

PRACTICE DIRECTIONS FOR COURT SITTINGS IN EDO STATE DURING THE COVID-19 PERIOD AND BEYOND

In exercise of the powers conferred on me as the **Chief Judge** by Sections 6(6) and Section 274 of 1999 Constitution, Section 53(1) of the High Court Law Cap.65 Volume III, Laws of defunct Bendel State of Nigeria 1976, applicable in Edo State of Nigeria by virtue of Section 4 of Act No.41 of 1991; Section 49 of the Magistrates' Courts Law, section 68 of the Customary Courts Law No.2 of 1984 and by virtue of all other laws enabling me in that behalf **I, HONOURABLE JUSTICE ESTHER AMENAGHAWON EDIGIN, CHIEF JUDGE** of Edo State of Nigeria, do hereby give the following directions:

INTRODUCTION:

There is no gainsaying the fact that the effect of Coronavirus (Covid-19) pandemic will remain with the human race for a time beyond prediction. In view of this, it has become imperative to take necessary measures that would ensure courts in Edo State reopen and continue to sit within the limitations as directed by relevant agencies and government. These Practice Directions shall apply to and guide the sittings of all courts in Edo State in Civil and Criminal matters during the critical phase of the Covid-19 pandemic and when it has become difficult for normal physical interaction amongst persons till such a time when relevant agencies and government shall determine and declare that normal interaction resume.

A. COURT PREMISES

1. The Chief Judge shall liaise with relevant security agencies to ensure that the entrance(s) to court premises are well manned by security personnel and entry into the premises are regulated in a manner that guarantees and enforces the minimum 2-meter (6 feet) distance between persons as it relates to all entrants into the premises.
2. Courts shall ensure that:
 - a. All security personnel who work in the court premises and in particular the security personnel who man the entrance(s) to the court premises are well informed on COVID-19 including in particular, the methods of its spread, its basic symptoms (e.g. fever, dry cough, tiredness, etc.), how to prevent its spread, etc.; and
 - b. All security personnel including those that are attached to judicial officers and courtrooms are well kitted and supplied in particular and continuously with disposable gloves, facemasks and hand sanitizers/dispensers.

3. The following guidelines shall apply in regard to the admission of persons into the court premises:
 - a. The security personnel at the entrance (s) of the court premises, having been trained in the use of temperature monitors, shall be equipped with temperature monitors for testing and determining the temperature of each visitor to the court premises. Such visitors shall be shown their temperature readings on the monitors before their admission into the court premises.
 - b. Every person wishing to go into the court premises, without exception, shall be subjected to the temperature monitor reading for the determination of his or her body temperature. Anyone who refuses to submit himself or herself for the reading of his or her temperature shall be politely refused entry into the court premises and advised to leave the entrance immediately.
 - c. The advice of health experts shall be sought on the temperature levels that warrant concern and be indicative of a person with fever ("high temperature threshold")
 - d. Any visitor to the court premises who has a high temperature, based on the temperature monitor reading at the entrance to the court or who is coughing while going through the entry protocols shall politely be advised to seek immediate medical assistance and refused entry into the court premises.
4. "The security personnel at the Court premises shall further ensure that:
 - a. Only persons with facemasks are allowed entry into the Court premises, without exception. Judicial officers and Counsel must be exemplary in this regard and must ensure that their support personnel and, in the case of the latter, their clients comply strictly with this requirement.
 - b. At no time and in no circumstance shall anyone while within the court premises, including inside courtrooms, offices and the chambers of judicial officers, not wear facemask. Anyone who refuses, neglects or is unwilling to wear facemask at any time while in the court premises shall be politely advised to leave and be escorted outside the premises by security personnel.
 - c. Facemasks must be properly worn by everyone within the Court premises to cover their mouths and noses at all times.
5. In regard to the court premises itself:
 - a. As much as possible, courts must ensure that the toilet facilities in the court

premises are functional and have constant running water, soap, tissue papers and sanitizers. Toiletries are also to be regularly replenished as and when necessary.

- b. Visitors to the court premises must maintain social and physical distances (not less than 2 meters or 6 feet apart from each other) and must avoid congregations or assembly of more than 10 persons within the court premises (not including the courtrooms).
- c. Persons who have no business in the court must be discouraged from visiting the court premises. Court-related business that can be transacted without physical visits to the court premises must be transacted through available alternative channels.
- d. Each court premises must have pasted on or flashing from their respective notice boards the dos and don'ts by visitors to the premises vis-à-vis COVID-19. Those notices and the notice boards must be placed at strategic and visible locations within the court premises and at the entrances thereto.
- e. Courts must ensure the availability of hand sanitizers in bottles and/or dispensers, liberally mounted and placed in strategic and easily noticeable and accessible locations within the court premises for the use of all visitors and court personnel.
- f. The court premises including courtrooms, registries, offices and the chambers of judicial officers shall be periodically disinfected in such frequencies as the Chief Judge may determine.

B. FILING OF PROCESSES

- 1. The following shall regulate the filing of processes in respect of any matter:
 - a. Where there is no electronic filing system and pending the institution of such electronic filing systems, hardcopy/paper based manual filings at the court registries shall continue to be the default filing process for litigants but with the following required mitigating steps:
 - i. The hardcopy of the processes to be filed should be sanitized with alcohol-based sanitizers by dedicated court officials as soon as they are brought to the registry and left in secured facilities immediately thereafter, without processing, for a minimum period of 96 hours by which time, if there was any coronavirus still attached to the processes, it would have expired. Same shall apply in Criminal matters save for remand proceedings.

- ii. Regular stock of the sanitizers shall be ensured and filed processes sanitized by trained designated court officials without destroying the filed processes or any part thereof. Adequate and secured facilities for quarantining the hardcopy of the filed processes in the terms of Item B.1 (a) (i) above shall also be designated/ provided.
 - iii. At the expiration of the quarantine period afore specified, the processes shall be brought out from the secured facilities and processed by the court officials. Parties would have responsibility for monitoring and following up with the court officials on the filing processes in respect of their respective filings, right up to completion.
 - iv. Notwithstanding the procedures specified in the preceding sub-paragraphs, the date of filing shall irrevocably be the date that the filing fees were paid therefore by the filing party pursuant to and in the terms of the applicable Rules of court as complemented by these Guidelines. The said date of filing shall be indicated on the filed processes.
- b. Parties should scan and exchange their filed processes in PDF format by e-mail with the other parties in the proceedings and this would be without prejudice to the statutorily required service by the courts. The PDF format of the filed processes must show the evidence of payment of the filing fees in the terms of Item C below.
 - c. The court may also direct the parties to scan and send the filed processes in PDF format to the court by e-mail provided that the court shall always have the responsibility of cross-checking to ensure that the e-mailed version of the filed processes are in all respects the same as the hardcopy/ paper version of the same filed processes.
- 2. Court officials who work in the registries shall be fully and properly kitted notably, with facemasks, disposable hand gloves, etc.

C. PAYMENT OF FILING FEES

- 1. As much as possible, Courts shall encourage and facilitate electronic payments of filing and other fees by litigants. The procedure and details for such e-payments shall be continually published to Counsel and the general public.
- 2. Assessment of filing fees shall, in all instances, be carried out and determined by designated court officials as stipulated by respective Rules of courts. Courts should however encourage parties to send electronic copies of processes for filing to the courts' registries for assessment by the designated court officials

and the fees therefore should be communicated to the parties electronically pursuant to the provisions of Item D below.

3. As part of the filing processes and for its completion, litigants shall be required to send the evidence of electronic payment of fees to the court nominated officials. The courts shall publish to Counsel the acceptable methods for sending such e-payment evidence to the official (e.g. e-mail, SMS, WhatsApp, etc.) with the requisite e-mail address and mobile numbers included in such publication. Counsel may call the nominated court officials on telephone to confirm receipt of such e-payment evidence.

D. SERVICE OF PROCESSES AND HEARING NOTICES

1. The various branches of the Nigerian Bar Association ("NBA") in Edo State, shall liaise with The Chief Judge for the publication on a branch by branch basis of Counsel directory, complete with addresses, emails and telephone numbers (including telephone numbers with functioning WhatsApp capabilities) to which filed processes and hearing notices may be served by the courts and opposing parties. The directories shall be periodically updated by the NBA and supplied, at no cost, to the courts.
2. Counsel shall also indicate in all filed processes their e-mail addresses and telephone numbers (including telephone numbers with functioning WhatsApp capabilities) to which filed processes and hearing notices may be served by the courts and opposing parties.
3. Where Counsel has a functioning Legal Mail address, he shall furnish the Court with such an e-mail address in the terms of Items D.1 and D.2 above. Where the Counsel has no Legal Mail address or his Legal Mail address is not working, he shall furnish the court pursuant to Items D.1 and D.2 any other working e-mail address that he has.
4. Parties shall be mandatorily required to serve their filed processes on opposing parties by sending such processes to both the opposing parties' e-mail addresses and WhatsApp telephone numbers that are contained and specified in filed process and/or directories pursuant to Items D.1 and D.2 above. The party effecting service shall also send SMS notification of the service to the opposing parties and copy the Court Registrars on such telephone numbers as shall be published by the courts.
5. The provisions of Item D.4 above do not replace the statutory service provisions in the Rules of each Court; they complement those statutory provisions and are especially mandated for the COVID-19 period. Upon being served with filed processes as mandated in Item D.4 above, the served party shall follow up with

the court registry for the service on them of the hardcopy versions of the filed processes. The served party has responsibility for examining and ensuring that the electronic version of the filed processes that were served on him are the same as the hardcopy filed versions in the courts' files.

6. It shall be an unprofessional conduct deserving of being reported to the Legal Practitioners Disciplinary Committee if Counsel serves on opposing party or sends to the Court an electronic version of a filed process that is different howsoever from the filed hardcopy version.

E. VIRTUAL OR REMOTE COURT SITTINGS

1. With the consent of parties or their counsel, virtual court sittings (alternately referred to as "remote court sittings" or "online court sittings") should be encouraged and promoted by the courts. All judgments, ruling and directions may be delivered and handed down by the courts in and through remote court sittings.
2. Save for extremely urgent and time bound matters, contentious matters that require the calling of evidence in a physical courtroom setting should not be called up by the courts at this time.
3. The following guidelines shall apply for the determination of the location for the virtual court sitting:
 - a. Subject to the further guidelines hereunder, the judicial officer(s) and the court officials and security personnel shall, as a default arrangement, sit and be in the regular courtrooms for remote court sittings. Except with the leave of court, only the judicial officer(s) and the court officials and security personnel shall be the ones in the courtroom for any virtual court sitting.
 - b. Save with the consent of the court or the prior written agreement of the parties, it is not permissible for any of the parties to a matter that is being heard virtually to be in the courtroom with the judicial officer(s) during the virtual court sitting while the other party or parties to the same matter join the proceedings remotely.
 - c. Subject to the prior approval of the Chief Judge, judicial officers may conduct virtual court sittings from their respective chambers. The further provisions of Item 3(a) above shall apply *impari materia* to all such virtual court sittings that are hosted in chambers.
 - d. For the purposes of delivering judgments or rulings, the judicial officer(s) may liaise with the court officials and conduct the virtual court sitting from

whichever location the judicial officer may be, provided that the facilities specified in Item E.4 below are available in such locations. This provision addresses in particular judicial officers who may need to deliver time-bound judgments and/or rulings but are marooned in locations away from their usual stations consequent upon the present national lockdown and travel restrictions pursuant to COVID-19.

- e. Further to sub-paragraph (d) above, where virtual hearing is not possible, a judicial officer that is marooned outside his station, may upon obtaining a warrant of the Chief Judge, deliver the judgment or ruling of his court that is time bound or urgent in the courtroom of any of the Divisions of his Court closest to his location. The provisions of this Guideline in regard to physical sittings of the courts shall apply in all respects to such sitting of the court for the delivery of the judgment or ruling.
- 4. In order to host online court sittings, the courts shall ensure the availability of the following facilities in the locations or respective locations where the judicial officers and the court officials may be located:
 - a. Fast-speed, pervasive and reliable Internet connectivity;
 - b. End-user Hardware/Devices (i.e. desktops, laptops, tablets, smart phones– any one of these or a combination thereof);
 - c. Collaborative Platform (e.g. MS365 [which incorporates Microsoft Teams], Zoom, Google Meetings, etc.)
 - d. Electricity power for, amongst others, the end-user device and ancillary equipment for the duration of the court sitting.
 - 5. Litigants and their Counsel shall be responsible for ensuring that they have the facilities stipulated in Item E.4 above that would enable them to join and participate in the remote court sittings from their respective locations.
 - 6. The provisions of Item D in regard to the service of hearing notices by the court on parties shall apply *impari materia* to virtual court sittings and the contents of such hearing notices shall be the same as if the hearing notices were for physical court sittings provided that the following additional details and information shall be contained and prominently stated in the said hearing notices:
 - a. The hearing notices must expressly state and inform the parties that the court sittings, or hearings shall be conducted virtually, and that, save as stipulated in Item E.4(b), Counsel and their clients are not expected in the courtroom.
 - b. The time for the remote hearing and the details that would enable the parties and

their Counsel to join and participate in the court sitting or hearing should be prominently set out in the hearing notice.

- c. The details of the channel or social media platform through which there would be live streaming of the virtual court proceedings for public viewing in the terms of Item E.9 hereof shall be specified in the hearing notice.
- 7. Further to the preceding provisions in Item E6, each court shall publish for the attention of the general public on a weekly basis the matters that would be heard remotely by the court for that week. The publication shall be effected in the usual manner that the court publishes information about its weekly sittings including publishing on the court's notice boards. The publication shall include the information and details set out in Items E.6 (a) to E.6(c).
 - 8. The court shall be in charge and in control of the virtual court sitting proceedings – not any different from the control and management that judicial officers exercise in a physical court hearing or setting– and the following additional guidelines shall apply to any such proceedings:
 - a. The courts may enlist the assistance of a technically proficient and trained court personnel to assist in handling and managing the end-user device/hardware (see Item E.6(b) above) and the technical issues related to the conduct of the virtual court sitting.
 - b. The court shall have discretion in the allotment of time to Counsel for making submissions or adopting addresses, subject, in all respects to the provisions of the Court Rules and not any different from what obtains during the regular physical courtroom sittings.
 - c. The collaborative platforms (MS365, Zoom, Google Meetings, etc.) are equipped with electronic recording functionalities for recording virtual court proceedings. The Courts shall make use of those functionalities for the recording of the proceedings in addition to any other recording methods that the court may wish to deploy.
 - d. The court shall, based on any party's application, provide to the parties certified true copies of the record of any virtual court sitting or proceedings. The parties shall be bound by such courts' records.
 - e. Without prejudice to the preceding provisions, Counsel may apply to the court and the court may permit the recording of any virtual court sitting or proceedings by such Counsel for his personal use and records, using the electronic recording functionality in the Counsel's end-user device. Where the court permits any Counsel in any proceedings to carry out such electronic recording of its virtual

sitting, all the other Counsel in the proceedings shall be deemed to have been also given the same authorization by the court and the court's records shall at all times record the application of Counsel for such independent recording and the consequential grant of the application by the court.

- f. Counsel shall ensure that their respective remote locations from where they participate in the virtual court sitting are devoid of distractions and interferences to the proceedings. Counsel shall be responsible to the courts for ensuring that their clients comply with this provision in the event that the clients join and participate in the proceedings from different locations.
 - g. Except with the leave of the court and a party's Counsel, the fact that a party may join a virtual court sitting from a different location and using a different end-user device does not confer on the party the right to be heard where he or she has a Counsel and the Counsel is present for the court sitting.
 - h. Except with the leave of court or as may be directed by the Court, Counsel shall be properly robed for any and all virtual court sittings and shall at all-time address the Court on his or her feet.
9. In order to satisfy the requirements for public hearing of matters:
- a. The Chief Judge shall ensure that there is live streaming of all virtual court proceedings through a publicized Uniform Resource Locator ("url" or "web address") or the court's or any other social media channel so that members of the public can observe the proceedings.
 - b. The details of the virtual court sittings shall be published in the usual manner that the court generally publishes its regular sittings provided that such publications shall specify the nature of the sitting – i.e. remote proceedings instead of the regular physical courtroom sitting– and shall indicate the web address or social media channel where there would be live streaming of the proceedings.
10. The Chief Judge may publish such additional guidelines and/or Practice Directions for the conduct of online court sittings as the circumstances and exigencies may dictate.

F. PHYSICAL COURT SITTINGS

- 1. The provisions of Items E.1 and E.2 shall apply in all respects for the determination of matters that should be heard in a physical courtroom setting.

2. Where the courts must conduct or hold a physical courtroom sitting or hearing, the following guidelines shall apply:
 - a. The containment guidelines in the various published advisories by the World Health Organization and relevant agencies of the Federal and States Governments, including but not limited to the Nigerian Center for Disease Control, as may be revised from time to time, must be strictly enforced by courts within court premises including courtrooms, offices, registries and the chambers of judicial officers.
 - b. The containment guidelines in the various published advisories include but are not limited to avoiding physical contacts with other persons (e.g. handshakes, hugs and embraces), maintaining social/physical distances, etc. Furthermore, every person in the courtroom shall comply strictly with the provisions of Items A4(a), A4(b) and A4(c) of these Guidelines.
 - c. There must not be more than **20 persons** in any courtroom at any time during any court sitting. This number shall include the Judge/ Magistrates/ Presidents and members of Area and District Customary Courts etc., counsel for all the parties, the litigants, the court officials, the security personnel for the court and members of the public who may be attending to observe the proceedings.
 - d. Social/physical distance of not less than 2-meters (6 feet) must be maintained between each person in the courtroom including between the court registrars and the Judge and even between the court registrars themselves. Maintaining such social/physical distances might require that some rows of seats in the courtroom be left vacant and unoccupied by Counsel, court officials and other court attendees.
 - e. Courtrooms that cannot maintain the 2-meter social/physical distance between 20 persons must not allow up to that number into the courtroom. Such court must reduce the number of attendees to such lower number that would ensure the mandatory 2-meters social distance between persons and such reduced number shall include the Judge, the court officials, security personnel, Counsel and litigants and members of the public who may be attending court to observe the proceedings.
 - f. Matters that have multiple parties the aggregate (notably, the Counsel) of which, added to the Judge and the court officials and security personnel would exceed 20 in number should not be listed for hearing at all by any court at this time, particularly where it is impossible or impracticable to limit the number of Counsel and other attendees. Such matters should only be heard where it is possible for the court to regulate the number of attendees for the matter (e.g.

enforce restriction on the number of junior Counsel that can appear with Senior Advocates of Nigeria) so it does not exceed such number as the courtroom could accommodate without breaching the 2-meter social distancing requirement provided that in all the aggregate number of persons in the courtroom does not exceed 20.

- g.** Everyone in the courtroom must wear facemask and that includes the Judge Court, Registrars, Counsel, litigants, security personnel, all other court attendees. On no account must the facemask be removed by any person while in court, before, during and even after the court sitting.
- h.** Courts must deploy temperature monitors at the courtroom entrances. Any person with high temperature or symptoms of illness (e.g. cough or fever) should be politely turned back from the courtroom and if already inside the courtroom, should be politely directed to leave or walked out if he refuses to leave.
- i.** Courts must ensure pervasive supply of alcohol-based hand sanitizers/dispensers at the entrance of and inside the courtrooms. Such sanitizers/dispensers must be pervasive in the entire court premises for the use of members of the public.
- j.** As much as possible, the toilets in the court premises must be kept clean and supplied with constantly running water and soap. It may be necessary to engage and properly kit cleaners whose responsibility it would be to ensure that the toilets are well equipped and periodically sanitized each day.
- k.** In the COVID-19 era, case management demands that the number of cases for each day be drastically reduced to the lower single digits as part of the human traffic control and social/physical distancing mechanisms in the courtroom.
- l.** As a corollary to the preceding recommendation, it is further recommended that specific timeslots be assigned for the hearing of matters on days that the court schedules more than one matter for the day. That way, human traffic in the courtroom would be controlled and it would be easier to enforce social/physical distancing between the court attendees.
- m.** In instances that the Awaiting Trial Persons (“ATPs”) must inevitably be physically taken to court for courtroom sittings/hearings, the Nigerian Correctional Service should have prior engagement with the courts so the judicial officers exercise discretion in the number of cases that are fixed for those days and holding bays would be provided at the court premises (in substitution for a cell) for the detention of the ATPs in conformance to social distancing requirements. Such prior engagements would also enable the courts to take all other required and necessary precautionary steps for the protection of

every person in court, including the ATPs, in the context of COVID-19 transmission.

G. EDO STATE MULTI-DOOR COURT (ESMDC)

- 1 With the consent of the parties, Online Dispute Resolution (ODR) will be used in the resolution of disputes at the Multi-door Court during this critical phase of the Covid-19 pandemic.
2. The ESMDC shall have different ODR options including Virtual sessions. In this regard, matters pending at the ESMDC will be screened to determine which cases are suitable for Online Dispute Resolution. Upon screening, the Dispute Resolution Officer (DRO) will contact the neutrals, parties and counsels to determine the ODR medium to be used.
- 3 Parties may be physically present at the first session, after which other sessions can be done remotely depending on the ODR medium mutually agreed by the neutral, parties and their counsel.
4. For cases not suitable for ODR, the ESMDC will explore physical sessions only where this can be done safely in line with the Practice Directions put in place by the Chief Judge.
5. Cases are to be fixed following very strict timelines. There shall be no more than 8 persons in the plenary rooms for any ADR session. This shall include the neutrals, DRO, parties and their counsel. Face masks must be worn by all parties, counsels and neutrals.
6. There shall be at least an hour and 30mins interval between two matters to give room for the thorough cleaning of surfaces.
7. Parties for physical sessions will only be allowed into the ESMDC 15mins before their scheduled sessions, after going through the approved safety measures recommended by the Hon. Chief Judge.

H. GENERAL PROVISIONS

1. Processes for each day's court sitting, whether physical or remote sittings, should be disinfected by the court officials prior to the court sitting and before the documents are handed over to the judicial officer(s). This applies to all courts.
2. Computation of time: The period of the lockdown shall not count in the computation of time and fees for the doing of any act or taking any step specified in the Rules of all Courts in Edo State.

3. Adoption of Written Addresses:

Adoption of written addresses shall be in compliance with the provisions of the applicable rules of Courts. However, it shall in addition, suffice for counsel to write a simple letter or send an email to the court formally adopting or deeming as adopted the written addresses just so that physical presence of counsel is avoided.

4. It is advised that the courts be accommodating of Counsel and litigants at this time, both in regard to remote hearings and physical court sittings. As it relates to virtual court sittings, allowance must be made by the courts for the poor state of our power and communication infrastructure in the courts' expectations of Counsel, particularly where Counsel is resident or practices in underserved or unserved locations in terms of power and communications networks and infrastructure. On physical court sittings, courts need to take into account the total shutdown of air travels and land transportation systems, not to mention the barricades at States' boundaries.

5. All courts in Edo State shall resume regular but skeletal sittings with effect from the 8th day of JUNE 2020. Each court may hear cases which can be fully heard or prosecuted by affidavit evidence only such as originating summons, fundamental human rights cases, originating motions, judicial review applications, appeals and any other matter where oral evidence is not required. Focus shall also be on bail applications, remand proceedings, interlocutory motions, final addresses in respect of civil or criminal matters, where Defendant is on bail, rulings/ judgments and causes or matters considered urgent, necessary, essential or time bound.

CITATION

These Practice Directions may be cited as Edo State Judiciary (Covid -19 Pandemic Period and Beyond) Practice Directions for Court Sittings of 2020.

ISSUED AT BENIN CITY, THIS 4th DAY OF JUNE, 2020

HON. JUSTICE ESTHER AMENAGHAWON EDIGIN
CHIEF JUDGE
EDO STATE