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31st January, 2019

The Administrator,
National Judicial Institute,
Muhammed Bello Centre,
Jabi Junction,
Abuja.

My Lord,

RE: PAPER ON THE USE OF CASE MANAGEMENT IN IMPROVING
PERFORMANCE BY: BADRUDEEN FATIMAH ADENIKE CHIEF
REGISTRAR HIGH COURT OF JUSTICE, OYO STATE TO BE DELIVERED
ON THE 20TH MARCH, 2019

The above subject matter refers.

I humbly send to your Lordship my paper on the above topic with the flash drive while thanking your Lordship for the opportunity given to me in writing on same against the 2019 workshop for the Judges of the Area, Sharia/Customary Courts.



FATIMAH ADENIKE BADRUDEEN (Mrs.)
CHIEF REGISTRAR

NATIONAL JUDICIAL INSTITUTE
MOHAMMED BELLO CENTRE, ABUJA

THE USE OF CASE MANAGEMENT IN IMPROVING
PERFORMANCE BY- BADRUDEEN FATIMAH ADENIKE, CHIEF
REGISTRAR HIGH COURT OF JUSTICE, OYO STATE.

WEDNESDAY 20TH MARCH 2019

PREAMBLE:

My profound gratitude goes to the Administrator of this Professional Institute **Hon Justice R.P.I. Bozimo OFR** for her invitation dated 27th day of December 2018 to present a paper at this year **NATIONAL WORKSHOP** for Area/Sharia/Customary Court Judges. It was with a great sense of honour and trepidation that I received the invitation.

Honoured in the fact that My Lord the Administrator of NJI found me worthy of delivering a paper before this August gathering. Trepidation arising from what to write and say that would be worthy of the time and patience of this noble institute and the distinguished participants.

I also thank the management and the faculties of this institute in finding me worthy of delivering this paper especially the Director of Studies in the Institute **Hajia Mariam T. Kawu**.

I believe that this little effort of mine will find favour in the listening ears of the High table and the participants of this workshop.

INTRODUCTION:

THE TOPIC: THE USE OF CASE MANAGEMENT IN IMPROVING PERFORMANCE is quite apposite and apt in a workshop such as this.

This topic therefore, can be broken down into the following sections

[1] **Case Management.**

[2] **Improving Performance.**

CASE MANAGEMENT

The word "case" is defined as a Civil or Criminal proceedings, action, suit, or controversy in law or in equity.[see Black's Law Dictionary Ninth Edition Page 243].

MANAGEMENT: is therefore described as the people in an organization who are vested with a certain amount of discretion and independent judgment in managing its affairs [Black's Law Dictionary Ninth Edition Page 1045].

While combining the two words we can then say the ability to manage Civil or Criminal proceedings, action, suit or controversy in law before a Judge in a specific courtroom to use his discretion and independent judgment to manage his case docket efficiently for maximum output or better performance.

IMPROVING PERFORMANCE: The word improving is a continuous tense and it means increasing the value or enhancing the appearance of something. In this context performance of duties assigned to Judges in which you are one.

It is often said that justice delayed is justice denied. Trial delay is a major challenge to the Administration of Justice in our courts. It has contributed to the problem of Prison congestion. It should be noted that lower courts handle over 70% of cases in our courts. The large volume of cases and the delay in dispensing Justice in those cases have the greatest impact on the Administration of Justice system as a whole.

GENERAL VIEW FOR THE CASE MANAGEMENT IN VARIOUS JURISDICTIONS

Case management system is a means of reducing delay in Courts and improving performance. Case management can either be manual [paper based] or computer based. In all it has human factor whether manual or electronic. Case management system is a means of recording information on an individual case [e.g case number, name of parties, offence etc] and tracking the cases' progress through the court system. The information gathered through the system can then be analyzed to inform decision making and policy with a view to improving performance and effectiveness of courts operations.

The introduction of case management system in our various jurisdictions will enable court to:

- a) **Generate information for effective movement, track the progress of cases and identify stalled or slow moving cases.**
- b) **Identify inefficient processes and bottlenecks in the system and take informed actions to improve court efficiency.**
- c) **Enhance accountability of rate of cases disposal in our courts**
- d) **Create more court rooms or specialized courts.**
- e) **Make for appointment of more judges and recruitment of intelligent, educated persons of integrity as assessors and members Customary/Sharia Courts.**
- f) **Determine number of cases to be handled by categories of Judges appointed.**

In furtherance to the above, **section 110 of ACJA 2015** most especially subsections [4], [5], [6] and [7] give room for administration of case management in lower courts by the Chief Judge and functions of the committee on case management as enshrined in the intant law.

INDIVIDUAL COURTS

The general complaint is that cases take too long to conclude in an average Nigerian Court. The public perception on Courts in Nigeria is that a case can last between 8 and 10 years to conclude. There is no doubt that cases in Nigeria do not move at the desired speed. Take for instance in Magistrate Courts [1] [2] and [3] in Oyo State the numbers of cases are broken down.

Court 1- 441 cases

Court 2- 479 cases

Court 3- 469 cases [Civil, Criminal and Miscellaneous]

It should be noted by all that a Judge's primary duty is adjudication and the principal elements of which are the interpretation and application of the law. In accordance with our definition a Judge must manage as well as decide cases. The Judge is responsible for the efficient administration of justice in his/her court [you are in charge of your court]. Case management involves prompt disposition of cases, record-keeping, management of funds and supervision of Court staff. If the Judge is not diligent in monitoring and disposing of cases, the resulting inefficiency will increase costs and undermine the administration of justice. A judicial officer should therefore maintain professional competence in case management and facilitate the performance of the administrative responsibility of supporting staff.

The question to be borne in mind is how do we ensure case before us are managed and move expeditiously? In giving answers to the above question **TWELVE** issues shall be discussed.

[1]. **PROCESS/ASSIGNMENT**: Time begins to run for a Judicial Officer right from the minute a suit is assigned to such judicial officer and you are to take all the responsibilities immediately the case is assigned to you irrespective of the number of cases you have in your docket.

Make sure that your support staff brings forward to your table in chambers any new file immediately it is assigned to you for your assessment and you should

discipline any erring support staff who delays in putting the file on your table. Court Registrar will come along with the Court's diary together with any new file to your chambers. The judge should immediately fix the shortest possible date.

[2]. **PUNCTUALITY:** There is a popular adage that says "punctuality is the soul of business" To keep the case management alive and improving performance a judex must be punctual. Being punctual strengthens and reveals your integrity and this dispositional attitude of a judex speaks volumes about his/her Court and it goes a long way to bring improvement in case management. Punctuality is certainly one of the values that we should hold dearly. Punctuality symbolizes that our Court can be trusted. It denotes acting right or doing things at the right time. A judex who desires to succeed in the effective management of cases in his docket must be known for his punctuality. It is even unethical for judges not to sit on time. [According to Niki Tobi JSC of blessed memory] "there cannot be any defence for this laxity"

[3]. **FIXING CASES:** The Judge must be careful not to overload any particular day with too many cases. An unduly heavy cause list only serves to present the Judge as one incapable of organizing his Court properly. The cases on the cause list for any particular day should be such that can be conveniently handled on that day. [Do not eat more than you can swallow at any given time] consider the status of your health when giving date to new cases/files- such new file to be endorsed to the effect that all parties be served with hearing notices. If it were new files or case on civil matters ensure that date given for hearing should not be more than two weeks maximum or 8 to 10 days depending on the volumes of cases in your docket. This procedure will abridge time and send signal to the Counsel or Lawyer involved that the Court means business.

[4]. **PROMPT DISPOSITION:-**The Judge must be punctual in attending Court and expeditious in dispensing matters under his adjudication. The Judge must insist and maintain that the Court officials [supporting staff], litigants and

their lawyers cooperate with the judge to that end. Since irregular or inconsistent hours contribute to delay and create negative impression of the Courts. A Judge should ordinarily sit in court each working day during the hours prescribed by rules or law for that purposes.

[5]. **MAINTAINING ORDER AND DECORUM:** A judge is the officer in charge of his court and he should take reasonable steps to achieve and maintain the level of orderliness and decorum necessary to accomplish the business of the Court in a manner that is both regular and fair while at the same time giving lawyers, litigants and the public assurances of that regularity and fairness. Level of regularity and civility must be seen in the order employed in the case management and level of decorum be seen that the matter before the Court in receiving serious and fair consideration.

[6]. **ESSENTIAL ATTRIBUTES:** A Judge should always act courteously and respect the dignity of all who have business in his court room. He must exercise patience and dignity while managing cases before him. A Judge should be above personal animosities and must not have favorites at the Bar. Unjustified reprimands of Counsel, offensive remarks, cruel jokes, sarcasm and intemperate behaviours. Whenever a Judge intervenes he should ensure that impartiality is not exhibited by his intervention.

[7]. **TRANSPARENCY:** A Judge should employ transparent mechanism to allow lawyers and litigants to know the statute and rules of court procedure justice must not only be done but must be manifestly seen to have been done.

[8]. **COMPETENCE AND PROFESSIONAL SKILLS:** A judge must at all times show his competence and professional skills in all cases assigned to him for adjudication and for proper management. A Judge is committed to perpetual study and learning. Such training and learning is made compulsory or indispensable by changes in the law and technology for effective performance in case management. A Judge must learn how to deliver Bench Rulings for some

issues which are obvious so as to prevent needless adjournment which may further delay cases' disposal. Develop your computer skills in order to improve your performance. Typing skill is an added advantage. Endeavour to type your judgment and save same in your data-bank for future purpose.

[9]. **ORGANISATION AND MANAGEMENT OF ADJUDICATION**

A Judge must be organized, he should always sit in Court with the following materials:

***Rules of Court**

***Criminal Code or Penal Code as the case may be**

***Constitution**

***Evidence Act**

***Administration of Criminal Justice Act or law for each state.**

The Judge should not during the proceedings be sending clerks to bring any of the materials or to go and borrow from other courts, when lawyers make reference to same.

A presiding Judge should be organized to be in control of dates, or address by Counsel and enough time be given to file the final address and reply on points of law. Also where there are unrepresented litigants and they constitute an increasing percentage of those appearing in the Court. They always constitute obstacle to the efficient disposition of the Cause lists, as the Judge must take adequate care to attend to their issues and be added to the volumes of cases in his docket.

[10]. **JUDGMENT/DECISION STAGE:** Under section 294 of the Constitution, Judgment and ruling are to be delivered within 90 days after adoption of final address[oral or written]. In case management therefore a presiding Judge is advised to adjourn case for judgment and give dates not more than 60 days maximum after adoption of final address.

At least if the Judgment is not ready within 60 days after adoption there will be more time within the constitution stipulation to make same available. It is only

the Judge that can make the decision or frame the reasons. In making his decision a Judge has to give public account of the reasons which have led him to exercise his powers in the direction of his decision [coercive powers of the state].

[11]. **ADJOURNMENT OF CASES:** Many reasons may necessitate for adjournment. A Presiding Judge can hear a case half-way and then adjourn it suo-motu or on application. The application may be done in open court or in the form of a letter from a Counsel in the case. It should be noted that an adjournment is an exercise of judicial discretion. See **GODWIN OKEKE & 2 ORS. VS. MADAM EBI ORUH [1993] 2 NWLR [PT.277] 622.** The discretion exercised judiciously and judicially depends on the view of a reasonable person in the Court watching the proceedings hence the rightness of its exercise may be objectively tested see **UNIVERSITY OF LAGOS VS. AIGORO [1985] 1 NWLR [PT.1] PG.143.** The Court therefore should be careful to observe and consider every case on its merit where in a particular instance an application for adjournment ought to be granted, the Judge should not arbitrarily or unreasonably refuse, and the Judge should not yield to frequent and lopsided adjournments at the instance of one party to the disadvantage of the other party. See **UDO VS. THE STATE [1988] 3 NWLR [PT.82] 316.**

In that case the prosecution had been granted 12 adjournments, as of the time the defence writes just once for an adjournment, the Court took no cognizance or regard of the request. The Court went on to take two vital witnesses in the absence of the defence Counsel and eventually convicted the accused person. It was held on appeal that the act of the trial judge was injudicious as he was not holding the balance between the prosecution and defence and therefore acted arbitrarily. Under **section 396[4] ACJA 2015.** No party shall be entitled to more than five adjournments from arraignment to final Judgment. Frivolous adjournment is frowned at by the provision of **section 396[6] ACJA 2015.**

[12]. **FACTORS OUTSIDE THE CONTROL OF THE JUDGES OF LOWER COURTS:**

These vary from jurisdiction to jurisdiction. Some shall be listed below and they are self explanatory no need of much elaboration since they are beyond our control.

- a) **Counsel's incompetence, laziness and/or unpreparedness**
- b) **Frivolous and unsubstantiated petitions against the Court and its officials.**
- c) **Undue interference [political and non political] in the duties of the court.**
- d) **Indisciplined support staff.**
- e) **Location of Courts in hostile and primitive districts.**
- f) **Ill-trained and corrupt prosecutors [police prosecutors].**
- g) **Prison facilities located too far from the Courts which passes logistical nightmare for the safe transportations of inmates to and from the Courts.**
- h) **Taking down of evidence by the Court in outdated long-hand.**
- i) **Inadequate, ill-trained and sometimes corrupt interpreters for Defendant who are not well versed in the language of the Court.**
- j) **Maternity leave and 'school runs' by the younger female judges.**
- k) **Industrial actions by support staff.**
- l) **General insecurity[insurgencies, kidnapping[militancy]**
- m) **Act of God or Forces of Nature [destructive rainstorm and flooding of court premises].**
- n) **Defendant in criminal cases jumping bail.**
- o) **Witness intimidation and lack of enthusiasm by the witnesses and litigants.**
- p) **Frequent Transfer and elevation of judges [desirable though] to the Higher Bench.**
- q) **Ill-health and untimely death of judges and support staff.**

The list is inexhaustive and varies from one jurisdiction to the other. Your honours are at liberty to add to or subtract from the above.

CONCLUSION: I believe, I have been able to satisfy the distinguished participants on the areas I have discussed in this paper “the use of case management in improving performance” The paper has adequately looked into what the management of various jurisdiction ought to have done in case management in order to enhance performance and what an individual judge must do in case management in improving his performance. From the above there will in turn make works of our Judges a rewarding one, satisfactorily done and consequently enhance performance in the dispensation of justice.

Once again, I sincerely thank in particular the **Administrator of the National Judicial Institute** for giving me the opportunity to lead in thought during this Workshop. Also the wonderful team in the faculty of the Institute; thank you very much. I also thank the distinguished participants for listening- Thank you all.

Some cases shall be discussed below coupled with questions from the participants that may provoke more meaningful thoughts and suggestions may be advanced on the topic of this paper.

QUESTION: Do you agree that too many adjournments may contribute adversely to case management and can very often lead to a miscarriage of justice?

CASE STUDY1

The Registrar of the Court is in the habit of adding more cases than the one on the cause list for a particular day what should a presiding judge do in managing cases in his Court?

CASE STUDY 2

A Counsel wrote for an adjournments three times consecutively and at the last adjournment the other Counsel applied for proceedings to go on and the trial judge acceded. Would it be correct that the proceedings were conducted substantially in conformity with law and procedure? [See **Okeke Vs. Oruh [1993]**
2 NWLR [Pt.622]]

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