

*STANDARDS OF PROOF, RELEVANCE, AND ADMISSIBILITY UNDER THE EVIDENCE ACT 2011 (AS AMENDED 2023): A GUIDE FOR NEWLY APPOINTED JUDGES.* BEING A PAPER PRESENTED AT THE INDUCTION COURSE OF NEWLY APPOINTED JUDGES OF THE SUPERIOR COURTS OF RECORD (BATCH A), 5 – 9 MAY, 2025, AT THE NATIONAL JUDICIAL INSTITUTE, ABUJA, NIGERIA.

THEME: *ENHANCING JUDICIAL EFFICIENCY IN QUALITY OF DECISION-MAKING.*

BY

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Appreciation:

Permit me to stand on the existing protocol and also to congratulate my lords and my ladies herein present for the induction course. I say congratulations; may Almighty Allah ease your affairs as you judge between the affairs of men.

I wish to sincerely thank my lord, the Administrator of the Institute, Hon. Justice Salisu Garba Abdullahi, and the entire management of the National Judicial Institute for inviting me to speak to my Lords on the concepts of standards of proof, relevance, and admissibility, as these concepts serve as the control centre that drives the entire administration of justice.

As can be seen, I am not an expert in adjudication; just a few years ago, precisely in 2023, I was inducted (like you today) in this hall. Thus, I do not claim expertise in the area of Evidence Law. I suspect this invitation has been extended to me in recognition of my modest contributions during the institute's programs that I attended. Therefore, I must clarify that this paper is aimed solely at provoking our thoughts and opening further discussions on the topic. It does not intend to serve as an expert opinion but rather comprises a collation of existing works by other authors, coupled with a little of my humble analysis.

I am pleased to share my limited knowledge of Evidence Law at this crucial event, and I thank the organisers for giving me this opportunity.

## INTRODUCTION

The honourable, the Chief Justice, Distinguished colleagues and esteemed participants.

The administration of justice in Nigeria, as in other common law jurisdictions, relies heavily on the principles of evidence law. The Evidence Act 2011 governs the admissibility, relevance, and standards of proof required in judicial proceedings. Understanding these concepts is crucial for newly appointed judges to ensure fair and just outcomes in civil and criminal cases. This paper explores the standards of proof, relevance, and admissibility under the Evidence Act 2011, with examples, illustrations, and references from judicial authorities to clarify the legal principles governing evidence, equipping you with p

ractical tools for assessing evidence and strengthen your capacity to deliver well-reasoned judgments.

Evidence is the cornerstone of judicial decision-making. It provides the factual basis upon which cases are determined. The Evidence Act 2011 (as amended 2023) (and applicable state laws) governs the admissibility and evaluation of evidence in Nigerian courts.

## STANDARDS OF PROOF: THE FOUNDATION OF JUDICIAL DECISION-MAKING.

### 1.1 Understanding the Concept of Standards of Proof

The standard of proof refers to the degree or level of certainty required to establish a fact in a legal proceeding. It determines how convincing the evidence must be for a court to accept a claim or defence. The standard varies depending on the nature of the case—civil or criminal.

### 1.2 Standards of Proof in Civil and Criminal Cases: A Comparative Analysis

The standard of proof is "on the balance of probabilities". This means that the party asserting a fact must prove that it is more likely than not to be true. For example, in a breach of contract case, the claimant must show that it is more probable than not that the defendant

t failed to fulfil their contractual obligations.

In *Akinfolarin v. Akinnola* (1994) 3 NWLR (Pt. 335) 659, the court held that in civil cases, the burden of proof is discharged when the evidence tilts the scale slightly in favour of the party asserting the claim.

**Criminal Cases:** The standard is "proof beyond a reasonable doubt". This is a higher standard, requiring the prosecution to prove the accused's guilt to such an extent that there is no reasonable doubt in the mind of a reasonable person. For instance, in a murder trial, the prosecution must prove that the accused committed the murder beyond any reasonable doubt.

In *Bakare v. State* (1987) 1 NWLR (Pt. 52) 579, the Supreme Court emphasised that in criminal cases, the prosecution must prove its case beyond a reasonable doubt, and any doubt must be resolved in favour of the accused.

### 1.3 Exceptions and Special Cases: When the Burden Shifts

In some cases, the burden of proof may shift to the defendant, especially when statutory presumptions are involved. For example, in corruption cases, the accused may be required to explain the source of their wealth if the prosecution establishes a *prima facie* case.

In *FRN v. Fani-Kayode* (2010) All FWLR (Pt. 543) 181, the court held that the accused could be required to explain the source of their wealth once the prosecution establishes a *prima facie* case of corruption.

**RELEVANCE: THE LOGICAL CONNECTION BETWEEN EVIDENCE**

## AND FACTS IN ISSUE

### 2.1 Defining Relevance in the Context of Evidence Law

Relevance refers to the logical connection between the evidence presented and the facts in issue. Evidence is relevant if it tends to make the existence of any fact in issue more or less probable than it would be without the evidence (Section 4 of the Evidence Act 2011).

### 2.2 Relevance as the Cornerstone of Admissibility

Relevance is the foundation of admissibility. For evidence to be admissible, it must first be relevant. However, not all relevant evidence is admissible. For example, evidence obtained illegally may be relevant but inadmissible due to exclusionary rules.

In *Torti v. Ukpabi* (1984) 1 SCNLR 214, the Supreme Court held that the test for admissibility is relevance, but the court may exclude relevant evidence if it is obtained improperly or if it is too remote to be material.

### 2.3 Practical Examples of Relevant Evidence

- i. In a land dispute, a deed of conveyance is relevant to prove ownership.
- ii. In a murder case, a weapon found at the scene of the crime is relevant to establish how the crime was committed.

## ADMISSIBILITY: THE LEGAL GATEKEEPING OF EVIDENCE

### 3.1 The Concept of Admissibility in Judicial Proceedings

Admissibility refers to whether evidence can be legally received by the court. Even if evidence is relevant, it may be excluded if it violates certain legal rules, such as the hearsay rule or the rule against improperly obtained evidence.

### 3.2 The Interplay Between Relevance and Admissibility

While relevance is a prerequisite for admissibility, not all relevant evidence is admissible. For example, hearsay evidence is generally inadmissible, even if it is relevant.

In *Nwabuoku v. Onwordi* (2006) All FWLR (Pt. 331) 1236, the Supreme Court emphasised that admissibility is based on relevance, but the court may exclude evidence if it is inadmissible under the Evidence Act or other laws.

### 3.3 Exceptions to Admissibility: When Relevant Evidence is Excluded

**Hearsay Evidence:** Generally inadmissible unless it falls under an exception, such as dying declarations or statements made in the course of business (Section 37-39 of the Evidence Act 2011).

In the old but still golden English case of *R. v. Turner* (1975) 1 All ER 70, the court held that hearsay evidence is inadmissible unless it falls under a recognized exception.

**Improperly Obtained Evidence:** Evidence obtained in violation of co

Constitutional rights may be excluded, even if it is relevant.

In *Gaji v. State* (1975) All NLR 266, the court held that evidence obtained through torture or other illegal means may be excluded, even if it is relevant.

### 3.4 Documentary Evidence: Rules Governing Its Admissibility

Documentary evidence is governed by specific rules under the Evidence Act 2011. For example, primary evidence (the original document) is generally required, but secondary evidence (such as copies) may be admissible under certain conditions (Section 85-90 of the Evidence Act 2011).

In *Jacob v. A.G. Akwa Ibom State* (2002) 8 FWLR (Pt. 86) 57, the court held that secondary evidence of a document is admissible only if the original is unavailable and proper foundation is laid.

## PRACTICAL ILLUSTRATIONS: APPLYING THE PRINCIPLES IN REAL CASES.

### 4.1 Civil Case Example: Breach of Contract

In a breach of contract case, the claimant must prove on the balance of probabilities that the defendant failed to perform their contractual obligations. Relevant evidence may include the contract document, correspondence between the parties, and witness testimony. Ho

However, if the claimant attempts to introduce hearsay evidence (e.g., a statement made by a third party), it may be excluded unless it falls under an exception.

#### 4.2 Criminal Case Example: Murder Trial

In a murder trial, the prosecution must prove beyond reasonable doubt that the accused committed the murder. Relevant evidence may include the murder weapon, forensic evidence, and eyewitness testimony. However, if the prosecution attempts to introduce evidence obtained through an illegal search, it may be excluded, even if it is relevant.

#### CONCLUSION: UPHOLDING JUSTICE THROUGH PROPER APPLICATION OF EVIDENCE LAW.

Under the Evidence Act 2011, the principles of standards of proof, relevance, and admissibility are fundamental to the administration of justice. Newly appointed judges (and even those who have been a little longer) must carefully balance these principles to ensure that only relevant and admissible evidence is considered and that the appropriate standard of proof is applied in each case. By adhering to these principles, judges can uphold the integrity of the judicial process and ensure fair outcomes for all parties.

My Lords and Learned Colleagues, mastering evidence law is not optional—it is your duty to ensure justice is rooted in facts, fairness, and the law. As you embark on this noble journey, remember: Apply the correct standard of proof, Admit only relevant and reliable evidence, and Exercise discretion judiciously.



The judiciary's integrity depends on your decisions. Let us uphold it with wisdom.

## APPENDIX

Some hypothetical scenarios to illustrate the interplay between relevance and admissibility under the Evidence Act 2011, designed to clarify these concepts for judicial decision-making:

Case Study No. 1 – Criminal – tailored to illustrate the principles of standard of proof, relevancy and admissibility in armed robbery:

Case Background

State v. Aliyu

Charge: Armed robbery (Section 1 of the Robbery and Firearms Act).

Facts:

Aliyu is accused of robbing a supermarket at gunpoint. The prosecution alleges he stole ₦2 million and injured the cashier. Aliyu denies involvement, claiming he was at a friend's house during the robbery.

Evidence Presented by the Prosecution

i. Eyewitness Testimony:

- Cashier's Statement: "I saw Aliyu pointing a gun at me. He wore a red cap and black jacket."

- Security Guard's Statement: "I saw a man fleeing in a blue Honda Civic with license plate ABC123. I later identified Aliyu in a police lineup."

ii. Physical Evidence:

- A red cap and black jacket found in Aliyu's home.

- ₦1.8 million cash discovered in Aliyu's car during a police search.

iii. Confession:

- A written statement allegedly signed by Aliyu admitting guilt.

iv. Surveillance Footage:

- CCTV footage from a nearby shop showing a blue Honda Civic (license plate unclear) near the supermarket at the time of the robbery.

v. Hearsay Evidence:

- Neighbor's Testimony: "Aliyu's girlfriend told me he bought a new car the day after the robbery."

Defence's Case

i. Cash and Clothing:

- The defence claims the police searched Aliyu's home without a warrant.

ii. Confession:

- Aliyu alleges the statement was obtained under torture (shows bruises in court).

iii. Hearsay Evidence:

- The defence argues the neighbour's testimony is inadmissible as it relies on the girlfriend's out-of-court statement.

Analysis: Relevance vs. Admissibility

1. Red Cap and Jacket

- Relevance: ✓
- It connects Aliyu to the eyewitness description (red cap/black jacket).
- Admissibility: ✗
- The evidence may not be admissible as Police violated Section 37 of the Constitution (illegal search without a warrant). The effect of this leads to the exclusion of the evidence under Section 14(2) Evidence Act (improperly obtained evidence).

2. ₦1.8 Million Cash

- Relevance: ✓
- Proximity to the stolen amount (₦2 million) suggests a link.
- Admissibility: ✓
- Found in Aliyu's car during a lawful search (police had probable cause).

3. Confession Statement

- Relevance: ✓
- Direct admission of guilt.
- Admissibility: ✗
- Obtained via torture (Section 29(2) Evidence Act excludes involuntary confessions).
- See Gaji v. State (1975)\* precedent applies.

4. Neighbor's Hearsay Testimony

- Relevance: ✓
- Suggests Aliyu suddenly acquired wealth (motive/opportunity).

- Admissibility: ✗
- Hearsay (girlfriend's statement not made under oath or in court).
- No exception under Sections 37–39 Evidence Act.

#### 5. Surveillance Footage

- Relevance: ✓
- Shows a car matching the security guard's description near the crime scene.
- Admissibility: ✓
- Authenticated by the shop owner (Section 84 Evidence Act).

#### Judge's Ruling/Judgment

- Admitted Evidence:
  - Eyewitness testimony (cashier and security guard).
  - ₦1.8 million cash (lawfully obtained).
  - Surveillance footage.
- Excluded Evidence:
  - Red cap, jacket (illegal search).
  - Confession (involuntary).
  - Neighbor's hearsay.

#### Outcome:

- The court weighs the admissible evidence. While the eyewitnesses and cash are compelling, the prosecution fails to prove beyond reasonable doubt due to a lack of direct physical evidence linking Aliyu to the gun or stolen money. Aliyu is acquitted.

#### Key Takeaways for Judges

1. Relevance ≠ Admissibility: Evidence must pass both tests.
2. Illegally Obtained Evidence: Even if relevant, exclude it to protect constitutional rights.
3. Hearsay: Generally inadmissible unless a statutory exception applies.
4. Confessions: Scrutinize voluntariness to prevent miscarriages of justice.

This scenario underscores the judge's role as a gatekeeper of evidence, ensuring fairness while balancing probative value and legal integrity.

#### Case Study No. 2 – Civil – tailored to illustrate the principles of standard

of proof, relevancy and admissibility in a contractual dispute:

### Case Background

Bello Enterprises Ltd v. TechSolutions Ltd

Claim: Breach of Contract (Failure to deliver functional software).

Facts:

- Bello Enterprises (Claimant) paid ₦10 million to TechSolutions (Defendant) to develop custom inventory management software. The software allegedly malfunctioned, causing ₦25 million in losses due to inventory mismanagement. TechSolutions denies liability, arguing the software worked properly and blaming the claimant's incompetent staff for the errors.

### Evidence Presented by the Claimant

i. Contract Document:

- Specifies software functionality and delivery timeline.

ii. Emails:

- Correspondence between Bello's IT Manager and TechSolutions complaining about software glitches.

iii. Expert Report:

- A software engineer's analysis concluding the software had coding errors.

iv. Financial Records:

- Invoices and bank statements showing payment of ₦10 million.

- Loss statements showing ₦25 million in damages.

v. Witness Testimony:

- Bello's warehouse supervisor claims the software mislabeled products, causing losses.

vi. Prior Complaints:

- Testimony from another TechSolutions client alleging similar software issues (objected to by the defence).

### Evidence Presented by the Defendant

i. User Manual:

- Argues Bello's staff failed to follow instructions.

ii. Maintenance Logs:

- Records showing TechSolutions offered free troubleshooting, which Bello declined.

iii. IT Consultant's Affidavit:

- States the software worked perfectly during a demo.

iv. Video Evidence:

- A 30-second clip from the demo (claimant argues it's edited and incomplete).

### Key Objections

#### Prior Complaints (Other Client's Testimony):

- Defense: "Irrelevant and prejudicial—TechSolutions' dealings with others don't prove breach here."

#### Expert Report:

- Defense: "The expert lacks certification in inventory software; the report is inadmissible."

#### Video Clip:

- Claimant: "Edited footage misrepresents functionality; original video not provided."

#### Emails:

- Defense: "Emails are hearsay—IT Manager isn't testifying in person."

### Analysis: Relevance vs. Admissibility

#### 1. Prior Complaints from Other Clients

- Relevance: ✗
- No logical connection to Bello's case (Section 4 Evidence Act).
- Risks unfair prejudice (Section 14 Evidence Act).
- Admissibility: ✗ Excluded.

#### 2. Expert Report

- Relevance: ✓
- Directly addresses software defects.
- Admissibility: ✓
- Expert qualifies under Section 68 Evidence Act (knowledge/skill in software engineering).
- Case Law: Abacha v. FRN (2014) – Expertise trumps formal certification.

#### 3. Video Clip (Demo)

- Relevance: ✓
- Purports to show functional software.
- Admissibility: ✗
- Incomplete footage; original not provided (violates Section 85 – Best Evidence Rule).
- Excluded as secondary evidence without proper foundation.

#### 4. Emails Complaining About Glitches

- Relevance: ✓
- Shows the claimant's efforts to notify the defendant of defects.



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- Admissibility: ✓
- Business records exception to hearsay (Section 38(b) Evidence Act).

#### Judge's Ruling/Judgment

- Admitted Evidence:
  - Contract, expert report, financial records, emails, and warehouse supervisor's testimony.
- Excluded Evidence:
  - Prior client complaints, video clip.

#### Outcome:

- On the balance of probabilities, the court finds TechSolutions liable:
- The expert report and emails prove software defects.
- TechSolutions failed to rebut the claimant's evidence.
- Award: ₦25 million damages + legal costs.

#### Key Takeaways for Civil Cases

1. Relevance in Civil Cases: Evidence must directly relate to the contractual terms and alleged breach.
2. Hearsay Exceptions: Business records (e.g., emails) are admissible if properly authenticated.
3. Expert Evidence: Admissibility depends on expertise, not formal titles.
4. Best Evidence Rule: Original documents/videos preferred; edited clips risk exclusion.

This scenario demonstrates how judges must rigorously filter evidence to ensure fairness while applying the balance of probabilities standard. Even in civil cases, excluding prejudicial or unreliable evidence is critical to a just outcome.

Case Study No. 3 – Where the case involves multiple parties – illustrating how evidence admissible against one party may or may not bind others, even if relevant and admissible under the Evidence Act 2011:

#### Case Background

Amina & Sons Ltd v. Greenfield Agro Ltd, Mr Musa, and Mrs Zainab  
Claim: Fraudulent misrepresentation and breach of contract.

### Parties:

1. Amina & Sons Ltd (Claimant): A food distributor that entered a ₦50 million contract to purchase 1,000 bags of rice from Greenfield Agro Ltd.
2. Greenfield Agro Ltd (1st Defendant): Supplier accused of supplying substandard rice.
3. Mr. Musa (2nd Defendant): Managing Director of Greenfield Agro Ltd.
4. Mrs Zainab (3rd Defendant): External auditor who certified Greenfield's rice quality.

### Facts:

The rice supplied was mouldy and contaminated, causing Amina & Sons to lose ₦30 million in resale contracts. The claimant alleges:

- Greenfield Agro fraudulently misrepresented the rice quality.
- Mr. Musa personally orchestrated the fraud.
- Mrs. Zainab negligently certified the rice as "Grade A."

### Evidence Presented

1. Contract Document: Signed by Mr. Musa on behalf of Greenfield Agro.
2. WhatsApp Messages: Between Mr. Musa and a warehouse supervisor:
  - Musa: "Just send the rice; no one will notice the mould until payment clears."
3. Lab Report: Independent analysis showing contamination (commissioned by Amina & Sons).
4. Audit Certificate: Issued by Mrs Zainab stating the rice met "Grade A" standards.
5. Prior Lawsuit: A 2022 judgment against Greenfield Agro for similar fraud (objected to by all defendants).
6. Bank Records: Showing Mr. Musa transferred ₦5 million to Mrs. Zainab's account 3 days after the audit.

### Key Objections

#### Defence for Greenfield/Musa:

- i. WhatsApp messages are inadmissible against Mrs Zainab—she wasn't part of the conversation.
- ii. The prior lawsuit is irrelevant and prejudicial to Greenfield.

#### Defence for Mrs. Zainab:

- i. Bank records are irrelevant—no proof the ₦5 million was a bribe.

ii. The lab report doesn't prove negligence in her audit.

### Analysis: Relevance & Admissibility Against Multiple Parties

#### 1. WhatsApp Messages (Musa & Warehouse Supervisor)

- Relevance: ✓
- Shows Mr. Musa's intent to defraud.
- Admissibility:
  - Against Musa/Greenfield: ✓ (Admissible as an admission by agent under Section 21 Evidence Act).
  - Against Mrs. Zainab: ✗ (No connection to her; exclusion under Section 14 to prevent prejudice).

#### 2. Prior Lawsuit Against Greenfield Agro (2022)

- Relevance: ✓
- Suggests a pattern of fraudulent conduct.
- Admissibility:
  - Against Greenfield: ✗ (Section 14 excludes prior bad acts to prove current misconduct).
  - Against Musa/Zainab: ✗ (No link to their involvement in the prior case).

#### 3. Audit Certificate by Mrs. Zainab

- Relevance: ✓
- Directly relates to her professional duty.
- Admissibility:
  - Against Mrs. Zainab: ✓ (Business record under Section 38(b)).
  - Against Musa/Greenfield: ✓ (Shows reliance on her certification for the contract).

#### 4. Bank Records (N5m to Zainab)

- Relevance: ✓
- Suggests possible bribery to issue a false certificate.
- Admissibility:
  - Against Zainab: ✓ (Circumstantial evidence of motive under Section 7).
  - Against Musa/Greenfield: ✗ (No proof Musa authorized the payment; excluded as prejudicial).

### Judge's Ruling/Judgment

#### Admitted Evidence:

- WhatsApp messages (against Musa/Greenfield only).
- Audit certificate (against all parties).
- Lab report (against all parties).
- Bank records (against Zainab only).



### Excluded Evidence:

- Prior lawsuit (irrelevant and prejudicial).

### Outcome:

- Greenfield Agro & Musa: Liable for fraud (WhatsApp messages + lab report prove intent and breach).
- Mrs Zainab: Not liable; insufficient evidence links the ₦5 million payment to fraud. The audit certificate alone doesn't prove negligence.

### Key Legal Principles

#### 1. Evidence Must Be Assessed Per Party:

- Even if the evidence is relevant, it binds only the party it directly implicates (e.g., WhatsApp messages don't affect Zainab).

#### 2. Admissions by Agents (Section 21):

- Statements/acts by an agent (Musa) bind the principal (Greenfield) but not unrelated third parties (Zainab).

#### 3. Prior Bad Acts (Section 14):

- Excluded unless showing a specific pattern connected to the current case.

#### 4. Circumstantial Evidence:

- Requires a clear chain of inference (e.g., bank records alone don't prove bribery without context).

### Hypothetical Cross-Examination

#### - Claimant's Lawyer to Mrs. Zainab:

- "Did you declare the ₦5 million payment from Mr. Musa in your tax returns?"

#### - Defense Objection:

- "Relevance—no proof that the payment relates to the audit."

#### - Judge:

- "Sustained. The question is speculative without further evidence."

### Takeaways for Multi-Party Cases

- Judges must compartmentalize evidence for each party to prevent "guilt by association."
- Use limiting instructions to jurors (if applicable):
  - "The WhatsApp messages are only evidence against Mr Musa and Greenfield Agro, not Mrs Zainab."
- Relevance and admissibility turn on individual culpability, not collective suspicion.

This scenario underscores the complexity of multi-party litigation and the need for meticulous analysis of how evidence interacts with each defendant's role.

Thanks and God bless

## References

- i. Evidence Act 2011.
- ii. Akinfolarin v. Akinnola (1994) 3 NWLR (Pt. 335) 659.
- iii. Bakare v. State (1987) 1 NWLR (Pt. 52) 579.
- iv. FRN v. Fani-Kayode (2010) All FWLR (Pt. 543) 181.
- v. Torti v. Ukpabi (1984) 1 SCNLR 214.
- vi. Nwabuoku v. Onwordi (2006) All FWLR (Pt. 331) 1236.
- vii. Gaji v. State (1975) All NLR 266.
- viii. Jacob v. A.G. Akwa Ibom State (2002) 8 FWLR (Pt. 86) 57.