

CONSTITUTIONAL INSTRUMENT

Supplement to the Sierra Leone Gazette Vol. CXLI, No. 11

dated 19th February, 2010

THE COMMERCIAL AND ADMIRALTY COURT RULES, 2010

ARRANGEMENT OF SECTIONS

Rule

PART I-PRELIMINARY

1. Interpretation.
2. Application.
3. Nature of commercial and admiralty claims.
4. Application of C. I. No. 8 of 2007.
5. Procedure after reply.
6. Extension of time for settlement.
7. Preference of person or body to settle claim.
8. Terms of settlement.
9. Failure to attend pre-trial settlement conference.
10. Failure of settlement proceedings.
11. Pre-trial judge to give directions.
12. Assessors.
13. Application for subpoena.
14. Procedure after hearing of claims.
15. Fees.
16. Use of records etc.
17. Appeal after settlement.
18. Enforcement of judgments.

FIRST SCHEDULE.

SECOND SCHEDULE.

THIRD SCHEDULE.

CONSTITUTIONAL INSTRUMENT NO. 2 OF 2010

Published 19th February, 2010.

THE CONSTITUTION OF SIERRA LEONE, 1991

(Act No. 6 of 1991)

THE COMMERCIAL AND ADMIRALTY COURT RULES, 2010 Short title.

In exercise of the powers conferred on it by section 145 of the Constitution of Sierra Leone, 1991, the Rules of Court Committee hereby makes the following Rules:—

1. In these Rules, unless the context otherwise requires— Interpretation.

“Court” means the Commercial and Admiralty Division of the High Court;

“Deputy Master and Registrar” means the Deputy Master and Registrar of the Court;

“Judge” means Judge of the Court;

2. These Rules shall apply to the Commercial and Admiralty Application. Division of the High Court.

3. The Court shall hear and determine commercial claims which arise out of trade and commerce and include claims relating to— Nature of commercial and admiralty claims.

- (a) business documents;
- (b) export or import of goods;
- (c) formation and governance of a corporation, business or other forms of commercial organisations;
- (d) winding up of companies business, and commercial organisations;
- (e) the dissolution of partnerships or taking of partnership accounts;
- (f) corporate and mercantile matters including agencies, joint ventures, mergers, restructuring or payment of commercial debts;
- (g) unfair competitions;
- (h) mortgages and debentures;
- (i) bankruptcy and insolvency;
- (j) insurance and re-insurance;
- (k) mining and other extractive rights;
- (l) offshore exploration;
- (m) pollution;
- (n) customs and excise;
- (o) banking and financial services;
- (p) franchises;
- (q) tax matters;
- (r) commercial fraud;
- (s) disputes involving commercial arbitration and other settlement awards;
- (t) intellectual property rights including patents, copyrights and trademarks;
- (u) carriage of goods by land, air or pipeline;
- (v) admiralty and shipping including–
 - (i) shipping licences;

- (ii) marine insurance;
- (iii) carriage of goods by sea;
- (iv) collisions at sea and
- (w) all other claims of a commercial and admiralty nature.

4. (1) Unless otherwise provided in these Rules, the High Court Rules, 2007 shall apply with the necessary modifications, adaptation and exceptions as are necessary to give effect to these Rules. Application of C. I. No. 8 of 2007.

(2) Application for judgement on admission or compromise shall not be filed until after the pre-trial settlement conference.

5. (1) After a reply has been filed or if the time for reply has elapsed, the Deputy Master and Registrar shall, within three days assign the claim to a judge who shall conduct a pre-trial settlement conference. Procedure after reply.

(2) The pre-trial judge shall within fifteen days from the date the claim is assigned to him or her, invite the parties to settle the issues for trial or effect settlement of the claim.

(3) The parties to a claim may be represented by their legal practitioners at a pre-trial settlement conference.

(4) The pre-trial judge may invite experts to assist at a pre-trial settlement conference.

(5) Any disclosures made at a pre-trial settlement conference shall be without prejudice.

6. Where at the end of the period specified in subrule (2) of rule 5 the pre-trial judge thinks that there is a reasonable prospect of settlement, he or she may with the consent of the parties, extend the pre-trial settlement period for a further period not exceeding seven days. Extension of time for settlement.

7. (1) At the pre-trial settlement conference the pre-trial judge may, if the parties wish that a particular person or body settle the claim– Preference of person or body to settle claim.

- (a) refer the claim to that person or body; and
- (b) give directions and period for the settlement of the claim.

(2) The period to be given under paragraph (b) of subrule (1) shall not exceed fifteen days in the first instance with a further extension of not more than seven days, if the pre-trial judge thinks it necessary.

Terms of settlement.

8. (1) Where a claim is settled at a pre-trial settlement conference or by a particular person or body, the terms of the settlement shall be read over to the parties or their legal practitioner and entered as the judgement of the court.

(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 is understood by the party and the party shall be guided to sign the agreement.

(3) The judgement of the court shall be in the form set out in the First Schedule.

Failure to attend pre-trial settlement conference.

9. Where a party to a claim or the party's legal practitioner fails without good reason to attend a pre-trial settlement conference, the pre-trial judge may make orders against the party or legal practitioner, as the case may be, and as the judge thinks fit, including order for costs.

Failure of settlement proceedings.

10. (1) If the parties fail to reach a settlement or arrive at a partial settlement at a pre-trial settlement conference the pre-trial judge shall refer the matter to the Deputy Master and Registrar, who shall fix a date before another judge for trial, on the issues set down for hearing by the pre-trial judge.

(2) The date for the trial shall not exceed fifteen days from the day the pre-trial judge referred the claim to the Deputy Master and Registrar.

(3) The issues shall be set out by the pre-trial judge in the form set out in the Second Schedule.

Pre-trial judge to give directions.

11. A pre-trial judge may, subject to rule 10, give directions as to the future conduct of the claim as he or she may think proper.

Assessors.

12. (1) The judge at a trial under rule 10 may appoint not more than two persons as assessors who, at the end of the trial may state their opinion which shall not be binding on the judge.

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

(3) The assessors shall be paid such fees as the Rules of Court Committee may determine.

(4) Where in the course of a trial any or all of the assessors are absent, the court may continue the proceedings.

13. A party to a claim may apply to the Deputy Master and Registrar for a subpoena in the form set out in the Third Schedule. Application for subpoena.

14. (1) The court shall after a claim has been heard, sum up the evidence of each party and require each assessor where applicable, to state his or her opinion as to the claim. Procedure after hearing of claims.

(2) The court shall pronounce judgement forthwith or defer if to a future date which shall not be later than twenty eight days; and where the judgement has been deferred, the date shall be given in open court before the parties or their legal practitioners.

15. The fees chargeable by the court shall be determined by the Rules of Court Committee. Fees.

16. At the conclusion of a pre-trial settlement conference— Use of records etc.

(a) all records relating to it shall be removed from the court;

(b) all documents, materials or items used as evidence shall be returned to the parties or their representatives or legal practitioners, who produced them.

17. An appeal to a claim settled at a pre-trial settlement conference shall be with the leave of the pre-trial judge. Appeal after settlement.

18. All processes applicable to the enforcement of judgements of the High Court in respect of civil proceedings shall apply to the enforcement of settlements or awards entered as a judgement of the court. Enforcement of judgments.

FIRST SCHEDULE

HIGH COURT OF SIERRA LEONE, 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/in whole) by a Memorandum of Agreement dated the..... day of20..... judgement 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 Court.*

SECOND SCHEDULE

IN THE HIGH COURT OF SIERRA LEONE, FREETOWN
COMMERCIAL AND ADMIRALTY DIVISION

CLAIM NO.....

..... PLAINTIFF (S)
.....
.....

AND

..... DEFENDANT (S)
.....
.....

ORDER PURSUANT TO SETTLEMENT

This claim having come before me for settlement and the claim having been partially settled/having broken down, I certify that the issues/the only outstanding issue(s) to be tried are-

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

These issues or the only outstanding issue(s) are therefore referred to the Deputy Master and Registrar for the matter to be placed before another Judge for trial.

Given under my hand this.....day of20.....

.....
Pre-Trial Judge.

THIRD SCHEDULE

SUBPOENA

SUBPOENA

IN THE COMMERCIAL AND ADMIRALTY COURT, FREETOWN

No.....Claim No.....20.....
Subpoena..... of

As witness (s) for.....

Date of attendance

Date of issue.....

No.....Claim No.....20.....
and

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

You are commanded to attend in person
before this Court aton the.....day
of 20

ato'clock in the morning/
afternoon, and so from day-to-day until
the above claim be heard, to

* testify all that you know in the
claim.

* produce the documents specified
here.

You are summoned at the
instance

of.....

Issued atthisday
of.....20.....

* List of documents

MADE this *10th day of December, 2009.*

HONOURABLE UMU TEJAN JALLOH,
Chief Justice.

Note: (This Constitutional Instrument No. 2 of 2010 supersedes the Constitutional Instrument No. 1 of the same title published in Government Notice No. 32 as supplement to the Sierra Leone Gazette No. 6 dated Thursday, 21st January, 2010).

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