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O. O. NOEL ESQ. Chief Editor

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JUSTICES OF THE SUPREME COURT OF NIGERIA

THE HON. JUSTICE MUHAMMADU LAWAL UWAIS - CHIEF
JUSTICE OF NIGERIA

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THE HON. JUSTICE SALIHU MODIBBO ALFA BELGORE

THE HON. JUSTICE ABUBAKAR BASHIR WALI

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THE HON. JUSTICE EMMANUEL OBIOMA OGWUEGBU

THE HON. JUSTICE UTHMAN MOHAMMED

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THE HON. JUSTICE UMARU ATU KALGO

THE HON. JUSTICE SAMSON ODEMWINGIE UWAIFO

THE HON. JUSTICE AKINTOLA OLUEFMI EJIWUNMI

THE HON. JUSTICE EMMANUEL OLAYINKAAYOOLA

JUSTICES OF THE COURT OF APPEAL

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- PRESIDENT OF THE COURT OF APPEAL

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THE HON. JUSTICE Z. A. BULKACHUWA

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THE HON. JUSTICE F. F. TABAI

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THE HON. JUSTICE S. GALADIMA

THE HON. JUSTICE J. A. FABIYI

THE HON. JUSTICE M. DATTIJO MAHAMMAD

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THE HON. JUSTICE W. S. N. ONNOGHEN

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THE HON. JUSTICE JAMES OGENYI OGEBE

THE HON. JUSTICE J. J. UMOREN

THE HON. JUSTICE C. M. CHUKWUMA-ENEH

THE HON. JUSTICE I. A. MANGAJI

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THE HON. JUSTICE UMARU ABDULLAHI
THE HON. JUSTICE RABIU DANLAMI MUHAMMAD
THE HON. JUSTICE IBRAHIM TANKO MUHAMMAD
THE HON. JUSTICE V. A. O. OMAGE

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THE HON. JUSTICE ATINUKE OMOBONIKE IGE
THE HON. JUSTICE IGNATIUS CHUKWUDI PATS-ACHOLONU
THE HON. JUSTICE P. O. ADEREMI
THE HON. JUSTICE A. SANUSI
THE HON. JUSTICE I. C. NZEAKO

PORT HARCOURT DIVISION

THE HON. JUSTICE SUNDAY AKINOLA AKINTAN
THE HON. JUSTICE SYLAVANUS ADIEWERE NSOFOR
THE HON. JUSTICE M. E. AKPIROROH
THE HON. JUSTICE K. B. AKAHHS
THE HON. JUSTICE A. J. IKONGBEH

SUPREME COURT RULES (AMENDMENT) RULES 1999

THE CONSTITUTION OF THE FEDERAL REPUBLIC OF
NIGERIA, 1979 CHAPTER 62
THE SUPREME COURT RULES, 1985
(1st January, 1999)

In exercise of the powers conferred upon me by section 216 of the Constitution of the Federal Republic of Nigeria, 1979, Cap. 62, and by virtue of all other powers enabling in that behalf, I, Muhammadu Lawal Uwais, CON, Chief Justice of Nigeria, hereby make the following Rules:

Amendment of 1. The Supreme Court Rules, 1985, as amended, is
S. 1.9 of 1985 hereby further amended as follows, that is -

- (a) by deleting the existing Order 8 rules 17 and 18 thereof:
- (b) by substituting the following new Order 8 rules 17 and 18 therefor; that is -

"Enforcement of

judgment 17. Any decision, including judgment, decree or order, given by the court may be enforced by the court or by any other court with subordinate jurisdiction which has been seised of the matter.

Execution of judgment

by lower courts, Form 23. 18. When any decision of the court including judgment, decree or order is to be enforced by any other court with subordinate jurisdiction, a certificate under the seal of the court and the hand of the Chief Justice of Nigeria or the presiding Justice setting forth the decision shall be filed in such other court, and the later court shall enforce such decision in terms of the certificate."

- (c) by deleting the Second Schedule thereto: and

- (d) by substituting the following new Second Schedule therefor: that is -

"SECOND SCHEDULE FEES IN CIVIL MATTERS

A. Original Jurisdiction

N : K

(1) In proceeding between the Federation and a State or between States No fees Charged

(ii) In all other proceedings for the exercise by the court of its original jurisdiction:

On application under Order 2, rule 2 for the recovery of a specified sum: -

(a) Not exceeding N2000 100.00

(b) Exceeding N2000 per N1000 or part thereof 50. 00

(c) Maximum fee 1,000.00

For an account to be taken and payment of the

sum found due 500.00

For possession of property as for the sum claimed

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in lieu of the property	500.00
Any other relief or assistance not specially provided for	500.00
On the filing of any other document with the registrar	..	..	200.00	
On the appointment and swearing of appraisers	..	..	100.00	
On the delivery of goods to a purchaser	..	..	200.00	
On the sale of goods:-				
For every N2000 or fraction of N2000 of the price	..	..	100.00	
For attending the removal of goods	..	..	200.00	
And if the removal occupies more than one day for each additional day, a further fee of	..	..	200.00	

B. Appellate Jurisdiction

On filing Notice of Appeal against a final judgment or decision	..	..	..	500.00
On filing Notice of Appeal against an interlocutory order or decision	..	..	..	500.00
On filing motion for leave to appeal	..	..	500.00	
On filing Notice of Appeal where leave granted	..	..	200.00	
On filing motion for extension of time:-				
if the time has not yet expired	..	..	200.00	
if the time has already expired	..	..	300.00	
On filing any motion not otherwise provided for	..	..	200.00	
On filing motion for stay of execution (if application is made by separate motion)	..	..	200.00	
On filing amended or additional ground of appeal:				
if filed at least three weeks before the date fixed for the commencement of the sitting for which the appeal is set down	..	..	200.00	
If filed less than three weeks but at least two clear days before such date	..	..	300.00	
If filed later, but before the hearing of the appeal	..	..	500.00	
On amending or adding to grounds of appeal by leave or direction of the court at the hearing	..	..	500.00	

On filing of brief by either the appellant or the respondent ..	300.00
For any addition to any brief already filed	200.00
For failure to file brief within the prescribed period, for each additional day thereof	15.00
Hearing fee payable in advance	300.00
On filing motion to restore appeal dismissed under Order 8, rule 8	500.00
On application for warrant to detain a ship	500.00
On filing motion to set aside Taxing Officer's decision or order	200.00
On every certificate of the order of the Supreme Court (made on the final determination of appeals under Order 8 rule 18)	200.00

C. General

1. For swearing an affidavit or making a declaration per deponent	10.00
For marking any paper annexed to an affidavit or declaration	10.00
On filing an affidavit	20.00
On filing a security bond	50.00
On filing any other document or exhibit	20.00
On justification of sureties: for each surety	20.00
For the drawing up of any order or judgment	200.00
For every subpoena	20.00
On warrant for prisoner to give evidence	100.00
On inspection of any document or judgment	20.00
For searching the archives; for each period of six months or part thereof	100.00
For preparing a copy where authorized: per folio of 72 words	10.00
For lodging a bill of costs for taxation including taxation for the first twenty folios	300.00
For every ten folios or part thereof after the first twenty	120.00
2. The fee for the service of any document or process shall be that charged	

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for such service by the High Court having jurisdiction in the place where service is to be effected.

3. The allowances payable to witness shall be those payable to witnesses in the High Court having jurisdiction in the place where the evidence of such witnesses is taken.

4. The fee for the services of a special interpreter of a language not in common use shall be that charged for such services by the High Court having jurisdiction in the place where such services are rendered.

5. The following fees in connection with appeals are assessable in accordance with the rules in force in the court below, and are not prescribed by these rules:-

(a) fees for any application made to and determinable by the court below

(b) fees for the settling and preparation of the record of appeal, for the lodging of a bond to secure the costs of an appeal, and for the Registrar's certificate that the conditions of appeal have been fulfilled."

Citation and Commencement 2. These rules may be cited as Supreme Court Rules (Amendment) Rules, 1999, and shall come into force on 1st January, 1999.

MADE at Abuja this 24th day of December, 1998

SIGNED

M. L. UWAI, CON,
Chief Justice of Nigeria

EXPLANATORY NOTE

The purpose of these Rules is to remove the ambiguity in the interpretation of the provisions of Order 8 rules 17 and 18 of the Supreme Court Rules, 1985 by the lower courts and to revise the fees in civil matters which had been in force since 1985.

**THE COURT OF APPEAL
JUDICIAL DIVISIONS**

IN ACCORDANCE with the provisions of Order 1, Rule 6 of the Court of Appeal Rules 1981, it is hereby notified that the Court of Appeal shall hear and determine appeals from the States of the Federation in accordance with the Schedule below. Appeals from the State/States in the second column shall be filed in the JUDICIAL DIVISIONS in the first column of the Schedule.

2. This Notice supersedes any previous notification.

SCHEDULE

<u>JUDICIAL DIVISION</u>	<u>STATE/STATES</u>
1. ABUJA	ABUJA, KOGI, NIGER
2. LAGOS	LAGOS
3. KADUNA	JIGAWA, KADUNA, KANO, KATSINA, KEBBI, SOKOTO, ZAMFARA
4. ENUGU	ANAMBRA, EBONYI, ENUGU
5. IBADAN	OGUN, OSUN, OYO
6. BENIN	DELTA, EDO, ONDO
7. JOS	ADAMAWA, BAUCHI, BENUE, BORNO, GOMBE, NASARAWA, PLATEAU, TARABA, YOBE
8. PORT HARCOURT	ABIA, BAYELSA, IMO, RIVERS
9. ILORIN	KWARA, EKITI
10. CALABAR	CROSS RIVER, AKWA IBOM

Dated at Abuja, this 2nd day of January, 1999.

SIGNED
(M. M. A. AKANBI)
PRESIDENT, COURT OF APPEAL.

ACTIONS - Representative action - Locus standi - Where by the pleadings and evidence - The plaintiff belonged to the kindred whose interest is affected by the dispute - He has every right to sue. *Uzoechi v. Onyenwe* p. 57

APPEALS - Evidence - Admissibility - Objection to the admissibility of evidence - Which was ruled against by the two lower courts - Will not be sustained at the Supreme Court without an improvement on the arguments. *Onowhosa v. Odiuzou* p. 1

APPEALS - Findings of fact - By trial court -Based on pleadings and evidence before it - The Court of Appeal was in error to have interfered with them. *Uzoechi v. Onyenwe* p. 57

APPEALS - Fresh issue - Which was not raised in the court below - Argument on it -Will not be entertained by the Supreme Court - Except it involves a substantial point of law. *Onowhosa v. Odiuzou* p. 1

COURTS - Native Courts - Proceedings - In considering proceedings in those Courts - The substance of the action and not the form should be looked at. *Chukwueke v. Okoronkwo* p. 39

EVIDENCE - Evaluation of evidence - Corroboration in civil cases - Is not required by law - Except in few cases. *Onowhosa v. Odiuzou* p. 1

EVIDENCE - Proof - The rule that a plaintiff must succeed on the strength of his own case - And not on the weakness of the defendant's case - When it does not apply. *Chukwueke v. Okoronkwo* p. 39

JUDGMENTS - Findings on trespass - By the trial court - Which is supported by the pleadings and evidence - Ought not to have been disturbed by the Court of Appeal. *Olorunfemi v. Asho* p. 25

JURISDICTION - Ouster of jurisdiction - The issue of family status - In

deciding whether the issue ousts the jurisdiction of the High Court in a case
- That issue must be fundamental and not incidental. Onowhosa v. Odiuzou p. 1

LAND LAW - Declaration of title - Based on joint -Ownership of land - Application of the principle in Ekpo v. Ita - The trial judge was right in adopting the principle - Having regard to the circumstances of the case. Onowhosa v. Odiuzou p. 1

LAND LAW - Title to land - Proof of - Findings by the trial Court that title has been declared in favour of the plaintiffs - In earlier proceedings - The Court of Appeal was wrong to have interfered with such findings. Chukwueke v. Okoronkwo p. 39

PRACTICE AND PROCEDURE - Pleadings - Parties are bound by their pleadings and the issues joined therein - And the Court must be on its guard not to deviate therefrom. Olorunfemi v. Asho p. 25

TRESPASS - Findings on trespass - Consequent upon such findings there must be a verdict of perpetual injunction - And an award of damages. Olorunfemi v. Asho p. 25

TRESPASS - Possession - Where the plaintiffs have been in possession all the time - Acts of trespass by the defendants - Should not have been elevated to acts of possession. Chukwueke v. Okoronkwo p. 39

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CRIMINAL LAW - Conspiracy and stealing - Where the prosecution adduced evidence in proof of all the essential ingredients of the offences of conspiracy and stealing - It is sufficient to sustain a prima facie case. State v. Amechi p. 99 CA

CRIMINAL PROCEDURE - Appeals - Where because of the erroneous

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procedure adopted by court - It cannot be said that the evidence led by Prosecution was properly considered - A Court of Appeal will set aside or reverse the judgment. State v. Amechi p. 99 CA

CRIMINAL PROCEDURE - Prima facie case - Under s.286 Criminal Procedure Act - It was the duty of the trial judge at the close of prosecution's case - To consider expressly whether a "prima facie" case was made out - On the evidence tendered by the prosecution. State v. Amechi p. 99 CA

CRIMINAL PROCEDURE - Trial - Statements Obtained from accused persons by the police in the course of their investigations - And are admitted during trial - Constitute evidence which the court will take account of - In considering whether or not a prima facie case has been made out by the prosecution. State v. Amechi p. 99 CA

CRIMINAL PROCEDURE - Trial - Where the trial judge called for "Address" - Instead of calling upon the respondents for their defence as required under section 287(1) (a) and (b) of the Criminal Procedure Act - This constitutes a serious irregularity which greatly impaired the conduct of the trial. State v. Amechi p. 99 CA

JUDGMENTS - Dismissal - Where a Court has no jurisdiction to hear and determine a matter - The proper order to make is that of striking out the action and not dismissing it. Nelson v. Ebanga p. 69 CA

JUDGMENTS - Order - Retrial - The interest of justice required that this is an appropriate case - In which a retrial should be ordered. State v. Amechi p. 99 CA

JUDGMENTS - S.41 of the Land Use Act - Decision in Oyeniran v. Egbetola - Was given per incuriam s. 236 of the 1979 constitution. Nelson v. Ebanga p. 69 CA

JUDICIAL PRECEDENTS - The decisions of the Supreme Court - In Sadikwu v. Dalori and Oyeniran v. Egbetola - Are binding under the principle of stare decisis. Nelson v. Ebanga p. 69 CA

JURISDICTION - Concurrent Jurisdiction - The High court has concurrent jurisdiction with Area or Customary Court - In respect of matters falling within s. 41 of the Land Use Act 1978. Nelson v. Ebanga p. 69 CA

JURISDICTION - Unlimited Jurisdiction - Of the State High Court - S. 41 of the Land Use Act cannot limit the unlimited jurisdiction of the High Court - As entrenched in s. 236(1) of the constitution. Nelson v. Ebanga p. 69 CA

PRACTICE & PROCEDURE - Adjournment - Refusal of the application - Without just cause or reason - Amounted to a wrong exercise of judicial discretion. State v. Amechi p. 99 CA

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