

# A SYNOPSIS OF NOTABLE CHANGES IN THE COURT OF APPEAL RULES 2021

## INTRODUCTION

Pursuant to the powers conferred on the President of the Court of Appeal (PCA) by section 248 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), the PCA recently issued the Court of Appeal Rules 2021 (the “CAR 2021”), which came into force on 01.11.2021 and repealed the Court of Appeal Rules, 2016 (the “CAR 2016”). The CAR 2021 introduces certain innovations aimed at modernising the Rules of the Court of Appeal (the “Court”) and ensuring expeditious disposal of appeals.

Having been privileged as a firm to be intimately involved in the review process that led to the CAR 2021, this Newsletter is aimed at highlighting the notable changes introduced by the CAR 2021 and the conceptual basis for the changes. By way of outline, this Newsletter discusses the new provisions under three headings, namely: (a) modernised practice and procedure - use of technology; (b) expeditious disposal of cases and decongestion of the court’s docket; (c) case scheduling and management system; and (d) definition of terms.

In furtherance of her powers, the Chief Judge has also made the Expeditious Disposal of Civil Cases Practice Direction No. 1, 2019 and Expeditious Disposal of Civil Cases Practice Direction No. 2, 2019 which came into force on 14.01.2019.

### **Modernised Practice and Procedure - Use of Technology:**

One critical change in the CAR 2021 is the inclusion of provisions with respect to the modernisation of the practice and procedure of the Court and the use of technology such as electronic service of processes, electronic signature, electronic filings, virtual hearings, and emergency provisions. These provisions are

discussed in the ensuing paragraphs.

### **Service of Court Processes**

**Order 2 Rule 1** of the CAR 2021 provides for the service of a Notice of Appeal (NoA) on a respondent either personally or by electronic mail to the electronic mail address of a respondent. **Order 2 Rule 3** of the CAR 2021 further provides that that where in any proceedings at the lower court, a party has given a physical or electronic address for service, notice of any application preparatory or incidental to any appeal may be served in the like manner as a NoA under Rule 1(a) of Order 2.

By **Order 2 Rule 6**, where any party to an appeal has given a physical address or an email address as his/its address for service, any notice or court process shall be sufficiently served on him/it if left at the physical address or sent by registered post to the physical address or transmitted to the email address provided.

Further, **Order 8 Rule 5** of the CAR 2021 also makes provision for electronic service of record of appeal in addition to physical service of same. The above provisions ensure that the practice of the Court provides an alternative to service of hard copies of court processes (inclusive of the NoA) at physical addresses. This innovation will ensure expeditious service of court processes and address the problems associated with service of court processes on a party who is trying to evade service or frustrate the appeal process. It will also save cost that would otherwise have been incurred in serving parties, especially parties that are far away from the division of the Court where an appeal is pending.

It is noteworthy, that a new **Order 2 Rule 2(3)** is introduced in the CAR 2021. It provides for the Bailiff of the Court who serves a NoA on a respondent to file an affidavit of service at the registry of the Court. This provision relates to where a respondent could not be served by the bailiff of the lower court and the Court makes an order for substituted service of the NoA. The NoA would therefore be served by the Bailiff of the Court and the affidavit of service to be filed by such bailiff is to prima facie show that the NoA was served in accordance with the order of the Court.

Under the new **Order 2 Rule 11(3) of the CAR 2021**, the Court may no longer limit the days for a party served outside jurisdiction to acknowledge service. The Court was allowed to so limit the days under Order 2 Rule 16(3) of CAR 2016, but this is excluded under Order 2 Rule 11(3) of the CAR 2021. This allowance is in consideration of peculiar circumstances that might exist in the jurisdiction where the party is, and which may make it impossible or difficult for such a party to acknowledge receipt of the process served on him/it within the time limited by the Court for such acknowledgment.

Pertinently, Order 2 Rule 15 of the CAR 2016 which provides for documents requiring personal service to be served in a manner prescribed by law for personal service of a Writ of Summons issued by a High Court in a jurisdiction where service is to be affected, has been deleted.

#### ***Electronic Signature and Electronic Seal of the Court***

**Order 2 Rule 4(2)** of the CAR 2021 allows for electronic signature on a respondent's notice of its address for service. Relatedly, **Order 3 Rule 4** of the CAR 2021 provides that the Court shall have and use, as the occasion may require, a seal having a device or impression approved by the PCA and bearing the inscription "The Court of Appeal" or an electronic version

of it.

The new provision on electronic signature is as a result of the new system of electronic filing introduced in the CAR 2021 and is in alignment with the overall objective of digitising the judiciary in the 21<sup>st</sup> Century. It also takes cognisance of disruptions, such as the recent Covid-19 pandemic, that might make it impossible or difficult at times for a party or his counsel to physically append his signature to a process. The provision on electronic seal of the Court is with respect to electronically generated documents of the Court.

#### ***Electronic Processes, Filing and Court Records***

The CAR 2021 has reduced the number of hard copies of processes required to be filed especially with the express provision for electronic filing of processes by parties and keeping of electronic records by the Registry of the Court. Specifically, under **Order 2 Rule 4** of the CAR 2021, the number of hard copies of NoA to be filed has been reduced from twenty (20) to ten (10) hard copies, in addition to providing for an electronic copy of such NoA to be filed. **Order 9 Rule 5 and Order 19 Rule 8** of the CAR 2021 make similar provision in respect of filing of respondent's notice and briefs of arguments, respectively.

These provisions reflect the Court's attempt to move away from paper-based system to electronic or paperless system and is in tune with the practice in more advanced jurisdictions.

#### ***Registrars, Registries, and Sessions of the Court***

Unlike Order 3 Rule 1 of the CAR 2016 that provides for the Chief Registrar of the Court to have custody of the physical records of the Court, **Order 3 Rule 1** of the CAR 2021 provides that the Chief Registrar of the Court shall have custody of both physical and electronic records of the Court. This provision on electronic record is in furtherance of the introduced electronic system, especially electronic filing system.

A new **Order 3 Rule 11(2)** of the CAR 2021 is introduced to expand the provision of the old Order 3 Rule 10 of the CAR 2016. The New **Order 3 Rule 11(2)** limits the number of counsel that may appear for a party in an appeal, viz: (i) a Senior Advocate of Nigeria (SAN) shall not appear with more than five (5) other counsel, (ii) where more than one SAN appears for the same party in a matter, the SANs shall not appear with more than five (5) other counsel, and (iii) other learned counsel shall not appear with more than two (2) other counsel.

This provision aims to put an end to the habit of senior counsel appearing in Court with a horde of lawyers for a single case leading to a large number of lawyers being in a courtroom during proceedings. Most times other counsel that have matters in Court will be unable to find seats to sit down and prepare for the hearing of their cases. The provision also takes cognisance of the need for social distancing in the Court room for health and safety reasons as epitomised by the recent Covid-19 pandemic.

The new **Order 3 Rule 12(1) and (2)** of the CAR 2021 provides for cause list of matters to be heard in a week to be published on the official website of the Court every Friday preceding that week and the sittings of the Court and the matters to be disposed off be notified to the parties through their physical and email addresses. Notably, the provision removed the limit of cases to be heard in a day by the Court as provided under Order 3 Rule 11 of the CAR 2016.

This provision aims to ensure that parties or their counsel are duly notified of the hearing of their matters ahead of such hearing in order to properly prepare for the hearing. It also allows the Court to take as much cases as it is practicable on each sitting day.

#### **Act of the Registrar**

Under Order 3 Rule 7 of the CAR 2016, a party aggrieved by the act of the Registrar of the Court may apply to have

the act complained of set aside or varied. Such application was by way of motion on notice. By a new **Order 3 Rule 8** of the CAR 2021, a party aggrieved by an act of the Registrar and who intends to have the act complained of set aside or varied, may write to the Court setting out the complaint, the grounds of the complaint, and the reliefs sought, and the court may deal with the complaint administratively.

The new provision in Order 3 Rule 8 is informed by the need to timeously deal with complaints against the act of the Registrar of the Court, and to also lighten the docket of the Court.

#### **Filing**

Under Order 3 Rule 8(1) of the CAR 2016, the registry of a judicial division of the Court shall be situate within the judicial division, but by the new **Order 3 Rule 9(1)** of the CAR 2021, the registry of a judicial division could be within the judicial division or such place as the President of the Court may designate from time to time.

This provision is intended to remove the restriction of the registry of a judicial division having to be within the judicial division. The new provision focuses more on pragmatism. This is because situations may arise where, in the interim, the registry of a judicial division may need to be outside the judicial division of the Court.

The new **Order 3 Rule 9(2)** provides for documents and processes relating to an appeal to be filed in the registry of the judicial division of the Court where the appeal is entered. This provision provides clarity to the old Order 3 Rule 8(3) CAR 2016 which provides that processes should be filed at the “appropriate registry”. Notably, the CAR 2016 did not define “appropriate registry”.

**Order 20 Rules (1) - (9)** of the CAR 2021 provide for the establishment of a 24-hour electronic filing system to be functional in all the judicial divisions of the Court, which

shall run parallel with the existing manual filing procedure of the Court until such time as the PCA directs otherwise. An electronic filing unit of the registry of the Court is to be established in each judicial division of the Court to administer the electronic filing system in each division and manage the processes transmitted to the Court through the electronic filing system.

Further, **Order 3 Rule 7(2)** of the CAR 2021 provides that the Registrar shall furnish to the electronic unit of the registry of the Court, copies of filed processes in an appeal to enable the electronic unit of the registry of the Court prepare an electronic file in which filed processes and documents relating to the appeal shall be uploaded and stored for access by the Justices of the Court. This provision relates to where Court processes are filed manually at the registry and not through the electronic filing system of the Court.

**Order 7 Rule 2** of the CAR 2021 also recognises electronic filing by providing that all appeals shall be by way of rehearing and shall be brought by notice to be filed physically or electronically in the Registry of the lower court.

The new provisions on the electronic filing system and electronic unit of the Court are to ensure easy and expeditious filing of processes in the Court at all times (even during disruptive events, such as the Covid-19 pandemic) and more effective management of such filed processes by the registry of the Court. The innovation would ensure that soft copies of filed copies are saved in the system of the Court (and readily made available to Justices of the Court) as a back up to hard copies of such processes in case of the loss or destruction of such hard copies, as was experienced during the EndSARS protest in Lagos State.

#### **Application for Preservatory Orders**

Order 4 Rule 6 of the CAR 2016 provides for the powers of the Court to make an order by way of injunction or

appointment of a receiver or manager, or such other orders necessary for the protection of property or person pending the determination of an appeal. The new **Order 4 Rule 6** of the CAR 2021 qualifies this by providing that the applicant has to fulfil the following conditions: (i) give an undertaking to diligently prosecute the appeal, (ii) if the appeal relates to monetary judgment, deposit a bond, guarantee or like instrument as security for the judgment sum or such sum as the Court may direct, into an interest yielding account in the name of the Chief Registrar or Deputy Chief Registrar of the Court, and (iii) if the appeal relates to land, an undertaking to pay damages if the appeal turns out unsuccessful.

The provision of Order 4 Rule 6 of the CAR 2016 empowered the Court to make preservatory orders without providing any guidance on factors that will guide the exercise of the powers. The amendment introduced in Order 4 Rule 6 of the CAR 2021

qualifies this by providing that the applicant has to fulfil the following conditions: (i) give an undertaking to diligently prosecute the appeal, (ii) if the appeal relates to monetary judgment, deposit a bond, guarantee or like instrument as security for the judgment sum or such sum as the Court may direct, into an interest yielding account in the name of the Chief Registrar or Deputy Chief Registrar of the Court, and (iii) if the appeal relates to land, an undertaking to pay damages if the appeal turns out unsuccessful.

The provision of Order 4 Rule 6 of the CAR 2016 empowered the Court to make preservatory orders without providing any guidance on factors that will guide the exercise of the powers. The amendment introduced in Order 4 Rule 6 of the CAR 2021 expressly stipulates the conditions to be fulfilled for the grant of preservatory orders, which the courts have applied variously as evinced by Appellate Court decisions in cases such as **Okorodudu v Deduwa** [1974] 6 SC 21, **Ajomale v Yaudat** No. 2 [1991] 5 NWLR (Pt 191) 266. The amendment

also introduces additional requirements for the grant of preservatory orders, in order to forestall frivolous applications for preservatory orders aimed primarily at depriving a successful litigant of the fruit of judgment.

### Entering of Appeal

Under Order 4 Rule 10 of the CAR 2016, an appeal is deemed to be entered when the record of appeal has been received in the registry of the Court from the registry of the lower court within the time prescribed by the CAR. The new **Order 4 Rule 10** of the CAR 2021 provides that an appeal is entered when the record has been received in the registry of the Court within the time prescribed or extended by the Court.

Apart from removing the word “deemed” from the old provision which is inapt in the context because there is no negative feature with respect to a record of appeal that is received by the Registry of the Court within the time prescribed by the Rules, the new provision also reflects the practice of the Court in exercising its wide judicial powers to extend the time under the CAR for the transmission of the record of appeal to the registry of the Court.

### Control of Proceedings during the Pendency of an Appeal

A new provision is introduced in **Order 4 Rule 11(2)** of the CAR 2021 to the effect that a lower court shall not be required to order for stay of proceedings or adjourn a matter *sine die* in relation to matters or proceedings before the lower court which are not impacted by an appeal that has been entered or which the appeal does not relate to.

This provision is aimed at (i) forestalling inundating the Court’s docket with interlocutory appeals that could have been taken together with an appeal against the final judgment of Court and (ii) filing of interlocutory appeals with the sole aim of obtaining a stay of proceedings at the lower Court. It is noteworthy that this this provision

does not entirely bar the grant of stay of proceedings by the lower Court. It, however, provides a higher threshold to be met by a party who files an interlocutory appeal and seeks a stay of proceedings at the lower court.

### Striking out a Notice of Appeal

Under Order 7 Rule 6 of the CAR 2016, the Court had the power to strike out a NoA when an appeal is not competent or “for any other sufficient reason”. In **Order 7 Rule 6** of the CAR 2021, this provision is qualified, such that “where the incompetence is not a fundamental defect” the Court may direct a party to rectify any defect in the NoA and limit the time to rectify any defect in the NoA and limit the time within which the defect will be rectified.

This provision is in line with the stance of our courts to do substantial justice in every given case by hearing the merits of an appeal.

### Record of Appeal

Quite a number of new provisions are introduced in relation to record of appeal. By **Order 8 Rule 1** of the CAR 2021, the registrar of the lower court has sixty (60) days within which to compile, serve on parties, and transmit the record of appeal. Under Order 8 Rule 1 of the CAR 2016, the registrar was only required to compile and transmit the record of appeal within the 60 days. Service of the record on parties was not included in the old provision.

**Order 8 Rule 3** of the CAR 2021 provides for electronic transmission of record of appeal by the registrar of the lower, where the record is compiled by the registrar and

**Order 8 Rule 4** provides for electronic transmission of the record of appeal, where an appellants compiles the record, in the event of the failure of the registrar to do so within the prescribed timeline in the CAR. These

provisions are clearly in alignment with the goal of digitalising the judiciary and ensuring easier/faster transmission of documents to the Court from the lower court.

By **Order 8 Rule 4(2)** of the CAR 2021, when a record of appeal is regularised, it will be deemed to have been transmitted within the ninety (90) day-period for the transmission of the record of the appeal under the CAR (i.e. 60 days for the registrar to compile and transmit and 30 days for the appellant to compile and transmit where the registrar fails to do so), and not on the day the application for extension of time to transmit the record was granted.

Further, **Order 8 Rule 6** of the CAR 2021 provides for a respondent to, where a NoA has been filed, apply for a departure from the Rules to compile and transmit the record of appeal. This provision takes care of situations where the appellant appeals and is, for any reason, not interested in the appeal being heard and determined, and for that reason is reluctant about compiling and transmitting the record of appeal. In such situation, the respondent can apply to the Court to compile and transmit the record of appeal. The provision may likely not be adopted by most respondents who may rather apply under Order 8 Rule 18(1) of the CAR 2021 for the appeal to be struck out for lack of diligent prosecution by the appellant. However, it will be useful to a respondent whose overarching objective is for the appeal to be determined on the merits expeditiously

Critically, **Order 8 Rule 18(2)** of the CAR 2021, provides that where the Court strikes out an appeal upon the application of a respondent, following a failure by the registrar of the lower court and the appellant to compile and transmit the record of appeal, the Court may award cost on full indemnity basis against the appellant. Under the definition provision, **Order 1 Rule 5** of the CAR 2021, “Cost on full indemnity” means cost to indemnify a party for expense reasonably incurred in an appeal up to the

time of striking out or dismissing an appeal or an application for lacking in merit. If strictly applied, this provision will serve as a deterrence to filing of frivolous appeals and lack of diligent prosecution of appeals.

**Order 8 Rule 18(3)** of the CAR 2021 provides for an application to relist an appeal which was struck out for failure to compile and transmit the record to be brought within seven (7) days of the striking out of the appeal, and if, as provided by **Order 8 Rules 18(4)** of the CAR 2021, the Court is satisfied that the applicant has shown good reasons for the relisting of the appeal, the appeal may be relisted.

By replacing the order of dismissal which was provided for in Order 8 Rule 18(2) of the CAR 2016 with an order of striking out, where there has been failure to compile and transmit the record of appeal, and the provision for application to relist an appeal which has been struck out on that ground, there is a move toward substantial justice, for appeals to be decided on their merits. This is balanced by limiting the time for filing an application for relisting and subjecting such an application to the “good reasons” test.

### Virtual Hearings

**Order 21 Rules (1) - (8)** of the CAR 2021 have introduced virtual hearing where such is deemed fit and make comprehensive provision for the mode of such hearing, including the observance of all rules and practices on decorum and etiquette which are observed during physical hearing. By **Order 21 Rule 8** of the CAR 2021, Practice Directions to prescribe the manner and operation of virtual hearings by the Court may be issued by the PCA.

In modern times, it has become necessary that court proceedings should transcend the traditional four walls of the physical court. Hence, the adoption of virtual proceedings in judicial systems have become imperative. The need for such virtual hearings was amplified by the

recent disruption in the administration of justice by the COVID-19 pandemic. The disruption has exemplified the urgent need for virtual hearings not just for coping with disruptions but to modernise the system of administration of justice to ensure easy access to court and dispensation of justice. The provision on the issuance of Practice Directions by the PCA with respect to virtual hearings provides a measure of flexibility which would ensure that the Court is able to adapt and cater for new developments that might have an impact on virtual hearings by the Court in the future.

### ***Emergency Provisions***

The CAR 2021 makes provision for suspension of computation of time in situations of emergency. By **Order 19 Rule 12** of the CAR 2021, the computation of time to (i) file any court process within a prescribed period; (ii) do any act provided by the Rule or (iii) pay default fees for extension of time within which to file a process or do an act shall be exempted during the occurrence of any event which disrupts the normal conduct of the business of the Court.

The recent disruption in the administration of justice by the COVID-19 pandemic, and the confusion it brought to stakeholders in the administration of justice as to the how time should be computed makes this provision essential.

### ***Expeditious Disposal of Cases and Decongestion of the Court's Docket***

The CAR 2021 has introduced considerable measures to ensure expeditious disposal of cases and decongestion of the Court's docket. Some of the provisions included in the CAR 2021 that ensure expeditious disposal of cases are discussed below.

#### ***Effect of Non-filing of Respondent's Brief***

**Order 19 Rule 10(3)** of the CAR 2021 imbues the Court with power to proceed with the hearing of an appeal on the appellant's brief alone without the need for an

application by the appellant to hear the appeal on the appellant's brief alone. This will occur where a respondent who has been duly served with the appellant's brief and a hearing notice fails to file his brief within the time stipulated in the Rules. It obviates the current practice for the appellant to file a motion on notice for an order of the Court for the appeal to be heard on the basis of the appellant's brief alone.

#### ***Timelines for filing and exchanging processes***

The CAR 2021 make provision for the timeline within which to file a cross-respondent's brief and a reply to the cross-respondent's brief. **Order 19 Rule 7(2)** of the CAR 2021 provides for the filing of cross-respondent's brief within 30 days of the service of the cross-appellant's brief, while **Order 19 Rule 7(3)** of the CAR 2021 provides for the filing of cross-appellant's reply within 14 days of service of the cross-respondent's brief. As it further relates to timelines for doing certain acts, **Order 2 Rule 4** of the CAR 2021 introduces the time within which a respondent who has been served with a NoA must file copies of a notice of his full and sufficient address for service. The respondent is required to do so within fourteen (14) days after service of the NoA on him/it.

Further, **Order 6 Rule 1** of the CAR 2021 stipulates that every application which shall be by notice of motion must be supported by an affidavit and a written address provided that the respondent shall have five (5) days to file processes in response (if any) to the notice of motion and the applicant shall have three (3) days, upon service, to file a reply (if any) to the processes of the respondent(s). The filing of Written Addresses with respect to applications before the Court is not in the CAR 2016. However, in practice, the Court would usually direct parties to file Written Addresses with respect to applications that are not unopposed. The new provision in the CAR 2021 ensures expeditious hearing of applications that are opposed by the respondent(s) to the applications.

### ***Order of substitution where a party's name changes during the pendency of an appeal***

**Order 15 Rule 4** of the CAR 2021 provides that an application for an order of substitution could be made where the name of a party to the appeal changes during the pendency of an appeal.

This provision puts to letter the already existing practice of litigants bringing an application before the Court for the substitution of the name of a party to an appeal, where the name of such a party changes during the pendency of an appeal. Hitherto, the provision for substitution of the name of a party in the CAR 2016 was with respect to where a party to an appeal is deceased. The consequence of this substitution is that new processes filed in the suit, after the substitution, will reflect the new name of the party and such change will not in any way affect the validity of processes filed prior to the change of name.

### ***Preliminary Objection to be argued in the Respondent's Brief of Argument***

Under the CAR 2016, there was no express requirement that preliminary objections should be argued in the respondent's brief. It was only a matter of practice, which had received judicial backing in a plethora of cases such as **G.N. Nwaolisah v. Paschal Nwabufoh** [2011] LPELR-2115 (SC), 51-52, paras. F-A. However, **Order 10 Rule 1** of the CAR 2021 now expressly provides that a preliminary objection shall be argued in the respondent's brief of argument.

It is noteworthy that the CAR 2021 has not dispensed with the requirement to file a stand-alone Notice of Preliminary Objection, it merely gives statutory recognition to the practice of arguing preliminary objections in the respondent's brief.

### ***Court of Appeal (Alternative Dispute Resolution) Rules***

**Order 16 Rule 2** of the CAR 2021 introduces the Court of

Appeal Alternative Dispute Resolution Rules (CAADRP Rules). It is pertinent to point out that Order 16 of the CAR 2021 contains only three rules with respect to alternative dispute resolution (ADR) in sharp contrast to the six rules contained in the old Order 16 of the CAR 2016. While Order 16 of the CAR 2016 contained extensive provisions on the operations of the Court of Appeal Mediation Programme, the bulk of these provisions have now been excluded in the CAR 2021.

The new provisions are aimed at streamlining the ADR mechanism in the CAR and to make it more efficient. It appears that details on the operations of the ADR programme of the Court will be elaborated in the CAADRP Rules. In addition to the introduction of the CAADRP Rules, Order 16 Rule 3 of the CAR 2021 also provides that time shall not run for the purpose of filing a brief until any initiated ADR under the CAADRP is concluded. This is aimed at ensuring that parties can concentrate on achieving an amicable resolution of the dispute using the ADR programme of the Court and will not have to potentially pay significant default fees in filing processes in the prosecution of the appeal, in the event that the ADR process does not yield a positive result.

### ***Case Scheduling and Management Systems***

Order 22 of the CAR 2021 introduces the Case Scheduling and Management System (CSMS). A CSMS is an efficient and effective system of justice that safeguards the rule of law and provides timely, objective and efficient adjudication – a core value enshrined in the Constitution. While case scheduling is a key tool for driving effectiveness and efficiency in the adjudicatory process, best practice recommendations indicate that case scheduling cannot be done in isolation, as manual case scheduling can only be effective when used in the context of a case management system. A review of comparator jurisdictions shows that a case flow management system is usually developed and then

layered with a manual scheduling system. Indeed, the best practice recommendation is that comprehensive case management approaches/techniques should be supported by advanced information technology solutions and automated case management systems.

It is expected that the introduction of a CSMS at the Court will ensure speedy hearing and determination of appeals by improving the management of the Court's docket, better the use of the Court's time, and will help in addressing the problem of congestion on the Court's docket and the delay in the hearing and determination of appeals. It is noteworthy that CSMS has been introduced in some State High Courts in Nigeria, such as Ogun State High Court, and it is expected that it would improve the management of the court's docket and ensure expeditious hearing of cases in the State.

Not much detail of the operation of the CSMS is provided in Order 22 of the CAR 2021, however Order 22 Rule 3 of the CAR 2021 specifically provides that Practice Directions to prescribe the manner and operation of the CSMS may be issued by the PCA. The provision of the issuance of Practice Directions by the PCA on CSMS of the Court is to provide a measure of flexibility which would ensure that the Court is able to cater for new developments that might have an impact on the CSMS of the Court in the future and this is reflective of how CSMS is implemented in most jurisdictions.

### Definition of Terms

In addition to the above highlighted changes, the definition provision, **Order 1 Rule 5** of the CAR 2021, includes amended/new terms with definitions. The amended/new terms basically provide clarity to the changes introduced in the CAR 2021. Below is a list of the new terms

**"Applicant"** means any person who applies to the Court for an Order.

**"Bailiff"** means a person authorised to serve court processes and carry out such other function(s) as the court, may from time to time, assign to him. Also includes any Special Bailiff appointed by the Court.

**"CAADRC"** means Court of Appeal Alternative Dispute Resolution Centre.

**"CAADRP"** means Court of Appeal Alternative Dispute Resolution Programme.

**"Cost on full indemnity basis"** means cost to indemnify a party for expense reasonably incurred in an appeal up to the time of striking out or dismissing an appeal or an application for lacking in merit.

**"Court Sitting"** includes the physical and virtual sitting of the Court.

**"Decision"** means, in relation to a Court, any determination of that Court and includes judgment, decree, order, conviction, sentence, verdict or recommendation.

**"Eligible institution"** includes insurance companies, suretyship companies, banks or other financial institutions.

**"Indigent persons"** means a person whose annual income is less than the annual wage of persons in Grade Level O1 in the civil service of the Federation.

**"Judgment"** includes a decision or an order.

**"Lower Court"** means the court from which an appeal is brought.

**"Out of the jurisdiction of the Court"** means outside the territory of the Federal Republic of Nigeria.

**"President"** means the President of the Court of Appeal.

**"Presiding Justice"** means any Justice of the Court of Appeal duly designated by the President to take charge of a Judicial Division of the Court.

**"Record"** means anything or process-

(a) on or by which information is recorded or stored by the Court; or

(b) by means of which a meaning can be conveyed by any means in a visible or recoverable form, whether or not the use or assistance of some digital, electronic, mechanical, chemical, or other device or process is

required to recover or convey the information or meaning.

“**Virtual Hearing**” means proceedings of the Court conducted electronically or through the use of electronic or audio-visual means.

### Conclusion

It is evident that significant changes in the practice and procedure of the Court have been introduced through the CAR 2021, most of which are timely and signify an attempt by the Court to modernise the CAR and to ensure speedy dispensation of justice. It is however hoped that the Court would keep innovating to ensure

that the CAR continue to be abreast of developments in our dynamic world and that the Court’s docket is not burdened with frivolous appeals and applications.

Having noted that the effect of some of the newly introduced changes rests upon the publication of necessary Practice Directions, we look forward to the prompt issuance of such Practice Directions by the PCA to “breathe life” into these changes.

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