

Order 3

Proceedings in the Original Jurisdiction of the Court

1. (1) Except where otherwise expressly provided, all proceedings for the exercise by the Court of its original jurisdiction shall be commenced by application to the Court, filed in accordance with Rule 15 of Order 2 of these Rules.
2. (2) Subject to the provisions of any enactment and of these Rules, civil proceedings in the original jurisdiction may be begun by filing a statement of claim, originating summons or originating motion as the case may require.
3. The following proceedings must be begun by filing a statement of claim -
 - (a) proceedings in which facts in issue are disputed or are likely to be disputed; and
 - (b) Proceedings in which a claims made by the plaintiff is based on an allegation of fraud.
4. When a statement of claim has been filed a summons shall be issued to the defendant to appear and answer the claim.
5. Every summons shall be signed by the Registrar and sealed with the Seal of the Court and shall be accompanied by a copy of the statement of claim.
6. (1) In any proceedings where the Court has original jurisdiction, any party claiming any legal or equitable right and the determination of the question whether he is entitled to the right depending on the construction of the Constitution or of any other enactment may apply for the issue of an originating summons for the determination of such question of construction and for a declaration as to the right claimed and for any further or other relief.
(2) Any part claiming to be interested in any proceedings specified in sub-rule (1) of this Rule under a deed or other written instrument, may apply for the issue of an originating summons for the determination of any question of construction arising under the instrument and for a declaration of the rights of the person interested and for any further or other relief.

- (3) The application shall be made in Form 2 in the First Schedule to these Rules and shall be supported by such evidence as the Court may require.
7. Rule 8 of this Order shall not affect the right of any party seeking a declaratory judgment to institute proceedings by filing a statement of claim under this Order and on an application by originating summons the Court shall not be bound to determine any such question of construction if in the opinion of the Court it ought not to be determined on originating summons; and in the latter event the Court may on the application of either party or its own motion direct the parties to file pleadings.
8. Where in any enactment provisions is made for obtaining any relief whatsoever by application to the Court and no procedure is prescribed for obtaining such relief in the enactment or under these Rules, the plaintiff may initiate proceedings for such relief by originating motion.
9. (1) A defendant shall, within a period of 21 days after service of a summons on him enter appearance by filing in the Registry –
- (a) a memorandum in writing dated on the day of its delivery, containing the name and address of the defendant, the Attorney-General of the Federation or the State as the case may be, or the defendant's legal practitioner; and
 - (b) Two duplicates of the memorandum of appearance.
- (2) The Registrar shall seal the duplicate copies of the memorandum of appearance with a seal bearing the words 'Appearance entered' and showing the date on which they were sealed, and then return them to the person entering the appearance.
- (3) The duplicate copies of the memorandum of appearance so sealed shall be evidence that the appearance was entered on the day indicated by the seal.
10. A defendant shall, on the day on which it entered appearance, give or send written notice of his having entered appearance to the plaintiff's legal practitioner, and a duplicate of the memorandum of appearance so sealed and delivered to the plaintiff or his legal practitioner shall be sufficient notice for the purpose of his rule.

11. Every application for the exercise by the Court of its original jurisdiction, and every memorandum of appearance shall contain a proper address for service to the satisfaction of the Registrar and shall not be received unless it conforms to this rule.
12. Except the Court otherwise directs, the defendant shall within forty-two days after service on him of a statement of claim, file his statement of defence.
13. The plaintiff may, if it thinks fit file a Reply to the statement of defence within fourteen days after the service on it of the statement of defence.
14. An application for an interlocutory order shall be by motion entitled in the proceeding in which it is made and shall be supported by an affidavit of the facts on which the applicant will rely.
15. No motion shall be made without previous notice to the parties affected thereby, but the Court, if satisfied that the delay caused by proceeding in the ordinary way would or might entail irreparable mischief or destroy the subject matter of the proceedings or otherwise render any final order in favour of the applicant nugatory, may make any order ex parte upon such terms as to costs or otherwise, and subject to such undertaking, if any, as the Court may think just; and any party affected by such order may move within fifteen days of the service of the order upon him to set it aside.
16. Unless the Court gives special leave to the contrary, there must be at least three clear days between the service of a notice of motion and the day named in the notice for hearing the motion.
17. If on the hearing of a motion the Court shall be of the opinion that any person to whom notice has not been given, ought to have or to have had such notice, the Court may dismiss the motion or adjourn the hearing thereof, in order that such notice may be given, upon such terms, if any, as the Court may think fit to impose.
18. No action or proceedings shall be open to objection, on the ground that a merely declaratory judgment or order is sought thereby, and the Court may make binding declarations of right whether any consequential relief is or could be claimed or not.

19. Rule 8 of this Order not affect the right of any party seeking a declaratory judgment to institute proceedings by filing a statement of claim under this order and on an application by originating summons the Court shall not be bound to determine any such question of construction if in the opinion of the Court it ought not to be determined on originating summons.
20. (1) The plaintiff shall within fourteen days after the defendant has entered appearance take out a summons for directions by the Court.
(2) The Court may determine all matters pertaining to the summons in chambers or in open court and shall, on the hearing of the summons, give such directions with respect to proceedings interrogatories, the admission of documents and facts, the discovery, inspection and production of documents and such other interlocutory matters as the Court may consider expedient for the just and expeditious determination of the case.