



Understanding Witness Summons In Arbitration

Introduction

The role of witness testimony in arbitration is critical, especially when key individuals hold relevant information that can influence proceedings. A recent dispute between Sunrise Power and Transmission Limited and the Federal Government has drawn attention to the complexity of witness summonses in arbitration. The Arbitration and Mediation Act 2023 (“AMA” or “the Act”) provides a legal framework for summoning witnesses to appear before arbitral panels/tribunals to testify or provide documentary evidence. However, certain limitations and procedural considerations can impact parties involved in arbitration.

Witness Summons Under the Arbitration and Mediation Act 2023

The AMA establishes clear guidelines on how witness summonses operate in arbitration:

Issuance of Witness Summons:

Unlike courts, arbitral tribunals cannot directly summon witnesses. A high court (Federal or State) or a judge in chambers must issue a witness summons upon application by a party to arbitration.

- **Scope and Limitations**

A witness summons can only be enforced within Nigeria. Witnesses outside the country cannot be compelled to testify, making voluntary cooperation the only option for international arbitrations.



- **Legal Consequences for Non-Compliance**

Failure to comply with a court-issued witness summons amounts to contempt of the court, which is a criminal offence punishable by imprisonment. Witnesses, however, have the right to challenge the summons in court.

Practical Implication for Businesses and Individuals

1. Cross-Border Considerations:

International arbitrations with a Nigerian seat may face challenges securing foreign witness participation due to the territorial limits of witness summonses.

2. Strategic Planning for Arbitration:

Parties involved in arbitration must consider the process of obtaining witness testimony, particularly when key witnesses are unwilling to participate voluntarily. Establishing clear strategies to engage witnesses early can strengthen a case and help prevent procedural setbacks.

3. Understanding Witness Rights and Obligations:

Parties involved in arbitration must consider the process of obtaining witness testimony, particularly when key witnesses are unwilling to participate voluntarily. Establishing clear strategies to engage witnesses early can strengthen a case and help prevent procedural setbacks.

4. Legal and Procedural Compliance :

Parties should work closely with legal professionals to ensure that applications for witness summonses follow the required legal procedures, minimizing the risk of unnecessary delays or procedural challenges.

Taking the Right Legal Approach with SimmonsCooper Partners

Understanding the legal nuances of witness summonses is essential for parties engaged in arbitration. For expert advice on arbitration matters, witness-related issues, and compliance with the Arbitration and Mediation Act 2023, contact us at info@scp-law.com or visit www.scp-law.com.