



SRC PETITIONER'S CODE AS AMENDED 2023

ORDER 1

COUNTER CLAIMS

Counterclaim against plaintiff

1. (1) A defendant who alleges that he has any claim or is entitled to any relief or remedy against a plaintiff in an action in respect of any matter, whenever and however arising, may, instead of bringing a separate action, make a counterclaim in respect of that matter.
- (2) The defendant shall add the counterclaim to the defence

Defence to counterclaim

2. (1) A plaintiff on whom a defendant serves a counterclaim shall, if the plaintiff intends to defend it, file a defence to the counterclaim.
- (2) Where a plaintiff serves both a reply and a defence to counterclaim on any defendant, the plaintiff shall include them in the same document.
- (3) A defence to counterclaim shall be filed by the plaintiff before the expiration **48 hours after** the service on the plaintiff of the counterclaim to which it relates.

Application of rules of pleading

3. Without prejudice to the general application of the rules on pleadings;
 - (a) rule 1 of this Order shall apply to a counterclaim as if it were a statement of claim and the defendant making it a plaintiff; and

(b) the rules pertaining to default defence and summary judgment shall with the necessary modifications, apply to a defence to counterclaim as they apply to a defence.

Proceedings on counterclaim

4. (1) A counterclaim may be proceeded with although judgment is given for the plaintiff in the action or the action is stayed, discontinued or dismissed.

(2) Where a defendant establishes a counterclaim against the claim established by the plaintiff and there is a balance in favour of one of the parties, the Court may give judgment for the balance

Counterclaim against additional parties

5. (1) Where a defendant who makes a counterclaim against the plaintiff alleges that any other person, whether a party to the action or not, is liable to the defendant together with the plaintiff in respect of the subject-matter of the counterclaim; or claims against such other person any relief relating to or connected with the original subject-matter of the action, the defendant may join that other person as a party against whom the counterclaim is made.

(2) Where a defendant joins a person as a party against whom the defendant makes a counterclaim, the defendant shall add that person's name to the title of the action and serve that person a copy of the counterclaim.

(3) Where a copy of the counterclaim is to be served on a person who is already a party to the action, the defendant shall serve it within the period within which, under these Rules, the defendant shall serve on the plaintiff the defence to which the counterclaim is added

(4) Where a copy of the counterclaim is to be served on a person who is not already a party to the action, a copy of the writ and of the pleadings served in the action shall be served with the counterclaim.

(5) The provisions of these Rules relating to service of process, filing of appearance and default of appearance shall apply to the counterclaim and the proceedings arising from it as if

(a) the counterclaim were a writ and statement of claim and the proceedings arising from it, an action; and

(b) the party making the counterclaim were a plaintiff and the party against it is made, a defendant in that action.

(6) Removed

(7) A person on whom a copy of a counterclaim is served under subrule (2) shall, if the person is not already a party to the action, become a party to it as from the time of service, with the same

rights in respect of defence to the counterclaim and otherwise as if the person had been duly sued in the ordinary way by the person making the counterclaim.

(8) A person who is not already a party to the action shall file appearance to the counterclaim.

Joinder of causes of action

6. (1) A defendant may in one counterclaim, claim relief against the same plaintiff in respect of more than one cause of action where

(a) the plaintiff is alleged to be liable in the same capacity in respect of all the causes of action;
or

(b) **Removed**

(c) the court grants leave upon application.

(2) An application for leave under subrule (1) (c) shall be made *ex-parte* before the filing of the counterclaim and supported by affidavit which shall state the grounds of the application.

Court may order separate trials

7. (1) If claims in respect of two or more causes of action are included by a defendant in a counterclaim, and it appears to the Court that the joinder of causes of action may embarrass or delay the trial or is otherwise inconvenient, the Court may order separate trials or make such other orders as may be just.

(2) If it appears on an application of any party against whom a counterclaim is made that the subject matter of the counterclaim ought for any reason to be disposed of by a separate action, the Court may order the counterclaim to be struck out or may order it to be tried separately or make such other order as may be just

Failure to proceed after death of party

8. Where a counterclaim is made by a defendant, Order 4 rule 7 shall apply to the counterclaim as if the counterclaim were a separate action and as if the defendant making the counterclaim were the plaintiff and the person against whom it is made a defendant.

ORDER 2

DEFAULT OF DEFENCE

1. (1) Where the plaintiff makes against a defendant a claim **maintainable under any law in force in KNUST** and the defendant fails to file a defence to the claim, the plaintiff may, after the expiration of the period fixed by these Rules for filing the defence, apply to the Court for judgment.

(2) On the hearing of the application the Court shall give such judgment as the plaintiff appears entitled to by the statement of claim of the plaintiff.

(3) Where the plaintiff makes a claim to which sub rule (1) applies against more than one defendant, and one of the defendants fails to file a defence to the claim, the plaintiff may

(a) if the claim against the defendant in default is severable from the claim against the other defendants, apply under subrule (1) for judgment, and proceed with the action against the other defendants; or

(b) set down the action on a motion for judgment against the defendant in default at the time when the action is set down for trial or is set down on a motion for judgment, against the other defendants.

Default of defence to counterclaim

2. (1) A defendant who counterclaims against a plaintiff shall be treated for the purposes of this Order as if the defendant were a plaintiff who has made against a defendant the claim in the counterclaim.

(2) Where the plaintiff or any other party against whom a counterclaim is made fails to file a defence to counterclaim, this Order shall apply as if the counterclaim were a statement of claim, the defence to counterclaim a defence and the parties making the counterclaim and against whom it is made were plaintiffs and defendants respectively, and as if reference to the period fixed by these Rules for filing the defence were a reference to the period so fixed for filing of the defence to counterclaim.

Setting aside judgment

3. The Court may, on application by a party affected and, *on such terms*, as it thinks just set aside or vary any judgment entered in pursuance of this Order.

ORDER 3

SUMMARY JUDGMENT

Application for summary judgment

1. Where in an action a defendant has been served with a statement of claim and has filed appearance, the plaintiff may on notice apply to the Court for judgment against the defendant on the ground that the defendant has no defence to a claim included in the writ, or to a particular part of such a claim, or that the defendant has no defence to such a claim or part of the said claim.

Method of making application

2. (1) The notice of the application shall set out the reliefs sought by the plaintiff.
(2) The notice shall be supported by an affidavit verifying the facts on which the relevant claim or part of a claim is based, and stating that in the deponent's belief there is no defence to that claim or part of a claim.
(3) Notice of the application, a copy of the affidavit in support and of any exhibit relating to it shall be served on the defendant not less **than 48 hours** before the day named in the notice for hearing the application.

Defendant may show cause

3. (1) A defendant may show cause against the application by affidavit or otherwise to the satisfaction of the Court
(2) Where the defendant proceeds to show cause, the Court may order the defendant or in the case of an **association, any executive(s) capable of representing it to** attend and be examined on oath or to produce any document if it appears to the Court that special circumstances make this desirable.

Affidavits

4. Unless the Court otherwise directs, an affidavit filed under rule 2 or 3 may contain statements of information and belief with the sources and grounds on which they are based.

Hearing of application

5. (1) On the hearing of the application the Court may
 - (a) give such judgment for the plaintiff against the defendant on the relevant claim or part of a claim as may be just having regard to the nature of the remedy or relief sought, unless the defendant satisfies the Court, with respect to that claim or part of it, that there is an issue or question in dispute which ought to be tried or that there ought for some other reason to be a trial of that claim or part of it;
 - (b) give the defendant leave to defend the action with respect to the relevant claim or part of it either unconditionally or **on terms determined by the court**

(c) dismiss the application

(2) The Court may, subject to any conditions that the justice of the case requires, stay execution of a judgment given against a defendant under this rule until after the trial of any counterclaim raised by the defendant

Directions

6. Where leave to defend is given or execution stayed under rule 5, the Court may give such directions as to the further conduct of the action as may be given on an application for directions, and may order the action to be set down for trial forthwith or at such date as the Court considers proper.

Setting aside judgment

7. A judgment given against a defendant who does not appear at the hearing of an application under this Order may be set aside or varied by the Court on such terms as it considers just upon an application brought within **48 hours** of the service on the defendant of notice of the judgment.

Summary judgment on counterclaim

8. (1) Where in an action the plaintiff is served with a counterclaim, the defendant may at any time after service of the counterclaim on the ground that the plaintiff has no defence to a claim made in the counterclaim or to a particular part of such a claim apply to the Court for judgment against the plaintiff on that claim or part of it

2) Rules 2 to 6 and 9 shall apply to an application under this rule with the following modifications

(a) references in the Rules to the plaintiff and defendant shall be construed as references to the defendant and plaintiff respectively;

(b) the references in rules 5 and 6 to the action shall be construed as references to the counterclaim to which the application made under this rule relates; and

(c) in rule 5 (2) the words after "trial" shall be omitted.

Right to proceed with remainder of action or counterclaim

9. (1) Where on an application under rule 1 the plaintiff obtains judgment on a claim or part of a claim against any defendant, the plaintiff may proceed with the action as regards any other claim or as regards the remainder of the claim or against any other defendant.

(2) Where on an application under rule 10, a defendant obtains judgment on a claim *or part of* a claim made in a counterclaim against the plaintiff, the defendant may proceed with the counterclaim as regards any other claim *or* as regards the remainder *of* the claim against any other defendant to the counterclaim.

ORDER 4

THIRD PARTY PROCEDURE

Third party procedure

1. (1) Where in any action a defendant claims against any person not already a party to the action, in this Order called the "third party"

(a) Removed

(b) that the defendant is entitled, as against the third party, to any relief or remedy relating to or connected with the original subject matter of the action and substantially the same as the relief or remedy claimed by the plaintiff; or

(c) that any question or issue arising between the defendant and the third party relating to or connected with the subject matter is substantially the same as the question or issue arising between the plaintiff and the defendant and should be properly determined not only as between the plaintiff and the defendant but also as between the defendant and the third party or between any or either of them,

the Court may give leave to the defendant to issue and serve a third party notice.

(2) An application to issue and serve a third party notice shall be made *ex-parte*, and shall be supported by an affidavit stating

(a) the nature of the claim made by the plaintiff in the action

(b) the stage at which the proceedings have reached;

(c) the nature of the claim made by the applicant or particulars of the question or issue required to be determined;

(d) the facts on which the proposed third party notice is based; and

(e) the name and **address (to be replaced with the appropriate particulars)** of the person against whom the third party notice is to be issued.

(3) The order granting leave to issue a third party notice may contain directions as to the period within which the notice shall be issued and if no directions are given the notice shall be issued not later than **48 hours** after the date of the order granting leave.

RULE 2 should be removed. It is not important in my view.

Service of notice and filing of appearance

3. (1) A copy of the writ and of the pleadings served in the action shall be served with every third party notice.

(2) Where a third party notice is served on the third party, the third party shall as from the time of the service be a party to the action with the same rights in respect of defence against any claim made against the third party in the notice as if the third party had been duly sued by writ by the defendant by whom the notice is issued.

(3) The third party may file appearance in the action within 48 hours after service or within such further time as may be directed by the Court and specified in the notice; provided that a third party failing to appear within the specified time may apply to the Court for leave to appear and leave may be given on such terms, if any, as the Court thinks fit.

(4) Removed

(5) Where a third party notice is issued in an action the notice shall be treated as if it were a writ and the proceeding begun thereby, an action, and the defendant issuing the notice shall be treated as if he were a plaintiff and the third party a defendant in that action.

(6) The provisions of these Rules relating to service of a writ and filing of appearance shall apply to a third party notice and to proceedings begun thereby.

Third party directions

The rule shall be replaced with

4. (1) If the third party files appearance the court shall issue directions as to how the trial should proceed

Default of third party

5. (1) If a third party does not file an appearance or having been ordered to serve a defence fails to do so

(a) the third party shall be deemed to admit any claim stated in the third party notice and shall be bound by any Judgment (including judgment by consent) or decision in the action so far as it is relevant to any claim, question or issue stated in that third party notice; and

(b) the defendant who issues the third party notice, may if judgment in default is given against the defendant in the action

(i) at any time after satisfaction of that judgment; or

(ii) with leave of the Court before satisfaction of the judgment, enter judgment against the third party in respect of any contribution or identity claimed in the notice and with leave of the Court in respect of any other relief or remedy claimed in the action.

(2) If a third party or the defendant who issues a third party notice makes default in filing any pleading which the third party or the defendant is ordered to file, the Court may, on the application of the defendant or the third party, order such judgment to be entered for the applicant as the applicant is entitled to on the pleadings or make any other order as it considers necessary to do justice between the parties.

(3) The Court may at any time set aside or vary a judgment entered under sub rule (1) or (2) of this rule on such terms, if any, as it thinks fit

Setting aside third party proceedings

6. The Court may, at any stage of an action set aside proceedings on a third party notice within the action.

Third party proceedings in relation to defendant's counterclaim

7. Where in any action a counterclaim is made by a defendant, the provisions of this Order shall apply to the counterclaim as if the counterclaim were a writ and statement of claim, and as if the person making the counterclaim were the plaintiff and the person against whom it is made a defendant, provided that such a plaintiff shall not be required to file appearance.

ORDER 5

AMENDMENT

Amendment of writ without leave

1. (1) The plaintiff may, without leave of the Court, amend the plaintiff's writ once at any time before the pleadings are closed.

(2) Where a writ is amended under this rule after it has been served, the amended writ shall be served on each defendant to the action unless on an application made *ex-parte* the Court otherwise directs.

Amendment of notice of appearance

2. A defendant shall not amend the defendant's notice of appearance without leave of the Court.

Amendment of pleadings without leave

3. (1) A party may, without leave of the Court, amend any of the party's pleadings once at any time before the pleadings are closed and, where the party does so, the party shall cause the amended pleadings to be served on the parties on the other side.

(2) Where an amended statement of claim is served on a defendant

(a) the defendant, if a defence has been filed to the claim, whether amended or not, may amend the defence without leave of the Court to respond directly to the plaintiff's amendment; and

(b) the period for service of the defence or amended defence, shall be either the period fixed under these Rules for service of defence or a period of 48 hours after the amended statement of claim is served on the defendant, whichever expires later.

(3) Where an amended defence is served on the plaintiff by a defendant

(a) the plaintiff, if a reply has been filed, whether amended or not, may amend the reply without leave of the Court to respond directly to the defendant's amendment; and

(b) the period for service of the reply or amended reply shall be 48 hours after the amended defence is served on the plaintiff

(4) In sub rules (2) and (3) references to a defence and a reply include references to a counterclaim and a defence to counterclaim respectively.

(5) Where an amended counterclaim is served by a defendant on a party other than the plaintiff against whom the counterclaim is made, sub rule (2) shall apply as if the counterclaim were a statement of claim and as if the party by whom the counterclaim is made were the plaintiff and the party against whom it is made a defendant.

(6) Where a party has pleaded to a pleading which is subsequently amended, and served on the party under subrule (1), if the party does not amend the pleading under the foregoing provisions of this rule, the party shall be taken to rely on it in answer to the amended pleading.

Application to strike out amendment made without leave

4. (1) Within fourteen days after the service on a party of a pleading amended under rule 3 (1), the party may apply to the Court to strike out the amendment.

(2) Where the Court, hearing an application under this rule, is satisfied that if an application for leave to make the amendment in question had been made under rule 5 at the date when the amendment was made, leave to make the amendment or part of the amendment would have been refused, it shall order the amendment or that part to be struck out.

Sub rule 3 is removed

Amendment of writ or pleading with leave

5. (1) Subject to Order 4 rules 5 and 6 and to the following provisions of this rule, the Court may at any stage of the proceedings upon an application by the plaintiff or any other party grant leave to

(a) the plaintiff to amend the plaintiff's writ; or

(b) any party to amend the party's pleading; on such terms as may be just and, in such manner, as it may direct.

(2) Where an application to the Court for leave to make the amendment mentioned in subrule (3), (4) or (5) is made after any relevant period of limitation has expired, the Court may nevertheless grant the leave in the circumstances mentioned in that application if it considers it just to do so.

(3) An amendment to correct the name of a party may be allowed under subrule (2) notwithstanding that it is alleged that the effect of the amendment will be to substitute a new party if the Court is satisfied that the mistake sought to be corrected was a genuine mistake and was not misleading or such as to cause any reasonable doubt as to the identity of the person intending to sue or intended to be sued.

(4) An amendment to alter the capacity in which a party sues may be allowed under subrule (2) if the new capacity is one which that party had at the date of the commencement of the proceedings or has since acquired.

(5) An amendment may be allowed under sub rule (2) notwithstanding that the effect of the amendment will be to add or substitute a new cause of action if the new cause of action arises out of the same facts or substantially the same facts as a cause of action in respect of which relief has already been claimed in the action by the party applying for leave to make the amendment.

Amendment of other documents

6. (1) For the purpose of determining the real question in controversy between the parties or of correcting any defect or error in the proceedings, the Court may, at any stage of the proceedings either of its own motion or on the application of any party, order any document in the proceedings to be amended on such terms as may be just and, in such manner, as it may direct.

(2) This rule shall not apply in relation to a judgment or order

Failure to amend after order

7. Where the Court makes an order giving a party leave to amend a writ, pleading or other document, then, if that party does not amend the document in accordance with the order before the expiration of the period specified for that purpose in the order or, if no period is so specified, within 48 hours after the order is made, the order shall cease to have effect but without prejudice to the power of the Court to extend the period.

Method of amending

8. (1) Subject to subrule (2) of this rule, and to any direction given under rule 3 or 7, any amendments authorised under this Order to be made in a writ, pleading or other document may be effected by making the necessary alterations to the document by hand writing and, in the case of a writ, causing it to be re-sealed and filing a copy of it.

(2) Where the authorised amendments are so numerous or of such nature or length that to make written alterations to the document in order to give effect to them would make it difficult or inconvenient to read, a fresh document, amended as authorised, shall be prepared and, in the case of a writ, re-issued.

(3) A writ, pleading or other document which has been amended under this Order shall be indorsed with a statement that it has been amended, specifying the date on which it was amended, the name of the Judge who made the order authorising the amendment and the date of the order or, if no such order was made, the number of the rule of this Order under which the amendment was made.

Correction of clerical errors

9. Clerical mistakes in judgments or orders or errors arising therein from any accidental slip or omission, may at any time be corrected by the Court either on its own motion on notice to the parties or on an application without an appeal.

Method of applying for leave

10. (1) An application for leave to amend a writ or a pleading shall be made on notice to all the other parties to the action.

(2) The application shall specify precisely the nature of the amendment intended to be made.

(3) An affidavit may be used in an application for leave to amend under this rule.

ORDER 6

WITHDRAWAL AND DISCONTINUANCE

Withdrawal of appearance

1. A party who files an appearance in an action may withdraw the appearance at any time with leave of the Court.

Plaintiff may discontinue before defence.

2. (1) Except in the case of an interlocutory application, the plaintiff may at any time before service on the plaintiff of the defendant's defence or after the service of it and before taking other proceeding in the action, by notice in writing wholly discontinue the action against all or any of the defendants or withdraw any part of the alleged cause of action

(2) The discontinuance or withdrawal shall not be a defence to any subsequent action.

(3) Except as provided in this rule, the plaintiff shall not be entitled to withdraw the record or discontinue the action without leave of the Court, but the Court may before, during or after the hearing or trial upon such terms as may be just, order the action to be discontinued or any part of the alleged cause of action to be struck out.

Withdrawal by consent

3. An action may be withdrawn without leave of the Court at any time before trial where all the parties produce to the **Registrar** a written consent that the action be withdrawn.

ORDER 7

APPLICATIONS

Applications to be made by motion

1. (1) Every application in pending proceedings shall be made by motion.

(2) Proceedings by which an application is to be made to the Court or a Judge of the Court under any enactment shall be initiated by motion and where an enactment provides that an application shall be made by some other means, an application by motion shall be deemed to satisfy the provision of the enactment as to the making of the application.

(3) Except where these Rules otherwise provide, no motion shall be made without previous notice to the parties affected.

(4) If on hearing a motion the Court is of the opinion that any person to whom notice has not been given ought to have or to have had notice, the Court may either dismiss the motion or adjourn the hearing in order that the notice may be given upon such terms as it considers just.

Service of notice of motion

2. (1) Unless the Court gives leave to the contrary or any of these Rules otherwise provides, there shall be at least **48 hours** between the service of notice of a motion and the date named in the motion for the hearing of the motion.

(2) where leave has been given under subrule (1) to serve short notice of motion, that fact shall be stated on the notice.

(3) Notice of a motion to be made in an action may be served by the plaintiff on the defendant with the writ or at any time after service of the writ whether or not the defendant has filed appearance.

***Ex-parte* motions**

3. (1) Subject to rule 1 subrule (3), an application by motion may be made *ex-parte* where any of these Rules provides or where, having regard to the circumstances, the Court considers it proper to permit the application to be made.

(2) The Court may make an order *ex-parte* on such terms and subject to such undertaking as it considers just where it is satisfied that delay caused by proceeding in the ordinary way would or might entail irreparable damage or serious mischief.

(3) The Court shall not grant an application made *ex-parte* under subrule (2) unless the applicant shows to the satisfaction of the Court good reason for making the application *ex-parte* and the precise nature of the irreparable damage or serious mischief which will be occasioned by proceeding in the ordinary way.

(4) The Court in its discretion may refuse to hear an application *ex-parte* and may direct that notice shall be given to all the parties affected by the application.

Affidavit in support of motion

4. Every application shall be supported by affidavit deposed to by the applicant or some person duly authorised by the applicant and stating the facts on which the applicant relies, unless any of these Rules provides that an affidavit shall not be used or unless the application is grounded entirely on matters of law or procedure which shall be stated in the motion paper.

ORDER 8

AFFIDAVITS

Use of affidavits

1. An affidavit may be used wherever these Rules so provide.

Persons who may take affidavits

2. Affidavits shall be sworn before a **Judge, Magistrate, Registrar, Commissioner for Oaths, any officer empowered** by these Rules or by any other enactment to administer oaths.

Title of affidavit

3. (1) Subject to subrules (2) and (3) of this rule, an affidavit sworn in any cause or matter shall bear the title of that cause or matter.

(2) Where a cause or matter has more than one title, it is sufficient to state the title of the first matter followed by the words "and other matters".

(3) Where there is more than one plaintiff or one defendant, it is sufficient to state the full name of the first followed by the words "and others" or "and another".

Form of affidavit

4. (1) Every affidavit shall be printed, written or typed and shall be numbered consecutively.

(2) Every affidavit shall be expressed in the first person and shall state **the place of residence of the deponent and the occupation** of the deponent.

(3) Every affidavit shall be divided into paragraphs numbered consecutively, each paragraph being as far as possible confined to a distinct portion of the subject.

(4) Dates, sums and other numbers may be expressed in an affidavit in figures or in words or both.

(5) Subject to rule 6 an affidavit shall be signed by the deponent and the jurat shall be completed and signed by the person before whom it is sworn.

(6) The jurat shall state the full address of the place where the affidavit was sworn, the date when it was sworn and the name and title of the person before whom it was sworn.

Affidavit by two or more deponents

5. Where an affidavit is made by two or more deponents, the names of the persons making the affidavit shall be inserted in the jurat except that if the affidavit is sworn by both or all the deponents at one time before the same person, it is sufficient to state that it was sworn by both or all of the "above named" deponents.

Affidavit by illiterate or blind person

6. Do we have blind persons on campus

Use of defective affidavit

7. An affidavit may with leave of the Court be filed or used in evidence notwithstanding any irregularity in its form

Contents of affidavit

8. (1) An affidavit shall contain only facts that the deponent can prove, unless any provision of these Rules provides that it may contain a statement of information or belief or both.

(2) An affidavit sworn for the purpose of being used in interlocutory proceedings may contain a statement of information or belief or both with the source of the information and the grounds of the belief.

Scandalous and irrelevant matter in affidavit

9. The Court may order any matter which is scandalous, offensive, irrelevant or otherwise oppressive to be struck out of an affidavit.

Affidavit not to be sworn before lawyer of party

10. No affidavit shall be acceptable if sworn before the lawyer of the party on whose behalf the affidavit is to be used or before any agent, partner or clerk of that lawyer.

Filing of affidavit

11. Every affidavit used in any proceedings shall be filed in the manner prescribe for filing writ and shall contain the date for filing.

Document exhibited to affidavit

12. (1) Any document to be used in conjunction with an affidavit shall be exhibited and not merely annexed or attached to the affidavit.

ORDER 9

DISCOVERY AND INSPECTON OF DOCUMENTS

Mutual discovery of documents

1. (1) After the close of pleadings in an action there shall be discovery of documents in accordance with this Order.

(2) Nothing in this Order shall be taken as preventing the parties from agreeing to dispense with or limit the discovery of documents which they would otherwise be required to make to each other.

Discovery by parties without order

2. (1) Subject to this rule, a party in an action shall within 48 hours after the pleadings in the action are closed between that party and any other party, make and file for service on the other party a list of the documents which are or have been in that party's possession, custody or power relating to any matter in question between them in the action.

(2) Without prejudice to any directions given by the Court, sub rule (1) of this rule shall not apply in third party proceedings, including proceedings involving fourth or subsequent parties.

(3) On the application of any party required by this rule to make discovery of documents, the court may

(a) order that the parties or any of them shall make discovery under sub rule (1) of such documents or such matters in question, as may be specified in the order; or

(b) if satisfied that discovery is not necessary, order that there shall be no discovery of documents by any of the parties.

(4) An application for an order under sub rule (6) shall be made before the expiration of the period for discovery of documents under this rule

(5) A party entitled to discovery under this rule may, at any time before the application for direction in the action is made, serve on the party required to make the discovery a notice requiring that party to make an affidavit verifying the list that that party is required to make under sub rule (1), and the party on whom the notice is served shall within 48 hours after service of the notice, make and file an affidavit in compliance with the notice and serve a copy of the affidavit on the party by whom the notice was served.

Discovery by court order

3 (1) Subject to rule 6, any party to a cause or matter may apply at the stage of the application for directions for such discovery as is necessary and the Court may, on the application of the party, order any other party to the cause or matter to serve on the applicant a list of the documents which are in respondent's possession, custody *or* power relating to any issue in the cause or matter, and may at the same time order the respondent to file an affidavit verifying the list and serve a copy of it on the applicant

(2) Notwithstanding subrule (1) the Court may after the application for directions, upon an application by a party for reasonable cause shown, order any other party to make discovery.

(3) Notwithstanding subrules (1) and (2), an order under this rule may be limited to such documents only, or to only the issues in the cause or matter as may be specified in the order.

Persons entitled to list

4. (1) A defendant who pleads in an action is entitled to have a copy of any list of documents served by any other defendant on the plaintiff under rule 2 or 3; and a plaintiff against whom a counterclaim is made in an action is entitled to have a copy of any list of documents served by any other defendant to the counterclaim on the party making the counterclaim under rule 2 or 3.

(2) A party required by subrule (1) to supply a copy of a list of documents shall supply it free of charge on request made by the party entitled to it.

(3) In this rule, "list of documents" includes an affidavit verifying a list of documents.

Order for discovery of particular documents

5. (1) Subject to rule 6, the Court may at any time, on the application of any party to the cause or matter, make an order requiring any other party to make an affidavit stating whether any document specified or described in the application, has at any time been in that party's possession, custody or power, and if not then in the party's possession, custody or power, when that party parted with it and what has become of it.

(2) An application for an order under this rule shall be supported by an affidavit stating the belief of the deponent that, the respondent from whom discovery is sought under this rule has, or at some time had, in the respondent's possession, custody or power the document specified or described in the application and that it relates to one or more of the issues in the cause or matter.

(3) An order may be made against a party under this rule notwithstanding that he has made or been required to make a list of documents or affidavits under rule 2 or 3.

Discovery to be ordered only if necessary

6. On the hearing of an application for an order under rule 3 or 5, the Court shall refuse to make the order if it is of the opinion that discovery is not necessary either to dispose fairly of the cause or matter or to save costs.

Inspection of documents referred to in list

7. A party who serves a list of documents on any other party in compliance with this Order shall at the same time serve a notice on that other party, stating a time within **48 hours** after the service, when that other party may inspect and take copies of the documents other than any of those to which the party objects to produce, at a place specified in the notice.

Order for production for inspection

8. (1) If a party who is required by rule 7 to serve a notice or who is served with a notice

(a) fails to serve the notice

(b) objects to produce any documents for inspection; or

(c) offers inspection at an unreasonable time or place,

the Court may subject to rule 11 (1), on the application of the party entitled to inspection, make an order for production of the documents in question for inspection at such time and place, and in such manner, as it thinks fit.

(2) Notwithstanding sub rule (1), but subject to rule 11 (1), the Court may, on the application of any party to a cause or matter, order any other party to permit the party applying, to inspect any documents in the possession, custody or power of that other party which relates to any issue in the cause or matter.

(3) An application for an order under sub rule (2) shall be supported by an affidavit specifying or describing the documents of which inspection is sought and stating the belief of the deponent that they are in the possession, custody or power of the other party and that they relate to an issue in the cause or matter.

Order for production to Court

9. At any stage of the proceedings in any cause or matter the Court may, order any party to produce to the Court any document in the party's possession, custody or power relating to any issue in the cause or matter and the Court may deal with the document when produced in such manner as it thinks fit.

Production to be ordered only if necessary

10. (1) An order for the production of any document for inspection or to the Court shall not be made under any of these Rules unless the Court is of opinion that the order is necessary either to dispose fairly of the cause or matter or to save costs.

(2) Where, on an application under this Order for production of a document for inspection or to the Court, privilege from the production is claimed or objection is made to the production on any other ground, the Court may inspect the document to decide whether the claim or objection is justified.

Production of business records

11. (1) Where production of any business records for inspection is applied for under these Rules, the Court may, instead of ordering production of the original records for inspection, order a copy

of any entries in it to be supplied and verified by an affidavit of a person who has examined the copy with the original records.

(2) The affidavit shall state whether or not there are in the original records any and if so what erasures, interlineations or alterations.

(3) Notwithstanding that a copy of an entry in any record has been supplied under this rule, the Court may order the production of the record from which the copy was made

Withholding document or record in the public interest

12. This Order shall be without prejudice to any rule of law which authorises or requires the withholding of any document or record on the ground that the disclosure of it would be injurious to the public interest.

Failure to make discovery

13. (1) If any party who is required by any of these Rules, or any order made under them, to make discovery of documents or records, or to produce any documents or records for the purpose of inspection or any other purpose, fails to comply with any provision of that rule or with that order, then without prejudice to rule 9 (1), the Court may make such order as it considers just including, in particular, an order that

(a) the action be dismissed;

(b) the defence be struck out and judgment entered accordingly;

(c) where the document is favourable to the party's case, the party may not use the document at the trial, except with leave of the Court; or

(d) where the document is not favourable to the party's case, the party may be committed for contempt.

(2) Service on a party's lawyer of an order for discovery or production of documents or records made against that party shall be sufficient service to found an application for committal of the party disobeying the order, but the party may show in answer to the application sufficient cause for the failure to obey the order.

(3) Where an order made against the client of a lawyer is served on the lawyer and the lawyer fails without reasonable excuse to give notice of it to the client, the lawyer shall be liable to committal for contempt.

Revocation and variation of orders

14. Any order made under this Order, including all order made on appeal, may, on sufficient cause shown, be revoked or varied by a subsequent order or direction of the Court made or given at or before the trial of the cause or matter in connection with which the original order was made.

ORDER 10

INTERROGATORIES

Discovery by interrogatories

1. (1) A party may apply for an order

(a) giving the party leave to serve on another party interrogatories relating to any matter in question between the applicant and that other party in the cause or matter; and

(b) requesting that other party to answer the interrogatories on affidavit within such period as may be specified in the order,

(2) The interrogatories shall be as **in Form 10** in the Schedule and the answer shall be as in **Form 11** in the Schedule.

(3) A copy of the proposed interrogatories shall be served with the application

(4) On the hearing of an application under this rule, the Court shall give leave only of the interrogatories which it considers necessary either to dispose fairly of the cause or matter or to save costs.

(5) In deciding whether to give leave the Court shall take into account any offer made by the party to be interrogated to give particulars or to make admissions or to produce documents relating to any matter in question.

(6) A proposed interrogatory which does not relate to a matter mentioned in paragraph (a) of subrule (1) shall be disallowed, notwithstanding that it might be admissible in oral cross-examination of a witness.

Interrogatories where party is a body of persons

2. Where a party is a body of persons the Court may, on the application of any other party, make an order allowing that other party to serve interrogatories on such officer or member of the body as may be specified in the order

Statement as to party required to answer

3. Where interrogatories are to be served on two or more parties or are required to be answered by an agent or servant of a party, a note at the end of the interrogatories shall state which of the interrogatories each party or, an agent or servant is required to answer.

Privilege... has to be reconsidered. Do we have persons protected by privilege on campus?

4. Where a person objects to answering any interrogatory on the ground of privilege, the person may state the objection in the person's affidavit in answer

Insufficient answers

5. If a person on whom interrogatories have been served answers any of them insufficiently, the Court may make an order requiring the person to make a further answer either by affidavit, or on oral examination as the Court may direct

Failure to comply with order

6. (1) If a party against whom an order is made under rule 1 or 5 fails to comply with it, the Court may make such order as it considers just including, in particular, an order that the action be dismissed or, an order that the defence be struck out and judgment be entered accordingly.

(2) If a party against whom an order is made under rule 1 or 5 fails to comply with it, then, notwithstanding subrule (1), he shall be liable to committal for contempt.

(3) Service on a party's lawyer of an order to answer interrogatories made against the party shall be sufficient service to found an application for committal of the party disobeying the order, but the party may show in answer to the application that the party had no notice or knowledge of the order.

(4) A lawyer on whom an order to answer interrogatories made against a client is served and who fails without reasonable excuse to give notice of it to the client shall be liable to committal for contempt.

Use of answer to interrogatories at trial

7. (1) A party may put in evidence at the trial of any cause or matter, or of any issue in it, some of the answers to interrogatories, or part of an answer, without putting in evidence the other answers or, the whole of that answer.

(2) Notwithstanding subrule (1), the Court may look at the whole of the answers and if it is of the opinion that any other answer or other part of an answer is so connected with an answer, or any part of it used in evidence that the one ought not to be used without the other, the Court may direct that, that other answer or part shall be put in evidence.

Revocation and variation of orders

8. An order made under this Order, including an order made on appeal may, on sufficient cause shown, be revoked or varied by a subsequent order or direction of the Court made or given at or before the trial of the cause or matter in connection with which the original order was made

ORDER 11

ADMISSIONS

Notice of admission of facts

1. A party to a cause or matter may give notice, by that party's pleadings, or otherwise in writing, that the party admits the truth of the whole or any part of the case of any other party.

Request to admit fact or document

2. (1) A party may at any time, by serving a request to admit, request any other party to admit for the purposes of the cause or matter only, the truth of a fact or the authenticity of a document.

(2) A copy of any document mentioned in the request to admit shall, where practicable, be served with the request, unless a copy is already in the possession of the other party.

Effect of request to admit

3. (1) A party on whom a request to admit is served shall respond to it within **48 hours** after it is served by serving on the requesting party a response to request to admit. The response shall be as in Form 13 in the Schedule.

(2) Where the party on whom the request is served fails to serve a response as required by sub rule (1), the party shall be deemed, for the purposes of the cause or matter only, to admit the truth of the facts or the authenticity of the documents mentioned in the request to admit.

(3) A party shall also be deemed, for the purposes of the cause or matter only, to admit the truth of the facts or the authenticity of the documents mentioned in the request, unless the party's response

(a) specifically denies the truth of a fact or the authenticity of a document mentioned in the request; or

(b) refuses to admit the truth of a fact or the authenticity of a document and sets out the reason for the refusal.

RULE 4 is removed

Withdrawal of admission

5. An admission made in response to a request to admit an admission under rule 2 or an admission in a pleading may be withdrawn on consent or with leave of the Court

Order based on admission of fact or document

6. (1) Where an admission of the truth of a fact or the authenticity of a document is made

(a) in an affidavit filed by a party;

(b) in the examination for discovery of a party or a person examined for discovery on behalf of a party; or

(c) by a party on any other examination under oath or affirmation in or out of court

any party may apply to the Court or Judge in the same or another cause or matter for such order as the party may be entitled to on the admission without waiting for the determination of any other question between the parties, and the Court or Judge may make such order as is just.

(2) Where an admission of the truth of a fact or the authenticity of a document is made by a party in a pleading or is made or deemed to be made by a party in response to a request to admit, any party may apply by motion to the Court or to the Judge for such order as the party may be entitled to on the admission without waiting for the determination of any question between the parties, and the Court or the Judge may make such order as is just.

ORDER 12—ASSIGNMENT AND CONSOLIDATION

Rule 1—Exercise of One Judge's Jurisdiction by Another

(1) A Judge shall, if the SRC or College Judicial Committee Chairperson so directs, hear and dispose of an application in a cause or matter which has been assigned to another Judge.¹

(2) Where an application ought to be made to or jurisdiction exercised by the Judge by whom a cause or matter has been tried and that Judge dies or ceases to be a Judge or if for any other

¹ Inapplicable considering the nature of cases and specific jurisdictions of the various Judicial committees on campus.

reason it is impossible or inconvenient for that Judge to act in that cause or matter, the SRC or College Judicial Committee Chairperson may nominate another Judge to whom the application may be made or by whom the jurisdiction may be exercised.²

Rule 2—Consolidation of Proceedings

Where two or more causes or matters are pending in the same Court and it appears to the Court

- (a) that some common question of law or fact arises in both or all of them; or
- (b) that the rights to relief claimed are in respect of or arise out of the same transaction or series of transactions; or
- (c) that for some other reason it is desirable to make an order under this rule,

the Court may order those causes or matters to be consolidated on such terms as it considers just, or may order them to be tried at the same time or one immediately after another, or may order any of them to be stayed until the determination of any other of them.

ORDER 13—PLACE AND MODE OF TRIAL

Rule 1—Place of Trial

The place of trial of any cause or matter or of any question or issue arising in any cause or matter, shall be determined by the Court.

Rule 2—Mode of Trial

Subject to the constitution of the the JC's constituency, a JC shall sit with two other members of the judicial committee of that constituency during a trial and a referee judge or legal adviser if so directed by the SRC/College Judicial committee chairperson.

Rule 3—Time of Trial of Questions or Issues

The Court may order any question or issue arising in any cause or matter whether of fact or law, or partly of fact and partly of law, and raised by the pleadings to be tried before, at or after the trial of the cause or matter and may give directions as to the manner in which the question or issue shall be stated.

Rule 4—Determining the Place and Mode of Trial³

² Also doubt the applicability of this rule considering that JC's are appointed by constituency presidents and the mode of removal is provided for by the various constituency constitutions. However, the argument may be made that JCs sworn in into the SRC/College (where applicable) Judicial Council are under the jurisdiction of the SRC/College JC and therefore can decide who replaces them. As at time of writing, I doubt how tenable this argument is.

³ I am of the opinion this rule isn't so applicable.

(1) In every action, an order made on an application for directions shall, subject to any law, determine the place and mode of the trial; and any order may be varied by a subsequent order of the Court made at or before the trial.

(2) In an action different questions or issues may be ordered to be tried at different places or by different modes of trial and one or more questions or issues may be ordered to be tried before the others.

Rule 5—Dismissal of Action After Determination of Preliminary Issue

Where it appears to the Court that the decision of any question or issue arising in any cause or matter and tried separately from the main cause or matter substantially disposes of the cause or matter or renders trial of the main cause or matter unnecessary, it may dismiss the cause or matter or make such other order or give such judgment as may be just.

ORDER 14—SETTING ACTION DOWN FOR TRIAL

Rule 1—Application of Order

This Order applies to all actions which proceed to trial before a Judge.

Rule 2—Time for Setting Down Action

(1) The Recorder/clerk shall within that period issue to the parties a notice of trial specifying the date on which the action will be tried and the notice shall be issued and served at least 24 hours before the date for trial.

(2) Not later than 12 hours after an order is made fixing the period within which the action should be set down for trial, the plaintiff shall pay to the Recorder/clerk the appropriate fee for the issue and service of the notice of trial.

(3) Where the plaintiff defaults in the payment of the fee the defendant may apply to the Court to strike out the action for want of prosecution provided that if there is a counterclaim the defendant shall pay the appropriate fee for notice of trial of the counterclaim.

(4) If the plaintiff defaults in payment of the fee and the defendant does not within 48 hours apply to the Court as provided in subrule (4) the Recorder/clerk shall inform the Court of that fact and the Court shall upon that strike out the action.

Rule 3—Length of Trial

Every order fixing the time within which an action should be set down for trial shall contain an estimate of the length of trial.

Rule 4—Early Hearing

(1) An order fixing a date for the trial of the action shall contain an estimate of the length of the trial.

Rule 5—New Trial

Where a new trial becomes necessary in the course of any action the procedure for setting down the action for the new trial shall be that specified in the foregoing provisions except that

- (a) a request to set down the action for trial shall be made by the plaintiff to the Recorder/clerk accompanied by the appropriate fee; and
- (b) upon receiving the request, the Recorder/clerk shall not later than 48 hours issue and serve a notice of trial as specified in rule 2 (2).

ORDER 15—PROCEEDINGS IN CHAMBERS

Rule 1—Disposal of Matters in Chambers

A Judge may by any judgment or order made in Court in any cause or matter, direct that the issues in the cause or matter as the Judge may specify shall be disposed of in chambers provided that the power may only be exercised in the interest of public order, public safety or public morality.

Rule 2—Subpoena for Attendance of Witness

(1) A writ of subpoena [ad testificandum or a writ of subpoena duces tecum]⁴ to compel the attendance of a witness for the purpose of proceedings in chambers may be issued out of the registry if the party who desires the attendance of the witness produces a note from a Judge authorising the issue of the writ.

(2) Any Recorder/clerk may give such a note or may direct that the application for it be made to the Judge before whom the cause or matter is to be heard.

Rule 3—Assistance of Expert

If the Court thinks it expedient in order to better determine any matter arising in proceedings in chambers, it may obtain the assistance of any person specially qualified to advise on that matter and may act on the person's opinion.

Rule 4—Notice of Filing of Affidavit

(1) A party who files an affidavit intended to be used by the party in any proceedings in chambers shall give notice of the filing to every other party.

(2) A party who intends to use in any proceedings in chambers, an affidavit filed by the party in previous proceedings, shall give notice of the intention to do so, to every other party.

Rule 5—Adjournment from Court

⁴ Should be simplified

The Hearing of an application in chambers may be adjourned from chambers into Court and subsequently from Court into chambers.

Rule 6—Recorder/clerk's Note

Where in any proceedings a matter is adjourned from Court into chambers, or directions are given in court to be acted upon in chambers, without an order being drawn up, the plaintiff in the cause or matter shall obtain from the Recorder/clerk a signed note, stating for what purpose that matter was adjourned into chambers or the directions given, and file it at the judge's chambers

Rule 7—Papers for Use of Court

The original of any document which is to be in evidence in proceedings in chambers shall, if available, be brought in, and copies of any such document or of any part of the document shall not be made unless the Court directs that copies of that document or part of it be supplied for the use of the Court or be given to the other parties to the cause or matter.

Rule 8—Notes of Proceedings in Chambers

A note shall be kept of all proceedings in the Judge's chambers with the dates of the proceedings so that all the proceedings are noted in chronological order with a short statement of the matters decided at each hearing.

ORDER 16—PROCEEDINGS AT TRIAL

Rule 1—Failure to Attend at Trial

- (1) Where an action is called for trial and all the parties fail to attend, the trial Judge may strike the action off the trial list.
- (2) Where an action is called for trial and a party fails to attend, the trial Judge may
 - (a) where the plaintiff attends and the defendant fails to attend, dismiss the counterclaim, if any, and allow the plaintiff to prove the claim;
 - (b) where the defendant attends and the plaintiff fails to attend, dismiss the action and allow the defendant to prove the counterclaim, if any; or
 - (c) make such other order as is just.

Rule 2—Judgment given in Absence of Party may be Set Aside

- (1) A Judge may set aside or vary, on such terms as are just, a judgment obtained against a party who fails to attend at the trial.
- (2) An application under this rule shall be made within three days after the trial.

Rule 3—Adjournment of Trial

The Court may, if it considers it necessary in the interest of justice, adjourn a trial for such time, to such place, and upon such terms, as it considers fit.

Rule 4—Order of Speeches

(1) Unless the Judge before whom an action is tried gives directions as to the party to begin and the order of speeches at the trial, the party to begin and the order of speeches shall be that provided by this rule.

(2) Subject to subrule (6), the plaintiff shall begin by opening the plaintiff's case.

(3) Where the defendant elects not to adduce evidence, then, whether or not the defendant has in the course of cross-examination of a witness for the plaintiff or otherwise put in a document, the plaintiff may, after the evidence on behalf of the plaintiff has been given, close the plaintiff's case and the defendant may then state the case of the defendant.

(4) Where the defendant elects to adduce evidence, the defendant may, after the close of the plaintiff's case, open the case of the defendant and, after the evidence on behalf of the defendant has been given, close the defendant's case; at the close of which the plaintiff may make a speech in reply.

(5) Where there are two or more defendants who appear separately or are separately represented, then where

(a) none of them elects to adduce evidence, each defendant shall state the case of the defendant in the order in which that defendant's name appears on the record;

(b) each of the defendants elects to adduce evidence, each defendant may open that defendant's case and the evidence on behalf of each defendant shall be given in the order specified in paragraph (a) and the speech of each defendant closing that defendant's case shall be made in that order after the evidence on behalf of all the defendants has been given; or

(c) some of them elect to adduce evidence and some do not, those who do not, shall state their cases in the order specified in paragraph (a) and those who elect to adduce evidence shall do so as provided in paragraph (b), after the speech of the plaintiff in reply to the other defendants.

(6) Where the burden of proof in all the issues in the action lies on the defendant, the defendant may begin, and subrules (3), (4) and (5) shall have effect in relation to the plaintiff and the defendant, as if for references to the plaintiff there were substituted references to the defendant and for references to the defendant there were substituted references to the plaintiff.

(7) Where, as between the plaintiff and any defendant, the party who would, but for this subrule be entitled to make the final speech raises any fresh point of law in that speech or cites in that speech any authority not previously cited, the opposite party may make a further speech in reply, but only in relation to that point of law or that authority.

Rule 5—Inspection by Judge

The Judge by whom any cause or matter is tried may inspect any place or thing with respect to which any question arises in the proceedings.

Rule 6—Death of Party before Judgment

Where a party to an action dies after the defendant has closed his or her case but before judgment is given, judgment may be given notwithstanding the death, but without prejudice to the power of the Court to make an order under Order 4 rule 6 (2) before giving judgment.

Rule 7—Certificate of Court Clerk

At the conclusion of the trial of any action, the clerk of the Court in attendance at the trial shall make a certificate in which the clerk shall certify

- (a) the time spent on the trial;
- (b) any order made by the Judge under Order 38 rule 5 or 6;
- (c) the judgment given by the Judge; and
- (d) any order made by the Judge as to costs.

Rule 8—List of Exhibits

(1) The clerk of the Court shall take charge of every document or object put in as an exhibit during the trial and shall mark or label each exhibit with a letter or letters indicating the party by whom the exhibit is put in or the witness by whom it 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 clerk of the Court shall cause a list to be made of all the exhibits in the action, and any party may, on payment of the prescribed fee, have an office copy of that list and any documentary exhibit.

(3) The list of exhibits when completed and any documentary exhibit shall be attached to the pleadings and 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.

Rule 9—Custody of Exhibits after Trial

(1) All the exhibits tendered at a trial shall be kept in the registry of the trial Court until the period limited for appeal has expired; provided that where an appeal is made after trial the exhibits shall be forwarded to the relevant appellate court with the record of proceedings.

(2) No exhibit shall, except by order of the Court, be given to any party or taken out of the registry before the expiration of the time limited for appeal or until the appeal has been heard and disposed of.

Rule 10—Impounded Documents

(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 made by a Judge or on an application.

(2) Documents impounded by order of the Court while in the custody of the Court, shall not be inspected except by a person authorised to do so by an order signed by a Judge.

ORDER 17—ADJOURNMENTS AND DELAYS

Rule 1—Adjournments

The Court may, if it considers it necessary in the interest of justice, postpone or adjourn the hearing of any cause or matter for such time and on such terms as it considers fit.

Rule 2—Duty to Avoid Delay

It is the duty of the parties, their lawyers and the Court to avoid all unnecessary adjournments and other delays, and to ensure that causes or matters are disposed of as speedily as the justice of the case permits.

Rule 3—Proceedings after Delay

Where 14 days have elapsed since the last step taken in any cause or matter, the party who wishes to proceed shall give to every other party not less than three days' notice of the intention to proceed.

Rule 4—Striking out for Delays

(1) Where in any cause or matter no step has been taken for twenty-eight days from the date of the last proceeding and no notice under rule 3 has been given, the Recorder/clerk or any party to the cause or matter may apply to the Court for an order that the cause or matter be struck out for want of prosecution.

(2) Notice of the application shall be served on all the parties concerned at least two days before the day stated in the notice for hearing the application.

(3) Upon the hearing of the application where none of the parties shows cause to the satisfaction of the Court why the cause or matter should not be struck out and upon proof of service of the notice on all parties concerned, the Court shall strike out the proceedings.

(4) If any party shows cause to the satisfaction of the Court why the cause or matter should not be struck out for want of prosecution, the Court shall order the proceedings to continue on such terms as it thinks fit.

ORDER 18—EVIDENCE GENERALLY

Rule 1—General Rule—Witnesses to be Examined Orally

Subject to the 1992 Constitution of Ghana, the Evidence Decree, 1975 (N.R.C.D. 323), these Rules and any other enactment, any fact required to be proved at the trial of an action by the evidence of witnesses shall be proved by the examination of the witnesses orally and in open court.

Rule 2—Evidence by Affidavit

(1) The Court may, at or before the trial of an action, order that the affidavit of any witness may be read at the trial if in the circumstances of the case it thinks it reasonable so to order.

(2) An order under sub-rule (1) may be made on such terms as to the filing and giving of copies of the affidavit and as to the production of the deponent for cross-examination as the Court thinks fit but, subject to any such terms and to any subsequent order of the Court, the deponent shall not be subject to cross-examination and need not attend the trial for the purpose.

(3) On any application in any cause or matter, evidence may be given by affidavit unless in the case of any such application any provision of these Rules otherwise provides or the Court otherwise directs, but the Court may, on the application of any party, order the attendance for cross-examination of the person making the affidavit, and where, after an order has been made, the person in question does not attend, that person's affidavit shall not be used as evidence without leave of the Court.

Rule 3—Evidence of Particular facts

(1) Without prejudice to rule 2, the Court may at or before the trial of an action, order that evidence of any particular fact shall be given at the trial in such manner as may be specified by the order.

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

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

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

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

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

Rule 4—Limitation of Expert Evidence

The Court may at or before the trial of an action order that the number of medical or other expert witnesses who may be called at the trial shall be limited as specified in the order.

Rule 5—Limitation of Plans in Evidence

At or before the trial, unless the Court for a special reason otherwise orders, no plan, photograph or model shall be received in evidence unless at least ten days before the commencement of the trial the parties, other than the party producing it, have been given an opportunity to inspect it and to agree to its admission without further proof.

Rule 6—Revocation or Variation of Orders

Any order under rules 2 to 5 (including an order made on appeal) may, on sufficient cause shown, be revoked or varied by a subsequent order of the Court made at or before the trial.

Rule 7—Trial of Issues, References

The foregoing rules of this Order shall apply to the trial of issues or questions of fact or law, references, inquiries and assessments of damages as they apply to the trial of actions.

Rule 8—Depositions in Evidence

- (1) No deposition taken in any cause or matter shall be received in evidence at the trial of the cause or matter unless the deposition was taken in pursuance of an order under Order 39 rule 1.
- (2) A deposition purporting to be signed by the person before whom it was taken shall be received in evidence without proof of the signature of that person.

Rule 9—Official Documents in Evidence

Without prejudice to the provisions of any enactment, every document purporting to be sealed with the seal of any office or department shall be received in evidence without further proof, and any document purporting to be so sealed and to be a copy of a document filed in or issued out of that office or department shall be presumed to be an office copy of that document without further proof unless the contrary is shown.

Rule 10—Form and Issue of Writ of Subpoena

- (1) A writ of subpoena shall be as in Form 14 in the Schedule.
- (2) The issue of a writ of subpoena takes place upon its being sealed by a court clerk/recorder out of which court it is issued.
- (3) Before a writ of subpoena is issued a request as in Form 15 in the Schedule for the issue of the writ shall be filed in the registry out of which the writ is to issue; and the request shall contain the name and address of the party issuing the writ, if the party issuing is acting in person, or the name or firm and business address of that party's lawyer and also (if the lawyer is the agent of another) the name or firm and business address of the lawyer's principal.

Rule 11—Amendment of Writ of Subpoena

Where there is a mistake in any person's name or address in a writ of subpoena which has not been served, the party by whom the writ was issued may have the writ re-sealed in the correct form by filing a second request under rule 10 (3) indorsed with the words "Amended and re-sealed".

Rule 12—Service of Writ of Subpoena

A writ of subpoena shall be served, personally and the service shall not be valid unless effected within two days after the date of issue of the writ.

Rule 13—Duration of Writ of Subpoena

A writ of subpoena shall after service continue to have effect until the conclusion of the trial at which the attendance of the witness is required.

ORDER 19—EVIDENCE BY DEPOSITION

Rule 1—Power to Order Depositions to be taken

(1) The Court may, in any cause or matter where it appears necessary in the interest of justice, make an order for the examination on oath of any person, at any place before a Judge, an officer or examiner of the Court or some other person.

(2) An order under subrule (1) may be made on such terms as the Court considers fit including terms that relate to discovery before examination, and may contain an order for the production of any document which appears to the Court to be necessary for the purposes of the examination.

Rule 4—Enforcing Attendance of Witness at Examination

Where an order has been made under rule 1

(a) for the examination of any person before an officer or examiner of the Court or some other person, in this rule and rules 5 to 16 referred to as "the examiner"; or

(b) for the cross-examination before the examiner of any person who has made an affidavit which is to be used in any cause or matter,

the attendance of the person before the examiner and the production by the person of any document at the examination may be enforced by writ of subpoena in the same manner as the attendance of a witness and the production by a witness of a document at a trial may be enforced.

Rule 5—Refusal of Witness to Attend or be Sworn

(1) If any person, who has been duly summoned by writ of subpoena to attend before the examiner, refuses or fails to attend or refuses to be sworn or to affirm for the purpose of the examination or to answer any lawful question or produce any document, a certificate of the person's refusal or failure, signed by the examiner shall be filed in the registry, and upon such filing the party by whom the attendance of that person is required may apply to the Court for an order requiring that person to attend or to be sworn or to affirm or to answer any question or produce any document.

(2) An application for an order under this rule shall be made ex-parte.

(3) A person who willfully disobeys any order made against him under this rule shall be liable to committal for contempt of court.

Rule 6—Time and place for Examination⁵

(1) The examiner shall give the party on whose application the order for examination is made a notice appointing the place and time at which, subject to any application by the parties, the examination shall be taken, and the time shall, having regard to the convenience of the persons to

⁵ Applicability of rule 6 to 15?

be examined and all the circumstances of the case, be as soon as practicable after the making of the order.

(2) The party to whom a notice under sub-rule (1) is given shall, on receiving it, immediately give notice of the appointment to all the other parties.

Rule 7—Documents to be Supplied

The party on whose application the order for examination is made shall supply the examiner with copies of such of the documents in the cause or matter as are necessary to inform the examiner of the questions in issue in the cause or matter.

Rule 8—Conduct of Examination

(1) The examination shall take place in the presence of the parties, their lawyers or agents.

(2) Subject to any directions contained in the order for examination

(a) any person ordered to be examined before the examiner may be cross-examined and re-examined; and

(b) the examination, cross-examination and re-examination of persons before the examiner shall be conducted in the same manner as at the trial of any cause or matter.

(3) The examiner may put any question to any person examined before him as to the meaning of any answer made by that person or as to any matter arising in the course of the examination.

(4) The examiner may, if necessary, adjourn the examination from time to time.

Rule 9—Examination of Additional Witnesses

The examiner may, with the written consent of all the parties to the cause or matter, take the examination of any other person in addition to those named or provided for in the order for examination and shall annex the consent to the original deposition of that other person.

Rule 10—Objection to Questions

(1) If a person being examined before the examiner refuses to answer any question put to that person, or if objection is taken to any question, the ground for the objection and the answer to the question to which objection is taken shall be set out in the deposition of that person or in a statement annexed to it.

(2) The validity of the ground for objecting to answer any question or for objecting to any question shall be decided by the Court and not by the examiner, but the examiner shall state to the parties, an opinion on it, and the statement of the examiner's opinion shall be set out in the deposition or in a statement annexed to it.

(3) If the Court decides against the person who raised the objection, it may order the person to pay the costs caused by the objections

Rule 11—Taking of Depositions

- (1) The deposition of any person examined before the examiner shall be taken down or recorded by the examiner or a shorthand writer or some other person in the presence of the examiner but, subject to sub-rule (2) and rule 10 (1), the deposition need not set out every question and answer so long as it contains as nearly as may be the statement of the person examined.
- (2) The examiner may direct the exact words of any particular question and the answer to it to be set out in the deposition if that question and answer appear to the examiner to have special importance.
- (3) The deposition of any person in transcript shall be read to the person, and the person shall be asked to sign it in the presence of such of the parties as may attend, but the parties may agree in writing to dispense with the foregoing provision.
- (4) If a person refuses to sign a deposition under sub-rule (3) the examiner shall sign the deposition
- (5) The original deposition of any person, authenticated by the signature of the examiner before whom it was taken, shall be sent by the examiner to and filed at the registry.

Rule 12—Endorsement of time Occupied

Before sending a deposition to the registry, the examiner shall indorse on it a signed statement of the time occupied in taking the examination and any fees received in respect of the examination.

Rule 13—Special Report by Examiner

An examiner may make a special report to the Court with regard to any examination before the examiner and with regard to the absence or conduct of any person at the examination, and the Court may direct such proceedings to be taken, or make such order on the record as it considers fit.

Rule 14—Fees and Expenses of Examiner of the Court

- (1) An examiner is entitled to charge such fee as the Court may authorise for each day or part of the day on which the examiner conducts an examination.
- (2) The party prosecuting the order shall also pay all reasonable travelling and other expenses of the examiner.
- (3) An examiner is not obliged to send any deposition to the registry until all fees and expenses due to the examiner in respect of the examination have been paid.

Rule 15—Order for Payment of Examiner's Fees

- (1) If the fees and expenses due to an examiner are not paid, the examiner may report that fact to the Court, and the Court may direct the Recorder/clerk to apply for an order against the party on whose application the order for examination was made to pay the examiner the fees and expenses in respect of the examination.

(2) An order under this rule shall not prejudice any determination as to the party by whom the costs of the examination shall ultimately be borne.

ORDER 20—JUDGMENTS AND ORDERS

Rule 1—Declaratory Judgment or Order

There shall be no objection on the ground that only a declaratory judgment or order is sought, and the Court may make binding declarations of right whether or not any consequential relief is or could be claimed.

Rule 2—Time Limit for Delivery of Judgment

(1) The Court may deliver a judgment through a video link or by any other means."

(2) It is the duty of the Court to deliver judgment as soon as possible after the close of each case before it, and in any event not later than 72 hours after the close of the case.

(2) For the purposes of this rule a case is closed when the evidence has been given to the Court and the final speeches have been concluded.

(3) The times of the vacations in any year shall not be considered in the computation of the period of 72 hours referred to in this rule.

(4) Where for any reason judgment has not been delivered within the period of 72 hours, the Court shall forthwith inform the SRC Judicial Council Chairperson in writing of that fact and shall state the reasons for the delay and the date upon which it is proposed to deliver judgment.

(5) Where judgment has not been delivered within the period of 72 hours, any party to the cause or matter may in writing notify the SRC Judicial Council Chairperson⁶ of that fact and request that a date be fixed for the delivery of judgment.

(6) Upon receiving a notification from the Court or a party under subrule (4) or (5), the SRC Judicial Council Chairperson may fix a date for the delivery of judgment by the Court and notify the Court accordingly, and it shall be the duty of the Court to ensure that judgment is delivered on the date fixed by the SRC Judicial Council Chairperson.

⁶ Or the College Judicial Committee Chairperson, whomever appropriate.

Rule 3—Form of Judgment or Order

(1) Where in the case of any judgment, a form for the entry of judgment is prescribed as in Forms 17 to 17F⁷ in the Schedule, the entry of the judgment shall as far as practicable be in that form.

(2) The party who enters any judgment may recite in it a statement of the manner in which and the place at which the writ of summons was served

(3) An order shall be marked with the name of the Judge by whom it was made and shall be sealed with the seal of the Court.

Rule 4—Time for doing an Act Under Judgment or Order

(1) A judgment or order which requires a person to do an act shall specify the time within which the act is to be done.

(2) Time under this rule starts to run from the date of service of the judgment or order.

Rule 5—Date of Judgment or Order

(1) A Judgment or order of the Court takes effect from the day of its date.

(2) Such a judgment or order shall be dated as of the day on which it is pronounced, given or made, unless the Court orders it to be dated as of some other earlier or later day, in which case it shall be dated as of that other day.

Rule 6—Orders Required to be Drawn up

(1) Subject to subrule (2), every order of the Court shall be drawn up unless the Court otherwise directs

(2) Unless the Court otherwise directs, an order need not be drawn up if it does not impose any special terms or include any special directions, but merely

(a) extends the period within which a person is required or authorised by these Rules, or by any judgment, order or direction, to do any act; or

(b) grants leave for

(i) the amendment of a writ of summons or a pleading;

(ii) the filing of any document; or

⁷ Subject to change

(iii) any act to be done by an officer of the Court other than a lawyer.

(3) Where an order is not required to be drawn up, the production of a note of the order, signed by a Judge, shall be sufficient authority for the extension of time, issue, amendments, filing or other act.

(4) Where an order is not required to be drawn up, the lawyer of the person on whose application the order was made shall forthwith give notice in writing of the order to every other party to the cause or matter.

Rule 7—Drawing up and entry of Judgment or Order

(1) The party seeking to have a judgment entered shall draw up the judgment and present it to the Recorder/clerk for entry.

(2) Where judgment is presented for entry in accordance with this rule, the Recorder/clerk shall enter it in the book kept for that purpose, file the judgment and return a duplicate of it to the party who presents it for entry.

(3) An order required to be drawn up shall be drawn up by the party in whose favour the order is made, and if that party fails to draw up the order within 48 hours after it is made, any other party affected by the order may draw it up.

(4) The order referred to in subrule (3) shall when drawn up, shall be produced to the Recorder together with a copy of it, and when passed by the Recorder the order shall be sealed and returned to the party who produced it and the copy shall be lodged in the record book.

ORDER 21—REVIEW

Rule 1—Grounds for Review.

The Court may review any decision made or given by it on the following grounds—

(a) exceptional circumstances which have resulted in miscarriage of justice;

(b) discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the applicant's knowledge or could not be produced by him at the time when the decision was given.

Rule 2—Time for Applying for Review.

An application for review shall be filed with the Recorder or clerk of the Court not later than 5 days⁸ from the date of the decision sought to be reviewed.

Rule 3—Grant or Dismissal of Application

(1) Where it appears to the court that there is not sufficient ground for a review, the court shall dismiss the application.

(2) The Judge shall grant the application for review where the Court is of the opinion that it should be granted.

Rule 4—Court to hear Application

Where the Court who gave the judgment or made the order sought to be reviewed, continues to hold office at the time when the application for a review is presented, and is not precluded by absence or other cause for a period of three months following the application from considering the judgment or order to which the application relates, that Court and no other Court shall hear the application.

Rule 5—Rehearing where Application granted

(1) Where an application for review is granted, a note of it shall be made in the Cause Book and the Court may immediately rehear the case or make any order in regard to the rehearing as it considers fit.

(2) Upon the rehearing the Court may amend, vary or confirm its previous judgment or order.

Rule 6—Procedure for Bringing Application for Review.

(1) The application for review shall be by motion supported by an affidavit and accompanied by a statement of the applicant's case, clearly setting out and fully arguing all relevant grounds on which the applicant relies.

(2) The motion shall be on notice to all parties affected by the application.

Rule 7—Statement of Respondent's Case.

A respondent to the application shall, within 48 hours of the service on him of the application file a statement of his case, in answer to the application, fully arguing his case.

⁸ A long period of 5 days because of such a high demand a party has to meet before meeting requirements of review

Rule 8—Failure of Respondent to File his Statement of Case.

If the respondent fails to file his statement of case within the time limit specified in rule 7, the applicant may set down the application for hearing with notice to the respondent.

Rule 9—Setting Down Date for Hearing.

(1) After receipt of the statement of case of the respondent, or after 48 hours of the service of the applicant's statement of case on the respondent, the Recorder/clerk may set the application down for hearing.

(2) The Court may, after the statement of the applicant's case and of the respondent's case and any arguments of law, decide to determine the application and give ruling in court on a fixed date without further arguments or may appoint a time at which the parties shall appear before the Court for further argument in the application.

(3) A respondent who fails to file his statement of case within the time limit specified in rule 7 shall not be heard in open court.

Rule 10—Time Limits.

Any of the time limits specified in this Part may, on application, be extended or abridged by the Court.

Rule 11—Further Applications Barred

No applications to review a judgment or order given or made on a review shall be entertained.

ORDER 22—ENFORCEMENT OF JUDGMENTS AND ORDERS

Rule 1—Enforcement of Judgment to do or Abstain from doing an Act

(1) Where

(a) a person required by a judgment or order to do an act within a time specified in the judgment or order refuses or neglects to do it within that time or within that time as extended or reduced under Order 80 rule 4; or

(b) a person disobeys a judgment or order requiring the person to abstain from doing an act the judgment or order may subject to these Rules be enforced by an order of committal against that person or, where that person is a student association or

commission or committee, against the President or Chairman or Commissioner or any other officers or member.

(2) Where a judgment or order requires a person to do an act within a specified time and an order is subsequently made under rule 2 requiring the act to be done within some other time, references in subrule (1) of this rule to a judgment or order shall be construed as references to the order made under rule 2.

Rule 2—Judgment Requiring act to be done; Order fixing time for doing it

(1) Notwithstanding that a judgment or an order which requires a person to do an act specifies a time within which the act is to be done, the Court may, without prejudice to Order 80 rule 1, make an order requiring the act to be done within another time, being such time after service of that order, or such other time, as may be specified in the order.

(2) Where, notwithstanding Order 41 rule 4 (1) and (3), a judgment or order which requires a person to do an act does not specify a time within which the act is to be done, the Court may subsequently make an order requiring the act to be done within such time after service of that order or such other time as may be specified in the order.

(3) Notice of an application for an order under this rule shall be served on the person required to do the act in question.

Rule 3—Service of Copy of Judgment before Enforcement Under Rule 5

(1) In this rule references to an order shall be construed as including references to a judgment.

(2) Subject to Orders 21 rule 14 (2) and 22 rule 6 (3) and subrule (6) of this rule, an order shall not be enforced under rule 5 unless

(a) a copy of the order has been served personally on the person required to do or abstain from doing the act in question; and

(b) in the case of an order requiring a person to do an act, the copy has been served before the expiration of the time within which the person was required to do the act.

(3) Subject as stated, an order requiring a body corporate to do or abstain from doing an act shall not be enforced as provided in rule 5 subrule (1) paragraph (bb) or (cc) unless

(a) a copy of the order has also been served personally on the officer against whose property leave is sought to issue a writ of sequestration or against whom an order of committal is sought; and

(b) in the case of an order requiring the body corporate to do an act, the copy has been served before the expiration of the time within which the body was required to do the act.

(4) There shall be indorsed on the copy of an order served under this rule a notice informing the person on whom the copy is served

(a) in the case of service under subrule (2), that if the person neglects to obey the order within the time specified in the order, or, if the order is to abstain from doing an act, that if the person disobeys the order, the person is liable to process of execution; and

(b) in the case of service under subrule (3), that if the body corporate neglects to obey the order within the time specified or, if the order is to abstain from doing an act, that if the body corporate disobeys the order, it is liable to process of execution.

(5) With the copy of an order required to be served under this rule, being an order that requires a person to do an act, there shall also be served a copy of any order made under Order 80 rule 4 extending or reducing the time for doing the act and, where the first-mentioned order is made under rule 5(3) or 6, a copy of the previous order requiring the act to be done.

(6) Without prejudice to its powers under Order 7 rule 6, the Court may dispense with service of a copy of an order under this rule if it thinks it just to do so.

Rule 4—Court may Order Act to be done at Expense of Disobedient Party

(1) If an order of mandamus, a mandatory order, an injunction or a judgment is not complied with, the Court may direct that the act required to be done may, so far as practicable, be done by the party by whom the order or judgment is obtained or some other persons appointed by the Court, at the cost of the disobedient party.

(2) Sub-rule 1 shall be without prejudice to the powers of the Court to punish the disobedient party for contempt and any other powers of the Court.

(3) Upon the act being done under sub-rule (1) the expenses incurred may be ascertained in such manner as the Court may direct and execution may issue against the disobedient party for the amount as ascertained and for costs.

Rule 5—Execution by or against Person not being a Party

(1) Any person, not being a party to the cause or matter, who obtains any order or in whose favour any order is made, is entitled to enforce obedience to the order by the same process as if the person were a party.

(2) Any person, not being a party to the cause or matter against whom obedience to any judgment or order may be enforced, is liable to the same process for enforcing obedience to the judgment or order as if the person were a party.

Rule 6—Conditional Judgment, Waiver

A party entitled under any judgment or order to any relief subject to the fulfilment of any condition who fails to fulfil that condition shall be deemed to have abandoned the benefit of the judgment or order.

Rule 7—Matters Occurring after Judgment, stay of Execution

Without prejudice to Order 45 rule 15, a party against whom a judgment or order has been given or made may apply to the Court for a stay of execution of the judgment or order or other relief on the ground of matters which have occurred since the date of the judgment or order, and the Court may by order grant the relief, on such terms as it thinks just.

Rule 8—Forms Applicable to this Order

Forms 18 to 18K provided in the Schedule to these Rules shall be used for the respective purposes provided for in this Order.

ORDER 23—COMMITTAL

Rule 1—Committal for Contempt

(1) The power of the Court to punish for contempt of court may be exercised by an order of committal.

(2) Committal proceedings shall be commenced by an application to the Court.

(3) The application shall be supported by an affidavit stating inter alia the grounds of the application.

(4) Subject to subrule (5), the notice of motion, together with a copy of the affidavit in support of the application shall be served personally on the person sought to be committed.

(5) Without prejudice to its power under Order 7 rule 6 the Court may dispense with service of the notice of motion if it thinks it just to do so.

Rule 2—Committal without Application

Nothing in rule 1 affects the power of the Court to make an order of its own motion against a person to show cause why the person should not be committed for contempt of court.

Rule 3—Hearing of Application

(1) Subject to sub-rule (2), the Court that hears an application for an order of committal may sit in chambers where

(a) the application arises out of proceedings that relate to the wardship or adoption of an infant or wholly or mainly to the guardianship, custody, fosterage, maintenance or upbringing of a child, or right of access to a child;

(b) the application arises out of proceedings that relate to a person who suffers or appears to suffer from mental illness,

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

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

except that in all other cases, the application shall be heard in open court.

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

(a) the name of that person;

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

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

(3) Without prejudice to the powers of the Court under Order 16 rule 7 no grounds except the grounds set out in the affidavit in support of the motion shall be relied upon at the hearing of an application for an order of committal.

Rule 4—Suspension of Order

(1) The Court which makes an order of committal may by an order direct that the execution of the order of committal shall be suspended for such period or on such other terms and conditions as it may specify.

(2) Where execution of an order of committal is suspended by an order under subrule (1), the applicant for the order of committal shall, unless the Court otherwise directs, serve on the person against whom it is made a notice informing the person of the order made under that subrule and the terms of the order.

Rule 5—Discharge of Person Committed

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

Rule 6—Saving of other Powers

Nothing in rules 1 to 5 shall affect the power of the Court to make an order requiring a person guilty of contempt of court, or a person punishable by virtue of any enactment in like manner as if the person had been guilty of contempt of the court, to pay a fine or to give security for good behaviour, and those rules, so far as applicable, and with the necessary modifications, shall apply to an application for such an order as they apply to an application for an order of committal.

ORDER 24—APPEALS FROM LOWER COURTS

Rule 1—Notice of Appeal

(1) An appeal from a decision or order of a District Court to the High Court shall be by way of rehearing and shall be brought by notice in this Order referred to as "the notice of appeal".

(2) The appeal is brought in the case of a substantive appeal when the notice of appeal has been filed in the District Court from which the appeal is brought, in this Order referred to as "the court below".

(3) The procedure for an interlocutory appeal shall be as set out in rule 16 of this Order.

(4) The notice of appeal shall set out the grounds of appeal and shall state

(a) whether the whole or part only of the decision or order of the court below is complained of, in the latter case specifying the part;

(b) the nature of the relief sought; and

(c) the names and addresses for service of all parties directly affected by the appeal.

(5) The notice of appeal shall be accompanied with sufficient number of copies for service on all parties directly affected by the appeal.

Rule 2—Grounds of Appeal

(1) The grounds of appeal shall set out 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.

(2) No ground which is vague or general in terms or which discloses no reasonable ground of appeal shall be permitted, except the general ground that the judgment is against the weight of the evidence.

(3) If the grounds of appeal allege misdirection or error in law, particulars of the misdirection or error shall be clearly stated.

(4) Any ground of appeal or any part of it which is not permitted under this rule may be struck out by the Court on its own motion or on application by the respondent.

(5) The appellant shall not without leave of the Court rely on any ground of appeal not stated in the notice of appeal.

Rule 3—Time for bringing Appeal

(1) Subject to rule 4, a person wishing to appeal under section 21(1) of the Courts Act, 1993 (Act 459) against a decision of a District Court shall file a notice of appeal within three months from the date of the decision appealed against.

(2) A person wishing to appeal with leave under section 21 (2) of the Courts Act, 1993 (Act 459) against an interlocutory order or decision of a District Court shall apply to the court below for leave within fourteen days from the date of the order or decision against which leave to appeal is sought.

(3) Where the court below refuses to grant leave, the person wishing to appeal may apply to the Court for leave within fourteen days from the date upon which the court below refused to grant leave.

(4) Where leave is granted, either by the Court below or by the Court, the appellant shall file a notice of appeal within fourteen days from the date upon which leave is granted.

Rule 4—Extension of time

(1) An application to extend the time in which to appeal may be made to the Court or to the court below.

(2) No application shall be made after the expiration of one month after the time specified in rule 3 within which an appeal may be brought.

(3) Each such application shall be supported by an affidavit setting out good and substantial reasons for the application and grounds of appeal which prima facie show good cause for leave to be granted.

(4) When time is so extended, the date of the order granting the extension and the court by which the order is made shall be set out in the notice of appeal

Rule 5—Service of Notice

(1) As soon as practicable after the notice of appeal has been filed, the court below shall cause a copy of it to be served on each of the parties mentioned in the notice.

(2) Subject to sub-rule (3), it shall not be necessary to serve any party not directly affected by the appeal.

(3) The Court may direct notice to be served on all or any party to the cause or matter, or upon any person not a party and in the meantime may postpone or adjourn the hearing of the appeal upon such terms as may be just and make such order as might have been made if the persons served with the notice had originally been parties to the appeal.

Rule 6—Deposit or Security

(1) The appellant shall within one month after being notified by the Recorder of the court below to do so, deposit in the court below the prescribed fee to cover the expense of making up and forwarding the record of appeal, and shall also deposit a prescribed sum or give security by bond with one or more sureties to the satisfaction of the court below for the due prosecution of the appeal and for the payment of any costs which the appellant may be ordered to pay.

(2) Where the appellant fails to comply with subrule (1) his appeal shall lapse unless the Court grants extension of the time within which to comply with subrule (1).

(3) An application for extension of time under subrule (2) shall be made not later than one month after the expiration of the period specified in subrule (1)

Rule 7—Record of Appeal

(1) The Court below shall make up the record of appeal, which shall consist of the originating process, the pleadings, if any, certified copies of all documents admitted as evidence or tendered as evidence and rejected, the notes of evidence, any interlocutory proceedings or orders, the judgment or order of the court below, the notice of appeal and the addresses of the parties or their lawyers or both.

(2) The record of appeal when completed shall be forwarded to the Recorder of the Court together with

(a) a certificate that the conditions imposed under rule 6 have been fulfilled;

(b) one copy of the record for the use of the Court; and

(c) the docket or file of the case in the court below containing the papers or documents filed by the parties in connection with it as well as all exhibits tendered in evidence whether admitted or rejected.

Rule 8—Time Limit for Submitting Record

(1) It is the duty of the court below to ensure that the completed record of appeal and all associated documents specified in rule 7 (2) are submitted to the Court as soon as possible, and in any event not later than thirty days after the provisions of rule 6 have been complied with.

(2) Where the court below fails to submit to the Court the completed record of appeal and all associated documents as provided by subrule (1) the appellant may in writing notify the Judicial committee chairperson who, after investigating the reasons for the delay, may take appropriate steps to expedite the appeal.

Rule 9—Effect of Appeal

(1) An appeal shall not operate as a stay of execution in respect of the judgment or order appealed from except where the court below or the Court otherwise orders

(a) in the case of the court below, upon application made orally or by motion on notice to it; or

(b) in the case of the Court, upon application made to it by motion on notice,

and except as provided no intermediate act or proceeding shall be invalidated.

(2) During any period when an application is pending for determination under subrule (1), any proceedings for execution of the judgment or order to which the application relates shall be stayed

(a) for a period of seven days immediately following the judgment or the making of the order;

(b) during any period when an application under subrule (1) is pending for determination; or

(c) for a period of seven days immediately following the determination by the court below of any application under subrule (1) (a) where the application is refused by the court below.

Rule 10—Production of Original Documents

All letters, documents and exhibits tendered in evidence at the trial shall be retained in the registry of the court below until the time limited for appeal has expired or if there is an appeal they shall be transmitted to the Court as provided under rule 7.

Rule 11—High Court to Control Appeal

(1) After the record of appeal has been transmitted, and until the appeal is disposed of, the Court shall be in control of the whole proceedings as between the parties to the appeal.

(2) Subject to sub-rule (3), every application in the proceedings shall be made to the Court, and not to the court below, but any application may be made through the court below.

(3) In case of urgency the court below may make any interim order to prevent prejudice to the claims of any party pending an appeal, but the order may be discharged or varied by the Court.

Rule 12—Failure of Party to Appear

(1) If the appellant fails to appear in person or by the appellant's lawyer when the appeal is called for hearing, the appeal shall, on proof of service upon the appellant of notice of the hearing, be dismissed by the Court with costs; but the Court may, if satisfied subsequently, that it is just to do so, direct that the appeal be re-entered for hearing on such terms as to costs or otherwise as it considers fit.

(2) If the respondent fails to appear in person or by the respondent's lawyer when the appeal is called for hearing, the Court shall, on proof of service upon the respondent of notice of the hearing, proceed to hear the appeal in the respondent's absence; but the Court may, if satisfied subsequently by an aggrieved respondent that there are good and substantial reasons for the respondent's non-appearance or that there are exceptional circumstances occasioning a miscarriage of justice, direct that the judgment be set aside and the appeal re-entered for hearing on such terms as to costs or otherwise as it considers fit.

Rule 13—New Evidence on Appeal

It is not open as of right to any party to an appeal to adduce new evidence in support of the party's original case; but for the furtherance of justice, the Court may allow or require new evidence to be adduced; and the evidence shall be either by oral examination in court or by affidavit or by deposition taken before an examining commissioner as the Court may direct; but the new evidence shall be evidence which was not within the knowledge of the party or could not have been produced after the exercise of due diligence by the party at the time when the judgment was given or that order made.

Rule 14—Powers of Court hearing Appeal

(1) The Court may in any appeal before it

(a) rehear the whole case, or may remit it to the court below to be reheard or otherwise dealt with as the Court may direct;

(b) direct the court below to inquire into and certify its finding on any question which the Court considers fit to determine before final judgment in the appeal;

(c) allow the appellant to amend the grounds of appeal, or may itself amend the grounds of appeal, and may amend any defect or error in the record of appeal;

(d) draw any inference of fact which should have been drawn in the cause or matter out of which the appeal arose;

(e) make any order, on such terms as it considers just, to ensure the determination on the merits of the real question in controversy between the parties;

(f) make any interim order or grant any injunction which the court below is authorised to make or grant and may direct any necessary enquiries or accounts to be made or taken, and generally shall have as full jurisdiction over the whole proceedings, as if the proceedings had been instituted and prosecuted in the Court as a court of first instance;

(g) give any judgment and make any order that ought to have been made and may make such further or other order as the case may require, including any order as to costs and may do so notwithstanding that the appellant may have asked that a part only of a decision be reversed or varied, and may also act in favour of all or any of the respondents or parties, although the respondents or parties may not have appealed from or complained of the decision;

(h) in special circumstances, order that such security be given for the costs of the appeal as may be just.

(2) The powers of the Court in respect of an appeal shall not be restricted by reason of any interlocutory order from which there has been no appeal.

(3) The Court shall not be bound to allow the appeal on the ground merely of misdirection, or improper admission or rejection of evidence, unless in the opinion of the Court substantial wrong or miscarriage of justice has been occasioned by it.

(4) The Court in deciding the appeal shall not be confined to the grounds of appeal set out by the appellant; but the Court shall not rest its decision on any ground not set out by the appellant unless the respondent has had sufficient opportunity to contest the case on that ground.

Rule 15—Enforcement of Judgment or Order

(1) Any judgment given or order made by the Court may be enforced by the Court or by the court below as the Court may direct.

(2) When the Court directs a judgment or order to be enforced by the court below, the Recorder of the Court shall send to the court below a certificate under the seal of the Court and the hand of the presiding Judge, setting out the judgment or order of the Court; and the court below shall enforce the judgment or order made by the Court in terms of the certificate.

Rule 16—Interlocutory Appeals

(1) An interlocutory appeal shall be brought by the appellant submitting to the Recorder of the appellate Court four or such number of files as the Recorder of the court may decide, each containing:

(a) "notice of appeal" which shall state the matters specified in rule 1(4)

(b) a copy each, of the motion paper, the supporting affidavit and the exhibits which were annexed to the affidavit, and used in the court below.

(c) the respondent's affidavit in opposition if any with its exhibits used in the court below.

(d) the order or decision of the court below in respect of which the appeal is brought if available at the time of submitting the files to the Recorder of the Court; or later when obtained.

(2) The appeal shall be deemed to be filed when the files are submitted to the Recorder of the Court and the appropriate fee has been paid.

(3) The Recorder of the Court shall cause to be affixed to all the papers in each file the official stamp of the Court and each file shall constitute "the record of appeal" for the purpose of the appeal. Consequently, there shall be no settling or preparation of a record of appeal.

(4) The Recorder of the Court shall cause to be served on each of the parties mentioned in the notice of appeal, one file and shall issue a certificate of service of the notice of appeal after that.

(5) Within two days after filing the notice of appeal, the appellant shall file four copies of the "Statement of the Appellant's Case" setting out fully the arguments and the relevant statutes or decided cases the appellant wishes the Court to consider.

(6) If the appellant does not file a statement of case within the time stipulated in rule 5, the Recorder shall certify that fact to the Court which may dismiss the appeal for non-prosecution, or make such other order as it may consider appropriate.

(7) If the appellant files a statement of case, the Recorder shall cause a copy to be served on each respondent or the lawyer within seven days from the date of filing.

(8) A respondent who wishes to contest the appeal shall file six copies or such number as the Recorder may determine of the "Respondent's statement of case, within two days of the service of the statement of the appellant's case and shall set out his arguments in full citing all relevant statutes and decided cases intended for the consideration of the Court.

(9) The Recorder shall cause to be served on the appellant and on each other respondent if separately represented, a copy each of the respondent's statement of case.

(10) The Recorder shall within seven days of causing the respondent's statement of case to be served on the appellant and other respondents, fix the appeal for hearing by the Court and shall notify the parties of the date for the hearing of the appeal.

(11) An interlocutory appeal shall be considered and disposed of by the Court on the basis of the papers filed and, if considered necessary by the Court, oral submissions from the parties or their lawyers may also be received and considered by the Court.

(12) Judgment shall be delivered in open court or in chambers as the Court may determine.

(13) For the purpose of rule 16 of this Order, an interlocutory appeal shall include an appeal in respect of a decision or ruling on:

(a) any interlocutory application, irrespective of whether the decision disposes of the whole case or not.

(b) judgment on the undefended list.

(14) The times stipulated for filing interlocutory appeals shall be as specified in rule 3 (2) of this Order, but for an appeal against a final judgment on the Undefended List it shall be as specified in rule 3 (1) of this Order.

ORDER 25—APPLICATION FOR JUDICIAL REVIEW

Rule 1—Cases Appropriate for Application for Judicial Review

An application for

- (a) an order in the nature of mandamus, prohibition, certiorari or quo warranto; or
- (b) an injunction restraining a person from acting in any public office in which the person is not entitled to act; or,
- (c) any other injunction,

shall be made by way of an application for judicial review to the Court.

Rule 2—Orders Obtainable by Judicial Review

(1) On the hearing of an application for judicial review the Court may make any of the following orders as the circumstances may require

- (a) an order for prohibition, certiorari or mandamus;
- (b) an order restraining a person from acting in any public office in which that person is not entitled to act;
- (c) any other injunction;
- (d) a declaration;

(2) In granting an injunction or making a declaration under paragraphs (c) or (d) of subrule (1) of this rule the Court shall have regard to

- (a) the matter in respect of which relief may be granted by way of prohibition, certiorari or mandamus;
- (b) the nature of the persons against whom relief may be granted by way of the order; and
- (c) whether in all the circumstances of the particular case it would be just and convenient to grant an injunction or make a declaration on an application for judicial review.

Rule 3—Time for making Application

(1) The application for judicial review shall be made not later than 7 days from the date of the occurrence of the event giving grounds for making the application.

(2) Where an order of certiorari is sought in respect of any judgment, order, conviction or other proceeding, the date of the occurrence of the event giving grounds for the making of the application shall be taken to be the date of that judgment, order, conviction or proceeding.

Rule 4—Mode of Application

- (1) An application for judicial review shall be made to the High Court by motion.
- (2) The motion shall be supported by an affidavit by or on behalf of the applicant which shall contain the following particulars
 - (a) the full name, description and address for service of the applicant;
 - (b) the facts upon which the applicant relies;
 - (c) the relief or remedy sought by the applicant and the grounds on which he seeks the relief or remedy; and
 - (d) the full name, description and address for service of the person directly affected by the application.

Rule 5—Notice of Application

- (1) Notice of the application shall be served on all parties named in the applicant's affidavit as being directly affected by it.
- (2) The Court may order that notice of the application shall be served on any person not named as being directly affected by the application if in its opinion it is desirable that the person should be given notice.
- (3) A person who is served with notice of the application may file an affidavit in response to the application not later than two days after service of the notice on the person.
- (4) An applicant shall not rely on any ground at the hearing not set out in the applicant's affidavit in support of the application.
- (5) The applicant may by leave of the Court amend the grounds relied on and upon leave being granted, the applicant shall file a further affidavit setting out the grounds relied on as amended not later than seven days after the grant of leave or such other time as the Court may order.
- (6) Where the respondent wishes to file a reply to the applicant's amended affidavit, the respondent shall do so within two days of service of the further affidavit.
- (7) No further affidavits may be filed by either the applicant or any respondent except by leave of the Court.
- (8) Each party to the application shall supply to every other party copies of every affidavit the party proposes to use at the hearing of the application.

Rule 6—Hearing of Application

- (1) The Court may on the hearing of an application for judicial review, allow a person who desires to oppose the application to be heard notwithstanding that the person has not been served with notice of the application and may direct that person to file an affidavit.
- (2) Within 2 days after filing the Notice of application, the applicant shall file such number of copies of the applicant's statement of case as the Recorder shall determine setting out fully his arguments and relevant statutes or decided cases he wishes the Court to consider.
- (3) If the applicant does not file a statement of case within the time stipulated in subrule 2, the Recorder shall certify that fact to the Court which may dismiss the application for non-prosecution or make such other order as it may consider appropriate.
- (4) If the applicant files a statement of case the Recorder shall cause a copy to be served on each respondent or interested party or his lawyer within two days from the date of filing.
- (5) A respondent or any interested party who wishes to contest the application shall file such number of his statement of case, as the Recorder may determine, within 3 days of the service of the statement of the applicant's case on him and shall set out his arguments in full citing all relevant statutes and decided cases intended for the consideration of the Court.
- (6) The Recorder shall cause to be served on the applicant and on every other interested party, if separately represented, a copy of the respondent's statement of case.
- (7) The Recorder shall within two days of causing the respondent's statement of case to be served on the applicant and other interested parties, fix the application for hearing by the Court and shall notify the parties of the date for the hearing.
- (8) The application shall be considered and disposed of by the Court on the basis of the papers filed and if considered necessary by the Court, oral submissions from the parties or their lawyers may also be received and considered by the Court.

Rule 7—Certiorari

- (1) Where the applicant seeks an order of certiorari to remove any proceedings for the purpose of quashing them the applicant shall at least seven days before the hearings of the application file in the registry of the Court a copy of any order, warrant, commitment, conviction, inquisition or record verified by affidavit, otherwise the applicant shall not be heard unless the applicant's failure to do so is explained to the satisfaction of the Court.

(2) On the hearing of an application for certiorari, the Court if satisfied that there are grounds for quashing the decision or proceeding to which the application refers, may quash it and may in addition to quashing it remit the matter to the court or authority concerned with a direction to reconsider it and proceed in accordance with the findings of the Court.

Rule 8—Injunction or Declaration

(1) In an application for the relief of injunction, declaration or damages, if the Court considers that the relief should not be granted on an application for judicial review but might have been granted if sought in an action commenced by writ by the applicant at the time the application was made, it may instead of refusing the application order the proceedings to continue as if they had been commenced by writ.

(2) Where the Court makes an order under sub-rule (1) for the proceedings to continue it may direct that the parties shall settle the issues for trial and give such further directions for the conduct of the proceedings as it may consider necessary for the just and expeditious disposal of the matter.

Rule 9—Protection for Person acting in Obedience to Mandamus

No action or proceedings shall be commenced or prosecuted against any person in respect of anything done in obedience to an order of mandamus.

ORDER 26—ARBITRATION

Rule 1—Order of Reference

If the parties to an action desire that any matter in dispute between them in the action shall be referred to the final decision of an arbitrator, either party or both parties may apply to the Court at any time before final judgment for an order of reference, and on application the Court may make an order of reference accordingly.

Rule 2—Appointment of Arbitrator

(1) The arbitrator shall be appointed by the parties in such manner as may be agreed upon between them.

(2) If the parties cannot agree on the appointment of the arbitrator, or if the person appointed by them does not accept the appointment, and the parties desire that the appointment be made by the Court, the Court shall appoint the arbitrator.

Rule 3—Form of Order of Reference

(1) The Court shall, by an order under its seal, refer to the arbitrator the matter in dispute in the action which the arbitrator is required to determine, and shall fix such time as it thinks reasonable for the delivery of the decision.

(2) The order referring the matter to arbitration under this rule shall be as in Form 19 or 19A in the Schedule.

Rule 4—Appointment of Umpire where Necessary

If the reference is to two or more arbitrators, provision shall be made in the order for the determination of a difference of opinion among the arbitrators by the appointment of an umpire or by declaring that the decision shall be with the majority or by empowering the arbitrators to appoint an umpire or otherwise as may be agreed upon between the parties; or if they cannot agree, as the Court may determine.

Rule 5—Enforcing Attendance of Witnesses

(1) Where a reference is made to arbitration by an order of the Court, the process to the parties and witnesses whom the arbitrator or umpire may wish to have examined shall issue as in an ordinary action.

(2) Persons not attending in compliance with the process or making any other default or refusing to give their testimony or being guilty of any contempt of the arbitrator or umpire during the investigation shall be subject to the same disadvantages, penalties and punishments by order of the Court, on the representation of the arbitrator umpire, as they would incur for the same offences in proceedings tried before the Court.

Rule 6—Extension of time for making Decision

(1) If the arbitrator is not able to complete the decision within the period specified in the order, the Court may if it considers appropriate extend the period for delivery of the decision.

(2) Where an umpire has been appointed, the umpire may enter on the reference in lieu of the arbitrators, if they have allowed their time (or their extended time) to expire without making a decision or if they have delivered to the Court or to the umpire a written notice stating that they cannot agree.

(3) A decision shall not be set aside only because it has not been completed within the period allowed by the Court, unless

(a) it is proved that the delay in completing the decision arose from misconduct of the arbitrator or umpire; or

(b) the decision was made after the issue of an order by the Court superseding the arbitration and recalling the action.

Rule 7—Power of Court in Case of Incapacity

(1) If in a case of reference to arbitration by an order of the Court, an arbitrator or umpire dies or fails or refuses to act or becomes incapable of acting, the Court may appoint a new arbitrator or umpire in replacement.

(2) Where arbitrators are empowered by the terms of the order of reference to appoint an umpire, and do not do so, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if no umpire is appointed within 2 days after the notice is served, the Court upon the application of the party who serves the notice, and upon proof to its satisfaction that the notice has been served, may appoint an umpire

(3) An arbitrator or umpire appointed under this rule, has the same power to act in the reference as if the arbitrator's or umpire's name had been stated in the original order or reference.

Rule 8—Finding to be Conclusive

The decision shall contain a conclusive finding on each of the matters referred, and may not find on the contingency of any matter of fact being afterwards substantiated or deposed to.

Rule 9—Special Case

Upon any reference by an order of the Court the arbitrator or umpire may, if the parties have not made any agreement to the contrary, state the decision as to the whole or any part of the matters referred in the form of a special case for the opinion of the Court.

Rule 10—Power to modify or Correct Decision

The Court may, on the application of any party, modify or correct a decision

(a) where it appears that a part of the decision is on matters not referred to the arbitrator, if that part can be separated from the other part, and does not affect the decision on the matter referred; or

(b) where the decision is imperfect in form, or contains any obvious error which can be amended without affecting the decision on the matters referred.

Rule 11—Power to Remit Decision for Reconsideration

The Court may remit the decision or any of the matters referred to arbitration for reconsideration by the arbitrator or umpire upon such terms as it may think proper in any of the following cases

(a) if the decision has left undetermined some of the matters referred to arbitration or if it has determined matters not referred to arbitration;

(b) if the decision is so indefinite as to be incapable of execution; or

(c) if an error with regard to the legality of the decision is apparent on the face of the decision.

Rule 12—Setting aside Decision

(1) No decision shall be set aside except on the ground of perverseness or misconduct of the arbitrator or umpire.

(2) An application to set aside or remit an decision may be made at any time within one week after the decision has been made and published to the parties; but the Court may by order extend the time either, before or after it has elapsed.

Rule 13—Effect of Filing Decision

If no application is made within the period referred to in rule 12 to set aside the decision or to remit the decision or any of the matters referred for reconsideration or if the Court has dismissed any application, either party may file the decision in Court, and the decision shall be incorporated in an order of the Court and shall have the same force and effect for all purposes as a judgment of the Court.

Rule 14—Arbitration Act, 1961

The provisions of this Order do not derogate from the provisions of the Arbitration Act, 1961 (Act 38) or any other enactment that governs arbitration.

ORDER 27—LAWYERS

Rule 1—Change and Appointment of Lawyer

(1) A party represented by a lawyer may, subject to rule 2, change the lawyer at any time.

(2) A party represented by a lawyer may subject to rule 2, discharge the lawyer at any time and proceed to act in person.

(3) A party who acts in person may at any time appoint a lawyer to act in the cause or matter on the party's behalf.

Rule 2—Status of Former Lawyer

Unless and until a change or a discharge of a lawyer under rule 1 (1) or (2) is notified in accordance with rule 3, the former lawyer shall subject to rules 5 and 6, be considered the lawyer of the party until the conclusion of the cause or matter in the Court.

Rule 3—Notice of Change of Representation

(1) Where a party changes the party's representation under rule 1(1), (2) or (3), the party or the lawyer, if any, shall

(a) file a notice of the change at the registry of the appropriate Court; which notice shall indicate the number and the date of the current practising licence of the lawyer; and

(b) send a copy of the notice, endorsed with a statement that the notice has been duly filed in the registry, to the former lawyer, if any, and to every other party who is not in default as to filing of appearance.

(2) A notice of intention to act in person shall contain an address for service of the party giving the notice.

Rule 4—Notice of change of Agent Lawyer

A lawyer for whom another lawyer is acting as agent may change the lawyer so acting and shall

(a) file a notice of the change in the registry of the appropriate court; and

(b) send a copy of the notice, endorsed with a statement that the notice has been duly filed in the registry, to the former agent lawyer and to every party to the cause or matter, not being the party for whom the lawyer is acting or a party in default as to filing of appearance.

Rule 5—Removal of Lawyer from Record

(1) Where

(a) a lawyer who acts for a party in a cause or matter dies or becomes bankrupt or cannot be found or fails to take out a practising certificate or has been struck off the Roll of Lawyers or has been suspended from practising or has for any other reason ceased to practise; and

(b) the party has not given notice of change of lawyer or notice of intention to act in person in accordance with rule 3,

any other party to the cause or matter may apply to the Court for an order declaring that the lawyer has ceased to be the lawyer acting for the first-mentioned party in the cause or matter, and the Court may make an order accordingly.

(2) Notice of an application for an order under this rule shall, unless the Court otherwise directs, be served on the party whose lawyer the application relates.

(3) The application shall be supported by an affidavit stating the grounds for the application.

(4) Where the Court makes an order under this rule, the Recorder shall immediately notify every party to the cause or matter, who has filed an appearance, of the making of the order.

(5) An order made under this rule shall not affect the rights of the lawyer and the party for whom the lawyer acted as between themselves.

Rule 6—Withdrawal of Lawyer who has ceased to act for Party

(1) Where a lawyer who acts for a party in a cause or matter ceases so to act and the party does not give notice of change of lawyer or notice of intention to act in person in accordance with rule 3, the lawyer may apply to the Court to make an order accordingly.

(2) Notice of an application for an order under this rule shall, unless the Court otherwise directs, be served on the party for whom the lawyer acted.

(3) The application shall be supported by an affidavit stating the grounds of the application.

(4) Where the Court makes an order under this rule, the Recorder shall immediately notify every party to the cause or matter, who has filed an appearance, on the making of the order.

(5) An order made under this rule shall not affect the rights of the lawyer and the party for whom the lawyer acted as between themselves.

Rule 7—Address for Service of Party whose Lawyer is Removed

Where an order is made under rule 5 or 6, then unless and until the party whose lawyer or to whom the order relates, gives notice of the appointment of another lawyer or of the party's intention to act in person in accordance with rule 3, his last known address or, where the party is a body corporate, its registered or principal office, shall be declared to be the address for service on the party of any document not required to be served personally.

Rule 8—Lawyer may be Ordered to Deliver Cash Account, Documents

(1) Where the relationship of lawyer and client exists or has existed, the Court may, on the application of the client or the client's personal representative, make an order for

(a) the delivery by the lawyer of a cash account;

(b) the payment or delivery by the lawyer of money, securities or documents and papers:

(c) the delivery to the client of a list of the moneys or securities which the lawyer has in his or her possession or control on behalf of the client; and

(d) the payment into or lodging in court of any such moneys or securities.

(2) An application for an order under this rule shall be made by motion with notice to the lawyer concerned.

(3) If the lawyer alleges that he or she has a claim for costs, the Court may make such order as it considers fit for the assessment and payment or securing the payment of the costs and the protection of the lawyer's lien, if any.

ORDER 28—RECORDERS AND BAILIFFS

Rule 1—Record Book to be kept

Every Recorder shall, subject to the supervision and direction of the Judicial committee chairperson, prepare and maintain lists of causes or matters to be tried at the sittings of the Court, which shall be known as the Record Book.

Rule 2—Power to Administer Oath

A Recorder has authority to administer oaths and take affidavits for the purpose of proceeding in the Court.

Rule 3—Custody of Money in Court

(1) When money is paid into or deposited in court, the Recorder shall immediately give a receipt from the counterfoil receipt book, and shall pay the money into the bank account of the Court.

ORDER 29—PAPER, PRINTING, NOTICES AND COPIES

Rule 1—Quality and Size of Paper

Unless the nature of the document renders it impracticable, every document prepared by a party for use in the Court shall be on an A4 sheet.

Rule 2—Printing and Writing

(1) Except where these Rules otherwise provide, every document prepared by a party for use in the Court shall be produced

(a) by printing;

(b) by writing, which shall be clear and legible;

and may be produced partly by one of those means and partly by another or others.

(2) For the purposes of these Rules a document is printed if it is produced by computer printing.

(3) Any photograph of a document shall be treated for the purposes of these Rules as if it were printed, written or typewritten, as the case may be.

Rule 3—Notices

(1) In any case where a notice is required to be published, it may be published on the noticeboard unless otherwise provided in any particular case by any of these Rules or otherwise ordered by the Court.

(2) A notice required by these Rules may not be given orally except with leave of the Court.

Rule 4—Copies of Documents for other Party

(1) Where a document prepared by a party for use in the Court is printed, the party by whom it is prepared shall on receiving a written request from any other party entitled to a copy of that document and on payment of the relevant charges, supply the party with such number of copies of it as may be specified in the request.

(2) Where a document prepared by a party for use in the Court is written or typewritten, the party by whom the document is prepared shall supply any other party entitled to a copy of the document but who has not been served with the document with one copy of the document and, where the document in question is an affidavit, of any document exhibited to it.

(3) The copy referred to in sub-rule (2) shall be ready for delivery within a day after a written request for it.

Rule 5—Requirement as to Copies

(1) Each copy of a document, whether an office copy or a copy supplied to a party under these Rules, shall show on the indorsement the number of pages it contains.

(2) Before a copy of a document is supplied to a party under these Rules, it shall be indorsed with the name, course, year and residential address of the party or lawyer by whom it is supplied.

(3) The party by whom a copy is supplied under rule 4 or, if the party sues or appears by a lawyer, the party's lawyer, shall be answerable for the copy being a true copy of the original or of an office copy, as the case may be.

ORDER 30—SITTINGS, OFFICE HOURS AND VACATIONS

Rule 1—Days and Hours of Sittings

(1) The Judicial committee chairperson may appoint any day including vacations for the hearing of causes or matters as circumstances require.

(2) The sittings of the Court shall be for such hours as the Judicial committee chairperson shall direct.

Rule 2—Order of Business

Subject to special arrangements for any particular day, the business of the day shall be taken as nearly as circumstances permit in the following order

(a) at the commencement of the sitting, judgments shall be delivered in matters standing over for the purpose;

(b) motions shall be taken in the order in which they stand in the motion list; and

(c) the causes or matters on the cause list shall then be called on in their order unless the Court sees fit to vary the order.

Rule 3—Office Hours

(1) The offices of the Court shall, subject to sub-rule (2), be open to the public on every day of the year for such hours as the Judicial committee chairperson shall direct.

(2) Except as otherwise directed by the Judicial committee chairperson, the offices of the Court shall be closed on Saturdays, Sundays and public holidays.

Rule 4—Vacations

Subject to rule 1 (1) the court shall go on vacations during school vacation periods.

ORDER 80—TIME

Rule 1—Reckoning periods of time

(1) Any period of time fixed by these Rules or by any judgment, order or direction for doing any act shall be reckoned in accordance with this rule.

(2) Where the act is required to be done within a specified period after or from a specified date, the period begins to run immediately after that date.

(3) Where the act is required to be done within or not later than a specified period before a specified date, the period ends immediately before that date.

(4) Where the act is required to be done a specified number of clear days before or after a specified date, at least that number of days shall intervene between the day on which the act is done and that date.

(5) Where, apart from this rule, the period in question is a period of seven days or less and would include a Saturday, Sunday or a public holiday, that day shall be included.

Rule 2—Vacations not Generally to be Reckoned in time for Service of Pleadings

Unless the Court otherwise directs, the times of the vacations in any year shall be excluded in reckoning any period prescribed by these Rules or by any order or direction for serving, filing or amending a pleading.

Rule 3—Non-working days

Where the time prescribed by these Rules or by any judgment, order or direction, for doing any act at an office of the Court expires on a day on which that office is closed, and for that reason that act cannot be done on that day, the act shall be in time if done on the next day on which that office is open.

Rule 4—Extension or Reduction of time

(1) The Court may, on such terms as it thinks just, by order extend or reduce the period within which a person is required or authorised by these Rules, or by any judgment, order or direction, to do any act in any cause or matter.

(2) The Court may extend any such period although the application for extension is not made until after the expiration of that period.

(3) The period within which a person is required by these Rules, or by any order or direction, to serve, file or amend a pleading or other document may be extended by consent (given in writing) without any order of the Court being made for that purpose.

ORDER 31—SUPPLEMENTARY AND MISCELLANEOUS PROVISIONS

Rule 1—Matters not Provided for

Where in respect of any matter of procedure, no provision is made by these Rules, the practice for the time being in force in the country may where convenient be applied.

Rule 2—Forms

(1) The forms contained in the Schedule to these Rules shall be used with such modifications as the circumstances of any particular case require.

(2) Where no form is provided in the Schedule to these Rules, the SRC Judicial Council Recorder/clerk with the approval of the SRC Judicial Council chairperson may authorise the use of a suitable form.

Rule 3—Interpretation

In these Rules unless the context otherwise requires

"action" means a civil proceeding commenced by writ or in such other manner as may be prescribed by these Rules or by any other enactment;

"address" means address for service in this country;

"Record Book" means the book kept in the Registry in which the number and other details relating to any proceedings are entered;

"Court" means the judicial committee or any one or more Judges of it, whether sitting in Court or in chambers

"court below" means the Court or body from which an appeal or other cause or matter is brought;

"drawn up" means write out

"interlocutory decision" means a decision which is not a final decision in any cause or matter;

"Judge" includes persons empaneled by the judicial council chairperson to sit on a matter before the committee;

"Judgment" includes any order, ruling or decree of the Court;

"lawyer" includes a student of the KNUST Law Faculty and a student of the Ghana School of Law who is accompanied by a student of the KNUST Law student;

"officer" means an officer of the Court;

"out of the jurisdiction" means out of the jurisdiction of the Court;

"pleading" means the formal allegations by the parties to a law suit of their respective claims and defences with the intended purpose of providing notice of what is to be expected at the trial;

"Recorder" includes the Judicial Recorder and the Deputy Judicial Recorder and the Recorder of the Court;

"registry" means the office of the Judicial Committee;

"Schedule" means the Schedule to these Rules;

"signature" includes a thumb-print and a mark;

"term" means any period between vacations when the Court is in session,

"writ" includes a writ of summons and statement of claim or a petition in a cause or matter.

Rule 4—Commencement of operation of Rules

The operation of these Rules shall take effect from 14th September, 2023

Rule 5—Revocation

The coming into operation of these Rules revokes the SRC Petitioners' Code.