

FORM 40

*Commission to Examine Witness*

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA

In the ..... Judicial Division

Suit No. ...., 20.....

*between*

..... Claimant

*and*

C.D ..... Defendants

To..... of..... commissioner

named by and on behalf of .....

In confidence of your prudence and fidelity you have been appointed commissioner by these presents and given power and authority to examine on interrogatories and viva voce as hereinafter mentioned witnesses on behalf of the said .....and.....respectively at .....before you and any of two of you so that one commissioner only on each side be present and act at the examination.

And you are requested as follows—

1. Both the said .....and the said ..... shall be at liberty to examine on interrogatories and viva voce on the subject matter thereof or arising out of the answers thereto such witness as shall be produced on their behalf with liberty to the other party to cross-examine the said witness on cross-interrogatories and viva voce, the party producing any witness for examination being at liberty to re-examine the witness viva voce; and all such additional viva voce questions, whether on examination, cross-examination, or re-examination, shall be reduced into writing, and with the answers thereto shall be returned with the said commission.
2. Not less than..... days before the examination of any witness on

behalf of either of the said parties, notice in writing, signed by one of you, the commissioners of the party on whose behalf of the witness is to be examined, and stating the time and place of intended examination and the names of the witness to be examined, shall be given to the commissioners of the other party by delivering the notice to them, or by leaving it at their usual place of abode or business, and if the commissioners or commissioner of that party neglect to attend pursuant to the notice then one of you, the commissioners of the party on whose behalf the notice is given, shall be at liberty to proceed with and take the examination of the witnesses ex parte, and adjourn any meeting or meetings or continue the same from day to day until all the witnesses intended to be examined by virtue of the notice have been examined, without giving any further or other notice of subsequent meeting or meetings.

In the event of any witness on his/her examination, cross-examination, or re-examination produce any book, document, letter, paper, or writing, and refusing for good cause to be stated in his/her deposition to part with the original thereof, then a copy thereof, or extract therefrom, certified by the commissioners or commissioner present and acting to be true and correct copy or extract, shall be annexed to the witness's deposition.

Each witness to be examined under this Commission shall be examined on oath, affirmation, or otherwise in accordance with his/her religion by or before the commissioners or commissioner present at the examination.

If anyone or more of the witnesses do not understand the English Language (the interrogatories, cross-interrogatories, and viva voce questions, if any, being previously translated into the language with which he/she or they is or are conversant), then the examination shall be taken in English through the medium of an interpreter or interpreters to be nominated by the commissioners or commissioner present at the examination, and to be previously sworn according to his/her or their several religion by or before the said commissioner truly to interpret the questions to be put to the witness and his/her or their answers thereto.

The depositions to be taken under this commission shall be subscribed by the witness or witnesses, and by the commissioners or commissioner who shall have taken the depositions.

The interrogatories, cross-interrogatories and depositions together with any document referred to therein, or certified copies thereof or extracts therefrom, shall be sent to the Chief Registrar of the National Industrial Court on or before the.....day of.....enclosed in cover under the seals of the commissioners of commissioner.

Before you or any of you, in any manner act in the execution thereof,

you shall severally take the oath hereon endorsed or otherwise in such other manner is sanctioned by the form of your several religions and as considered by you respectively to be binding on your respective consciences. In the absence of any other commissioner, a commissioner may personally take the oath.

You are hereby given the authority to administer such oath to the other or others of you.

ISSUED at.....this.....day of .....20.....

*Witnesses' Oath*

I swear by the Almighty God that I will truly make answer to all such questions as shall be asked me, without favour or affection to either party, and therein I will speak the truth, the whole truth and nothing but the truth.

*Commissioners' Oath*

I swear by the Almighty God that I will, according to the best of my skill and knowledge, truly and faithfully, and without partiality, to any or either of the parties in this cause, take the examination and depositions of all and every witness produced and examined by virtue of the commission within written.

(Where there is only a single commissioner, he/she may be authorized to administer this oath on himself/herself)

*Interpreter's Oath*

I swear by the Almighty God that I will truly and faithfully without partiality to any or either of the parties in this cause, and to the best of my ability, interpret and translate the oath or oaths, affirmation or affirmations which shall be exhibited or put to, all and every witness and witnesses produced before and examined by the oath commissioners named in the commission within written, as far forth as I am directed and employed by the said commissioners, to interpret and translate the same out of the English into the language of such witness or witnesses and also in like manner to interpret and translate the respective depositions taken and made to such questions out of the language of such witness or witnesses into the English language.

*Clerk's Oath*

I swear by the Almighty God that I will truly, faithfully, and without partiality to any or either of the parties in the cause take, write down, transcribe, and engross all and every of the questions, which shall be exhibited or put to all and every witness and witnesses, and also the depositions of all and every such witness and witnesses, produced before and examined by the said commissioner named in the commission within written, as far forth as I am directed and employed by the commissioners to take, write down, transcribe

or engross the said questions and depositions.

Direction of interrogatories, etc, when returned by the Commissioners—

THE CHIEF REGISTRAR OF THE NATIONAL INDUSTRIAL COURT OF NIGERIA.....