

**CIVIL TRIAL: THE RUDIMENTS OF CIVIL LITIGATION
IN NIGERIAN**

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CIVIL TRIAL: THE RUDIMENTS OF CIVIL LITIGATION IN NIGERIAN

Civil litigation in Nigeria refers to the process of resolving non-criminal disputes in court, and it follows structured procedures designed to enforce rights and obligations under Nigerian law. The rudiments include jurisdiction, pleadings, trial processes, and enforcement of judgments.

RUDIMENTS OF CIVIL LITIGATION IN NIGERIA

1. JURISDICTION

Generally, the word "Jurisdiction" means the authority which a Court has to decide matters presented in a formal way for its decision. See the cases of *NDAEYO V OGUNNAYA (1977) 1 SC 11*; *MOBIL PRODUCTION NIGERIA LTD. V. LAGOS STATE ENVIRONMENTAL PROTECTION AGENCY & ORS. (2002) 12 SC (PT. 1) 26* and *MUSACONI LTD. v. ASPINAL (2013) 6 -7 SC (PT. 1) 1*.

Generally, there are three types of jurisdictions, to wit:

- i. Subject matter jurisdiction (e.g., land, contracts, family law);
- ii. Territorial jurisdiction (location of the dispute or parties);
- iii. Monetary jurisdiction (value of the claim).

Jurisdiction is fundamental in every proceeding in court. If a court of law adjudicates over a matter in respect of which it has no jurisdiction, its effort is in vain as the proceedings are a nullity. Jurisdiction is the authority which a court has to adjudicate over matters that are litigated before it. It is the basis upon which a court acts. Jurisdiction is a function of law. Accordingly, no litigant can confer jurisdiction on the court where the constitution or a statute or any provision of the common law says that a court does not have jurisdiction. See the case of *Ndayako v. Dankoro (2004) 13 NWLR (Pt. 889) 187*.

In other words, it is a question of law whether a court has jurisdiction in a matter. This could be substantive or procedural law. Procedural jurisdiction involves issues like pre-action notice and other conditions precedent to the exercise of jurisdiction. It also involves composition and constitution of a court. A litigant may waive procedural jurisdiction.

On the other hand, substantive jurisdiction is a matter of substantive law. It covers the issue of subject (person) and subject matter before the court. This cannot be waived.

The issue of jurisdiction is fundamental and must be determined *ab initio* before the action is commenced. Jurisdiction may be by reference to the subject matter that the court may adjudicate upon or the financial limit in such subject matter. Jurisdiction may be by reference to constitution or composition of the court. Jurisdiction may also be determined by reference to the geographical area of operation of the court.

Whatever is the case, it is the claim (statement of claim) of the Claimant that determines jurisdiction. Thus, it is the claim before the court that has to be examined to ascertain whether a particular case is within the jurisdiction conferred on the court.

A case filed in the wrong court is incompetent and will be struck out.

2. COMMENCEMENT OF ACTION

Civil proceedings in Nigeria are initiated through four methods: Writ of Summons, Originating Summons, Originating Motion and Petition.

Writ of Summons is used for civil suits where the facts are in dispute such as cases of breach of contract or actions in tort.

Originating Summons is used when there is unlikely to be dispute of facts such as where the suit is merely to interpret documents or statutes.

Originating Motion is used when there is a clear legal right and no substantial factual dispute such as in cases of enforcement of fundamental human rights, Certiorari, Mandamus and Prohibition.

Petition is used in specific proceedings where the substantive statute provide that the suit must be commenced by way of Petition. Such suits include matrimonial causes, probate matters, electoral disputes and insolvency cases.

In a typical civil suit, the Claimant or Plaintiff commences the action by filing the originating process such as a Writ of Summons and a Statement of Claim and the Defendant responds with a Statement of Defence and sometimes with a Counter-Claim.

3. PLEADINGS IN NIGERIAN CIVIL LITIGATION

Pleadings are the written statements of the parties in a civil case. They set out the material facts, claims, and defences, and they define the issues the court must

resolve. In Nigeria, pleadings are governed by the Rules of Court (e.g., High Court Civil Procedure Rules).

3.1 PURPOSE OF PLEADINGS

The purpose of Pleadings in a civil suit is as follows:

- i. Define issues: They narrow down the matters in dispute;
- ii. Prevent surprise: Each party knows the case they must meet; and
- iii. Guide the court: Helps the judge understand the scope of the dispute.

3.2 MAIN TYPES OF PLEADINGS

The main types of pleadings in a civil suit are as follows:

- i. Statement of Claim filed by the Claimant or Plaintiff. The Statement of claim sets out the facts relied upon and the reliefs sought (e.g., damages, injunction);
- ii. Statement of Defence filed by the Defendant. The Statement of Defence responds to each allegation in the Statement of Claim. Sometimes it may include a Counter-Claim against the Claimant;
- iii. Reply. The Reply may be filed by the Claimant or Plaintiff if necessary, to address new issues raised in the Statement of Defence;
- iv. Further Pleadings may be filed subject to the leave of the Court if new facts arise. These further pleadings will come in by way of amendments. However, most times, the rules of court limit the number of amendments that a party can make in a suit. The courts discourage endless pleadings to avoid delay.

3.3 RULES GOVERNING PLEADINGS

The rules governing pleadings in Nigerian civil litigation are designed to ensure clarity, fairness, and efficiency in trials. Pleadings must contain material facts only, be precise, consistent, and properly served, as facts not pleaded cannot be relied upon in court. Evidence of facts not pleaded goes to no issue. See: *Vincent Bello v. Magnus Eweka (1981) 1 SC101*. Evidence that is adduced which is contrary to or at variance with pleadings also goes to no issue and must be expunged from the court's record if already admitted. See: *Ambrosini v. Tinko (1929) 9 NLR 8*; *Adegbenro v. AG (Fed) (1962) 1 All NLR 431*; *Sommer v Federal Housing Authority (1992) 1 NWLR (Pt. 219) 548*; *Nwawuba & Ors v. Enemuo & Ors (1988) 2 NWLR (Pt. 78) 581*; and *Aniemeka Emegokwue v. James Okadigbo (1973) 4 S.C. 113*.

The Fundamental Rules on Pleadings are as follows:

- i. You plead Facts, not Law or Evidence. Pleadings must state material facts only, not legal arguments or evidence. See: *FCDA v. Naibi (1990) LPELR-1262(SC)*; and *Abusomwan v. Mercantile Bank of Nig Ltd (2) (1987) LPELR-61(SC)*.
- ii. Specificity and Precision. Allegations of facts must be clear and unambiguous. Vague pleadings like “The defendant wronged me” are insufficient;
- iii. Consistency. A Party must not contradict his case in his pleadings. Inconsistent pleadings weaken credibility and may be struck out;
- iv. Admissions and Denials. Facts which are admitted in pleadings are binding and requires no further proof. See: *Odebunmi & Anor v. Oladimeji & Ors (2012) LPELR – 15419 (CA) and ACB Int’l Bank Plc v. Adiele (2013) LPELR – 21164 (CA) relying on Ogolo v.-Fubara (2003) 11-NWLR (pt, 831) 231*. Denials must be specific. Evasive denials are treated as admissions. A pleading that “the Defendant is not in a position to admit or deny a fact” is useless;
- v. No Surprises. Pleadings must disclose all material facts so the opposing party is not ambushed at trial. Sometimes, particulars must be supplied. For example, in a case of negligence. Where the facts pleaded are insufficient, the opposing party can ask for further particulars.

3.4 STRIKING OUT OF PLEADINGS

Pleadings can be struck out if they fail to comply with the rules or are fundamentally defective. Courts take pleadings seriously because they form the foundation of a case.

Pleadings can be struck out under the following circumstances:

- i. Failure to Disclose a Reasonable Cause of Action. If the Statement of Claim does not reveal any legal basis for the suit, the court may strike it out. Example: If a Claimant sues for breach of contract but fails to plead the existence of a contract, the statement of claim discloses no cause of action and will be struck out. See: *ADAM V. SHAIIBU & ORS (2016) LPELR-40179(CA) (PP. 10-13 PARAS. B)*
- ii. Vague or Evasive Pleadings. Pleadings must be precise. If they are ambiguous, evasive, or fail to set out material facts, they may be struck out;
- iii. Contradictory or Inconsistent Pleadings. If a party contradicts themselves within the same pleading, the court may strike it out for lack of credibility;
- iv. Improperly Filed or Served. Pleadings not filed within the prescribed time or not properly served on the other party may be struck out;
- v. Abuse of Court Process. Where pleadings are frivolous, vexatious, or intended to waste the court’s time, they may be struck out. *Nwosu v. P.D.P.*

(2018) 14 NWLR (Pt. 1640) 532; Adesanoye V. Adewole (2000) 9 NWLR (PT 127) 671 and Umeh & Anor V. Iwu & Ors (2008) LPELR-3363 (SC).

- vi. Non-Compliance with Court Rules. If pleadings contain law instead of facts, or evidence instead of material facts, they may be struck out. Courts can insist on strict compliance with procedural rules.

3.5 CONSEQUENCES OF STRIKING OUT PLEADINGS

The consequences of striking out pleadings can be quite serious to the case. Sometimes, once pleadings are struck out, the case may collapse if no valid pleadings remain.

Some of the consequences are as follows:

- i. Loss of the pleading: Once struck out, the pleading ceases to exist in the record. The court will not consider it in deciding the case;
- ii. Weakening of the party's case: If a statement of claim or defence is struck out, the party may be left without a valid case or defence;
- iii. Dismissal of the action: Where the entire pleadings (e.g., statement of claim) are struck out, the case itself may be dismissed;
- iv. Judgment in default: If a defence is struck out, the Claimant may obtain judgment as if the Defendant did not defend the suit;
- v. Costs against the defaulting party: Courts often award costs to the other side for the wasted time and resources;
- vi. Delay and expense: The party whose pleadings are struck out may need to apply for leave to amend or refile, which prolongs litigation and increases costs.

However, when pleadings are struck out, a party may apply for leave to amend and re-file, but this depends on the court's discretion. Sometimes the court may allow amendments to cure defects rather than striking out completely.

4.0 AMENDMENTS OF PLEADINGS

Amendments of pleadings in civil procedure allow parties to correct, clarify, or expand their claims and defences so that courts can resolve the real issues in dispute rather than technical errors. Generally, courts favour amendments if they help achieve substantial justice without causing unfair prejudice or delay. The guiding principle is that amendments should serve justice, not punish inadvertent errors. See the case of *OLATUYI V. GOVERNOR OF ONDO STATE & ANOR (2016) LPCA (371(CA) (PP. 28 PARAS. B).*

The purpose of an amendment is to ensure that litigation addresses the true issues in controversy rather than being derailed by technical mistakes. See the case of

MUHAMMED & ANOR V. ABDULLAHI & ORS (2015) LPELR-40632(CA) (PP. 19-20 PARAS. D.)

Amendments can be made at any stage of proceedings, even on appeal, provided they do not cause injustice or surprise.

4.1 GROUNDS FOR ALLOWING AMENDMENTS

Generally, in a suit the court can allow amendment of pleadings *inter alia*, on the following grounds:

- i. Correcting errors (e.g., misnaming parties, misstating facts);
- ii. Adding new claims or defences that arise from the same facts;
- iii. Clarifying ambiguous pleadings to avoid confusion;
- iv. Updating pleadings to reflect developments during litigation;
- v. To bring the pleadings in line with the evidence already adduced in the case. See the following cases: ***A.C.B. LTD v. EMARAMI (1978) 4 S.C. Pg.99; TAIWO v. AKINWUNMI (1975) 9 N.S.C.C. Pg.224; OGUNTIMHIN v. GUBERE (1964) 3 N.S.C.C. Pg.124; GBADAMOSI v. KABO TRAVELS LTD. (2000) 8 NWLR (Pt.668) Pg.243.***

4.2 GROUNDS FOR REFUSING AMENDMENTS

The Court may refuse an application for adjournment on the grounds *inter alia* as follows:

- i. Prejudice to the other party or to overreach them (e.g., depriving them of a fair chance to respond). See the case of ***YUSUF V. ADEGOKE & ANOR (2007) LPELR-3534(SC) (PP. 43 PARAS. C) IDAKWO vs. EJIGA & ANOR (2002) 13 NWLR PART 783 at p. 156; and FADIORA & ANOR v. GBADEBO & ANOR (1978) LPELR-1224 (SC);***
- ii. Where the amendment will cause undue delay. See ***KEKERE-EKUN V. OWOLABI & ORS (2008) LPELR-8410(CA) (PP. 18-20 PARAS. E);***
- iii. Bad faith or abuse of process (e.g., deliberately delaying proceedings);
- iv. Fundamental change of cause of action that introduces an entirely new case. See ***OKOLO & ANOR V. UNION BANK OF NIGERIA LIMITED (1999) LPELR-2464(SC) (PP. 23 PARAS. B);*** and
- v. Statute-barred claims: amendments cannot revive claims already barred by limitation laws. See ***OLATUYI V. GOVERNOR OF ONDO STATE & ANOR (2016) LPELR-41371(CA) (PP. 29-30 PARAS. F)***

In summary, amendments of pleadings are a flexible tool designed to achieve fairness and accuracy in litigation. Nigerian courts, like others, lean toward allowing them unless they cause prejudice, delay, or abuse of process.

An amendment takes effect from the date of the original document sought to be amended; and this applies to every successive further amendment. See the case of *ADEWUMI & ANOR V. AG OF EKITI STATE & ORS (2002) LPELR-3160(SC) (PP. 24 PARAS. D)*.

The effect of an amendment is that what stood before the amendment is no longer material before the Court and no longer defines the issues to be tried. See: *U.B.A. PLC, V. ABDULLAHI (2003) 3 NWLR PT.807 PAGE 359; OSITA C. NWOSU V. IMO STATE ENVIRONMENTAL SANITATION AUTHORITY (1990) 2 NWLR PT.135 PAGE 688; ENIGBOKAN V. A.I.I. CO. (NIG.) LTD. (1994) 6 NWLR PT.348 PAGE 1; HOUSE OF REPS & ORS V. SPDC (NIG) & ANOR (2010) LPELR-5016(CA) (PP. 50-51 PARAS. F)*.

5.0 PRE-TRIAL PROCEDURES

Service of processes: Before the commencement of hearing in a suit, all the parties to the suit must be served with all the court processes in the suit. Subsequent processes must also be served on all parties except for *ex parte* applications.

The purpose of service of Court processes on the parties to a case is to bring to their notice/attention the pendency of the case, the contents of the case and give them an opportunity to react to the said processes. Thus, the service of Court process is fundamental to the hearing of any suit before the Court. It is a well-known practice of our Courts that proof of service of all processes, where necessary, are enclosed in the Court file of the suit concerned so that on the date slated for hearing, the Judge, by referring to the file, can easily and readily determine whether there was any such proof of service or not. See: *ALL STATES TRUST BANK PLC V. REGISTERED TRUSTEES OF MISSION HOUSE INTERNATIONAL & ORS (2018) LPELR-44349(CA) (PP. 30 PARAS. B)*.

5.1 PRE-TRIAL CONFERENCES

A Pre-Trial Conference is a meeting held before the start of a trial, usually involving the judge, the lawyers for both sides, and sometimes the parties themselves. Its purpose is to streamline the upcoming trial and resolve issues in advance. Here are the key aspects:

5.2 PURPOSE OF PRE-TRIAL CONFERENCE

- i. Clarify issues: Narrow down the matters that will actually be argued at trial;
- ii. Encourage settlement: Explore whether the case can be resolved without going to trial;
- iii. Plan logistics: Set timelines, discuss witnesses, evidence, and scheduling;

- iv. Address motions: Handle preliminary matters like admissibility of evidence or procedural disputes.

5.3 PROCEEDINGS DURING PRE-TRIAL CONFERENCE

During the Pre-Trial Conference, the Judge controls the proceedings to ensure that time is not wasted. Lawyers may exchange witness lists and exhibits and agree by consent for some exhibits to be admitted upfront.

The judge may encourage negotiation or mediation and sometimes terms of settlement can be prepared and filed in Court to enable the Court enter a Consent Judgment as soon as possible.

During the Pre-Hearing Conference, time-lines can be set for the hearing of the case. Deadlines for filing documents can also be confirmed. Sometimes, agreements on certain facts are made to save time at trial.

The essence of a Pre-Trial Conference is that it can help to avoid surprises during trial and Fastrack the hearing.

Furthermore, the Pre-Hearing Conference enables the judge to have a clearer picture of the case before hearing it.

The High Court Civil Procedure Rules of most High Courts provide for Pre-Hearing Conference. For example, see: *Order 25 of the Edo State High Court (Civil Procedure) Rules, 2018* and *Order 5 of the High Court of the Federal Capital Territory Civil Procedure Rules 2025*.

Unfortunately, despite the provision of the rules on Pre-Trial Conferences, most of the Courts are averse to the application of the rules on Pre-Trial Conference because contrary to the intendment of the rules, lawyers have abused the process by their unwillingness to attend promptly with a sense of readiness to Fastrack the proceedings. From experience, the insistence on pre-trial proceedings, may invariably delay hearing.

6.0 THE TRIAL PROPER

Presently, in trials in most jurisdictions in Nigerian, evidence is presented through written documents and oral testimonies. The front-loading system requires all evidence, including witness statements and expert reports, to be submitted in writing before the trial. Witnesses adopt their written statements as evidence-in-chief under oath. During the trial, witnesses are cross-examined based on their written statements, and expert witnesses provide written reports with their findings or opinions. Both witnesses and experts may be subject to cross-examination to clarify their evidence.

6.1 THE FRONTLOADING SYSTEM

The frontloading system in Nigeria refers to the modern procedural rule in civil litigation where parties are required to file and serve all their evidence, witness statements, and documents upfront—at the beginning of the case—rather than waiting until trial. It was introduced to reduce delays and make trials more efficient.

Under the Frontloading system, parties must file their pleadings together with their list of witnesses, witnesses' statements on oath, list of documents to be relied upon and documentary evidence to be tendered at the trial.

In essence, the witnesses' statements on oath replace oral examination-in-chief: Instead of calling witnesses to narrate their story from scratch, their written statements are adopted in court as evidence.

The major advantage of the frontloading system is that it speeds up trials. Furthermore, it reduces adjournments and surprises. Both sides know the evidence beforehand and they are better prepared for trial. Thus, it saves judicial time and reduces the backlog of cases.

However, the frontloading system also has its downsides. The first disadvantage is the cost burden. Preparing all documents and witness statements upfront can be expensive and laborious. Furthermore, it requires a lot of diligence on the part of the lawyer to assemble the evidence upfront to align with the pleadings. Lawyers must be meticulous; failure to frontload properly can weaken a case.

Under the frontloading approach, a witness is meant to adopt his deposition as his evidence in chief and to tender documents or things mentioned in his deposition. He is not permitted to give oral evidence of facts contained in the pleadings. Evidence of facts pleaded must be contained in the deposition of the witness. See: *MAIRIGA & ANOR V. ALKALI & ORS (2019) LPELR-48486(CA) (PP. 30 PARAS. B)*; *NNADI & ORS V. ARIRI (2015) LPELR-24575(CA) (PP. 33-36 PARAS. F)*; and *SKYE BANK PLC V. TUNS FARMS (NIG) LTD (2015) LPELR-25817(CA) (PP. 20 PARAS. C)*.

Sometimes, the question is raised on the effect of failure to frontload a document which a party intends to tender in evidence.

Under the Evidence Act and Nigerian case law, admissibility of a document depends on relevance and compliance with evidentiary rules, not merely on whether it was frontloaded. The frontloading system is a procedural rule designed to promote efficiency, but it does not override substantive law on admissibility. Courts have held that while frontloading is mandatory under the High Court Civil Procedure Rules, failure to frontload a document only affects procedure, not

admissibility. ***SULEIMAN & ORS V. ABUBAKAR TAFAWA BALEWA UNIVERSITY, BAUCHI & ANOR (2019) LPELR-47708(CA) (PP. 13-15 PARAS. C); SULEIMAN & ORS V. ABUBAKAR TAFAWA BALEWA UNIVERSITY, BAUCHI & ANOR (2019) LPELR-47708(CA) (PP. 13-15 PARAS. C)***

If a document is relevant and meets the requirements of the Evidence Act, the court may admit it even if it was not frontloaded. Lawyers should always frontload documents to avoid objections and delays.

However, if a crucial document was omitted, it can still be tendered during trial, provided it is relevant and admissible under the Evidence Act.

The opposing party may object, but the judge has discretion to admit it in the interest of justice. See the following cases: ***AKONJOM & ANOR V. EKOM & ORS (2019) LPELR-49093(CA) (PP. 25-26 PARAS. E); MINISTER FOR WORKS, HOUSING & URBAN DEVELOPMENT & ORS V. OGUNGBE (2018) LPELR-45977(CA) (PP. 35-40 PARAS. D); and ZAREWA & 7 ANOR VS FALGORE & ORS 2020) LPELR - 50870 CA; INEC VS YUSUF & ORS (2019) LPELR-48890 (SC).***

6.2 STREAMLINED TRIAL

Upon the close of pleadings, the parties are expected to lead evidence in proof of the case. The trial is mainly spent on the examination in chief, cross-examination and re-examination of witnesses.

Generally speaking, in court proceedings, witnesses go through three main stages of questioning: examination-in-chief (by the party who called them), cross-examination (by the opposing party), and re-examination (by the original party to clarify issues raised during cross-examination). These stages ensure fairness and accuracy in presenting evidence.

The purpose of the Examination-in-Chief is to present the witness's testimony in support of a party's case. Leading questions (suggesting the answer) are generally not allowed under examination in chief. See: ***section 214(1) of the Evidence Act, 2011.***

Cross-Examination is conducted by the opposing party after examination-in-chief. The purpose is to test the credibility, accuracy, and reliability of the witness's testimony. Leading questions are allowed during cross-examination. See: ***section 214(2) of the Evidence Act, 2011.***

The point must be made that the sky is no longer the limit in cross-examination. It is now firmly established, that evidence led or extracted under cross

examination which has not been pleaded by either of the parties, goes to no issue. See the case of ***UDOFIA V. AKWA IBOM STATE CIVIL SERVICE COMMISSION & ORS (2011) LPELR-4055(CA) (PP. 8 PARAS. A)***; and ***DYEGE V. LAN & ORS (2019) LPELR-48195(CA) (PP. 31-35 PARAS. E)***.

Re-Examination is conducted by the party who originally called the witness, after cross-examination. The purpose is to clarify issues raised during cross-examination and remove ambiguities. See: ***section 214(3) of the Evidence Act, 2011***. Generally, no new matters can be introduced under re-examination except by the leave of the court. If by the leave of the court, a new matter is introduced, the adverse party may further cross-examine upon that matter. See: ***section 215(3) of the Evidence Act, 2011***.

See: ***OKORO V. STATE (2012) LPELR-7846(SC) SC (31 PARAS. D)***.

7.0 INTERLOCUTORY APPLICATIONS

Interlocutory applications are requests made to the court during the pendency of a case, seeking temporary or procedural relief before the final judgment. They are crucial in litigation because they help preserve rights, maintain the status quo, or resolve urgent procedural issues while the substantive matter is still being determined.

An interlocutory application is a motion filed in the course of proceedings, not to decide the case finally, but to deal with an interim issue. It is distinct from a final application, which determines the substantive rights of the parties.

In the case of ***ANAZONWU V. ILOEGBU & ORS (2013) LPELR-21204(CA)CA (16-17 PARAS. F)***, the Court of Appeal described interlocutory applications and proceedings as handmaids to enable the Court to reach the ultimate goal of doing substantial justice between the parties in the issues in litigation between them.

A Court must avoid the determination of a substantive issue at the interlocutory stage. It is never proper for a Court to make pronouncement in the course of discretion must be exercised within the confines of the law.

Judicial discretion must be exercised judicially and judiciously. This means that Courts are to act according to the rules of reason and justice, not according to private opinion, and according to law, not humour. See ***RE: ALASE (2002) 10 NWLR (PT. 776) PG. 553***; ***OFFODILE V. EGWATU (2006) 1 NWLR (PT. 961) PG. 421 UBN PLC. V. ADJARHO (1997) 6 NWLR (PT. 507) PG. 112***.

7.1 COMMON TYPES OF INTERLOCUTORY APPLICATIONS

- i. Interim and Interlocutory Injunctions prevent a party from taking certain actions until the case is resolved;
- ii. Mareva Injunction: A Mareva injunction is a special type of interlocutory order used in common law jurisdictions, such as Nigeria, to prevent a Defendant from dissipating or hiding assets before the conclusion of a trial. It's sometimes called a "freezing order";
- iii. Anton Piller Order: Allows entry into a Defendant's premises to secure evidence at risk of destruction;
- iv. Interpleader Summons: Used when a third party holds property claimed by two or more parties and seeks the court's direction;
- v. Applications for Extension of Time. To file pleadings or documents outside the prescribed period;
- vi. Applications to Amend Pleadings. To correct or adjust claims or defences during trial.

7.2 PRINCIPLES GOVERNING INTERLOCUTORY APPLICATIONS

In every interlocutory application, the Court is expected to consider the following factors:

- i. Serious Question to be Tried: Applicant must show a genuine issue requiring judicial determination;
- ii. Balance of Convenience: Court considers which party would suffer greater hardship if the order is granted or refused;
- iii. Irreparable Harm: Relief is granted if damages would not adequately compensate the Applicant;
- iv. Undertaking as to Damages: Applicant may be required to compensate the other party if the order causes harm and the case fails;
- v. Judicial Discretion: Relief is not automatic; the court weighs fairness and justice in each case. Failure to disclose material facts may lead to dismissal of the application.

In summary Interlocutory applications are vital tools in Nigerian litigation, ensuring fairness and protecting rights before final judgment. They require careful drafting, full disclosure, and must satisfy strict judicial principles.

8.0 FINAL ADDRESSES

Upon the conclusion of evidence, the parties or their counsel are expected to file final written addresses.

In Nigerian courts, the order of presenting final addresses is strictly regulated by the rules of court.

Generally, if the Defendant called evidence, his counsel will be the first to file a written address, but where the Defendant did not lead any evidence, the Claimant's counsel addresses first, followed by the Defendant's counsel, and then the Claimant's has the right of reply. This ensures fairness and gives the initiating party the last word. See: ***Order 30, Rules 14 to 17 of the Edo State High Court (Civil Procedure) Rules, 2018***. See also the case of ***OYERINDE V. ACCESS BANK PLC (2014) LPELR-23461(CA) (PP. 15-17 PARAS. F)***.

Section 294(1) of the 1999 Constitution of the Federal Republic of Nigeria provides *inter alia* for the right of a party in a case to make final addresses after the conclusion of the evidence in the case before the Court delivers its decision in the case.

However, the courts have consistently held that the right to address the court can be waived by a party. See the following cases: ***CO-OPERATIVE & COMM. BANK V MBAKWE (2002) FWLR (109) 1678 AT 1687; GITTO COSTRUZIONI GENERALI NIGERIA LTD & ANOR V. ETUK & ANOR (2013) LPELR-20817(CA) (PP. 36-38 PARAS. E)***.

This written address summarizes the evidence, highlights legal authorities, and argues why judgment should be in favour of the party.

In the written address, the counsel highlights the strength of his case while pointing out weaknesses in the case of the opposing party.

During address, Counsel may challenge the credibility of witnesses, admissibility of evidence, or expound some legal principles.

Although the Address of counsel cannot be a substitute for evidence, a good address can assist the Court to appreciate the nature, strength and weakness in the cases of parties. It has the potential to bend the scale of justice in favour of a party who presents scintillating address. See the case of ***OKEKE V. STATE (2003) 15 NWLR (PT. 842) 25***; and ***STANBIC IBTC BANK V. LONGTERM GLOBAL CAPITAL LTD & ORS (PP. 58-59 PARAS. E)***.

9.0 JUDGMENT

The ***Constitution of the Federal Republic of Nigeria, 1999 (as amended)*** provide under ***Section 294 (1)*** thus:

"Every Court established under this Constitution shall deliver its decision in writing not later than ninety days after the conclusion of evidence and final addresses and furnish all parties to the cause or matter determined with duly

authenticated copies of the decision within seven days of the delivery thereof". Thus, the Courts established under the 1999 Constitution (as amended) are required or are expected to deliver judgment within Ninety days after the final address of the parties. See: **DANGAJI V. ABDULKADIR & ANOR (2020) LPELR-52183(CA) (PP. 19-21 PARAS. F).**

Delivery of final judgment is the stage where the court formally pronounces its decision after hearing all evidence, arguments, and final addresses. It is the culmination of the trial process and determines the rights and liabilities of the parties.

In its judgment, the Court reviews oral testimony, documentary evidence, and exhibits tendered during trial. Credibility of witnesses and consistency of facts are weighed. Counsel's written and oral submissions are analysed. The judge considers legal authorities cited and arguments raised. Relevant statutes, case law, and procedural rules are applied to the established facts.

The judge delivers the decision in open court. Judgment may be oral (read out) or written (later made available to parties).

A good judgment must contain: Issues for determination; Findings of fact; Application of law; Final orders (e.g. Declaration, damages, injunctions, etc)

Costs may be awarded to the successful party.

10.0 EXECUTION OF JUDGMENT

Execution of judgment refers to the legal process of enforcing or carrying out the orders contained in a court's final judgment. It ensures that the successful party actually benefits from the decision, whether through payment, possession, or compliance with specific orders.

Once a judgment is delivered, it does not automatically enforce itself.

The winning party (judgment creditor) must take steps to compel the losing party (judgment debtor) to comply.

Execution is the mechanism by which the court's decision is made effective in real life.

10.1 MODES OF EXECUTION IN NIGERIA

- i. Writ of Fieri Facias (FiFa): Authorizes seizure and sale of the debtor's movable property to satisfy the judgment debt;

- ii. Writ of Possession: Used in landlord/tenant or property disputes to place the judgment creditor in possession of land or premises;
- iii. Garnishee Proceedings: Directs a third party (e.g., a bank) holding money for the debtor to pay it directly to the creditor;
- iv. Writ of Attachment: Seizes property of the debtor to compel compliance;
- v. Committal Proceedings: Imprisonment of a debtor for contempt if they disobey court orders; and
- vi. Writ of Sequestration: Seizes and manages the debtor's property until compliance is achieved.

10.3 PROCEDURE FOR ENFORCEMENT OF JUDGMENT

To enforce a court judgment, the Judgment Creditor will apply to the court requesting to execute the judgment by any of the above methods. In the absence of any motion for stay of execution or order for stay of execution, the Court will approve the execution of the judgment after the period for appeal has expired.

The execution must be carried out by the Sheriff/Bailiff and other Court officials to carry out the order (e.g., seizing property, handing over possession).

Once the debt or order is complied with, execution is complete.

Execution must follow due process; self-help or forceful enforcement without court approval is illegal.