

THE USE OF  
CASE MANAGEMENT  
IN  
IMPROVING PERFORMANCE  
OF MAGISTRATES.

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By

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## INTRODUCTION

My profound gratitude goes to My Lord, Hon. Justice R. P. I. Bozimo OFR, the Administrator, National Judicial Institute (NJI), and the NJI Management and Staff, for the wisdom to design a course, on Using Case Management, to improve the Performance of Magistrates, and for the opportunity and privilege, to share my thoughts on the topic. It has been an invaluable learning experience for me, and once again my lord, I thank your lordship's team for the privilege.

I am grateful to my Lord the Honorable Chief Judge of Lagos State, Hon. Justice Kazeem Olanrewaju Alogba, for granting me permission to be a worthy ambassador, of the Lagos State Judiciary, by serving as a resource person, here at the National Judicial Institute. It is indeed my privilege, to have been assigned the task, of sharing my views with my distinguished colleagues, your Honors and your Worships of the Nigerian Magistracy.

## PREAMBLE

My goal is to reinforce what we know, and expose us to what we need to know, to develop our knowledge, so that we can change our approach to our duties, and get better results, because to change anything, your knowledge about it must change.

To delve into the comprehensive knowledge of this topic, we need to look at the functional definitions of case management and performance. In other words, we need to identify (what are) the performance factors, against which the effectiveness of Magistrates are to be measured, relative to the selected case management strategies. Also we need to know the qualities, we expect a Magistrate to possess, and how they pre-dispose your Worships and your Honors, to effective dispensation of your duties, before they can be measurable and developed, in the way we manage our cases. We are here to establish a process by which, we can tailor the case management process, to individual needs, without any compromise of the judicial processes.

Therefore in this paper, we will briefly discuss both personal and professional performance of Magistrates, the meaning of Case Management, the need for it, and various stages of case management. We will also discuss "Effective Tools" for case management. There is need to advance some suggestions, to assist Magistrates, to better understand the appropriate boundaries, of judicial intervention into the conduct of cases, bearing in mind that, the techniques and tools used in case management, and active adjudication are interwoven and are budding, hence, the Magistrate needs judicial agility (or magisterial agility) to ensure that, the speed of the case, and the cadences of the decisions, are consistent with the inherent emotional health of the case. (*How will you expect a 70 year old man to sprint 100m at the speed of Usain Bolt and conversely, how will you expect the same fastest sprinter to run a marathon at the pace of sprinting 100m dash*). In conclusion YWs / YHs, we will discuss "The Way Forward" i.e. Proposed Innovations, and my Humble Recommendations.

PERFORMANCE INDICES: PERSONAL AND PROFESSIONAL PERFORMANCE OF MAGISTRATES. JUDICIAL TEMPERAMENT HAS A LOT TO DO WITH OUR PERFORMANCE.

Performance matters, many say performance is everything. It is undisputed, that the performance, of a magistrate is very important. It has been said that, even if the law doesn't change for some time, the attitude of the Magistrate, must change immediately.

YWs / YHs, this is your time, the ball is now in your court. Congratulations once again on your appointment, your worship your honor, may I ask how many Nigerians believed to be innocent until proven guilty, who are currently in custody, though still awaiting trial, have you already imprisoned, since you were sworn in as a magistrate ? Tough question, I had to answer it as well, early in my career, and to be candid I think about it daily. Your honest response, will encourage you to develop effective case management skills, and get sufficient practice working it out, which will liberate you, and the many individuals you or your colleagues locked up.

YWs / YHs another question to consider is this, try to calculate from the day you were appointed, how many individuals you granted bail, who however couldn't perfect the bail and ended up in custody? On the other hand did you, do you or would you agree, to give bail on self-recognizance, to individual Nigerians who are neither well-to-do nor famous? Instead of assuming they will escape or flee, what if you realize they can be traced, or they are honest enough to willingly return to court? That's the chance many new magistrates may not be willing to take, even though every magistrate nationwide took the oath, to perform our duties without fear or favor.

The question to ask yourself your worships and your honors is, how am I performing my duties? Is it with fear of Petition, fear of Litigants, fear of Police, fear of Counsel or not? Is it with favor of Police, Litigants, Counsel, Court Staff or not? Others may say the impression they have, but YWs / YHs, you can give an honest answer... How am I performing my duties? What can I do better? On the issue of what to do better, developing or utilizing, efficient case management tools and techniques, will definitely bring about marked improvement in all ramifications of our work. YWs / YHs look no further ...begin to exercise your discretion, judicially and judiciously, in accordance with the case management provisions in the Law, Rules of court and even in judicial precedent, which is also binding authority.

There are different ways we express our judicial temperament. A magistrate may be Permissive, Authoritarian, or Authoritative. [A]

If you say or do the same thing to three different magistrates, you may get three different responses. It is possible to get three different responses even when it concerns contempt of court. Some Magistrates are flexible, and their flexibility is obvious, some are not, while with some of us, it depends! This is a clear indication of judicial temperament. Is the offence (contempt of court) against the court or against the magistrate? If counsel or parties arrive late, some adjourn before they get there, some stand down the matter, some call it last, and hear the late comer last.

Permissive Magistrates (lenient, Anything goes, in-disciplined but never offended)

Authoritarian Magistrates – (Dictatorial, easily offended, in need of people management skills)

Authoritative Magistrates – (Responsible / Meticulous / Principled / Disciplined / Balanced Behavior)

YWs / YHs, no one can deny that, we are doing formidable work, when we apply effective adequate Case Management techniques, when handling matters regardless of our judicial temperament.

### **Permissive magistrate**

A permissive magistrate is a slave to his / her staff, slave to counsel and litigants, the exact opposite of your worship or your honor that he / she is being addressed, “anything goes” is a summary of his or her Court room. There’s nothing like contempt proceedings, instead the court is constantly apologetic, always finding it hard or virtually impossible to say no to counsel, court staff and even litigants, usual multiple request for adjournments, or flimsy excuses for not regularizing their positions timeously. Definitely, it is not in the interest of justice, to be a permissive magistrate, and it definitely doesn’t help in productivity, nor the quality of the output of work.

### **Zero performance.**

For the Permissive Magistrate, delay is the order of the day. He or she makes things too easy for one litigant or counsel, at the expense of other litigants and counsel, bringing about gross delay, and usually, no case is struck out for want of diligent prosecution, or any other constructive criticism, since the Permissive magistrate, usually makes excuses for litigants, counsel and her staff. How did we get here you ask, no, the issue is, where do we go from here? Read through your Case Management 101 instruction manual...since it’s in your hands...! Furthermore, the permissive magistrate places premium priority on, litigants and counsel, not on the case before the court, its lifespan, due diligence, certain requirements, procedure, rules of court, evidential burden etc.

A permissive magistrate invites unnecessary Rebellion, and sometimes even contempt of court, with inconsistent courtroom behavior, and non-adherence to rules of Court e t c. Do you really expect litigants, counsel or even court staff who know better, to simply lean back and be silent? No one knows it all. To be candid those who think they know it all, really do not know that much, we must all remain teachable and very willing to learn, because even if you knew all the laws and rules of court, as at the time you were appointed, what if they are amended, which they will be as time goes by. Therefore the key is to keep on learning, and keep on consulting our tools, specifically the rules of court, the Magistrate court law and judicial precedents, to keep abreast of relevant issues.

Now you think that is bad, wait until you hear the second type!

## THE AUTHORITARIAN MAGISTRATE

Are you always right? Do you bark out orders to Litigants, Counsel as well as your Staff? Do you threaten Litigants and Counsel with contempt proceedings? Do you thereafter threaten to report your Staff, if they don't immediately do what you say? Do you force Litigants, Counsel and your Staff to do things? Do you make all decisions, for everyone that comes into your court?

YWs / YHs, who you are, as a magistrate, has a lot to do with the way your Staff, Litigants and Counsel respond to you. People respond, to different types of people, differently. If you behave differently, so will people, they will respond differently. It's your move, you dictate the pace, and almost certainly determine the response you get, simply by the attitude on display. An authoritarian magistrate sees him or herself, as better than the Litigants and Counsel that appear before him or her. He or she runs the courtroom with an iron hand, because of fear of contempt, and sometimes fear of corrupt practices e t c. Does this sound like you?

## **WHICH OPTION?**

The truth is that both extremes, i.e. Permissive and the Authoritarian magistrates, will not achieve the best, which is to do Justice according to law. With a Permissive magistrate there are no guidelines, anything goes and it isn't really a court but a marketplace, while with the Authoritarian magistrate, everything is heavy-handed therefore Staff, Litigants and Counsel, are **terrified, sometimes petrified**, and wish they could be better understood, or at least listened to, if given a chance to express themselves.

In my estimation there is a third type of magistrate, i.e. the Authoritative Magistrate.

## AUTHORITATIVE MAGISTRATE

Do you draw the attention of, Litigants and Counsel, to facts about the case, and ask what they think about it, before you jump to conclusions? Do you look out for efficiency, and ensure requisite case management, in the best interest of parties, before you allow them to experience, the consequences of their actions or inaction, by ordering requisite costs, and other appropriate measures or penalties?

An Authoritative magistrate is consistent and disciplined, he or she is also consistent, with the "Court Sitting Time" e.tc, and they provide litigants with principles and options when necessary, as long as they do not descend into the arena, so to speak. That is however not an issue in the family court, where it appears that the Magistrate and the assessors, virtually dwell inside the arena, so to speak, doing whatever it takes, in the best interest of the child.

An authoritative magistrate, grants reasonable costs, against parties and counsel when applicable. He or She understands that, "respect begets respect" and therefore conveys, mutual respect to Staff, Litigants and Counsel in the court. An authoritative magistrate, draws the attention of

litigants and counsel, to choices in accordance with the rules of Court, and the law, where necessary like, expiry date for service etc.

Unlike the other two options, the authoritative magistrate, is **majoring** on his / her responsibilities, performance, duty, doing Justice according to law, and **minoring** on everything else. He or she took an oath of office to do the work, without fear or favor, and is prepared to do just that. He or she took an oath of office, to function in accordance with the, Constitution of the Federal Republic of Nigeria, and is poised to do just that. He /she intends to do Justice, according to law on a daily basis, and for the avoidance of doubt, and for clarity of purpose, **doing Justice, has nothing to do with, being permissive or authoritarian in nature.** The wise magistrate finds the middle ground.

## **CASE MANAGEMENT**

### **WHAT IS CASE MANAGEMENT?**

Case management has been defined in various ways, but an apt definition is one provided by the National Center for State Courts as follows, i.e. “Caseflow management is the coordination, of court processes and resources, so that court cases progress, in a timely fashion, from filing to disposition”. \*[1] NCSC

Judges / **Magistrates** (emphasis mine) and administrations, can enhance justice, when a court supervises case progress, from the time of filing, sets meaningful events and deadlines, throughout the life of a case, and provides credible trial dates. Proven practices in caseflow management include case-disposition time standards, early court intervention and continuous court control of case progress, use of differentiated case management, meaningful pretrial events and schedules, limiting of continuances, effecting calendaring and docketing practices, use of information systems to monitor age and status of cases, and control of post-disposition case events”. [1]

This definition is also a summary of many aspects and techniques of case management which we will discuss here.

**I see case management as a process by which you give direction to a case under the ambit of the law, so that only the relevant aspects of the case will last the distance, where justice is the finishing line. The directions may include having a pretrial conference, settlement conference or ADR, sending the case to the Multi-door courthouse for mediation, and especially in the family court where we not only sit with assessors, we may bring in external family counsellor, in order to exhaust every available option, before going to trial. An effective management of a case starts from the preparation and filling of the case and continues till its disposal, its conclusion.**

“The way the **Magistrate** (Judge) manages the case to get to the final result has a huge impact on the costs and on the efficiency of Justice. So, it is possible to affirm that case management is an important aspect of public administration and the **Magistrate** (Judge), during the proceeding, serves as a public affairs manager. “It is possible to identify, the fundamental importance, of case management even in simple cases, involving only a few litigants. However, having in mind complex litigations, in which the rights of hundreds or thousands of people are involved in, the need of a good case management, takes an even clearer meaning... Therefore, it is true that case management, is the management of public resources, since it has close ties to the promptness, of the delivery of Justice, and the efficiency of the service, provided by the Courts...Nonetheless, how can the **Magistrate** (Judge) manage the case, in a suitable way taking in account its specific needs, if the law sets a general proceeding (or procedure) to be followed in every case, no matter the differences they may have? Will the laws need to be changed? Will there be a need for more investment in the Judiciary? [2] (**Magistrate** emphasis mine)

The author took the words right out of my mouth and his is an old suggestion from the USA that is still relevant in present day Nigeria (given the Jusun Strike for Financial Autonomy for the Judiciary) Therefore, it is right to say that, case management can be improved, independent of additional investments, or changes in applicable law. A change of attitude and mentality of the law enforcers, especially Magistrates, while responsible for managing cases, would suffice. (This elucidates further, the necessity of the Magistrate’s, unquestionable competence, on the lower bench- author’s emphasis).

### **The Concept and Origin of Case Management**

This scenario highlights the definition of case management that was originally coined by the US health service[3]. The concept of case management has a rich history dating back to [1863](#) in the United States. Nursing was a forerunner in the development and implementation of case management systems[4].

According to the definition presented by the Case Management Society of America (CMSA), “case management is a collaborative process of analysis, planning, facilitation, coordination of care, evaluation and advocacy options and services to meet individual and family health needs through communication and available sources to promote quality and cost-effective results.

This idea of case management which originated in the health sector may be used in the Judicial Branch. It seeks to analyze individually the specific needs of the case to achieve better results with the least possible resources. It can and should be transposed onto the management of legal proceedings.” [5]

Therefore in my opinion, even though it is not possible for us to control, the nature and number of cases coming to the courts, we can determine the time of their admission and

discharge, after thorough application of legal therapy. A doctor may have numerous patients come to the hospital, but I guarantee you, none of them determine how the doctor will administer treatment, therefore, in the same vein, parties may file numerous cases in court, yet the case management strategy is within the power of the Magistrates.  
(UK Dr, & her Timer)

### **The Democratic Case Management**

This approach, incidentally, is also being used in the US judicial system, where the concept of judicial case management, has been known for a long time[6]. It is a programming of the procedures, involving a particular matter to be judged. Each stage of the judicial process is analyzed, according to the specific case. **The Magistrate (judge) must establish the entire roadmap of actions, so that all relevant points brought to trial can be observed, always with a view to ensure, a more rapid and effective trial. (highlight / emphasis mine)** It decreases the cost of litigation and increases the satisfaction of the claimants with the service provided by the Judiciary. The Magistrate (judge) may designate hearings and/or CMC calls (Case Management Conference). The main objective, is to determine the steps, to the resolution of the disputes, presented to the court, subjected to the specific needs, of the concrete case.

*(7)“case management in legal terms refers to the schedule of proceedings involved in a matter. There are various stages in litigation, such as the filing of a complaint, answers, the discovery process (interrogatories, depositions, etc.), and motions that occur before a trial is held or a decision is rendered. **Each stage of the process has a scheduled timeframe in which it must be filed with the court or completed. (Highlight / emphasis mine)** When a complaint is filed and a case is assigned to a Magistrate (judge), the Magistrate (judge) will often set forth a schedule for the submission or completion of the relevant pleadings, court appearances, and other matters. Depending on the jurisdiction, a case management questionnaire may need to be filled out. The Magistrate (judge) may also decide to send the parties to arbitration or mediation to settle disputed matters. The conduct of the case management conference varies by jurisdiction, so **local court rules should be consulted’.** (This is where we need **HELP..Emphasis mine)***

We use the term case management to refer to the procedural management of a matter before a court..., Case management may be focused on pretrial steps and would typically include case conferences, settlement conferences, and court-based mediation. Particularly in family court, it may also include post-trial and implementation management. [8]

*A Case management Conference (CMC) is part of the court procedure. It is a meeting between the Magistrate (judge) and the parties (the Plaintiff and the Defendant). The lawyers representing the parties may also appear at the conference. A case management conference usually happens after a plaintiff begins a law suit, but before the trial. The*

*meeting is not a trial and as such witnesses don't need to be present. The main purpose of the meeting is to try settling some or all of the issues in dispute before going to trial. If no settlement is achieved at the CMC, the matter will proceed to trial.*

### **Performance of Magistrates.**

What are the performance factors or indices of good performance by a Magistrate? Performance measures may be viewed either as

- (a) Quantitative descriptors of what is being done or
- (b) Progress indices of how well functions are being performed in a Magistrate court.

### **Magistrates may be evaluated on such criteria as:**

- ability to identify the credibility of a case going for hearing
- Having a good knowledge of the law
- Integrity
- Communication skill
- Ability to track the cases and what they are coming up for (proper record keeping and knowing what the case is coming up for-DPP legal advice)
- Having good control of the proceedings in the court (judicial temperament/contempt!!!)
- Personal time management strategy by the Magistrate
- Knowledge / understanding of the instant case - Read all your case files ahead of time and write down your observations on paper attached to the file.

### **Keys to improving performance of Magistrates**

- Be Punctual, which is the first sign of case management
- Set and achieve credible personal goals using case management
- Exceed expectations through Self Evaluation, Sheer Determination and Commitment to Case Management Principles.

**PUNCTUALITY** – is the beginning of time management. You must have a plan. The key is to plan to get to court “before”, not just “on time”, that way, sometimes you will get there “on time”, which is splendid, but most times you will get there “beforehand” “before the time you need to be there”, which is even much better, just remember it depends on your “plan”.(Traffic is envisaged in your plan)

**CREDIBLE GOALS** – The goal is to achieve our personal goals of efficiency, effectiveness and doing justice according to law, and not just the official goals set for us, by the Judicial Service Commission. As Magistrates we perform our duties, of interpreting the law, enforcing

the law, and doing justice according to law, by efficiently and effectively, disposing of matters before the hon. court, resulting in speedy dispensation of justice.

**EXCEED EXPECTATION – Self Evaluation/Behavior.** The members of the public have very high expectations of Magistrates, which probably has to do with the seat or the sitting arrangements. Some of their expectations are unrealistic, given the nature and circumstances, nevertheless many of our colleagues have been able to regularly exceed expectations, and the same scale is used for any other magistrate whose services is required nationwide. **Perform we must, perform we do, but given the volume of our caseload, case dockets e.tc, the scale keeps getting higher, and so does the expectation, therefore we need to do better, what we may be doing well. Magistrates need to improve our performance, to meet rising societal expectations, and case management is the major key, to unlock the door of improved performance.**

From research, the use of case management, has been shown to improve performance, and to be candid, a lot of our colleagues who are, excelling and exceeding expectations, in their various jurisdictions, are seen to be using case management tools, to improve their performance and also exceed expectations. On the other hand, the major obstruction, to the performance of Magistrates is “delay”. All forms of delay. To be candid, even though there are circumstances, where delay may have something to do, with the activities or inactivity of court staff, yet most times “Delay” has nothing to do with the Magistrate, yet it ultimately determines the performance, or lack of performance of a Magistrate. We however can exceed expectations, through Self Evaluation, sheer determination, and commitment to case management principles to meet the rising call of duty.

### **JUDICIAL PERFORMANCE (performance of a Magistrate)**

It was proposed, that judicial behavior is best understood, as a function of the incentives and constraints that particular legal systems place on their (judges) or Magistrates. .. An immediate and important implication, of the approach is that, judicial behavior is likely to differ across national legal systems, and indeed within a nation's legal systems, to the extent that components of the system, (such as the different jurisdictions in the United States) differ in the incentives and constraints that they impose on (judges) or Magistrates... Another is that, the criteria of judicial performance, are relative to the incentives and constraints that determine judicial behavior. [9]

### **THE ABC OF PERFORMANCE \* [10]**

I coined the phrase “ABC of Performance” simply to illustrate and emphasize the fact that, performance and case management rests squarely, on the shoulders of the Presiding officer of the court and without any shadow of doubt, the person responsible for performance as well as case management in the Magistrate Court is the Magistrate. I have adapted the required responsibility of, and for, performance and case management, in ABC terms for reflection and easy computation and recollection as follows:

A: Attitude, Application and Accountability

B: Balanced Behavior (Reputation and mutual Respect)

## C: Commitment and Competence -

ABC OF PERFORMANCE – The (A) Attitude, (B) Behavior and (C) Commitment of the individual Magistrate, to Case Management will go a long way to determine whether applicable provisions, dictating or mandating Case Management are complied with, in his / her court. It is obvious from the caseload, volume and value dates that, the commitment of the Presiding Magistrate is essential, to ensure that the case management principles, tools and techniques applied, achieve the purpose for which they were set up. It is worthy to note that, the case management tools, principles and techniques will remain a mirage, unless the presiding magistrate

- a) Actively draws attention to them, when they are being ignored by parties,
  - b) Meticulously applies and enforces them in all applicable cases and also
  - c) Ensures that other court users and court staff comply with the provisions that are applicable to each one of them.
- i the **Attitude / Responsibility** of the presiding magistrate and his or her ability to display such responsibility, through meticulous **application** of case management provisions whenever necessary, (Performance) for accurate **accountability** of the cases assigned to him, by maintaining adequate records, preventing delay / not permitting delay tactics and ensuring compliance with stipulated timelines, Time Tables etc. (in effect not allowing cases assigned to him to be forgotten, abandoned or unduly delayed)
  - ii the **balanced behavior** of the presiding magistrate, which is not dependent on extraneous factors, but on principles and dictates of law and procedure which culminates into, his or her **reputation**, which ultimately determines, how court users respond in his or her court and of course
  - iii the **COMMITMENT** of the Magistrate to applying case management provisions / principles which will result in the display of undisputed and indisputable **COMPETENCE** in managing the cases assigned, as well as the undeniable record of cases disposed of.

From my little experience [B] \* And in my humble opinion, in essence with all hands on deck, it will be possible to ensure compliance with the ABC of Performance, i.e. ATTITUDE / ACCOUNTABILITY, BALANCED BEHAVIOUR AND COMMITMENT / COMPETENCE by individual Magistrates.

YWs / YHs We need to establish personal accountability, alongside the official accountability mechanism, mandated to be complied with, by individual State JSC (Judicial service commission). In Lagos State it is essential and compulsory, for Magistrates appointed in Lagos state, to submit Monthly Return of cases disposed of. It provides necessary Data for work done, and location of defendants in criminal matters, essentially a record of all matters disposed of monthly. Though only required to submit the returns of cases disposed of, you and I know there's much more done yet not concluded, that's where case management principles come in, to ensure there is continuity, and that the matter makes the required progress, to keep within the

time lines and time frames. Therefore for proper accountability, each magistrate can have your own, personal returns of cases currently being handled, especially the urgent cases, or cases where the defendant is in custody. This will aid in ensuring that cases do not become forgotten or lost in transit. It will also ensure that, stipulated Time Lines and Time-Frames, are strictly adhered to and complied with, to ensure effective case management.

YWs / YHs let reality be the teacher, learn to respond rather than react, evaluate how your work ethics and work style, influences or determines the way counsel, litigants and your staff respond to you. Magistrates are to give court users, the same respect we expect from them, then if they don't reciprocate, but chose to behave in a contemptible manner, the issue of contempt of court may then arise, always as a last resort.

It's very important for an individual Magistrate to know, his / her personal level of competence, so as to be determined, to improve on it, being accountable not only to the Authority, but first and foremost to oneself. (\*Ask yourself self-evaluation questions)

Begin to actively think about your ways i.e. your accountability, whether or not your behavior is balanced and your level of competence, which will be displayed by your commitment to, performance and case management. Your accountability, behavior and competence in effect, your commitment to performance and case management, is revealed in regard to your workload, and the people associated with it i.e. your staff, litigants, other members of the public and Counsel. Believe it or not, everyone is watching you, your seat is not just high up for nothing. It is obvious everything you say and do is being scrutinized by the watching public especially your performance, which Your Case Management skills, or lack of it will make the "talk of the town".

## **BEHAVIOUR OF THE PRESIDING MAGISTRATE - DISPLAYING MUTUAL RESPECT.**

The Reputation of the Presiding Magistrate, can have either a positive or negative impact, on Case flow management. The court users who may have had a different opinion, about the Magistrate Court generally, before attending that particular court, will get the correct impression and perspective, of that particular court, once they appear before the particular Magistrate court. Therefore your worships and your honors, what impression do you give the court users, about your policy on case management, or better still, what experience do the court users have, about your case management techniques, as well as people management skills? How do you treat people?

## **COMMITMENT AND COMPETENCE -**

One of the major goals of every magistrate, must be to expand and improve, our overall knowledge and Performance, by remaining committed to excellence, and constantly sharpening our professional skills, to enable us do Justice according to law, wherever we are posted. Learning causes a change in behavior, when we are determined, never to stop learning, we never do. Instead, we keep on improving, exceeding expectations. YWs / YHs good, becomes better, and better becomes best.

## **BALANCE -**

There must be a balance among the people, or rather the court staff, because they are all working with, or alongside the magistrate, and it is important that they are all exposed to certain procedural principles, so that everybody will know what to do, to ensure that there will be a seamless transition, and a seamless synergy, in the court process. Balance in these circumstances means, they must be able to compensate for, individuals inadequacy, inexperience or experience, so that the court staff, complement or cover each other, accordingly they must be able to work in a manner that will cover or complement each other. There really must be a balance, ABC, of performance.

## **THE NEED FOR CASE MANAGEMENT METHODS OR STRATEGIES**

### **1. Peculiarity of cases.**

The need for case Management methods is so paramount because, cases differ substantially, in the time required, for a fair and timely disposition, not all cases make the same demands, upon judicial system resources. Thus, they need not be subjected, to the same processing requirements. Some cases can be disposed of expeditiously, with little or no discovery, and few intermediate events. Others require extensive court supervision over expert witnesses, and settlement negotiations. The early case screening that a District Prosecutor system promotes, also enables a court to prioritize cases for disposition, based on other factors such as prosecutorial priorities, age or physical condition, of the parties or witnesses, or local public policy issues.

No case management strategy, has been demonstrated to be superior, as long as it permits a jurisdiction, to distinguish the amount of preparation, and judicial intervention needed, to resolve each case fairly and expeditiously, that the key word, EXPEDITIOUSLY.

### **2. TO CLEAR THE BACKLOG OF CASES:**

(SEE PROPOSED INNOVATIONS / RECOMMENDATIONS)

### **3. TO DECONGEST THE PRISONS**

### **4. TO EDUCATE THE SOCIETY / FEEDBACK (sensitization of the society on critical issues and legal implications (e.g. cultism, internet fraud etc).....the nature of cases coming to the court and how the judgment of the court has, generally helped to reduce the reoccurrence of such cases.**

## 5 MEASURING TIMELINESS AND THE WORK OF THE COURTS:

The work of the courts, revolves around resolving, issues of freedom and fairness. Whether it is a criminal case, which may result in loss of liberty, or a dissolution of marriage case in which parenting time will be determined, each case before the court, is of extraordinary importance to the people involved in it. But the courts are not only responsible for, achieving a just resolution for the individuals, involved in the cases before them, each court must also operate within the expectations, resources and standards of the community in which it is located. As a result, courts must strive to balance fairness and justice, with access and timeliness. Given these competing ideals, **setting strict timelines for the resolution of all cases, regardless of location or resources, seems a particularly arbitrary and inadequate means, for assessing whether a (judge) Magistrate, the bench or the organization as a whole, is appropriately addressing the needs of each case. At the same time, it cannot be overlooked, that the Bench is accountable, to the public for hearing and resolving their disputes, in as timely a manner as possible.** [11] (highlight / emphasis mine regardless of case dockets?)

### a) **Prevent / minimize Delay**

YWs / YHs if we understand the root cause of a problem, or a challenging situation, we will eventually locate, or create the necessary solution, and solve the problem, which is why I intend to refer to, a thoroughly well researched submission, on the Reasons / causes of delay, to enable us be on our guard and identify from a distance when parties, their counsel, prosecutors or even court staff, attempt to pull a piece of wool over our eyes, or when as the court, you could be responsible, for possible delay, for want of application or compliance with, appropriate case management techniques or provisions .

### REASONS / CAUSES OF TRIAL DELAYS\* [12]

Delays caused by Counsel,

Delays caused by litigants and Witnesses,

Delays caused by the Court (staff),

Delays caused by other stakeholders,

### **Popular perceptions of “court delay”**

The assumptions widely held amongst litigants, lawyers and researchers – tend to see delay as essentially a failure of the judicial system or, more specifically, the Magistrate and

administrators who manage it. **Too often research focuses narrowly on court behavior as the sole cause of delay.\*[13]**

The clear indication of the effect of case management in civil matters is that, it ultimately affects the economy, business organizations, international transactions, foreign investments and the reputation of the nation in general. The fact that in some countries, case management has reduced, or virtually wiped out, the caseload of some of their courts, and decongested some prisons, **for instance The Netherlands\*** that now has empty prisons, in comparison to other nations whose prisons and correctional centers are congested, the world is watching.

It is obvious YWs / YHs that the use of case management, will not only improve our performance as magistrates alone, it will enhance national security, improve business acumen, and also elevate the reputation of our nation, in the eyes of the international community, eager to do Business with our citizens, to say the least.

### **Exposing and Measuring the Invisible Determinants of Case Disposition Time**

Measuring Delay – Analyzing Existing Methodologies and Results

Understanding and accurately accounting for, the causes and consequences of delay is vital, if policy reforms are to promote greater access to justice, **(through adequate case management strategy-emphasis mine)**. Delay threatens the effective operation of the judicial system, and can impose additional stress for litigants, victims and witnesses and, in the criminal context, may interfere with the rights of the accused, to have the charges against them speedily determined. Any perception of cumbersome court processes, may deter citizens with legitimate legal problems, from entering and using the system.

There is evidence that delay can have broader social implications, with one recent study suggesting a **correlation between longer criminal trial duration and a spike in crime rates[14]**. Finally increases in delay go hand-in-hand with spiraling court costs, with **litigation becoming more expensive the more it is extended.**

#### **(highlight / emphasis mine-consider case management from different lawyers perspective-**

**\***(a) unconfirmed story of a new wig who disposed of an old case only to be told by his father an old lawyer that his fees were paid from the proceeds from that old case.

These costs are borne not only by individual litigants, but also by taxpayers, who carry the burden of inefficient legal aid (E.g. New Zealand Bill of Rights Act 1990 No 109, s 23(3).

(b) In 2009 the NZ Attorney-General said defended civil cases in the District Court had halved over the past decade, partly because **lawyers were routinely discouraging clients from filing claims due to excessive delay: [15] emphasis mine)** *This delay-induced cost expansion can distort the meritocratic ideals upon which the legal system is founded. ‘Undue delay’, however defined, leads to increased costs in a way that ‘works for the benefit of the man with the longest purse’ (Storey 1912:4), as it allows the wealthier party to force the opposing party into early*

*settlement or abandonment of legal action altogether (Galanter 1974). Explaining and, where possible, reducing delay is a priority if not precondition for the effective operation of the judicial system and research has a vital role to play in mitigating its negative impacts. But does previous research provide a reliable foundation for current and future policy formation? Understanding the Scope and Nature of Delay* - That courts are riddled with, unreasonable and detrimental delay, is something rarely questioned by the public, lawyers or policy makers. Delay is expected. The old adage “justice delayed is justice denied” has been a stick wielded against legal systems, at least since clause 40 of Magna Carta proclaimed: ‘To no one will we sell, to no one will we refuse or delay, right or justice.’ **Over a century ago, Pound (1906: 24-25) optimistically looked forward to when ‘...our courts will be swift and certain agents of justice’ while Storey (1912: 21-2) argued that of ‘the real evils which beset the administration of justice ... first among them is “the law’s delay”’(emphasis mine) (Observation: Their 1912 and 1974 research are still very relevant in present day Nigeria)**

Such concerns continue to preoccupy the public imagination as seen in a 2009 survey in New Zealand showing that only 23% of respondents believed a case would be completed “within a reasonable amount of time” if they went to court, a finding mirrored in other jurisdictions. For example, a 1999 survey of Americans showed that 78 percent agreed with the statement, “It takes too long for courts to do their jobs” (ABA 1998-1999).

Part of the problem is defining the concept of ‘delay’: how long should it take to resolve a dispute in court?

**A dispute is a dynamic unpredictable human phenomenon that can travel in numerous directions:** through legal proceedings apparently complex cases will crystallize into simple disputes, while simple straightforward claims over small sums can explode in legal complexity (Economides, 1980). Moreover, party interests and objectives may change, and the appetite for confrontation may itself wax or wane. ‘Delay’, not unlike the concept of ‘unmet legal need’ (cf Marks 1976; Lewis 1973), is best seen as a highly subjective and normative product of stakeholders in the justice system. **The advantages that delay offers, for parties and institutions, in deferring decisions are often overlooked.** Litigants view delay differently: a party seeking to alter the legal status quo – a plaintiff chasing a debt, or seeking compensation – may desire rapid resolution, while a party resisting the claim – a defendant seeking to retain title, or a parent wishing to retain custody of their child, or the accused hoping to avoid prison – may **all actively seek procrastination that maintains current conditions** (Genn 2010: 111). While one party may express frustration at the other’s ‘delay tactics’ – voluminous discovery requests, interlocutory applications, and other time-consuming legal maneuvers – another party may defend such tactics as appropriate zealous representation. Delay may also be entirely justifiable, even desirable, within an adversarial system.

As Storey notes (1912: 26), ‘... delay is extremely useful.’ **Factually or legally complex cases demand more extensive preparation and deliberation than simple cases, and inevitably absorb more time. However, some sources of delay are more suspect: ill prepared lawyers**

**seeking unnecessary adjournments; overloaded court facilities that are overbooked, causing postponed trials; defendants with hopeless cases striving improperly to fend off the inevitable. To combat such tactics we favor a much broader notion of the ‘duty to the court’.**

For example in **Victoria, Australia legal practitioners and all parties** – including those involved in satellite litigation, insurers and third party litigation funders –**have ‘overarching obligations’ to the court which take the form of “10 commandments”, e.g. “To use reasonable endeavors in connection with the civil proceeding to – act promptly; and minimize delay”.**

### **Factors Influencing Case Duration: [17]**

Hypotheses Previous studies on court processing time, overlook the external environmental context of litigation, favoring instead factors internal to court administration. We therefore propose a more comprehensive set of hypotheses, to explain the full range of factors, likely to influence, if not cause, court delay. Judicial Structures and Resourcing Judicial resources, may not be quite as significant as first appears. Although it seems intuitive, that increasing numbers of judges and courtrooms, inevitably produces faster case processing (Zeisel 1959), research by Church (1982) suggests otherwise, and judicial shortages need not impact on delay. **Relevant factors may include:**

**The Number of Judges (Magistrates):** [18] the availability and allocation of human (judicial) resources may affect the capacity of courts to process disputes. The most obvious of these is the number of judges (**Magistrates**) (**emphasis mine**) available, to resolve disputes relative to, the number of cases (caseload per judge). The correlation between judicial caseload, and case duration need be neither direct nor linear. Indeed, some research indicates an inverse relationship, between the number of judges and judicial productivity (Beenstock 2001; Beenstock and Haitovsky 2004). However, any drop in individual productivity, may be compensated by systemic gains in output.

**The Availability of Courtrooms:** A trial can progress only if courtrooms are available, to hear the matter. Anecdotal evidence suggests that timetabling and shortages of courtrooms, can cause substantial delays. While increasing investment in court infrastructure, - the number of court buildings or court rooms within buildings and support staff, – should produce efficiency, this will not automatically be the result, though [19] Often the remedial measures required to deal with this problem, such as ‘double-booking’ courtrooms in the hope that one case may settle, or that where infrastructure falls below a certain threshold, a detrimental impact on case duration will occur.

**Allocation of Judicial Resources:** The allocation of judicial resources, within the judicial system, may impact upon case duration. For example, the number of courtrooms may be less important, than the geographic distribution of courthouses, to ensure that they are located in regional or rural centers, with a sufficiently high caseload density (Calvez 2006). Similarly, a

heavy concentration of judicial resources on criminal cases, may reduce or even displace, resources available for civil litigation. For this reason, geographic research using location-allocation models, has been used to determine the optimum sites for court buildings (Thomas, Robson and Nutter 1979). General Court Infrastructure: The effectiveness with which judicial resources can be deployed, to quickly resolve disputes, may depend upon more general court infrastructure (Mafording and Eyland 2010), including the availability of sufficient numbers of well-trained support and administrative staff. [20] Similarly, the availability and utilization of well-resourced IT systems may increase judicial productivity by allowing faster research and judgment production. Further, the availability and utilization of technological innovations, including video-conferencing and electronic submissions, may expedite trials.

### Organizational Structures

A second broad category of factors, that can influence case duration, concerns institutional practices (both judicial and administrative) of the court. These practices, control the way in which, court structures are organized, cases are managed, and the time of judges utilized. Given that such practices present an opportunity to affect visible (if not effective) change, they are commonly, the focus of reform initiatives. Unfortunately such reforms are, rarely based on sound empirical findings, nor are they commonly, subsequently studied to assess their impact. While the impact of these practices, seems to have been overplayed, there remains clear potential, for these institutional practices, to impact upon the duration of cases.

Such factors include: Case-Management methodology.

**The rapid and expanding adoption of judicial case management techniques over the last thirty years has largely been justified in terms of reducing delay.** (highlight / emphasis mine)

While the impact of these reforms on duration, cost and quality of resolution remain under-researched, the clear potential for such impact makes this an important factor to analyze.

<http://www.stuff.co.nz/national/6073112/Quake-risk-could-closepublic-buildings>

### Alternative Resolution Methods:

A closely related reform in the common law world, has been the rapid expansion, particularly since the 1980's, of ADR mechanisms. Increasingly, courts have, in the interests of more quickly resolving disputes, actively engaged with these alternative mechanisms, either by sanctioning or mandating, parallel alternative dispute resolution. **The availability and utilization of such mechanisms, may lessen judicial workload, and the demand for formal adjudication in court, though again the impact on case duration is not always clear.** (Highlight / emphasis mine) For example, a mandatory mediation that fails, may act only to increase the cost and duration of the dispute.

### **Decision-Making Requirements:**

The willingness of Judges (Magistrates emphasis mine) to deliver ex tempore decisions, rather than reserving judgment to provide written opinions, can affect the duration.

### **Judicial Specialization:**

The use of specialized courts and judges (magistrates) as well as workload allocation practices can impact upon duration. The creation of specialist ‘streams’ allows **judicial expertise** to increase speed, volume and efficacy of dispute resolution, for example, divorce litigation is fastest where judges primarily handle contested divorce trials, leaving other work to quasi-judicial staff (Goerdts 1992). This will impact well in our jurisdiction as can be seen from the family court example.

### **Judicial Training and Competence:**

The age and experience of the judge (magistrate) can also be a factor, with more experienced, competent, or better-trained judges (magistrates) able to reach decisions more speedily. Judicial independence and accountability may cause controversy.

### **Extra-Curial Judicial Activities:**

The way in which judges (magistrates) manage time and work-life balance, is likely to have an impact on the duration of cases. For example, at least one European study noted, delay caused by judges’ participation in extra-judicial activities such as, crime prevention advisory committees (Calvez 2006).

### **COURT ATTITUDE / BEHAVIOUR** – see my Types of Magistrates & ABC of Performance\*

Court attitudes and behavior is another broad category of factors influencing case length, within an overall culture of adversarialism concerns, embedded attitudes and behaviors amongst judges, (magistrates) lawyers, litigants and defendants. Church, for example, argues that a trial court’s speed in processing cases, and its backlog of unresolved cases, is determined in large part by, “local legal culture,” which he described as “the established expectations, practices, and informal rules and behavior of 17 judges and lawyers” (Church 1978:54; Blacksell et al. 1991: 12-13). Although this concept of ‘local legal culture’ has been criticized as uninformative and vague, (Grossman 1981), subsequent studies consistently attribute some degree of delay, to individual and collective behaviors. This culture is developed over time by lawyers, judges and court officials, through such means as listing practices, the degree of flexibility that can be tolerated, when meeting and honoring deadlines, and participants’ (including judicial, lawyer and litigant) expectations, of what is fair and reasonable.

### **Judicial Behavior:**

Empirical research shows how dominant, judicial culture impacts on both the, behavior and conduct of judges (magistrates emphasis mine), and the length of proceedings (Sipes 1988:53-54). The degree of managerial and legal competence of judges, (magistrates emphasis mine) involved in the conduct of a trial can reflect several factors, including: length of service, geographical location, specialist knowledge of relevant legal fields, broad judicial culture and collegiality, and administrative aptitude or familiarity, with the context of the dispute, that forms the background to the trial.

### **Lawyer Behavior:**

Sipes' research noted that most judges interviewed agreed that trial length varied, at least somewhat, by lawyer preparation, knowledge, and skill (Sipes 1988:57). Another key factor that can lengthen or shorten trials, is lawyer behavior and tactics. Lawyers both influence and respond, to external social and economic forces, with considerations of the local legal culture, and personal incentives mechanisms, influencing choices lawyers make, thereby affecting case processing time. And interestingly, law school culture may be a contributory factor in lawyer procrastination (Acorn and Buttuls, 2013). (prepared new wig in my court)

### **Litigant Behavior:**

Finally, the behavior of the litigants, may impact on case duration. Although delay typically poses a costly burden on those involved in litigation, delay tactics may be strategically employed, as when a deep-pocketed corporate defendant prolongs discovery, hoping to financially overwhelm and intimidate, a smaller opponent into settling by "burying them in paper." A criminal defendant who is free on bail, may have little incentive to get to a speedy trial [21] *Who the parties are will also be relevant: children and vulnerable witnesses may take up greater time and resources, while classifying the parties as a 'repeat player' or 'one-shooter' makes a difference, in terms of how well they can play the system.* Dispute and Legal Complexity, factual or legal complexity, is likely to impact on duration of disputes coming to court. Much litigation is reactive in nature and **lower courts cannot easily control, the complexity of the cases, coming before them. Nevertheless, courts can respond in an efficient and proactive manner. (highlight / emphasis mine)** Many jurisdictions recognize the delay-inducing complications, inherent in complex civil cases, and seek to address these problems, by adopting differential case management techniques.

*Furthermore, courts are both dispute-resolvers and norm-creators, (emphasis mine) with judicial decisions of superior courts altering the legal landscape in a way that can actively reduce legal complexity. Combined with the regulatory power of courts to set and alter Rules of Court, (emphasis mine) various measures to reduce complexity and delay may be adopted, including:*

**Legal Complexity:** The content and clarity of the substantive law itself can play a crucial role in determining the length of trials. The degree of legal complexity will reflect the complexity of relevant legislation and case-law: **ambiguous rules may prolong litigation while clear legal rules may promote settlement. (highlight/emphasis mine)** Moreover the legal complexity of the case may reflect the nature and number of legal issues raised by the parties. Some 21 Existing research supports this supposition, showing that **criminal cases progress more quickly when the defendant is not free on bail:(highlight/emphasis mine)** Luskin & Luskin 1987 22 While case management techniques offer a common-sense approach to managing case complexity, more research is needed on the effectiveness of case management:

*(Steelman 1997. 19 research has identified a positive correlation between the number of charges a defendant faces and the length of a case (Sipes 1988; Luskin & Luskin 1987; Chan & Barnes 1995), though the literature is more mixed about whether the seriousness of a crime charged (the type of crime) or the type of civil case play a major factor in the speed of case processing (Garner 1987; Church 1978). While it may be hard to measure, legal complexity clearly remains a critical factor affecting duration.)*

**Factual Complexity:** because of the sheer time involved in processing and presenting such material.

**Technical Complexity:** This concerns the procedural and evidential norms, that govern the conduct of the proceedings generally and the trial specifically, including the number of witnesses, expert witnesses and exhibits. All of these factors have potential bearing, on how long the court takes to reach a decision. **Environmental Factors may fall outside the control of the courts, yet still determine what happens inside them.** The assessment of these factors in most empirical research is at best underdeveloped and in most cases absent. These ‘environmental’ or ‘macro and micro socioeconomic’ issues, would seem to have a significant indirect impact, upon litigant behavior, and therefore potentially contribute to delay. Such factors include:

#### **Human Factors:**

**The health/illness of participants,** demographic considerations, and ethnic and cultural factors are likely to affect proceeding duration. For example, 20 language barriers may exist in areas with a large portion of individuals whose **mother tongue is not the same as the language used in courts.** Similarly, **different ethnic groups may have different attitudes towards the law and use courts more or less frequently as a dispute settlement mechanism.** The way in which a system responds to ‘delay’ caused by such considerations will have a profound effect on the way in which the final resolution is received by the participants. **Such factors may slow down proceedings, yet managed well, they have the potential, to lead to more effective**

**resolutions.** (Emphasis mine) While it may be difficult, to gather personal information, about the circumstances of participants, there would seem to be, a causal link with the duration of proceedings.

**Natural Factors:** Though such factors are likely to be rare, their disruptive effect can be significant. However, the ‘one-off’ nature of such events means that, while they should be noted by researchers, they are unlikely to aid in identifying undue delay.

**Socio-Economic Factors:** Finally, broad ‘economic’ factors external to the legal system can affect the volume, duration and kind of case coming to court. Factors such as global, regional and national levels of commercial activity at a time of boom, or bankruptcy proceedings, employment disputes and debt collection at a time of recession, may impact on both the propensity to sue and the capacity of courts to process legal claims. **There is empirical evidence that suggests a degree of interrelatedness between economic development of a country and the operation of the legal system (Aldashev 2009; Messick 1999),** though it is unclear what the precise causal relationship is (Klick 2010).<sup>23</sup> These economic factors should also account for subnational regional differences in the socio-economic structure. It is likely that higher national or regional income levels may indicate more resources available in society that can be used for engaging in legal disputes. Along similar lines, the health and social expenditures in a geographic area, where a court is located, are likely to affect the demand for legal services overall, but also the type of legal service used.

IT IS THEREFORE SETTLED THAT CASE MANAGEMENT IS FROM THE BEGINNING TO THE END OF THE CASE. BEFORE THE CASE COMES TO COURT, FROM ITS ARRIVAL IN COURT, DURING PROCEEDINGS AND UNTIL DISPOSAL OF THE CASE.

PRE-COURT /COURT- CASE MANAGEMENT FACILITIES/ TECHNIQUES/TOOLS

CASE MANAGEMENT TOOLS THAT ARE AVAILABLE EVEN BEFORE THE CASE IS FILED IN COURT (PRE-COURT)

#### **POLICE DUTY SOLICITOR SCHEME –**

“PDSS was part of a package of interventions designed by Justice Initiative and LACON with a view to reducing the number of pre-trial detainees and the duration of pre-trial detention. The other interventions included judicial practice directions to limit the duration of pre-trial detention and criminal justice information software (CRIMSYS) designed to monitor the movement of case files through the department of public prosecutions. Initiated under a partnership between Justice initiative, Nigeria Police and LACON, PDSS was conceived to train and deploy young lawyers on compulsory national service with LACON to identified police stations across four

states – Kaduna, Imo, Ondo and Sokoto to provide legal aid and assistance to indigent suspects within the first 48 hours of arrest. In 2006, the leadership of the Nigeria Police Force (NPF) (as they were then known..emphasis mine) agreed to anchor the scheme on a memorandum of understanding, signed by the leaders of the three partner institutions” The rest is history or current as the case may be, since it is now a thriving initiative available in many states nationwide”. [22]

**In Lagos State the PDSC is a pro-bono service provided by lawyers nominated by the NBA but in the U.K. the lawyers are paid for the service. They report to police stations across Lagos State and some other states of the federation, and it is also spreading to other states. The service was launched in Ogun state on the 23<sup>rd</sup> of April 2021 by the Governor who stated that “the lawyers assigned cases would be monitored ....with a view to concluding them swiftly and effectively” now that’s case management ever before the case comes to the court. The report stated that “ a lawyer would be on duty at every police station in the state ....to make sure no one is unnecessarily detained ....whoever is entitled to bail secures one, and also make sure the process of statement taking is actually legitimate”**

- 1. Accordingly, this way lawyer’s advice the police, and it ultimately reduces the issue of “trial within trial” since there is no issue that the defendant, did not have a lawyer at the police station, and also no issue about the process of, his confessional statement being taken, since his lawyer was present. That in itself, will greatly reduce case disposal time, since trials will now be faster. That’s case management before the case came to court. The Magistrate simply needs to check the file, and all the statements to observe that the defendant’s counsel, was present at the police station, to be sure that the duration of the case, can be planned and agreed upon, and possibly mediation, plea bargaining etc are also options that will make the disposal of the case faster.**

In Lagos State and in many other states now, the POLICE DUTY SOLICITOR SCHEME has been set up in many police stations in many cities including FCT, Ogun State, Edo State, Anambra State, Kano State and Yola, in Adamawa State. Volunteer lawyers including Learned Silks attend Police Stations, not only protecting the constitutional rights of suspects, but where necessary diverting suspects from the criminal justice system, thereby resulting in court decongestion, and prison decongestion, albeit providing a core solution, to ameliorate the negative impact, of pre-trial detention, in the criminal justice system. This is a very welcome development for obvious reasons.

- 1 They provide the suspect with a pro bono lawyer
- 2 Ensure that his statement is taken in the presence of a lawyer
- 3 Which prevents the need for delay e.g. “Trial within Trial” later on
- 4 Ensure the constitutional rights of the suspect are not violated
- 5 Access to ADR at the Police Station
- 6 Possibility of diverting the suspect from the court system
- 7 Reduction of incidence of awaiting trial inmates

- 8 Prevention of further congestion of correctional facilities
- 9 Result in ultimate Decongestion of Correctional facilities

### **MONTHLY VISITATION OF POLICE STATIONS BY CHIEF MAGISTRATES.**

Another Pre-Court case management facility (which also improves the performance of magistrates.)

In Lagos State, Chief Magistrates\*[23] are assigned to visit designated police stations, on a monthly basis, simply to check the suspects in the police cells, and ensure they are not detained unnecessarily, but promptly charged to court. This has been going on for some time now, the police bring out their books, and also open up their holding cells for inspection, and discuss any knotty issues with the visiting Chief Magistrate sometimes in company of volunteer lawyers. “Volunteers must remain neutral when carrying out their responsibilities”\*[24]\* He commented on the necessary neutrality of volunteer group of lawyers who accompany magistrates to their monthly visits to police stations. This is definitely in the best interest of justice, since Magistrates enforce the law, and ensure that even before getting to court, people’s rights, emphatically the rights of, Nigerian citizens\*[25] are protected. Also during visitation of the Police Station by Magistrates, the supervisory work is done in the Police Station by the Magistrate, without any government infrastructure that can cause delay.

There are various groups like the British council in association with other groups, NGO’s Lawyers and Law Firms, and some Government departments and even Attorney Generals of some states who are supporting the PDSS, DP etc. Many organizations are now involved in keeping records and data of cases in our courts. Therefore YWs/ YHs, Pre-Court case management done by both Magistrates and non Magistrates, as well as court based case management done by Magistrates, is no longer a private affair. There are sites you can log onto to see the stage of hearing, and whether the defendant is in custody. There is another organization that will tell you the history of the case, from when it was filed or charged to court until disposal, similar to the origin of case management, in American medical cases now adapted to court cases with obvious results. These are all innovations in 21<sup>st</sup> century case management in the Magistrate Court.

### **DPP FILTERING SYSTEM – DISTRICT PROSECUTOR SCHEME IN LAGOS STATE**

1. District Prosecutor scheme- This is available in Lagos state. Prosecutors from the office of the DPP are attached to court houses in various districts in the state and their job is to screen the police case files the police bring to court to see whether the cases are watery and will go nowhere and as such be sent back or not....What this will achieve is the prevention of filing of unnecessary criminal matters in court. Based on the comments of the HAG Lagos State at our webinar we observe a huge reduction in the cases charged to court but it doesn’t appear to reduce the work load or caseload of the Magistrates in any way because of the volume of cases in the back log.

State counsel are deployed to districts to filter the criminal cases / charges brought in by the police which ideally should have been done at the police station but most police stations nationwide do not have an O’C Legal in the Police station. The District Prosecutor checks the file, accesses the preliminary details in the file, to see if there is evidence supporting the defendant’s statement that sustains a criminal charge. It is just like a DPP legal advice but not as detailed. The District Prosecutor will note on the charge whether the suspect / defendant has a case to answer and send it to the CM Admin of the district for assignment to any court applicable within the district given the type of matter it is. The family court if under 18 etc.

If there is a case to answer, once the district prosecutor observes elements of the crime, not necessarily a sustainable case, but elements sufficient for the Dpp to allow the police to charge the case they will approve it.

This facility prevents indiscriminate arrests by the police, as well as helps prevent clogging of the courts, with cases that don’t get prosecuted, because like in many such cases, all the complainant wanted had been achieved (i.e. detention of the suspect...)

This facility ensures that, Lawyers can at least filter the cases, by perusing through the charge, before the cases are charged to court. If the defendant doesn’t have a case to answer, the district prosecutor may instruct the police to either

- take the suspect back and grant him police bail
- conduct further investigation into the matter
- or ask the police to simply hands off the case, if it is a civil case, based on the facts available in the file, having checked and confirmed from the preliminary details in the file.

This recent development in Lagos State can be duplicated nationwide, being applicable, and in the best interest of justice, and will definitely improve the performance of Magistrates. The welcome development of having a District Prosecutor assigned to every district, provided and mandated by the office of the DPP, under the auspices of the Hon A.G. to screen every case the police intends to file in court, either a charge sheet or an application to remand, and to check the file, the statements etc., to see whether the Magistrate court has jurisdiction and whether the case will only clog the system because of all the inadequacies, so that the police is better informed to either put their house in order, by getting all the statements or consider ADR is beneficial to all concerned.

## **JUSTICE CLOCK [26]**

The justice delivery process is being automated one state at a time. I discovered a tech platform that has started in Ogun State, through Justice Clock PRO, a tech platform that is actually a case management system, managing cases of people arrested, detained and going through the court system. The user friendly platform, is designed is to help improve the pace of Criminal Justice in Ogun state, by automating key time bound components of the administration of Criminal Justice

Law of Ogun State. This is development and YWs / YHs can invite them to your various states. The link is provided below for more information : [https://youtu.be/d\\_umUTYDtMQ](https://youtu.be/d_umUTYDtMQ)

There is also a similar platform in Lagos State known as LCIS.

### **LAGOS CRIMINAL INFORMATION SERVICE. [27]**

Lagos criminal information service (LCIS) has a platform where all the players in the criminal justice system (in Lagos State) can access data on Suspects or Defendants in remand, whatever stage in the criminal justice system. They started with auditing of suspects in custody since 2018, and they have records of 38,000 inmates, either convicted, undergoing trial or awaiting trial inmates. In addition (LCIS) has provided a platform to access information relating to Suspects, may be legal advice anticipated, or if the DPP's legal advice is out, what stage it is at, what stage the case is at the High Court, if it's already there. The essence is that with access to such crucial information the magistrate can then decide on what to do, based on the circumstances of the defendant. The LCIS also work with the office of the DPP to update the details and post the DPP legal advice on the platform, nevertheless the original legal advice of the DPP must still be forwarded to the court. If "Information" has been filed, they provide the details i.e. which specific court the defendant's case was assigned to in the High Court, so that the magistrate can make informed decisions before striking out the case.

YWs / YHs, this is laudable, because it is resulting in the much required synergy and progress, in the administration of criminal justice in Lagos Courts. On the 27<sup>th</sup> of April 2021, at the Interactive Webinar organized by the Magistrates Association of Nigeria, Lagos State Branch, for Magistrates in Lagos State, on Prison Decongestion / Jurisdiction of Magistrates, Hon. Justice A.J. Coker, Head, Criminal Division, High Court of Lagos State, stated clearly that once the Magistrate receives the DPP's legal advice and notice indicating that "Information" has been filed in the High court, the case should be struck out for lack of jurisdiction, but the Magistrate should do not sign a release warrant or warrant to produce but state in his / her ruling that - the defendant is now on remand by the High court, keeping accurate records just in case it is required later.

This is because there is usually a DPP legal advice, saying that information will be filed/or has been filed at the High Court, but the Magistrate didn't receive the details about the name of the Judge or the Division of the High court, whether Ikeja, Badagry etc, to know for sure, that the defendant is properly before the High court, before the case is struck out in our own court.

With this development, i.e. the existence of the LCIS, there will now be access, to vital details/ information, and the synergy will be much better. It's a welcome development and is a definite confirmation that it's the best thing to do in this season. It's obvious it will help us to be able to trace and locate suspects or defendants, identify those who are awaiting trial and also identify those who are already before a court of law.

YWs / YHs it's a new day now in Lagos State, as LCIS is spreading from Ikeja district to other districts in Lagos State. The good news is that, it can also spread to all the states in the Federation, and aid in our pursuit of effective case management, in the Magistrate Court nationwide, resulting in improving the performance of Magistrates across the federation.

This is a welcome development, for us in Lagos State and I will provide, the name and phone number of the people that provide us with this facility, so that your worships can take the information back to your own state, and call them up, to come and provide you with the same service. For the purpose of our colleagues nationwide the telephone details of LCIS staff Mr Musibau 0818 800 3322. For our colleagues from Lagos State, YHs the link is as provided. <https://magistrate.Lcis.com.ng> Please note that, it is only magistrates from the magisterial district. they have set up on the platform that will be able to login, so not all magistrates in lagos state have access to the facility yet, but it will soon be readily available as they are moving to our various districts.

### **OFFICIAL E-MAIL OF MAGISTRATES**

In addition YWs / YHs, we also have another facility in Lagos State, where Magistrates can get information to aid case management, resulting in improving our performance. It is little wonder that, both our Hon Chief Judge of Lagos State, as well as the Hon. Attorney General, have stated publicly that, Magistrates in Lagos state are performing excellently, and they are pleased with our performance... There's an official email platform for Magistrates in Lagos State. With this facility the office of the DPP can send Magistrates, copies of the legal advice, by email on our official email platform and obviously only the magistrate, the owner of the official email can access the information even before the original DPP legal advice gets to the court in confirmation of the electronic version earlier sent. This will obviously aid the magistrate to get everything ready and be prepared for the next stage depending on the advice and notification in the DPP legal advice.

Most times what we need is, the detail of the court where the information filed was assigned to. Magistrates also need to know if, the High Court granted bail to somebody that was remanded at the magistrate court. That information needs to be in the court's file therefore the synergy of multi-agencies involved in criminal matters is essential but we are getting there.

The access to information has resulted in a synergy which has really created a new day in managing criminal matters, helping to grossly improve case management in criminal matters. This really is the 21st century. The 21<sup>st</sup> century appears to have only just begun, where fast or prompt disposal of criminal matters are concerned, and I believe that with all hands on Deck, we will see a gross reduction in the number of defendants or Suspects in remand, gross reduction in the number of awaiting trial inmates, and "things" or rather the criminal Justice system will definitely get better.

## **BONDSMEN –**

NOW AVAILABLE IN OGUN STATE AND LAGOS STATE....

The essence of this awesome Court based, Case Management facility, which is key to preventing the incidence of, awaiting trial in-mates and also impacts on, ensuring defendants return to their home immediately after arraignment, without the need to find suitable sureties, which is usually very difficult for some category of defendants, grossly reducing the time magistrates spend, interviewing sureties and the time spent verifying addresses of sureties e.t.c. Another aspect is that, defendants will now be treated as they should be i.e. “innocent until proven guilty” because, they will no longer have to serve a non-existent prison term, by becoming an awaiting trial inmate, ever before their case is tried though through no fault of the court, having already granted bail.

## **WHO IS RESPONSIBLE FOR CASE MANAGEMENT IN MY COURT?**

I'd like to introduce you to the person responsible for Case Management IN YOUR COURT ROOM, YWs /YHs, WHO IS RESPONSIBLE FOR CASE MANAGEMENT ? IN YOUR COURT? – IS IT COUNSEL, COURT STAFF, LITIGANTS, MEMBERS OF THE PUBLIC OR THE MAGISTRATE? I want to bring you face to face with the person (s) responsible for case management in your own court. MEET THE PERSON RESPONSIBLE FOR CASE MANAGEMENT IN YOUR COURT ROOM. YOUR WORSHIPS / YOUR HONOURS. THE PERSON RESPONSIBLE FOR CASE MANAGEMENT IN YOUR COURT ROOM IS “THE MAGISTRATE”, YOU AND I.

YWs / YHs, I want to bring you face to face with **yourself**, the person responsible for case management in your own court. Look into the mirror called, Rules of Court, Practice Directions and applicable laws and you will see clearly, without any shadow of doubt, that we are all responsible for case management in our individual court rooms.

## **VISUALIZE A DIAGRAM WITH ALL THE ARROWS POINTING TO YOU “THE MAGISTRATE” STANDING IN THE MIDDLE –**

Without any shadow of doubt, Magistrates (Judicial Officers generally) are definitely responsible for, effective case management of cases, charged to court or filed in court. It is obvious that each sector of criminal justice, or civil justice has some level of case management, required which they are individually responsible for, e.g., the District Prosecutors, the Director of Public Prosecution, the Defendants Counsel, Court staff etc., but without any shadow of doubt, the department that has supervisory powers over every other sector, and who is responsible for

managing cases, from the day they are brought to court, till the disposal of the said case, is the court itself i.e. the Magistrate (or Judge as the case may be)

YWs / YHs, it is imperative that you imbibe, the ABC of performance which is a good aid to effective case management, which will work in any court, with minimum opposition by counsel, court users, or court staff, because it is simply an Authoritative magistrate, exercising his / her discretion, using the powers given to him / her, to do justice, which is open for all to see. What are the tools the Magistrate will use?

### **EFFECTIVE TOOLS / TECHNIQUES FOR CASE MANAGEMENT –**

There are notable applicable Tools for Case Management, which if meticulously applied to our court cases, will not only curb and prevent delay, it will result in a marked improvement, not only in the performance of Magistrates, but also in the public's access to justice. Some of them may be considered innovations, which proposed amended rules of court or practice directions will take care of.

- 1 **Technology is an effective tool for case management.** YWs / YHs, we need to develop our knowledge of technological gadgets and applications that aid case management. The use of technological gadgets, enable the court to do certain aspects of our work, that would have either been slow, difficult or impossible to do, and this really aids in getting the usually or unnecessarily complicated job done, not only easier, but also faster with the potential to achieve better results. It may appear daunting at first but YWs / YHs “practice, does make perfect”. The more you avail yourself of the opportunity to use technological equipment, the more comfortable you become with the gadgets, which generally become easier to use with time and practice.

Virtual hearing has come to stay, we have been having webinars, and access to other virtual trainings, it's obvious the intent is to give us sufficient practice, for impending virtual hearings in our Magistrate courts, sooner than later. Information has it that Bornu State has been having virtual hearings, for some time at the High Court level. I do not have information whether same has commenced in the Magistrate Courts in Bornu State\* (our colleagues here from Bornu State can confirm the position.) In the same vein, Lagos state also has commenced virtual hearings at the High Court, and I can confirm that their honours, Magistrates in Lagos State are gearing up for same, since the supply of technological instruments and equipment like T.V, Ear piece, Laptops to the Magistrates.

YWs / YHs, It is only a question of time, so please start learning to use technological equipment, devices and Apps that will aid case management. It is advisable to employ the services of a personal tutor if need be, just to be up to date and up to speed, since it goes without saying that it's your personal responsibility .

The use of technology (in Case Management), helps improve perceived personal efforts and performance and we can use technological gadgets, or technology itself to manage our cases. We are not oblivious of the fact that, technology will not only help us to work faster, work better, and be more efficient, the use of technology will also help us to do things, that wouldn't have been possible otherwise. For instance virtual hearings or video conferencing, talking to litigants who are not in the same location, and many other mind-boggling, time and money saving ideas and devices.\*

\*In Lagos state, during the lockdown in 2020, we had a webinar on the need for, technological advancement in the magistrate court. Apparently, we obviously took advantage of technology, to do our work, even during the lockdown. We were able to function, in preparation for Virtual Court sittings, and talking to each other virtually, during the webinar, provided us with very good practice, which helped us to develop skills to function during the lockdown. The MANLB webinars gave us opportunity to practice virtual sitting, TV conferencing and to develop our skills being a developing phenomenal. Might I add YWs / YHs that, you are currently undergoing this training, this course virtually, which speaks volumes

## **2 RULES OF COURT, PRACTICE DIRECTIONS AND MAGISTRATE COURT LAW**

Our Rules of Court, Magistrate Court Law and Practice Directions can be effective tools for case management in our courts, especially when the Rules of Court, Magistrate Court Law and Practice Directions contain clear un-ambiguous Case Management directives, which parties have to comply with, or be heavily sanctioned / penalized for non-compliance. We maximize our potentials as Magistrates, when implementation of our Rules of Court, Magistrate Court Law and Practice Directions result in notable development in our nation's jurisprudence as well as the citizen's access to justice.

However it is observed that most of our Magistrate Court rules, (civil or criminal procedure rules) were passed years ago, and some are now no longer applicable, nor suitable. There is therefore urgent need, for the inclusion of, specific adequate case management techniques and directives, in our rules of court.

Such amendments will empower Magistrates nationwide, to avail themselves of modern day case management tools and techniques, that will definitely improve their performance. Some provisions for case management, present in our high court rules include, Case Management Conference CMC, Frontloading, to mention a few, which would be beneficial if introduced in the Magistrate court. I am therefore making an URGENT APPEAL FOR AMMENDMENT OF THE MAGISTRATE COURT RULES to include some of these essential provisions:

### **Case Management Conference**

A major case management mechanism, in civil litigation in the High Court of Lagos State, is the Case Management Conference. It would bring about a huge change in the Magistrate courts nationwide, if this case management mechanism is introduced and implemented, due to the time saving device that it is, as well as the administrative acumen it gives the presiding officer. “CMC transforms the judge (Magistrate emphasis mine) from just an impartial arbiter, to a ‘managerial judge’ (Magistrate emphasis mine)” as well as a mediator qua conciliator of sorts between the parties, as the court is to actively promote amicable settlement between parties. The CMC Judge (Magistrate emphasis mine) is given the powers to actively manage and control the course of proceedings, in the event of trial”.\*[28]

Case conferencing is a very vital tool of Case Management - it's a very good initiative, the issues between the parties are identified early, and alternative dispute resolution is applied, resulting most times in parties agreeing, and filing signed terms of settlement. However Case Conferencing is not in our Magistrate Court Rules, (I am not aware of this provision in the Rules of any magistrate court nationwide) though it is in the Family Court Rules, and it is practiced at the High Court (including the Family Courts in both the High Court and the Magistrate court) and is essential to reproduce same in the Magistrate court.

### **FRONTLOADING**

“Frontloading has simplified the system of litigation in Lagos State and also eliminated the springing of surprises, which hitherto characterized litigation since parties are required by the rules to lay all their cards on the table” “It has also served as a built-in filter to detect and screen out frivolous suits, thus allowing the courts to concentrate their energy on litigants with genuine complaints” \*[29]

The learned Silk\* stated on page 12 of his speech as follows “Successes recorded in Lagos State in this regard were subsequently emulated by other jurisdictions and divisions in Nigeria, and today, there is no High court in Nigeria that has not incorporated frontloading into its Civil Procedure Rules”

That was the position in the High Court, and this brings to light the successes also recorded in Lagos State, when frontloading was introduced in civil matters in the Magistrate court. It has

evidently been an effective case management tool, in the hands of Magistrates, and one can only wonder the effect if perhaps, the rules are amended to introduce frontloading in criminal matters, at least to greatly reduce the number of awaiting trial inmates, which will be evidence of effective case management of criminal matters, and a huge improvement, in the performance of magistrates nationwide.

In *Olaniyan v Oyewole*\*[30] the Court of appeal stated the philosophy behind frontloading procedure as follows “

“The philosophy behind frontloading procedure is to quicken the dispensation of justice, and Judges of the High court, where such procedure is adopted, are no longer adjudicators and/or umpires or interested in the trial of disputes in the court room only, but have become managerial Judges, who must effectually utilize the technique and tool of case management and judicial control. to achieve / facilitate just, efficient and speedy dispensation of justice”

Ogunwumiju JCA (as she then was) held in *Olaniyan v Oyewole* (supra)

In introducing the front loading system, that is the upfront filing of all documents to be used at trial, the intention of the maker of the rules of court, is to ensure that only serious and committed litigants, with prima facie good cases and witnesses to back up their claims, would come to court and fewer lame duck claims, would find their way into court”

ON RULES - CHALLENGE: “It would seem that most courts are not as actively involved as the rules envisage”\*31 \*

YWs / YHs, in my opinion, the much desired synergy is required because, a law is only as good as its implementation; which depends on knowledge and sheer commitment to achieving and enforcing its goals, which is apparently displayed as competence, by an Authoritative, Meticulous and Consistent Magistrate\* (which every Magistrate should be). YWs / YHs, unfortunately regardless of the available clear and unambiguous provisions available in some existing Laws, Rules of Court and Practice Directions, we still have this situation, where albeit for many additional reasons, an overwhelming caseload is the lot of Magistrates nationwide.

It goes without saying that, we need to use what we have, to get what we want. If what we want, is to use case management to improve our performance, then Magistrates nationwide, need to be pro-active in ensuring compliance, with the few available case management provisions, in our Rules of Court, Practice Directions and our State Laws. This will not only reflect positively on the individual Magistrate’s knowledge of the law, and commitment to Judicial Excellence, it will display a marked improvement, in the performance of Magistrates Nationwide, which will be beneficial for all concerned.

YWs / YHs, being pro-active in ensuring compliance, with available case management provisions, in our Rules of Court and our State Laws, will have a ripple effect, on administration of Justice. This will ultimately result in the social and economic development, of our nation in all ramifications, including but not limited to changing positively, the already negative opinion of the populace / citizenry, about the speed of justice, or the lack of speed, and therefore bring about a huge reduction, in the propensity to commit crime.

### **THE FAMILY COURT RULES EXAMPLE – [32]**

In addition to the foregoing there are innovations applicable in the Family Court presided over by Magistrates, simply because of the provisions on case management in the Family Court Rules. I am of the view that, this awesome facility i.e. the clear provisions stipulating case management, which is however being practiced daily in our family courts, presided over by magistrates, is required to be accessible to all other Magistrates. It will accomplish much, if the goal or objective of case management is stated clearly in the proposed practice Directions or amended rules. (It is observed that Family Court being a special court in the Magistrate Court, shares the same Family Court rules with the Family Court in the High Court, and has the same clear provisions, directives and orders to ensure effective case management.

**THE ADAPTATION AND ADOPTION OF SOME ASPECTS OF THE FAMILY COURT RULES THAT DICTATES CASE MANAGEMENT ARE EFFECTIVE TOOLS FOR CASE MANAGEMENT BUT WILL REQUIRE AMENDMENT OF THE RULES OF COURT OR A PRACTICE DIRECTION SPECIFICALLY FOR PRINCIPLES OF CASE MANAGEMENT TO BE MADE APPLICABLE TO THE MAGISTRATE COURT.**

Some aspects of the family court rules especially the self-explanatory titles are very liberating and are a pleasure to read. It would be great if interested states adopt and adapt, specific sections of the said rules, for use in their regular courts, for the purpose of allowing their Magistrates, to exercise wider case management powers, which will result in a huge improvement in performance. See Family Court of Lagos State Civil Procedure Rules 2012 –

3. The Court shall, constantly and conscientiously, seek to give effect to the overriding objectives, of the rules at every stage of an action, to enforce the rights of the child, especially whenever it exercises any power, given it by these rules or any other law, and whenever it applies or interprets any rule.

4. Parties and their legal representatives shall **HELP** (capitals emphasis mine) the Court to further the overriding objectives of the Rules.

See also the Titles / Headings of some applicable Orders and sub rules that provide specifically for case management reproduced below:

Order 2 rule 5 Court's duty to manage cases

Order 3 rule 1 Application of the Rules in High Court and Magistrate Court designated as "Family Court"

Order 4 which is on ADR: Powers of the Court

Order 4 rule 2 - When the Court will adjourn proceedings or hearing in proceedings

Order 4 rule 3 - Power of Court to give Directions.

Order 4. Rule 4 - Timing and method of telling Court if issues are resolved

Order 5 which is on General Case Management Powers

Order 5 rule 1 The General Powers of the Court

Order 5 rule 2 Court may shorten or extend time for compliance with rules

Order 5 rule 3 Power of Court to make orders subject to conditions

Order 5 rule 4 Power of court to vary or vacate order

Order 5 rule 5 Extension of directive power of court

Order 5 rule 6 Power of court to strike out applications

Order 5 rule 7 Sanctions have effect unless defaulting party obtains relief

Order 5 rule 8 General Power of court to rectify procedural error

Furthermore YWs / YHs for the purpose of clarity and further explanation, I deem it fit to reproduce some aspects of the Family Court Rules, that provide specifically for case management, to enable participants make an informed decision, about exercising discretion, and also agree on a uniform approach, to getting our rules of court amended, to reflect these invaluable provisions on case management.

Family Court of Lagos State Civil Procedure Rules 2012

#### Order2 OVERRIDING OBJECTIVE

1. These Rules are made with the overriding objective of giving protection and care as necessary for the wellbeing of the child, taking into consideration the rights and duties of the child's parents, legal guardians, individuals, institutions, services, agencies, organizations or bodies legally responsible for the child.
2. In achieving (1) above, **the Court shall deal with cases justly**, (highlight emphasis mine) having regard to the best interest and welfare of any Child involved.
3. Dealing with a case justly, so far as is practicable, includes:
  - (a) ensuring that it is dealt with **expeditiously and fairly**;

- (b) Taking cognizance of the nature, importance and complexity of the issues;
- (c) Having regard to the special need of the child as a party; and
- (d) Saving time and expense.

4. Application by the Court of the overriding objective. The Court shall seek to give effect to the overriding Objective when it-

- (a) Exercises any power given to it by these Rules; or
- (b) Interprets any portion of these Rules.

**5. Court's duty to manage cases The Court must further the overriding objective by actively managing cases. (Highlight Emphasis mine)**

**(1) Active case management includes-**

- (a) Encouraging the parties to co-operate with each other in the conduct of the proceedings;
- (b) Identifying at an early stage the issues and who should be a party to the proceedings;
- (c) Deciding promptly which issues need full investigation and hearing and the procedure to be followed;
- (d) Encouraging the parties to use an alternative dispute resolution procedure if the Court considers that appropriate and facilitating the use of such procedure;
- (e) Helping the parties to settle the whole or part of the case;
- (f) Dealing with as many aspects of the case as it can on the same occasion;
- (g) Making use of technology; and
- (b) Giving directive to ensure that the case proceeds quickly and efficiently.

**Order 3 APPLICATION OF THE RULES**

(1) Unless the context otherwise requires, these Rules apply to proceedings in –

- (a) High Court; and (b) Magistrate Court designated as 'Family Court'.

**(2) Nothing in the Rules shall be construed as purporting to apply to proceedings in a High Court or a Magistrate Court not designated as Family Court.**

**Order 4 ALTERNATIVE DISPUTE RESOLUTION: POWERS OF THE COURT 1. Scope of this Order**

(1) This Order contains the powers of the Court to encourage the parties to use alternative dispute resolution and to facilitate its use. When the Court will adjourn proceedings or hearing in proceedings

(2) If the Court considers that alternative dispute resolution is appropriate, the Court may direct that the proceedings, or a hearing in the proceedings, be adjourned for such specified period as it considers appropriate –

(a) To enable the parties to obtain information and advice about alternative dispute resolution: and (b) where the parties agree, to enable alternative dispute resolution to take place.

(3) The Court may give directions under this Order on an application of the parties or of its own initiative.

(4) Where the Court directs an adjournment under this Order, it will give directions about the timing and method by which the parties must tell the Court if any of the issues in the proceeding have been resolved.

#### **Order 5 GENERAL CASE MANAGEMENT POWERS: The General Powers of the Court**

**The list of powers in this Order is in addition to any powers given to the Court by any other Order or practice direction or by any other enactment or any powers it may otherwise have.** (Highlight / emphasis mine) Except where these Rules provide otherwise, the Court may-

(a) extend or shorten the time for compliance with the Rules, practice direction or Court order (even if an application for extension is made after the time for compliance has expired);

{b) Make such order for disclosure and inspection, including specific disclosure of documents, as it thinks fit;

(c) Adjourn or bring forward a hearing;

(d) Require a party or a party's legal representative to attend the Court, subject to the party's right to a counsel of his choice;

(e) Consolidate proceedings;

(f) Direct any party to file and serve an estimate of costs.

3. When the Court makes an order, it may make it subject to conditions, including a condition to pay a sum of money into Court and specify the consequence of failure to comply with the order or a condition.

**4. Power of the Court under these Rules to make an order includes the power to vary or vacate the order** (highlight / emphasis mine)

5. Any provision in these Rules-

**(a) requiring or permitting direction to be given by the Court is to be taken as including provision for such directions to be varied or vacated; and**

**(b) Requiring or permitting a date to be set is to be taken as including provision for that date to be changed or cancelled.** (highlight / emphasis mine ...extremely wide powers)

Power to strike out Application

**(1) The Court may strike out any Application** if it appears to the Court

(a) That the Application discloses no reasonable grounds;

(b) That the Application is an abuse of the Court's process or is otherwise likely to obstruct the just disposal of the proceedings.

**YWs / YHs this proposed innovation will definitely require either a practice direction or amendment of the rules of court.**

### **3 EXERCISING DISCRETION**

#### **a) EXPRESSLY PROVIDED FOR IN PRACTICE DIRECTIONS, RULES OF COURT AND LAWS.\***

The actions of Magistrates who exercise their discretion to apply Case Management provisions embedded in Practice Directions, Rules of Court as well as the Law will be seen as it is, i.e. the apparently effective and efficient commitment to prompt disposal of cases without any delay. It is obvious such Magistrates should be celebrated, as efficient hard-working case managers, and they should be provided with the necessary protection in case of petitions, even though we all took an oath to perform our duties without fear or favour. This will reduce the timidity exhibited by some of our colleagues nationwide, and in effect increase the boldness displayed by magistrates across the Federation. The level of timidity on display will be grossly reduced and more magistrates will comfortably “boldly” exercise their magisterial or judicial discretion in the best interest of justice.

Section 165 (1) ACJA 2015 provides as follows:

“The conditions for bail in ANY CASE, shall be at the discretion of the court, with due regard to the circumstances of the case, and shall not be excessive..” YWs / YHs the provisions of ACJA and ACJL (for most states that have domiciled the law) are very clear and unambiguous, stating the wide powers given to the court. The question then is this, are Magistrates nationwide, using the wide powers donated to us in the law? Is it being used as clearly stipulated? Is the fear or timidity exhibited by some courts, one of the major reasons why, pre-trial inmates in the correctional centers, far outnumber those serving a sentence? Each one of us can think about those issues, to decide on the way forward, which is to always consider the words of our oath “to do our work without fear or favor, in accordance with the Nigerian constitution” Considering our oath, inspires Magistrates to utilize, available case management principles, which in turn result in improving our performance nationwide.

On the issue of Magistrates exercising our discretion, it is worthy to note that in AG River State v UDE [33] a decision of the Supreme Court. The S.C. held as follows:

“It is now settled, that it is a matter within the discretion of the court, whether or not to grant an adjournment, but that discretion must at all times, be exercised not only judicially but also judiciously” It is the duty of the judge, to clearly state whether he grants or refuses an adjournment, and his reasons for doing so, and it should be apparent from record, that he gave a careful consideration for his decision”

YWs / YHs, this obviously means that bench rulings or considered rulings, are to be delivered on an application for an “adjournment” meaning, the same way lawyers are not permitted to get an adjournment in some instances, is the same way also, magistrates should swiftly “rule” whenever exercising their discretion accordingly, and the records will be in the case file for posterity to see.

### 3 EXERCISING DISCRETION

#### b) NOT EXPRESSLY PROVIDED FOR IN PRACTICE DIRECTIONS, RULES OF COURT AND LAWS.

It is worthy to observe that there are practice directions / rules of court, foreign as well as local, with provisions for exercising “Judicial Discretion” not provided for in the rules, as long as it will speed up the case and, is in the best interest of Justice. See AMCON Rules, US rules etc >>>>>.

In comparative law, especially in cases of bankruptcy and judicial business reorganization, there is also Section [105](#) of the US Bankruptcy Code. This is the section of the US Bankruptcy Code that grants to the judge the power to supplement the legal provisions by making decisions and taking measures that have no express provision in the law. In this sense, the bankruptcy judge is authorized to determine any action that is necessary to achieve the objectives of the law, in accordance with the specific case[34].

However, one should point out that the method may also be applied to other cases, especially those of collective character.” **(Incredible. Emphasis mine)**

Simply put the Magistrate will have power, to supplement legal provisions, by making decisions and taking measures that have no express provision in the law. **In this sense, the magistrate is authorized, to determine any action that is necessary, to achieve the objectives of the law, in accordance with the specific case.**

There is urgent need for “wider or limitless magisterial discretion” which in my opinion should be included in our rules of court, because it will not only empower the court, it will go a long way to ensure, **the court can actively prevent unnecessary delay**, caused by court users overbearing disposition, to aggressive delay, due to insufficient rules of court, to reduce their tenacity.

This is an **innovation** that will ensure “Justice” is never helpless in any circumstance. A magistrate will no longer say “my hands are tied” or “I don’t want to enter the Arena”. **I humbly submit that the promulgation of Rules of Court or Practice Directions containing provisions that authorize the presiding Magistrate to exercise discretion not expressly provided in the rules of court is essential.**

Effective Case Management will be evident when a Magistrate can exercise “Magisterial or Judicial discretion” not expressly stated in the rules. This is definitely the way forward, since **it will be obvious to all** and sundry, court users, counsel, court staff and even other members of the public, **that the court is clearly empowered to do what has to be done** “by any means necessary” to ensure that, without any shadow of doubt, justice is not helpless but pro-active. That way justice will not only be done, it is seen to have been done. **This innovation will however also require either a practice direction or amendment of the rules of court.**

#### **4 CONTROL OF COURT**

- i This is very wide, it includes managing your court and chambers (building/office premises/Staff/Court Users/Files) and also managing yourself being “the court”.
- ii **CREATE A PERSONAL REGISTRY FOR YOUR COURT AND CHAMBERS**  
The main thing is to create and organize your personal court registry for proper administration of your court files and records.

#### **CONTROL OF COURT**

What is control of Court? The court is not only the building, YWs / YHs remember you are the Court. Your attitude, reputation e.tc, determine how members of the public, counsel, court staff and litigants will behave or respond in your court. Therefore, when we talk about managing the court and chambers I'm talking about your department. The question most litigants are asked is the popular saying “are you patient enough to let the law work for you”

With proper Case Management, it is possible a lot of things could have been avoided, but our focus is not on delay in duration of cases or delivery of Judgments alone, but on “proper and effective Case Management resulting in performance” which aids in doing Justice, from the beginning of the case to its disposal. It is worthy to note that though when judgment is delivered Counsel can still appeal against the decision, claiming possible miscarriage of Justice, there are recent cases where the Supreme Court dismissed such options. \* SEE UDE’S CASE (SUPRA)

Being in control of your court doesn't necessarily mean you have to be authoritarian not at all. Obviously it can never mean you are permissive, since permissiveness is also clear indication of lack of control, but being in control of your court does reveal that, you are responsible or authoritative which is a very different scenario from the other two. YWs / YHs being in control of your court indicates that, you understand your responsibilities, and you are a responsible individual, who is accountable for your actions as well, since you are ready to take responsibility, for the acts of your subordinates.

When you think of it that way, you won't risk being permissive or authoritarian at all. It is important to show that being authoritarian, and being authoritative are two different things. YWs / YHs, they are worlds apart. The ability to succeed, rests in what you do, with what you have, therefore check the ABC of performance and also remember the golden rule “do to others whatever you would like them to do to you” Matthew 7:12 B

#### Control of Court WHO IS IN CONTROL?

To be candid your worships / your honors, from my observation, Delay is evidence of lack of control of court, or better put, delay is really “evidence of, who is in control of the court”, whether it the litigants, their counsel, court staff or the presiding magistrate.

In my opinion, Delay can be prevented by Magistrates! I'm sure some of our colleagues are surprised by that assertion. It is a statement of fact based on everyday happenings. Your worships / Your honors, it's been said “Prevention is better than Cure” therefore if you don't want to be part of the problem, become part of the SOLUTION, move a step higher, and help prevent the problem. I hear you whisper HOW? Are you asking how delay is caused? Or how to become part of the solution and help prevent delay?

It is obvious people can come up with any reason to delay proceedings, but it's left to you and I, the Presiding Magistrates, to either accept or refuse to compromise, our work ethics and standards. If a litigant or counsel present delay tactics, that eventually results in gross or acute delay, the case remains delayed for as long as a magistrate permits it. Once a magistrate strikes out a matter for want of diligent prosecution, the history of delay in that case is over. There will be no more delay, its over simply because the Magistrate asserted his / her authority in accordance with her oath of office to do her work i.e. Justice without fear or favor, the case no longer exists. If parties so desire, they can re-file but at this stage “striking out for want of diligent prosecution” indicates quite clearly who is in charge, and sends out a clear message that, delay will not be tolerated in that “court”. As Judicial officers, we exhibit our individual Case management skills, or the lack of same, in open court for all to see, and not all cases are negative. Though some of their worships and their honors seem to tend to, fall for every trick in the book, some don't, better put, some NEVER do.

The good news is, many of us are becoming part of the solution, preventing delay at every opportunity, knowledge, indeed causes a change in behavior. YWs / YHs, not only will some judicial officers refuse to grant an adjournment for even a short date, in some instances some will even refuse to grant a stand down, I mean even a short stand down ! sounds harsh doesn't it, well it happened to me and I learnt fast.. Let me explain how I tried to get a short stand down, for my former boss Chief Rotimi Williams SAN in the courtroom of a Honorable Judge 20 years ago, she just hushed me out of her Courtroom. She later became the Hon. Chief Judge, but had always been a no-nonsense Judge. I just wanted a stand down not an adjournment, my former boss Chief Rotimi Williams SAN was in traffic nearby but, no way, not in that court. I learnt a big lesson from her ladyship and I was not yet appointed a Magistrate, I was still a new wig, very new in practice, I learnt that if you want to be heard in that court, you get there before 9am especially if your case is listed as number 1.

YWs / YHs, the position is that, once a magistrate tolerates delay, or overlooks delay tactics, it's obvious or at the least, the evidential burden is pretty high, that the Magistrate is not in full control of the Court. We need to clean up our reputation. It is not a compliment for a Magistrate to be known as "laid back", or "very tolerant" better put, "permissive" is the word, since you seldom tolerate in court, but you may permit anything or everything..., It is not a complement to be known as "anything goes", or "very nice man or woman"... it is not a compliment, when these words are used to refer to, the slow pace of work, before a presiding Judicial officer or better put, for the purpose of clarification, it is not a compliment, when these words are used to refer, to the slow pace of work, before a Magistrate which brings to mind the question, what type of Magistrate are you? What type of Magistrate do you intend to be known as? Permissive, Authoritarian or Authoritative? We build our reputation, by what we do daily in our courts, Therefore YWs / YHs, only YOU, and the people who appear before you, can answer that question, either today or in another three months, time will tell, better still "PEOPLE WILL TELL" just bear that in mind.

## MANAGING COURT AND CHAMBERS

We are capable of rational thinking, so are the members of the public who attend our courts. We need to change ourselves first, before expecting anyone that appears before us, or anyone that is part of our Court system to change, even in our approach to our work in court, our approach to Control of Court, our approach to our Rules of Court, our approach to Court staff, Counsel e.tc, and then our effort will soon be seen by all, because change cannot be hidden. We would like people to choose to do the right thing no matter what, to be ready to obey the rules of Court, therefore we have to be different. I am here to engineer in, a National re-orientation, or a judicial reorientation or perhaps better put a "magisterial reorientation". It is about the psyche of people, who are appointed as Magistrates, or better still the psyche of Magistrates. We would like to see Magistrates, choose to do the right thing no matter what, and enforce the rules of

Court we know. YWs / YHs, please do not do the exact thing you condemned, before your appointment, because before we were appointed, many of us had access to magistrate courts, and really we need to reserve our comments and personal opinions. The Court is only as principled, or as controlled, as the presiding magistrate dictates. Many of us were in practice, and counsel probably, or most likely complained, about Judicial officers specifically magistrates in our presence, ever before we opted for the lower bench, and were appointed as magistrates. Your worships, Your honors, please do not do the exact thing you complained about, now that you have the opportunity and the privilege, to be in control of a court of law, please control your court.

The court system needs to be changed, we need to do more things online or virtually. It will help a lot, we need to increase the filing fees paid, as well as punitive costs. That will help a lot, to display control of court, as it will prevent, unnecessary matters from being filed in court, and when we enforce penalties, it will help to prevent delay, nevertheless there should be a few exemptions, maybe for the unemployed or the retired, such categories, so that their rights are covered, respected, and taken care of, since everyone has a right to fair hearing.

### **Attitude / Reputation of the Presiding Magistrate. Judicial behavior / temperament?**

It goes without saying that, another important goal of every magistrate, must be to make impact, and make a difference in your own Court, wherever you are posted. Your worships and your honors, people talk, and actions even speak louder than words. The question however is: what are people saying about you? Your work ethics? What are people saying about your staff, and their work ethics? What do their faces, attitudes and actions depict when working with you or when they appear before you? When members of the public appear before you, what do they experience or display? Is it joy or sadness? Eagerness or restriction?

Your worships / Your honors, you determine it. Reputation is Key, it's even King, and it is derived from your attitude. Sincerely YWs / YHs, without mincing words, the combination of your Attitude and your Reputation is almost EVERYTHING. Each Magistrate must work on our individual Attitude and Reputation. We cannot blame anyone or hold anyone responsible, for our personal response, which culminates into our Attitude, neither can we hold anyone responsible for our reputation, which is derived by the public's understanding, of the individual Magistrate, and not just a rumor. What do our Court staff, Counsel, Litigants, Police, members of the public and other court users think about our attitude? What do they think about our work ethics, which will definitely have an effect on our corporate and collective reputation as a Court of Law.

### **CONTROL OF COURT – REPUTATION**

Control of Court is not only control exhibited during proceedings, but control entrenched from the opening of a file, to the delivery of the final judgment, signaling its conclusion. The Magistrate has to indicate quite clearly, that control of court is non-negotiable, which is exhibited by strict adherence to rules of court, and timing of actions as stipulated whenever possible.

Your worships and Your Honors , it's your court, and you should be in control of your court, therefore you need to let litigants, as well as their counsel, understand the way things work there, e.g. that “Part Heard Matters” are treated with dispatch in your court, and are therefore given accelerated hearing. Word gets around, people talk, counsel talk amongst themselves as well, soon you would have developed a reputation you may not even be aware of, but which will help get your work done with dispatch, because once they know, you insist on applying, case management tools and techniques and that's your policy, most litigants as well as counsel, will simply fall in line and comply. Remember we were taught at Law School “Know your Judge.” Know your magistrate (emphasis mine). You may think it's easier said than done, but when you try it, you will realize that it really works, and if you were in practice, before your appointment to the lower bench, you know exactly what I mean, because you’ve seen it done, and you probably also tried to delay, in one court before!

#### MANAGING COURT AND CHAMBERS: Tips for Practical Case Management

- 1 Do not list too many matters for Hearing
- 2 Do not talk too much in open court, LISTEN MORE.
- 3 Encourage filing of written submissions where possible
- 4 Study your files before sitting
- 5 Routinely allow counsel to adopt their written addresses
- 6 Deliver a bench ruling, if you have seen and read their written submissions, or give a short date, for ruling or Judgment as the case may be.
- 7 Do not grant unnecessary / frivolous adjournments, and if your rules of court has provision for punitive costs, in those circumstances please apply it.
- 8 Do not worry about, possible petition being written against you.... A lot of Magistrates are concerned about too many issues, that make them fearful of petitions, and they focus on the mistakes or shortcomings, of others that proved costly or fatal. **YWs / YHs how can progress be made, if we keep looking back while working? The likelihood of tripping or even falling flat is great.**

#### COURT STAFF MANAGEMENT -

Delegate when possible to your applicable staff, instead of doing their job as well as yours e.g. opening a file, heading a file e.tc , it doesn't take so long, but its time consuming, and it's a non- essential task. Avoid time wasting devices like, performing non-essential tasks, e.g., using your phone during office hours.

YWs / YHs whenever you are in your Court or Chambers, if you could spend that time doing, what ONLY a magistrate can do, please do, to justify your appointment and your presence in that Court and Chambers...really you are needed right there, to do what you were appointed to do, and **using “case management tools and techniques” displays you, as doing just what, you were appointed to do, and doing it very well.**

**PRIORITIZING PART HEARD MATTERS ONCE TRANSFERRED / POSTED TO A NEW COURT HOUSE IS ESSENTIAL AND IS EVIDENCE OF EFFECTIVE CASE MANAGEMENT RESULTING IN IMPROVED PERFORMANCE OF MAGISTRATES.**

A word of caution however, once we resume in a new district, we must prioritize our part heard matters. How do we do this?

### **STEPS OR KEYS TO MANAGING / PRIORITIZING PART-HEARD MATTERS**

1. Make a list of your part-heard matters, the stage of hearing and the next event
2. Once in your new court, ask your registrars to call the counsel or litigants to inform them about the date the case is fixed for
3. If possible for the first day fix all your part heard matters on the same day so that no file is missing and the comprehensive list of your part heard matters exits for future reference if need be, but if impossible so to do, ensure they get the necessary attention required.
4. Give all Part-heard matters accelerated hearing, meaning shorter hearing dates and limited adjournments.
5. If you adjourn your matters to a date every three weeks, part heard matters should either be every two weeks or weekly or even daily if your workload permits.
6. Routinely check the progress of part-heard matters, either on monthly or quarterly basis
7. Ensure you are meticulous, and insist on proper case management, of part heard matters through adequate supervision on your part, because most times or sometimes, both litigants as well as counsel are very happy to delay matters. It's incredible even unbelievable but true, some are subtle while some are more glaring, they sometimes suggest that the court adjourns to very far dates, and then most times do not consent to back-to-back hearing dates, because they claim to be in other courts etc, and though sometimes it could be true yet it's your call, and your responsibility to ensure your order for accelerated hearing is complied with in the face of compelling opposition to your case management techniques.
8. Manage your cases wisely. It is evidence of wisdom to be in firm control of your court.
9. It is also evidence of Case Management and wisdom to tag part heard matters and also give part-heard matters accelerated hearing. Recognize them once you see them, have a special day you sit on part heard matters if possible, treat them specially, it's evidence of Case Management, that way you will be able to conclude them without the files

supposedly disappearing into thin air only to resurface years later. It makes it more difficult to overlook forget or make unnecessary adjournments or mistakes.

#### **10. Special Handling of Part Heard Matters**

Apart from giving accelerated hearing, occasionally we may have special arrangements with the new Presiding Magistrate to continue to hear the part-heard matters, in the same or the former court, for proximity and the convenience of the parties, therefore it's only the magistrate, who makes effort to return to that former court location. This will help some frail or poor parties, they won't have to give up due to inconvenience, distance, financial constrain due to increased transport fare etc. It is still the magistrate who began hearing the matter who concludes it, unless the previous magistrate was elevated to the high Court, or Retired. This has really helped me, manage old cases part-heard in a different district, it's a highly effective arrangement.

### **6 CREATION OF SPECIALIZED COURTS**

It is undisputed that when a court is specific in nature, specialized, the presiding magistrate can read up and become an authority in that aspect of the law. The Magistrate will also have the rules and procedure at his or her finger tips, and will not just be “Jack or Jill of all trades” “master of none”. Creation of specific Courts within the Magistrate Court e.g. Family Court, Small Claims Court, Criminal Court, Civil Court, Revenue Court, Special Offences Court, Environmental Offences Court, Traffic Court, Prison Court etc., will definitely aid case management, as it has been observed, to have achieved in the Special Offences Court.

The essence is to have specific courts, doing specific things e.g. in my opinion, the family Court should be for family Court matters only\* i.e. the Family Court should only handle criminal and civil matters related to family and children, not what currently obtains where the court hears Criminal Matters on Mondays, Part Heard matters and Civil matters on Tuesdays, Family Court matters on Wednesdays and Thursdays and Part Heard Criminal Matters on Fridays.

\*When I was in the Special Offences Court, I handled different matters and then due to the volume of caseload docket, certain matters were no longer assigned to the Special Offences Court. The result was that there were no new part heard trials, only the ones that we brought from our previous posting because of the new kind of specialized cases, numerical factor of the defendants and the duration of court sitting which sometimes went till very later hours. This is an aspect of case management that will really help improve the performance of magistrates. I know for a fact because it helped me.

## 6 LIMITED ADJOURNMENTS-

To proffer that adjournments be limited or reduced, we need to consider the sheer volume of cases in relation to the applicable rules of court.

### **OUTLAWING ADJOURNMENTS OR MAKING IT MORE CUMBERSOME TO GET**

YWs / YHs, generally, nationwide, applying for, or voluntarily granting long or incessant adjournments, is one of the factors responsible for delay in concluding cases. Accordingly, if it is stipulated quite clearly in our rules of court, that once a court has set its Time table for a case, Adjournments will only be permitted when JUSTIFIED, particularly to ensure adequate preparation for the next event, failing which liability for costs in lieu of non-availability, or lack of performance of scheduled next event, will be enforced, court users will adjust to our new way of doing things. The first is that a time table, a schedule exists, which will be adhered to, to ensure the case duration is not elongated. This will not only put a formal and legal end, to unnecessary long adjournments that result in gross delay, it will improve the performance of Magistrates, improve the efficiency and effectiveness of our courts, and also bring about a welcome change, to the perception of our courts, by some members of the public.

There has to be a change, we can't afford to adjourn and keep on adjourning, instead we can give a stand down or short breaks, that is the position in England. If the witness is a nursing mother, instead of granting an adjournment, she will be given a stand down, to enable her nurse her child who is probably wailing, the court will hear other matters, and later on call up her case after the short break...

The duty of the court is to do justice, therefore unnecessary adjournments, cannot be the order of the day, however in the apparent circumstances where the volume of the caseload, exceeds and outweighs the available dates for future events, it is obvious that Research needs to be conducted, into how many cases each magistrate has in the docket, so as to ensure that the adjournments can indeed be limited, to enable the cases progress to final disposal stage. The issue is how many cases should a Magistrate have, in her case docket daily, to be able to adjourn trial in a civil matter to ten days, or take civil trials from day to day (as stipulated in our rules of court) (e.g. Lagos Rules) despite having many other pending matters, including urgent criminal matters in the case docket, to ensure swift and prompt disposal of the cases?

ON THE ISSUE OF LIMITED ADJOURNMENTS - The position In the U.K. [35] is reproduced below: It is food for thought and a delight to read:

Criminal Practice Direction 24C.9 sets out eight general principles relevant to adjournment applications in the magistrates' court. References: Consolidated Criminal Practice Directions—CPD 24C.9. These are:

- The court's duty is to deal justly with the case, which includes doing justice between the parties
- The court must have regard to the need for expedition. Delay is generally inimical to the interests of justice and brings the criminal justice system into disrepute. Proceedings in a magistrates' court should be simple and speedy
- Applications for adjournments should be rigorously scrutinized, and the court must have a clear reason for adjourning. To do this, the court must review the history of the case
- where the prosecutor asks for an adjournment, the court must consider not only the interest of the defendant, in getting the matter dealt with without delay, but also the public interest in ensuring that criminal charges, are adjudicated upon thoroughly, with the guilty convicted, as well as the innocent acquitted.
- With a more serious charge, the public interest that there be a trial, will carry greater weight. It is, however reasonable, for the court to expect that, parties should have given especially careful attention, to the preparation of trials involving serious offences, or where the trial has significant implications for victims or witnesses.
- Where the defendant asks for an adjournment, the court must consider whether, they will be able to, present the defence fully, without it and, if not, the extent to which their ability to do so is compromised
- The court must consider the consequences of an adjournment, and its impact on the ability of witnesses, and defendants accurately to recall events
- The impact of adjournment on other cases. The relisting of one case, almost inevitably delays, or displaces the hearing of others. The length of the hearing, and the extent of delay in other cases, will need to be considered

Criminal Practice Direction 24C deals with two general principles in further detail. References: Consolidated Criminal Practice Directions—CPD 24C.14–15

Firstly, it addresses the relevance of **fault**. (highlight mine) If the reason for an adjournment, arises through the fault of the applicant, then that weighs against its grant, carrying weight in accordance with, the gravity of the fault. References: Consolidated Criminal Practice Directions—CPD 24C.11

A party must, if aware of the fault, draw attention to that fault, promptly and explicitly (CrimPR, SI 2015/1490, r 1.2(1)(c)). “If no such action has been taken by a party who could have done so, then the court may look less favorably, on any application by that same party to adjourn, In addition, even in the absence of fault”..

**7 OATH OF OFFICE – AS AN EFFECTIVE CASE MANAGEMENT TOOL. –**

Do your work without fear or favor. A Magistrate working without fear or favor, will not cause delay or grant unnecessary adjournments, nor encourage mismanagement of cases, in all ramifications. Such a Magistrate will not only be in control of his or her court, it will be obvious to all that he or she is.

**8 CASE MANAGEMENT IN CIVIL MATTERS**

There are some simple applications that should be heard promptly, or given accelerated hearing invariably, eg ex parte applications for substituted service, oral applications etc. Delivering bench rulings, make your work much faster, you may also stand down your ruling, if you need precedents, rise, check your shelf or online for authorities and quickly write your ruling, then return to deliver same in open court. In addition sometimes, there are also applications in the courts file, where parties have already filed written addresses.

YWs / YHs, please do not give a date for adoption of written addresses, even if they tender them in open court that day, as long as all the briefs have been filed, because that will make your work move faster, better still if you already saw the addresses in your file before sitting, you would already have privileged information which will inform your ultimate decision. If however one party needs to respond, give them the number of days that is reasonable, in those circumstances and adjourn, for the next event which is Adoption of written submission (for now). Hopefully before that date all the briefs will be in the file and you will be able to make progress in the case. Once again if you read your file, it will be clear the stage of hearing (i.e. Adoption of written addresses) and you will be able to, appropriately anticipate the next event, which is your ruling. If you study the written submissions before sitting, you might be able to deliver a bench ruling, as soon as parties adopt their addresses, or give either a short stand down or date depending on the circumstances. This is evidence of effective case management of the said civil case.

**9 LEGAL REGISTRAR AS AN EFFECTIVE TOOL FOR CASE MANAGEMENT -**

Your Worship / Your Honor, your legal registrar can help, with your Case Management schedule, if you ensure that you and all your court staff, work together as a team. Invariably the function of the legal registrar, is to increase the efficiency and, effectiveness of the Magistrate by all legal, court based, means necessary. Below we will discuss the role of your legal registrar in your quest for effective case management. How, why, when, where your legal registrar can function as a tool for Effective case management and the advantages and benefits thereof.

- I Generally in Lagos State, with the appointment of Legal registrars, and their addition to the staff strength of the Lagos State judiciary, each magistrate now has a legal registrar attached to each court, and their duties are slightly different from that of the regular court clerk / registrar or might I add, that their duties might be in addition to the duties of regular court registrars, because Legal Registrars are trained to do everything a regular Court registrar can do, as well as their unique additional duties, being legally trained registrars. Therefore occasionally if your regular court clerk or court registrar is unavoidably absent, work still goes on. Continuity of your court's work is case management in itself.
- ii Most magistrates seldom type their rulings and judgments themselves, though some of us are changing and becoming more technologically advanced, therefore if you still rely on typists, when your rulings and judgments are typed, by your secretary who is not a lawyer, the legal registrar (a lawyer) who understands legal terminology, will read through to correct initial typographical errors, which will in effect reduce the amount of time, the magistrate will spend proof reading, and correcting the typed judgments.
- iii The legal registrar is also very good for brainstorming in chambers, since the legal registrar was present in court, during proceedings and there is no knowledge wasted.
- iv Research material. Instruct your LR to research for authorities that are on all fours with the case at hand, because another name for your legal registrar is your Research Assistant, therefore let them do some research. You can make use of his or her observations or research material, since you will instruct your legal registrar to conduct a research, and you can also add it to the research materials for your judgment, especially if he or she can find the latest, or up-to-date authorities on all fours, with the instant case from the Superior courts of record.
- v Training and Mentoring Legal registrars for future case management. Most legal registrars, who are definitely lawyers by the way, desire to become either a magistrate or a Judge, and some of our colleagues were once Legal Registrars to Hon. Judges or Magistrates. It is obvious, working as a legal registrar, is the opportunity to work under a magistrate, who will mentor them, for their desired future assignments. They simply under study the magistrate they are assigned to, as they function on their job as a legal registrar, therefore magistrates should permit the legal registrars to have a bit of the pie. Let them give you their opinion on matters, let them make submissions, which you may or may not agree with. Honestly, you may learn something from them, and better still they will learn a lot from you. Furthermore, you can teach your legal registers how to write judgments, but please YWs / YHs do not ask them to write your judgment for you.

**Please I repeat, do not ask your LR to write your judgment for you, because if they do, it will not be your judgment, will it? It can't be, when somebody else wrote it, and that is very demeaning and degrading.** You can however show them precedents

of your previous judgments, the best you can do for your legal registrar, is to let them watch you, and learn from you.

- vi The dangers of not involving your Legal Registrar / Research Assistant in research, or asking them to write a legal opinion is that, they become playful and distracted, and do not learn much. It is also not in your best interest, if /when they eventually get appointed as a Magistrate or Judge, and people realize they trained under you, but do not appear to have learnt anything! It says a lot about the mentor, trainer or teacher, who happens to be YOU.

## 10 **MANDATORY ...ADR / MEDIATION AS A TOOL FOR CASE MANAGEMENT**

Mediation is going to play a big role, the Master of Rolls in England (who is equivalent to the President of the Court of Appeal here in Nigeria) said we need to try to have mediation in all cases. MORs made it clear that Alternative Dispute Resolution is not going to be alternative anymore. This was in April 2021, because even in England, cases are being adjourned to dates in 2022, because a lot of things have been backlogged because of Covid 19. Accordingly worldwide it appears ADR is now CDR i.e. Compulsory Dispute Resolution, so to speak. Mediation is now essential, compulsory, it may not fully resolve the case but at least it will clarify the position, all cards will be on the table, and parties know what to expect.

### MEDIATION -

Mediation is now very big since there's too much of a backlog. In England, it is no longer an option or an alternative, it's now compulsory, you either settle or go to a hearing. We have seen many cases in Nigeria, move in leaps and bounds, because of mediation and other ADR methods, therefore we have firsthand experience that, Mediation aids in case management, and is a crucial tool for effective case management.

## 11 **BAIL ON SELF REGOGNIZANCE AS A TOOL FOR CASE MANAGEMENT**

Granting bail on self-recognizance, definitely helps decongest prisons and correctional centers, but it is observed that generally, most new magistrates refrain from using this effective, case management tool simply because, they are afraid the defendant may run away. YWs / YHs remember the complainant is usually present in court, most times the defendant is arraigned, so are the police definitely, who investigated the matter, and took his statement which will obviously include his addresses, before charging the case to court. No matter the stories we have heard, it is not likely that the defendant will simply vanish into thin air. YWs /YHs we need to be innovative sometimes to save the day. I remember an experience I had in my court about a year ago. **One day around 8 p.m. while sitting in open court, I granted bail on self-**

**recognizance to all the defendants brought before me in the Special Offences Court, on the condition that they could prove that they had BVN.** In my humble opinion that was definitely evidence that they were traceable. Being a new innovation without any known precedence, the lawyers present in my court were all so happy, so was I, as I left my courtroom after 8pm with most defendants on their way home, to report back the following day for verification of their respective addresses by the police. I was one happy Magistrate until I got home, and I shared my experience with my husband, he looked at me sternly and asked me “never” to ask for BVN again, since it could get complicated with possible financial implications if the BVN got into the wrong hands. I was alarmed, that got me a bit concerned but I’m glad to say it ended well.

**YWs / YHs, I have good news for you, we now have NIN i.e. National Identity Number. It's our individual national identification number, that number is unique to each Nigerian, like the UK national insurance number or the American social security number. I believe with NIN every Nigerian who has a NIN is traceable just as with the BVN, which is the bank verification number albeit related to financial transactions. The NIN is however general, and not as restrictive as the BVN with greater safety assurances (with finger print technology) therefore YWs / YHs it's a new dawn. It's obvious that we will see a huge reduction in awaiting trial inmates when magistrates begin to grant bail on self-recognizance because, there is no worry or grave concern that defendants can run away, since with NIN defendants are no longer untraceable. This will not only help Case Management in criminal cases, at least at the initial stages of the cases, it will also prevent congestion of correctional centers, on the ground that bail has not yet been perfected.**

## 12 PLEA BARGAIN-

This is a great tool for case management in criminal matters, therefore instead of constantly seeking an adjournment, or finding new excuses to delay, the prosecutor and the defendant can actually discuss, negotiate and enter into agreement. (This is an accurate description of what transpires.) According to the express provisions of the ACJA 2015, which has been domiciled by many states, the prosecutor may receive and consider a plea bargain, from a defendant directly, or on his behalf, or offer a plea bargain to a defendant, charged with an offence, with the consent of the victim or his representative, during or after presentation of the evidence of the prosecution, but before the presentation of the evidence of the defendant, provided that all of the following conditions are present.

- i) that the prosecution’s evidence is insufficient to prove the case,
- ii) the defendant has agreed to return the proceeds of the crime, or make restitution to the victim or his representative,

- iii) where the defendant (in a case of conspiracy) has fully cooperated, with the investigation and prosecution of the crime, by providing relevant information for the successful prosecution of other offenders and
- iv) where the prosecutor is of the view that, the offer or acceptance of the plea bargain is in the interest of justice, the public interest, public policy and the need to prevent abuse of legal process, he may offer or accept the plea bargain,

The prosecutor and the defendant, or his legal practitioner may, before the plea to the charge, enter into an agreement in respect of the term of the plea bargain, which may include the sentence recommended, within the appropriate range of punishment stipulated for the offence, or a plea of guilty by the defendant to the offence charged, or a lesser offence of which he may be convicted on the charge, and an appropriate sentence to be imposed by the court, where the defendant is convicted of the offence to which he intends to plead guilty.[36]

The fact that the presiding magistrate, shall not participate in the discussion contemplated, but when a plea agreement is reached the prosecutor, shall inform the court and the presiding Magistrate, shall then inquire from the defendant to confirm the terms of the agreement, whether he admits the allegation in the charge to which he has pleaded guilty, and whether he entered into the agreement voluntarily, and without undue influence and may; where satisfied that the defendant is guilty of the offence to which he has pleaded guilty, convict the defendant, on his plea of guilty to that offence, and shall award the compensation to the victim, in accordance with the terms of the agreement, which shall be delivered by the court in accordance with section 308 \* \*(Judgment to be in writing, dated and signed by the Magistrate at the time of pronouncing it)

The court is not involved in the negotiations but will ensure justice is done, because if the Magistrate is for any reason of the opinion that, the defendant cannot be convicted of the offence, in respect of which the agreement was reached, and to which the defendant has pleaded guilty, or that the agreement is in conflict with the defendants right,\* he shall record a plea of not guilty, in respect of such charge and order that the trial proceed. \*[37]

YWs / YHs, will find that using the case management tool called Plea Bargain, like most tools will get better with practice, and then you will discover for yourself that, Plea Bargain really is an effective tool, for case management in most criminal matters before the court. Plea bargain will help to greatly reduce awaiting trial inmates, which will be evidence that magistrates are performing.

### 13 **Enforcement of Timetables –**

It has been submitted that timetables should be agreed upon, prior to the commencement of hearing. One of the fundamentals of Case flow management, is the setting of standards and goals, and in some foreign countries especially U.K and U.S.A., it is stated clearly in the rules as directions or directives. In England they now have something called “budgeting” where they prepare a bundle.

## BUDGETING – CREATING TIME TABLES ...

In the U.K., Parties / litigants / Everybody plans what the expense will be, who the witnesses are, who they are, you know the evidence they have, and everything should be in the budgeting. That's the plan, the expense for the case, and they also agree that the trial will be listed for 3 or 4 days. Things are normally very precise, and their cases are heard between 9 to 12 months. YWs / YHs, we can give it a try, amend our rules to contain clear directions or directives on time lines, which have to be strictly adhered to or penalties paid. **There must be a penalty for delay, cost must be paid.**

There is a need for additional specific Timelines / Timeframes in our rules. There are some such provisions in our rules, e.g. specific timelines / timeframes as it relates to service of court process, and expiration of Suits if not served within time, as well as a few other things. The presence of more of such specific provisions, indicating Timelines and Time Frames in our rules of court, will ensure that the process will become, interwoven and complementary, therefore parties will be on guard and make effort to comply with, the timelines and timeframes if such provisions exist in our rules. The inadequacy, or non-existence, of applicable Timelines and Time Frames in our rules, as well as lack of specific provisions, dictating the need for agreement on Timetables, to determine the proposed duration of cases, for instance, is in my humble opinion one of the main reasons for gross delay in the judicial process. ....**Consider the George Floyd case, even though it had international media coverage, it was still concluded in record time as agreed (within (two) few weeks.)** Of course admittedly, everything was ready, the witnesses e.tc, and a timetable was agreed on, I humbly submit that with the inclusion of similar provisions in our rules we can achieve such fast trials as well.. some-day !!!!

### 14. **Bench Rulings and concise considered Rulings and Judgments -**

A Magistrate delivering bench rulings in open court, during trial, increases efficiency levels, and is evidence of Case Management, but delivering considered judgments, that are concise and also not appealed against, is even much better.

### 15. **Filing Monthly Return of Cases -**

This is a compulsory requirement for Magistrates in Lagos State. This way the staff of our Judicial Service Commission, identify the type of cases, as well as the volume of cases, assigned to the magistrate court. Our submission of Monthly Returns to the JSC, will ensure that the totality of the type (of cases), and the exact number of cases, assigned to each magistrate in each magisterial District, will not be a mystery, never again. **What is not measured cannot be evaluated and improved upon.[38]**

**16 PUNISHMENT FOR FAILED PETITIONS AS A TOOL FOR CASE MANAGEMENT. A NEW PROCEDURE FOR PETITIONS IS ESSENTIAL**

*- When Magistrates are confident that Lawyers will be punished for failed petitions, the same way Judicial Officers are punished when indicted, it will aid in effective case management. (Petitions to be backed by affidavits).see the Lagos example below!*

Any counsel who files a petition, needs to depose to a sworn affidavit and Attach the affidavit to the petition.

If the petition is found to be frivolous, and to have misrepresented the facts, It will be sent to the Disciplinary Committee of the NBA,

The Magistrate can make a case, or even sue for damages.

This will provide necessary protection, for Pro-Active Magistrates, who use case management tools to improve their performance.

**17 TRAINING IS ESSENTIAL AS AN EFFECTIVE CASE MANAGEMENT TOOL**

Proper training in Case Management techniques, technological techniques, use of technological gadgets that will aid Case Management is an effective tool for case management. Courses organized by the NJI\* should be compulsory for Magistrates. All the practical time management and Case-Flow management strategies, organizational skills, are essential skills for a magistrate.

**18 PERFORMANCE: PERSONAL SELF MANAGEMENT- INCLUDING TIME MANAGEMENT AND THE EFFECT OF MAXIMIZING YOUR CAPABILITY**

Take charge of your own life, when you do, it's easier to take charge of your work...

Be Meticulous, make notes, keep records of what is left to be done, Have a "To do list" and update it regularly removing accomplished tasks. Be focused and be determined to improve on your efficiency levels, **everyone can do better**, be determined to improve on your personal best. Evaluate how you are spending your official time. Use your court diary - update yourself, on your to do list.

It has been suggested that we "use commuting time to catch up on reading" which is extremely useful and productive. Prevent possible distractions, and please do not take your phone into the courtroom. Make it a habit or a principle, not to use your phone during office hours, except to receive urgent official calls if possible. My take on that is: now that you are a magistrate, most family and friends, should not call you during office

hours anyway, as a way of life, because they expect that you are sitting in the courtroom from 9 a.m. till 4 p.m.

**19 CHECK FIRST FOR JURISDICTION - MOST TIMES THE COURT MAY HAVE TO RULE ON THE ISSUE OF JURISDICTION FIRST. QUESTIONS TO ASK YOURSELF... BEFORE taking any step :**

- 1 Do I have jurisdiction to do this? Confirm from your rules / law
2. **if yes.... Do it immediately** if possible, or set out time lines for it (Time Table)!
3. **if no.. Do not Do it... but**
  - a) **Do rule that “you do not have jurisdiction” and**
  - b) **throw it out of your court.** (Superb case management in my opinion)

**20 PROPOSED NEW INNOVATION IN CHAMBERWORK:  
EXPARTE MATTERS / ALL MATTERS INVOLVING WRITTEN ADDRESSES  
TO BE TAKEN / DISPOSED OF IN CHAMBERS –**

YWs / YHs, please visualize in your mind’s eye, working in chambers on exparte matters, and all matters where written addresses have been filed. Visualize the possibility of taking the applications and disposing of them in chambers, without the usual delay tactics of counsel, litigant or court staff, and also specifically without any need for counsel or parties to be present. Accordingly, for maximum case management, which is also in the best interest of the health of the Magistrate, we must decide to change things around, knowing fully well that in chambers, a Magistrate may stand or sit as long as the work gets done.

The proposed procedure is as follows: The hon. court sets the date for filing of written addresses in chambers:

- i if the written addresses are filed, the court works on them in chambers. It is trite that, for the exparte matters sometimes only one Supreme Court authority suffices therefore the ruling / enrolled order will be ready while in contested matters, the Magistrate will give an applicable date for the ruling. Furthermore **since learned counsel already put his seal and signature on his written submission, there is no need for a hearing date, to either adopt the written addresses, or move the application, only a date for ruling is required.**

I am of the opinion that to save the Courts time in contested matters, and to adequately manage exparte matters once filed, the court can simply rule\* and make the enrolled order available, with the help of the Legal Registrar, in a purely administrative manner.

- ii If the written addresses are not filed, the court applies punitive costs \*(which will be provided for in the proposed amended Rules of Court or Practice Directions) and gives another date / opportunity\* for filing of written addresses,

all that will still be dealt with in chambers. \*(counsel will obtain the dates from the court registrar so no need to sit in open court just to obtain dates)

- iii Finally, if all the written addresses are not filed by the date the court assigned, the proposed new innovations, are that the court will either
  - a) Rule on the sole written address in the file or
  - b) If there is no written address in the file, the case will be struck out for want of diligent prosecution.

The result will be that everyone will sit up, not only counsel, but litigants as well, since they also want speedy dispensation of justice, and will not want to be seen as the clog in the wheel of Justice. Having a designated court for such matters, or each court working in chambers, on all matters that require written addresses will save time, since matters before the regular court, will be for trial or hearing, having all passed beyond the preparatory stage. This will not only ensure our work goes on, in compliance with the covid-19 protocol, it will also grossly reduce the court list, as well as court sitting time which is in line with best practices worldwide. **This innovation will however require either a practice direction or amendment of the rules of court.**

## **21 FRONTLOADING IN CRIMINAL MATTERS :**

**FOR FASTER CRIMINAL TRIALS, WITNESES TO FILE STATEMENT ON OATH. THE APPLICABILITY OF THIS INNOVATION IS MORE OBVIOUS ESPECIALLY IN CIRCUMSTANCES WHERE “TRIAL WITHIN TRIAL” WILL NOT BE REQUIRED DUE TO PDSC AND DPP FILTERING SYSTEM. This innovation will however also require either a practice direction or amendment of the rules of court.**

## **22 REMAND APPLICATIONS TO BE TAKEN IN CHAMBERS**

THIS INNOVATION IS ALREADY RECOMMENDED / PROVIDED FOR IN ACJA ![39]

Section 293 (2) An application for remand under this section shall be made **EXPARTE\*** and shall

- (a) Be made in the prescribed **“Report and Request for Remand Form”**\*as contained in Form 8, in the first schedule of this Act; and
- (b) **Be verified on oath and contain reasons for the remand request**  
**\*highlight/ emphasis mine to indicate clearly the intention of exparte /chamberwork enshrined in the Act.**

YWs / YHs, these are all very clear and unambiguous provisions of the ACJA, providing the magistrate court with, powers to aid case management in criminal matters, by handling the application in an administrative manner, in chambers, which is in line with the innovation I am proposing. It is however crystal clear, upon careful perusal of the words of the Act, that it has always been contemplated by the Act: i.e. The Magistrate handling remand applications in Chambers and not in open court as it appears to be done nationwide.

YWs / YHs consider for a moment the fact that

- (1) **the plea of the suspect is not required to be taken like in an arraignment, and**
- (2) **the powers conferred on the court under this part may be exercised by the court:**
  - a) **Whether the suspect remanded is present in court or not;[40] and**
  - b) **On its own motion or on application.[41]**

Therefore YWs / YHs, why do we need to take the suspect into the courtroom, utilize all our court staff, and record all manner of comments from counsel etc., when it is a purely administrative procedure which can be handled in chambers, by the court itself, just like the procedure for approval of bail, interviewing sureties etc. **This innovation will not require either a practice direction or amendment of the rules of court or the law since it is already anticipated and provided in ACJA / ACJL but for the purpose of clarity interested states may clarify the position stating categorically that REMAND PROCEEDINGS WILL HENCEFORTH BE HANDLED IN CHAMBERS.**

## 23 **CONSIDER EARLY IF A CASE IS SUITABLE FOR ADR / MEDIATION**

- i Create a Table and
- ii Specify your impression about each case you are assigned,
  - a) given the papers filed,
  - b) Proposed timelines for duration for events and the ultimate disposal i.e. the period you believe will be sufficient based on your precedents and previous returns of cases. (If you don't have precedents or return of cases please use this format to discover what type of matter each case is)
  - c) Straightforward cases / Complicated cases,  
Defended / Undefended  
Suitable for ADR / Not Suitable for ADR  
This will provide a head start

## 24 **DEVELOP A TIME TABLE / WORK SCHEDULE WHICH WILL TAKE CARE OF THE ISSUE OF TIMING OF CASES / TIMELINES / TIME FRAMES / TIME SCHEDULES. (E.G.CHIEF CORONER'S COURT)**

**25 AVAILABILITY OF AND APPLICATION OF PUNITIVE COSTS WHEN A CASE IS DELAYED OR NOT DILIGENTLY PROSECUTED AND A CUMBERSOME PROCEDURE FOR RE-LISTING MATTERS STRUCK OUT, FOR LACK OF DILIGENT PROSECUTION.** It will not be permitted to be re-filed in any other Court, unless the counsel in charge, satisfies some conditions:

- i the counsel pays punitive cost,
- ii and is liable to be reported to the NBA Disciplinary Committee,
- iii also made to face a special Judiciary panel, to explain why he / she is dumping cases in court, clogging the system, wasting the precious time of the honorable court, as well as taxpayers money.

**This innovation will however also require either a practice direction or amendment of the rules of court.**

**26 GRANT BAIL ON SELF RECOGNISANZE TO THE POOR WITH THE ADVENT OF NIN (NATIONAL IDENTITY NUMBER) AND BVN (BANK VERIFICATION NUMBER)** i.e. with Finger Print Technology every Nigerian will be traceable. (This will decongest the correctional centers and prevent additional congestion.)

**27 PREPARE AUDIT OF CASES SUITABLE FOR PROPOSED EXPEDITIOUS DISPOSAL IN YOUR COURTS I.E. CUSTODY MATTERS / WHERE AWAITING TRIAL INMATES HAVE BEEN IN CUSTODY FOR SIX MONTHS (BACKLOG ELIMINATION PROGRAMME (CUSTODY MATTERS) (BEP/CM)\***

- 1) Data of people in custody in each court, offence, duration in custody and stage
- 2) It is possible to follow the Rwandan Example – where the people in custody were over 150,000 and the nation was able to differentiate those who said they were guilty and they were sentenced some given non-custodial sentences.[42]\* There should be proper enlightenment by states / NGO’S
- 3) The Correctional officers / NGO’S have to counsel inmates and obtain data of those who say they are guilty and want to plead guilty in the court, like the Rwandan example and those who are not guilty and have both lists
- 4) The lists will be forwarded to the Hon. Chief Judge of each state who will forward to either a “Special Backlog Elimination Court” set up for it or to the same Magistrate for speedy disposal i.e.

- a. Either the prosecutor will present a “Plea Bargain” agreement which the court will not reject or
- b. The defendant will simply change his plea in court, and there will be no need for a lengthy trial, given the “Special Backlog elimination / Expeditious disposal of backlog fiat”, the court can sentence immediately and give a probation order for vocational training etc.
- c. There must be provision for vocational training by States nationwide implementing the law\* s347(3) Criminal Law of Lagos State, The Nigerian Correctional Service Act 2019 and Administration of Criminal Justice Act 2015 in relation to non-custodial measures), local government, (the Mushin Diversion example in Lagos State) Reputable NGO’s or individual donors) to ensure that the defendants will be re-settled into society upon release from custody.

## 28 **ADAPTATION AND ADOPTION OF SOME ASPECTS OF SOME RULES THAT DICTATE CASE MANAGEMENT-**

e.g. The Family Court Rules (Lagos State), The Criminal Trials Practice Directions, AMCON Practice Directions both of the Federal High Court, Administration of Criminal Justice Practice Direction of Lagos State, and the Expeditious Disposal of Civil Cases Practice Direction 1 and 2 of 2019 both also of the High Court of Lagos State.

This in my humble opinion, will improve the administration of justice, in Magistrate Courts nationwide, increasing credibility. This way, Justice will not only be done, it will be seen to have been done, when we as Magistrates all function, in accordance with the powers allotted to us, in the proposed specific Practice Directions of individual states, with clear provisions that dictate, promote and aid case management, in effect liberating the court, to exercise the powers, perceived to have been allotted to it, for speedy dispensation of justice.

I observe that, they are explicit and also make compliance mandatory, meaning that for the avoidance of doubt, non-compliance with the practice direction, has strict penalties and sanctions, thereby making compliance with the Practice Direction in a reasonable man’s opinion not only essential, but also mandatory. It is therefore apparent, from all indications, that the effective management and disposal of cases, generally and especially the disposal of “backlog cases”, will have a resultant effect, on the performance of Magistrates and the administration of justice. **This innovation will however also require either a practice direction or amendment of the rules of court.**

**29 INNOVATIVE PROPOSAL THAT RETIRED MAGISTRATES AND NEWLY APPOINTED MAGISTRATES HANDLE BACKLOG CASES NATIONWIDE DUE TO CASE DOCKET OF MAGISTRATES**

It would be impactful to have Senior/Chief Magistrates who have very few “Part Heard Matters” handle or supervise the backlog matters program. That would be ideal, however from experience, if such Senior Magistrates or Chief Magistrates exist, their numbers would be negligible. Therefore it is humbly submitted that the category of Magistrates that are most suited for this special assignment are possibly either “retired Magistrates” or in their absence, “newly appointed magistrates” yet to be assigned courts, or who only recently resumed sitting or who do not have part head matters. There are a few positive reasons for this seemingly elevated line of duty:

- i. Newly appointed Magistrates were considered fit and proper to be appointed as Magistrates, therefore they should be allowed to function in that capacity and display their competence. The same goes for the Retired magistrates who have the additional benefit /privilege of being experienced.
- ii. Newly appointed Magistrates as well as retired Magistrates do not have “Part Heard Matters” which can be extremely distracting, requiring more attention for speedy disposal.
- iii. The Special assignment i.e. handling “Backlog cases” will be backed by a clear and un-ambiguous Practice Direction with specific provisions, mandating or directing applicable case management principles, to be complied with, or be penalized or sanctioned. Accordingly, the presiding Magistrate whether new or not, is to simply enforce the Practice Directions or amended rules being the order of the Hon Chief Judge stipulating specific case management Directives.
- iv. Both the Newly appointed Magistrates, as well as the Retired Magistrates, will imbibe a new trend, and display to court users and staff alike that, “Delay” and other unscrupulous devices, designed and employed to prevent prompt disposal of cases, whether backlog or not, is UNACCEPTABLE, with applicable consequential consequences.
- v. The Reputation of a Magistrate is important, therefore being new, there will be no negative precedence of being either permissive or authoritarian binding on the newly appointed Magistrate. Members of the bar as well as members of the public are meeting him or her for the first time, and are forced to, not only adjust to the Authoritative / Responsible style of the new magistrate, but to also comply with the directions as elucidated\*(Meaning) by the court. The retired Magistrates on the other hand will be restricted to function in accordance with the dictates of the practice direction, therefore members of the bar are forced to comply with the provisions of the practice directions which will be enforced by the presiding officer doing justice according to law. **This innovation will however also require either a practice direction or amendment of the rules of court.**

## BENEFITS OF CASE MANAGEMENT ON THE PERFORMANCE OF MAGISTRATES: THE CASE MANAGEMENT SYNERGY AND ITS EFFECT ON THE PERFORMANCE OF MAGISTRATES

Case Management involves a synergy of people, doing things that if promptly and properly done, will result in the efficient effective disposal of cases, with the ultimate effect on administration of justice. Though Magistrates have no control, over most Pre-Court case management facilities, same not being court based, yet it affects the work of the Magistrates in diverse ways, having direct impact on the volume of cases, (quantified number) and the value, and the type of cases charged to our court. In effect the Pre-court case management determines, both the quantity as well as the quality of criminal cases brought to court. These laudable innovations will prevent trumped up charges and also reduce the need for “Trial within Trial” since the defendant’s lawyer was present when his statement was being taken at the police station to mention a few benefits.

The benefits are numerous as this definitely has a way of not only increasing the efficiency and effectiveness of Magistrates it is also actively reducing, the influx of unnecessary cases, to the already over loaded case docket, of the magistrates. This will result in fewer trumped up charges charged to court, with the attendant effect of non-prosecution, and gross delay due to lack of evidence, witnesses etc. There is also less likelihood of remand, pending bail which causes congestion,\*[43] in our correctional centers. This will also prevent the secondary effect which is that, once the defendant is in custody, many complainants are satisfied, and their interest in prosecuting the matter wanes, yet the defendant is languishing in custody, where it’s been said\*[44] that we currently have approximately 70% of inmates, in correctional centers awaiting trial. Similarly the use of Bondsmen is an aspect of case management which will also improve the performance of Magistrates nationwide, since its existence now frees up the magistrate, who can simply grant and approve bail almost immediately, making additional time / hours available for the Magistrate to focus on more pressing matters, and other case management techniques. In addition,

Work stress Impact - a magistrate that would have had 10 new overnight cases, may now have 4, accordingly less cases to deal with, but more brain time to deal with the previous caseload, inherited backlog matters and the new incoming available cases.

Work impact assessment – It will also reduce the distraction from the day’s planned schedule and also help manage time spent. Fresh criminal matters called “Overnight cases” can be a major distraction, since the cases though unanticipated and without need for notice, usually come in later in the day, after the magistrate has already done a lot of work assigned for that day, either in open court or in chambers. How long does it take to deal with one arraignment- consider the procedure –

- reading the charge
- writing in long hand
- taking the defendant’s plea
- if pleads guilty – summary trial and sentence

- if pleads not guilty -
- counsel makes application for bail / or court grants bail suo moto
- Court's ruling - granting or refusing bail
- Trial begins, if prosecutor is ready!
- Court's ruling on adjournment, if prosecutor is not ready or prepared for trial e.g witnesses absent etc.
- endorsing / signing remand warrant, remanding the defendant until sureties are interviewed and bail perfected, where bail granted
- interviewing sureties
- Prosecutor verifying sureties addresses- office, residential or both
- \*States that have Bondsmen do not have to congest the correctional centers. They also save Magistrates and staff time, as well as government funds, since no need to interview sureties, verify addresses etc. \*(New innovation also in Lagos State now)

If you calculate the various steps in time, we will agree on the minutes and the total man hours required daily, not only for the magistrate sitting on overnight matters, but also the time spent by all the court staff, and court users involved in the same matters, especially government staff e.g. Police Prosecutor, Prosecutors from the office of the DPP, Defendants Counsel, including those provided by the government, (in Lagos state known as OPD office of the public defender)

Economic impact – The government spends less, because less people are being prosecuted, and less staff hours required, therefore the court staff can focus on other pending matters, including civil, family and other inherited backlog matters.

### ITS RESULTANT EFFECT OF IMPROVING PERFORMANCE OF MAGISTRATES

Case Management also helps Magistrates, accomplish the goal of justice delivery, in record time from the onset of the case to its disposal. It is a major professional technique or skill that is essential, to enable us do justice, which ultimately results in, improved and escalated performance. Furthermore effective Case Management, will not only help magistrates avoid or prevent delay, it will help establish and replenish, the potential of Magistrates, and also improve the performance, as well as the reputation of Magistrates, because in effect it will be long-standing, irrevocable, evidence of work ethics, as well as statistics which will reveal quite clearly, not only the quantity of work done by Magistrates, but also the quality of work done, which includes timeliness, and complying with stipulated Time lines, staying within the Time Frame, until the final disposal of the case i.e. the quality of the work that Magistrates do on a daily basis.

“Case Management is important in improving performance of judicial officers (Magistrates) (emphasis mine) because it curbs delay in trial with its attendant negative effects”. [45]

THE FAMILY COURT EXAMPLE - It is notable that being a special court, the Family court at the Magistrate court level, shares the same Family Court rules, with the Family Court of the High Court of Lagos State, and has the same clear provisions, directives and orders to ensure effective case management, thus armed to prevent delay in court proceedings, and ensure prompt disposal of cases, resulting in speedy dispensation of justice.

#### OBSERVATION ...ON THE PERFORMANCE OF A MAGISTRATE

This really makes a big difference in the area of case management in the Magistrate court. **A magistrate sitting as a Family Court Magistrate, can do certain things that will aid case management, which the same magistrate, sitting on the same day, in the same court, on other civil or criminal matters, cannot do, simply because those provisions available in the Family Court rules, are not clearly spelt out or stated in the Magistrate Court rules, as such therefore not applicable in handling civil or criminal matters in the Magistrate Court.** For clarity of purpose and for the avoidance of doubt, it can be stated specifically, in the proposed new rules of court that its overriding objective, is to dictate case management rules, to be complied with, to ensure speedy dispensation of justice.

PERFORMANCE MEASURES: These are some of the indicators to show that case management strategies are working.

- 1 Access to Justice
- 2 Expeditious Disposal of Cases
- 3 Reduction in Remand / Custody matters
- 4 Court files Integrity
- 5 Trial and Judgment delivery date certainty
- 6 Case Clearance Rate
- 7 Reduction in Case Backlog
- 8 Court User Satisfaction
- 9 Work Environment and Employee Satisfaction
- 10 Punctuality
- 11 Synergy and involvement of Stakeholders

## TANGIBLE RESULTS OF CASE MANAGEMENT:

All the players in the justice system need to have a coordinated approach to realize the case management targets. It will result in, marked improvement of the performance of Magistrates, which will be evident by:

1. Decongestion of Correctional Centers, which will be a direct result of effective Case Management
2. Reduction in Awaiting Trial Inmates
3. Reduction in pending Civil Matters
4. Expeditious Elimination of Back log Cases
5. Populate has more confidence in the Judicial system (specifically the Magistrate Court)
6. Ripple effect on the Nation's Economy

## (Very Important) APPRAISAL OF THE NEED FOR CASE MANAGEMENT

THE QUESTION IS NOT HOW DID WE GET TO WHERE WE ARE? The historical accounts will take too long to recount, and will be unnecessarily overwhelming, and will also be accurate evidence, of lack of Case Management. THE RELEVANT QUESTION IS

WHERE DO WE GO FROM WHERE WE ARE? WHERE DO WE GO FROM HERE? AS MAGISTRATES IN VARIOUS JUDICIARIES NATIONWIDE, HOW DO WE USE CASE MANAGEMENT TOOLS TO IMPROVE OUR PERFORMANCE”? It is undisputed, that we agree that Case Management, will definitely improve the performance of Magistrates and it does.

## PERFORMANCE INDICES

It is obvious and widely acclaimed amongst us, that magistrates are performing nationwide, but the sad truth is that, it is only Case Management, that will truly display our performance, given the sheer volume and quantity, of the cases handled by magistrates nationwide.

Case management has the ability to, in very clear terms, indicate the work we do. Since it is designed to avoid or prevent delay, using case management, will display our performance, in clear terms, indicating the volume, quantity and quality, of the work we do. Therefore in my humble opinion, based on the available empirical evidence, Case Management is a non-negotiable tool or technique, that will not only improve and exhibit our performance, it will put our performance as Magistrates (wherever we may be nationwide) on display for all to see. For instance, filing Returns of work disposed of, is evidence of work done by magistrates.

It is worthy to note that, if you don't use Case Management tools, members of the public will not be able to see, that you are effectively managing the caseload assigned to you, or that a caseload

even exists, therefore our goal must be, to use case management, to improve our performance as Magistrates. It is certain that our laws, rules of court and practice directions, are effective tools for case management. It is also true that we see the need, to amend some of them to include additional / clear provisions for case management.

“It is patent that the improvement of the procedural legislation is an important factor for the application of a more efficient case management. It is also crystal clear that the existence of major investments in the Judiciary, to create a more appropriate administrative and judicial structure, would also be important for the improvement of this type of public service. However, it is intuitive to say that, it may take too long to make fundamental changes in the law, due to the complexity of the legislative process, and the political battle. On the other hand, it is not easy to have more financial investments in the Judiciary branch in times of a deep economic crisis...

So, despite the value of new investments and the creation of new procedural instruments by law – which takes time and may never happen – the Magistrate (Judges) can improve the case management by using the laws in an adequate way, having in consideration the constitutional principles imposing to the public agent an efficient use of the public funds. The interpretation of the laws has to comply with the constitutional principles of reasonable duration of the case” [46]

#### OUR OBJECTIVE (THE GOALS AND BENCHMARKS (RECOMMENDATIONS))

‘If you keep saying what you see,  
What you see will not change;  
If you say what you want to see,  
What you see will change;  
And become what you want to see...’ [47]

The following standards are not being promulgated as mandatory rules but, rather, as goals and benchmarks that strive to balance the need for uniformity in expectations concerning timeliness with an acknowledgement that the diversity of case assignment, docket rotation and local judicial discretion in managing individual cases has a significant impact on timeliness statistics. All (judges) Magistrates are encouraged to study these standards and to attempt their implementation in a manner consistent with the overriding goals of eliminating unnecessary delay in the judicial process, making more effective use of judicial resources in the resolution of disputes, and making the judicial process more accessible to litigants and the public.[48]

These recommendations, are a combination of short, medium and long term goals, which are humbly recommended, to provide the much required uniformity in expectations, in the use of case management in improving performance of magistrates, with the result of speedy

dispensation of justice in all matters expeditiously eliminating backlogs, and reducing the over bearing number, of Nigerian citizens currently languishing, in correctional centers nationwide, as “awaiting trial inmates”. Many of the recommendations are innovations that will require / involve making practice directions / amending the laws and procedural rules with specific provisions for case management which are not within the Jurisdiction of Magistrates, what then is the way forward?

#### **WHAT DO WE DO NOW, BEFORE OUR RULES ARE AMENDED?**

YWs / YHs, In the absence of the proposed necessary amendments to our rules for now, there are many other available material, for magistrates nationwide, to give directions for practical case management, in his or her own court in the best interest of justice, which must be complied with, and whoever is aggrieved, and unwilling to comply, may please appeal.

YWs / YHs the way forward is to understand that, it is our Duty as magistrates, to strictly apply all available provisions, of the Rules of Court / Practice Directions, to manage all cases before our courts, and particularly expedite or promptly terminate, backlog or unnecessarily delayed cases, within the shortest time possible.

#### **WHAT TO DO NOW AND THE WAY FORWARD / RECOMMENDATIONS,**

##### **THIS PAPER HUMBLY RECOMMENDS THE FOLLOWING:**

- 1 CONTINUOUS PERSONAL EVALUATION: set goals, focus on the indices of performance, with the goal to perform better daily, by demanding personal excellence, to improve individual personal best.
- 2 COMMITMENT TO CASE MANAGEMENT IN BOTH CIVIL & CRIMINAL MATTERS EVIDENCED BY METICULOUS APPLICATION OF THE PROVISIONS EMBEDDED IN THE LAW / RULES OF COURT E.G. ACJA PLEA BARGAIN, APPLICATION FOR REMAND. ALSO PDSC, ETC.
- 3 APPLICATION / USE OF ALL THE EFFECTIVE TOOLS FOR CASE MANAGEMENT, DISCUSSED IN THIS PAPER.
- 4 EXERCISE DISCRETION- judicially and judiciously.
- 5 READ YOUR FILE IN ADVANCE
- 6 ENGAGE IN PERSONAL RESEARCH / PERSONAL DEVELOPMENT / CLEM - Continuing Legal Education for Magistrates.

- 7 CHECK FIRST FOR JURISDICTION - MOST TIMES THE COURT MAY HAVE TO RULE ON THE ISSUE OF JURISDICTION FIRST. REMEMBER THE QUESTIONS TO ASK YOURSELF... BEFORE taking any step
- 8 **CONSIDER** EARLY IF A CASE IS SUITABLE FOR ADR / MEDIATION.
- 9 DEVELOP A TIME TABLE / WORK SCHEDULE WHICH WILL TAKE CARE OF THE ISSUE OF TIMING OF CASES / TIMELINES / TIME FRAMES / TIME SCHEDULES. (CHIEF CORONER'S COURT)
- 10 APPOINTMENT OF BONDSMEN REQUIRED TO ENSURE PERFECTION OF BAIL WHEN NECESSARY AND PREVENT UN NECESSARY CONGESTION OF THE CORRECTIONAL CENTRES.
- 11 GRANT BAIL ON SELF RECOGNISANZE TO THE POOR WITH THE ADVENT OF NIN (NATIONAL IDENTITY NUMBER) AND BVN (BANK VERIFICATION NUMBER) (i.e. with Finger Print Technology every Nigerian will be traceable)
- 12 APPOINTMENT OF MANY MORE MAGISTRATES.
- 13 ACQUISITION OF INFORMATION TECHNOLOGY SKILLS.
- 14 A NEW PROCEDURE FOR PETITIONS - updated to the current procedure In Lagos state:
- 15 INVENTORY OF CASES IN THE DOCKET OF MAGISTRATES REQUIRED TO REVEAL
  - I the number of cases in a Magistrate's Case Docket
  - II the type of cases, whether civil, criminal, family, or any other type of case.
  - iii the age / duration of cases
  - iv whether the defendants are in custody
  - v whether the case is being diligently prosecuted or not

This is to ensure that the statistics above, can accommodate the requirement for, case management strategies as provided for, in the procedural rules / practice directions which stipulates for e.g. adjournment of civil trial to ten days and / or day to day\*1, as well as the adjournment of criminal trials from day to day\*2, will seamlessly synergize with the complexities of our multi-agency requirements.\*3

\*1 order 9. (4) (i) Magistrate Court Civil Procedure Rules Lagos State. \*2 ACJA 2015 \*3(For instance the role of the police in criminal matters, the non-availability or accessibility of witnesses etc.)

- 16 ENSURE COMMENDABLE WORK ETHICS / INTER PERSONAL RELATIONS WITH COURT USERS AND STAFF (Treating people like human beings is essentially

an avenue for effective case management and improving performance, since Court users / staff will be more comfortable working with us).

- 17 LEGAL REGISTRARS TO BE APPOINTED AND ASSIGNED TO EACH MAGISTRATE.
- 18 TRAINING IN CASE MANAGEMENT TECHNIQUES SHOULD BE CONTINUOUS PHENOMENUM:
- 19 URGENT PROMULGATION / AMMENDMENT OF LAWS/ RULES OF COURT AND PRACTICE DIRECTIONS TO INCLUDE CLEAR UNAMBIGUOUS PROVISIONS FOR INNOVATION / CASE MANAGEMENT IN THE MAGISTRATE COURT SPECIFICALLY SUGGESTED BELOW.
  - A) CLEAR UNAMBIGUOUS PROVISIONS FOR INNOVATION / CASE MANAGEMENT IN THE MAGISTRATE COURT SPECIFICALLY **Case Management directives, which parties have to comply with, or be heavily sanctioned for non-compliance.**
  - B) UNLESS ELEVATED OR RETIRED MAGISTRATES SHOULD CONCLUDE THEIR PART HEARD MATTERS.
  - C) CREATION OF MORE COURTS AND MORE SPECIALIZED COURTS (e.g. Family Court. **The essence is to have specific courts doing specific things, with the presiding Magistrates fully versed in that aspect of the law.**)
  - D) APPLICATION FOR REMAND / EXPARTE MATTERS / WRITTEN ADDRESSES TO BE DISPOSED OF IN CHAMBERS WITHOUT ANY NEED FOR COUNSEL OR PARTIES TO BE PRESENT.
  - E) RESTRICTION ON TRANSFER OF CASE FILE TO ANOTHER MAGISTRATE, (WITH VERY FEW EXCEPTIONS) TO PREVENT UNNECESSARY INTIMIDATION AND GROSS DELAY. CRWC /Appeal
  - F) **Specific provisions of the following Rules of Court / Practice Directions** be made into Practice Directions in interested states and therefore **adopted and applied, to regular criminal or civil matters, or other applicable cases. They are :**
    - i) Family Court Rules of Lagos State 2011
    - ii) The Criminal Trials Practice Direction 2013 (of the FHC Federal High Court),

- iii) The Expeditious Disposal of Civil Cases Practice Direction No.1 and 2 of 2019 (of the High Court of Lagos State which includes “Pre-Action Protocol” to prevent future Backlog cases) and
- iv) The Administration of Criminal Justice Practice Direction of 6<sup>th</sup> May 2019 (which is applicable to both the Magistrate court as well as the High Court of Lagos State) which are explicit and also make compliance mandatory. **All of which dictate applicable case management principles**, including but not limited to Case Management Conferences, as well as other provisions. **Their adoption and application in regular matters, will aid in active case management.**

G) PROVISIONS THAT EMPOWER A MAGISTRATE TO EXERCISE HIS /HER DISCRETION EVEN WHEN NOT EXPRESSLY STATED IN THE RULES: \*. (\*as is available here and abroad)

H) PUBLIC ENLIGHTENMENT / PROVISIONS THAT DECLARE THAT THE MAGISTRATE IS RESPONSIBLE FOR CASE MANAGEMENT AND CAN / WILL SANCTION / PENALIZE DEFAULTERS:

I) PROVISIONS FOR FRONTLOADING IN BOTH CIVIL AND CRIMINAL MATTERS AND WRITTEN SUBMISSIONS WHENEVER POSSIBLE

J) CASE DURATION FOR ALL MATTERS TO BE ENSHRINED IN THE RULES OR PRACTICE DIRECTION: 1 ½ Years ? max (Re: George Floyd’s case USA)

K) PROVISIONS FOR PUNITIVE COSTS / PENALTY FOR DELAY/LACK OF DILIGENT PROSECUTION AND A CUMBERSOME PROCEDURE FOR RE-LISTING MATTERS STRUCK OUT, FOR LACK OF DILIGENT PROSECUTION.

L) APPOINTMENT OF SPECIAL PANEL (RETIRED MAGISTRATES/NEWLY APPOINTED MAGISTRATES) FOR EXPEDITIOUS DISPOSAL OF BACKLOG / OLD CASES 3 YEARS AND OVER. BACKLOG ELIMINATION PROGRAMME (BEP)\* to ensure that the cases are completed, maybe within 3 to 6 months compulsorily so as to eliminate the backlog.

M) MANDATORY RECOURSE TO ADR / MEDIATION TO BE USED IN CASE MANAGEMENT OF OLD CASES- REVIEW / SPECIAL FIAT / DIRECTIVES, CLEARING / ELIMINATING BACKLOGS/ OLD CASES

\* The Expeditious Disposal of Civil Cases Practice Direction No.1 and 2 of 2019 (of the High Court of Lagos State which includes “Pre-Action Protocol” to prevent future Backlog cases) and The Administration of Criminal Justice Practice Direction of 6<sup>th</sup> May

2019 (which is applicable to both the Magistrate court as well as the High Court of Lagos State) which are explicit and also make compliance mandatory.

N) I have specified hereunder two options which are by no means exhaustive but can start us off on the goal of eliminating backlogs/Old cases.

Option A – PRACTICE DIRECTION FOR AUDIT OF CASES 3 YEARS AND OVER AND AUDIT OF ALL “APPLICATIONS FOR REMAND” BE MADE: with the aim of resulting in prompt disposal of backlog cases and remand matters, especially in circumstances where the defendant has been in custody for much longer than stipulated by ACJA / ACJL specifically providing that,

I every magistrate list ALL Pending “Applications for Remand” where any, or all these circumstances exist / prevail

1. Whether or not DPP Legal Advice available or not
2. Date information filed, if filed
3. Name of Judge if aware.

II list all cases that are three years and over, pending in the court, where any, or all these circumstances exist / prevail:

1. No representation,
2. No complainant,
3. No prosecutor,
4. The defendant is in custody,
5. Stage of Hearing / Proceedings before order for trial de-novo (if order exists)
6. Next stage / next event,
7. Details of previous magistrate – whether retired or elevated.

Furthermore, it is humbly recommended, that the Trial Magistrate be given “special fiat” to

- i Refer to Mandatory Mediation or
- ii Strike out such audited cases, (either Backlog or Remand Applications) for want of diligent prosecution when it is evident, that is the position.

Option B – PRACTICE DIRECTION STATING THAT A SPECIAL PANEL OF (RETIRED MAGISTRATES / NEWLY APPOINTED MAGISTRATES) ARE APPOINTED TO HANDLE BACKLOG CASES (INCLUDING REMAND APPLICATIONS) BE MADE: with the aim of resulting in prompt disposal of backlog cases and remand matters, especially in circumstances where the defendant has been in custody for much longer than stipulated by ACJA / ACJL and they should be given, “special fiat” to:

I Hear and determine all Backlog matters, including Old Remand Applications with the goal of eliminating Old/Backlogs cases.

II Refer to Mandatory Mediation or

III strike out the Remand Applications / Backlog cases for want of diligent prosecution when it is evident, that is the position.

## CONCLUSION

Using the available provisions for case management meticulously, will improve the performance of Magistrates, and will ultimately result in the effective management of, administration of justice as a whole, in the Magistrate court, beginning with effective case management, in all matters before the court. The promulgation of the, case management advocating, and promoting Laws, / Rules and Practice Directions, recommended by this paper will be a huge leap, in the right direction. Furthermore, the implementation of these Recommendations, will bring about, not only new levels of case management, and glaring improvement in the performance of Magistrates, it will result in transformation, of the Justice sector, because the prompt disposal of cases, will exhibit speedy dispensation of justice, which will definitely have a ripple effect, on the nation's economy .

YWs / YHs I have a confident expectation of good, in the criminal justice system, but we simply need to agree on the way forward, if possible a uniform approach, and function in accordance with our agreement helping each other to stay in line. I call it maintenance, maintaining the good name and the integrity of the Magistrate Court, but most people call it Case Management. When we magistrates are determined, it will be obvious for all to see, and it will have a positive effect on the criminal justice System, because each prosecutor will be determined to be the best him or her there can be, each counsel who appears before us, each police officer, each corrections officer, that appears before a magistrate, will become determined to be the best him or her possible.

Simply put, a Magistrate impacts the system, and reproduces officers with a similar disposition and the criminal justice system will not just be changed, it will be completely transformed. Now YWs / YHs, that's the future we desire, the very near future we anticipate, to make our world a better place, and honestly YWs / YHs, it begins with you and I, managing our cases and improving our performances, good becoming better, and better becoming best. Inevitably that way, the society will believe in the court system, and justice will not just be done, it will be seen to be done....let's make a difference YWs / YHs, the ball is in your court, or rather better put, more appropriately said, the case file, is in your court.

## UNIFORM APPROACH TO CASE MANAGEMENT

Once we agree on the way forward, on our uniform approach to case management, we can all focus on doing what we do better, remember, great things have small beginnings. My goal is to be the “best me” possible, and encourage you to be the “best you”, there can be. YWs / YHs, there's a reality, beyond our present circumstances, and the bright future is just ahead of us. We just need to take positive steps, in the right direction regularly, consciously, daily, in order to get there and we will. Let's do this together. Your Worships / Your Honours, Let's use effective Case Management to improve our Performance, over and over again, as a way of life.

I thank you for your attention.

ADEJUMOKE BOLAKALE OLAGBEGI-ADELABU (Mrs) ACI Arb

Chief Magistrate I, Lagos State Judiciary

Chairman, Magistrates Association of Nigeria,

Lagos State Branch....

## REFERENCES

\* [A] from my study of our colleagues for the 17 years that I have served as a magistrate, I derived the three definitions / qualifications, which I adapted from a book on parenting that I read. \*[B]

- 1 As defined by National Center for State Courts (NCSC) at <https://www.ncsc.org/...management...> As at April 2021
- 2 (2)(by Daniel CARNIO COSTA, *Permanent Sitting Judge at the 1st Court of Bankruptcies and Judicial Recoveries of São Paulo, Professor at the Pontifícia Universidade Católica de São Paulo (PUCSP) and Postdoctoral Fellow at the University Paris I Panthéon-Sorbonne.*)
- 3 [3] *The history of case management*, in <https://cmsadetroit.org/about-us/history-chapter>.
- 4 [4] Kerlsberger. A.L., *Case management: A rich history of coordinating care to control costs. Nursing Outlook*, Vol. 44, Issue 4, 1996.
- 5 [5] <http://www.cmsa.org/Home/CMSA/WhatisaCaseManager/tabid/224/Default.aspx>.
- 6 [6] See supra note 3.
- 7 [7] As per the definition found on the website uslegal,
- 8 [8] (IMPLICATIONS OF CASE MANAGEMENT AND ACTIVE ADJUDICATION FOR JUDICIAL DISQUALIFICATION.by Dr. Jula Hughes, Professor, Faculty of Law, University of New Brunswick. Philip Bryden, Q.C., Professor, Faculty of Law, University of Alberta)
- 9 [9] (Richard A. Posner, "*Judicial Behavior and Performance: An Economic Approach*," 32 *Florida State University Law Review* 1259 (2005).)
- 10 \*[10] Just my original thoughts on a way to arrange the words for easy assimilation and recollection
- 11 [11] (SUPREME COURT OF COLORADO OFFICE OF THE CHIEF JUSTICE DIRECTIVE CONCERNING COLORADO STANDARDS FOR CASE MANAGEMENT IN THE TRIAL COURTS)
- 12 \*[12] (For more detailed information see the submission / writings / research of Hon. Justice Imelda Etape, High Court of Justice, Cross River State, in a paper titled Use of Case Management in improving performance of Judicial Officers. 10<sup>th</sup> July, 2019,)
- 13 \* [13] (Kritzer 2004; Galanter 2004; Dingwall & Cloatre 2006).
- 14 [14] (Dalla Pellegrina 2008)
- 15 [15]([http://www.lawsociety.org.nz/publications\\_and\\_submissions/lawtalk/2009\\_issues/lawtalk\\_issue\\_731/firm\\_measures\\_needed\\_on\\_cost\\_of\\_justice](http://www.lawsociety.org.nz/publications_and_submissions/lawtalk/2009_issues/lawtalk_issue_731/firm_measures_needed_on_cost_of_justice)) 4 spending and court administrative costs.
- 16 (16 Pound cites Bentham complaining that 543 out of 550 writs of error '...were shams or vexatious contrivances for delay' (Works, VII, (1797) 214) while Storey observed that 'delay' is 'an evil which has been the cause of bitter complaint ever since legal tribunals came into being.' 10 time to resolve a dispute ignores anthropological insights and appears naive.)
- 17 <http://www.stuff.co.nz/national/6073112/Quake-risk-could-closepublic-buildings>
- 18 Same as 17,
- 19 (Sipes 1988; Luskin & Luskin 1987;
- 20 Chan & Barnes 1995),
- 21 (Galanter 1974).)Luskin & Luskin 1987 22 (Steelman 1997.
- 22 Stanley Ibe page 1, PDSS Training manual.
- 23 \*23(as at 2021 more magistrates irrespective of cadre are designated to perform this Pre-Court case management function.)
- 24 24 Bayo Akinlade page 19 PDSS Training manual .
- 25 \*25(Mostly Nigerians come to our courts anyway, albeit with a few notable exceptions)
- 26 Justice Clock [https://youtu.be/d\\_umUTYDtMQ](https://youtu.be/d_umUTYDtMQ)
- 27 <https://magistrate.Lcis.com.ng>
- 28 [28] At page 16 of a speech delivered by Chief wole Olanipekun, OFR,SAN,LLD,FCIARB,FNIALS, at the stakeholders summit 2017 organized by the Lagos State Ministry of Justice in 2017
- 29 [29] On page 9 of a speech delivered by Chief wole Olanipekun, OFR,SAN,LLD,FCIARB,FNIALS, at the stakeholders summit 2017 organised by the Lagos State Ministry of Justice in 2017
- 30 [30] (2008) 5 NWLR (Pt 1079)114
- 31 [31] At page 16 of a speech delivered by Chief wole Olanipekun, OFR,SAN,LLD,FCIARB,FNIALS, at the stakeholders summit 2017 organised by the Lagos State Ministry of Justice in 2017
- 32 [32] See Family Court of Lagos State Civil Procedure Rules 2012 –

- 33 [33] reported as (1985) NWLR (part 1) page 17 and 18 ratio 3.
- 34 [34] *(IMPLICATIONS OF CASE MANAGEMENT AND ACTIVE ADJUDICATION FOR JUDICIAL DISQUALIFICATION)*.by Dr. Jula Hughes, Professor, Faculty of Law, University of New Brunswick. Philip Bryden, Q.C., Professor, Faculty of Law, University of Alberta)
- 35 [35] Criminal Practice Direction 24C.9
- 36 [36] See Part 28 ACJA particularly Section 270 (1) to (4)
- 37 [37] see also sections 270 (5), (6), (8), (9), (10),
- 38 [38] A paper delivered by Hadiza S. Sa’eed, Deputy Director/HOD Performance Evaluation & Legal Dept., National Judicial Council at the Refresher Course for Magistrates held 2 April 2019, at the National Judicial Institute, Abuja
- 39 [39] See sections 293(2), 294(1), 295, 297(1)
- 40 **[40] \*Section 297 (1), ACJA**
- 41 **[41] \*Section 297 (1),ACJA**
- 42 [42]\*Data provided by PRAWA, ROLAC ,see also section Section12(4) The Nigerian Correctional Service Act 2019
- 43 [43] current data of the correctional services show, that over most correctional centres house over 200% more inmates than the required capacity. PRAWA, ROLAC
- 44 [44] Uju Aisha Hassan Baba,OON, NPOM, MCIarb UK Former Director General, Legal Aid Council in her foreword for the training manual for the Police Duty Solicitor Scheme.
- 45 [45] (Hon. Justice Imelda Etape, High Court of Justice, Cross River State, in a paper titled Use of Case Management in improving performance of Judicial Officers. 10<sup>th</sup> July, 2019,)
- 46 [46] (art. 5, LXXVIII, CF / 88)[1] and efficiency (art. 37, “caput” of CF / 88)[2].
- 47 [47] Adejumoke Olagbegi-Adelabu. (Words of Inspiration for Daily Living)
- 48 [48] *(Richard A. Posner. "Judicial Behavior and Performance: An Economic Approach," 32 Florida State University Law Review 1259 (2005).)*

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