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LEGAL PRACTITIONERS

Frontloading under Akwa Ibom State High Court (Civil Procedure) Rules 2009

Presentation by Paul Usoro, SAN
to NBA Branches in Akwa Ibom
State on 09 September 2010

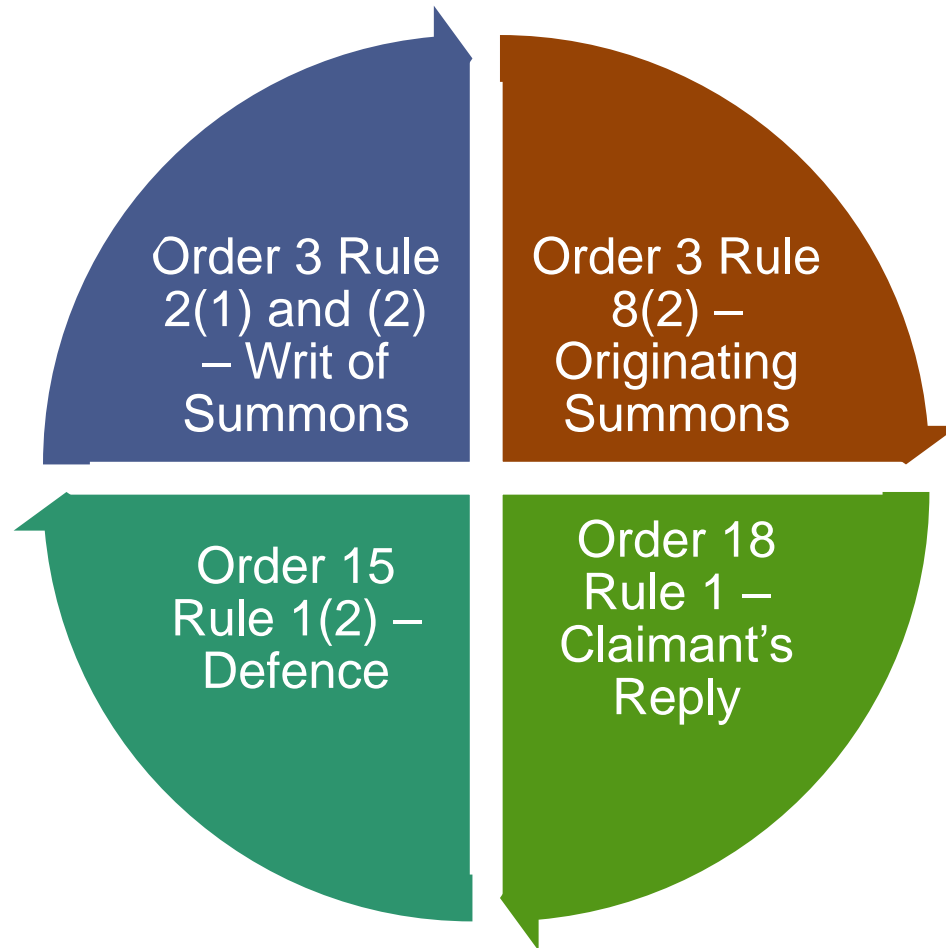


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Frontloading: Originating Processes





Frontloading: Originating Processes

Writ of Summons

- Statement of Claim
- List of Witnesses to be called at trial
- Written statements on oath of the witnesses
- Copies of every document to be relied on at the trial

Originating Summons

- An Affidavit setting out the facts relied upon
- All the documentary exhibits to be relied upon
- A written address in support of the application

Defence

- Statement of Defence
- All the Documents specified under Writ of Summons

Reply

- Reply
- All the Documents specified under Writ of Summons



Frontloading: Motions

Order 39 Rule 1(1) and 2 - Motion

- Where by these Rules any application is authorised to be made to a Judge, such application shall be made by motion which may be supported by affidavit . . .
- Every such application shall be accompanied by a written address in support of the relief sought.

Order 39 Rule 1(3) – Opposition to Motion

- Where the other party intends to oppose the application, he shall within 7 days of the service on him of such application, file his written address and may accompany it with a counter-affidavit

Order 39 Rule 1(4) – Reply

- The applicant may on being served with the written address of the opposing party file and serve an address in reply on point of law within 7 days of being served. Where a counter affidavit is served on the applicant he may file further affidavit with his reply.



Frontloading: Written Addresses and Hearings

Order 31 – Written Addresses

- This order shall apply in all causes and matters where written addresses are required.
- A written address shall be printed on good quality white opaque paper and set out in paragraphs numbered serially and shall contain . . .
- Oral argument of not more than thirty minutes shall be allowed for each party . . .

Order 32 – Hearing

- Subject to these rules and to any enactment relating to evidence any fact required to be proved at the trial of any action shall be proved by written deposition and oral examination of witnesses in open court.
- All agreed documents or other exhibits shall be tendered from the bar . . .
- The oral examination of a witness during his evidence-in-chief shall be limited to confirming his written deposition and tendering in evidence all disputed documents or other exhibits referred to in the deposition.



What has changed?

Old Rules

- Piecemeal litigation and advocacy
- Extensive discovery and inspection processes
- Extensive oral submissions and addresses

2009 Rules

- Upfront and complete frontloading and disclosure of parties' cases
- Discovery and inspection processes essentially to fill in gaps, if any
- Written Addresses with limited oral summations
- Strict timelines



What remains constant?

Old Rules

- Good advocacy (mainly oral)
- Applicable evidence provisions
- Cross-examination of witnesses
- Amendment of processes and introduction of additional evidence and new witnesses

2009 Rules

- Good advocacy (written and oral)
- Applicable evidence provisions
- Cross-examination of witnesses
- Amendment of processes and introduction of additional evidence and new witnesses



Comparative Advantages

Common Advantages

- Written Addresses and Witness Depositions reduce disputations on Court's recordings of submissions and evidence
- Speedy trials
- Better time management generally

Judiciary

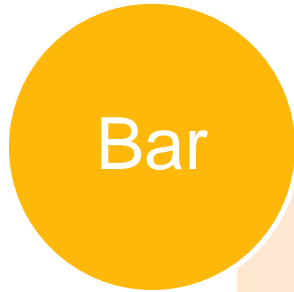
- Reduced recording by Court (longhand and electronic)
- Early appreciation of parties' cases and formulation of Issues
- Better management of proceedings

Bar

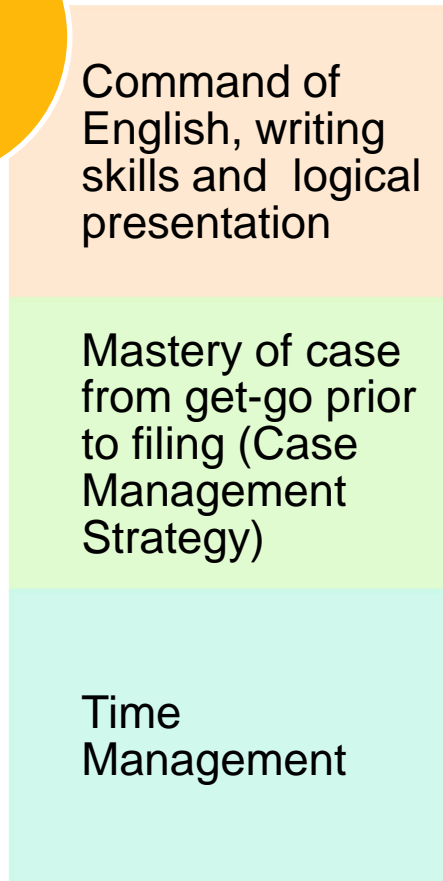
- Mastery and complete preparation of case before filing – early determination of justiceable matters
- Assemblage of witnesses before filing Suit
- Early appreciation of other party's case leading to better strategy



Demands on Bar and Bench



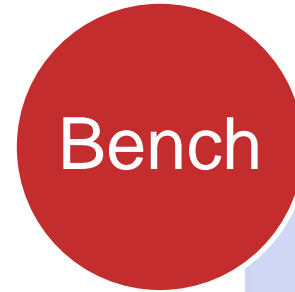
Bar



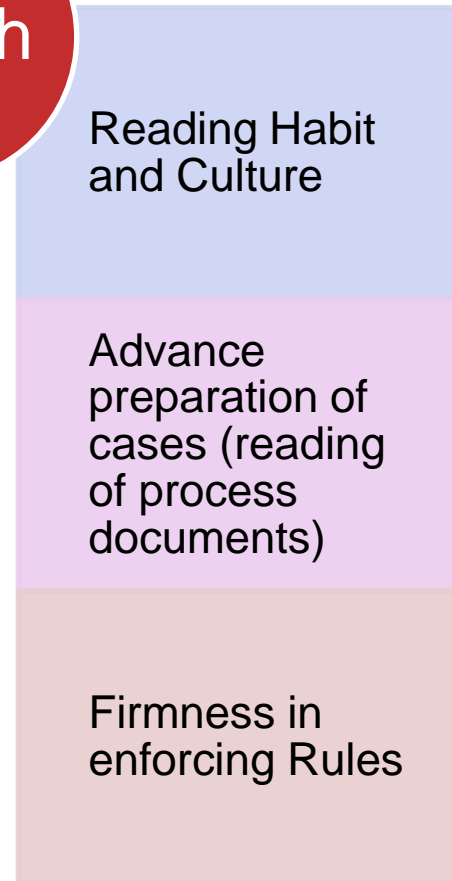
Command of English, writing skills and logical presentation

Mastery of case from get-go prior to filing (Case Management Strategy)

Time Management



Bench



Reading Habit and Culture

Advance preparation of cases (reading of process documents)

Firmness in enforcing Rules



Features of Witness' Deposition

Essentially the same as standard witness' evidence but in written form

Pleadings plus evidence; not wholesale and simplistic replication of pleadings

Prepared in affidavit format but with room for improvement beyond normal staid format

Rules of evidence apply e.g. hearsay evidence is inadmissible