Civil Litigation in Nigeria — A Practical Teaching Course

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Imprint

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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.

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Chapter 1

Taking Instructions — and the Letter Before Action

Every case begins as a story told by an interested person. The litigator's first skill is to take instructions without swallowing them: hear the client fully, then separate, in your notes and in your mind, what he saw himself, what he was told, what he hopes, and what he fears. Take the documents before the adjectives. A client's file should open with dates, parties, and papers — the story can be rebuilt from those; it cannot be rebuilt from indignation.

Then advise before you act: on the merits as they presently appear, on the forum, on the cost in money and years, on limitation — the statutes of limitation that bar stale claims, which differ by subject and by state and which no sympathy can revive once they have run — and on the alternatives to suit, because a client advised into an unnecessary action has been served badly however brilliantly it is fought. Put the advice in writing. The letter of advice is the practitioner's protection and the client's map.

Most civil roads then pass through the letter before action: a formal demand, addressed to the prospective defendant, stating the claim, its factual ground, the sum or relief demanded, and a stated time within which the demand must be met before proceedings issue. Some regimes require pre-action steps by rule or protocol; everywhere, the letter does three kinds of work — it may settle the matter without suit (its best outcome), it fixes the defendant's knowledge for costs and interest, and it disciplines the claimant's own case before the court's fees are spent on discovering its weaknesses.

Draft the letter as if the judge will read it — because one day he may. No threats you cannot lawfully make, no sums you cannot yet justify, no adjectives doing the work of facts. A letter before action that overstates is a hostage; one that states exactly is a weapon.

Worked example

A trader demands you sue his debtor 'today, this morning'. The debtor's last invoice is five years and eleven months old, and the limitation period for the claim, under the applicable state law, is six years. The teaching answer reverses the order of urgency: limitation is checked before tempers — the letter before action goes out today, and the writ is prepared to issue within the month if the letter fails. Speed spent on the right gate is speed; spent on the wrong one, it is theatre.

Chapter summary

Instructions are taken critically: facts separated from hopes, documents before adjectives, advice in writing — merits, forum, cost, and limitation first. The letter before action then demands, settles if it can, and disciplines the claim either way.

Discussion questions

1. What four kinds of material must be separated when taking instructions?

2. Why is limitation checked before everything else, even before the merits?

3. What three kinds of work does a letter before action do?

Practice problems — with guided outlines

Problem 1. A client brings a strong claim but insists on adding a second defendant 'to frighten them', against whom he admits he has no