

CASE MANAGEMENT: PRACTICAL HINTS
A PAPER PRESENTED BY
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JUDGES AND KADIS

INTRODUCTION

It gives me great pleasure to stand before you to bare my heart on this crucial topic. May I use this opportunity to congratulate your lordships on your recent appointments to the higher bench. I am sure you have settled down now and most of you have seen that the work can be quite demanding and sometimes tedious. You may also be wondering how on earth you can meet the requirements of the NJC's performance evaluation Committee.

My job this morning is to give you tips and to convince you that the standards though high are quite achievable.

In this paper, I have attempted to identify the major reasons for trial delays, I shall also give you tips on the role of the Judge before, during and after trial, bearing in mind the basic principles of case flow management.

DEFINITION

Case flow management has been defined as the coordination of court processes and resources to move cases timely from filing to disposing. In simple terms, case flow management is the process of harnessing all the resources available to you e.g. time, expertise, manpower, etc to achieve a more efficient and effective disposal of cases while seeing to it that justice is done in all cases.

As a trial Judge, you are expected to manage all your cases in an effective and efficient manner so that all the cases will be disposed of in a timely

manner and that at the end of each case justice will be done and seen to be done.

TRIAL DELAYS

The problem of trial delays have been with us for a very long time. The Judiciary has over the years suffered a lot of bashing from the press and the general public. Although some of it was not fair, we must admit that there is a lot of delay and since we are the arm of Government responsible for case management, we really cannot push the blame to any other quarters. We must take responsibility for it and try to deal with it. A lot has been done and is still being done to make the Judiciary more accessible and to reduce trial delays. All hands must therefore be on deck to curb this menace.

The experience of a distinguished retired Supreme Court Justice with a delayed matter was captured in a recent commentary as follows:

'The problem of delays in disposal of cases has long been a cause of concern to all stake holders in the administration of justice in Nigeria. The situation has a long history and is sometimes very pathetic. In his lecture at the induction course for newly appointed Judges and Kadis in 1992, His Lordship Hon. Justice Olajide Olatawura, JSC (RTD) gave a personal experience about a case which he as a clerk of court opened the case file in 1957. The same case resurfaced before his Lordship as a judge in 1971. Commenting on the unfortunate situation, His Lordship said:

"It was when I was going through the case file that I discovered the endorsement in the case file and some of the hearing notices issued was in my handwriting. I became curious and wanted to find out why it has taken almost 14 years. The pleadings were completed that same 1957 but the Plaintiff who used the process of the court as a stop gap for the sale of the house already attached went to sleep. The Registry with the growing number of cases filed

apparently paid attention to counsel who cared to ask for hearing dates. This is scandalous.”²

Most of you are aware of the notorious case of **AMADI VS. NNPC (2000) 10 NWLR 75 @ 100** where the issue of Jurisdiction raised as a preliminary point took about 13 years to decide as the case went to the Supreme Court. The Supreme Court per Uwais CJN (As he then was) had this to say:

‘Finally, this appeal succeeds and it must be allowed. The chequered 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 on the 15th day of April 1988; that is a year after the suit was filed. The ruling of the High Court was delivered on the 20th day June, 1988. The appeal against the ruling was delivered by the Court of Appeal on the 16th day of February, 1989. The final judgment on the interlocutory appeal is delivered today by this court. It has thus taken thirteen years for the case to reach this stage. With the success of the plaintiffs appeal before us the case is to be sent back to the High Court to be determined, hopefully on its merits after a delay of 13 years. Surely, this could have been avoided had it been that the point was taken in the course of the proceedings as the case might be. I believe that counsel 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.’

I have also had an experience with a delayed case. I was assigned a case in 2003 after the passing away of one of our colleagues. The case was filed in 1988. It had to do with a right of easement which had been taken away from the Plaintiff by the neighbour. As there was no pending injunctive order, the house which had encroached on the said disputed area had been sold to about three innocent buyers who were never parties and some of them had

put up expensive improvements on the land before the court inspected same. The Plaintiff did not even know the names of the subsequent buyers.

The Plaintiff had made an alternative claim for damages but asked for only N10, 000 which in 1988 was a lot of money but by 2005 when judgment was eventually given the amount had become inconsequential. Even though the law does not generally allow parties to amend pleadings to increase their claims, I think that if learned counsel in that case had been a little more innovative and brought the application on its merit, I think he would have succeeded in revising the claim to a more updated and reasonable amount.

The case had changed hands several times and at least two of the judges who at some point handled the case file had been elevated to the court of appeal while one had been transferred to another judicial division and another died. There were also features of apparent lack of commitment by learned counsel to the Plaintiff because the case was struck out at least three times but he took a long time to apply to relist on each occasion. Even though the Plaintiff won the case, there is no doubt that he did not get justice.

The problem of trial delay has often put the Nigerian Judiciary in a bad light. People sometimes feel that going to Court is a waste of time and would rather resort to other ways of settling their disputes. It is up to us to try to change that perception by managing our cases more effectively and eliminating or at least reducing the reasons for delays as much as we can.

REASONS FOR TRIAL DELAYS

You all know reasons why trials are delayed in our courts. Some of the reasons include the following:

1. Counsel or Party unpreparedness due to many factors like unsettled bills, sickness, involvement in other courts, family problems, unforeseen disasters, unavailability of witnesses, etc this leads to frequent requests for and consequently granting of adjournments and sometimes the filing of frivolous applications to buy time or to frustrate the opposing side.

2. Absence of witnesses or parties.
3. Absence of the accused person due to reasons like inability of the prison officials to bring them or accused jumping bail etc
4. Housekeeping Problems: These include lack of service by the bailiffs sometimes due to lack of skill, corruption or plain laziness. It also includes non listing of cases by the Registrar, loss of files or exhibits, lack of motivation due to poor remuneration which sometimes leads to temptations to be corrupt.
5. Frequent and sudden transfers which lead to trial de-novo especially in the lower courts.
6. Lack of or inadequacy of facilities and equipment e.g. transport office furniture, computers, research software, books and law reports, stationery, etc. Some Judges especially those in riverine areas and places with difficult terrain find it difficult to be at their stations on a daily basis especially where no accommodation and other facilities like electricity and water supply are available. The Judge in such a situation can hardly be expected to be able to operate at maximum capacity and there will ultimately be a mountain of backlog of cases awaiting his or her attention.
7. System of appointment which sometimes ignores merit and adopts a 'who you know' system which sometimes leads to lack of discipline 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 judicial education of all the judges and training for other personnel in areas like computer use, the new rules, etc.
10. Judge not available due to different reasons like logistic problems, other functions etc. Sometimes it could be personal or other problems etc
11. Late arrival or sitting of Judges leaves little time for Court business.
12. Recording of cases in long hand and late production of electronically recorded Court proceedings due to many factors e.g. poor training of relevant personnel, irregular or lack of electricity supply etc.
13. Poor case flow management by the Judge and sometimes non use of time saving provisions in the various procedural rules e.g. settlement of issues, pretrial, default judgments, time abridgement procedure, etc.
14. Over indulgence of parties or Counsel by the court by way of easy adjournments, or allowing longer periods of oral submission than the rules allow 'in the interest of justice'. Some reasons for adjournments include 'call from the village', indisposition without

- specifying what the matter is, witnesses not available for no apparent reason etc
15. Inadequacy of funds or personnel or in some cases too many staff so nobody is responsible for anything in particular.
 16. Undue regard to technicalities which in the end wastes the time of the court and creates delays as the case could be struck out and relisted severally in some cases, thus creating more work for the poor Judge.
 17. Work overload and too few Judges. Some States have too many cases and the Judges just cannot cope. No matter how hardworking a Judge is, if he or she has 500 or more cases and more coming in, there is bound to be inordinate delay in handling of cases in that court.
 18. Ineffective control of the registry staff can lead to inefficiency.
 19. Unpreparedness of the Judge. This can happen where the Judge did not read the case file or is not versed in the law. He or she cannot give bench rulings and will have to adjourn cases for ruling in simple motions.
 20. Courtroom not available. Sometimes this can happen where Judges share courtrooms or where renovation is taking place or where the court room is being used for other purposes e.g. Election Petitions which can last for months.
 21. Absence of Legal Research Assistants.
 22. Frivolous petitions and sometimes slow handling of same.

CASE MANAGEMENT TIPS

As a Judge, there are principles of case management we can adopt to assist us in managing our cases better. Some will involve your managing yourself as the Judge, others will involve managing your chambers and registry as well as the cases in court.

JUDICIAL COMMITMENT AND LEADERSHIP

There is no doubt that without commitment. There can be no proper output. A judge must be committed to the work and especially committed to the fast and proper disposal of his or her cases. An uncommitted judge will find sitting very boring and burdensome and will find judgment writing extremely tedious. It is indeed a tedious job and some trials could be a bit boring, but if you look at it from the justice delivery point of view, you will realize that a lot of Nigerians are looking up to you for justice and you cannot afford to let them down or be sluggish about it.

With commitment, contentment and focus, you will find that the job is more pleasurable than it appears and with every judgment, you will get an incredible amount of satisfaction. The job rewards itself. Many times, I look at the faces of persons who get justice and those of their well wishers and I feel much rewarded to see the joy and the hope rekindled in them.

As a leader, you must inspire and motivate your staff to work well. You should commend the hardworking and correct the erring. You should be a good leader and avoid favoritism etc.

DISCIPLINE, INTEGRITY 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. Try to abide by the Judicial code of conduct and religious principles for Judicial conduct e.g. Exo 23v8.

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.

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.

ADEQUATE PREPARATION AND STUDY

I need not stress the value of adequate preparation to case progress. As a Judge, you need to read the case files before going into Court and read any relevant authorities and be ready to give bench rulings over minor issues like tendering of exhibits, motions etc. If lawyers know that you are given to

writing bench rulings, they will reduce the filling of motions as a ploy to delay cases.

GOOD HABITS

For your work to be made easier as a Judge, you need to develop positive habits that will keep you healthy and enable you handle the very strenuous job relatively well. In this regard, regular rest, recreation and prayer will go a long way in relieving stress and even preventing it. Good healthy eating, exercise and avoidance of stress creating habits will go a long way in creating a good environment for you to best manage your cases. Since a paper is usually presented on this topic, I will only urge you to please take that paper very seriously. It may save you from unnecessary illnesses associated with poor health management.

VISION

A good Judge must have a vision for the system and one for his or her Court. This is the underlying philosophy that should guide the way Court business is conducted by the Judge. Your vision for example could be that your court will be the best run in the particular Judiciary or that you will ensure that people get justice in your court at the fastest time possible.

TARGET SETTING

One of the fundamentals of Case flow Management is the setting of standards and goals.

A committed Court ought to have standards and goals for the system as a whole, for parts of the system and for individual cases. People can always tell if a Judge is committed or if he or she is unserious or lazy. People generally respect Courts that are up and doing and lawyers tend to take you more seriously if they know you mean business.

Standards and goals will serve to motivate you and keep you focused.

Your staff will also be motivated to work harder towards the attainment of your corporate goals. It will also lead to more confidence in their work and the resultant confidence of your superiors, lawyers, staff and even the public.

Setting standards will also lead to deeper thoughts as to how to achieve them. You may end up developing a style that others will copy and the whole system will be the better for it.

In doing so, it is advisable to bear in mind the performance evaluation grading of the National Judicial Council (NJC), which is as follows:

0 cases per quarter	-	No performance
1 – 3 cases per quarter	-	Very low performance
4 – 6 cases per quarter	-	Low performance
7 – 11 cases per quarter	-	Fair performance
12 – 18 cases per quarter	-	Good performance
19 – 23 cases per quarter	-	Very good performance
24 – Above	-	Excellent

For the new Judges, since averagely cases take about a year to conclude, I will recommend that their assessment starts after a year to enable them reach disposal stage since most jurisdictions handle cases from filing stage to disposal and not just at trial stage. This is however a matter for the NJC to decide.

COOPERATION WITH THE BAR

Although this mainly concerns the leadership of the judiciary, I think that for any court to move smoothly, there must be mutual respect and cooperation with members of the bar. It helps to treat them with respect and decorum. It is a true saying that respect begets respect. There are a few that will from time to time test your patience. You need to be polite but firm. My advice is to act like a British police officer who will arrest a person with hand cuffs etc while still addressing the person as 'sir' or Ma'am'. You must maintain

effective control of the court and of course, your temper. If you are given to being a bit impatient sometimes, try saying a prayer before that difficult case and you'll be surprised what that can do to the situation or at least to you.

ORGANIZATION OF THE REGISTRY

An organized, effective and efficient registry is crucial to a successful case management. It is therefore necessary to ensure that the registry staff are up and doing. They must be honest and accountable. Ensure that the Registrar is in control of all the administrative staff and back him or her up when they seek to apply discipline on erring staff. The Registrar should be able to tell you the job each staff is employed to do and to supervise them.

It is also the Registrar's job to handle issues of staff welfare because you need satisfied staff to make the work go smoothly. Their promotion or advancement must be done in proper time. Ensure that you build capacity by nominating them for seminars, courses and workshops. It must be clear to them that you care about their welfare. Sharing their joys or sorrows in those circumstances always goes a long way.

Ensure that records are well kept and secure. A situation where files of disposed cases are left carelessly is undesirable. Files must be well labeled and kept in a proper manner to ensure easy access. They must be kept away from unauthorized persons and from areas that could expose them to rain, termites and such things. Exhibits should similarly be kept safe. I have had situations where my cases were delayed due to difficulty in retrieving exhibits from a former court. Organization of the registry will remove all similar bottlenecks.

Ensure that the registry has all the relevant court forms like writs of execution, subpoenas, bail bonds etc. All stationery and supplies must be replenished on time to avoid lack. I usually have extra paper which I save for a rainy day

Whenever any equipment starts to mal function, the Registrar must take quick action. He must design a backup system for coping with unforeseen challenges like equipment breakdown, staff absence etc.

COURT SUPERVISION OF CASE PROGRESS

It is the duty of the court to take effective control of not only the court room but the progress of individual cases. However, before the cases go to the Courts they have to be filed and assigned. It will benefit you to ensure that the process of filing and recording of cases is done efficiently by the relevant officers.

Where the Court operates a central computer where all the cases are entered, you should ensure that the relevant officers feed the correct information into the computer without delay.

Ensure that you also offer general supervision to all your court registrars and clerks. It will help if you will try to know the function of court registrars with regards to case flow management. Some of these functions include:

- a. Having early control of cases. As soon as a case is assigned to a court, the registrar has to ensure that it is registered in the Court's register or computer if the court is already computerized.
- b. Sending the case file to the Judge for viewing and fixing of a date. It is not good enough to leave a case in the registry until such a time that the lawyer comes to request for a date. If cases are left in the Registry until a lawyer comes before a date is fixed, the case may be abandoned and the pending list will remain bulky. If the Judge fails to have early control of his or her cases and leaves same in the registry until parties or lawyers come, the type of situation experienced by Hon Justice Olatawura JSC (as he then was) could happen.
- c. Maintaining continuous control. If for any reason the court does not sit, the registrar will need to ensure that new dates are given so that no case is left at the registry and on the Court's pending list for years unattended to.

- d. Ensuring that service of summons, subpoenas etc is effected well before the adjourned date. If the service is not effected, the registrar has a duty to inform the relevant counsel and the Judge where necessary so that the date can be effectively utilized for other cases.
- e. Making sure that other staff in the Department e.g. Bailiffs, typists, Court Clerks etc do their jobs. In this regard, you could demand that the Registrar should confirm to you whether or not service has been effected a day or two before hearing and whether the relevant counsel is aware etc. Commend and reprimand where appropriate.
- f. Checking the cause list on a daily basis and ensuring that it tallies with the Court's dairy. There is no excuse for a scheduled case not to be listed on the cause list.

INFORMATION MONITORING

To ensure speedy dispensation of justice, there is the need for the courts to monitor the progress of cases.

This can only be done where there is in place an effectively organized registry. The court registrars have to be well trained and efficient. The Chief Registrar has to ensure that his registrars and other staff are given internal and external training frequently.

It is the duty of the Court Registrar to maintain a diary and a chart to show how the cases are going. A good chart will show the number of cases in the court, the stages of the cases, which cases have met the court's standards in terms of time and which have not etc.

Checking to ensure that these charts are drawn up and maintained will keep the court Registrars on their toes.

The court registrar must have a record of number of adjournments in each case. In some cases, some Registrars indicate this in the front cover of the individual case files. It is important that the minutes in the files be

numbered. This will give one an immediate idea of the number of adjournments.

The records must indicate all the cases that are old and the registrar should devise a way of informing the Judge of cases approaching the deadline set by the Court and those that have passed it. For my court, I have a list of such overdue cases on my wall and I cancel them as I meet the deadlines or dispose them. My Registrar makes it a duty to inform me of the progress of such cases from time to time. I also have a list of my pending cases on the computer, showing the level of progress. The registry updates this on a quarterly basis and prints a copy for me.

SETTING FIRM TRIAL DATES

By the new rules, cases are fixed for trial at the end of the pre trial conference. Where this is done, it should be on dates agreed to by all the parties to avoid possible clash with other scheduled cases. It might be wise to also schedule a second case so as to reduce the incidence of wasted dates due to unforeseen circumstances.

There are a number of factors that make a court to adjourn cases fixed for hearing. Usually, a case fixed for hearing should not be adjourned except for a very good reason. The new rules and even the old ones make provision for entering judgment in default of pleadings or appearance. Once a case is fixed for hearing, it should continue until concluded.

The court should do all in its powers to be ready when cases are fixed for hearing by eliminating housekeeping problems e.g. lack of service, wrong entry in diary etc. Ensure that your diary is updated regularly if not daily.

You should Schedule as few cases as possible to ensure that scheduled cases are heard. You should set firm dates and let parties and lawyers know the cases are expected to proceed on the dates they are fixed. The court should encourage counsel and parties to inform the court and the opposing side beforehand if they cannot proceed on the date fixed for hearing to allow for the rescheduling of other cases.

Your duty in this regard is to ensure that housekeeping problems are eliminated or grossly reduced. Having departmental meetings frequently will

keep the staff on their toes. They also have to be motivated to cooperate with the courts to see that cases proceed on scheduled dates. They should be sensitized to resist the attempts by some lawyers and parties to delay cases and should shun any financial inducement in this regard.

EARLY DISPOSAL

An effectively managed court is one that seeks to have cases properly disposed at the earliest opportunity. The Court will do well to encourage and make good use of diversions such as pretrial settlement conferences, encouragement of out of court settlements, ADR etc.

The Court will also do well to let the counsel and parties know it is operating within a disposition standard. This will create the desired climate for early case disposal. You can make a copy of the NJC performance evaluation requirements and past same around your court so all lawyers will be aware. This will reduce unnecessary requests for adjournments and foster understanding when you have to refuse an application for adjournment.

In the case of **BANNA V TELEPOWER NIG LTD**,⁵ the Supreme Court had this to say on the issue of trial delay and speedy dispensation of cases:

'The best judge in trial proceeding is undoubtedly the trial judge. He sees it all because he closely watches the proceeding and all that. He feels the pinch when parties try to dilly dally the proceedings or adopt tricks to overreach or outsmart the adverse party. If the trial judge fails to take a position in the light of the rules of court and takes or tows the line of sympathy in the way the court of appeal did, then he will have a plethora or load of cases in his cause list to the extent that he cannot get out of a mountain backlog of cases. That will reflect on him adversely and in these days of continuous assessment of the performance of judges he will be in for it. While I concede that a trial judge cannot throw away the constitutional provision that parties should be given a hearing in matters before the court, because of repercussions of performance assessments, a judge owes the administration of justice a duty

to facilitate and ensure the speedy hearing of a case before him. The notoriety that delayed justice attracts to the judiciary is such that judges must work towards the speedy dispensation of justice. We do not have a choice in this troublesome matter. Let us do our best and our best is to facilitate the speedy hearing of cases.

A plaintiff has not only a right to file an action in court to regress a wrong done him by a defendant; he also has a duty to prosecute the matter to conclusion within the rules of court. Of course, the duty is not mandatory, compulsory or sacrosanct, as he can decide not to prosecute. The plaintiff who files an action in court and exhibits some indolence and nonchalance has himself to blame. After all, he brought the defendant to court and if he decides not to pursue the case diligently, the court has no option than to either strike out or dismiss the matter, depending on the enabling rules of court.'

See also **AKERE VS. GOV., OYO STATE (2012) 12 NWLR.**

From the above, it is clear that there is no longer a safe haven for the lax or time wasting counsel or party at the Appellate Courts.

CONTROLLING ADJOURNMENTS

One of the greatest factors responsible for delay in the case flow is adjournments. Requests for adjournment of cases are almost a daily occurrence. In some cases, all the cases fixed for hearing in one day can be adjourned. However, no system will work if adjournments are easily allowed. There is thus the need for a strict written policy on adjournments. Where this is in place, the court will be made able to track the rate of adjournments to see which side the request is made from and the reasons. In the mean time, you will do well to adhere to the principles laid down in decided cases in this regard. You have discretion in this regard but it has to be exercised judiciously and judicially.

In the case of **A.P.G.A v. AMEKE (2012) 8 NWLR PG 433 @ PGS 455-456 PARAS H-C**, the court of appeal ruled as such:

'There is no dearth of authorities concerning "adjournment" in the law reports. It is clear from the authorities that though the

question of adjournment is within the discretion of a court, the court in the exercise of the discretion is however bound to consider all the circumstances of the case ensuring that the discretion in this regard, is judicially and judiciously exercised. See University of Lagos v. Aigoro (1985) 1 NWLR (Pt.1) 143; and Nwadiogbu v. Anambra Imo River Basin development Authority (2010) 19 NWLR (Pt. 1226) 364. It is also clear from the authorities that it is for a party seeking for an adjournment to furnish the court with cogent, credible and compelling reasons(s) which upon consideration by the court would warrant the exercise of its discretion in his favour. This is why a court though not willy-nilly bound to grant an adjournment, must still exercise extreme caution in dismissing a suit in limine. See Adeniyi v. Akinyede (2010) All FWILR (Pt. 505) 1257'

Similarly, in the case of **D.O. ADEBAYO VS. T.S.G (NIG) LTD (2011) NWLR PG 493 @ PG 508 PARAS B-H** the Court of Appeal per Fasanmi JCA considered one such case and ruled in favour of the High Court as follows:

'Application for an adjournment is not granted as a matter of course. Application for adjournment must be well grounded and convincing before the court can exercise its discretion in favour of the applicant.

An appellate court does not as a matter of practice readily intervene in matters concerning the exercise of discretion by a trial court merely because it would have otherwise exercised it. See Atiku v. State (2002) 4 NWLR (Pt.757) page at 278-279.

In the instant case, the appellant filed a motion on notice for injunction restraining the respondent. The counsel who appeared in court was not ready to go on with the case because he was merely holding brief for the appellant's counsel who is indisposed. The counsel who appeared in court did not state how long or short he wants the adjournment. A court of law does not operate at the pace of a party and a party must be desirous of pursuing his case diligently and timeously. The learned trial judge rightly held at page 48 lines 23-25 of the record that: "This type of adjournment if granted by the court adds to delay in adjudication and must be refused."

As a matter of fact, it is better to allow applications of this nature to abide the hearing of the substantive suit before the court so as not to waste the useful and precious time of the court and also to enable the court give a decision one way or the other on the case. Any party who is dissatisfied thereafter can go on appeal on both the substantive and interlocutory decisions.

Any appellant who was given an opportunity to present his/her case but for whatever reason fails to do so has waived his/her rights to complain. It is too late for the appellant now to turn round and complain of want of a fair hearing. See the cases of Okike v. L.P.D.C. (2005) 7 S.C.N.3 at 596: (2005) 15 NWLR (pf. 949) at 471: Idowu v. L.P.D.C. (1971) All NLR at 126: Oladipo v. Moba L.G.A. (2010) 5 NWLR (pt. 1186) page 117 at 170 paragraph H and the learned jurist Niki Tobi J.S.C in Orugbo v. Una (2002) 16 NWLR (pt. 792) page 175 at 211-212. Paragraphs H-C.. `

See the cases of **ODIGWE VS. J.S.C DELTA STATE (2011) NWLR PG 255 @ PG 278 PARAS E-F**

OHAH V OKOM (2012) NWLR PG 177 @ 192 PARA D-E,

A.G. RIVERS STATE V UDE & 12 OTHERS ⁶

ADESUIBA V EMODI⁷

ALBERT ILONA V OJUGBELI DEI⁸

SAMBO V STATE⁹

SHELL PETROLEUM DEV CO LTD V RICHARD UDI¹⁰

Adjournments breed further adjournments. If the parties and counsel believe their cases will proceed as scheduled, they will prepare. If they are prepared, the request for adjournment will be less.

If on the other hand counsel who are not ready are granted an adjournment upon the flimsiest of excuses, the cause list will keep building and the court will find itself putting several cases in a day with the hope that at least one case will proceed. If it happens that all the cases are ready to proceed, the court cannot reach the last cases on the list and so will adjourn them.

With this, the counsel will not be prepared next time because they are not sure the cases will go on and if they are unprepared, they will tend to apply for a further adjournment. (See app3 attached).

As adjournments of pending cases continue, more cases are filed and assigned and the Judge's cause list gets higher and higher and disposal of the cases becomes more difficult. It is for this reason that I think that the Court's Registrar should be made to ensure that a list of adjournments is recorded on the case file. He should put in a mark to show at whose instance the adjournment was granted. E.g. by writing PL, Def or Ct beside the minute. This will help you in determining if you should grant a further adjournment.

USE OF COURT RULES

There are several Court rules that aid case flow management. A wise Judge will take advantage of the Rules of Court to dispose his or her cases on time. Such rules include judgment in default of pleadings or appearance at either pretrial conference or hearing. Many of our rules provide that cases can be dismissed or struck out for a plaintiff's failure to apply for pretrial conference. Similarly, a case can be disposed of either by dismissal or by entering Judgment for the Plaintiff where the opposing party fails to attend a pretrial conference or is unprepared to do so or fails to participate in good faith. You can also make a habit of striking out all cases where the writ is dead and there is no application for renewal.

Ensure that you familiarize yourself with rules that allow you to be innovative e.g. to vary judgments during applications to set aside a default judgment or to give judgment against a party that has admitted or is in default where there are other parties especially where the defence presented will not be prejudiced by the judgment. An example of this is where in a loan case, the defence of the non defaulting defendant is that he merely introduced the plaintiff to the defaulting defendant.

As a Judicial Officer, you will need to familiarize yourself with the procedures and requirements of each of these methods of early disposition of cases e.g. ADR. This requires a different training on its own. Other early disposal rules you could take advantage of are those relating to abridgment of time for

addresses, pre trial provisions like settling or narrowing of issues, discoveries, acceptance of exhibits etc

Where you see that there is no defence and a matter is for a liquidated money demand, even if it is not brought under the relevant provision, you could invite counsel to address you on the matter at pre trial stage by stating a question e.g. whether in view of paragraph so and so of the statement of defence, there is any further dispute or live issue to be determined in this matter?

Others include pre trial disposal either by reference to arbitration. Where there is an arbitration clause in the contract case you receive, be sure to decline jurisdiction in line with the directives of the Hon Chief Justice of Nigeria. You may also recommend to parties and counsel an out of court settlement in deserving cases. E.g. cases between business partners, family members, communal disputes etc. You will be surprised what a little talk to both parties can do in that situation. Many times cases are in court because they have taken hard line positions fuelled by their egos and an apology or acceptance of fault will lead to a peaceful resolution of the dispute.

At pretrial stage, the court can narrow down issues to the real issues in dispute. For example, in a case of debt recovery by a commercial bank, where a Defendant in his defence denies that a bank exists, it may not be relevant to prove that the bank exists or is registered, where parties are made to highlight the issues in the matter. The only issue might well be whether the loan has been fully repaid.

At pretrial stage, admissions can be highlighted which will reduce issues to be proved. Settlement of issues will prevent the cross examination from going 'beyond the clouds'.

In the case of **K.S.M.H. v. M.I.E. E(2012)3NWLR (PT 1287) PG 258 @ PG 284 PARAS A-E** the Court of Appeal per Denton-West JCA ruled as follows:

'There is so much undue delay in the administration of justice owing to the fact that even when parties have no issues to settle in situations such as this where there has been clear admission of the rights and the indebtedness by the appellants to the respondent's

claims, there need not be any issues that may require the intervention of a court of law.....

However, a Judge is the master of his court and so long as there is no miscarriage of justice against any of the parties as in this appeal where the trial court made a final judgment in respect of the claim so as to bring the matter to a just conclusion which leads to speedy dispensation of justice.

See Bello v. Fayose (1999) 11 NWLR (Pt. 629) 510; Dapianlong v. Dariye (2007) 8 NWLR (Pt. 1036) 239 CA.'

At pretrial stage, parties can agree on non contentious exhibits. This process has saved me a lot of Court time as the documents are either admitted straight away or parties agree to bring the documents and tender them before hearing commences. I remember in those days, we could take as many as four adjournments trying to tender documents. These days, dozens of documents can be tendered in just a few minutes. Ensure that Counsel know what you expect of them at pretrial stage and they will be adequately prepared.

Another aspect of pretrial that can save time is visit to the locus especially where there is a doubt in the location of the property in dispute. I have handled cases where the whole matter is resolved at this stage. Ensure that you give directions in this regard. E.g. where there is the need for subpoenas to be issued for Government officials to be present, by all means do so.

Another thing that can facilitate trial is the grant of conditional orders. You can make conditional orders that will speed up hearing. E.g. an order that a recalled witness is so recalled on the condition that his evidence shall be taken within two weeks etc. Another example is to grant an order of accelerated hearing after granting an order for interlocutory injunction.

Always be mindful that you need not stay proceedings for just any interlocutory appeal. For you to stay proceedings the ruling must be capable of deciding the case one way or the other. Where time is of essence, you should be reluctant to grant a stay. See the case of **MAKOJU V. LADOJA**

(2006)18NWLR PG 667 @ 670 PARA B where the Supreme Court held as follows per Katsina Alu JSC (as He then was):

'Where time is of the essence in a case before a court of law, the court will be most reluctant to grant an application for stay because such an application is antithesis to the speedy hearing of the case.'

The Court of Appeal, relying on several Supreme Court decisions held thus in the case of **I.G.P. VS FAYOSE (2007)9 NWLR (PT1039) PG 270 @ 279 PARAS D-H**

'The Judicial Supreme Court ruled as follows on the above case;

In Okorodudu v. Okoromadu (1977) 3 SC 21, the Supreme Court held that unless an applicant has established beyond doubt that the action ought not to go on, it should not be stayed. The court added further that it is essential for an applicant for a stay of proceedings to establish not only that the plaintiff might not succeed but that he could not possibly succeed. The onus is therefore on the applicant for a stay of further proceedings pending appeal to show that in the circumstances of his case, it would be unjust or inequitable to refuse his application. See Akilu v. Fawehinmi (No.2) (1989) 2 NWLR (Pt. 102) 122 at 166.

It is also the duty of the applicant to show that it is imperative to stay proceedings by placing sufficient materials before the court to enable it exercise its discretion in his favour. An application for stay of proceeding cannot be granted as a matter of course, but only based on stringent, laid-down principles. See Kabo Air Ltd v. INCO Beverages Ltd. & Ors. (2003) 6 NWLR (Pt. 816) 323. I wish to emphasize the decision of this court in United Spinners (Nig.) Ltd. V. Chartered Bank Ltd. (2001) 14 NWLR (Pt. 732) 195. After reviewing earlier authorities on this subject it was remarked that an order for stay of proceedings is a serious, grave and fundamental unnecessary delay. An applicant for such an order must show that that the continuation of the proceedings in the peculiar circumstances of his case would be unreasonable.'

Similarly, in the case of **OKEM ENT (NIG) VS N.D.I.C. (2003) 5 NWLR PG 493 @ PG 503 PARA B**, the Court of Appeal ruled as follows;

'The order for a stay of proceedings is an antithesis to the speedy hearing of a case. It connotes a punitive element when not desirable on the part of the anxious plaintiff, the hearing of whose claim would be unjustifiably delayed.'

You can also take advantage of the rules by fixing any major point of law raised for determination especially where the point of law will substantially dispose of the matter. These include matters of jurisdiction, res judicata, time bar etc.

POST TRIAL

After the trial, ensure that parties get their copies of judgments within a week. This is possible only if you are able to type your judgments or have a very efficient typist.

You need to also ensure that all post trial motions like motions for stay, garnishee proceedings, interpleader proceedings etc are determined timeously so as not to deny the successful litigant the fruit of his or her victory. Luckily, there are several decisions of the Court of Appeal that support our timeously deciding post judgment applications.

In the case of **DANTATA VS MOHAMMED (2012) 8 NWLR PG 371 @ PG 381**, the Court of Appeal per Ogunwumiju JCA, gave the following ruling:

'The fair hearing principle formerly entrenched in section 33 of the 1979 Constitution, and now section 36 of the 1999 Constitution, is not for the weakling, the slumberer, the indolent or the lazy litigant but is for the party who is alive and kicking in the judicial process by taking advantage of the principle at the appropriate time. The principle is not available to a party who sets a trap in the litigation process against the court and accuses the court of assumed wrongdoing even when such so called wrongdoing is, as a matter of fact, propelled or instigated by the party through his counsel.'

I have always held fast to the view that even though court rules should be interpreted liberally to ensure fair hearing for the parties, however under the Lagos State High Court (Civil Procedure) Rules, 2004 there is no more room to waste precious time or to frustrate a judgment creditor who quite rightly seeks to reap and savour the fruit of his judgment. An application for stay of execution is a discretionary remedy given to temporarily deprive the judgment creditor of the fruits of his judgment. The usual practice in Nigeria is that the judgment debtor secures this relief and goes to sleep knowing fully well that the appeal is unmeritorious refusing to pursue same.'

The same Court had earlier held in the case of **P.D.P. VS. ABUBAKAR (2007) 2 NWLR PG 304 @ PGS 314-315 PARAS G-B** as follows:

'All courts of record either trial or appellate appreciate the fact that an application for stay by its very nature delays the speedy hearing of a case which has a negative effect of frustrating an anxious plaintiff- whose case might turn out to be unjustifiably delayed. The courts are weary and jealously guard the exercise of their discretion and power in favour of granting an application which can be used by an unscrupulous applicant to delay trial. The court would not grant a stay of proceedings unless it is rest assured that a case ought not to go on. The exercise of discretion to grant of proceedings will be prompted by the peculiar circumstance of each case in which all the factors for and against the grant of stay proceedings must be carefully and meticulously weighed.'

SYSTEMIC APPROACH AND VISION

Since the Judiciary does not work in isolation, there is the need to always look at the system holistically. All the stakeholders need to constantly meet and discuss issues relating to case flow. A healthy Judiciary will welcome feedback from the public and stakeholders so as to modify its programs where necessary and embark on continuous improvement.

At court level, it will help the system if the court can hold departmental meetings with its staff. This will encourage motivation, commitment and enthusiasm from all involved. It will enable the Judge get feedback and have varied perspectives in solving in-house problems. It will also generate and sustain zeal and energy. Do not be afraid of enforcing discipline and always commend deserving officers publicly. Ensure that you are fair to all and show some mercy in enforcing discipline. This will encourage positive work ethics. Remember to avoid discrimination and undue favoritism.

Always bear in mind that while no single person can make the system work, one person can cause the system to fail. You can from time to time call the staff and encourage them to work well and hard as well as hear their problems e.g. lack of promotion etc with a view to assisting them where possible. I have found out that a little care goes a long way to enhance productivity. The meetings should however not be too frequent or long.

COURT AUTOMATION AND COMPUTERIZATION

Some of the current innovations in case flow management have been the automation of the court process and computerization. As you are all aware, the system of recording proceedings by long hand is not only archaic, tedious and even a health hazard, it has been largely responsible for the delay in finishing our cases. Those of you who have handled land or chieftaincy cases will agree with me that sometimes there are over 20 witnesses in the cases. The same goes for some class actions where there are multiple parties. Taking one witness down could sometimes take days especially in the old days before front loading was introduced. The automation of the Courts is therefore not only a positive development but it is overdue.

While commenting on the need for computerization, the immediate past Hon C.J. of Kaduna State Hon Justice R.H. Cudjoe CFR stated thus:

'People have stereotyped views about courts being slow, rigid and secretive. ICT can help us change this impression and courts can become more efficient, fast and user friendly. With the advancement in technology, the way information is provided and exchanged

among interested parties presented in the court room, communicated to the public, stored and archived, is changing. Judicial administration can and should take advantage of these new technology ways of doing business to increase its productivity and enhance service to the public. The ability of the computer to receive, process, store, retrieve and distributes large volumes of information, combined with current telecommunication technologies, makes it an essential tool for the administration of justice.”¹²

On automation of the Court process, my lord had this to say:

‘With the high increase in the number of litigation in our courts each year, there is a corresponding exponential increase in the storage and handling costs of documents, due to the ever increasing mountains of paper work. In most of our courts today, judges are over worked and court administrators (registrars), court clerks and lawyers are forced to deal with the delays of paper-based system. Files could get lost, time is spent in shuffling paper, cases are delayed, and most importantly, justice is delayed. Administrative Staff Automation will help courts to deal with this judicial log-jam. This will enable court staff and lawyers to use their time more efficiently. From the desk of the lawyer to the desk of the judge, judicial information travels electronically. Cases and documents are no longer lost, less paper is generated, work flow becomes more efficient and fewer staff are needed to handle documents. It also adds a level of security otherwise not available in a paper-based case flow management.’¹²

It is wise to always take advantage of any device or system that will enhance your work and make life easier.

Judgment writing is much easier if you use a computer. The counsel can also be given the judgments on the spot without having to wait for it to be typed, which can last for weeks thus offending the constitution that stipulates 7 days.

However, as with all electronic devices, problems could occur. Some problems like a computer crashing or getting spoilt even on the bench could be quite a setback. My computer crashed recently and I had quite a setback

because I had to resort back to long hand writing and having not done so for some time, I found judgment writing more burdensome than in the days before I began using the computer to write my judgments. This however is a temporary delay as I have since bounced back to typing my judgments.

In some jurisdictions like Lagos and the FCT, the system has been computerized allowing for on line filing and tracking of cases. I know that some states are not yet ripe for that level of computerization but I think that all Judges ought to be computer literate and take advantage of several software on typing instruction, speech recognition etc to enhance their work. I know that the NJI has taken up the challenge to make Judges computer literate. Please take advantage of the computer sessions that you will have to update your knowledge. It will also be necessary for states to retrain the Judges on the use of computers. I gained a lot from the training we had some years back

Closely related to the above is the computerization of the library. In these days of digitalization, research is made much easier if it is done on the computer. Some of the available software have the indexes as well as the texts of many Judgments especially the Supreme Court judgments. With a punch, you can find all the cases that deal with any topic e.g. stay of execution. A great deal of research time can be saved through this process.

In this regard, some companies have made available very helpful resources that will greatly enhance our research capacity. These include 'Legalpedia', 'the Law Pavilion' among others.

RESEARCH ASSISTANTS AND DATA PROCESSESSING OFFICERS

One of the recent innovations has been the provision of research assistants to assist us in making research. The said officer gets together all the cases referred to and highlights same for my use. She ensures that the law reports are properly tagged and arranged according to how they appear in the submissions. This is very helpful if like me, you have had cases where many authorities were cited and were either not submitted or were untagged and have had to spend hours in locating the pages in the various authorities and arranging and tagging them etc. In my state, we have also been given data processing officers who help to prepare our judgments.

In my court, once trial starts, I give the file to the data officer to start summarizing the details like typing the heading, the claims and the adopted evidence according to a model I gave him. I will then later insert the cross examination and summarize the addresses and make my findings evaluation and conclusion.

ATTENTION TO DETAILS

One of the most frequent causes of our everyday problems is our lack of attention to details. It is also the reason for the failure of a lot of our endeavors. We are so used to 'managing' things that excellence seems to be a luxury. We cannot afford to be satisfied with merely being average.

We need to constantly remind ourselves of all the fundamentals of case flow management and ensure that we apply them to our work. We need to constantly think of ways to improve our case flow management techniques.

Things like ensuring service before trial dates making sure subpoenas are served, ensuring that there is proof of service, making sure that interpreters etc are informed on time where they are needed etc. will help reduce delay. You must create an impression of effectiveness in the minds of Court users by always sitting on time i.e. at 9; 00am or so soon thereafter. Please note that so soon thereafter does not mean 11am or 12noon. If cases are for pretrial, you could give parties time. The practice by some Judges of sitting long after 9:00 am and keeping lawyers and parties waiting and not knowing when their cases will be heard has been condemned by many of our superiors in many fora. Speaking on this matter, the ever erudite eminent jurist Honourable Justice Niki Tobi JSC (Rtd) had this to say:

'A Judicial officer should promptly dispose of the business of the court. In order to achieve this, the Judicial Officer is required to devote adequate time to his duties, to be punctual in attending court and expeditious in bringing to a conclusion and determining matters under submission. Unless ill or unable for good reason, to come to court, a Judicial Officer must

appear regularly for work, avoid tardiness and maintain official hours of the court....

..Most rules of court provide that the courts should sit or commence business at 9:00am. Most Judicial Officers flout the rule of court. Some sit at 10:00am and rise early without completing the cause list for the day.....

...This is unethical conduct which is unbecoming of serving Judges. There cannot be any defence for this terrible conduct. In order to be in a good position to manage cases, the Judge must sit promptly everyday.'¹³

Similarly, the immediate past Administrator of the NJI Hon. Justice Umaru Eri CJ (as he then was) put part of the blame for trial delays at our doorstep thus:

'It should be said here with all sense of responsibility that members of the bench are equally guilty of this offence of delay of cases. Some of the ways by which members of the bench delay cases are failure to sit on time or failure to sit at all or failure to write rulings on interlocutory matters promptly. All these elements of delay on the part of the bar and the bench do not serve the interest of justice.'¹⁴

After cases are concluded, you cannot afford to just sit and wait for the next case to reach judgment level. You can start summarizing a case even before addresses are adopted. This will hasten the judgment. The research Assistants could be trained to do this for you.

Constant reading and training is also a necessary tool; so is experience sharing with others. There is no substitute for competence and diligence. Take advantage of short courses on typing, Computer etc There are soft ware for these trainings these days. You can also read law reports, Statutes, journals court rules etc for additional knowledge, and if you have the time, you can also add some French or Spanish. You never can tell when this will come in handy in a global village such as ours.

Permit me in closing to quote the thought provoking words of my lord the former Chief Justice of the Federal Republic of Nigeria, Hon Justice Dahiru Musdapher JSC CON who wrote thus:

`Competence and diligence are prerequisites to the due performance of judicial office. The judicial duties of a judge take precedence over all other activities. A judge shall devote the judge's professional activity to judicial duties, which include not only the performance of judicial functions and responsibilities in court and the making of decisions, but also other tasks relevant to the judicial office or the court's operations.

A judge shall take reasonable steps to maintain and enhance the judge's knowledge, skills and personal qualities necessary for the proper performance of judicial duties, taking advantage for that purpose of the training and other facilities that should be made available. A judge shall keep himself or herself informed about relevant developments of international law, including international conventions and other instruments establishing human rights norms. A judge must perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.

The competence and diligence of a judge in the performance of his duties, is as important as his independence, and impartiality. This is so because poor knowledge and understanding of legal principles could lead to miscarriage of justice. Delay in the writing of judicial decisions also impinges on integrity because justice delayed is justice denied.'¹⁵

Let us always have at the back of our minds the provisions of section 292 of the Constitution which provides that a Judge may be removed from office on account of his or her inability to discharge the functions of his or her office. In recent times, the NJC has taken a very strict approach to judicial prudence and productivity.

CONCLUSION.

In conclusion, permit me to again share in the vision of the distinguished and well respected Jurist when he stated thus:

`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.^{'15}

I thank you for listening and God bless.

1. Culled from Judicial lecture series,
2. Commentary on Paper on Evaluation of Judges role of the NJC by Oyeyipo J. (Rtd.)
3. 2002 10 NWLR Pt 674 pg 76
4. National Center for State Courts, USA, workshop materials
5. (2006) 7 Sc
6. 2006 7 Sc PT1 pg 1 @ 15-16 per Niki Tobi Jsc
7. (2006) 6-7 Sc IJI @ 147 Per Katsina Alu Jsc
8. (1975) 2 Sc 9
9. 1971 All NLR 8
10. (1989) 1 CLNR 75
11. (1996)6 NWLR (PT 455) Pg 483.
12. Commentary on legal informatics and the technological landscape of justice systems
13. Induction course for newly appointed Judges and Kadis, 2007
14. The relationship between the bar and the bench in the course of justice: The Nigerian experience by Umaru Eri Administrator, NJI.
15. Towards Strengthening Judicial Integrity: the Nigerian experience by Hon. Justice Dahiru Musdapher Jsc CON Rtd



