Courts and Practice in Nigeria

Volume II of the Nigerian Legal System teaching books

A TEACHING VERSION

Prepared for

VANGUARD SOLICITORS
Barristers' Chamber · Makurdi · Nigeria

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Imprint

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Authorities named in this book include the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Legal Practitioners Act, the Evidence Act 2011, and the Arbitration and Mediation Act 2023 — named by name; the reader who needs the law itself must read those instruments in their official texts.

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The measure of this book is the world standard; local law is honoured as local fact where it is named.

The Place — Nigeria

Nigeria is a federation of thirty-six states and the Federal Capital Territory, Abuja, on the Gulf of Guinea in West Africa. Its law is the subject of this book; its map stands here so the reader always knows the ground the law governs. Makurdi, where the chambers stand, is marked beside Abuja, the federal capital.



Map of Nigeria — drawn by the house from public-domain Natural Earth boundary data. Abuja and Makurdi are marked at their positions; the map is a geographic outline, not a survey.

Contents

Chapter 1 — The Map of the Courts
Chapter 2 — The Superior Courts and Their Jurisdictions
Chapter 3 — The Inferior Courts and the Law of Daily Life
Chapter 4 — Beginning a Case — Process, Parties, and Place
Chapter 5 — The Trial — Evidence and Proof
Chapter 6 — Judgment, Enforcement, and Appeal

Chapter 1

The Map of the Courts

The Constitution vests the judicial power of the federation and of the states in the courts it establishes, and the map has a clear summit. At the top stands the Supreme Court of Nigeria — the final court of the land. Below it, the Court of Appeal, hearing appeals from the High Courts and the other courts the Constitution names. Below them stand the courts of first instance with general or special jurisdiction: the Federal High Court, the High Court of each state and of the Federal Capital Territory, the National Industrial Court for labour matters, and — in the states that establish them — the Sharia Court of Appeal and the Customary Court of Appeal, which are appellate courts within their own spheres. Beneath the constitutional courts stand the inferior courts created by state law: magistrates' courts, customary courts, and area or Sharia courts, each with limits written in the law that creates it.

Two ideas organise the whole map. The first is jurisdiction: a court may only decide the matters, between the parties, and within the territory that the law gives it. A judgment given without jurisdiction is a nullity, however fair it sounds — the parties' consent cannot create jurisdiction where the law has not. The second idea is the appellate ladder: decisions travel upward — from inferior courts to the High Court, from the High Courts to the Court of Appeal, and from there, on the matters the Constitution permits, to the Supreme Court, whose word ends the road.

Some courts are courts of record, whose proceedings are enrolled and whose disobedience is contempt; the superior courts are of this kind. Election disputes follow a special road through election petition tribunals and then upward as the Constitution and the Electoral Act direct. Military offences go to courts martial under their own law. The

young lawyer should be able to draw this map from memory: it is the geography of his working life.

Beside the courts stand the tribunals and panels that statutes create for special work — tax appeals, professional discipline, and the like. They are not courts of the Constitution's hierarchy, but their decisions are controlled by the courts through judicial review: the High Court watches that every public body keeps within its power and follows fair procedure. Volume I's doctrine of ultra vires does its daily work here.

Worked example

A client wants to sue a federal agency over a contract, and asks for 'the biggest court'. The teaching answer corrects the instinct: size is not the question — jurisdiction is. A contract claim against a federal agency may belong to the Federal High Court or a State High Court depending on its subject matter; filing in the wrong one wastes years, because a court without jurisdiction must strike the case out whenever the defect appears.

Chapter summary

Nigeria's courts form a hierarchy: Supreme Court, Court of Appeal, the superior courts of first instance (Federal High Court, State and FCT High Courts, National Industrial Court, and the appellate Sharia and Customary Courts of Appeal), and the inferior courts created by state law. Jurisdiction — the lawful power to decide — is the organising idea; appeal is the ladder; judicial review keeps every public body within its power.

Discussion questions

1. Draw the appellate ladder from a magistrates' court decision to the end of the road.

2. Why can the parties' agreement not give a court jurisdiction it lacks?

3. What work does judicial review do beside the ordinary appeal?

Practice problems — with guided outlines

Problem 1. A trader is sued before a customary court for a debt far above that court's monetary limit, and he does not object until judgment goes against him. Advise him.

Guided outline. Jurisdiction can be raised at any stage, even on appeal, because a nullity does not heal with time or silence. The judgment is liable to be set aside; the claimant must begin again in a court of competent jurisdiction.

Problem 2. A company asks whether to challenge a tax tribunal's decision by appeal or by judicial review. Explain the difference and what decides the choice.

Guided outline. Appeal attacks the merits where a statute grants it; review attacks legality, jurisdiction, and procedure. Read the tribunal's governing statute first: the road it names governs; where both roads exist, the error complained of chooses between them.

Chapter 2

The Superior Courts and Their Jurisdictions

The Federal High Court is a federal court of first instance with the jurisdiction the Constitution assigns it — among it, matters of federal revenue, admiralty, intellectual property, companies and allied matters under federal law, and cases where the Federal Government or its agencies stand in the positions the Constitution names. Its list is specific and has been fought over for decades: the teaching rule is to read the constitutional grant itself, not the habits of practitioners, before filing.

The High Court of a state is the great general court of the system: the Constitution gives it jurisdiction over civil and criminal matters generally, except where the Constitution or a law assigns a matter exclusively elsewhere. Most litigation in Nigeria — land, contract, tort, family, crime — lives here. The High Court of the Federal Capital Territory stands in the same position for Abuja.

The National Industrial Court holds exclusive jurisdiction over labour and employment matters — trade disputes, unfair labour practices, and the interpretation of collective agreements — a specialisation the Constitution itself entrenches. The Sharia Court of Appeal and the Customary Court of Appeal, where a state establishes them, hear appeals from the lower courts of their own systems on the personal and customary matters those systems govern: they are appellate courts, and a litigant does not begin there.

The Court of Appeal is the great appellate court of the federation, organised in divisions across the country. It hears appeals from all the superior courts of first instance and from the appellate customary and Sharia courts. The Supreme Court, sitting in Abuja, hears appeals from

the Court of Appeal and exercises the original jurisdiction the Constitution gives it — notably disputes between the federation and a state, or between states, where the federation itself is on trial before its own umpire.

Appointments to the superior courts run through the National Judicial Council, which recommends, and the President or Governor who appoints, with legislative confirmation where the Constitution requires it. Judges of the superior courts hold office until the retirement age the Constitution fixes, and may be removed only for the stated causes and by the stated process — independence is protected structurally, not by courtesy.

Worked example

An employee dismissed in Makurdi wants to sue for wrongful dismissal and unpaid entitlements, and his friend advises 'the High Court, as always'. The teaching answer: labour and employment matters stand in the exclusive jurisdiction of the National Industrial Court — 'as always' is precisely how cases die. The general court is general only where no exclusive grant has spoken.

Chapter summary

The Federal High Court holds the Constitution's enumerated federal jurisdiction; the State and FCT High Courts hold general jurisdiction; the National Industrial Court holds labour matters exclusively; the Sharia and Customary Courts of Appeal hear appeals within their systems; the Court of Appeal is the federation's appellate workhorse; the Supreme Court is final and umpires disputes between the tiers of the federation.

Discussion questions

1. What is the difference between the jurisdiction of the Federal High Court and that of a State High Court?

2. Why did the Constitution give labour matters their own court?

3. How is the independence of a superior court judge protected in structure?

Practice problems — with guided outlines

Problem 1. A bank sues a customer on a loan; the customer counterclaims that the bank, a federal licensee, breached a federal banking regulation. Which court, and what must you check?

Guided outline. Banker-customer claims are the classic borderland. Classify the true subject of the claim and counterclaim against the constitutional grants; a mere federal flavour does not move a general claim, but a matter within the exclusive list does.

Problem 2. A state government and the Federal Government dispute a boundary and a revenue head. Where does the case begin, and why there?

Guided outline. The Supreme Court's original jurisdiction covers disputes between the federation and a state. It begins there because the Constitution makes the final court the first court for quarrels between its own tiers.

Chapter 3

The Inferior Courts and the Law of Daily Life

Most Nigerians meet the law not in the superior courts but in the inferior ones. Magistrates' courts, established under state law, try the great mass of criminal offences summarily and hear smaller civil claims up to monetary limits their laws prescribe; their grades and limits differ from state to state, and the careful lawyer reads the current state law before filing. Customary courts administer customary law to those subject to it — marriage, succession, land held under custom — in the language and manner of the community, with appeals running to the Customary Court of Appeal or the High Court as the state law directs. In the north, area courts and Sharia courts do corresponding work within their own systems.

The inferior courts' informality is their virtue and their danger. Procedure is simpler, costs are lower, and the court sits near the people. But the rules of fair hearing bind there exactly as in the highest court: a customary court that condemns a man unheard has not been traditional — it has been unlawful, and its decision will not stand. The repugnancy doctrine from Volume I also does its work here: customary law is applied unless it fails the tests the law sets.

Appeals from the inferior courts run upward as their laws direct, and the High Court also supervises them — by appeal, and by its powers to correct proceedings that exceed jurisdiction or deny fair hearing. The teaching habit is respect with vigilance: inferior courts are real courts, their records are real records, and their limits are real limits.

Legal aid and the small claimant matter here most. The Legal Aid Council exists by statute to put counsel within reach of those who cannot pay, and the young lawyer's earliest courtroom education is

usually won in these courts — short causes, real people, and lessons about evidence and temper that no lecture gives.

Worked example

A widow's late husband's family takes the family house dispute to the customary court, which decides for the family after hearing only their side. The teaching answer: the decision is vulnerable at its root — fair hearing is a constitutional right in every court, and an appeal (or review) will set aside a judgment given against a party who was never heard.

Chapter summary

Magistrates', customary, area, and Sharia courts carry the law of daily life under state laws that fix their limits. Fair hearing binds them fully. Appeals and the High Court's supervision correct their excesses, and legal aid exists to keep their doors open to the poor.

Discussion questions

1. Why do inferior courts' limits differ across states, and what must a lawyer check before filing?

2. Name the virtues and the dangers of the inferior courts' informality.

3. A customary court's decision conflicts with a written statute. Which prevails?

Practice problems — with guided outlines

Problem 1. A magistrate convicts a trader of an offence whose maximum punishment exceeds the magistrate's sentencing power under the state law. What is the state of the conviction?

Guided outline. Sentencing beyond power is an excess of jurisdiction: the conviction and sentence are liable to be set aside on appeal or

review, and the matter remitted or retried as the law directs.

Problem 2. Your client lost in a customary court on a land matter and insists the custom applied is 'wicked and old'. Build the appeal honestly — what must be shown?

Guided outline. Age is not the test; repugnancy to natural justice, equity, and good conscience, or incompatibility with written law, is. Prove the custom as found, then attack it by the legal tests, not by taste.

Chapter 4

Beginning a Case — Process, Parties, and Place

A civil case begins with an originating process. The ordinary door is the writ of summons, used where facts are disputed; the originating summons serves where the question is one of construction or declaration on agreed or documentary facts; petitions serve the matters statutes assign to them, such as matrimonial causes and company winding-up; and applications begin the interlocutory and special proceedings. Choosing the wrong door is not a technicality — some mistakes are curable by amendment, others waste the action entirely, and the rules of court of the forum are the first authority to consult.

Before process comes the parties. The claimant must have standing — a sufficient interest in the matter — and every necessary party must stand before the court, or the judgment may decide nothing that binds the real disputants. Companies sue in their corporate names; the dead are sued through their personal representatives; infants and persons under disability act through guardians and next friends. Names matter: a writ against a wrong or non-existent person is a house built on air.

Place matters as much as parties. Venue rules tie a case to the place where the defendant resides or carries on business, where the contract was made or breached, or where the land or wrong is situated, as the forum's rules direct. Service of process is the court's own act of notice: personal service is the standard, substituted service requires the court's leave on proof that personal service is impracticable, and service out of jurisdiction follows special rules. A judgment against a person never served is a judgment waiting to be set aside.

Modern Nigerian rules front-load the case: witness statements on oath, lists of documents, and pretrial processes accompany or follow the pleadings early, and many courts require an attempt at settlement — through their alternative dispute resolution tracks — before trial. The Arbitration and Mediation Act 2023 governs the private road beside the courts, and a well-drawn arbitration clause can move a dispute out of the courtroom altogether. The teaching point of this chapter is humility before the rules: cases are lost at the door more often than at the argument.

Worked example

A supplier sues on invoices by originating summons 'because it is faster', though the buyer denies receiving half the goods. The teaching answer: disputed facts of that weight belong to a writ action with pleadings and oral evidence; the court will likely convert or strike the summons, and the saved weeks become lost months.

Chapter summary

Civil cases begin by writ, originating summons, petition, or application, each fitted to its kind of dispute. Standing, correct parties, proper venue, and lawful service are the foundations; modern rules front-load evidence and push settlement and ADR; arbitration under the Arbitration and Mediation Act 2023 stands as the private road beside the courts.

Discussion questions

1. When is an originating summons the wrong door, however fast it looks?

2. Why is service called the foundation of the court's power over a defendant?

3. What does front-loading change about how a lawyer prepares a case?

Practice problems — with guided outlines

Problem 1. A claimant obtains judgment in default against a defendant who swears he was never served. The claimant says the judgment is final. Advise the defendant.

Guided outline. A judgment obtained without service is liable to be set aside as of right when the absence of service is shown; finality protects judgments lawfully obtained, not nullities. Apply promptly and show the non-service.

Problem 2. Two business partners fall out; their agreement contains an arbitration clause, but one sues in court anyway. What should the other do, and under what law?

Guided outline. Apply under the Arbitration and Mediation Act 2023 to stay the court proceedings in favour of arbitration, showing a valid clause covering the dispute; the court's discretion is exercised within the Act's own terms.

Chapter 5

The Trial — Evidence and Proof

At trial, the law of evidence governs what the court may hear and how it weighs it. In Nigeria that law is codified: the Evidence Act 2011, as amended, is the first book of the trial lawyer. Its organising ideas are few and powerful. Facts must be proved, usually by the party who asserts them; the standard in civil cases is the balance of probabilities, in criminal cases proof beyond reasonable doubt; and evidence must be relevant to a fact in issue — relevance is the gate through which everything else must pass.

The Act sorts proof into oral evidence, which must generally be direct — the witness speaks of what he himself saw, heard, or perceived — and documentary evidence, proved by primary evidence (the document itself) or by the secondary evidence the Act permits in defined cases. Hearsay — a statement offered to prove the truth of what another said — is generally inadmissible, with exceptions the Act carefully lists. Opinion is for experts, within their expertise. Character, similar facts, confessions, and electronically generated evidence each carry their own rules; the confession rules, requiring voluntariness and now surrounded by procedural safeguards in criminal justice legislation, protect the accused at the point where the state's power presses hardest.

The burden of proof moves in two senses. The legal burden rests where the pleadings place it and does not shift; the evidential burden shifts as the evidence builds — a party who would fail if nothing more were said must now speak. A criminal defendant's silence is protected: the prosecution must prove its case, and no accused person is compellable as a witness against himself. Judges also take judicial notice of notorious facts, sparing proof of what no reasonable person disputes.

Examination is the lawyer's visible craft: examination-in-chief builds, cross-examination tests, re-examination repairs. But the deeper craft is earlier — knowing, before the first witness is called, exactly which facts must be proved, which documents prove them, and which rules of admissibility stand between your proof and the court's eye. Trials are won in preparation and merely announced in court.

Worked example

A claimant's key witness proposes to testify that 'the whole market knows the defendant took the goods'. The teaching answer: that is hearsay and reputation dressed as proof. The claimant needs a witness who saw the taking, documents that trace the goods, or an admission — the market's knowledge is not evidence of the fact.

Chapter summary

The Evidence Act 2011 codifies proof in Nigeria: relevance as the gate, the asserting party bearing the burden, balance of probabilities in civil cases and proof beyond reasonable doubt in criminal ones, direct oral evidence, primary documentary proof, the hearsay rule and its exceptions, and special rules for confessions, experts, and electronic records.

Discussion questions

1. Distinguish the legal burden from the evidential burden with an example of the second shifting.

2. Why does the law distrust hearsay, and what exceptions answer the distrust?

3. What must be shown before a confession can be used against an accused person?

Practice problems — with guided outlines

Problem 1. A party tenders a photocopy of a lost receipt, the original having been destroyed in a fire at his shop. Opposing counsel objects: 'photocopies are not evidence.' Answer him from the Act's structure.

Guided outline. Secondary evidence is admissible in the cases the Act defines, including where the original is destroyed or lost without the tendering party's default. Lay the foundation: prove the loss, the search, and the copy's fidelity.

Problem 2. In a fraud trial, the prosecution's only proof of a transfer is a bank printout. What questions decide whether the court can act on it?

Guided outline. Electronic records carry their own admissibility conditions under the Act — the device, the regularity of its use, and certification as the Act requires. Authenticate the record's making before arguing its meaning.

Chapter 6

Judgment, Enforcement, and Appeal

Judgment is the court's decision and its reasons. The Constitution requires superior courts to deliver judgment within ninety days after the conclusion of evidence and final addresses — a discipline against the decay of memory and the injustice of delay. A judgment must decide the case the parties pleaded, on the evidence they gave; a court that decides an unpleaded case has answered a question nobody asked, and its judgment is exposed on appeal.

A judgment that is not obeyed must be enforced, and enforcement has its own law. Money judgments are executed against goods, land, and debts owed to the judgment debtor — by attachment and sale, by garnishee proceedings against third parties holding the debtor's money, and by the other modes the Sheriffs and Civil Process law and the rules provide. Judgments for possession, injunctions, and specific performance each carry their own machinery, and disobedience of a court's order, after due notice, is contempt — punishable because the authority of every judgment depends on it.

Appeal is not a second trial; it is a review for error. The appellant must show that the court below erred in law, misapplied the evidence, or denied fair process in a way that matters. Appeals lie as of right in the cases the Constitution and the laws specify, and by leave in others; interlocutory appeals — against rulings mid-case — are disciplined by strict rules because a case interrupted at every ruling never ends. The appellate court may affirm, reverse, vary, or order a retrial, and its powers are wide but bounded by the record: new evidence is admitted only by leave and for cause.

Costs follow the event in the court's discretion — the loser ordinarily pays, not as punishment but because the winner should not be out of pocket for being right. Interest, before and after judgment, follows the rules and the court's orders. And when the last appeal ends, the doctrine of res judicata closes the matter forever between the parties: the same claim, between the same parties, decided finally, may not be litigated again. Finality is not the enemy of justice; it is one of its forms.

Worked example

A judgment creditor finds the debtor's salary account and his goods 'already sold to his brother' the day after judgment. The teaching answer reaches for the enforcement toolkit in order: garnishee proceedings against the bank for the account; and, for the suspicious transfer, the law's remedies against dispositions made to defeat creditors — enforcement is a campaign, not a letter.

Chapter summary

Judgments must be delivered within the constitutional ninety days and must decide the pleaded case. Enforcement proceeds by execution, garnishee, and contempt. Appeal reviews for material error, on the record, within the law of right and leave. Costs ordinarily follow the event, and res judicata gives litigation its end.

Discussion questions

1. Why does the Constitution put a ninety-day discipline on judgments, and what mischief does it cure?

2. Distinguish execution, garnishee, and contempt as answers to a disobeyed judgment.

3. What must an appellant show that a trial court loser need not have shown at trial?

Practice problems — with guided outlines

Problem 1. A client lost at the High Court and wants to 'appeal everything, and add the new witness we have now found'. Advise him honestly.

Guided outline. Appeals are argued on grounds of error drawn from the record; fresh evidence needs leave and must satisfy strict conditions — it could not with reasonable diligence have been obtained for the trial, and it must matter. Audit the grounds first; promise nothing.

Problem 2. A debtor pays half a judgment debt and asks whether the creditor can still execute for the balance with costs. Answer, and name the first step you would take as the creditor's lawyer.

Guided outline. Part payment does not extinguish the balance or the costs unless accepted in full settlement. The first step is a precise accounting of what stands due, then the chosen mode of execution for the remainder.

Closing word

The courts are where the Constitution stops being paper. You have walked their hierarchy, learned what each may and may not do, and followed a case from its first process to enforcement and appeal. Volume III turns from the courts to the people who serve them — how a lawyer is made in Nigeria, and the road of the young practitioner. The two volumes belong together: practice is the profession at work inside the courts.

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