



**FEDERAL REPUBLIC OF NIGERIA
FEDERAL HIGH COURT OF NIGERIA
(PRE-ELECTION) PRACTICE
DIRECTIONS
2022**

THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999 (AS AMENDED)

FEDERAL HIGH COURT (PRE-ELECTION) PRACTICE DIRECTIONS, 2022



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In exercise of the powers conferred on me by virtue of Sections 254, 285 (9), (10) and (14) of the Constitution of the Federal Republic of Nigeria 1999 (as amended), Sections 29(5) and 84(14) of the Electoral Act, 2022 (as amended) and all other powers enabling me in that behalf, I, JOHN TERHEMBA TSOHO, the Honourable, the Chief Judge, Federal High Court, issue the following Practice Directions to the Federal High Court:

OBJECTIVES AND GUIDING PRINCIPLES

- 1.-(1) The purpose of this Practice Directions is to-
- (a) provide for a fair, impartial and expeditious determination of pre-election cases;
 - (b) ensure that in all election matters, the parties focus on matters which are genuinely in issue;
 - (c) minimize the time spent in dealing with interlocutory matters;
 - (d) ensure that the possibility of settlement is explored before the parties go into hearing;
 - (e) minimize undue adjournments and delays in the conduct of matters.

APPLICABILITY

2. -(1) This Practice Directions shall apply to every pre-election matter brought pursuant to the provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and the Electoral Act, 2022 (as amended).
- (2) This Practice Directions shall apply notwithstanding the provisions of the Federal High Court (Civil Procedure) Rules, 2019.
- (3) The Chief Judge of the Federal High Court may direct that matters be transferred to the appropriate Division or any other Division as may be reasonably practicable considering the given circumstances.

Transfer of matters

PARTIES

3. A party challenging the conduct or outcome of a Primary Election shall join as a Respondent in the suit, the person who emerged winner of the said election or whose name was forwarded by his political party to the Independent National Electoral Commission (INEC).

FILING OF PROCESSES

4. -(1) Every pre-election matter shall be commenced by an Originating Summons as specified in Forms 3, 4 or 5 of Appendix 6 to the Federal High Court (Civil Procedure) Rules, with such variations as circumstances may require.
- (2) The Originating Summons shall be accompanied by:
 - (a) an affidavit setting out the facts relied upon;
 - (b) copies of exhibits to be relied upon;
 - (c) a written address;
 - (d) an affidavit of non-multiplicity of action on the same subject matter.

Commencement of action

- (3) A Respondent served with an Originating Summons shall within 7 (seven) days from the date of service of the Originating Summons on him, file the original and copy of a duly completed and signed Memorandum of Appearance as specified in Form 11 Appendix 6 of the Federal High Court (Civil Procedure) Rules with such modifications or variations as the circumstances may require. Memorandum of Appearance
- (4) A Respondent served with an Originating Summons shall within 10 (ten) days of such service, file in the Registry of this Court, a counter affidavit and a written address, which may include any Preliminary Objection raised to the action. Time to file Defence
- (5) An Applicant on whom a Respondent serves a defence, if the need arises, shall serve a Reply on that Respondent within 3 (three) days of such service. Reply
- (6) The Written Address shall be concise, typed in double spacing with font size of 12; numbered consecutively and shall not exceed 15 (fifteen) pages. Written Address
- (7) Any amendment to the Originating Summons may be made with the leave of Court within 7 (seven) days of service of the Respondent's Reply. Amendment
- (8) (i) All suits wherein the cause of action arose in a Judicial Division and the relief seeks a declaration or to compel or restrain person(s), natural or legal within that Judicial Division, with no consequence outside it, shall be filed, received or heard only within that Judicial Division. Place of Filing

PROVIDED THAT in other suits, in so far as the relief sought, or potential consequential order(s) or declaration(s) extend beyond the Judicial Division, shall be filed or received at Abuja and assigned by the Chief Judge.

- (ii) In all other matters, as may require the attention of the Chief Judge, he may in the appropriate circumstance assign same to an appropriate Judicial Division.

SERVICE OF PROCESS

5.-(1) A party shall not serve a notice of an application on another party on the date scheduled for hearing.

- (2) To ensure speedy dispensation of justice, electronic mail and other electronic means may be employed by the Court in order to inform counsel of urgent Court and case events.

PROVIDED THAT such notification shall be given at least forty-eight hours before the scheduled Court date.

- (3) In line with the provisions of Rule 5(2) of this Rule, parties are expected to furnish the Court Registrar with functional telephone numbers and e-mail addresses of themselves and their counsel.

- (4) An application for substituted service shall be as provided for in the Rules of this Court.

Substituted Service

HEARING

6.-(1) Upon the close of exchange of processes between the parties, the Court shall within 7 (seven) days, set down the matter for hearing.

- (2) The Court shall continue to accord priority to all pre-election matters until judgment is delivered.

- (3) Where a matter comes up for hearing under this Practice Directions and either of the parties is absent, the Court shall

either *suo motu* or upon oral application by the Counsel for the party present, order that the address of the party absent be deemed adopted if it is satisfied that the parties had notice of proceedings.

- (4) The Court and the parties shall prevent unnecessary delays and accordingly, not more than two adjournments shall be granted to any party to an action covered by the provisions of this Practice Directions.

Adjournment

PROVIDED THAT no application for adjournment shall be entertained on a day fixed for hearing.

- (5) Where a party seeks to change his Counsel during the lifespan of a case, not more than two adjournments shall be granted to him to so do.
- (6) Where it is expedient, and in furtherance of the objectives of this Practice Directions, the Court may schedule the time and date of hearing on such day and at such time as may be convenient for the parties.
- (7) Counsel shall ensure that they are present in Court and ready to proceed with their case at all times.
- (8) Where the provisions of Rule 6(7) of this Rule becomes impracticable by reason of ill-health or any other unavoidable incidence, such Counsel shall ensure that a Counsel of requisite knowledge of the issues before the Court is present in Court and ready to proceed with the case in his or her stead or apply that the case be heard virtually where practicable; with the consent of parties.

INTERLOCUTORY APPLICATIONS

- 7.- (1) Every application for Interlocutory Orders shall be on Notice, stating the Rule under which it is brought, the grounds for the reliefs sought and shall be supported by an Affidavit and a Written Address.
- (2) The Respondent(s) upon being served with the processes, shall have 5 (five) days within which to file processes in response (if any) to the Motion on Notice and the Applicant shall have 3 (three) days to file a Reply (if any) to the processes of the Respondent(s).
- (3) Pursuant to the provision of Section 285(8) of the Constitution of the Federal Republic of Nigeria 1999 (as amended), ruling on Preliminary Objections and other interlocutory issues touching on the jurisdiction of the Court shall be suspended and delivered at the stage of final judgment;

Ruling on
Objections

PROVIDED THAT where the objection relates to service of originating processes, the Court shall satisfy itself that the parties have been properly served before proceeding to determine the substantive Suit.

- (4) Every application for extension of time shall be by a Motion on Notice and shall be supported by an Affidavit setting forth good, substantial, cogent and verifiable reasons for failure to file within the prescribed period before time can be extended.

Extension of time

MISCELLANEOUS

8. The Federal High Court (Civil Procedure) Rules, 2019 shall apply to any issue not captured under this Practice Directions.

INTERPRETATION

9. Under this Practice Directions, pre-election matters are matters as defined by Section 285(14) of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

CITATION

10. This Practice Directions may be cited as the Federal High Court (Pre-Election) Practice Directions, 2022.

COMMENCEMENT

11. This Practice Directions shall come into effect from Tuesday, the 28th day of June, 2022.

MADE at Abuja, this 28th day of June, 2022.



HON. JUSTICE JOHN TERHEMBA TSOHO
THE HONOURABLE, THE CHIEF JUDGE
FEDERAL HIGH COURT OF NIGERIA