in accordance with this rule.
- (2) An application for leave shall be made ex-parte to the court and shall be supported by:
- (i) a statement setting out the name and description of the applicant, the reliefs sought and the grounds on which they are sought;
  - (ii) an affidavit verifying the facts relied on; and
  - (iii) a written address in support of application for leave.

- (3) The court 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 it deems fit.
- (4) The court shall not grant leave unless it considers that the applicant has a sufficient interest in the matter to which the application relates.
- (5) Where leave is sought to apply for an order of certiorari to remove for the purpose of its being quashed any judgment, order, conviction or other proceedings which is subject to appeal and a time is limited for the bringing of the appeal, the court may adjourn the application for leave until the appeal is determined or the time for appealing has expired.
- (6) Where leave to apply for judicial review is granted, then:
  - (i) if the relief sought is an order of prohibition or certiorari and the court so directs, the grant shall operate as a stay of the proceedings to which the application relates until the determination of the application or until the court otherwise orders:
  - (ii) if any other relief is sought, the court may at any time grant in the proceedings such interim relief as could be granted in an action begun by writ:
  - (iii) The court may impose such terms as to cost and as to giving security as it deems fit.

***Time Within  
Which to Bring  
Application***

4. An application for judicial review shall be brought within 3 months of the date of occurrence of the subject of the application.

5. (1) When leave has been granted, the application 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 the court and the object of the application is either to compel the court or an officer of the court to do any act in relation to the proceedings, or to quash them or any order made therein, the notice or summons shall also be served on the clerk or registrar of the court and where any objection to the conduct of the court is to be made, on the court.
- (3) Unless the court granting leave has otherwise directed, there shall be at least 7 days between the service of the notice of motion or summons and the day named therein for the hearing.
- (4) A motion shall be entered for hearing within 14 days after the grant of leave.
- (5) An affidavit giving the names and addresses of and the places and dates of service on all persons who have been served with the notice of motion or summons shall be filed before the motion or summons is entered for hearing and if any person who ought to be served under this rule has not been served, the affidavit shall state that fact and the reason for it and the affidavit shall be before the court on the hearing of the motion or summons.
- (6) If on the hearing of the motion or summons the court is of opinion that any person who ought, whether under this rule or otherwise, to have been served has not been served, the court may adjourn the hearing on such terms, if any as it may direct in order that the notice or summons may be served on that person.

*Statements of Affidavits.*

6. (1) Copies of the statements in support of an application for leave under Rule 3 shall be served with the notice of motion or summons and subject to sub rule 2, no grounds shall be relied upon or any relief sought at the hearing except the grounds and relief set out in the statement.
- (2) The court may on the hearing of the motion or summons allow the applicant to amend his statement whether by specifying different or additional grounds of relief or otherwise, on such terms, if any, as it deems fit and may allow further affidavits to be used if they deal with new matters arising out of an affidavit of any other party to the application.
- (3) Where the applicant intends to ask to be allowed to amend his statement or to use further affidavits, he shall give notice of his intention and of any proposed amendment to every other party.
- (4) Each party to the application shall supply to every other party a copy of every affidavit which he proposes to use at the hearing including, in the case of the applicant, the affidavit in support of the application for leave under Rule 3.

*Claim for Damages.*

7. On an application for judicial review, the court may, subject to Rule 2, award damages to the applicant if:
- (1) he has included in the statement in support of his application for leave under Rule 3 a claim for damages arising from any matter to which the application relates; and
- (2) the court is satisfied that if the claim had been made in an action begun by the applicant at the time of making his application, he could have been awarded damages.

*Interlocutory Application.*

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



9. (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 appear to the court to be a proper person to be heard, shall be heard notwithstanding that he has not been served with notice of the motion or the summons.
- (2) Where the relief sought is or includes an order of certiorari to remove any proceedings for the purpose of quashing them, the applicant may not question the validity of any order, warrant, commitment, conviction, inquisition or record unless before the hearing of the motion or summons he has filed a copy thereof verified by affidavit or accounts for his failure to do so to the satisfaction of the court hearing the motion or summons.
- (3) Where an order of certiorari is made in any such case as is referred to in sub-rule (2), the order shall, subject to sub-rule (4), direct that the proceedings shall be quashed forthwith on their removal into Court.
- (4) Where relief sought is an order of certiorari and the Court is satisfied that there are grounds for quashing the decision to which the application relates, the Court may, in addition to quashing it, remit the matter to Court, tribunal or authority concerned with a direction to reconsider it and reach a decision in accordance with the findings of the Court.
- (5) Where the relief sought is a declaration, an injunction or damages and the Court considers that it should not be granted on an application for judicial review but might have been granted if it had been sought in an action begun by writ by the applicant at the time of making his application, the Court may, instead of refusing the application, order the

proceedings to continue as if it has been begun by writ.

- Person Acting in Obedience to an Order of Mandamus* 10. No action or proceeding shall be brought or prosecuted against any person in respect of anything done in obedience to an order of mandamus.
- Consolidation of Application* 11. Where there is more than one application pending against several persons in respect of the same matter and on the same grounds, the court may order the applications to be consolidated.

## ORDER 45

### COMPUTATION OF TIME

- Rules of Computation of Time.* 1. Where by any law or order made by the Court a time is appointed or limited for the doing of any act, the period shall be reckoned:
- (i) as excluding the day on which the order is made or on which the event occurs;
  - (ii) where the last day of the period is a holiday, the time shall continue until end of the next day following which is not a public holiday;
  - (iii) where the act is required to be done within a period which does not exceed 6 days, holidays shall be left out of account in computing the period.
- Holiday* 2. In this order, holiday means a day which is a Saturday, Sunday or a public holiday.
- Time of Service* 3. No pleading, summons, motions, orders, originating process, documents and other processes shall be served before 6.00 a.m. or after 6.00 p.m. Service effected after 6.00 p.m. shall be deemed to have been effected the following day, provided that service effected after 6pm

on Saturday shall be deemed to have been affected on the following Monday.

*Court May  
Extend Time*

4. The court may, as often as it deems fit and either extend time before or after the expiration of the time appointed by these rules or by any judgment or order of the court, extend or adjourn the time for doing any act or taking any proceedings.

## ORDER 46

### MISCELLANEOUS PROVISIONS

*Vacation*

1. An application for an urgent hearing shall be made by motion ex-parte and the decision of the Court on such an application shall be final.

*Vacation Not  
Reckoned in Time  
For Pleadings*

2. The time for filing and service of pleadings shall not run during the annual vacation unless otherwise directed by the court.

*Recovery of  
Penalties and  
Costs.*

3. 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.

*Notice*

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

*Filing*

5. A document shall not be filed unless it has endorsed on it the name and number of the cause, the date of filing and whether filed by plaintiff or defendant; and on being filed such endorsement shall be initialed by the Registrar and recorded in the Process Register.

*How Process  
Addressed*

6. All warrants and orders of whatever description shall be sufficiently addressed for execution by being directed to the Sheriff; but this provision shall not prevent any order or warrant from being addressed to a person by name or to a named and to officers of Court generally or to the Nigeria Police Force.

*Saving*

7. Where no provision is made by these rules or by any other written law, the Court shall adopt such procedure as will in its view do substantial justice between the parties concerned.

## **ORDER 47**

### **CHANGE OF LEGAL PRACTITIONER**

*Legal Practitioner  
to Conduct Cause  
Matter to Final  
Judgment.*

1. Every Legal Practitioner who shall be engaged in any cause or matter shall be bound to conduct same on behalf of the plaintiff or defendant as the case may be, by or for whom he shall have been so engaged until final judgment, unless allowed for any special reason to cease acting therein.

*Application for  
Change of Legal  
Practitioner or  
Withdrawal.*

2. An application for a change of Legal Practitioner or withdrawal may be made by the plaintiff or defendant or the Legal Practitioner as the case may be, not less than 3 clear days before the date fixed for hearing.

*Service of  
Application by  
Legal Practitioner*

3. 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 48  
COSTS



*Rules of  
Computation of  
Cost*

1. (1) In fixing the amount of costs, the principle to be observed is that the party who is in the right is to be indemnified for the expenses to which he has been necessarily put in the proceedings, as well as compensated for his time and effort in coming to court. The Court may take into account all the circumstances of the case.  
(2) When costs are ordered to be paid, the amount of such costs shall, if practicable, be summarily determined by the Court at the time of delivering the judgment or making the order.

*Security for  
Costs*

2. In any cause or matter in which security for costs is required, the security shall be of such amount and be given at such times and in such manner and form as the court shall direct.

*Bond as Security  
for Cost.*

3. Where a bond is to be given as security for costs, it shall, unless the court otherwise directs, be given to the party or person requiring the security and not to an officer of the Court.

*Costs at  
Discretion of Court*

4. Subject to the provisions of any applicable law and these Rules, the costs of and incidental to all proceedings in the Court shall be at the discretion of the Court, and the Court shall have full power to determine by whom and to what extent the costs are to be paid.

*Costs Out of  
Fund or Property*

5. The Court may order any costs to be paid out of any fund or property to which a suit or proceedings relates.

*Stay of  
Proceeding till  
paid*

6. Where the Court orders costs to be paid or security to be given for costs by any party, the Court may order all proceedings costs by or on behalf of the party in the same

suit or proceeding or connected with it, to be stayed until the costs are paid or security given accordingly, but such order shall not supersede the use of any other lawful method of enforcing payment.

**Stage of Proceedings a Which Costs to be Dealt With.**

7. (1) Costs may be dealt with by the Court at any stage of the proceedings.
- (2) Cost when ordered becomes payable forthwith and shall be paid within 7 days of the order, otherwise the defaulting party or his Legal Practitioner may be denied further audience in the proceedings.

**When Costs to Follow the Event**

8. In addition to any penalty payable for the 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 thereunder, for delivering or filing any document or doing any other act, including the costs of any Order made on the application, shall be borne by the party making the application unless the Court otherwise orders.

**Matters to be Taken into Account in Exercising Discretion**

9. The Court in exercising its discretion as to costs shall take into account any offer or contribution made by any of the parties and any payment into Court and the amount of such payment.

**Cost Arising From Misconduct or Neglect.**

10. (1) Where in any cause or matter anything is done or omission is made improperly or unnecessarily by or on behalf of a party, the Court may direct that any costs to that party in respect of it shall not be allowed to him and that any costs occasioned by it to other parties shall be paid by him to them.
- (2) Without prejudice to the generality of sub-rule 1 of this rule, the Court shall for the purpose of that sub-rule have regard in particular to the following matters, that is to say:

- (i) the omission to do anything the doing of which would have been calculated to save cost;
- (ii) the doing of anything calculated to occasion or in a manner or at a time calculated to occasion unnecessary cost;
- (iii) any unnecessary delay in the proceedings.

**Personal  
Liability of  
Legal Practitioner  
for Costs.**

11. (1) Subject to the following provisions of this rule, where in any proceedings costs are incurred improperly or without reasonable cause or are wasted by undue delay or by any misconduct or default, the Court may make against any Legal Practitioner whom it considers to be responsible, whether personally or through a servant or agent, an order:
- (i) directing the Legal Practitioner to pay to his client costs which the client has been ordered to pay to other parties to the proceedings; or
  - (ii) directing the Legal Practitioner personally to indemnify such other parties against costs payable by them.
- (2) The provisions of Rule 11 sub-rule (1) shall apply where proceedings in court cannot conveniently proceed or fails or are adjourned without useful progress being made:
- (i) because of the failure of the Legal Practitioner to attend in person or by a proper representative; or
  - (ii) because of the failure of the Legal Practitioner to deliver any document for the use of the Court which ought to have been delivered or to be prepared with any proper evidence or account or otherwise to proceed.
- (3) No order under this rule shall be made against a Legal Practitioner unless he has been

given a reasonable opportunity to appear before the Court to show cause why the order should not be made.

- (4) The Court may direct that notice of any proceedings or order against a Legal Practitioner under this rule shall be given to his client in such manner as may be specified in the direction.

## ORDER 49

### STAY OF EXECUTION PENDING APPEAL

*Stay of Execution  
Pending Appeal.*

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

*Compilation of  
Record*

2. An applicant for stay of execution of a judgment shall compile the records of appeal within 30 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.

*Court May Grant  
or Refuse Order  
for Stay*

3. (1) The court shall have power to grant or refuse application for stay of execution.  
(2) Where the Court has struck out an application for stay, no further application for stay of execution shall be made in the same matter.

*Formal Order to  
Be Drawn Up*

4. Where any application is made to the Court under this order, a formal order shall be drawn up embodying the terms of the decision of the court and bearing the date which the order is made.



APPENDIX A

CUSTOMARY COURT OF APPEAL, FCT, ABUJA  
(CIVIL PROCEDURE RULES) - 2015

FORM 1

GENERAL FORM OF WRIT OF SUMMONS  
(0.16. r.3)

In the Customary Court of Appeal,  
In the Federal Capital Territory,  
Holden At Utako District, Abuja

SUIT NO:.....

Between:

A.B ..... Plaintiff(s)

And

C.D .....Defendant(s)

To C.D. of ..... in the ..... of .....

You are hereby commanded that within **fourteen (14) 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. And take notice that in default of your so doing, the plaintiff may proceed therein, and judgment may be given in your absence.

DATE this ..... day of ..... 20.....

.....  
Registrar

Memorandum to be subscribed on the writ.

**N.B:**

This writ is to be served within three calendar months from the date thereof or if renewed, within three calendar months from the date of the last renewal, including the day of such date, and not afterwards.

### FORMS OF WRIT OF SUMMONS, e.t.c. - 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 Customary Court of Appeal, FCT Judicial Division in which the action is brought or by sending them to the Registry by registered post.

Endorsements to be made on the writ before issue thereof-

The Plaintiff's claims is for etc. (b)

.....

This writ was issued by G.H. of ..... Whose address for service is (c) ..... agent for ..... of..... Legal Practitioner for the said plaintiff who resides at (d)..... (Mention the city, town or district and also the name of the street and number of the house of the Plaintiff's residence, if any).

Endorsement to be made on copy of writ forthwith after service.

This writ was served by me at ..... on the defendant (here insert mode of service) on the ..... day of ..... 20.....

Endorsed the ..... day of ..... 20.....

.....  
(Signed)

.....  
(Address)

**FORM 2**

**WRIT FOR SERVICE OUT OF THE JURISDICTION**

**(0.16., r.3)**

**(Heading as in Form 1)**

To C.D of ..... you are hereby commanded that within ..... days (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 days of such service, you do cause an appearance to be entered for you in the ..... Judicial Division of the Customary Court of Appeal, FCT, in an action at the suit of A.B. and take notice, that in default of your so doing, the plaintiff may proceed therein, and judgment may be given in your absence.

Dated this ..... day of .....20..... by Order of the Court.

..... Registrar  
Memorandum to be subscribed on the writ

**N.B.**

This writ is to be served within three calendar months from the date thereof, or, if renewed, within three calendar months from the date of the last renewal, including the day of such date, and not afterwards.

The defendant(s) may appear hereto by entering appearance(s) 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).

Endorsement to be made on the writ before the issue thereof:

**N.B.**

This writ is to be used where the defendant(s) or one or more defendant(s) is or are out of the jurisdiction.

**FORM 3**

**GENERAL FORM OF ORIGINATING SUMMONS  
(0.16, r.7)**

(Heading as in Form 1)

(If the question to be determined arises in the administration of an estate or a trust, entitle it; In the matter of the estate or trust).

In the ..... Judicial Division  
Between:

A.B ..... Plaintiff(s)  
And

C.D. and E.F. .... Defendant(s)

Let.....of..... in  
..... within fourteen (14) days  
after service of this summons on him, inclusive of the day of such service, cause  
an appearance to be entered for him to this summons which is issued upon the  
application of ..... of ..... who  
claims to be (state the nature of the claim), for the determination of the  
following questions: (state the questions)

.....  
.....  
Dated the ..... day of ..... 20.....

This summons was taken out by ..... Legal Practitioners for  
the above-named.....

**FORM 4**

**FORM OF EX PARTE ORIGINATING SUMMONS**

(0.16, r.7)

(Heading as in Form 1)

In the matter of A. B an infant (or, as may be). Let all parties concerned attend before the Court or (Chief Registrar's Office), Customary Court of Appeal, FCT, Abuja at the time specified in the margin hereof, on the hearing of an application on the part of the above named A.B., an infant, by C.D. his next friend, that etc.

This summons was taken out by .....  
of..... agents for .....  
.....of.....  
(Legal Practitioner for the applicant).

Endorsed the.....day of ..... 20.....

.....  
(Signed)

.....  
.....  
(Address)

**FORM 5**

**FORM OF MEMORANDUM FOR RENEWED PROCESS**

(0.19, r.5)

(Heading as in Form 1)

Seal renewed Originating Process in this action indorsed as follows-

"The Originating Process renewed on the ..... day of  
..... 20 ..... for 3 months".

(Copy original Originating Process and the endorsements)

**FORM 6**

**NOTICE OF COUNTERCLAIM**

(0.28, r.5)

(Heading as in Form 1)

Between

A.B.....Plaintiff(s)

And

C.D .....Defendant(s)

To the within – named X.Y.

Take notice that if you do not appear to the counter claim of the within-named C.D., within 8 days from the service of this defense and counterclaim upon you, you will be liable to have judgment given against you in your absence.

Appearance to be entered at the .....Judicial  
Division, Customary Court of Appeal Registry, FCT, Abuja.

Dated this..... day of.....20.....

.....  
(Signed)

.....  
.....  
(Address)

**FORM 7**

**CONCESSION TO DEFENSE**

(0.28, r.12)

(Heading as in Form 1)

In the ..... Judicial Division

Between:

A.B. ....Plaintiff(s)

and

C.D., E.F. and G.H. .... Defendant(s)

The plaintiff concedes to the defense stated in paragraph ..... of the defendant's defense (or, of the defendant's further defense).

.....  
(Signed)

.....  
.....  
(Address)



**FORM 8**

**MEMORANDUM OF APPEARANCE**

(0.22, r.1)

(Heading as in Form 1)

Between;

.....Plaintiff(s)

And

.....Defendant(s)

Please enter an appearance for 1 (a) ..... sued as (b)

.....  
.....  
.....In this action.

Dated the ..... day of ..... 20 .....

Signed .....

Whose address for service is 1 (c)

.....  
.....  
.....

N.B. - Additional notes for the guidance of defendant(s) seeking to enter an appearance are given on the back. Please read carefully.

**Notes:-**

- (a) The defendant must give his or her full name.
- (b) Give name by which the defendant is described in the writ if this differs from defendant's full name otherwise delete words "such as"
- (c) A defendant appearing in person must give his residence or some other place within the Judicial Division of FCT to which communications for him should be sent. Where he appears by a Legal Practitioner, the Legal Practitioner's place of business.

- (d) Where the appearance is being entered by leave of the court, a copy of the order granting leave must accompany this form.
- (e) Where the defendant has no defense or admits the plaintiff's claim, the entry of appearance will delay Judgment and may increase the costs payable by the defendant.
- (f) Acknowledgment of service shall be as follows:-

I, ..... acknowledge that on the ..... day of ..... 20..... at (time and place) received the following documents.

- (a) .....
- (b) .....
- (c) .....

I also acknowledge that I am the person referred to in the sealed copy of the originating process.

Dated this ..... day of ..... 20 .....

.....  
(Signed)

.....  
.....  
(Address)

FOR SERVICE ON:

.....  
.....  
.....  
.....  
.....  
.....  
(Address)

**FORM 9**

**SUBPOENA AD TESTIFICANDUM**

(0.37, r. 7)

(Heading as in Form 1)

Between

.....Plaintiff(s)

And

.....Defendant(s)

To ..... of .....

You are commanded in the name of the President to attend before this Court at  
..... on ..... the  
..... day of ..... 20.....  
at ..... 0'clock in the forenoon and so from day to day till  
the above cause is tried to give evidence on behalf of the

.....  
.....

Dated this ..... day of ..... 20 .....

.....  
Registrar

**FORM 10**

**SUBPOENA DUCES TECUM**

(0.37, r. 7)

(Heading as in Form 1)

**BETWEEN**

.....Plaintiff(s)

**And**

.....Defendant(s)

To ..... of .....  
You are commanded in the name of the President to attend before the  
Court at.....on..... the  
day of..... 20 ..... at the hours of  
..... 0' clock in the forenoon and so from day of day until the above  
cause is tried to give evidence on behalf of the ..... And  
also, to bring with you and produce at the time and place  
aforesaid.....

(Specify documents to be produced).

Dated this .....day of ..... 20 .....

.....  
Registrar