

**SPEEDY DISPENSATION OF JUSTICE THROUGH EFFECTIVE CASE  
MANAGEMENT IN NIGERIA <sup>a</sup>**

**By Hon. Justice A.U. Kalu**

You many please, permit me to place on record my gratitude and thanks to the magistrate Association of Nigeria for “commanding” me to be a resource person in your convention. I say “commanding” because this is a forum, made up of Magistrates – men of profound learning and I hope, (as things are now in Nigeria notwithstanding), honourable men, and to be invited to speak to such a forum can not be anything but a command.

I have been asked to speak on the topic “Speedy Dispensation of Justice through Effective Case Management in Nigeria.” Let me note immediately that through the topic is wide as it did not restrict itself to the Magistrates’ Courts. I am, therefore, left with the freedom to speak at large on this issue. Considering the learnedness of the focus public, I imagine that it is right that we do both be *as idem* with reference to the meaning, cannotation, and significance of the principal expressions comprised in the topic of the lecture: what is dispensation? What, for instance, is justice? What do we mean by case management?

**Dispensation**

Black’s Law Dictionary 5<sup>th</sup> Edition, defines “dispense” which is the verb form of the word “Dispensation” as meaning: “to weigh out, pay out, distribute, regular, manage, control”. The concise Oxford Dictionary defines dispensation as: “distributing dealing out, ordering, management of the world by providence; arrangement made by nature pr providence, special dealing by providence with community or person.”

- (a) paper delivered by Hon. Justice A.U, Kalu of the Abia State High Court at the 2011 Biennia National convention of the all Nigerian Magistrates Association on Thursday, 10<sup>th</sup> May, 2012 at Uyo, Akwa Ibom State.
- (1) A graduate of the University of Nigeria, he was called to the Bar in 1985. he obtained his L.L.M from the Abia State University and his Dissertation is on “The Police in a Federal State.” He worked in private legal practice before joining the Abia State Ministry of Justice. He was appointed Chief Magistrate in 19986, Secretary of the Abia State Judicial Service Commission in June 2004, and elevation to the High Court Bench in October, 2004. He has published a number of articles on the Law and co-edited the book “Reading in Contemporary issues in Law: Essays in Honour of Hon. Justice Sunday Ndudim Imo”. He is the current National Chairman of the Network of Multi-Doors Court Houses in Nigeria.

## Justice

Etymologically, this word means just conduct, fairness, especially in the exercise of authority or maintenance of right; reward of virtue, and punishment of vice.

As the topic under discussion parents itself and which is in keeping with common usage, we usually talk of the “administration of justice” but in reality what happens in our courts is the administration of law aiming to attain justice, for justice does not began and end with what Lawyers and Judges do in court. It has wider connotations and also much wider contours.

The difference between what we do in our courts and justice is comically brought out by the experience of the great Lord Coleridge, CJ, who was in a hurry to get the courts at Strand. The following dialogue ensued between the Lord C.J. and the taxi driver:

- C.J.: “Take me as soon as possible to the court of justice.”
- Driver: (in surprise and amazement) where are they?
- C.J.: (Equally surprised) what! You London cabby and don’t know the law courts.”
- Driver: Oh! Law Court! I thought you said the court of justice.”

The Law Courts! Clearly, everybody knows where those are at but when you talk of the Court of Justice, it becomes very difficult to locate it. It becomes a different matter altogether and you many have to engage the services of all the intelligence agencies in the world to locate it.

We may also recount another episode that brought out the sharp divide between justice and law. It is the case of Rosa Parks NNACP. In the days of the ascendancy of white supremacist belief in the U.S.A, Miss Parks took her seat in a bus in Montgomery. A white man entered the bus and the driver ordered all negroes to stand up and offer their seats to the white man. That was clearly the law in Montgomery at that time. Rosa Parks refused to stand up or to surrender her seat and the following dialogue ensued.

- Drive: “Are you going to get up, for if you don’t I am going to call that

policeman over there to arrest you.

Rosa Parks: Go on and call him.

(when the policeman got on the bus, the driver pointed Rosa Parks to him.)

Policeman: Did the driver ask you to get up?

Rosa Parks: Yes, he did.

Policeman: Why did you not get up?

Rosa Parks: Do you think it is right that after boarding the bus and taking my seat, I should get up?

Policeman: I do not know about right or wrong. All I know is that the law is the law and you are under arrest.”

The lesson from the above is that law is not necessarily coterminous with justice. For the topic under discussion to be meaningful, we must, in our individual court, work to transform our court from courts of law to Courts of Justice. It is only then that we can, like Crampton, J state with emphasis that:

*This court in which we sit is a temple of justice and the Advocate at the Bar as well as the Judge on the Bench are equally Ministers in that temple. The object of all equally should be the attainment of justice...The infirmity of human nature, the strength of human passion, may lead us to take false views and sometimes to embarrass and retard rather than assist in attaining the great object but let us never forget that the advancement of justice and the ascertainment of the truth are higher objectives and nobler results than any which in this place we can propose to ourselves... We owe a prior and perpetual retainer on behalf of truth and justice there is no crown or other licence which in any case of for any party or purpose can discharge us from that primary and paramount retainer.*

We therefore, must realize that the main function of the court is the administration of law for the enforcement of rights and the redress of wrongs

and delicts. In this crusade the Judge or Magistrate, as the central figure, the captain of the ship, should so steer the wheels as to maintain the supremacy of the law as, but the handmaid of justice. We must dispense justice and not conscienceless law.

### **CASE MANAGEMENT**

How then can we dispense justice through effective case management? Of course, it is important for us to appreciate what case management means. The pace or movement of cases from commencement to trial; as well as the presentation of the evidence and the formulation of the issues were before now left in the hand of parties and their counsel. The responsibility of the trial judge was simply to ensure that there had been a fair process and to regulate the reception of evidence according to the rules of evidence. The adversarial system in practice limited the power of judges by allowing the lawyers to present and develop the evidence to be presented in support of their matter. The judge, as a natural arbiter or umpire, could not be seen descending into the arena. A judge that did more than that was condemned as interfering or showing undue interest in the matter. That somewhat passive role of the judge of yore unwittingly encouraged delays and increased the cost of litigation.

Case or trial management was therefore, conceived, to combat this procedurally in-built delay mechanism. Case or trial management has been described by the Wikipedia Free Encyclopedia as a subject of legal practice management and cover a range of approaches and technologies used by law firms and courts to leverage knowledge and methodologies for managing the life cycle of a case or matter more effectively. Generally, the term refers to the sophisticated information management and workflow practices that are tailored to meet the legal fields specific and requirements.

Case or trial management case more intelligently be described as a judicially – led initiative designed to more effectively manage cases. This is intended to increase public confidence in the system and improve access to justice. In more advanced environments, case management in a court incorporates approaches to scheduling matters, including the introduction of top of the edge technology that allows remote court scheduling, that is, the ability to book matters on line via computer or mobile devices. At such levels, it will also include focusing on leveraging new and innovative technology to ensure that

the justice system continues to be relevant to the changing needs, Prosecutor Information System Manager (PEISM), creating a user portal and deactivating the justice scheduling subsystem.

The Australian Law Reform Commission in its report<sup>3</sup> on “Managing Justice”, identified certain general principles for effective practices in case management thus:

*Generally courts and tribunals need to monitor cases from the start and maintain supervision throughout so that they know if a case off track and not meeting time standards or complying with directions. This supervision can be undertaken electronically as well as by judges, members or registrar. Successful case management requires judicial and member commitment and leadership and consultant with the legal profession. Most courts and tribunals have time standards and goals to measure case progress and utilize “short schedule” event techniques and procedures to prompt lawyers into, for example, filling documents before the set case event so that the event accomplishes its objectives. Given the co-operative inter-change have to ensure lawyers do not accommodate one another to the prejudice of the parties and the efficiency of the court or tribunals. Listing dates must be credible and adjournments controlled. Courts and tribunals needs to create among lawyers and parties an expectation that events will occurs when scheduled.*

I am aware that there are several cutting edge technologies and softwares that aid in case management. Some of these technologies are specifically made for known judiciaries and these Judiciaries management processes and technologies include case and matter management, time and billing litigation support, research communication and collaboration, data mining and modeling, and data security, storage and archive accessibility.

However, conceding our peculiar circumstance I will now dwell on these technological..... I will rather dwell on the provisions of the New Rules of our different..... Court distilled from the Recommendations of the Woolf’s Committee in the land. Lagos State Judiciary was the first Judiciary in

3. Australian Law Reform commission Magistracies: A Review of the Federal Civil Justice System at 363(6.11)

Nigeria to introduce the New Rules and I will use it and that of the Abia State High Court as my reference points in trying to show how case management was significantly introduced into our civil courts through the Rules.

In the introductory Notes to the Lagos State High Court (Civil Procedure) Rules, 2004, the authors gave their philosophical approach thus:

*As stated in Order 1 Rules 2, the application of the new rules shall be directed towards the achievement of just, efficient and speedy dispensation of justice.*

As part of efforts to effectively manage cases in the court, the Rules, eliminate many time wasting procedures and obsolete rules and give judges a firmer control over proceedings in their courts. The New Rules provided among others, the following:

1. Service of Processes

In the New Rules of civil procedure operating in most of our High Courts, the delay in the service of processes occasioned by the inadequacy and inefficiency of the established Sheriffs Department was addressed. The new Rules now provide that any law chambers, courier company or any other person appointed by the Chief Judge can now serve originating processes.<sup>4</sup> This provision supplements the usual crop of process servers.

2. Front loading

As part of measures to effectively manage matters in our civil courts for effective justice delivery, the new Rules now operating in our different High Courts provide for the concept of frontloading<sup>5</sup>. This means that both the claimant and the defendant are expected to reveal their entire case before trial. All originating processes must be accompanied by a statement of claim, a list of witnesses to be called at trial, written statement on oath of the witnesses and copies of every document to be relied on at the trial. Where a claimant fails to comply, his originating process will not be accepted for filing by the Registry. Similarly, an originating summons must be accompanied by an affidavit setting out of the facts relied upon, all the exhibits to be relied upon, and a written address in support of the application.

4. Order 7 Rule 1 of the High Court of Lagos State (Civil Procedure) Rules, 2004. one may also have a look at Order 9 of the Abia State High Court (Civil Procedure) Rules, 2009 which the power to appoint such special bailiffs to a Judge and did not restrict it to the Chief Judge. The devolution of this power under the Abia State Rules is salutary and commendable.

5. Order 3 Rule 2. Order 8 17 Rule 1 and Other 17 Rule of the High Court of Lagos State (Civil Procedure) Rule See also Order 2 Rule 4 (1) and (2) Order 2 Rule 5(1), Order 2 Rule 7(1) and (3), Order 2 Rule 8(1) and (2) of the Abia State High Court (Civil Procedure) Rules

When the defendant is served with the originating process of the claimant, he is expected to file a Statement of Defence, accompanied by copies of his documentary evidence a list of witnesses and their written Statements on Oath.

The defendant has a specific time frame within which to do this after the originating process is served on him. In case commended by originating summons, the defendant must file a counter affidavit together with all the exhibits he intends to reply upon and a written address within a specific time frame after he is served with the originating summons.

Under the old order, parties engaged in subterfuge and all sorts of subterranean man-oeuvres reminiscent of a hide and seek game. Of course, this led to trials lasting longer than necessary, thus escalating costs of trials and making the citizen to lose faith in the judicial system. The frustrating situation in the old order made Anigolu, J.S.C. (as he then was) to bemoan that:

*...a state exists to do justice to the state and justice to the citizens. The doing of justice is an obligation which the state owes its citizenry and which it exercises principally through its third arm, namely the Judiciary.*

*Any functionary of the Judiciary to whom the discharge of this sacred obligation is entrusted on behalf of the state owes it as a duty to the corporeal of the citizenry, of which the state is a representation and a crystallization, to do undiluted and unmutated justice to which society is entitled and from which no member of the society is permitted to derogate. Speedy trial and fair hearing therefore become an aspect of public justice which sets a standard fixed by law and society, which a judge must attain in the determination of cases before him, and in respect of which no person in society is allowed to compromise.<sup>6</sup>*

Subsequently in **Ifezue V Mbadugha**,<sup>7</sup> Obaseki, J.S.C. (as he then was) also speaking on the need for quick or speedy dispensation of justice said:

I venture to say that the duty of adjudication is in a class by itself and should not be placed in the same category as simple executive

6. Ariori V Eleme (1983) 1 SCNRL 1 at 28

7. (1984) 1 SCNLR 472 at 473

*public duties. The presumption that necessarily arises from the failure to perform the public duty of adjudication within the time prescribed is that of miscarriage of justice delayed is justice denied is the favourite song of today. Any act or conduct of a Judge which denies justice to the parties within the time stipulated by the Constitution amounts to miscarriage of justice in the determination of a case. This miscarriage cannot but be fatal to the decisions and renders it null and void*

Describing the old order **Mobile V.F.B.I.R**<sup>8</sup>, Fatayi, - Williams, J.S.C (as he then was) said:

*.... In an action before the High Court, it is the right of the party to decide whether to adduce evidence in support of his pleadings or not. The court has no power to force him to give particulars of the nature and extent of the evidence which he propose to call in the exercise of that right.*

Under the new civil procedure rules now operating in our High Court, the concept of “frontloading”, which is an effective case management weapon, enables the pretrial judge to identify the points in controversy between the parties, to schedule trial or to refer the parties to alternative dispute resolution methods as may be appreciate. Also, it makes it possible for the parties to settle all preliminary matters and most issues of admissibility of evidence before the actual trial of the case. This surely and inevitably, shortens the trial time immensely.

### 3. Pretrial Conferencing<sup>9</sup>

Another very important trial or case management weapon introduced by the new rules is the Preterial Conferencing. This represents an important step in the litigation process. Pertrial Conferencing has been described as a meeting between the parties, their counsel and the pretrial judge to agree on the future course of the trial. During this process non-contentious matters which can be dealt with on interlocutory application are disposed of. It is in the this conference

8. (1977) 3 S.c 1 at 15

9. Order 25 of the High Court Lagos State (Civil Procedure) Rules 2004; Order 14 of the Abia Sytate High Court (Civil Procedure) Rules, 2006



that trial management orders and directions are obtained so that the trial will proceed more efficiently to the end that the matter is disposed of justly, expeditiously and economically. Of course, in appropriate cases, the Judge uses the opportunity to promote amicable settlement or adoption of ADR. For the states with the Multi-Door Court House, it is at this stage that the Judge, in appropriate cases, will refer the matter to the Multi-Door Court House so that the alternative doors to litigation may be explored. It should be emphasized that applications for judicial review or habeaus corpus or the construction of a WILL, deed, enactment or other written instrument will not go through the pretrial conference procedure. These are assigned directly to trial judges.

During the pretrial conference the pretrial judge enters a scheduling order regarding things to do in furthermore of the case, e.g. joinder of other parties to the action, amendment of pleadings or other process, filling of motions, further pretrial conference; or any other step that appears necessary in the circumstances of the case. The pre-trial judge also considers and takes appropriate action on the following:

- a. Formulation and settlement of issues
- b. Amendments and further and better particulars;
- c. The admission of facts, and other evidence by consent of the parties;
- d. Control and scheduling of discovery, inspection and production of documents;
- e. Narrowing the field of dispute between expert witnesses, by requesting their participation at pre-trial conference or in any other manner;
- f. Eliciting preliminary objection on point of law;
- g. Hearing and determination of non-contebitious motions, giving orders or directions for separate trial of a claim, counter-claim, set-off, cross-claim or third party claim or any particular issues in the case;
- h. Settlement of issues, inquiries and account;<sup>10</sup>
- i. Securing statement of special case of law or facts;<sup>11</sup>
- j. Determinating the form and substance of the pre-trial order;
- k. Such other matters as may facilitate the just and speedy disposal of the action.

10. See Order 27 of the High Court of Lagos State (Civil Procedure) Rules, 2004; Order 38 of the Abia State High Court (Civil Procedure) Rules 2009

11. See Order 28 of the High Court of Lagos State (Civil Procedure) Rules, 2004, Order 39 of the Abia State High Court (Civil Procedure) Rules, 2009

It is important to note that the pre-trial session is expected to terminate within a certain time frame unless an extension is permitted.<sup>12</sup>

In addition the new Rules require parties and their Legal Practitioners to handle the conference with all seriousness. If a claimant or his counsel fails to attend the pre-trial conference or obey a scheduling order, or is substantially unprepared to participate in the conference or fails to participate in good faith, the Judge is expected to immediately dismiss the claim. Where the default is that of the defendant, the Judge may enter a final judgment against him. However, any decision made in this situation may be set aside upon an application made within 7 days of the judgment or such other period as the Judge handling the conference period. Such application shall be accompanied by an undertaking to participate effectively in the pre-trial conference.<sup>13</sup>

One must note, however, that to achieve all the objectives, pretrial conferences must be meaningful events conducted with expertise and skill by the pretrial judge otherwise it will turn out to be an unnecessary expense for litigants and a waste of limited judiciary resources.

4. **Amendments and Adjournments:** Under the old rules regime that operated in our High Courts, it was well known that amendments and adjournments were the greatest causes of trial delays. Adjournments were then granted as a matter of course and a party was allowed to amend his pleading at any time and as many times before judgment. In **A.C.B. V Agbanyim**,<sup>14</sup> the court held that whether adjournment should judge. Udo Udoma, J.S.C (as he then was) agreed with this view when he held **Odusote v Odusote**<sup>15</sup> that the question of adjournment is a matter in the discretion of the court which discretion would be interfered with only in exceptional circumstances.

12. The High Court of Lagos State (Civil Procedure) Rules in Order 25 Rule 4 provides that pre-trial must be completed within 3 months of its commencement and it is only the Chief Judge who can extend this period but the Abia State High Court (Civil Procedure) Rules, 2009 provides in Order 14 Rule 4 for a completion time frame of 30 days and this period can be extended by the Judge incharge of the conference.

13. See Order 25 of the Lagos State High Court (Civil Procedure) Rules, 2004; and Order 14 of the Abia State High Court (Civil Procedure) Rules, 2004.

14. (1960)5 F.S.C 19

15. (1971)1 ALL N.L.R. 219 at 223 - 224

On amendments of pleadings in the old rules, it was also freely permitted to the extent that in **Okeowo V Miglore**<sup>16</sup> the Supreme Court held that a court, at any stage of the proceedings may amend the pleadings of the parties to an action in order to determine the real question in controversy. The court was further of the view that the power to amend pleadings or any other document can be exercised by the court either of its own motion or at the instance of the parties. In the same case the Supreme Court also held that an amendment can be ordered, however careless or negligent the part might have been at asking for amendment, if the other party can be adequately compensated by the award of costs.

One can easily see, the that the provisions in the old rules and the position of our court under the said old regime with regard to applications for amendments and adjournments did not help the cause of speedy disposal of cases in our courts.

The position has now changed under the new rules of civil procedure in our High Courts. Under the present regime a party may amend his originating process and pleadings at any time before pre-trial conference and during the conference, but he cannot amend more than twice during the actual trial.<sup>17</sup> Also important is the fact that where on originating process or the pleading is to be amended, the application must be accompanied with a list of any additional witnesses to be called, their written statement on oath and copies of any document to be relied upon consequent on such amendments. This is in line with the front loading concept we mentioned earlier.<sup>18</sup>

The new civil procedure rules regime also generous provisions on number of amendments that a court would allow.<sup>19</sup> This is done by imposing realistic costs on the defaulting party.

#### 5. Use of written addresses<sup>20</sup>

The use of written addresses was not provided for in the old regime but in the new Rules, it is another weapon used in trial or case management. Written addresses are now required to back up all interlocutory applications and at the end of the case parties are expected to file their final written argument within

16. (1979) 11 S.c 138.

17. See Order 24 of the Lagos State High Court (Civil Procedure ) Rules, 2004; Order 36 of the Abia State High Court (Civil procedure) Rules, 2009.

18. See Order 24 Rule 3 of the Lagos State High Court (Civil Procedure ) Rules, 2004 and order 36 of the Abia State High Court (Civil procedure) Rules, 2009.

19. See Order 39 Rule 7 of the Lagos State High Court (Civil Procedure ) Rules, 2004;

20. Order 31 of the Lagos State High Court (Civil Procedure ) Rules, 2004; Order 5 and 14 of the Abia State High Court (Civil procedure) Rules, 2009.

specified time frame. In the Court of Appeal and Supreme Court written address are called Briefs. Perhaps it will be wise to quote at some length the reason adduced by Niki Tobi (J.S.C. as he was), for the introduction of Briefs in the appellant courts. This will help us to appreciate the immense help filing of writing addresses had offered us in our request for speedy disposal of cases. He said:

*“Brief writing was introduced to the Nigerian Legal System in 1977. The Supreme Court was the prime mover or innovator. Before the introduction of the writing and filing of Briefs, a very cumbersome and time consuming procedure was adopted. Counsel for the parties prepared their personal notes which they used during oral submissions generally referred to as address. The points in the notes were expanded, amplified and emphasized, with some prolixity. Some counsel did not prepare notes. They were few. They came to court rambling here and there during oral submissions, knowing little or nothing to urge in favour of their clients. In their vain and vague approach, such counsel merely succeeded in wasting the already crowded time of the court.*

*The material for the argument of the appeal was never made available to the adverse party. Not even the court. And so neither the court nor the adverse party knew the trend or likely trend of the argument of the appeal. It was all a hidden affair since the procedural weapons of inspection and discovery did not understandably extend to oral submission by counsel. This state of affairs necessitated counsel taking down in long hand the arguments in the course of hearing the appeal. Some of the notes taken down during oral arguments were not accurate, a situation which resulted in further problem. The notes taken, however, formed the basis of the reply of opposing counsel. The court itself had to take down in long hand the oral submission of counsel.*

*This was not the best procedure. It was fraught with difficulties and problems, as the procedure did not give parties an opportunity to know in advance the case of the adverse party. The court itself was also kept in darkness. This gave rise to so much conjecture which was not in the interest of the dispensation of*

*justice. The attendant result was that so much valuable time was wasted in the appeal process, a situation which was neither helpful to the parties and their counsel nor to the court.*

*For example, in the treasonable felony case of Olumide and others V The Queen (1964) 1 All N.L.R. 223; counsel took quite a few days in oral submission both at the High Court and the Supreme Court. In Idundun and others V Okumagna (1976) 9 and 10 S.c 277, oral arguments and submissions before the Supreme Court took two weeks in March and April, 1976. it was in an attempt to give sufficient notice of line of argument of appeals to the adverse party and the court, and to accelerate hearing of appeals that necessitated the introduction of brief system in Nigeria. It was one major effort to decongest the appellate courts.*"<sup>21</sup>

Strangely, (and despite the obvious advantages of the brief system as Nkisi Tobi, (J.S.C as he then was) effectively brought out above) while the Rules of the penultimate and ultimate courts in the and expressly provided for their use, it took almost 30 years thereafter to provide for the use of written addresses in the High Court system.

Before the Lagos State Rules of 2004, attempts by counsel to address the High Court in written form were stoutly resisted as not being provided for in our rules. In **Makailu V The State**,<sup>22</sup> the court was emphatic in stating that:

*The practice or procedure of submitting written addresses in the High Court is unknown to any of those Court's procedure and although it is becoming fashionable for the High Courts themselves to demand to be addressed in writing, this practice is not provided for in either the various civil procedure rules or the criminal procedure laws applicable in Nigeria.*

Under the new rules of civil procedure in our different High Courts the written address is printed in Opaque A4 size paper and set out in paragraphs numbered serially. The rules, as part of measures to manage trials properly, hand even provided the contents of the address to be:

21. The Brief System in Nigeria Courts: Page 1-2

22. (2001) 8 N.W.L.R. (Pt. 715) 465. See also: Ekpenyong V Etim (1990) 3 N.W.L.R. (Pt. 140) 594; Obodo V Olomu (1987) 3 N.W.L.R. (Pt. 59)111

- a. The claim or application on which the address is based;
- b. A brief statement of the facts with reference to the exhibits attached to the application or tendered at the trial;
- c. The issues arising from the evidence;
- d. A succinct statement of argument on each issue incorporating the purport of the authorities referred together with full citation of each such authority.

The different civil procedure rules also require each written address to be concluded with a numbered summary of the points raised and the party's prayer. A list of all authorities referred to shall be included in the address and where any unreported decision or judgment is relied upon, the certified true copy shall be submitted along with the address.<sup>23</sup>

It is important to note that the time frame for oral arguments in amplification or expansion of the written address is restricted.<sup>24</sup>

I may also point out that in its bid to among cases coming before it to the end of speedy disposal, the new Court of Appeal Rules, 2011, has provided that Briefs of Argument shall not exceed 30 (thirty) pages, unless where the court otherwise permits and where any Brief exceeds 30 (thirty) pages it shall not be accepted for filing by the Registry.<sup>25</sup>

There are many procedural steps being taken at the High Court, Court of Appeal and Supreme Court levels to the end that a just, efficient and speedy dispensation of justice is achieved. One is even aware, having served as a member of the 2011 Ogun State Governorship Election Tribunal, that the National and State Houses of Assembly Election Tribunals, and the Governorship Election Tribunal, each is expected to deliver its judgment within 180 days from the date of the filing of the petition and an appeal from a decision of an election tribunal, or the Court of Appeal in an election matter shall be heard and disposed of within 60 days from the date of delivery of the judgment of the tribunal or the Court of Appeal.<sup>26</sup> The Chief Justice of Nigeria has even issued Practice Directions providing for definite time frames for every step to be taken with regard to appeals in election matters from the Court of Appeal.

23. Order 31 Rules 3 of the Lagos State High Court (Civil Procedure) Rules, 2004, Order 41 Rules of the Abia State High Court (Civil Procedure) Rules, 2009

24. Order 31 Rules 4 of the Lagos State High Court (Civil Procedure) Rules, 2004 permits 20 minutes for each side of expansion but the Order 41 Rules 4 of the Abia State High Court (Civil Procedure) Rules, 2009 left this to the discretion of the judge. One knows that in practice the judge will not allow more than 10 minutes for this purpose.

25. See Order 18 Rules 3(6)(a) and (b) of the Court of Appeal Rules, 2011

26. Section 9 of the Constitution of Nigeria (Second Alteration) Act, 2010

The above are all commendable steps taken at various levels of the judiciary in Nigeria to make sure that cases or suit are expeditiously disposed of. I am fully aware that I am speaking to a body of Magistrates in Nigeria. I was a Magistrate for eight years. I am also aware, and statistics bear this out, that the Magistrates deal with the bulk of cases filed in or courts. A non – time Chief Justice of Nigeria stated it bluntly in a Key-note Address he delivered at the Conference of All Nigerian Judges of the Lower Courts that:

*Your courts give most people their only experience of the law in action, whatever brought them to court either as accused/complainant, witness or party in a civil action. The manner in which you treat them is likely to make a lasting impression on their attitude towards the whole system of justice. Your task is enormous.*<sup>27</sup>

One thing that is, therefore, shocking is that while all efforts are concentrated at improving case or trial management at the superior courts of record and the Election Petitions Tribunals, no visible, tangible or meaningful effort is being made at whatever level, at instituting effective case or trial management at the level of the Magistrates Courts, the same court we all acknowledge handles the bulk of the cases in our Judiciary and the same courts a former Chief Justice acknowledged “give most people their only experience of the law in action.”

Distinguished gentlemen, what is so difficult in reviewing the rules of procedure in our Magistrates Courts to allow for frontloading, scheduling, and pre-trial conferencing? Why can we not embark on such a review to check the menace being unleashed on our Magistrates Courts by incessant and unending applications for amendments of processes and adjournments? Why can we not review the procedural rules of the Magistrates Courts to permit for the use of written addresses in interlocutory applications and final arguments? Can somebody tell me what is wrong in reviewing the rules of procedure of the Magistrates Courts with a view to empowering the Learned Magistrates impose stricter and more realistic costs as a way of controlling errant litigants and recalcitrant legal practitioners. This surely will make every litigant and counsel to co-operate with the court so that speedy trials will be achieved.

27. This Conference was held in 2002 in Kogi State and the speech is captured at p.xxii of the book published of the conference by the National Judiciary Institute.

In addition, since it is a well know fact that the magistrates Court in Nigeria handle a greater percentage of criminal cases in Nigeria, it will not be out of place if the legal framework is created to permit mechanism like fast track trial measures; plea bargaining, case diversion measures, non custodial and Restorative justice options, to be introduce in that level of our court system.

In all these, I will still call on the judiciary to explore all the options available in modern technology that aid in quick and affordable dispensation of justice.

### **Conclusion**

The paper has been devoted at looking at how case management techniques could help in achieving speedy dispensation of justice. It is said that justice delayed is justice denied. It is, however, vital that we warn ourselves in the words of Bello, J.S.C. (as he then was) that:

*The old adage that delay of justice is denied of justice had the same force as the maxim that hasty justice is also a denial of justice.<sup>28</sup>*

We must, therefore, strike a balance between the two always conscious of the immortal words of Sir Alfred Denning (more easily known as Lord Denning, MR) that:

*“when a Judge sits to try a case ... he himself is on trial before his fellow country men. It is on his behaviour that they will form their opinion of our system of justice... He must be dignified so as to earn the respect of all who appear before him. He must be alert – to follow all that goes on. He must be understanding – so as to show that he is aware f the temptation that besets everyone. He must be merciful – so as to show that he too has that quality which droppeth as the gentle rains from the heavens upon the place beneath.<sup>29</sup>*

28. Unongo V Aku (1983)2 S.c N.L.R. 332 at 352

29. The family story by Lord Denning, Page 165



It is my surmise or view that the magistrate or Judge can not reflect positively on the judgment of his fellow country men when he is performing his judiciary functions on the basis of trial or case management strategies that do not permit him to dispense justice efficiently, effectively and speedily. That is a challenge we all must commit ourselves to overcome.

I thank you most immensely for listening. I sincerely hope that I have not bored you. I am done.