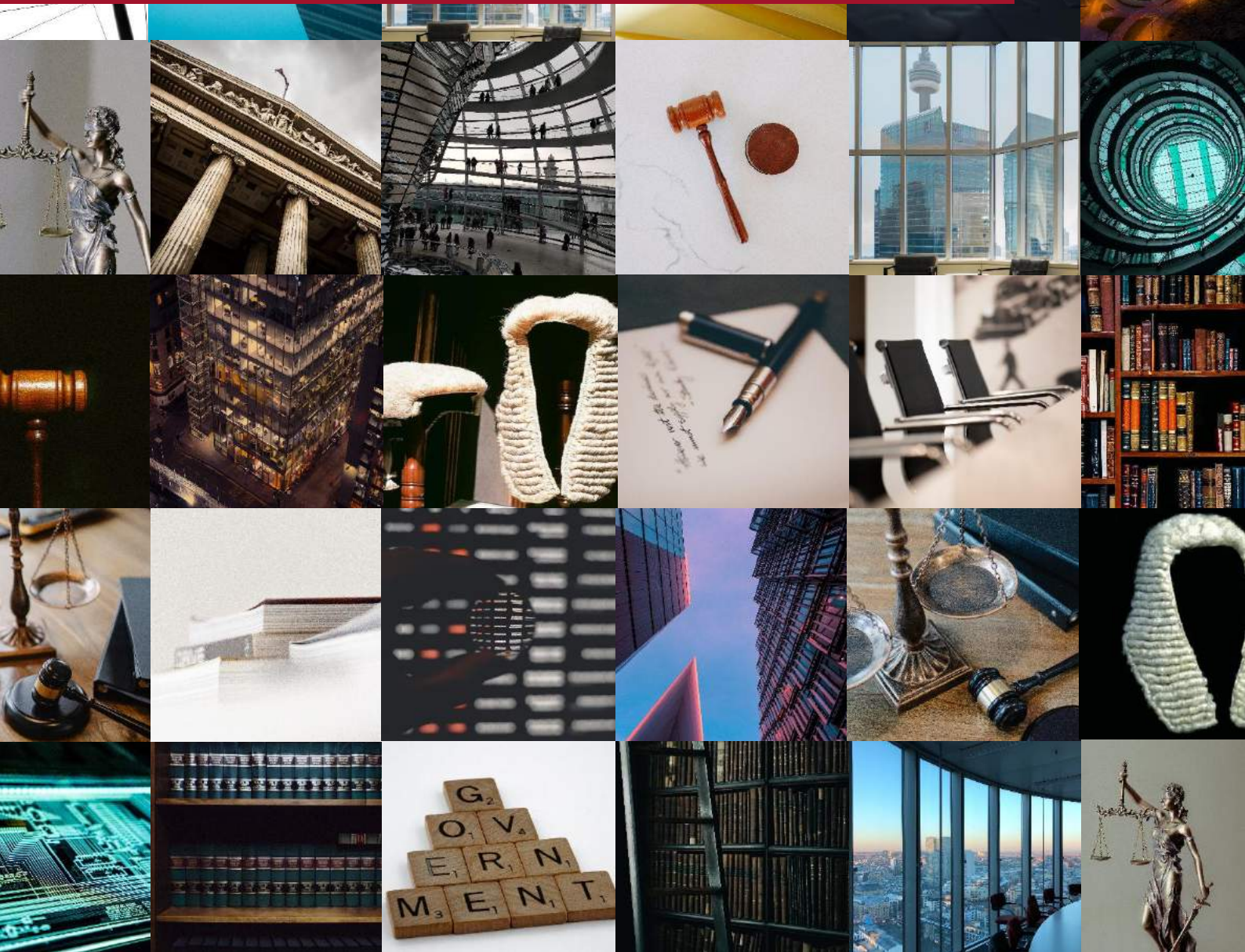


2021 in Review

Some Significant Events in Nigeria's  
Dispute Resolution Space



## Some Significant Events in Nigeria's Dispute Resolution Space

### New Laws, Rules of Courts and Practice Directions

- 1. Court of Appeal Issues New Rules.** Pursuant to the powers conferred on the President of the Court of Appeal (the “**President**”) by section 248 of the Constitution of the Federal Republic of Nigeria, 1999 (as Amended) (the “**1999 Constitution**”), the President issued the Court of Appeal Rules, 2021 (the “**CA 2021 Rules**”). The CA 2021 Rules came into force on November 1, 2021. The CA 2021 Rules repealed the Court of Appeal Rules, 2016 and introduced some significant innovations to the practice and procedure of the Court of Appeal. The CA 2021 Rules introduced, *inter alia*, the following: electronic filing and service, virtual hearings, electronic compilation and transmission of records of appeal, notice of motion to be accompanied by a written address, stipulating timeframe within which to respond to motions, the Court of Appeal Alternative Dispute Resolution Program. (See our publication on the [CA 2021 Rules](#)<sup>1</sup>).
- 2. Federal High Court of Nigeria (Payment of Default Fees on Late Filing of Fundamental Rights Enforcement Court Processes) Practice Directions, 2021 (The “2021 Practice Direction”).** The Chief Judge of the Federal High Court of Nigeria (the “**FHC CJ**”) issued the 2021 Practice Direction in furtherance of the powers conferred on him by Order 57 Rule 3 of the Federal High Court (Civil Procedure) Rules, 2019. The 2021 Practice Direction provides that any process filed out of the prescribed time in the actions for enforcement of fundamental rights shall be liable to default fees as provided in Order 48 of the Federal High Court (Civil Procedure) Rules, 2019.
- 3. Lagos State Enacts New Criminal Justice Law.** On September 30, 2021, the Governor of Lagos State, Babajide Sanwo-Olu, assented to the Administration of Criminal Justice Law of Lagos State, 2021 (the “**ACJL 2021**”). Some of the key innovations of the ACJL 2021 are: (i) the power of the Court to award compensation to victims of offences; (ii) the establishment of a database for criminal records; (iii) the power of Court to make an interim order to freeze accounts with monies that are proceeds of illegal and/or criminal transactions; and (iv) the extension of the scope of plea bargaining.
- 4. Federal High Court (Federal Inland Revenue Service) Practice Directions, 2021 (the “FIRS Practice Directions”).** On May 31, 2021, the Chief Judge of the Federal High Court, acting pursuant to the powers conferred on him by Order 57 Rule 3 of the Federal High Court (Civil Procedure) Rules, 2019, issued the FIRS Practice Directions. The FIRS Practice Directions aims to, amongst others, regulate proceedings at the Court on the application by the FIRS for the (A) forfeiture of assets, (B) freezing of bank accounts, (C) access to bank records, (D) access to and/or sealing of the business premises, of taxpayers. It also mandates taxpayers to deposit into the court half of the sum assessed to be payable by the taxpayer as a condition for defending the government's tax recovery suit<sup>2</sup>.

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<sup>1</sup> Article – Some Innovations of the Court of Appeal Rules 2021

<sup>2</sup> Article – The Federal High Court (Federal Inland Revenue Service) Practice Directions, 2021: An Appraisal <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3907267](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3907267)>

5. **Tax Appeal Tribunal (Procedures) Rules, 2021 (the “2021 TAT Rules”)**. The 2021 TAT Rules were issued pursuant to paragraph 21 of the Fifth Schedule to the Federal Inland Revenue Services (Establishment) Act, 2007. The 2021 TAT Rules replace the 2010 Rules and now regulate the proceedings of Tax Appeal Tribunal. Significant provisions of the Rules include: virtual hearing, electronic filing, mandatory payment of 50% of assessed tax, documents only procedure, summary appeal procedure, pre-trial conference, among others. (See our publication on the 2021 [TAT Rules](#)<sup>3</sup>)

## NOTABLE JUDGMENTS

6. ***Pillars Nigeria Ltd. v. William Kojo Desborders et al. (2021) 12 NWLR (Pt. 1789) 122 SC***

Irregularity of Statutory Notice when a Writ is Filed: The Supreme Court of Nigeria held that where a writ is filed (in an action for recovery of premises) in the absence of the necessary and/or regular statutory notice (i.e notice to quit), the notice period is deemed to start running from the date the writ is served. All the dance drama around the issue of irregularity of the Notice, according to the Supreme Court, thereby ends.

7. ***SEC v. Ifegwu (2021) 8 NWLR (Pt. 1778) 326 CA***

Extent of Application of *Lis Pendis* to Property: The Court of Appeal held that the doctrine of *Lis Pendis* only applies to real property and has no application to personal property. Thus, the doctrine of *Lis Pendis* does not apply to transfer of shares.

8. ***Central Bank of Nigeria v. Registered Trustees of NBA et al. (2021) 5 NWLR (Pt. 1769) 268 C.A.***

Lawyers and the Money Laundering Act: The Court of Appeal held that the Legal Practitioners Act, 1975 (the “LPA”) and the Money Laundering (Prohibition, etc) Act 2011 (the “MLA”) cannot operate side by side to the extent that it applies to legal practitioners as “Designated Non-Financial Institution”. According to the Court, a legal practitioner is only mandated to open client’s account under the LPA, upon which a bank can proceed to identify or classify its customers.

9. ***Babalola v. Apple Inc. (2021) 15 NWLR (Pt. 1799) 193 C.A.***

Preliminary Objection without a Deposed Affidavit: The Court of Appeal held that when a preliminary objection strays into the facts of a case and the party relying on the preliminary objection fails to depose to an affidavit, the Court has no other choice but to reject the preliminary objection.

10. ***Stanbic IBTC Bank Plc v. Longterm Global Capital et al. (CA/L/1093/2017) (Unreported Court of Appeal judgment delivered on September 20, 2021)***

Absence of Oath Clause in a Written Statement on Oath: The Court of Appeal held that a written statement on oath void of statutory declaration/conclusion statement (Oath Clause) does not become inadmissible by reason of that omission. This is a departure

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<sup>3</sup> Article - Notable Changes in the Tax Appeal Tribunal

from previous Court of Appeal authorities to the effect that failure to include the Oath Clause nullifies the written statement on oath. See *GTB Plc v. Abiodun* (2017) LPELR-42551(CA).

**Exception to Section 84 of the Evidence Act:** The Court of Appeal held that electronic evidence sought to be tendered by a non-producer would be admissible and the requirement of authentication would not be mandatory since the device that produced the document sought to be tendered in evidence is not within the control of the party seeking to tender it.

11. ***Incorporated Trustees of Digital Rights Lawyers Initiative v. NIMC* (2021) LPELR-55623 (CA)**

**Demand for Fees in Rectifying Personal Data and Breach of Fundamental Rights:** The Court of Appeal held that the demand for fees for rectification of personal data in the National Identity database is not a breach of fundamental rights. According to the Court, the suit was clearly a challenge of the power of the National Identity Management Commission to charge a fee for the rectification of the error contained in the birth date of the 1<sup>st</sup> Claimant, and not a challenge of a denial of the 1<sup>st</sup> Claimant's right to be registered.

12. ***The Vessel of MT Sam Purpose (Ex MT Tapti) et al. v. Amarjeet Singh Bains* (Appeal (CA/LAG/CV/419/2020). (Unreported Court of Appeal judgment delivered on March 5, 2021)**

**Court with Competent Jurisdiction over Maritime Labour Claims:** The Court of Appeal held that the National Industrial Court (the "NIC") and not the Federal High Court (the "FHC") has jurisdiction over maritime labour claims. According to the Court, though a claim by master or crew members for wages is a general maritime claim by the provision of section 2(3)(r) of the Admiralty Jurisdiction Act 1991, the FHC, however, can no longer exercise jurisdiction over such claims as the relevant section is inconsistent with the provisions of section 254C of the 1999 Constitution which confers on the NIC exclusive jurisdiction over labour and employment claims.

13. ***Jwan v. Ecobank (Nig.) Plc et al.* (2021) 10 NWLR (Pt. 1785) 449 C.A.**

**Duty of Care Owed by Banks to Customers Extends to ATM Transactions:** The Court of Appeal held that ATM card issued by banks is akin to a cheque, which must be honoured on request, provided there is enough funds in the customer's account. Failure to do that means the bank is in breach of duty of care owed to its customer.

14. ***P.D.P. v. Degi-Eremienyo* (2021) 9 NWLR (Pt. 1781) 274 S.C.**

**Procedure for Change, Correction and Confirmation of Name:** The Supreme Court held that it is only by a Deed Poll, and not by mere deposition, that a change in a name on an official certificate can be effected. According to the Court, since the procedure for change of name necessarily affects official record and archives of the nation, the deponent is to, after the Deed Poll, approach the Nigerian Civil Registry in order to have the change of name published in the official gazette.

## LOCATIONS

LAGOS OFFICE  
6 Broad Street  
Lagos, Nigeria

T: +234 (1) 460 7890  
E: [gelias@gelias.com](mailto:gelias@gelias.com)

ABUJA OFFICE  
2nd Floor, Abia House,  
Plot 979, First Avenue,  
Central Business District  
F.C.T, Abuja.

T: +234 (1) 888 8881

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