NAME:FAGBOYO FAVOUR

MATRIC NO: 19/LAW01/269

COURSE : NIGERIAN LEGAL SYSTEM LPI204

LEVEL: 200

1 . Subject to the provisions of the Criminal Procedure Act 1990 and Federal High Court Procedure Act , It was highlighted that the defense has the right to decide whether a case will be tried to a judge, Applicability shall be put into use for the purpose to establish a system of case management that will provide for the fair and impartial administration of the case.

The process of Filing a charge takes place next,

The complaint shall not file a charge unless it is accompanied by an affidavit stating that all investigations into the matter had been concluded and in the opinion of the prosecutor, a prima facie case exists against the accused person.

b.     On the date of 1st arraignment, the prosecutor must produce the accused person in Court.

c.      Where there is a preliminary objection challenging the jurisdiction of the Court to hear a case before it, the Court shall ensure that the ruling is delivered within 14 days.

d.     No party may serve a notice of an application on another party on the date scheduled for hearing.

e.     In furtherance of the need to ensure speedy dispensation of justice, electronic mail in order to inform counsel of urgent Court and case events. Hence, Counsel is expected to furnish the court Registrar with primary and secondary phone numbers and email address.

PROVIDEDthat these notices should be given at least forty eight (48) Hours before the scheduled Court date.

The prosecution are tasked :

i.      To serve copies of the statement of evidence and documentary exhibits upon the Defence 7 days before the arraignment hearing.

ii.      To provide a written case summary on the evidence and documentary exhibits upon the Defence 7 days before the arraignment hearing.

iii.     To specify what further evidence is to come, and how long that evidence will take to be served on the Court and the defence.

 The Defence is also tasked to;

 i.      Specify in writing, the defence being raised.

         ii.      Specify in writing those aspects of the prosecution case which are agreed.

         iii.     Specify in writing those aspect of the prosecution case which is in dispute.

        iv.     Specify  in writing which witnesses are required for cross examination, and why.

 Then the hearing of cases proceeds to take place, It was highlighted that

a. The hearing of cases shall schedule on a day to day basis as far as the schedule of the Court may permit, priority given to all cases prosecuted by the EFCC, ICPC, SS or cases initiated under any law dealing with terrorism, kidnapping, rape, corruption, trafficking in persons and money laundering cases. Court shall continue to accord priority to these cases until Judgment is delivered and all witness must be present in Court on all such days until their evidence is heard.

b.     The court and the parties must prevent unwarranted and unnecessary delays and accordingly, not more than two adjournments shall be granted to any party on an action covered by the provisions of this practice Direction.

        PROVIDEDthat no application for adjournment shall be entertained on a day fixed for hearing.

c.      Where a party seeks to change their counsel during the lifespan of a case, not more than two adjournments shall be granted to him to so do;

d.     Where expedient and in furtherance of the objectives of this Practice Direction, the Court may schedule the time and date of hearing to fall on such days and at such times as may be convenient;

e.     Counsel shall ensure that they are present in Court and ready to proceed with their case at all times. In the event that this proves to be impracticable by reason of ill-health or any other unavoidable incidences, such Counsel shall ensure that a Counsel of requisite professional experience and knowledge of the issues before the Court (as is required to diligently prosecute or defend the ), is present in court and ready to proceed with the case in his or her stead;

f.      In criminal trials, the prosecution has a duty to ensure that the accused person is present in Court at all hearings.

The proceeding of the court begins which results into Court Directions , which includes

i.      Fixing the date for trial, including a time estimate agreed by the parties. In the absence of any agreement, the Judge will make his/her own assessment of the time estimate based upon information already provided by the parties.

ii.      Fixing any future interim date to ensure that the parties are complying with Court-ordered directions.

iii.     Requiring the parties to specify what points of admissibility or other issues are to be taken a trial. If either issue, the raise objection on a point of admissibility or other issue, the objection must be in writing and must set out a summary of the augment relied upon (“Skeleton Argument”). The Judge will consider any objection before the start of the trial, they must give reasons why such points of objection cannot be resolved by the trial Judge before the start of the trial.

iv.     Directing the parties that the Court will sit on consecutive working days until the close of case or verdict.

After the trial the sentencing/verdict is given by the judge.

B. The remedy available to the accused after the imposition of sentence is known as “Appeals”, requesting to a higher court to review and change the decision of the lower court. The defendant may challenge the conviction itself or the sentence (without attacking the underlying conviction). A successful appeal usually restores a case to the initial stages, but can sometimes end the case altogether (such as when the appellate court finds that there’s insufficient evidence to retry the defendant).

2. Civil proceedings are commenced by way of originating processes issued and served by the courts. There are various types of originating process. These include writs of summons, originating summonses, originating motions and petitions. In Nigeria, actions in which the facts are disputed must be commenced by writ of summons. The Lagos State High Court (Civil Procedure) Rules 2019 provides for a system under which originating process must be accompanied by a statement of the claim, a list of witnesses, list of documents to be relied on and the sworn statements of the witnesses. In Lagos, the writ of summons is to be served within six months from the date of issuance. A writ may be renewed for a further three months no more than twice, as no writ can be valid for more than 12 months from the date of issuance. A number of other state jurisdictions have now adopted this procedure, which was first introduced in Lagos State.

In Order 2 of The Federal High Court Civil Procedure Rules 2000 , it was highlighted that the 2 major modes of commencing a Civil Proceeding, is by the Writ of Summons and By Originating Summon , it was also highlighted that Proceedings may be begun by originating motion or petition where by these Rules or under any written law the proceedings in question are required or authorized to be so begun, but not otherwise.

Writ of Summons

A Writ of Summons is a formal document addressed to the defendant requiring him to enter an appearance if he wishes to dispute the plaintiff’s claim. Civil actions involving substantial disputes of fact are commenced by way of a writ. These include, but are not limited to:

* Contract actions, eg, claim for damages resulting from breach of contractual terms and obligations, etc;
* Tort actions, eg, claim for damages in respect of property damage resulting from road accidents and negligence, Claim for damages resulting from fraud and defamation, etc;
* Personal Injury actions, eg, claim for damages in respect of personal injury and / or death resulting from road and industrial accidents or negligence, etc;
* Intellectual property actions, eg, claim for damages resulting from the infringement of copyright, trademark or patent, etc; and
* Admiralty and Shipping actions

Originating Summons

An action is commenced by way of an Originating Summons where:

* It is required by statute; or
* The dispute is concerned with matters of law in respect of which there is unlikely to be any substantial dispute of facts.

Compared to a Writ of Summons, the Originating Summons is a simpler and swifter procedure for the resolution of disputes as it is determined generally on affidavits filed and does not involve pleadings or many interlocutory proceedings. However, many of the requirements concerning issuance, duration, renewal and service with regard to a writ may apply, with the necessary modifications, to an Originating Summons.