

"ETHICS, CONDUCT AND BEHAVIOR AS A JUDGE" BEING A PAPER PRESENTED AT THE ANNUAL INDUCTION COURSE FOR NEWLY APPOINTED JUDGES OF THE LOWER COURTS (BATCH A) SCHEDULED TO HOLD FROM 19 - 23 MAY, 2025 AT ANDREWS OTUTU OBASEKI AUDITORIUM, NATIONAL JUDICIAL INSTITUTE, ABUJA BY HON. JUSTICE M. N. O. OKONKWO, JP, KSJI, FClarb.

INTRODUCTION:

It is the Courts in Nigeria that make up the Judiciary just as in any other Country. The said Courts are the Supreme Court, Court of Appeal, the various High Courts, the Customary and Sharia Courts of Appeal of the States, the National Industrial Courts, the Magistrate Courts, the Customary/Sharia Courts and the tribunals of various names. The Supreme Court, Court of Appeal, High Courts, National Industrial Courts, Customary/Sharia Courts of Appeal are the Superior Courts of record while the other Courts are regarded as the Lower Courts. This induction course is principally for the newly appointed Judges of the Lower Courts (Batch A). The theme for the course is "Enhancing Judicial Efficiency and Quality of Decision Making". An efficient judiciary that dispenses good quality decisions will bring about good governance and proper economic growth of the Country which will in turn enhance the social, political and economic well-being of the Country and her citizens. The theme is highly commended as apposite to the prevailing circumstances of our country.

I am sure that we are all familiar with the terms that make up the subject of this paper. We have either heard of them, taken part in any of them or had put any of them into practice. It is, therefore, my humble view that the aim of this paper is not to teach us what we do not know but to remind us of their existence and the need to apply them in our Courts, homes, society and anywhere we found ourselves as some of us might have forgotten about them and their applicability. Accordingly, this paper is simply to awaken our consciousness on the topic with a view to imbibing them on the day to day discharge of our duties in our courts and in every other facets of our lives. I intend to take a holistic view of the topic and treat same in the manner hereunder with particular regard to the theme of the course.

DEDICATION TO WORK:

I do not intend to bore us with the definition of the word "dedication". It is however synonymous with commitment. A dedicated worker is someone that is committed to his work. A person that is dedicated to something means that he/she understands the importance of what he/she is doing and commits his/her time, energy and resources towards ensuring that it is achieved. As learned Judges of the lower Courts, the hall-mark of your work is to ensure that justice is delivered to all the litigants/people that their cases are brought before you for adjudication and you are expected to achieve this noble goal by committing your time, energy and resources to same. Dedication to work or to duty presupposes commitment to work/duty.

What qualifies one to be a dedicated worker does not take place in vacuum but in our various life endeavors especially our work places. It is the contributions made towards achieving our individual goals or the goals of the organization we belong that determines whether we are qualified to be described as being dedicated to work/duty. A dedicated **worker should be diligent, regular and punctual to his assigned duties**. These three attributes will propel him/her to higher productivity and efficiency. These three attributes must co-exist to achieve the desired result. The absence of any of them will draw back the employee and affect adversely his overall productivity. As learned Judges of the lower courts, you must endeavour to attend to your duties diligently. This presupposes that you must give the job your best. It demands a lot of hard work hence you must be consistent, sincere and avoid anything that would draw you back in attaining your goal of early disposal of cases before you with utmost impartiality. This requires high sense of duty, responsibility, commitment, integrity, probity and transparency. You are expected to be honest and do justice to all manner of people without fear or favour, affection or ill will. These are indeed the hallmark of a dedicated Learned Judge of the lower Courts and indeed every other judge. In the case of **PROSPER V STATE** (2014) LPELR – 23500 (CA) it was held:

"Undoubtedly, the nature of the office and functions of a Judicial office call for a very high sense of duty, responsibility, commitment, discipline, great intellect, integrity, probity and transparency. Thus, any person so appointed to that exalted position of a judicial officer, without imbibing these supreme attributes and qualities is surely to be a No. 1 obstacle to justice according to law"
I am sure that none of us here would like to be regarded as No 1 obstacle to

justice according to law. For us not to be so regarded, we must strive to imbibe these "supreme attributes and qualities". As a necessary corollary and in furtherance of these attributes, you must ensure that justice is founded on the correct view of the law and that justice is not slaughtered on incorrect interpretation and application of the law and equity. You should also see to the essence of the pursuance of the ideal of certainty of the Law. See **OSHOBOKA V AMIDA & ORS (2009)** LPELR – 28031 (SC); **BAKARE V. L. S. C. S. C.** (1992) 8 NWLR (pt. 262) 64; **F.C.S.C. VS. LAOYE** (1989) 12 NWLR (Pt. 106) 652.

A dedicated Judge should be regular and punctual in attending to his/her duties. These are necessary attributes of a dedicated worker. However, there are instances where one attends to his duties regularly and punctually without achieving much. Such officers indulge in gossip or unnecessary arguments with lawyers. At times, they take over the case and descend to the arena of conflict. I agree that lawyers, at times, act in a most irritating manner but joining issues with such counsel would be a great distraction and prevent you from achieving your goal of early disposal of cases on your cause list. You might even be provoked to the point that your BP would jump up. You must not allow the antics of counsel or his ineptitude to drail you from the impartial and unbiased administration of justice. This must have prompted the Supreme Court to advise in the case of **AKPAN VS. STATE** (1992) LPELR – 381 (SC) that "It is of fundamental importance in the administration of justice that the court should not allow its judicial role as an impartial and unbiased arbiter to be diverted by the ineptitude or antics of counsel" We all belong to the Judiciary Arm of Government. The main goal of the judiciary of the moment is quick dispensation of justice which must be premised on impartial disposal of the cases in court. Coming to work early and regularly without achieving the said goal distracts from the fact that you are dedicated to your duty. Certainly, you are not. You should learn to be less talkative and be more restrained in order not only to achieve the goal of the judiciary but also to maintain Judicial Dignity and give the appearance of impartiality. Francis Bacon did say that a "talkative Judge is like an ill – tuned cymbal". Questions by the Bench should be done sparingly and only when absolutely necessary. Lord Heward once observed that "The business of a Judge is to hold his tongue until the last possible moment and to try to be as wise as he is paid to look". In the same vein, Sir James Fitzjames Stephens in his History of the Criminal Law advised that "The

duty most appropriate to the office and character of a Judge is that of an attentive listener to all that is to be said on both sides and not of an investigator but if he takes the leading and principal part in the conflict he cannot possibly perform his own special duty. He is, and of necessity must be, powerfully biased against the prisoner". I need to observe here that all of us are judges at our own levels once we sit on judgment over others so any reference to "Judge" in this paper includes all of us. . We are umpires in all cases before us and should not for any reason, descend into the area of conflict. When an umpire enters the area and participates, he ceases to be an umpire. He becomes a contestant and his vision maybe clouded by the dust of the contest. You must avoid unnecessary argument with the Bar. It does no good to your image and that of the judiciary you represent. Most often, It attracts insult and disrespect to your exalted position. Your integrity and ego may even be seriously bruised and teared to shreds. Justice Willis once had the ill luck of engaging in an argument and unfriendly dialogue with the great F. E. Smith of the English Bar. Trying to rebuke the barrister, the Judge asked: "What do you suppose I am on the Bench for Mr. Smith"? The counsel smiled very sweetly and then answered –

"It is not for me to fathom the inscrutable ways of providence". The Judge did not ask any further questions and the dialogue ended. I plead with you not to put yourself in such disgraceful tight corner. You should accord due respect to all lawyers appearing before you and even to your supporting staff. Our people used to say that "respect is reciprocal". That means that if you respect others, they will in turn respect you. As a judge, it is a virtue not a vice and it removes nothing from you rather it exalts you and puts you on a pinnacle of honour and dignity. You cannot persistently use foul or indecent languages on lawyers or certain members of the society and expect them to be quiet or to honour you. The Court of Appeal in the case of **Hon. Farouk Lawan v. Zenon Petroleum & Gas Ltd. & Ors. (2014) LPELR – 23206 (CA)** cautioned that" ----- Judges themselves have a reciprocal duty to be civilized, by the use of decent words and language in dealing with lawyers and litigants who appear before them. See **Ann Okwuchukwu Menakaya v. Dr. Timothy N. Menakaya (2001) 16 NWLR (pt. 738) 203 at 252, per Ogundare, JSC**, where the Supreme Court said. "I think we Judges owe it a duty to be restrained and civilized in dealing with those Counsel, parties and members of the public who appear in our Courts". **Per Adumein , JCA.** A

person that is dedicated to duty should possess good communication skills so as to communicate effectively and achieve the desired result. Good communication skills do not necessarily mean fluency in English language alone. He should be confident and inspire confidence in all those around him. He should also have leadership qualities. With strong leadership qualities, a dedicated employee can assist in moving his organization forward. He/She must lead by example. A dedicated worker should also imbibe the culture of team work. Dedication to duty requires effective collaboration, tolerance, patience and excellent communication. Team work is a very important quality of a dedicated employee. As employees of the Judiciary, I implore us to consider all the above seriously and adapt or make use of them if we have, of recent, forgotten to apply them in the day to day discharge of our responsibilities.

BRIBERY AND CORRUPTION

Many in this Country believe that bribery and corruption is pervasive in Nigeria. It is their view that bribery and corruption is endemic and have permeated all strata of our society including the judiciary. I am not here to defend the judiciary from the accusations of bribery and corruption many of which are baseless and unfounded. I am here to talk on the twin "cancer", its adverse effect and dangers as they relate to our judiciary and in particular as they affect the judicial efficiency and quality decision making. We cannot pretend not to know the evil effects of bribery and corruption in our society. One cannot also safely posit that there is no corruption in the Judiciary system or amongst some of our Judges. Bribery and corruption are very ugly occurrence that may befall any system particularly the Judiciary. A Judiciary system that is known for corruption attracts no respect to itself. It is one of the worst things that would happen to any society or Country. Bribery and corruption compromises the integrity of the Judge and dents the image of the judiciary. Hon. Justice Mohammed Uwais, Former Chief Justice of Nigeria once stated that "A corrupt Judge is more harmful to the society than a man who runs amok with a dagger in a crowded street. The latter can be restrained physically. But a corrupt judge deliberately destroys the moral foundation of society and causes incalculable distress to individuals through abusing his office while still being referred to as honourable". We must strive to eschew bribery and corruption at all cost. It destroys not only the judge but the system. The bench is not for acquisition of wealth. It is for men and women of high

integrity. This must have prompted Oputa, JSC (of blessed memory) to advise that "----- No one should go to the bench to amass wealth for money corrupts and pollutes not only the channels of justice but also the very stream itself. It is a calamity to have a corrupt judge. ----- When justice is bought and sold there is no more hope for society. What our society needs is an honest, trusted and trustworthy judiciary".

I pray you, my dear brothers, to live above board. Do not allow yourself to be the black sheep of the judiciary. Your appointment to the bench should not be a calamity to the judiciary and the Nigerian society. You should not see your appointment to the bench as an avenue to amass wealth. If you have that in mind, you should better resign now before you are found and thrown out in the most ignominious way. Even the code of conduct for judicial officers forbids corruption or taking of bribe no matter how disguised. Thus, in the case of **Hon. Justice Nganjiwa v. F.R.N. (2018) 4 NWLR (pt. 1609) 301 at 341** it was held that "Rule 10 of the Revised Code of Conduct for Judicial officers of February, 2016 prohibits the acceptance of gift, bequest, loan, favour, benefit, advantage, bribe, etc. It provides that a judge shall not give or take and shall not encourage or condone the giving or taking of any benefit, advantage, bribe however disguised, for anything done or to be done in the discharge of a judicial duty". You should not allow yourself to be influenced by any extraneous or subterranean consideration whatsoever. You must totally commit yourselves to the rule of law, to the dispensation of justice according to law, without fear or favour, affection or ill-will. These are implicit in the judicial oath subscribed to by all of us. These views are expressed by my Noble Lord, **Saulawa, J. C. A.** (as he then was) in the case of **Senator Makarfi & Anor. v. Prince Biyi Poroye & 10 Ors (2017) 10 NWLR (Pt.1574) 419 at 440 – 441** wherein His Lordship quoted with approval the postulation of **Hon. Justice M. M. A. Akanbi**, (PCA Emeritus) in the following words:-

"let me say that while a Judge with little or no adequate knowledge of law may be considered a nuisance and his lack of understanding and appreciation of the law may constitute an obstacle in the path of justice, yet he is still, more tolerable than a **CORRUPT JUDGE**. For a corrupt Judge is not only dangerous obstacle, he is an anathema and a **disgrace** to the profession or the institution which he does not deserve to belong". See **M. M. A. Akanbi (PCA Emeritus). "The Judiciary and the challenges of justice, 1996 at 36"**. I am of the humble opinion that it is better for anyone of us who is inclined to taking bribes to quit the bench instead of being disgraced or regarded as a disgrace to the legal Profession or the Judiciary for undeserving to belong to any of them

The art of bribe taking has no doubt been in existence since the creation of man. It is, however, frowned at and condemned by all ages, climes and institutions. Even the Holy books – The Holy Bible and the Holy Quran have harsh words for bribery and corruption and those that indulge in it. They enjoin us not to give or take bribes. Exodus chapter 23 verse 8 enjoins us to “take no bribes, for a bribe makes you ignore something that you clearly see. A bribe makes a righteous person twist the truth”. The Holy Quran Ibn Maajah (2313) defined bribery as “a major sin because the prophet (peace and blessings of Allah be upon him) said: May the curse of Allah be upon the one who pays a bribe and the one who takes it”. These injunctions of the Holy Books are self-explanatory. We must not take bribe nor encourage it because it blinds our eyes to do justice. Both the giver and the taker are guilty and both are cursed. May the curse not be upon us and may we not soil our hands by taking bribes.

Let me at this point draw our minds to the symbol of Justice. The symbol is the Lady Justice. Justice is depicted as a goddess equipped with three symbols of the rule of law: a sword symbolizing the courts coercive power; scales representing an objective standard by which competing claims are weighed; and a blindfold indicating that justice is (or should be) meted out objectively without fear or favour regardless of identity, money, power or weakness. These imply that we must be upright in everything we do and in particular in deciding cases before us. We should not look at the face, status, gender or affluence of any of the parties before us. We must be courageous and decide all cases without fear or favour, affection or ill – will. We must not defer to anyone no matter how highly placed in the society. Our goal must be to achieve undiluted justice in accordance with the law.

It needs to be emphasized, following from the above, that in deciding cases before you, you must restrict yourself to the evidence before you. Your knowledge of any issue relating to the case before you should not be a point for consideration in your rulings and judgments. You must not generate evidence or facts not canvassed or adduced before you. In the case of **Ifeanyi Obi v. A. G. Imo State (2010) 3 NWLR (pt. 1500) 425** it was held “the personal knowledge of a Judge cannot take the place of evidence in matters placed before him unless judicial notice can be taken of such a fact. It does not lie with a trial court to help out the prosecution to buttress its case against an accused person. ----- It is not permissible for a trial court to descend into the arena of conflict in a trial to generate evidence or facts not canvassed or adduced by witness (es) or which is not apparent on the face of the records before it and to use same to decide a case. In the instant case, the trial Judge

was wrong to import evidence from his personal knowledge about Obalande into the case and used same to decide the matter when there was no such evidence from the prosecution”.

It is undisputed that we as human beings cannot be perfect. Afterall, we are mere mortals. But our calling to the bench has set us out as special people of high integrity. We must not betray the trust reposed in us by getting involved in acts of bribery and corruption. He who has ears, let him hear as a word is enough for the wise.

CONFIDENCE AND CONFIDENTIALITY

Confidentiality is a noun and is a situation in which one is expected to keep information or document secret. Any document or information that is to be kept secret and not to be shared with a certain segment of the people or members of staff of an office/organization is classified as confidential. Confidentiality also means preserving authorized restrictions on access and disclosure including means for protecting official and personal privacy and proprietary information. Confidentiality also involves a set of rules or promise usually executed through confidentiality agreements that limits the access to or places restriction on distribution of certain types of information and documents.

In the public service, especially in the Ministries, Departments and Agencies (MDAs) certain documents and information are classified as confidential. The access and disclosure of such documents and information are restricted with the result that only authorized personnel/officers usually those that have sworn to the oath of secrecy do have access to them. Usually, such confidential documents or information are clearly so marked with the word “confidential”. In the Judiciary, there are some documents and information that are classified as confidential and the movement of the files where such documents or information are contained is restricted. **The confidentiality of a document or information is determined by the originating office/officer and receiving authority.** The delicate, important or volatile nature of an information or document are the main consideration for the classification of the document as confidential. Confidentiality builds trust and promotes confidence in the health care system, school system, in offices and organizations. It prevents the illegal or immoral use of documents and information. It also protects the reputation and dignity of the management staff of any organization. It is very advisable for us to maintain some certain measure of confidentiality in the day to day running of our Courts. There should be a limit

the supporting staff in your Chambers and Courts should get involved in decision making processes in your Court. For example, if the Judgment of a case is not handled confidentially, its leakage before delivery might result to serious damage not only to the reputation of the presiding Judge but to the whole Judiciary. It may lead to loss of confidence on the Judiciary by the members of the public. However, with the F.O.I. Act, it becomes doubtful whether any document could now be classified as secret or confidential.

This brings us to the issue of public confidence in our Courts. It is the trust and the confidence of the public on our Judicial system that is sustaining Courts in Nigeria. The Court or Judiciary system will cease to function any moment there is complete loss of confidence in our Courts. The people will take the laws into their hands once they lose confidence in the Courts. The implications of such occurrence would be unimaginable disaster. To build confidence in the people of this country or sustain the much that now subsist, we should strive to be competent, independent and impartial in the discharge of our official duties. That is one of the best ways to upholding the rule of law without which chaos and anarchy would rear their ugly heads in the affairs of the nation. The Court of Appeal emphasized the importance of confidence building in the affairs of the Judiciary when it held in the case of **FRN vs. SEGUN** (2011) LPELR-4153 (CA) that: “....And the importance of a competent, independent and impartial Judiciary in preserving and upholding the rule of law cannot be over emphasized. There is no doubt that public confidence in the independence of the Courts, in the integrity of Judges that man such Courts, and the impartiality and efficiency of the administration of Justice as a whole, play a great role in sustaining the Judicial system of a nation. See **MBADIWE VS. INEC** (2010) ALL FWLR (PT. 547) 745 AT 773-775, paras, B – D PER Saulawa, JCA (as he then was). I think, it was Mr. Justice Frankfurter, of the US Supreme Court who ones aptly stated in his notorious philosophical and erudite characteristics that – “the Courts authority possessed...of neither the purse nor the sword...ultimately rests on sustained public confidence in its moral sanction”. See **BAKER VS. CARR**. Supreme Court of USA (1962) 369 US 186. See also **HON. JUSTICE DENTON WEST VS. CHIEF MUOMA SAN** (2008) ALL FWLR (PT. 433) 1423, (2008) 6 NWLR (PT. 1083) 418.

It is for us to build confidence in the Judiciary system. No one else will do it for us. It is within our powers to do it and I am certain that we can do it. We can do it by being above board and impartial in dealing with cases that come before

us. We must deal with all cases on its merit and based purely on the evidence before us. Thus, **PEMU, JCA** reiterated the above view when he held in the case of **SHOFOLAHAN VS. STATE** (2013) LPELR-20998 (CA) that "the law is trite, and indeed it is an elementary principle of law, that a Judge in the due dispensation of justice, must be above board and an impartial Judge. He cannot afford to be otherwise. His tools is the evidence before him. The facts of the evidence is his guiding light. His eyes must be single. The facts before him is what determines which way the ship sails..."

We are under obligations to decide all cases brought before us in accordance with the laws and evidence before us. We must be fair and just at all times. No external consideration in deciding cases before us. We must endeavour to maintain our integrity and impartiality in all the cases we handle. All acts that tend to portray us as biased in any case must be avoided at all cost. When a Court is seen or suspected as being biased, the confidence in the Court is destroyed. **A Court might be very upright but portrayed by his conduct as being biased.** Any Court that talk too much or bullies Counsel or descends to the arena is likely to be accused of being biased. I have talked on some of these issues already. The immortal words of Lord Dining, MR in his book, "the discipline of law" PP.86-87 is apposite here. The Learned Law Lord posited that "...Justice must be rooted **in confidence and confidence is destroyed when right-minded people go away thinking: "The Judge is biased"**". It is in the overall interest of all of us and the system we represent that we inspire confidence in the populace by our own conducts in and out of Court. The greatest casualty of any act of bias is the presiding officer of the Court. His/her image is smeared with charcoal, his integrity and reputation is destroyed and this has a lot of negative impact on the perception of the Judiciary by members of the public. Niki Tobi, JCA (As he then was) while condemning the act of bias on the part of a Judge lamented and counseled in the case of **ADAMU VS. FRN** (2021) LPELR – 54598 (CA) in the following terms:-

"The language of bias is indicative of a deliberate action by the Judge to look outside the law and facts to decide a matter. Accusing a Judicial officer of bias is to say that the Judicial officer is not fit to take over the responsibility of such great honour and a direct affront to the oath of office that he took on the day he was sworn in. In fact, a Judge is a representative of God on earth and therefore should imbibe the principle of Justice and therefore jealously guard

*this divine calling. **To be a Judicial officer takes more than knowledge of law and being intelligent but more so requires good character in both the strict and general sense of the word. An appeal on grounds of bias is a challenge on the character, the integrity of the Judicial officer. It is a challenge that takes away from him the covering of decency as a Judicial officer...***

I advise us to take to heart and mind the above solemn words of the revered law Lord. We should endeavour to avoid anything that would portray us as biased in any way. In doing so, we would be contributing in building and engendering confidence in the Judiciary, the rule of law and the administration of Justice generally.

SOCIAL LIFE AND INTERACTIONS WITH MEMBERS OF THE PUBLIC.

In Nigeria, there is so much affection, comradeship, love, association and affinity amongst the family members, kindred, village, town, religion, ethnicity etc. We relate freely with one another without any hindrance. That is the nature of our upbringing and it is deeply rooted in our culture. There is nothing, ordinarily, wrong with our association with anyone be him/her a friend, family member, a religious colleague etc. After all the constitution of the Federal Republic of Nigeria 1999 (as amended) under Chapter IV particularly Section 40 guaranteed the right of every citizen of Nigeria to peaceful assembly and association. This means that we can associate and meet with anyone we so desire to do. But association and assembly ultimately leads to familiarity. Once you are familiar with anyone or a group of persons, they would try to influence your conducts on the bench sooner than later. At times, your name would be used in the most improper manner in what we call in the local parlance "name dropping". This might not be known to you but that is the danger of a judge associating with all manners of people. Association with certain types of persons especially with those that have or likely to have cases before us should be avoided as much as possible. Such relationship or fraternity does no good to the image of the judge and the judiciary. The Hon. Justice Atanda Fatayi Williams, Former Chief Justice of Nigeria in his memoirs, "Faces, Cases and Places" **published in 1983 (P.78)** must have had the above in mind when his Lordship opined and advised thus:-

"In Nigeria, familiarity does not breed contempt. It breeds obligation. As a result, people with whom you are friendly expect you to bend the rules to suit

their requirements. It pays in the end for a judge, even at the risk of being accused of being a snob or of haughtiness, to be somewhat aloof, not only from members of the executive but also from political power brokers”.

We should not get close or familiar with any person(s) once such relationship would make us obligated to them in the course of discharging our duties on the bench.

The Revised Code of Conduct for Judicial Officers of the Federal Republic of Nigeria, 2016, made elaborate provisions regarding the relationship of judges with members of the society. The Code at Rule 1(4) and 1(5) provides:-

“1.4. The Judge must be sensitive to the need to avoid contacts that may lead people to speculate that there is a special relationship between him and someone whom the Judge may be tempted to favour in some way in the course of his judicial duties”.

“1.5 A Judicial Officer must avoid social relationship that are improper or may give rise to an appearance of impropriety or that may cast doubt on the ability of a Judicial Officer to decide cases impartially”. The operating words in the two provisions above are “MUST”. This emphasizes the seriousness of the provisions. When people begin to speculate on the relationship between a Judge and someone on the basis that the Judge might be tempted to favour such person, the integrity of the Judge and the Judiciary is eroded and confidence on the ability of such Judge to deliver unbiased decision on the case involving such person is destroyed. So also is an improper relationship which casts doubt on the ability of a Judicial Officer to decide cases impartially. **See also Rule 2.8 of the Revised Code of Conduct for Judicial Officers in Nigeria (2016).** In *R. V. Sussex Justices, Ex Parte Mc Carthy (1923) ALLER 233*, The Lord Chief Justice Hewart advised strongly that “Nothing is to be done which creates even a suspicion that there has been an improper interference with the course of Justice”. The learned Law Lord went further to state in the said case that:-

“It is not merely of some importance, but is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done”. Lord Hewart, Chief Judge in *RV. Sussex Justices, Ex parte McCarthy (1924) 1 K.B. 256*. I do not intend to flog this issue further as the issue(s) involved are clear and easily comprehensible. It suffices to say that any association, relationship or affinity that would create any form of suspicion on your part must be avoided no matter the cost to you. Be an introvert. Be a

snob. Be haughty as long as you are on the bench so that nothing would impede your desire to dispense justice to all manner of people without fear or favour, affection or ill will. The avoidance of these familiarities will enable you to concentrate fully on your judicial functions which invariably would enhance judicial efficiency and quality of decision making.

HIERARCHY OF COURTS/RESPECT

I am of the view that we are all familiar with the meaning and the incidents of hierarchy of Courts with the attendant respect attached thereto. For the purposes of surplusage, hierarchy of Courts, in most simple terms, is the order of seniority of the Courts in Nigeria. The Courts are the Supreme Court, the Court of Appeal, the Federal High Court, the FCT High Court, the National Industrial Courts, The Sharia Court of Appeal and The Customary Court of Appeal of FCT, Abuja, High Courts of the States, Customary Court and Sharia Courts of Appeal of the States, The Magistrate Courts, the Sharia Courts and Customary Courts. There are some other inferior Courts. These Courts, particularly the Courts of Record, are created under chapter V11 of the 1999 Constitution of the FRN as amended.

The Supreme Court is the highest Court of the land. The next in hierarchy is the Court of Appeal followed by the High Courts and its coordinates. Every Court observes strict respect and honour to the Courts above it. The Court of Appeal is bound by the previous decisions of the Supreme Court. Similarly, all the previous decisions of the Court of Appeal are absolutely binding on all Courts inferior to it. See **USMAN VS. UMARU** (1992) 7 NWLR (PT. 254) 377 (SC). The Federal and State High Courts, the Sharia Courts of Appeal, the Customary Courts of Appeal and National Industrial Courts are all Courts of co-ordinate Jurisdiction and are bound by the decisions of the Court of Appeal and Supreme Court. Their decisions are only persuasive to one another as they are equal in status, authority and power. The Magistrate Courts and Customary Courts are bound absolutely by the previous decisions of all the superior Courts. Thus, a Magistrate is bound by a High Court's decision and he/she has no discretion as to whether to follow the decision or not. It should be noted, however, that Magistrate or district Court is not bound to follow its own previous decision. See **BOARD OF CUSTOMS AND EXCISE VS. BOLARINWA** (1968) NMLR 350.

When a Court of law, in exercise of its powers, decides a case and gives a decision, that decision is not only binding on the parties but is also treated with respect and regarded as "precedent" which subsequent inferior Courts or

tribunals are obliged to follow when called upon to determine cases of the same or similar kind. This is what is called the doctrine of stare decisis. The doctrine of stare decisis which is follow what has been decided previously is a corollary of the common law system. It is the basic principle of the administration of Justice which stipulates that like cases should be decided alike. See **OGBU VS URUM** (1981) 4 SC1; **JOHNSON VS. LAWANSON** (1971) 1 ALL NLR 56. The truth, however, is that there can hardly be any two cases where the facts are exactly the same and the doctrine of stare decisis does not say that the facts must be exactly the same. Hence, there could be inarticulate differences that will not necessarily hinder the application of the doctrine. One major criterion in the determination of the matter is that the facts of the previous case are major, substantial and material to the facts of the current case begging for the application of the previous case. See **ADETOUN OLADEJI (NIG.) LTD. VS. N. B. PLC.** (2007) 5 NWLR (PT. 1027) 415 SC.

As Learned Judges of the lower Courts, it is obligatory that you obey to the letter, the doctrine of stare decisis. You cannot pronounce a higher Courts decision as given *per incuriam* in order to depart from it. See **GLOBAL TRANSPORT VS. FREE ENTERPRISES** (2001) 12 WRN 136 SC, **ADISA VS. OYINWOLA** (2000) 6SC (PT. 11) 47. Apart from adhering and applying the doctrine of stare decisis in our day to day functions in Courts, we must pay due respect to all the Judicial officers superior to us. Even when we disagree with them outside the realm of law and the law Courts, we must do so with utmost respect, honour and decorum. This is highly observed by the Hon. Judges of the various Courts. We must jettison the "I too know mentality". We are not in competition with one another. It does no one any good to castigate fellow Judges, Magistrates, Kadis or Presidents in an attempt to present one as the best of all. Any one of you that indulges in such act does so at his or her own detriment and undermines the integrity, probity and transparency of the Judiciary. You cannot be the only good person in an establishment and expect the public to attribute goodness to such establishment. A lone star in the firmament cannot illuminate the space for the greater majority of the populace. We should better desist from such misconduct.

There are reports of lower Courts dealing with interlocutory applications over matters decided by them but on Appeal at the High Courts. Others employ all types of legal gymnasium to subvert the Appeal from their Courts to the High Courts. Such conducts are patently against the established norms inherent in

the hierarchy of Courts. The doctrine of Judicial precedent is dependent on a settled hierarchy of Courts. It is a great act of indiscipline for any of us to fail to accord and show respect to our superiors in hierarchy and to the processes of a competent higher Court. Thus, in the case of **T. S. A. INDUSTRIES (NIG.) LTD. VS. FIRST BANK PLC.** (2018) LPELR – 435 62 (CA) it was held that “by virtue of Rules 1.3 and 3.1 of the revised Code of Conduct for Judicial Officers of the Federal Republic of Nigeria, 2016 and established Judicial discipline, every Judicial Officer has a duty to accord and show respect to the processes of a competent higher Court in the Judicial hierarchy in Nigeria in line with recognized principles of law which promotes confidence in the integrity of the Nigerian Judiciary. Flagrant disobedience to and/or lack of respect for the processes of a higher Court is unjudicial and so, a mark of indiscipline that is an anathema to the judicial confidence and integrity of the judiciary”. The principle of Judicial hierarchy and respect was enunciated in the case of **ACHEBE VS. MBANEFO** (2007) LPELR-8250 (CA) where it was held that, “where a Judge of the High Court is aware of an application in a higher Court, like the Court of Appeal, in a case before him, but deliberately chooses to ignore it, it is an attitude which borders on Judicial impertinence and is an affront to the authority of the Court of Appeal. This is because all Courts established under the Constitution drive their power and authority from the Constitution and the hierarchy of Courts shows the limit and powers of each Court. So for an inferior Court to defy the authority and power of superior Court is both undesirable and distasteful. There must be respect for the authority of each Court. A lower Court should try to avoid defiance of the order or process of a superior Court”. See also **UNI PETROL NIG. PLC. VS. ABUBAKAR** (1997) 6 NWLR (PT.509) 470. It is incumbent on every Court to observe and obey the hierarchy of Courts and the principle of Judicial precedent imbedded in the doctrine of stare decisis. The doctrine of Judicial precedent is dependent on a settled hierarchy of Courts for effectiveness. The observance of these principles and doctrines by Courts will not only strengthen and enforce the certainty of the law but will contribute immensely in fostering confidence in the Judicial system which ultimately will promote Judicial efficiency and quality of decision making.

CONCLUSION/APPRECIATION

It is an undisputable fact that great percentage of cases are filed at the Lower Courts. The said Courts have the greatest outreach to the people as they can be found in every local government and some various communities. The way

these Courts and the officers that man them are perceived by the people would determine the amount of confidence and trust such local people would have on the Judiciary of the Country. The officers of these Courts should be dedicated to their duties. They should imbibe and display a very high sense of duty, responsibility, commitment, discipline, great intellect, integrity, probity and transparency as suggested by My Noble Lord, Saulawa, JCA (as he then was) in the case of **PROSPER VS. STATE** (SUPRA). These attributes will sustain the Judicial system once the populace are assured of the efficiency, integrity and impartiality of the lower Court Judges and their support staff. You cannot afford to do less.

The work of adjudication which we all voluntarily elected or applied to be appointed does not belong to any particular person. **It is true that the Hon. Chief Justice of Nigeria is the Head of this Arm of Government but the Judiciary does not belong to him. It belongs to all of us, and we must join hands together to move** it forward. We can only do so by being fully dedicated to our duties and imbibe the other issues or principles discussed in this paper. Hard work and dedication yield result. The Bible tells us the importance of developing a solid work ethic and of putting our all into everything we do. Ecclesiastics 9:10 (NIV) enjoins us thus:-

"Whatever your hands finds to do, do it with all your might, for in the realm of the dead, where you are going, there is neither working nor planning nor knowledge nor wisdom".

This is one of the Bible verses about hard work that tells us to work with all our might regardless of what we are doing here on earth. On death, you cease to toil. See also 2 Thessalonians 3: 10-12 (NIV). This emphasizes the importance of having a solid work ethic and the consequences of not giving our all in our jobs.

There is a saying that *"To whom much is given, much is expected from him"*. I wish to add that from whom much is expected, much should be given to him. The salary and allowances of the lower Court Judges is, to say the least, very poor. **There is the great and urgent need to review upward their salaries and allowances. They will be encouraged, by so doing, to continue to put in their best in their work places.** The importance of enhancing the salary and allowances of Judges of the Lower Courts cannot be over-emphasized particularly considering the prevailing economic condition of the country. It will surely boost their moral and make them more dedicated to

their duties which in turn will enhance over all judicial efficiency and quality decision making to the benefit of the system and all of us. It is hoped that very soon, they will get their due scale of salaries and allowances.

May I most profusely express my sincere gratitude to the Administrator of the National Judicial Institute, My Lord, The Hon. Justice Salisu Garba Abdullahi for giving me the rare privilege and opportunity to present this paper to this August Assembly . I feel highly humbled and honoured. Thanks immensely My Noble Lord. To My Noble Lords on the high table, particularly, the Chairman of this session, I am profoundly grateful. My fellow participants, you are no less deserved. I appreciate all of you for your kind attention. Any short comings in the writing and presentation of this paper is highly regretted. May God Almighty be with us all and lead us back safely to our respective jurisdictions at the end of this course. Amen.

**HON. MR. JUSTICE M. N. O. OKONKWO,
JP, KSJI, FCIARB.**