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Judge President's Chambers
High Court, Main Division
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PRACTICE NOTE

TO: THE JUDGES OF THE HIGH COURT
FROM: THE JUDGE PRESIDENT

RE: RECEPTION OF WITNESS STATEMENT IN CIVIL TRIAL

1. I am aware that we are applying different practices when it comes to receiving witness statements in civil trial actions. In fact, some members of the profession have pointed this out to me and requested that we adopt a uniform approach. I wish to make some suggestions towards that end considering the issue is not specifically governed by a Rule of Court.
2. In the first place, the witness statement need not be under oath. In fact it is preferable that it is not under oath, unless the parties choose to provide statements under oath.
3. Counsel must be required to prepare statements that are sufficient to constitute the witness' evidence-in-chief and should not provide summaries. The statement must identify all the documents that the witness will have admitted as exhibits.
4. The statement must be read into the record by the witness personally, in English or if it is in another language in the language it was written and be interpreted on record by a court interpreter.
5. If the statement was taken in English from the witness with the assistance of an interpreter, the court must first verify that the witness is the source of the information contained in the statement, and that it was read back to him or her in the language he or she understands. At trial, the statement must be read paragraph by paragraph and be interpreted back to the witness who should be afforded the opportunity to correct any inaccuracy.
6. Enclosed is a formula I use in my court to admonish the witness before he or she reads the witness statement into the record.

JUDGE PRESIDENT
P T DAMASEB

**JUDGE'S ADMONITION BEFORE WITNESS STATEMENT IS READ INTO
THE RECORD**

First, the clerk administers the oath.

THE JUDGE TO WITNESS:

YOU ARE A WITNESS IN THIS CASE

1. The oath you just took requires you to tell the truth, the whole truth and nothing but the truth.
2. Do you confirm that your counsel has prepared a witness statement to constitute your evidence-in-chief in this case?
3. Do you also confirm that the information contained in the statement was provided by you to your counsel and that it is information of which you bear personal knowledge?
4. Because of the oath you have taken, I want you to understand that once you have read the statement into the record, that statement is your evidence given under oath in the proceedings; and that if anything in it is not true - and you are aware of such fact- you may be liable for perjury. Do you understand?
5. Therefore, if anything in the statement is not true or is inaccurate, it is your duty to tell me so and to state the true or correct facts. Do you understand?

**COUNSEL MAY NOW PROCEED TO ASSIST THE WITNESS TO READ
THE STATEMENT INTO THE RECORD AS EVIDENCE-IN-CHIEF.**