

# CONSTITUTIONAL INSTRUMENT

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## THE COMMERCIAL AND ADMIRALTY COURT RULES, 2020

### ARRANGEMENT OF RULES

#### Rules.

#### PART I- PRELIMINARY

1. Interpretation.
2. Application.

#### PART II - JURISDICTION AND OTHER RELATED MATTERS

3. Jurisdiction.
4. Value of claims.
5. Exempted claims.

#### PART III-ASSESSORS

6. Assessors.

#### PART IV - INSTITUTION OF PROCEEDINGS AND OTHER RELATED MATTERS

7. Institution of proceedings.
8. Writ of summons.
9. Other originating processes.
10. Duration of originating processes.
11. Renewal of originating processes.
12. Registrar's motion.
13. Substituted service.
14. Pleadings.
15. Summary Judgment.
16. Judgment on admission.
17. Payment on admission.

#### PART V-INTERLOCUTORY AND INTERIM APPLICATIONS

18. Application by motion to the Court.

#### PART VI - AMENDMENT, JOINDER, ADDITION OF PARTIES

19. Joinder of parties.
20. Amendments.

#### PART VII - MANDATORY ALTERNATIVE DISPUTE RESOLUTION PROCESS

21. Assignment of case.
22. Time limit to settle dispute.
23. Proceedings during pre-trial settlement.
24. Notification to attend sessions.
25. Third party.
26. Failure of party to attend pre-trial settlement.
27. Failure of all parties to attend pre-trial settlement.
28. General rules for pre-trial settlement.
29. Role of pre-trial Judge in pre-trial settlement.
30. Oral statements and records of statement to be without prejudice.
31. Termination of pre-trial settlement.
32. Settlement by external parties.
33. Terms of pre-trial settlement judgment.
34. Failure to enter matter for trial.
35. Assignment of case for trial.
36. Case management conference.

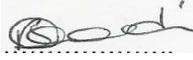
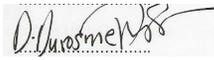
#### PART VIII - PROCEEDINGS AT TRIAL

37. Consequence of non-appearance.
38. Evidence by video link.
39. Recording of proceedings.
40. Prohibition of unauthorised audio recording.
41. Judgments and orders.

#### PART IX - MISCELLANEOUS

42. Duration of cases.
43. Adjournment.
44. Subpoena.
45. Fees.
46. Revocation.

#### SCHEDULES

Hon. Desmond Babatunde Edwards Chief Justice	Chairman	
Hon. Nicolas C. Browne -Marke Justice of the Supreme Court	Member	
Hon. Reginald Fynn Justice of the Appeals Court	Member	
Hon. Justice Fatmatta Bintu Alhadi Justice of the High Court	Member	
Dandyson Durosime Thompson First Parliamentary Counsel	Member	
Gerard J. Soyey Nominee of the Attorney-General and Minister of Justice	Member	
Centus Macauley Legal Practitioner	Member	
Brima Koroma Legal Practitioner	Member	

Made this    day of                    , 2020

Freetown,  
SIERRA LEONE.

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**THE CONSTITUTION OF SIERRA LEONE  
(ACT No. 6 of 1991)**

THE COMMERCIAL AND ADMIRALTY COURT RULES, 2020    Short title.

In exercise of the powers conferred on it by Section 145 of the Constitution, the Rules of Court Committee hereby makes the following Rules -

**PART I - PRELIMINARY**

1. In these Rules unless the context otherwise requires-    Interpretation.

"assessor" means a non-lawyer who sits together with a judge to provide either expert advice or guidance on a matter to be decided ;

"business entity" means a for profit or non-profit corporation, general partnership, limited partnership, limited liability partnership, limited liability company, professional association, unincorporated association ,professional corporation, business trust, joint venture, sole proprietorship or any other legal entity recognised and doing business in Sierra Leone ;

"Court" means the Fast Track Commercial Court of the Commercial and Admiralty Division of the High Court;

"Registrar" means the Master and Registrar of the Court and includes a Deputy Master and Registrar;

"video link" means an internet messaging application which includes skype, WhatsApp, snapchat, imo, Instagram and twitter.

Application.

2. (1) These Rules shall apply to the Court.

(2) Unless otherwise provided for in these Rules, the High Court Rules, 2007 shall apply with the necessary modifications, adaptations and exceptions as are necessary to give effect to these Rules.

#### PART II - JURISDICTION AND OTHER RELATED MATTERS

Jurisdiction.

3. The Court shall hear and determine commercial and admiralty claims and shall be vested with original jurisdiction to hear and determine claims which shall include -

- (a) formation, governance, dissolution, winding up or liquidation of a business entity; receivership, insolvency and bankruptcy matters;
- (b) rights or obligations of members of a business entity;
- (c) disputes involving commercial arbitration and other settlement and awards including enforcement of foreign awards;
- (d) banking and financial services including mortgages and debentures;

(e) restructuring or payments of commercial debts;

(f) tax matters;

(g) unfair competition, trade secret, non-disclosure;

(h) mining and other extractive rights;

(i) rights, obligations, liability or indemnity of an owner, shareholder, officer, director, manager, trustee, partner or member of a business entity owed to or from the business entity;

(j) consumer claims against persons, business entities or insurers of business entities including breach of warranty, product liability and cases arising under consumer protection law;

(k) consumer debts such as debts or accounts incurred or obtained by an individual, including credit card debts, taxes or rates, promissory notes, personal loans, legal fees and other similar types of consumer debts;

(l) admiralty and shipping matters;

(m) disputes between 2 or among 3 or more business entities or individuals as to their business activities relating to contracts, transactions or relationships between or among them including-

(i) transactions governed by the Companies Act, Partnership Act, Sale of Goods Act and Negotiable Instruments Act;

- (ii) the purchase, sale, lease or licence of a security interest in the infringement or misappropriation of patents, trademarks, service marks, copyrights, trade secrets or other intellectual property;
- (iii) the purchase or sale of a business entity whether by merger, franchise, acquisition of shares or assets;
- (iv) the sale of goods or services by a business entity to another business entity or individual;
- (v) non consumer bank or brokerage accounts, including loans, deposit, cash management and investment accounts;
- (vi) surety bonds or guarantee obligations
- (vii) individuals given in connection with business transactions;
- (viii) the purchase, sale, lease or license of a security interest in commercial property whether tangible or intangible;
- (ix) franchise, agency or dealership relationship;
- (x) business related torts, such as claims of unfair competition, false advertisement, unfair trade practices, fraud or interference with contractual relationships or prospective contractual relations;

- (xi) cases relating to or arising under anti-trust law;
- (xii) cases relating to securities or arising under laws relating to securities;
- (xiii) commercial insurance and re-insurance contracts, including coverage and other disputes;
- (xiv) any other commercial and admiralty claims.

4. The value of a claim in a commercial and admiralty matter before the Court shall not be less than Le. 50, 000, 000. 00. Value of claims.

5. The Court shall not have jurisdiction to hear and determine the following claims - Exempted claims.

- (a) personal injury, survivor and wrongful death matters;
- (b) matters relating to claims for wages, occupational health or safety, workers' compensation, unemployment compensation and other matters relating to industrial relation;
- (c) matters relating to declaration of title, trespass to land and recovery of possession of land;
- (d) matters subject to the exclusive jurisdiction of other divisions of the High Court;
- (e) criminal matters with the exception of criminal contempt relating to a pending matter before the court;

- (f) petition actions relating to change of name of an individual and guardianship;
- (g) electoral matters; and
- (h) disputes relating to landlord and tenancy relationship including matters on recovery of possession and mesne profit.

### PART III-ASSESSORS

Assessors.

6. (1) The Chief Justice may appoint 20 suitably qualified persons to serve as assessors.

(2) The Registrar shall record the names of all the assessors in a register kept for that purpose.

(3) Notwithstanding Rule 6 of Order 39 of the High Court Rules, 2007 where the trial Judge finds it necessary that the trial should be conducted with the aid of assessors, the Chief Justice shall select assessors from the register referred to in sub-rule (2)

(4) The parties to a claim shall consent to the assessors selected by the Chief Justice under sub-rule (3).

(5) A party to a claim may, before or during the trial, object to any assessor and the Judge shall forthwith rule on the objection.

(6) An assessor may state his opinion on a matter at the end of the trial but the opinion shall not be binding on the Judge.

(7) Where an assessor has an interest in any matter, he shall disclose such interest to the Judge and the Judge shall determine whether or not the assessor shall recuse himself from the matter.

(8) A trial of a cause or action with the aid of assessors shall be conducted with not less than 2 assessors who shall be specifically knowledgeable in the field concerning the cause or matter.

(9) Where in the course of a trial only one of the assessors selected is present, the Court may proceed and conclude the trial with the single assessor.

(10) The Chief Justice may remove an assessor on any of the following grounds -

- (a) for his inability to perform the functions of his office by reason of infirmity of mind or body;
- (b) for proven misconduct;
- (c) if he becomes bankrupt or insolvent;
- (d) if he is convicted and sentenced for an offence involving fraud or dishonesty;
- (e) if he fails to attend three consecutive meetings of assessors without reasonable cause; or
- (f) if he resigns his office by written notice to the Chief Justice.

(11) Assessors shall be paid such remuneration as may be determined by the Chief Justice.

### PART IV - INSTITUTION OF PROCEEDINGS AND OTHER RELATED MATTERS

7. Proceedings in the Court shall be instituted by-

Institution of proceedings.

- (a) writ of summons;
- (b) originating summons;
- (c) originating notice of motion; or
- (d) petition.

8. (1) Notwithstanding Order 6 of the High Court Rules, 2007 all civil proceedings commenced by writ of summons shall be accompanied by a - Writ of summons.

- (a) statement of claim;
  - (b) list of witnesses to be called in the proceedings;
  - (c) written statement of witnesses on oath;
  - (d) brief submission of law to be relied upon;
  - (e) set of copies of every document to be relied on at the trial;
  - (f) full address, including email, fax and telephone number of the plaintiff and his solicitor.
- (2) A witness statement shall -
- (a) be made on oath or affirmation;
  - (b) contain the name, address and occupation of the witness;
  - (c) be in the intended witness' own words so far as reasonably practicable;
  - (d) sufficiently identify any document to which the statement refers without repeating its content unless it is necessary in order to identify the document;
  - (e) not include any action of information or belief which are not admissible and where admissible, shall state the source of any action or information or belief;
  - (f) not contain lengthy quotation from documents ;
  - (g) include a statement by the intended witness that he believes the statement of fact to be true;

(h) be in numbered paragraphs; and

(i) shall be dated and signed or otherwise authenticated by the intended witness.

(3) A witness statement shall be as set out in the First Schedule.

(4) A writ of summons that is not accompanied by the documents required under sub-rule (1) shall not be accepted by the Registrar for the purpose of filing.

9. Notwithstanding Orders 7, 8 and 9 of the High Court Rules, 2007 an originating summons, originating notice of motion and petition shall be accompanied by- Other originating processes.

(a) an affidavit setting out the facts relied upon;

(b) all the exhibits to be relied upon;

(c) a written address in support of the application;

(d) a brief submission of law to be relied upon;

(e) a full address, including email, fax and telephone number of the plaintiff and solicitor.

10. (1) Notwithstanding Rules 5, 6, 7, 8, 9, and 10 of the High Court Rules, 2007 an originating process shall expire within 3 months from the date it was issued. Duration of originating processes.

(2) An originating process that has not been served on a defendant within 3 months from the date of issue by the Registrar, shall be deemed to have expired.

(3) Without prejudice to Rule 9 of Order 6, Rule 4 of Order 7, Order 8 and Order 9 of the High Court Rules, 2007 this rule shall apply, with the necessary changes, to concurrent processes.

Renewal of originating processes.

11. (1) Where a Judge is satisfied that it is impossible to serve an originating process on a defendant or respondent within the life span of the original process, and a plaintiff applies before the expiration or renewal of the process, the Judge may renew the original or concurrent process for another period not exceeding 3 months.

(2) An originating process shall be renewed only once and shall not be in force for more than 6 months.

Registrar's motion.

12. (1) At the end of every month, the Registrar shall submit to the Court all pending actions, in which no steps have been taken for 14 days and the Court shall order the Registrar to issue 2 consecutive notices on the parties or their solicitors stipulating that within 14 days from the date of issuing the notice the action will be struck out.

(2) Where the parties fail to continue with their actions after 30 days of issue of the notice referred to in sub-rule (1) the Registrar shall upon his own motion, supported by an affidavit apply to the Court for the case to be struck out.

Substituted service.

13. (1) Notwithstanding Order 10 of the High Court Rules, 2007 substituted service may be effected by electronic means including email or facsimile using the addresses previously disclosed and used between the parties in their business transaction.

(2) A copy of the service referred to in sub-rule (1) shall be simultaneously filed in the Court.

(3) A status report of the substituted service filed, shall be deemed to be proof of service.

Pleadings.

14. (1) Without prejudice to Rule 2 of Order 21 of the High Court Rules, 2007, where a defendant is served with a writ of summons and wishes to defend the suit, he shall, within 10 days from the date of service of the summons, file to the Court a written statement of defence and counter-claim which shall be accompanied by a-

- (a) list of witnesses to be called by the defendant;
- (b) written witness statements of the defendant on oath as set out in sub-rules (2) and (3) of Rule 9;
- (c) brief submission of law;
- (d) set of copies of every document to be relied on by the defendant; and
- (e) full address, including e-mail, fax and telephone number of the defendant and his solicitor.

(2) Notwithstanding Order 21 of the High Court Rules, 2007 a plaintiff's defence to a counter-claim and his reply shall be filed within 5 days and accompanied by a-

- (a) list of witnesses to be called by the plaintiff;
- (b) set of written statements of the plaintiff on oath as set out in sub-rules (2) and (3) of Rule 9;
- (c) brief submission of law;
- (d) set of copies of every document to be relied on by the plaintiff; and
- (e) full address including e-mail, fax and telephone number of the defendant and his solicitor.

(3) Where a plaintiff and defendant fail to comply with this rule, the Registrar shall not accept his pleadings for the purpose of filing.

15. (1) Notwithstanding Order 16 of the High Court Rules, 2007 an application for summary judgment shall not be made before the Alternative Dispute Resolution pre-trial settlement. Summary Judgment.

(2) Where an application for summary judgment is refused by the Judge, the Judge shall make directions as he deems fit.

Judgment on admission.

16. Application for judgment on admission shall be made not later than the pre-trial settlement.

Payment on admission.

17. (1) A defendant who makes an admission pursuant to Rule (1) of Order 34 of the High Court Rules 2007, may request for time to pay the amount admitted.

(2) The defendant's request shall be-

- (a) filed with his admission;
- (b) supported by a statement of his financial position including details of all his bank accounts.

(3) The statement referred to in paragraph (a) of sub-rule (2) shall be verified on oath by the defendant as being correct and may be used as evidence of the defendant's financial position at the date it was signed in any subsequent proceedings with regard to the enforcement of any judgment given upon the plaintiff's claim.

(4) Where a defendant files an admission of the claim, the Court shall enter judgment on the amount claimed and admitted.

(5) Where the plaintiff does not accept the defendant's offer as to the time of payment, he shall state his reasons for rejecting the defendant's proposal as to the time of payment.

(6) The Court shall consider the defendant's request to pay and the plaintiff's objection thereto and make orders as to the instalment payable and interest if claimed on such terms as the Court deems fit.

(7) Where a defendant fails to make any of the instalments which are due, the defendant's right to pay by instalment shall be abrogated and the plaintiff shall be entitled to execute the order for the outstanding sum in full without further notice.

#### PART V-INTERLOCUTORY AND INTERIM APPLICATIONS

18. (1) Where an application is to be made to the Court or Judge pursuant to these Rules, the application shall - Application by motion to the Court.

- (a) be supported by affidavit;
- (b) state under what rule of court or law the application is brought;
- (c) be accompanied by a written address in support of the relief sought; and
- (d) be served immediately after filing.

(2) Where the other party intends to oppose the application referred to in sub-rule (1), he shall within 3 days after receipt of the application file his affidavit in opposition and written address on points of law.

(3) An applicant may, after receipt of the affidavit in opposition referred to in sub-rule (2), file and serve an affidavit in reply and a written address in reply on points of law within 3 days.

#### ART VI-AMENDMENT, JOINDER, ADDITION OF PARTIES

19. (1) Where an application is made pursuant to Rule 4 of Order 18 of the High Court Rules, 2007, to add a party such application shall be accompanied by a- Joinder of parties.

- (a) list of witnesses to be called by the intended party, if any;
- (b) set of written statements of the witnesses on oath as set out in sub-rules (2) and (3) of Rule 9 of Order 18;
- (c) brief submission of the law to be relied upon;
- (d) set of copies of every document to be relied upon; and

(e) full address including e-mail, fax and telephone number of the party and his solicitor.

(2) Where an application is to substitute a deceased party with another person, sub-rule (1) shall not apply.

(3) Where the other party intends to oppose the application referred to in sub-rule (1), he shall within 3 days after receipt of the application file his affidavit in opposition and written address on points of law.

(4) An applicant may, after receipt of the affidavit in opposition referred to in sub-rule (3) file and serve an affidavit in reply and a written address in reply on points of law within 3 days.

Amendments.

20. (1) Notwithstanding Order 23 of the High Court Rules, 2007 an application to amend may be made by motion and shall be accompanied by an exhibit of the proposed amendments, a list of any additional witnesses to be called together with their written statements on oath and a copy of any documents to be relied upon .

(2) An application under sub-rule (1) may be granted upon such terms as to costs or otherwise as may be just in the circumstance.

(3) An amended endorsement or pleading shall be marked in the following manner -

"Amended the ---- day of ----- pursuant to Order of (name of Judge) dated the ---- day of -----"

(4) Subject to this Rule a Judge may at any stage of the proceedings and on such terms as to cost or otherwise as may be just, amend any defect or error in any proceedings.

PART VII - MANDATORY ALTERNATIVE DISPUTE RESOLUTION PROCESS

Assignment of case.

21. (1) The Chief Justice shall, within 3 days after pleadings are deemed to be closed, assign the case to a Judge to conduct a pre-trial settlement.

(2) The Judge shall set a date for the first hearing of the pre-trial settlement within 3 days from the date the case was assigned.

22. A pre-trial Judge shall facilitate settlement of a dispute within 14 days, with the exception of excluded days, from the date of commencement of the pre-trial settlement unless he finds that there is a reasonable prospect of settlement and with the consent of the parties, extend the pre-trial settlement period for another 7 days. Time limit to settle dispute.

23. Proceedings during pre-trial settlement shall, as far as possible, be from day-to-day, with the exception of excluded days, but in case of adjournment shall not be adjourned for more than 2 days. Proceedings during pre-trial settlement.

24. A party to the proceedings shall be informed of the date and time appointed for the holding of a pre-trial settlement in their presence or by way of a notice as set out in the Second Schedule. Notification to attend sessions.

25. Where a third party is liable to satisfy all or part of a judgment in a suit or to indemnify or reimburse a party for money paid in satisfaction of all or part of a judgment in a suit, the third party or his solicitor, may attend the pre-trial settlement unless the Court otherwise directs. Third party

26. (1) Where it is not practical to conduct a scheduled pre-trial settlement because a party fails, without good cause, to within the attend appointed time for the commencement of the hearing, the pre-trial Judge may- Failure of party to attend pre-trial settlement.

- (a) strike out the action, if the non-complying party is a plaintiff or strike out the defence if the non-complying party is a defendant;
- (b) order a non-complying party to pay costs; or
- (c) make such order as he deems just.

(2) A party aggrieved by an Order made by a pre-trial Judge under sub-rule (1) may, within 7 days from the date of the Order, file in Court an application as set out in the Third Schedule showing good cause for restoration of the suit or defence and shall pay the costs.

(3) Where a party shows good cause for restoring a suit or defence under sub-rule (2), the pre-trial Judge shall set aside the Order and restore the suit or defence and proceed with the pre-trial settlement.

Failure of all parties to attend pre-trial settlement.

27. (1) Where none of the parties attend the pre-trial settlement within the 14 days period, the pre-trial Judge shall-

- (a) award costs against the parties which should be paid before the matter continues for pre-trial settlement;
- (b) dismiss the whole suit as he deems fit where both parties fail to pay the cost; or
- (c) apply Rule 26 where one party fails to appear.

(2) Costs under sub-rule (1) shall be paid to the Judicial Sub- Treasury as may be deemed appropriate by the Judge.

General rules for pre-trial settlement.

28. (1) When conducting a pre-trial settlement hearing -

- (a) the parties shall strive to reduce cost and delay in litigation and co-operate with each other to ensure an early and fair resolution of the dispute;
- (b) the pre-trial Judge shall facilitate co-operative communication between or among the parties to the dispute in order to assist them in reaching a mutually acceptable resolution;
- (c) the parties' legal representatives shall assist their client in reaching a mutually acceptable resolution.

29. A pre-trial Judge in a pre-trial settlement shall -

Role of pre-trial judge in pre-trial settlement.

- (a) do everything to encourage parties resolve their pre-trial dispute in an independent and impartial manner;
- (b) evaluate and proffer advise in an independent and impartial manner to reach an amicable outcome or resolution;
- (c) conduct meetings with the parties solely and jointly and come up with proposals for a settlement;
- (d) be guided by principles of objectivity, fairness and natural justice and shall give consideration to the following -
  - (i) the rights and obligations of the parties;
  - (ii) the usage of the trade concerned;
  - (iii) the law on the subject concerned ;
  - (iv) the circumstances surrounding the dispute, including any previous business practices between the parties; and
  - (v) the wishes of the parties.

30. (1) During the pre-trial settlement, oral statements and the records of statements shall be without prejudice to the proceedings at the trial.

Oral statements and records of statement to be without prejudice.

(2) Where there is no settlement the notes of the Judge relating to the pre-trial settlement shall be removed from the file and such notes shall be kept by the Master and Registrar.

Termination of pre-trial settlement.

31. A pre-trial settlement shall come to an end when -
- (a) the parties execute a settlement agreement which is adopted as a judgement of the Court;
  - (b) the pre-trial Judge dismisses a pre-trial settlement hearing under Rules 26 and 27 for non-compliance by any of the parties;
  - (c) the pre-trial Judge after consultation with the parties, declares that further pre-trial is not worthwhile;
  - (d) the 14 days period from the date of the first session expires or when the 21 days period expires in the case of an extension.

Settlement by external parties.

32. The parties may choose to have their dispute settled by an external person or body and the pre-trial Judge shall give directions and stipulate the time limit which shall not exceed 21 days.

Terms of pre-trial settlement judgment.

33. (1) After the settlement of a dispute by a pre-trial Judge the terms of the settlement shall be read over to the parties or their counsel and signed by the parties or their respective counsel and thereafter entered as judgment of the court by the pre-trial Judge.

(2) Where a party is unable to read or write, the terms of the settlement shall be read over and explained in a language which he understands and the party shall thumb print the settlement.

(3) The judgment of the Court shall be in the form as set out in the Fourth Schedule.

Failure to enter matter for trial.

34. (1) Where the pre-trial settlement fails the pre-trial Judge shall cause the plaintiff to enter the matter for trial not later than 2 days from the date of the end of the pre-trial settlement.

(2) Where the plaintiff fails to enter the matter for trial pursuant to sub-rule (1) the defendant or any other party to the proceedings shall enter the matter for trial within 1 day from the date the plaintiff failed to enter the matter for trial.

(3) Where the parties to the action fail to enter the matter for trial within the stipulated period set out in sub-rules (1) and (2) the Master and Registrar shall certify in the manner specified in the Fifth Schedule the failure to the pre-trial Judge who shall, within 2 days strike out the matter.

35. (1) After a pre-trial settlement, the pre-trial Judge shall issue a report as set out in the Sixth Schedule which shall include the court bundle. Assignment of case for trial.

(2) The Master and Registrar shall cause the Chief Justice to assign the matter to a Judge for trial within 3 days from the date of the report and filing of the court bundle referred to in sub-rule (1).

(3) The Master and Registrar shall submit the court bundle under sub-rule (1) produced at the pre-trial settlement conference to the trial Judge, except the pre-trial Judge's notes which shall be kept in the Registry.

36. (1) Within 3 days after the entry of the trial the trial Judge shall cause to be issued to the parties or their solicitors a case management conference notice as set out in the Seventh Schedule. Case management conference.

(2) At a case management conference, the trial Judge shall consider and take appropriate action with respect to the following aspects as may be necessary -

- (a) formulation of the issues in dispute;
- (b) other evidence by consent of the parties;
- (c) specific discovery;

- (d) settlement of document to be admitted as exhibit at the trial;
- (e) narrowing the issues in dispute between expert witnesses; and
- (f) any other information he considers fit.

(3) A trial Judge may give any direction as it appears necessary or desirable for securing the just, expeditious and economic disposal of the action or proceedings.

(4) A trial Judge having made directions under sub-rule (3) may on his own motion or upon the application by any party-

- (a) dismiss the action or proceedings;
- (b) strike out the defence or counterclaim;
- (c) enter judgment; or
- (d) make such orders as he considers fit.

(5) A pre-trial management conference shall be completed within 2 days of its commencement.

(6) Directions given under sub-rules (2) and (3) shall be complied with within 7 days.

(7) Where a party or his legal representative fails to attend the pre-trial case management conference or fails to obey a scheduling order or is subsequently unprepared to participate in the conference or fails to participate in good faith, the pre-trial Judge shall -

- (a) dismiss the claim, in the case of the plaintiff; or
- (b) enter judgment against him where appropriate in the case of a defendant.

#### PART VIII - PROCEEDINGS AT TRIAL

37. (1) Except as expressly provided for under these Rules, Order 41 of the High Court Rules, 2007 shall apply.

Consequence of non-appearance.

(2) The Court may grant an adjournment at the instance of a party provided the party requesting pays the other party the adjournment fees as set out in the Eighth Schedule.

(3) Where both parties are absent, the Court may impose costs against both parties as it may consider appropriate.

38. (1) The Court may, on application by a party, allow a witness to give evidence through a video link at the cost of the applicant.

Evidence by video link.

(2) The Chief Justice shall give practice directions regarding video link evidence.

39. (1) The Registrar shall make an official record of every hearing and such record shall consist of the-

Recording of proceedings.

(a) audio or video recording in the case of a hearing where an electronic recording system approved and managed by the Court or any person appointed by the Court is used;

(b) notes of hearing recorded in the Court,

(2) Any party may, in writing request for a copy of a transcript of the official record of hearing upon payment of such fees as set out in the Eighth Schedule.

(3) A request for the copy of an official record of any hearing shall be made in writing.

40. (1) A person shall not make any electronic recording of any unauthorised hearing unless he obtains an approval from the Court.

Prohibition of unauthorised audio recording.

(2) A person who contravenes this rule shall be guilty of contempt of court and shall be required to pay a fine not less than 10 million Leones or shall be imprisoned for a term not exceeding 3 months or both.

Judgments and orders.

41. The Court shall deliver judgment within a period of 45 days in the case of a judgment and 14 days in the case of a ruling.

PART IX - MISCELLENEOUS

Duration of cases.

42. Commercial cases shall be determined by the Court within a period of 6 months from the date of commencement.

Adjournment.

43. (1) Where a trial has commenced it shall, as far as practicable, be continued from day to day and where an adjournment is granted by the Court it shall not exceed a period of 72 hours.

(2) The Court may grant an adjournment provided that -

- (a) no adjournment shall be granted at the request of the party, or parties except where the circumstances are beyond the control of the party;
- (b) the fact that the counsel of a party is engaged in another Court shall not be grounds for adjournment unless that counsel is appearing before a superior Court;
- (c) where the illness of a counsel or his inability to conduct the case for any reason other than his being engaged in another Court is put forward as a ground for adjournment, the Court shall not grant adjournment unless it is satisfied that the party applying for adjournment could not have engaged another legal practitioner in time; and

(d) in the event of an adjournment at the instance of the Court, the reasons for the adjournment shall be recorded and the Court shall endeavour to fix the hearing date within the shortest possible time.

44. A party to a claim may apply to the Court for a subpoena as set out in the Eighth Schedule Subpoena.

45. The fees prescribed under these Rules shall be as set out in the Ninth Schedule. Fees.

46. (1) The Commercial and Admiralty Court Rules, 2010 are hereby revoked. Revocation.

FIRST SCHEDULE

Rules 8 (3)

HIGH COURT OF SIERRALEONE FREETOWN

COMMERCIAL AND ADMIRALTY DIVISION

CLAIM NO-----

.....PLAINTIFF(S)

.....

AND

.....DEFENDANT(S)

WITNESS STATEMENT

For Mr/Mrs/Ms(insert the name of the party for whom the statement is given)

By Mr/Mrs/Ms (insert the name of the witness)

1st/2nd /3rd/4th /5th/6th /7th .....-witness statement

Exhibits referred to.....

Date .....

#### 1. Body of witness statement

1.1 The witness statement must, if practicable, be in the intended witness' own words, the statement should be expressed in the first person and should also state

- (a) the full name of the witness;
- (b) his place of residence or if he is making the statement in his professional, business or other occupational capacity, the address at which he works, the position he holds and the name of his firm or employer;
- (c) his occupation or if he has none his description ; and
- (d) the fact that he is a party to the proceedings or is the employee of such a party if it be the case

#### 2 A witness statement must indicate

- (a) which of the statements in it are made from the witness' own knowledge and which are matters of information or belief; and
- (b) the source of any matters of information or belief in the relevant paragraphs.

#### 3.Reference to exhibit

- 3.1 An exhibit used in conjunction with a witness statement should be verified and identified by the witness and remain separate from the witness statement.
- 3.2 Where a witness refers to an exhibit(s)he should state "I refer to the (description of exhibit) marked "-----"
- 3.3 At the top right end corner of the first page (and on the back sheet) of each exhibit there should be clearly written
  - (a) the party on whose behalf it is tendered;
  - (b) the initials and surname of the witness;
  - (c) the number of the witness statement in relation to that witness
  - (d) the identifying initials and number of each exhibit referred to .
- 3.4 Where a witness makes more than one witness statement to which there are exhibits in the same proceedings, the numbering of the exhibits should run consecutively throughout and not start again with each witness statement.
- 4. Format of witness statement
  - 4.1 A witness statement should -
    - (1) be produced on durable quality A4 paper with a 3.5 cm margin;
    - (2) be fully legible and should normally be typed on one side of the paper only;
    - (3) Where possible, be bound securely in a manner which would not hamper filing or otherwise each page should be endorsed with the case number and should bear the initials of the witness;
    - (4) Have the pages numbered consecutively as a separate statement (or as one of several statements contained in a file)

- (5) be divided into numbered paragraphs;
- (6) have all numbers including data expressed in figures; and
- (7) give the reference to any document(s) mentioned either in the margin or in bold text in the body of the statement .

4.2 It is usually for a witness statement to follow the chronological sequence of the events or matters dealt with, each paragraph of a witness statement should as far as possible be confined to a distinct portion of the subject.

**5. Statement of truth**

5.1 A witness statement is the equivalent of the oral evidence which the witness would if called , give in evidence, it must include a statement by the intended witness that he believes the facts in it are true.

5.2 To verify a witness statement the statement of truth is as follows

"I believe that the facts in this witness statement are true"

Witness: Name .....

Address .....

Occupation .....

**6 Jurat**

Every Notary Public and Commissioner for Oaths before whom the witness statement is taken or made shall state truly in the jurat of attestation at what place and on what date the statement is taken or made.

SECONDSCHEDULE

Rule 24

Notification of pre-trial settlement conference

HIGH COURT OF SIERRALEONE

COMMERCIAL AND ADMIRALTY DIVISION

CLAIM NO.....

.....PLAINTIFF(S)

.....

AND

.....DEFENDANT(S)

NOTICE OF THE PRE-TRIAL SETTLEMENT

TO.....

Take notice that you are required to attend before the Hon Judge-----or Registrar-----on -----day of -----20-----at ----- for a pre-trial settlement.

Take further notice that in the event the plaintiff and if represented a solicitor does not appear at the pre-trial settlement the Hon Judge may dismiss the suit or proceedings. In the event that a defendant if represented by a solicitor does not appear at the pre-trial settlement the Judge may strike out the defence or counterclaim or enter judgment or make such order as he considers fit.

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

.....

Master and Registrar

THIRD SCHEDULE

Rule 26 (2)

HIGH COURT OF SIERRALEONE FREETOWN

COMMERCIAL AND ADMIRALTY DIVISION

CLAIM NO.....

.....Applicant (S)

AND

.....-Respondent (S)

APPLICATION FOR RESTORATION OF PRE-TRIAL SETTLEMENT CONFERENCE

I -----the above named applicant (former plaintiff/defendant applies for restoration of pre-trial settlement conference which was dismissed on the ---day of ---20---on the following grounds-

- (i).....
- (2).....
- (3).....

Requisite fees paid

Verification

I.....do hereby solemnly verify that all what is stated herein above is true to the best of my knowledge

Solicitor/ applicant.....

Tel.....email.....

Date.....signature.....

FOURTH SCHEDULE

Pre- trial Settlement Court Order

Rule 33 (3)

HIGH COURT OF SIERRALEONE FREETOWN

COMMERCIAL AND ADMIRALTY DIVISION

CLAIM NO.....

.....PLAINTIFF(S)

AND

.....DEFENDANT(S)

ORDER PURSUANT TO SETTLEMENT

The Parties having consented to settle this claim through negotiation/ mediation and the session having taken place at -----on the -----day of -----before -----and the claim having been resolved (in part/whole) by a Settlement Agreement dated the -----day of ----20---judgment is hereby entered pursuant to the agreement as follows-

- 1.....
- 2.....
- 3.....
- 4.....
- 5.....

Given under my hand and the seal of the High Court this

-----day of -----20-----

.....  
Judge of the Commercial and Admiralty Division

FIFTH SCHEDULE

Certificate of failure to enter matter for trial

Rule 34 (3)

HIGH COURT OF SIERRA LEONE FREETOWN

COMMERCIAL AND ADMIRALTY DIVISION

CLAIM NO.....

CERTIFICATE OF ORDER OF THE COURT

.....PLAINTIFF(S)

AND

.....DEFENDANT(S)

I hereby certify that the plaintiff failed to enter the matter for trial within 2 days from the date of the end of the pre-trial settlement and the defendant or any other party to the proceedings failed to enter the matter for trial within 1 day from the date the plaintiff failed to enter the matter for trial.

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

.....  
Master and Registrar

SIXTH SCHEDULE

Rule 35 (1)

PRE-TRIAL SETTLEMENT REPORT

This claim having come before me for pre-trial settlement, I certify that the only issues outstanding to be tried are -

(a).....

(b).....

(c).....

I further certify that the solicitors for the parties have identified, marked and labelled the documents to be admitted as exhibits at the trial. They are as follows

(a).....

(b).....

(c).....

Take further notice that I hereby forward the court bundle.

The above are therefore referred to the Master and Registrar to be placed before another Judge for trial

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

.....  
Pre-trial Judge

**SEVENTH SCHEDULE**

Rule 36 (1)

**Notification of case management conference**

THE HIGH COURT OF SIERRA LEONE

COMMERCIAL AND ADMIRALTY DIVISION

NOTIFICATION OF CASE MANAGEMENT CONFERENCE

FTCC NO...../.....20 ..... NO.....

.....Plaintiff(s)

AND

.....Defendant(s)

NOTICES OF CASE MANAGEMENT CONFERENCE

TO.....

Take Notice that you are required to attend before the Honourable Justice -----

on ----day of -----20 at -----for a case management conference. Take further notice that in the event the plaintiff and if represented a solicitor does not appear the pre-trial case management conference, the Honourable Judge may dismiss the suit/claim or proceedings. In the event that a defendant and if represented a solicitor does not appear at the pre-trial case management conference the Judge may strike out the defence or counter claim or enter judgment or make such order as he considers fit.

.....  
Master and Registrar

**EIGHTH SCHEDULE**

Rule 44

**SUBPOENA**

No.....claim No.....20

IN THE COMMERCIAL AND ADMIRALTY COURT FREETOWN

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

You are commanded to attend As witness(s) for.....

before this Court at -----on the ---- day of 20

at ----o'clock in the morning/afternoon and so on from day to day until the above claim be heard to

- \* testify all that you know in the claim
- \* produce the documents specified herein.

You are summoned at the instance of .....issued at .....this -day of ----20.....

Date of issue.....

**NINTH SCHEDULE**

	<b>Fees</b>	<b>Rules 37 (2), 39(2) and 45</b>
Writ of summons		Le. 500,000 .00
Originating summons		Le. 500,000 .00
Originating motion		Le. 500,000 .00
Petitions		Le. 500,000 .00
Motion and affidavit		Le. 250,000 .00
Judges' summons and affidavit		Le. 250,000 .00
Additional and further affidavit		Le. 50,000 .00
Court order		Le. 50,000 .00
Transcript (per page )		Le. 5,000 .00
Adjournment fees		Le. 500,000 .00 - Le. 3,000,000 .00