

## SCHEDULE 2

### CCR ORDER 37

#### REHEARING, SETTING ASIDE AND APPEAL FROM DISTRICT JUDGE

##### **Rehearing**

**Rule 1.**—(1) In any proceedings tried without a jury the judge shall have power on application to order a rehearing where no error of the court at the hearing is alleged.

(2) Unless the court otherwise orders, any application under paragraph (1) shall be made to the judge by whom the proceedings were tried.

(3) A rehearing may be ordered on any question without interfering with the finding or decision on any other question.

(4) Where the proceedings were tried by the district judge, the powers conferred on the judge by paragraphs (1) and (3) shall be exercisable by the district judge and paragraph (2) shall not apply.

(5) Any application for a rehearing under this rule shall be made on notice stating the grounds of the application and the notice shall be served on the opposite party not more than 14 days after the day of the trial and not less than 7 days before the day fixed for the hearing of the application.

(6) On receipt of the notice, the court officer shall, unless the court otherwise orders, retain any money in court until the application has been heard.

##### **Appeal from district judge**

**Rule 6.**—(1) Any party affected by a judgment or final order of the district judge may, except where he has consented to the terms of the order, appeal from the judgment or order to the judge, who may, upon such terms as he thinks fit—

- (a) set aside or vary the judgment or order or any part of it;
- (b) give any other judgment or make any other order in substitution for the judgment or order appealed from;
- (c) remit the claim or any question in the claim to the district judge for rehearing or further consideration; or
- (d) order a new trial to take place before himself or another judge of the court on a day to be fixed.

(2) The appeal shall be made on notice, which shall state the grounds of the appeal and be served within 14 days after the day on which judgment or order appealed from was given or made.

##### **Imposition of terms and stay of execution**

**Rule 8.**—(1) An application to the judge or district judge under any of the foregoing rules may be granted on such terms as he thinks reasonable.

(2) Notice of any such application shall not of itself operate as a stay of execution on the judgment or order to which it relates but the court may order a stay of execution pending the hearing of the application or any rehearing or new trial ordered on the application.

(3) If a judgment or order is set aside under any of the foregoing rules, any execution issued on the judgment or order shall cease to have effect unless the court otherwise orders.