

ENHANCING SPEEDY DISPENSATION OF JUSTICE: PRACTICAL HINTS ON CASEFLOW MANAGEMENT

A PAPER PRESENTED BY HON. JUSTICE HANNATU AZUMI BALOGUN AT THE CONFERENCE OF ALL NIGERIA JUDGES OF THE LOWER COURTS, ON 23RD NOVEMBER, 2016

INTRODUCTION

It has often been said that the Judiciary is the last hope of the Common man. One of the features of a developed democracy is the supremacy of the rule of law. Fair hearing within a reasonable time is a strong pillar of justice in any society. A society where justice is delayed or frustrated by delay cannot progress much and if care is not taken can even regress into self help, survival of the fittest and anarchy.

For several years, The Nigerian Judiciary has placed a lot of emphasis on the achievement of excellence, transparency, accountability and general efficiency. The Judicial policy was formulated and was recently updated to bring it up to speed with present realities. The code of conduct for judicial officers has equally been overhauled. Similarly, a lot of attention is being placed on judicial performance, accountability and efficiency.

This being so, we all have to think of ways to effectively and efficiently manage our Courts so as to reduce delay, decongestion and the frustration that they bring.

It is undisputable that the lower courts handle the bulk of cases in the Nigerian Judiciary. It is therefore crucial that the lower courts manage their cases efficiently and in a way that speedy, effective and affordable justice is achieved. In other words, the common man must be able to access the courts; he must also be able to get justice at a reasonable time and at a reasonable cost.

WHY IS CASE MANAGEMENT IMPORTANT?-

There are many reasons why we should manage our cases. The reasons include the following:

- a. To avoid delay. It has been said and it is universally accepted that justice delayed is justice denied. Most of you have come across cases that were delayed for one reason or the other for years. In some cases the plaintiffs have died before the cases could be decided thus they could not reap the fruits of their judgment personally. A classic case of delay was recounted by Hon Justice Olatawura (JSC as he then was) when he told of a case he received as a Court Clerk in 1957. He was reassigned the same case as a Judge in 1991, 14 years later. His Lordship described the situation as scandalous.

You may think that this is only an isolated case. This is not so. The Supreme Court in the case of **AMADI V NNPC (2000) 10 N.W.L.R. PG76 @100** where a preliminary issue of jurisdiction took the case 13 years to decide as the case went up to the supreme Court, had this to say:

“Finally, this appeal succeeds and it must be allowed. The checkered history of this case once more brings to light the dilatory effect of interlocutory appeal on the substantive suit between parties. The action in this case was brought on the 29th day of April, 1987. The motion on notice to strike out the case for want of jurisdiction is dated 15th day of April, 1988; that is about a year after the suit was filed. The ruling of the High Court was delivered on the 20th day of May, 1988. The appeal against the ruling was delivered by the court of appeal on the 16th day of February 1999. The final judgment in the interlocutory appeal is delivered today by this court. It has this taken 13years for the case to reach this stage. With the success of the Plaintiff’s appeal before us, the case is to be sent back to the High Court to be determined, hopefully, on its merit after a delay of 13 years. Surely, this could have been ended had it been that the point was taken in the course of the proceedings in the substantive claim to enable any aggrieved party to appeal on both the issue of jurisdiction and

the judgment on merit in the proceedings as the case might be. I believe that council owe it as a duty to the court to help reduce the period of delay in determining cases in our courts by avoiding unnecessary preliminary objections as the one here; so that the adage justice delayed is justice denied may cease to apply to the proceedings in our courts.”

Can such a plaintiff get justice even if he is reinstated say 20 years later? Think of the food he could not put on the table all these years and the school fees he could not pay. What became of his children? Think of how frustrated and even ill could he have been. Imagine even the social consequences of not having a job. People may even term him mad for pursuing justice all these years. What if on the other hand the cases were decided within 13 months? Would the damage not have been easier to bear?

b. To enhance effectiveness and efficiency of the justice sector. Certainly, if cases are decided fast, the justice sector will be more effective and all will be able to see the result and people will know they can always rely on the courts as the last hope of the common man.

c. To ensure justice is not denied. Justice within a reasonable time is one of the principles provided for in our constitution under the human rights provisions. Delays in disposing cases could give rise to the effect of other features like inflation, devaluation of the naira, market forces etc. I recall that I inherited a case in 2003 which began in 1987 but had changed hands severally. The Plaintiff who had sought a right of easement could not get that order because the property had changed hands severally as there was no pending injunctive order. The original Defendant had sold the property and the buyer also resold same. By the time the Court visited the property, the Plaintiff did not know the new owner or even the seller to him. The alternative claim of N10, 000 which was good money in 1987 was no longer much. Though he won the case, the Plaintiff could not get justice due to the delay.

d. To improve public confidence in the Judiciary. A sluggish court gives an impression of incompetence or laziness. In fact with the recent paranoia of anti corruption, any delay could be read as compromise or corruption. Definitely, the

general public will have confidence in a Judiciary that carries out its function promptly and effectively. There will be deterrence and even the debtor or contract breaker will know that he cannot use the courts to delay his meeting his financial obligations as people tend to do nowadays.

e. To get job satisfaction; It's wonderful to see people happy at the end of a case when justice is served. You will equally have a sense of fulfillment. I have had several cases where I have finished long before the time standard and I got extra job satisfaction in doing this.

f. To keep our jobs; Poor performance attracts disciplinary measures which could lead to termination. I am sure you are aware of the fact that your performance is being evaluated and that the directive that Judges that consistently fail to meet the time standards set should be retired is still in force. We are all witnesses to recent discipline of Judicial Officers who unduly delay their cases especially the delivery of judgments.

CAUSES OF TRIAL DELAYS

To effectively manage our case flow, we have to know the reasons why trials are delayed. This will enable us devise the means to curb the delay.

There are many reasons why cases are delayed in court. These include:

1. Counsel or Party unpreparedness due to many factors like unsettled bills, sickness, involvement in other courts, family problems, unforeseen disasters etc
2. Frivolous petitions against the Courts to the Inspectorate division
3. Interference from influential persons in the community e.g. Local Government officials, traditional rulers, Judiciary, civil service, relatives etc
4. Frequent and sudden transfers which lead to trial de-novo.
5. Insufficiency of remuneration which leads to lack of incentive and motivation and sometimes results in temptations.
6. Lack of or inadequacy of facilities e.g. housing, transport, office furniture stationery, etc which makes room for money bags within the community to try to 'help' which consequently makes the Judges and staff indebted to them and opens a door to manipulation, corruption and blackmail.

7. System of appointment which sometimes ignores merit and adopts a system of nepotism which sometimes leads to indiscipline and laziness and consequential delays in the case flow.
8. General decline in discipline which leads to a lackadaisical attitude to work.
9. Inadequacy of continuous education of all the personnel.
10. Unavailability of the Judge. This is due to different reasons like lack of accommodation which makes him to come to work from the next town and so is unable to afford to transport himself daily. Sometimes it could be personal or other problems etc
11. Courtroom not available. This could happen where Judges have to share courtrooms or where there is renovation or the courtroom is being used for other purposes.
12. Absence of witnesses
13. Prosecutor unprepared
14. Defense counsel unprepared due to many factors like laziness, incompetence, too many cases etc
15. Absence of accused due to failure of the prison authority to transport them, bail jump etc.
16. Housekeeping problems like non service of processes etc
17. Late arrival or sitting of Judges
18. Laziness on the part of the Judge or court staff leading to sporadic sitting, frequent in house problems like non service, delayed judgments etc
19. Delay in filing of charges by the A.G.'s office leading to protracted mention of cases. (Holding charge syndrome).
20. Peculiarities of courts sited in difficult terrain e.g. the riverine areas in the rainy season, places liable to flooding and erosion etc
21. Granting of long and sometimes frivolous applications for adjournments.
22. Complications of record books e.g. in judgment writing. Where a Judge commences judgment writing, he has to finish before he can proceed with the record book. This can cause serious delay.
23. Corruption within the system which leads to things like missing files or exhibits, non service, non listing etc. In extreme cases, some Registrars and even prosecutors have held parallel 'courts' in the court premises where they 'settle' parties for a fee.
24. Incompetence of the judge and/or registry staff.
25. Ineffective control of the registry staff could lead to gross inefficiency.

HINTS ON CASEFLOW MANAGEMENT

1. MANAGING THE JUDGE

- a. Leadership. Show purposeful leadership. As the Judge, you have to set the tone and lead by showing initiative, hardwork, focus and drive.
- b. Lead by example; you need to show leadership by things like early arrival, sitting, etc.
- c. Show Integrity and Fairness. Remember your staff and the general public is watching you. It is a fact that as we judge, we are being judged as well. Posterity will also judge us not to talk of the ultimate judgment when we stand before our maker to give account.
- d. Avoid Tribalism and Favoritism. One of the most destructive traits in our society is bigotry and nepotism. Whether it is religious, ethnic or regional, all forms of discrimination and prejudice is wrong and must be resisted if we must move forward as a people.
- e. Enforce Discipline with Fairness, Consistency and Mercy. The entire civil service is being plagued by indiscipline, lack of equity and a general decline in moral values and norms. The need to be extra vigilant in discipline cannot be over emphasized.
- f. Show compassion and care for staff. Where for example there are Deaths, Births etc. you should show care for staff welfare. You may need to assist in their promotions, advancements, capacity building and other Career programs etc.
- g. Ensure that all staff have work to do and are accountable to someone
- h. Punctuality- A judge who wants to succeed in the effective management of his cases must be punctual at all times. He or she must keep the 9am sitting time and ensure that his registry is open as from 8:30 am.
- i. Commitment – Without commitment and dedication to duty, the work will become boring and overwhelming. To avoid this, one must maintain a

continuous zeal and enthusiasm for the work. Try as much as possible to avoid complaining even where it is justified. This will help to maintain in you a positive attitude towards your work especially when you have too much to do. I have noticed that whenever I begin to complain that I am being given too much work, my usually positive attitude to the work begins to change and the work itself begins to be a bother. When on the other hand I speak of the positive part of the work, I do not mind the work load and I get a release of energy and zeal that helps me to be more productive and determined to conquer the challenge presented by the case load.

- j. Personal Study – I have found this to be very helpful. Whether you have a pending judgment or not, frequent research is very important to your work. It keeps you up to date and reduces the time you need to research a case. As you read, try to keep a diary of the very common authorities you come across so you can easily access them. For those of you that have computers, there are softwares that help in legal research. They contain lots of cases and materials you will need. Although I have often stressed the need for all Nigerian Judges and magistrates to be given computers, I will not advise you to wait until you are given one before you start reading. You will need to form the habit and maintain it.

- k. Discipline and accountability – As the master of your court, you need a lot of discipline to sit for long hours, to curb the excesses of lawyers and to shun any attempt to compromise or intimidate you. Try to avoid going to places and having contacts that will compromise your position. Resist favours that appear strange or have the appearance of ‘Greek gifts’. Remember, you are accountable to the community you serve and most importantly, you are accountable to God.

- l. Hardwork and diligence – There are few things that are more satisfying than coming back home after a very fulfilling day at work. Some of my happiest days are days I am able to deliver several judgments or days I finish difficult or delayed cases. Hard work always pays. Some say that the reward of hardwork is more work and I agree but the positive part is that it gives a satisfaction that laziness cannot give.

2. MANAGING THE CHAMBERS AND REGISTRY

To be effective in the discharge of your duties as a Judge, you have to organize your chambers and registry in a proper way to ensure maximum efficiency and effectiveness. In this regard, you will need to:

- a. Maintain an up to date diary for your court as well as a realistic course list.
- b. Have some important resources in your chambers e.g. relevant authorities on procedure, the relevant penal or criminal code, the Nigerian Constitution, the evidence Act, the relevant Court law and rules e.g. the District Courts Rules, The Shari 'a Code, Customary Court Rules etc
- c. Monitor the filing and acceptance of cases at the Registry. In this regard, it is always better for the Judge to study any FIR or information filed with a view to familiarizing himself with the case and to give dates. This way, no case will be left stranded in the registry. The Judge has to ensure that service is properly and timeously effected to avoid delays and unnecessary adjournments. The key is to have early control of all your cases.
- d. Set standards and goals for your court and for the different types of cases. Setting standards will ensure that you are working with time and will thus enhance speedy disposal of your cases. If you do not set a time frame for the different types of cases, you will end up being more liberal with adjournments and more 'laissez faire' with your cases. The further advantage of fixing a time frame is that you will

end up accomplishing much more than you would otherwise. It will also motivate you to work harder and lead to more confidence in your work. In the end, your superiors, lawyers, staff and even the litigants will have more confidence in you. Remember, a good name is better than silver and gold.

- e. Monitor your case flow management efforts. It is important to put in place mechanism for monitoring your case progress. Your registry must be well organized and the files all properly labeled and filed in such a way that they can easily be traced. All record books need to be properly paged and a table of contents provided and kept to ensure quick access to the various pages with respect to the same matter.

It will also help if you will have a chart on your wall showing your case flow efforts. This will show how well you are doing in each quarter or monthly. This will help you to adjust accordingly.

Your registrar must also inform you of any cases that are approaching or have passed your deadline.

He or she should be able to give you basic information as to things like how many of the different types of cases you have received in a year, (e.g. traffic cases, fraud, assault etc); what is your disposal rate, how many cases you received, how many are pending etc.

- f. Involve and motivate all your staff. You can do this by holding periodic departmental meetings with your staff where you can iron out all housekeeping problems. It will also be good to commend staff that are doing well and at the same time reprimand those that err. This will lead to sustained zeal and energy. Most times, junior staff like the messengers, typists etc do not feel appreciated and they feel irrelevant and are not motivated to put in their best. The truth of the matter however is while no single person can make the system work; one person can cause the system to fail.

- g. Your entire office and registry must be well organized for optimal performance.
- h. Ensure that both chambers and registry are well organized.
- i. Develop a filing system that makes case retrieval easier; the files shouldn't be on the floor. They should be well labeled and kept in appropriate cabinets which must be arranged in a manner that will facilitate early retrieval. E.g. the files could be kept chronologically.
- j. All cases must be carefully registered and the register kept well. The register should have a column for the case number, type of case, names of parties, date of commencement, conclusion and manner of conclusion.
- k. Record books should be carefully kept where you use record books.
- l. Eliminate housekeeping problems by setting deadlines and demanding accountability e.g., service of hearing notices should be at least a week before the hearing date.

3. MANAGING THE CASES IN COURT

Once the cases are in court, you should manage them in such a way as to ensure speedy disposal. The measures you need to put in place include:

- a. Ensuring that no case is forgotten in the registry for any reason.
- b. Give as short dates as possible to ensure speedy progress

- c. Maintain continuous control of your cases. If for any reason the cases will not go on a particular date due to absence of the Judge, public holidays etc, you should ensure that the cases are not left hanging by giving dates and ensuring service.
Your Registrar must keep a record of all the adjournments recorded in each case so as to guide you in considering a further adjournment.

- d. You should be very strict with requests for adjournments. This is one of the greatest factors that cause delays in our courts. No system will work if adjournments are granted at the drop of a hat. Remember that adjournments only breed further adjournments. In the case of **BANNA V TELEPOWER NIG LTD (2006) 15 N.W.L.R PG 198 @PG 225** The Supreme Court Per Mukhtar JSC (as he then was) had this to say: **“No litigant should be allowed to take a court to ransom. It is the vogue for the public to attack courts on delays of cases in courts, when unknown to the generality of the public, the fault does not lie on the courts alone. The litigants and lawyers also share in this snail case of litigation. The instant case is a locus classicus and it behooves courts to discourage these unwholesome behavior and frown on them.”**

- e. Ensure that you set firm trial dates and not just chance dates. Make the lawyers, police and litigants know that you expect them to proceed on any date you give them. Once a case is fixed for hearing, it should as much as possible be adjourned from day to day until it is concluded. The practice of giving long dates should be discouraged as it puts extra burden on the Judge who has to look through his record book and try to find out what transpired on the previous date. In some cases, the witnesses could also not be available by the time they are required.

- f. In cases where the new Administration of Justice Law is in place, you will need to take advantage of its time saving provisions on summary

trial, plea bargaining etc so as to shorten the procedure in your court. It is wise to familiarize yourself with the bill where your State is in the process of passing same into law.

- g. Create the expectation and reality that cases will go on as scheduled so as to move your cases forward. A situation where lawyers and litigants go to court wondering if the Judge will sit or if the cases will be adjourned leaves much to be desired.
- h. Ensure that you maintain a good rapport with the lawyers and prosecutors so as to ensure their ready cooperation in moving the cases forward. However, you should at the same time be in firm control of your court and cases. Remember, you are the lord of your court, which is why you are referred to as 'your worship'.
- i. Give attention to details. In this regard, ensure that you think about every aspect of case flow management no matter how small. Things like not serving processes on time and forgetting to put a case on the list though may be small lapses; they have a way of giving a wrong impression of the Court.
- j. Improve self by taking advantage of technology, current innovations in the Law and practice; learn to use the Computer, Read reports and books to expand knowledge. Take advantage of the Computer Law Reporting System for easier and faster research.
- k. Use provisions of the law that make cases faster for example; Summary judgment procedure in appropriate cases.
- l. Follow the rules of procedure but avoid undue regards to technicalities. Remember the overall aim is to do justice to all.

- m. Be Polite but firm in dealing with counsel. Rudeness is unnecessary and could lead to unwanted complications in a case and may lead to further delays.
- n. Don't play to the gallery. Some counsel resort to provoking the judge when they don't have a good case and so want a transfer to enable them start afresh.
- o. Ensure that you read the case files very well and do your research before going into court. This will enable you write bench rulings in appropriate cases rather than adjourn for ruling and so save time. Personal study will also make you up to date in your knowledge of the law. You will immediately know for example if the cases being cited before you have been overruled by the Supreme Court.

Dealing with Cognizance cases

- a. Demand to see the I.P.O. and documents showing conclusions of investigation for example summary report, Letter to The Ministry of Justice etc.
- b. Summon the Ministry of Justice to give reasons why the case shouldn't be referred to Chief Judge's Administration of Justice Committee as an abandoned case.
- c. Let them give undertakings in terms of actions to be taken with time frame.
- d. Attend Court visits and present special cases for bail or termination of FIR.
- e. Periodically, get your Registrar to make a list of cognizance cases with dates and send to Hon. Chief Judge and A.G. or Administration of Justice Committee. This will motivate quick action.

A WORD ON STAFF WELFARE

It is a fact that no matter how much we work and how many strategies we adopt, we are all human. We have feelings, emotions, etc. when staff are happy, they do better. Staff welfare is crucial to performance. I therefore call on those States that are yet to implement the new staff welfare package to do so as a matter of urgency so as to encourage enhanced performance in the Judiciary.

CONCLUSION

Finally, it is hoped that all of you will think about your case flow management efforts with a view to improving your performance. If you do this, you will not only be doing yourself a favour, you would have affected the community positively and if all of you will do so, Nigeria will be the better for it.

I will conclude this paper by preferring to one of my favourite quotes from the former Chief Justice of Nigeria, Hon Justice Dahiru Musdapher CJN:

“I have a vision of a justice system which is simple, fast, efficient, effective and responsive to the needs and yearnings of the citizenry. Nigerian Judges and the Judiciary as a whole must endeavour to advance the frontiers of adjudication to include the advancement of political and social justice in the country....

As a Judge, I do not aspire to power. I do not seek to rule. I am aware of the chains that bind me as a Judge. It must always be the rule of law and not the rule of the Judge. I view my office as a mission and not just a job.

I hope adherence to these simple ideals would ensure that I would make a positive difference in my society. I hope that history remembers me kindly long after I am gone. All this I do by a deep conviction that as I sit at trial, I stand on trial! And so it is for all of us”

Remember, you are being watched by God, the public and your employers. If you adhere to all these principles and put them into practice, you will one day God willing be Judges of Higher Courts.

I wish you all the best in your careers.

Thank you for listening and God bless.