Course Contents:

CIVIL LITIGATION
1. Methods of civil dispute resolution,
2. Sources of civil procedure
3. Courts with civil jurisdiction.
4. Parties
5. Pre-action issues.
6. Commencement of Action in Magistrate and High Courts.
7. Pleadings
8. Interlocutory Applications
10. Pre-trial issues & proceedings
11. Trial : Evidence, preparation of witnesses, examination of witnesses, closing address and judgment
12. Enforcement of judgment
13. Applications Pending Appeal
14. Appeals
15. Special causes and procedure- Recovery of premises; procedure for enforcement of Fundamental Rights; matrimonial causes; election petitions.
16. Sanctions and costs.

General Learning outcomes:

1. Methods of civil dispute resolution
Students should be able to demonstrate a clear understanding of the various methods of civil dispute resolution-litigation, ADR options etc.

2. Sources of civil procedure
Students should be able to:
   i. Identify and explain the sources of civil procedure and discuss the relevance of each source to civil processes;
   ii. Explain and discuss the aims, scope and application of rules of court.

3. Courts with civil jurisdiction
Students should be able to:
   i. Demonstrate an understanding of the appointment and removal of Judges
   ii. Explain & discuss the meaning and scope of civil jurisdiction of the courts and how to apply it in practice
   iii. Identify the appropriate court to approach in a given case or situation.

4. Parties
Students should be able to demonstrate a clear understanding of:
   i. who are persons that can sue and be sued at law?
   ii. the appropriate parties in respect of any cause of action
   iii. the procedures for bringing proceedings by or against various classes of parties.
5. Pre-action issues and Commencement of Action
Students should be able to demonstrate a clear understanding of:
   i. various matters that need to be considered before commencing or defending an action, such as limitation periods, pre-action notices/conditions precedent, litigation costs, the appropriate venue for an action, exhaustion of available remedies, availability of alternative dispute resolution method, and pre-action counselling; etc.
   ii. How different types of proceedings are commenced;
   iii. the steps to take to initiate or contest actions.
   iv. the ethical consideration of not instituting frivolous actions or avoiding abuse of Court process.
   v. the students should be able to draft (complete forms) different types of originating processes;
   vi. how court documents are brought to the notice of the other party;
   vii. The principles governing the issue and renewal of originating processes.

6. Pleadings
Students should be able to demonstrate a clear understanding of:
   i. the rules relating to various pleadings
   ii. Students should be able to draft different types of pleadings
   iii. knowing when to file different types of pleadings

7. Interlocutory Applications
Students should be able to demonstrate a clear understanding of:
   i. the different applications that can be made during the currency of an action.
   ii. the necessary steps for obtaining interlocutory relief
   iii. Students should be able to draft and argue simple motions
   iv. the procedure for applying for an injunction;
   v. Apply the principles governing the grant or refusal of an injunction in a given case;
   vi. Understand the meaning and consequences of undertakings given during Injunction cases.

Students should be able to demonstrate a clear understanding of:
   i. the procedures for obtaining different summary judgments under the rules.
   ii. how to apply for summary judgments in the various jurisdictions.
   iii. Students should be able to draft and argue applications for summary judgments.

9. Pre-trial issues and Proceedings
Students should be able to:
   i. Explain and discuss the principles relating to proceedings in lieu of demurrer & Striking out of Pleading where no reasonable cause of action disclosed, consolidation and deconsolidation of action; Interrogatories, discovery of documents, inspection of documents, notices to admit, and settlement of issues.
   ii. Explain & discuss the general principles, objectives & scope of pre-trial Conference and scheduling.
iii. Setting down for trial.

10. **Trial: Evidence, examination of witnesses, closing address and judgment.**
Students should be able to demonstrate a clear understanding of:
   i. the necessary steps or proceedings to be taken preparatory to trial
   ii. case analysis / case theory/trial plan
   iii. Rules of evidence as to competence and compellability of witnesses, burden and standard of proof, admissibility of documentary evidence and necessary foundation to be laid for that purpose; use of primary and secondary evidence, opinion evidence and expert witness.
   iv. How to prepare witnesses for trial.
   v. the procedure for presentation of a party's case at the trial.
   vi. The use of subpoenas and witness summons;
   vii. How to treat witness statements.
   viii. Principles & rules of examination of witnesses
   ix. Ethical issues involved in trial
   x. the requirement of a valid judgment.
   xi. the various types of judgment
   xii. when a judgment is defective for purposes of appeal.

11. **Enforcement**
Students should be able to demonstrate a clear understanding of:
   i. The various methods of enforcing court judgments.
   ii. Students should be able to complete and draft necessary forms for the purpose of enforcement of judgments, e.g., writs of execution, garnishee proceedings and writ of possession.
   iii. Procedure for enforcement of judgments intra state, inter-state outside Nigeria and the enforcement of the judgment of a foreign court in Nigeria.

12. **Applications Pending Appeal**
Students should be able to demonstrate a clear understanding of:
   i. the principles and procedures for preservation of the subject matter of a proceeding pending appeal.
   ii. Draft applications for stay of execution and proceeding.

13. **Appeals**
Students should be able to demonstrate a clear understanding of:
   i. the constitutional and procedural requirements for exercising right of appeal.
   ii. the ethical consideration when filing or defending an appeals.

14. **Recovery of Premises**
Students should be able to:
   i. Explain and discuss the general principles including the courts that exercise jurisdiction for the recovery of possession of premises;
   ii. State and discuss the material facts to be proved for recovery of possession of premises and the procedure for recovery;
iii. Draft a notice to quit, notice to tenant of owner’s intention to recover possession of premises, and a writ or plaint commencing an action for recovery of possession of premises;

15. Matrimonial causes
Students should be able to:
   i. Explain and discuss the general principles including the courts that exercise jurisdiction for Matrimonial petitions;
   ii. State and discuss the content and material facts to be pleaded and proved in matrimonial causes petition and the explain the procedure and sequences of events up to the conclusion of trial;
   iii. Draft a matrimonial cause petition and reply;

16. Election Petition
Students should be able to:
   i. Explain and discuss the general principles including the courts that exercise jurisdiction for Election petitions;
   ii. State and discuss the content and material facts to be pleaded and proved in election petition cases and the explain the procedure and sequences of events up to the conclusion of trial;
   iii. Draft an election petition and reply;

17. Enforcement of Fundamental Rights And Sanction & Cost
Students should be able to:
   i. Explain and discuss the general principles, procedure and scope of Fundamental Rights Enforcement procedure Rules;
   ii. Draft applications under the Fundamental Rights Enforcement Procedure Rules;
   iii. Explain the similarities and differences between Fundamental Rights Enforcement Procedure rules and Judicial review/writ of Habeas Corpus.
   iv. List, Explain and discuss the principles, scope and applications of sanctions and costs in Civil Litigation;

LESSON PLAN
WEEK 1- Induction Programme for New Students
WEEK 2- Mock Trials for New Students; Students attention should be drawn to Week 3 Pre-class activities.

WEEK 3- OVERVIEW AND INTRODUCTORY MATTERS
Contents
   1. Overview of the civil litigation course
   2. Introduction to Civil dispute resolution mechanisms- litigation, ADR
   3. Sources of civil procedure.
   4. Courts with Civil Jurisdiction, including introduction to ECOWAS Court and contextualising the problem of jurisdiction.
   5. Ethical issues arising from improper use of the rules of court and wrong choice of court
Outcomes
At the end of the lesson, the students would be able to:

i. Discuss the scope of the Civil Litigation course;
ii. Identify and explain the sources of Civil Procedure and discuss the relevance of each source to Civil Processes.
iii. Discuss the different civil disputes settlement mechanisms;
iv. Explain and discuss the aims, scope and application of rules of court.
v. Explain and discuss the meaning and scope of the Civil Jurisdiction of the courts and how to apply it in practice.
vi. Identify the appropriate court to approach in a given case or situation.
vii. Discuss the ethical implications relating to wrong use of rules of court and wrong choice of court as well as consequential sanction.

Activities before class
1. Students are required to read the topics in advance; read the constitutional provisions on jurisdiction and 1 and 2 case studies provided below.
2. Students are also required to read some case law on the problem of jurisdiction generally and jurisdiction between the High Court of States and that of the Federal High Court including the ECOWAS Court. The cases should include the following: *NEPA v. Edegbenro* [2002] 18 N.W.L.R. pt. 798, p. 79; *Onuoha v KRPC Ltd* [2005] 6 NWLR pt. 921 p.393; [2005] FWLR pt. 256, p.1356; *Grace Jack v University of Agriculture Makurdi* [2004] NWLR pt. 865 p. 208; *Tukur v Government of Gongola State* [1989] 4 NWLR pt. 117 p. 517; *NDIC v Okem Enterprises Ltd* [2004] 10 NWLR pt. 880 p. 107. Tutor would provide additional list of these cases to be studied in advance.
3. Each student should prepare a list of the ethical issues arising from wrong use of the rules of court and the wrong choice of court and the consequential sanction.
4. Students should make a list of different dispute settlement mechanisms.
5. Each student to make notes listing all the civil courts and the scope of their jurisdiction including Customary courts/Customary courts of Appeal and Sharia Courts of Appeal.
6. Each student should draw a table correlating the courts with rules and the sources of the rules.

Activities in class
1. Tutor presents an overview of the civil litigation course/questions and answers – 30 minutes;
2. Tutor presents an overview of sources of civil procedure generally and particularly of rules of court and its aims. And tutor requests students to identify civil procedure rules known to them and their sources; Teacher fills in the blanks. - 30 minutes;
3. Students make presentations on different dispute settlement mechanisms and a comprehensive list is drawn up- 30 minutes;
4. Students present table correlating the courts with rules and the sources of the rules- 30 minutes;
15 Minutes Break
Tutor presents an overview of the issues of jurisdiction generally and jurisdiction between the Federal High Court and High Court of States with questions and answers. The discussion should include comparison of cases such as *NEPA v Edegbenro* [2002] 18 N.W.L.R. pt. 798, p. 79, *Onuoha v K.R.P. C. Ltd* [2005] 6 N.W.L.R. pt. 921 p. 393; [2005] All FWLR Pt. 256, 1356; *BPE v. National Union of Electricity Employees* (2010) and *Osakwe v. FCE Asaba*. - **45 minutes**;

Students are presented with questions/exercises requiring them to identify the appropriate courts having jurisdiction from different perspectives of case studies 1 and 2. The questions/exercises should be done in groups and sample answers taken by the tutor and general discussions follow-**45 minutes**;

Sample presentation and discussion on ethical issues and sanctions arising from wrong use of rules and choice of court. **20 minutes**;

Assessment- questions and answers **10 minutes** (NB: Students’ attention should also be drawn to Week 4 Pre-class activities).

**WEEK 4 – PARTIES TO A CIVIL SUIT**

**Contents**
1. Types of parties; Capacity to sue and be sued; Classes of legal persons; Representative actions and procedure
2. Joint plaintiffs/Joint defendants;
3. Class actions;
4. Joinder/Misjoinder of parties; Alteration of parties; Survival of parties;
5. Third party notice or proceedings.
6. Ethical issues involved in acting for and against a party in litigation under duties of lawyer to client, courts, the state and the legal profession.

**Outcomes**
At the end of the lesson, the students would be able to:
1. State the persons that can sue and be sued at law; select the appropriate parties in respect of any cause of action and discuss the capacity in which parties sue or are sued; and explain the effects of suing or being sued in a wrong capacity;
2. Explain the procedures for bringing proceedings by or against various classes of parties and representative suits;
3. Discuss the scope of class actions;
4. Explain the procedure for joinder and alteration of parties;
5. Discuss the principles and scope of third party proceedings.
6. Draft the various applications on parties
7. Identify and discuss ethical issues involved in acting for and against a party in litigation under duties of lawyer to client, courts, the state and the legal profession.

**Activities before class:**
1. Students would be required to read the topic in advance of the lesson and the cases provided by tutor, such as *Green v Green* and *Mobil v LASEPA*
2. Students should make a list of types and various classes of parties and persons that can sue or be sued at law;
3. Students should make a short note on the meaning and scope of class actions under the Lagos State Civil Procedure Rules;
4. Students should prepare their opinion on joinder and alteration of parties using Case Study 2 and come to class with same.
5. Students should bring to class precedent copies of applications for joinder or alteration of parties and third party proceedings application;
6. Students should prepare 3 applications using case study 2 and bring them to class, namely: (a) joinder of NDIC as a co-defendant; (b) striking out the name of NDIC as co-defendant assuming they were originally joined as party; (c) joining ABC Insurance PLC (the company that insured the consignment).
7. Students should make a list of likely ethical issues that may arise in acting for and against a party in litigation under duties of lawyer to client, courts, the state and the legal profession.

Activities in class:
1. Tutor gives an overview of Nos (i) to (iii) outcomes and presents hypothetical or real cases on (i) to (iii) outcomes and students discuss the cases in their groups and sample presentations and discussions follow – 50 minutes;
2. Tutor presents different causes of actions and scenarios for students to identify proper parties – 30 minutes.
3. Tutor gives an overview on the procedure for joinder and alteration of parties and Students present their opinion on joinder and alteration of parties using Case Study 2 – 40 minutes
   15 MINUTES BREAK
4. Tutor gives an overview on the principles and scope of third party proceedings – 20 minutes
5. Students present the 3 applications namely:
   a) joinder of NDIC as a co-defendant;
   b) striking out the name of NDIC as co-defendant assuming they were originally joined as party; (c) joining ABC Insurance PLC (the company that insured the consignment)- 40 minutes
6. Short Quizzes are given to students on likely ethical issues and discussions follow – 40 minutes
7. General assessment – 20 minutes (NB: Students’ attention should also be drawn to Week 5 Pre-class activities).

Notes on Third Party Proceedings
i. Third party proceedings are special proceedings in favour of a defendant only, or in favour of a Plaintiff who is himself a Defendant in a counterclaim, for joinder of a third party not to prosecute the suit in court but to prosecute another action between the Defendant and the third party in the same suit between the Defendant and the Plaintiff. The object of a third party proceeding is to prevent a multiplicity of actions – Bank of Ireland vs. Union Bank of Nigeria Ltd (1998) 7 SCNJ 385; Soyinka vs. Oni (2011).
ii. A third party may be joined if the court is satisfied that he may bear eventual liability whether wholly or partly, upon an application made ex parte by any of the Defendants – Or. 13 r. 19(1), Lagos.

iii. A Defendant desirous of joining a third party shall apply to the court or a judge in chambers by way of ex parte application for leave to issue and serve a third party notice. As in other motions, the application shall be supported by an affidavit stating the grounds for believing that the third party may bear eventual liability – Or. 13 r. 19(1), Lagos.

iv. The effect of a third party notice is to make the third party a party in the suit in the same manner as if he had been sued in the ordinary manner by the defendant.

WEEK 5 – 1. PRELIMINARY MATTERS: PRE-ACTION ISSUES
2. COMMENCEMENT OF ACTIONS IN THE MAGISTRATE COURT

Contents
1. Preliminary consideration before commencing an action or defending an action viz: limitation periods, pre-action notices/conditions precedent, locus standi, the appropriate venue for an action, cause of action, exhaustion of available remedies and their effect on the jurisdiction of a court; litigation costs, availability of alternative dispute resolution method and pre-action counselling, ethics against frivolous actions or avoiding abuse of court process.
2. Reflections on the relevance to the preliminary considerations of matters such as interviewing and counselling skills, letter writing, duty to client, accountability, cost and charges;
3. Commencement of action in the Magistrate

Outcomes
At the end of this lesson students would be able to:

i. Discuss and explain various matters that need to be considered before commencing or defending an action, such as limitation periods, pre-action notices/conditions precedent, litigation costs, the appropriate venue for an action, exhaustion of available remedies, availability of alternative dispute resolution method, and pre-action counselling; cause of action; remedies; ethics against frivolous actions or avoiding abuse of court process;

ii. Identify preliminary issues in case studies.

iii. Discuss the relevance to the preliminary consideration of subjects such as interviewing and counselling skills, letter writing, duty to client, accountability, cost and charges

iv. Explain the general principles and procedure for commencing actions in the Magistrate Court of Lagos State.

Activities before class
1. Students should read case studies 1 and 2 in addition to other case studies to be provided by the tutor and identify in writing the preliminary issues in the case studies.
2. Students should prepare pre-action counselling certificates and bring samples to class.
Activities in class
1. Tutor gives an overview of general principles and the procedure for commencing actions in the Lagos State Magistrate Court – 30 minutes
2. Students and Tutor brainstorm on the relevance to the preliminary issues of subjects such as interviewing and counselling skills, letter writing, duty to client, accountability, cost and charges – 30 minutes
3. Presentations of pre-class assignments are made by students and discussions follow. Discussions to cover most preliminary issues whether identified in the cases or not – 60 minutes;
15 MINUTES BREAK
4. Tutor presents quiz on general principles and procedure for commencing actions in the Lagos State Magistrate Court. - 40 minutes
5. Using modified case study 1 (modified by the tutor) students complete a Claim (provided to students) to commence an action/sample presentations and discussions follow – 40 minutes;
6. General assessment – 20 minutes (NB: Students’ attention should also be drawn to Week 6 Pre-class activities).

WEEK 6 – COMMENCEMENT OF ACTIONS IN THE HIGH COURT
Contents
Commencement of Action in the High Court: the frontloading concept, originating processes; issue of originating processes, service, renewal of writ, effect of non compliance, appearance and default of appearance; and ethical issues that arise from the conduct of a lawyer in commencing an action in court.
Outcomes
At the end of the lesson students would be able to:
   i. Explain how different types of proceedings are commenced and the steps to take to initiate or contest actions and the effect of non compliance;
   ii. Complete writs of summons and list documents that should be frontloaded using Case studies 1 and 2;
   iii. Explain how court documents are brought to the notice of the other party; review And critique sample affidavit of service.
   iv. Discuss the principles governing the issue and renewal of originating processes;
   v. Discuss and explain the principles governing appearance and default of appearance.
   vi. Discuss ethical issues that arise from the conduct of a lawyer in commencing an action in court.

Activities before the class
1. Students in a composite table make a list of different types of proceedings and the form used to commence each type of proceedings.
2. Students are to be given in advance duly completed sample writ of summons and requested to read in advance Orders 1-10 High Court civil procedure Rules Lagos and Orders 1-6, 9, 11-13 FCT Abuja High Court Civil Procedure Rules;
3. Students are to read in advance, Case Studies 1 and 2 and complete 2 writs of summons in advance using the 2 case studies; they should also produce a list of
document necessary to be attached on each of the 2 completed writs using the case studies. Students should be required to have these documents in a file.

4. Students make a list of steps to be taken by either party (including filing appearance) after the issue of a writ of summons and the consequences of failure to take any of the steps.

5. Students are to make a list of the Rules of Professional Conduct that may arise from the conduct of a lawyer in commencing an action in court.

Activities in class

6. Tutor presents an overview of commencement of action in the High Court – 45 minutes

7. Tutor presents quiz on different types of proceedings and the form used to commence each type of proceedings – 30 minutes.

8. General discussions on service of documents, issues and renewal of originating processes and a review of a sample affidavit of service presented by the tutor – 45 minutes

15 MINUTES BREAK

9. Students make sample presentation of completed writs and lists of documents to be frontloaded with justifications for listing the documents shown; Discussions on presentations follow - 60 minutes.

10. Students present list of steps to be taken by either party (including filing appearance) after the issue of a writ of summons and the consequences of failure to take any of the steps and discussions follow - 25 minutes

11. Students present list of the Rules of Professional Conduct that may arise from the conduct of a lawyer in commencing an action in court – 25 minutes

12. Assessment: questions and answers – 10 minutes (NB: Students’ attention should also be drawn to Week 7 Pre-class activities).

WEEK 7 – INTERLOCUTORY APPLICATIONS

Contents

i. Meaning of interlocutory applications;

ii. The principles and scope of examples of interlocutory applications and relief like, Interim and interlocutory injunctions, Mareva Injunction, Anton Piller injunction; and interpleader;

iii. The meaning, types and contents of a motion;

iv. Affidavit evidence;

v. Drafting and arguing simple motions (affidavits in support inclusive).

vi. Ethical issues involved in abuse of ex-parte injunctions, swearing of affidavits by counsel, suppression of facts in ex parte applications.

Outcomes

At the end of this lesson students would be able to:

i. Explain the meaning of interlocutory applications and list examples;

ii. Explain and discuss the principles and scope of examples of interlocutory applications and relief like, Interim and interlocutory injunctions, Mareva Injunction, Anton Piller injunction; and interpleader;

iii. Explain the meaning, types and List the contents of a motion;
iv. Discuss the principles regarding affidavit evidence;

v. Draft and argue simple motions (affidavits in support inclusive).

vi. Discuss ethical issues involved in abuse of ex-parte injunctions, swearing of affidavits by counsel, and suppression of facts in ex parte applications.

Activities before class
1. Students are to read the subject in advance of the lesson including case law, the case studies, and examples of drafted motions and interlocutory applications; Students are to bring to class precedent samples of motions and interlocutory applications.

2. Students are to make notes on the: (a) meaning of interlocutory applications and list examples; (b) the principles and scope of examples of interlocutory applications and relief like, Interim and interlocutory injunctions, Mareva Injunction, Anton Piller injunction; and interpleader; (c) the meaning, types and the contents of a motion; (d) the principles regarding affidavit evidence;

3. Students are to read the NJC Judges’ rule on ex parte applications and make a list of decided cases where abuse of ex parte applications was discussed.

4. Students are to be paired in advance to prepare in advance motions for interim and interlocutory injunctions. Using the case studies, a set of students draft motion for interim injunction (case study 2) while the other set draft a motion for interlocutory injunction (case study 1). Set 1 students hand over the motion for interim injunction to set 2 students while set 2 students hand over their motion for interlocutory injunction to set 1. Set 1 students draft an affidavit in opposition to the motion for interlocutory injunction while set 2 students acting as judges prepare ruling/judgment on the motion for interim injunction. The application for interlocutory injunction should also be accompanied with an address of not more than one page. All students are to come to class with an e-copy of their motions, counter affidavit, addresses and judgment.

Activities in the class
5. Students and Tutor discuss meaning of interlocutory applications and list examples – 30 minutes

6. Students and Tutor discuss the principles and scope of interim and interlocutory injunctions, Mareva Injunction, Anton Piller injunction; and interpleader – 60 minutes.

7. Brainstorm/discussions on ethical issues involved in abuse of ex-parte injunctions, swearing of affidavits by counsel, and suppression of facts in ex parte applications. Discussion should be supported with Rules and case law – 30 minutes

15 MINUTES BREAK

8. Students and Tutor discuss the meaning, types and list the contents of a motion, and the principles guiding affidavits and affidavit evidence, tutor assisting – 40 minutes

9. Presentations of the motions already prepared by students before class are made by way of moving the motion and opposition arguments/the student-judges’ rulings are presented and general discussions follow – 1 hour 20 minutes

13. Assessment: Questions and answers/Quiz – 30 minutes (NB: Students’ attention should also be drawn to Week 8 Pre-class activities).

Interpleader Proceedings
Where a person is in possession of property or money claimed by two or more other persons, he may apply to the court by way of interpleader to compel the contending claimants to interplead, i.e. to institute legal proceedings between themselves so that the court would determine who is entitled to the subject matter – Or. 43, Lagos; Or. 26, Abuja.

(ii) There are two types of interpleaders, namely, the Sheriff's interpleader and the stakeholder’s interpleader. The Sheriff’s interpleader is used in circumstances where a sheriff in execution of a judgment attaches property, which is claimed by a third party who is not the judgment debtor. Stakeholder’s interpleader is one by any other person not being a sheriff. In Lagos, the application for interpleader is made by summons (Or. 53 r. 5 Lagos), but in Abuja the application is made by originating summons, except where there is already a pending action, in which case it will be by motion – Or. 26, r. 3(1) Abuja. The application shall be supported by an affidavit stating (a) that the applicant claims no interest in the subject matter of the dispute except charges for costs, (b) that the applicant does notCollude with any of the claimants, and (c) that the applicant is willing to pay for, or transfer the subject matter into court, or dispose of it as the court or judge may direct - Or. 43 r. 2 Lagos; Or. 26, r. 4 Abuja.

WEEK 8 – SUMMARY JUDGMENT PROCEDURE

Contents

Summary Judgment Procedure: types of summary judgment; default judgments; undefended list procedure (Abuja); summary judgment – order 11 procedure (Lagos); Duty of a lawyer in a summary judgment procedure.

Outcomes

At the end of this lesson Students would be able to:

i. List types of and explain the scope of the principles of summary judgments.

ii. Explain the procedures for obtaining different summary judgments under the rules and distinguish summary judgments from default judgments.

iii. Draft and argue applications for summary judgments.

iv. Discuss the ethical duties of a lawyer in a summary judgment procedure.

Activities before class

1. Students read the subject in advance of the class including the rules of Lagos and Abuja relating to summary judgment/procedures.

2. Students in a composite table make a list of the distinguishing factors (comparatively) between undefended list of Abuja FCT High Court Rules and Order 11 summary judgment Procedure of Lagos State High Court Rules. Students are to bring e-copies of the composite table to the class.

3. Students make a list of different types of default judgments.

4. Students should be paired to exchange applications for summary judgment using case study 1. Using the case studies, a set of students draft application for judgment in the undefended list (case study 1) while the other set draft application for summary judgment under Order 11 (case study 1). Set 1 students hand over their documents to set 2 students while set 2 students hand over their documents to set 1. Set 1 students draft documents in opposition to the documents served on them while set 2 students do the same. Students must provide all the documents required by the rules and the
presentation in the class would be through power point slides. So e-copies are to be brought to class.
5. Students should prepare in writing ethical issues that may arise and the ethical duties of a lawyer in such cases in a summary judgment procedure.

Activities in class
1. Tutor gives an overview of lesson- **30 minutes**
2. Students present the composite table comparing undefended list procedure and Order 11 summary judgement procedure; and a list of different types of default judgments - **30 minutes**
3. Using the writ of summons produced by students in WEEK 6 and case studies 1 and 2 students are grouped to discuss the application of different summary judgment procedures and the consequences of any step to be taken- **25 minutes**
4. Sample presentations are made by groups and discussions follow – **30 minutes**
5. Assessment: Questions and answers - **5 minutes**

15 MINUTES BREAK
6. Some students are made to argue their cases for summary judgment. The rest of the students listen as Judges and write short judgments/ruled. **60 minutes**
7. **10 minutes** interval for students to conclude their judgments/ruled (at this stage the structure of the judgment would not be in issue). Students present their judgments and discussions follow- **30 minutes**
8. Students present ethical issues that may arise and the ethical duties of a lawyer in such cases in a summary judgment procedure – **20 minutes.**
9. Assessment: questions and answers – **10 minutes** (NB: Tutor also presents WEEK 9 pre-class activities and take home assignment on the subject PLEADINGS - References (including books and case law) for advance reading; case studies; Students are paired to use the 2 case studies and exchange pleadings in advance of the class on PLEADINGS, one person acting as plaintiff in case 1 and the other acting as plaintiff in case 2 and the pleadings to be typed. Students also are to be given a precedent statement of claim and statement of defence and they would be required to individually read them and write in typed form a one page opinion on the precedent pleadings.)

WEEK 9 – PLEADINGS
Contents:
1. Functions of pleadings;
2. Drafting of pleadings - Content of pleadings; Facts that must be specifically pleaded; Raising Points of Law in pleadings (See Order 22 Lagos and Order 22 Abuja); Formal requirement of pleadings; What will amount to General traverse, Specific Denial, Admission of facts, Negative pregnant traverse, Confession and avoidance, Set –Off and Counter claim;
3. Filing and service of pleadings; When to file a reply, reply and defence to counterclaim; Default of pleadings and close of pleadings.
4. Amendment of pleadings, and procedure for amendment
5. Filing further and better particulars of pleading.
6. Value: professional responsibility to disclose all necessary facts so as not to mislead the Court or the opposing Counsel; need not to plead untrue or frivolous facts. See Orders 15 – 20; 22 and 24 Lagos State High Court Civil Procedure Rules; Orders 23 – 25 High Court of FCT Abuja Civil Procedure Rules.

Outcomes
At the end of this lesson Students would be able to:

i. Explain and discuss the principles relating to the functions, and drafting of pleadings;
ii. Explain the procedures for filing, service, close and default of pleadings, amendment and filing further and better particulars;
iii. Draft pleadings (and observing ethics and rules of professional responsibilities in Drafting pleadings);

Activities before class
1. Students make notes on the functions and principles for drafting pleading; procedure for filing, service, close and default of pleadings, amendment and filing further and better particulars;
2. Students are paired to use the 2 case studies and exchange pleadings in advance of the class on PLEADINGS, one person acting as plaintiff in case 1 and the other acting as plaintiff in case 2 and the pleadings to be typed. Students also are to be given a precedent statement of claim and statement of defence and they would be required to individually read them and write in typed form a one page opinion on the precedent pleadings.)

Activities in class
1. Teacher gives an overview of the general principles, with students’ contribution; and teacher and students together develop checklists of principles on the outcomes including ethics and rules of professional responsibilities in drafting pleadings – 1 hour 30 minutes

15 MINUTES BREAK

2. Students present pleadings exchanged pre-class and the prepared legal opinion on the sample pleadings for general discussion- 2 hours;
3. General debrief and Assessment: questions and answers- 30 minutes

Assignment for Week 10- Actions to be completed before week 10 lesson
1. Students as paired in week 9 would, using the Lagos and Abuja Rules, discuss the principles and application of striking out pleadings for disclosing no reasonable cause of action; interrogatories and discovery of documents; make a note for presentation in the class on the relevance of these processes to the pleadings they exchanged for week 9 lesson. If they find the principles relevant, they exchange the necessary documents in typed form but if not relevant, give reasons for this position in a written note for presentation in the class. The same approach should also be taken for issues such as notice to admit facts, inspections, etc;
2. Students should also be grouped in 3s or not more than 4s to commence with the exchange of necessary documents and hold a pre-trial conference using one of the cases in which pleadings were exchanged in week 9. One or two (where they are grouped in 4s) of the students would act as Judge for the pre-trial conference. The Judge is expected to produce a report as the Rules provides.
3. In addition to any other documents that may be produced by a group, each group of 3 or 4 must file (exchange) and settle issues from the pleadings chosen for the pre-trial conference using the Lagos Rules.

WEEK 10 – PRE-TRIAL ISSUES AND PRE-TRIAL PROCEEDINGS

Contents
Striking out Pleading where no reasonable cause of action disclosed, etc; Interrogatories, discovery of documents, inspection of documents, notices to admit, settlement of issues, pre-trial conferencing and scheduling.

Outcomes
At the end of this lesson Students would be able to:

i. Explain and discuss the principles relating to Striking out Pleading where no Reasonable cause of action disclosed, etc; Interrogatories, discovery of documents, inspection of documents, notices to admit, and settlement of issues.

ii. Explain & discuss the general principles, objectives & scope of pre-trial Conference and scheduling.

iii. Settle issues for trial.

Activities:
1. Teacher gives an overview of the principles relating to Striking out Pleading where no reasonable cause of action disclosed, etc; Interrogatories, discovery of documents, inspection of documents, notices to admit, and settlement of issues, with questions and answers – 30 minutes

2. Students make presentations of assignment No. 1 above (given in week 9) and general discussions follow – 1 hour

3. Groups make presentation of their report of how they commenced and conducted a pre-trial conference and the documents exchanged (filed) including the final report of the pre-trial Judge. Discussions follow – 1 hour

4. Groups make presentations of issues filed and settled and discussions follow including assisting in fine-tuning settled issues in standard form – 1 hour

5. Debrief and assessment – 30 minutes (NB: Students’ attention should also be drawn to Week 11 Pre-class activities).

WEEK 11 – TRIAL – TRIAL PREPARATION AND EVIDENCE

Contents
Case analysis / case theory/trial plan; Rules of evidence as to competence and compellability of witnesses, burden and standard of proof, admissibility of documentary evidence and necessary foundation to be laid for that purpose; use of primary and secondary evidence, opinion evidence and expert witness; the procedure for presentation of a party’s case at trial.

Outcomes
At the end of this lesson students would be able to:

1. Explain and discuss burden and standard of proof, and admissibility of different types and forms of evidence; competence and compellability of witnesses;

2. Prepare a trial plan, a case theory and identify relevant evidence in a case;
Activities before class;
1. During weeks 9/10 lessons, students were grouped in 3s or 4s to hold pre-trial conference on one of the 2 cases on which they exchanged pleadings. For week 11 lesson, the same group of 3s or 4s should meet to discuss the lesson for week 11 and divide themselves into 2-one group acting for the claimant/plaintiff and the other acting for the defendant. The student(s) acting for the plaintiff should prepare witness statements on oath and serve the other party and the defendant should also do the same for the defence case.
2. Students should have samples of subpoenas and witness summons.

Activities in class;
1. Tutor and students in plenary discuss the principles of burden and standard of proof of evidence and admissibility of different types and forms of evidence – 45 minutes
2. Tutor presents guidelines/checklist on how to prepare trial plan/case theory- 20 minutes
3. Students as grouped (see activities before the class) conduct group work and each party (i.e. either for plaintiff or defendant) produces a trial plan and case theory for their case and also identifying the relevant evidence they would use in their case looking at the issues settled in their case, their pleading and the witness statements produced for this lesson. Students may be free to conduct their work outside the class – 55 minutes
15 MINUTES BREAK
4. Groups make presentation of their trial plan, case theory and identified relevant evidence in their case. Discussions follow – 1 hour
5. Tutor gives an overview of the procedure for presentation of a party’s case at trial (for competent and compellable witnesses) using the pleadings and cases produced by the students to question the students for answers and illustration- 40 minutes
6. Debrief and assessment – 20 minutes (NB: Students’ attention should also be drawn to Week 12 Pre-class activities).

WEEK 12 – TRIAL – EXAMINATION OF WITNESSES
Contents (for weeks 12 and 13)
1. Examination-in-chief
2. Cross-examination
3. Re-examination
4. Tendering documents and other exhibits during examination of witnesses
5. Ethics of examination of witnesses
6. the use of subpoenas, witness summons and statement.

Outcomes
At the end of this lesson Students would be able to:
(1) Prepare subpoenas, witness summons and statements obeying ethical rules.
(2) Explain and discuss the role, principles including ethics, scope and techniques of examination-in-chief, cross- examination and re-examination of witnesses;
(3) Explain and discuss the procedure and foundation for tendering documents and other exhibits during examination of witnesses;
(4) Explain and discuss the procedure for presentation of a party’s case at trial and the use of subpoenas, witness summon and statement.
(5) Examine a witness in chief and tender documents or other exhibits;

Activities before class;
(1) Students are to read the topic in advance of the class lesson and make notes on the role, principles including ethics, scope and techniques of examination-in-chief, cross-examination and re-examination of witnesses; the procedure and foundation for tendering documents and other exhibits during examination of witnesses.
(2) Students should have samples of subpoenas and witness summons and statements.

Activities in class;
1. Tutor gives an overview of the procedure for presentation of a party’s case at trial and the use of subpoenas and witness summons (for competent and compellable witnesses) using the pleadings and cases produced by the students to question the students for answers and illustration
2. Tutor and students in plenary discuss the role, principles including ethics, scope and techniques of examination-in-chief, cross-examination and re-examination of witnesses; and the procedure and foundation to be laid for tendering documents and other exhibits during examination of witnesses– 50 minutes
3. Tutor presents guidelines/checklist on examination-in-chief and presents short scripted role plays (including scenarios where documents are tendered) that students would be made to critique in relation to the checklist/guidelines on examination-in-chief- 40 minutes
4. Each Student is requested to prepare in writing in a sequence they may be presented, examination-in-chief questions based on one of the cases in which the student prepared statement of claim in week 9 and opening statement in Law in Practice Week 12- 30 minutes

15 MINUTES BREAK
5. Students present activity 3- 50 minutes
6. Students continue to present activity 3 or Tutor plays video clips like the Inns of Court School of Law Training Series “There are two sides to a story”- 40 minutes
7. General discussions and Assessment – 30 minutes (NB: Students’ attention should also be drawn to Week 13 Pre-class activities).

NOTES:
1. Tutor would need to make the students take note of the manner of presenting examination-in-chief in jurisdictions like Lagos where witness statements are generally adopted.
2. Where a video clip is a matter that dwells on criminal litigation, the attention of the students need be drawn to that and noting any difference between any form in the process from civil litigation.

WEEK 13 – TRIAL – EXAMINATION OF WITNESSES 2
Outcomes
At the end of this lesson Students would be able to Examine, cross-examine and re-examine witnesses including special witnesses like, children, experts and hostile witnesses.
Activities before class
Students are to read the topic in advance of the class lesson and write a note on the principles of cross-examination and re-examination.

Activities in class
1. Tutor and students in plenary review week 12 lesson generally and discuss how to treat special witnesses like children, experts and hostile witnesses – 40 minutes
2. Tutor presents guidelines/checklist on cross-examination and re-examination and presents short scripted role plays that students would be made to critique in relation to the checklist/guidelines on cross-examination and re-examination. The guidelines should include the rules of evidence and professional conduct and examination strategies and techniques - 50 minutes

15 MINUTES BREAK

3. Students groups (ie those of 3s or 4s) of week 10 would be required to prepare to present examination of witnesses based on the pleadings and witness statements already exchanged. The Judge or judges of the groups in week 10 would now act as witnesses. The witness statements used by the groups in week 11 would be used here. The plaintiff/claimant in the group would prepare the witness for examination in chief (and re-examination if necessary) while the defendant would get ready to cross examine the same witness- 20 minutes
4. Party in each group use not more than 5 minutes each to examine or cross-examine a witness and additional 2 minutes for re-examination where necessary. The Tutor acts as Judge and time-keeper. Discussions should follow each group’s presentations. No objections should be allowed during each examination but students should be asked to make note of any objections they may have to any question and present it during the discussions that follow- 1 hour 50 minutes
5. General discussions and Assessment – 20 minutes (NB: Students’ attention should also be drawn to Week 14 Pre-class activities).

WEEK 14 – CLOSING ADDRESS AND JUDGMENT
Contents
1. Closing address: role and functions; format, structure, content, delivery, and ethics in presenting closing address;
2. Judgment: meaning, characteristics of good judgment, types, requirement and procedure for delivery of judgment.

Outcomes
At the end of this lesson Students would be able to:
   (1) Explain and discuss the role, and functions of closing or final address in a trial;
   (2) Present a closing address;
   (3) Explain and discuss the meaning, characteristics of good judgment, types, requirement and procedure for delivery of judgment.

Activities before class
(1) Students are to read the topics in advance of the class lesson. Students are also to prepare one page opinion on one judgment on a case from the law report pointing out any strengths and weaknesses in the judgment.

(2) The week 10 students groups prepare in writing and present within their groups closing addresses in their cases (week 10) - plaintiff/claimant against Defendant while the judges in each group make a note of opinion on the closing addresses.

Activities in class
1. Tutor and students in plenary discuss the role, and functions of closing or final address in a trial format, and presents guidelines/checklist on, structure, content, delivery, and ethics in presenting closing address - **30 minutes**
2. Groups present the same closing addresses prepared in activity 2 above in plenary and the judges in each group also read their criticism or opinion (not judgments) on the closing addresses. Each person to use not more than 3 minutes to present his/her closing address and the judge's opinion. Discussions follow - **1 hour 10 minutes**

**15 MINUTES BREAK**
3. Tutor and students in plenary discuss the meaning, characteristics of good judgment, types, requirement and procedure for delivery of judgment - **40 minutes**
4. Students present their opinion on one judgment from a law report and discussions follow - **30 minutes**
5. Tutor presents quizzes on judgments and general discussions and assessment - **30 minutes** (NB: Students' attention should also be drawn to Week 15 Pre-class activities).

**WEEK 15 – ENFORCEMENT OF JUDGMENT AND APPLICATIONS PENDING APPEAL**

**Contents**
1. Enforcement of judgment: methods for enforcement and execution, processes and limitations in the enforcement of interstate and foreign judgments;
2. Applications and orders pending appeal.

**Outcomes**
At the end of this lesson Students would be able to:

(1) Explain and discuss the best methods for the enforcement and execution of judgments and the processes and limitations involved in the enforcement of interstate and foreign judgments.

(2) Explain and discuss various forms, purpose, principles, scope and procedure of Applications pending appeal.

(3) Draft applications for stay of execution, stay of proceedings and injunctions pending an appeal;

**Activities before class**
Students are to read the topics in advance of the class lesson. Students should also receive from the Tutor and study precedent copies of applications pending appeal.

**Activities in class**
1. Tutor and students in plenary discuss the best methods for the enforcement and execution of judgments and the processes and limitations involved in the enforcement of interstate and foreign judgments—50 minutes
2. Tutor presents quizzes and discussions follow review of answers- 50 minutes

5 MINUTES BREAK
3. Tutor and students in plenary discuss various forms, purpose, principles, scope and procedure of applications pending appeal- 50 minutes
4. Tutor presents checklist of principles for drafting applications for stay of execution, stay of Proceedings and injunctions pending an appeal and using case studies 1 and 2 as modified by the tutor for this purpose, students draft these applications- 30 minutes
5. Students present their drafts of activity 4 and general discussions follow – 50 minutes
6. Assessment – 10 minutes (NB: Students’ attention should also be drawn to Week 16 Pre-class activities).

WEEK 16 – APPEALS

Contents
1. Right of Appeal and appeal with leave of court;
2. Procedure for appeals and extension of time to appeal matters related to appeals in the Court of Appeal;
3. Respondents notice and cross-appeal;
4. Drafting notice of Appeal; and
5. Brief of Arguments.

Outcomes
At the end of this lesson Students would be able to:
(1) Explain and discuss the scope of right of appeal and procedure for appeals;
(2) Explain and distinguish between a Respondent’s notice and a cross-appeal;
(3) Draft a notice of appeal and brief of arguments;

Activities before class
Students are to read the topic in advance of the class lesson. In addition to text books, students should read and familiarise themselves with the Court of Appeal Rules, the 1999 Constitution on the Court of Appeal jurisdiction, composition, right of Appeal, etc; and case law.

Activities in class
1. Tutor and students in plenary discuss the scope of right of appeal and procedure for appeals, notice of appeal, Respondent’s notice and a cross-appeal. Tutor would present precedents of notice of appeal and Respondent’s notice in hard copies or by power point slides - 50 minutes
2. Tutor presents short judgments based on case studies 1 and 2 and checklist of guidelines for drafting notice of appeal and students are required to draft 2 notices of appeal- 20 minutes
3. Students present drafted notices of Appeal and discussions follow- 40 minutes

15 MINUTES BREAK
4. Activity No. 3 continues – **30 Minutes**;

5. Tutor presents guidelines for drafting brief of arguments and precedents or examples- **20 minutes**

6. Based on the notices of appeal drafted by students Tutor pairs the students to draft and exchange brief of arguments for and against. One person drafts an appellant’s brief in one of the cases and serves the other who drafts a respondent’s brief. During this activity each student would be an appellant in case 1 and Respondent in case 2. Students may carry out this activity outside the class – **40 minutes**

7. In the class students present their briefs and discussions follow – **30 minutes**

8. Assessment – **10 minutes** (NB: Students’ attention should also be drawn to Week 17 Pre-class activities).

**WEEK 17 – RECOVERY OF POSSESSION OF PREMISES**

**Contents**

1. General principles, jurisdiction;

2. Procedure for recovery of possession of premises; notice to quit and notice of owners intention to apply to recover possession

3. Writ or plaint commencing an action for the recovery of possession of premises.

**Outcomes**

At the end of this lesson Students would be able to:

1. Explain and discuss the general principles including the courts that exercise jurisdiction for the recovery of possession of premises;

2. State and discuss the material facts to be proved for recovery of possession of premises and the procedure for recovery;

3. Draft a notice to quit, notice to tenant of owner’s intention to recover possession of premises, and a writ or plaint commencing an action for recovery of possession of premises;

**Activities before class**

1. Students are to read the topic in advance of the class lesson; Students are to see and bring copies to the class precedents of notices to quit, notice to tenant of owners intention to recover possession and writ or plaint commencing the action in court.

2. Tutor should present case studies to students in advance of the class lesson.

**Activities in class**

1. Tutor and students in plenary discuss the general principles including the courts that exercise jurisdiction for the recovery of possession of premises; the material facts to be proved for recovery of possession of premises and the procedure for recovery- **50 minutes**

2. With the case studies presented, students are grouped to discuss and give legal opinion on the cases presented. The grouping and the group discussions - **30 minutes**

3. Groups report in plenary with their opinion on the case Studies and discussions follow- **40 minutes**

**15 MINUTES BREAK**

4. Students draft notice to quit and notice to tenant of owners intention to recover possession based on the case studies/scenarios presented by tutor – **20 Minutes**;
5. Students present drafts and discussions follow - **40 minutes**
6. Students draft writ or plaint based on the case studies and the notices drafted – **15 minutes**
7. Students present activity No. 6 and discussions follow – **35 minutes**
8. Assessment – **10 minutes** (NB: Students’ attention should also be drawn to Week 18 Pre-class activities).

**WEEK 18 – ELECTION PETITION**

**Contents**
1. General principles, jurisdiction and composition of Election Petition Courts/Tribunals;
2. Contents of election petitions
3. The procedure: Commencement of election petition and the sequences of events up to conclusion of trial;
4. Drafting Election Petitions

**Outcomes**
At the end of this lesson Students would be able to:
5. Explain and discuss the general principles including the courts that exercise jurisdiction for Election petitions;
6. State and discuss the content and material facts to be pleaded and proved in election Petition Cases
7. Explain the procedure and sequence of events involved in Election petitions up to the conclusion of trial and the explain the procedure and sequences of events up to the conclusion of trial;
8. Discuss standard of proof in election petitions: (a) on a general proof (b) where fraud, illegality, crime, etc is alleged.

**Activities before class**
1. Students are to read the topic in advance of the class lesson including the Statutes (such as Evidence Act, sections 135 & 136), Rules and Case law on the subject, including Nwobodo v. Onoh, Ajasin v. Omoboriowo, Torti v. Ukpabi, Ngige v. Obi. They are also to read and bring to the class precedents of Election petitions and Reply.
2. Tutor should present at least 2 case studies to students in advance of the class lesson. Students would be required to use the case studies to draft petitions and replies.
3. Tutor would also present a list of judicial decisions on election petition and request students to read these in advance for discussion in the class.

**Activities in class**
1. Tutor and students in plenary discuss the general principles including the courts that Exercise jurisdiction for Election petitions; the content and material facts to be pleaded and proved in election petition Cases and the procedure and sequences of events up to the conclusion of trial - **1 hour**
2. With the case studies presented, students are paired to draft and exchange election petitions and reply. One student in each group becomes petitioner in one case and the other petitioner in the other case. The pairing/grouping - **10 minutes**;
3. Students draft and exchange their petitions and each partner drafts a Reply to the petition exchanged. This can be done outside the class – 50 minutes

15 MINUTES BREAK

4. Presentation of report of activity 3 and discussions – 1 hour;
6. Tutor presents quizzes, cases or scenarios and students are grouped to discuss them and present their positions/answers (E.g. of quizzes: What would be the implications of filing petitions after the statutory period?... amending petitions after the statutory period?... filing an unsigned or undated petition?... filing a petition that has no prayers/reliefs?... failure to pay for security for costs? etc) – 25 Minutes
7. Groups present report of activity 5 and discussions follow – 25 minutes
8. Assessment – 10 minutes (NB: Students’ attention should also be drawn to Week 19 Pre-class activities).

WEEK 19 – MATRIMONIAL CAUSES

Contents
1. General principles, and jurisdiction Courts for matrimonial causes;
2. Contents of matrimonial petition;
3. The Procedure: Commencement of matrimonial matters and the sequences of events up to conclusion of trial;
4. Drafting matrimonial Petitions

Outcomes
At the end of this lesson Students would be able to:
(1) Explain and discuss the general principles including the courts that exercise jurisdiction for Matrimonial petitions;
(2) State and discuss the content and material facts to be pleaded and proved in Matrimonial causes petition and the explain the procedure and sequences of events up to the conclusion of trial;
(3) Draft a matrimonial cause petition and reply;

Activities before class
1. Students are to read the topic in advance of the class lesson including the matrimonial Causes Act and the Rules and Case law on the subject; Students are to see and bring copies to the class precedents of matrimonial petitions and reply.
2. Tutor should present at least 2 case studies to students in advance of the class lesson. Students would be required to use the case studies to draft petitions and replies.
3. Tutor would also present a list of judicial decisions on matrimonial petition and request students to read these in advance for discussion in the class.

Activities in class
1. Tutor and students in plenary discuss the general principles including the courts that Exercise jurisdiction for matrimonial causes; the content and material facts to be pleaded and proved in matrimonial causes petition and the procedure and sequences of events up to the conclusion of trial - 1 hour
2. With the case studies presented, students are paired to draft and exchange petitions and reply. One student in each group becomes petitioner in one case and the other petitioner in the other case. The pairing/grouping - 10 minutes;
3. Drafting and exchange of petitions and reply. This can be done outside the class – 50 minutes

15 MINUTES BREAK
4. Presentation of report of activity 3 and discussions – 1 hour;
5. Tutor presents quizzes, cases or scenarios and students are grouped to discuss them and present their positions/ answers- 25 minutes
6. Groups present report of activity 5 and discussions follow – 25 minutes, Assessment – 10 minutes (NB: Students’ attention should also be drawn to Week 20 Pre-class activities).

WEEK 20 – 1. SANCTIONS AND COSTS IN CIVIL LITIGATION;
2. FUNDAMENTAL RIGHTS ENFORCEMENT PROCEDURE

Contents
1. Fundamental Rights Enforcement Procedure: Courts with jurisdiction; modes of application and drafting; remedies; applicable Rules; advantages, disadvantages and limitations of the rules; Comparison of Fundamental Rights Enforcement Procedure with Judicial Review and Writ of Habeas Corpus.
2. Sanctions and costs in civil litigation.

Outcomes
At the end of this lesson Students would be able to:
1. Explain and discuss the general principles, procedure and scope of Fundamental Rights Enforcement Procedure Rules, including the courts that exercise jurisdiction over Fundamental Rights Enforcement.
2. Draft applications under the Fundamental Rights Enforcement Procedure Rules;
3. Explain the similarities and differences between Fundamental Rights Enforcement Procedure rules and Judicial review/writ of Habeas Corpus.
4. List, Explain and discuss the principles, scope and applications of sanctions and costs in Civil Litigation;

Activities before class
1. Students are to read the topics in advance of the class lesson including the Fundamental Rights Enforcement Procedure Rules, provisions of the High Court Rules on Sanctions and Costs, and Case law on the subjects.
2. Tutor should present at least 1 Case Study to students in advance of the class lesson. In the class, the students would be required to use the Case Study to draft Applications to enforce fundamental rights under the Rules.
3. Students would also be required to draw up in advance a composite table of sanctions and costs in a comparative manner between the High Court Rules of Lagos and Abuja. Each student would present his/her table in the class. The table should be in this format:

CIVIL PROCEEDINGS SANCTIONS AND COSTS
<table>
<thead>
<tr>
<th>S/</th>
<th>SUBJECT</th>
<th>LAGOS</th>
<th>ABUJA</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Irregular proceedings</td>
<td>0.5 - May set aside/costs</td>
<td>0.2 - May set aside whole or part; costs</td>
</tr>
<tr>
<td>2</td>
<td>Late appearance</td>
<td>0.9 R.5-N200 for each day of default</td>
<td>Not specific but general cost (0.52) may apply</td>
</tr>
<tr>
<td>3</td>
<td>Frivolous suit</td>
<td>Not specified but general provisions on award of cost against legal practitioner for certain defaults. Questionable cases and abuse of process sanctioned under the rules of professional conduct-R.24(2) &amp; (3)</td>
<td>Counsel personally liable for costs – Q.4R 17; Questionable cases and abuse of process sanctioned under the rules of professional conduct-R.24(2) &amp; (3)</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. Irregular proceedings 0.5 - May set aside/costs 0.2 - May set aside whole or part; costs
2. Late appearance 0.9 R.5- N200 for each day of default Not specific but general cost (0.52) may apply
3. Frivolous suit Not specified but general provisions on award of cost against legal practitioner for certain defaults; Questionable cases and abuse of process sanctioned under the rules of professional conduct- R.24(2) & (3). Counsel personally liable for costs – O.4 R 17; Questionable cases and abuse of process sanctioned under the rules of professional conduct- R.24(2) & (3). 45

**Activities in class**

4. Tutor and students in plenary discuss the general principles procedure and scope of Fundamental Rights Enforcement Procedure Rules, including the courts that exercise jurisdiction over Fundamental Rights Enforcement – **1 hour**
5. With the case studies presented, students draft applications to enforce fundamental rights under the Rules- **20 minutes**;
6. Presentation of the drafts and discussions – **40 minutes**

**15 MINUTES BREAK**

7. Tutor and students discuss the similarities and differences between the fundamental rights enforcement procedure and Judicial review/writ of habeas corpus- **30 minutes**;
8. Tutor presents quizzes/questions and answers on Activity 4 - and students are randomly appointed to discuss them and present their positions/answers (E.g. of quizzes: What are the similarities and differences between Fundamental Rights Enforcement Procedure and Judicial Review?... What are the similarities and differences between Fundamental Rights Enforcement Procedure and Writ of Habeas Corpus?... List sequentially the processes involved in fundamental rights enforcement procedure.) – **30 Minutes**

9. Students present prepared composite tables of pre-class assignment on sanctions and costs under the High Court Civil Procedure Rules of Lagos and Abuja and discussions follow – **50 Minutes**

10. Assessment – **10 minutes**

**CIVIL LITIGATION**

**CASE STUDY 1**

Crown Kitchen Ltd sued K & T Ltd at the Ikeja High Court Lagos seeking a declaration that the contract between them and the partnership entered into by the parties was still valid and subsisting. Crown Kitchen also sought an order of perpetual injunction restraining K & T Ltd from converting 20 vehicles to its sole use and sought an order directing a division of the vehicles among the parties.

Crown Kitchen Ltd also sought for payment of the sum of N2.17 million being proceeds of a contract performed by the parties from March 1995 to December 1997. The agreement between the parties had been entered into in Ikeja, although the actual performance of the contract was intended to be in Ikoyi, Lagos where K & T had its offices. A clause in the contract Agreement stipulated that the parties shall submit to conciliation before resorting to litigation.

Crown Kitchen Ltd heard that cases are dealt with faster at the magistrate court because it is a court of summary jurisdiction. But Okonkwo & Co., their counsel filed an originating summons at the Ikeja High Court. On being served with the originating summons, K & T entered a conditional appearance and subsequently filed a preliminary objection contending that the Ikeja High Court lacked jurisdiction because the matter had not first been submitted to conciliation.

b) That the action was commenced in the wrong judicial division

c) That the matter was commenced with a wrong originating process.

The court overruled all the grounds of the preliminary objection.

Crown Kitchen Ltd then brought an application for Interlocutory injunction to restrain K & T from converting the 20 vehicles to their sole use. K & T did not file any Counter Affidavit and on the day fixed for hearing of the application, the Counsel to Crown Kitchen contended that K & T cannot be heard since they did not file a counter affidavit.

In Crown Kitchen's statement of claim, they failed to plead the contract agreement. After the trial, the judge in his judgment granted the claimant’s claim. K & T are aggrieved and have appealed. They intend also to include their grievance over the overruling of the preliminary objection in the substantive appeal. K & T applied for stay of execution to the high court and while the application was pending, counsel to crown kitchen applied for a writ of *fifá* and executed the judgement.
Some days before the date fixed for hearing of the appeal, the counsel to Crown Kitchen filed and serve a preliminary objection on the ground that leave of court was not sought before the filing of the appeal. The appellant K & T in their notice of appeal raised the issue of the illegality of the contract for the first time. They had 4 grounds of appeal in their notice of appeal. They formulated 12 issues for determination from these 4 grounds. On the date fixed for hearing of the application, counsel to appellant (K&T) was not present in court although he had filed his appellant brief within time. The justices of the Court of appeal Lagos allowed the appeal in part.

CASE STUDY 2
In March, 2000, the Plaintiff, Mrs. Kayuba Ada, (now Respondent) entered into a contract in Lagos with Agricultural Bank PLC to supply five hundred tons of Cashew nut worth #10,000,000:00 (Ten million Naira) only to the Bank for onward exportation to Malaysia. The term of the contract is that down payment of #3,000,000:00 will be made before the exportation and that the balance will be paid when the goods reaches its destination. Subsequent to this, the Plaintiff received the sum of #3,000,000:00 and supplied the goods to its destination in Malaysia.

Since then, Agricultural Bank has refused to pay the Plaintiff the balance sum despite letters of repeated demands sent. However, on 1st June, 2006 Agricultural Bank wrote a letter to the Plaintiff of its decision not to pay the balance because the goods supplied were inferior to the standard requested for. The Plaintiff, on 19th June 2006, instituted an action at the Lagos State High Court against Agricultural Bank claiming the balance of #7,000,000:00, #4,000,000:00 special damages and #3,000,000:00 as general damages. Pleadings were filed and exchanged. Trial commenced, each party opened and closed its case and the court adjourned for judgment.

Before the judgment could be delivered, Agricultural Bank became a no-going concern and was taken over by the NDIC with a view to winding up the Bank. NDIC brought an application to be joined as a Defendant and as a necessary party and the court granted the application. Thereafter, NDIC brought a preliminary objection for, among others, (i) an Order of Court dismissing the action because it is statute barred, (ii) an Order of Court dismissing the action because it is only the Federal High Court that has the jurisdiction to entertain the matter since Agricultural Bank is in the process of being wound-up. The trial court refused and dismissed the application of NDIC. The Court then delivered its judgment on 10th June 2008 and granted all prayers of the Plaintiff. The Defendant did not appeal against the judgment and ruling until 18th September, 2008 when it has approached you to help her appeal against the ruling and judgment.

CASE STUDY 3-Recovery of premises
Chief Olowo is the landlord of Koko Lodge consisting of 6 flats of 4 bedrooms each. Mr. Dauda Kareem is a tenant in respect of one of the flats. The agreement between the parties is that the tenancy shall be a yearly tenancy commencing on 1st January every year at a rent of N500,000 per annum.
CASE STUDY 4-Recovery of premises
By an agreement dated the 31st day of December, 2004, Okon Banga put John Thunder in possession of his two bedroom premises at Block 2 Flat 10, Katagun Street, Wuse – Abuja in consideration of an agreed rent from year to year with effect from 1st day of January 2005.

John Thunder could only pay for the first year of the tenancy and thereafter fell into arrears of rent as his business suffered a financial setback. About the month of May 2006, Okon Banga orally instructed his solicitors to take legal steps to recover possession of the premises from John Thunder for non payment of rent pursuant to which instructions his solicitors issued a quit notice dated the 1st June 2006 and served the same on John Thunder on the 30th day of July, 2006 with the 30th day of December 2006 as the expiry date of the quit notice. John Thunder refused to yield up possession of the premises even after the expiration of the notice to quit.

During the hearing of the action, Counsel to John Thunder raised an objection to the competence of the suit on grounds that a further step ought to have been taken by the solicitors to Okon Banga upon the expiration of the quit notice before instituting the action. But the Court overruled the objection and proceeded with the substantive suit.

John Thunder had while filing his defence to the action counterclaimed for improvements made on the premises with oral consent of Okon Banga.

CASE STUDY 5-election petition
Dr. Charles Dodo was the gubernatorial candidate of the National Nigerian Party during the recent gubernatorial election in Anambra State. Chief Chris Pius contested the same election on the platform of Unity Congress Party. In order to cause confusion among Dr. Dodo's supporters, Chief Pius caused him to be arrested by the police and detained for 14 days without telling him what offence he committed. He was not released until the declaration of the results. The Independent National Electoral Commission (INEC) declared Chief Pius as the winner of the election having scored the highest number of votes cast during the election. Dr. Charles Dodo is aggrieved. He intends to sue for the enforcement of his fundamental rights and to challenge the election on the grounds of irregularity, indictment of Chief Pius by Economic and Financial Crimes Commission and previous conviction of Chief Pius for the offence of receiving stolen property by Onitsha High Court in 1995.

CASE STUDY 6- election petition
Dr Brown was a senatorial candidate of the National Nigerian Party for Asaba North Federal Constituency, Delta State in 2007 General Elections. Chief Ben Okagbue contested the same Election for the same senatorial district on the platform of Unity Congress Party. The
Independent National Electoral Commission Declared Chief Okagbue as the winner of the Election having scored the highest number of votes cast in the Constituency. Dr Brown is not satisfied with the Outcome of the Election. He has therefore brought a petition before the National Assembly, Governorship and the House of Assembly Elections Petitions Tribunal sitting at Asaba, Delta State, challenging Chief Okagbue’s election on the grounds of irregularity, indictment of Chief Okagbue by the Economic and Financial Crimes Commission and previous conviction of Chief Okagbue for the offence of receiving stolen property by a high court sitting in Asaba in 1995.

CASE STUDY 7-matrimonial causes
Shola Fineface got married to Bobo Nice less than 2 years ago at the Marriage Registry Ikoyi, Lagos. Bobo Nice is rich and handsome. However, after the marriage, Fineface discovered that Bobo Nice is impotent. Since the discovery, Fineface has become disillusioned and frustrated. She intends to put an end to the marriage.

CASE STUDY 8-matrimonial causes
Miss Lynda Roberts had come to Nigeria in 1996 on an exchange programme from the United States and has since remained here. On 17th January, Lynda and Paul Baba contracted a church marriage at the Congress Hall of the Nicon Hilton, Abuja. The ceremony was performed by Mr Ibekwe, a part-time teacher and an aspiring pastor of the Happy People of God Church. Unknown to Paul and Lynda, Lynda is the daughter of Paul’s brother’s wife who had naturalized in the United States of America. After the marriage, Paul and Lynda continued to live in Abuja until 14th September 1997 when one day Lynda came home and found a note from Paul stating that he had traveled to Australia on an immigrant visa and was never intending to return to Nigeria again. Paul also made it clear to Lynda that he was leaving her because of those occasions she willfully refused to sleep with him. In any event, Lynda had before now been thinking of how she will get out of the marriage, as she had come to find out that the angel she married saw her as a punching bag to beat up every now and then. Also, she has since found out that faithfulness did not particularly feature in Paul’s daily routine as he was in the habit of visiting brothels on a daily basis, from where he had on several occasions contacted STDs Lynda had finally filed a petition for dissolution of the marriage. At the hearing of the petition, Paul Baba raised several objections to the petition and indeed cross- petitioned. He was also not happy that one prostitute Miss Ada Ogun was joined as a co-respondent with him. He felt that such joinder seriously defamed his character. The court after final addresses by the parties on the 1st of December 1997 adjourned for judgment to the 22nd of March 1998, on which date judgment was entered for Lynda, granting her a decree nisi.

CASE STUDY 9-fundamental rights
Mr. R, has just graduated from the Nigerian Law School and started practice in Kano under Rabo and Rabo Chambers. With interests in politics, Mr. R. spends most of his time in PRR headquarters, a political party which believes in the use of force to overthrow the government if democratic principles fail. On the 12th of July, 2007 Mr. R was suspected of planning to overthrow the government and was taken to Mushroom police headquarters for questioning. Forty days after his arrests, no clear reasons are formally given for his arrest. Several days after his arrest some of his
friends who disappeared after having been picked up by the police are believed to have been implicated by Mr. R after been tortured by the security forces. On the 13 of August, the President in a news conference said that he hoped that Mr. R would be given a long and harsh sentence so that people like him would learn a lesson. Mr. S. who is Mr. R's childhood friend came to the rescue of Mr. R's family by engaging the services of Ms. Q. a renowned lawyer and human rights defender to defend Mr. R. However, she received a letter from the state security that in her own interest she should withdraw from the case or else she would be charged together with Mr. R for terrorism. She forcefully withdrew from the case the next morning. Mr. R. was arraigned before Mr. T. whose father is currently the Minister of Justice and a very close friend of Mr. President. Mr. R. was charged with terrorism and attempt to overthrow the government.

Mr. R. was not represented at the trial by any lawyer throughout the trial and in about five occasions the trial continued in his absence because the judge ordered him to be removed from the court for his disruptive behavior. Mr. R. was found guilty on all the charges, convicted and sentenced to 20 years imprisonment with hard labor. He was taken one of the most over-crowded prisons and confined to a cell with a 250 – watt electric bulb left on day and night.

CASE STUDY 10-fundamental rights
Mr Teddy King was arrested by men of the State Security Service (SSS) on the 1st day of November, 2002 for allegedly trafficking in Nigerian Currency notes (Naira) and has since been locked up in Kuje prisons Abuja. The Nigerian Government had in reaction to the upsurge in currency trafficking enacted the fake Currency Act 2002. A clause in the Act had provided that – The arrest and/or the detention of any person(s) pursuant to the provisions of this Act shall not be the subject of any inquiry and/or called into question by or before any court of law in Nigeria.

Mrs King whose husband is now in detention has engaged your services for the purposes of taking legal steps to enforce her husband’s fundamental rights.