SPEECH BY THE PRESIDENT OF THE NIGERIAN BAR ASSOCIATION AT THE SPECIAL SESSION OF THE SUPREME COURT TO MARK THE BEGINNING OF THE 2025/26 LEGAL YEAR/CONFERMENT OF THE RANK OF SENIOR ADVOCATES OF NIGERIA

PROTOCOL

1. My Lords, it is always an honour to make a remark before this Honorable Court as we mark the Opening of the Supreme Court's Legal Year and the conferment of the rank of Senior Advocate of Nigeria (SAN) to successful applicants. Today's ceremony, like many before offers a moment for in-depth reflection, renewal, and rededication to the dispensation of justice to all and sundry. Today, we not only celebrate those elevated to the Inner Bar, we also acknowledge the triumphs of our justice system and take stock of our justice system as well as confront its challenges.
2. As I stated in my address last year, the opening of the legal year is a time for reflection, renewal, and rededication to the values of justice, fairness, and the rule of law. It provides an opportunity to acknowledge the work done by the judiciary in the past year, while also looking forward to the challenges faced in the period under review and opportunities that lie ahead. The opening of the legal year is consequently more than a ceremonial occasion. It is a moment when we, as officers of the law, pause to reaffirm our dedication to upholding justice, ensuring the rule of law, and protecting the rights and freedoms of all Nigerians. The judiciary is, after all, the bedrock of our democracy, and it is through the work we do here that justice finds expression in the everyday lives of our citizens.
3. Upon assumption of office as the Chief Justice of Nigeria (CJN), Honourable Justice Kudirat Motonmori Olatokunbo Kekere-Ekun, GCON, Your Lordship made it clear that the Court's urgent task was restoring public confidence in the judiciary. Thus, the CJN has consistently reminded judges of their sacred oath. Addressing newly appointed judges Your Lordship urged them; thus, "Let your judgments be reasoned, impartial and courageous. The Judiciary, as the final arbiter of justice, depends on the credibility of its officers. Each of you now bears a share of that institutional burden – and of that honour".

4. We note the many structural reforms undertaken by CJN upon assumption of office by CJN with a zeal to embrace technology as a tool for transparency and efficiency. I will mention a few. The merging of the Court Records Processing Unit into a single unit, ensuring better case management and drastically reducing cases of missing files and the creation of Central Information Unit to give lawyers and litigants real-time access to case information. Highly commendable is the scrapping of the paper-based and cumbersome enrolment of new lawyers and replacing it with a digitised process. Thus, details of new wigs are now uploaded online, with candidates completing enrolment digitally and receiving their enrolment numbers electronically. Applications for appointment as Notary Public have also gone digital. Posterity will always praise the new National Judicial Council (NJC) Transparency policy which requires that all judicial appointment memoranda will now be published at the initial stage as part of the comprehensive reforms in the judicial appointment process.
5. Despite these efforts, more work needs to be done about changing the negative perception of the judiciary which is best captured in the words of His Eminence, Sultan of Sokoto, Muhammadu Sa'ad Abubakar in his speech at the opening ceremony of the NBA Annual General Conference of August 2025 when he warned that *"Today, justice is increasingly becoming a purchasable commodity, and the poor are becoming victims of this kind of justice, while the rich commit all manner of crime and walk the streets scot-free," he said. The Sultan's speech once more reminds us that perception is greater than reality and that "with reality there is not much room to maneuver, with perception we can exaggerate or modify according to the need"*. The Sultan's statement that the rich evade accountability while the integrity of the judicial system is being undermined by corruption and inequality once more reminds us that perception is greater than reality. As we always say, "**with reality there is not much room to maneuver, with perception we can exaggerate or modify according to the need**".
6. Public confidence in the judiciary may have plummeted, but we can reverse many of the negative perceptions in this legal year. The computerization of litigation process including electronic recording of court proceedings in all superior courts of records is a measure that must be birthed with utmost urgency. Nigerians, particularly those from

rural or marginalized communities, should be able to access the justice system. The various Rules of Court must be amended to provide for e-filing, virtual hearing and speedy dispensation of cases.

7. My Lords, it is now 26 years since we returned to democratic rule. In those times our democracy has been tried in various ways. I recall the promptness with which this Honourable Court resolved the question whether the decision of Atiku Abubakar to run for Vice President after winning the Governorship election in Adamawa State entitles INEC to conduct fresh elections or in the circumstance allows for the to swearing-in of his running mate, Mr. Boni Haruna as Governor. This Court was also ready to resolve the question whether a President could remove a sitting Vice President merely because he has decamped from the President's Political party. It will interest us to note that the case of A.-G., Federation v. Abubakar (2007) 10 NWLR (Pt. 1041) 1 started in the Court of Appeal vide an Originating Summons filed on January 4, 2007, on February 7, 2007, the matter was heard and judgment delivered by the Court of Appeal on February 20, 2007. The Appeal to the Supreme Court was determined on April 20, 2007.
8. The Judiciary was hailed for coming to the rescue. Indeed, Nigerians and the International Community praised our judiciary as the bastion of the rule of law. It was widely celebrated as the last hope of the common man. Nigerians want to see this reflected on all issues confronting our democracy. This Court successfully handled over 1,000 pre- and post-election cases within 60 days of the filing of the Notice of Appeal. In the speech by the President of the Federal Republic of Nigeria, President Bola Ahmed Tinubu, GCFR declaring the end of the State of Emergency in Rivers State, the President said that there were no less than 40 cases instituted before various Courts including this Court challenging the declaration of emergency.
9. It is really troubling that only one of the cases was decided before the expiration of the State of Emergency. The one initiated before this Court does not have a hearing date even after the expiration of the six (6) months period! The last time a State of Emergency was declared in Plateau State, it took this Court more than 2 years to decide the matter. The judgment is reported as **Plateau State v. Attorney General of the Federation** (2006) 3 NWLR (Pt.967) 346. At the time of the Judgment, the

people of Plateau State had forgotten that a State of Emergency was ever declared.

10 This is in spite of the fact that, by the Court's record, the case was "filed on 24th June, 2004, about thirty-six days after the declaration of the State of emergency in the State" and judgment was only rendered on January 20, 2006.What is more disturbing is that the Supreme Court missed the opportunity of spelling out when the President can declare a state of emergency and the extent to which the declaration will affect democratic governance in the affected State. Nigerians really wanted this honourable Court to determine whether the President in the exercise of the powers under section 305 of the Constitution can dismantle democratic structures in a state by suspending the Governor, Deputy Governor and Members of the House of Assembly. If for example the Court subsequently answers this quest will the negative, of what benefit will it be to the people, if the decision comes after the State of Emergency had elapsed by effluxion of time. Delay in deciding such weighty constitutional matters risks sending the wrong signal that the judiciary is indifferent to issues that affect governance at its most fundamental levels. A prompt determination would have clarified the law, reinforced federalism, and ensured that the wheels of government at the grassroots continue to run without hindrance.

11 May I humbly note that both the cases of **Adegbenro V. AG of the Federation & Ors** (1962) LPELR-25118(SC) and **Williams v. Majekodunmi** (No.2) (1962) LPELR-25044(SC) which border on the exercise of powers under the State of Emergency Act of 1962 were decided during the period of the declaration of the State of Emergency. As the saying goes; "**Justice delayed is justice denied**". Clause 40 of the Magna Carta of 1215 states this principal aphorism thus "**To no-one will we sell to no one will we deny or delay right or justice**". Where there is delay in the legal process, it harms the victims and undermines accountability thereby effectively denying justice. The NBA urges this Honourable Court, with the greatest respect, to make a mark in history by ensuring that matters of urgent national importance are not left in limbo. Swift and decisive justice reinforces the Court's role as the stabilizing anchor of our democracy.

12 May I equally use this opportunity to call upon the Court to fix special sessions for the hearing of appeals to the Court against the decisions of

the Legal Practitioners Disciplinary Committee (LPDC) as well as clear the confusion as to whether appeals can lie directly to this Court from the decisions of the LPDC. This call has become pertinent in the light of recent decisions by the Court declining jurisdiction and referring parties to a non-existent Appeals Committee of the Body of Benchers. We thought this matter had been laid to rest by the decision of this Court in **Obiajulu Nwalutu V. NBA & Anor** (2019) LPELR-46916(SC), where it held per Kumai Bayang Akaahs, JSC that:

> "Any direction given by the Disciplinary Committee against a legal practitioner invariably is challenged at the Supreme Court and this is the rationale for excluding the Chief Justice and Justices of the Supreme Court from being members of the Disciplinary Committee. Where any of the members listed in Section 11 (2) (b)-(e) is a complainant he cannot take part in the disciplinary proceedings as such a member. Learned counsel for the respondents are on firm ground when they argued that this Court never held that Decree No. 21 of 1994 was repealed in Aladejobi v. Nigerian Bar Association (2013) 15 NWLR (PT. 1376) 66 and Rotimi Williams Akintokun v. Legal Practitioners Disciplinary Committee (2014) 13 NWLR (Pt. 1423)1. The issue which this Court dealt with in the two appeals was that an appeal from the direction given by the Disciplinary Committee should be lodged with the Appeal Committee of the Body of Benchers as provided under Section 12 (1) & (2) of the Legal Practitioners Act Cap. L11, Laws of the Federation of Nigeria 2004. The two decisions have in no way affected the composition of Legal Practitioners Disciplinary Committee as currently constituted. The argument advanced by learned counsel for the appellant in paragraph 5.4 of his brief that the extant law dealing with the composition of the Disciplinary Committee of the Body of Benchers is Section 10 of the Legal Practitioners Act CAP L 11 Laws of the Federation of Nigeria 2004 which has the Attorney-General of the Federation as Chairman is therefore not correct. The extant law which is in operation is the Legal Practitioners Act 2004 (incorporating the provisions of the Legal Practitioners) (Amendment) Decree No 21, 1994) published as Supplementary to the Laws of the Federation of Nigeria, 2004. The Court of Appeal in Chief Andrew Oru v. Nigerian Bar

Association & Anor (2016) All FWLR (Pt. 816) 543 reached its decision per incuriam. The Honourable Committee was properly constituted and had the requisite jurisdiction when it sat and heard the complaint of professional misconduct against the appellant".

13 My Lords, a look at the recent shortlist of candidates for appointment to the Federal High Court bench shows that majority (**about 80%)** of the names are either staff of various judiciaries (most likely registrars) or officials from government agencies. There is a dearth of private practitioners. This seems to be a pattern which is not limited to the Federal High Court. It appears to be a new trend that private legal practitioners are now deemed less worthy of appointment to the bench. While we do not suggest that Judiciary staff, prosecutors and civil servants are not eligible for appointment, we deprecate a system that seems to give them prominence over private legal practitioners. The majority of appointees should be the practitioners who practice daily in the FHC and therefore have the requisite experience.

14 This concern has necessitated a repeat of the NBA's call for the amendment of Rule 3(4) of **Guidelines and Procedural Rules for the Appointment of Judicial Officers of all Superior Courts of Record in Nigeria** which empowers the Chief Judge as the Chairman of the Judicial Service Commission/Committee concerned to make a provisional shortlist on the merits consisting of not less than twice the number of Judicial Officers intended to be appointed at the particular time and circulate the provisional shortlist together with a request for comments on the suitability or otherwise of any of the short listed candidate. This Rules gives a lot of power to the Chief Judge of a Court.

15 We are of the view that the process that leads to the shortlist of candidates needs to be further reformed and made more transparent. The Chief Judge should not be solely responsible for preparing the shortlist. The general perception is that the appointment of judicial officers in Nigeria is influenced by politics, personal connections, or status. It is believed that merit plays a minor role. The mode of appointment of judicial officers is therefore generally perceived as lacking in objectivity, transparency, prone to political interference, and not open. In the communiqué issued at the end of its Annual General Conference held in Port Harcourt in 2011, the Nigerian Bar Association

observed there are a lot of Legal Practitioners in Nigeria who are not only honourable, patriotic, transparent, hardworking and incorruptible but also fit and proper for appointment to the Bench and elevation to the Higher Bench but are bypassed on account of mundane considerations especially the fact that they should allow those who have "laboured and suffered" on the bench to benefit from such appointments.

16 After all, it is said that these private practitioners have been enjoying themselves! We opine that if indeed it is based on connection, as many believe it is, it can only lead to the involvement and or interference by non-judicial or legal actors in the process. The involvement of politicians in the appointment will no doubt ultimately lead to interference by these individuals in the judicial process. Such interference will be wrongly justified as repayment of favour. Persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law. Any method of judicial selection should safeguard against judicial appointments for improper motives.

17 As we have pointed out repeatedly, the poor quality of appointments in any judiciary will be the bane of that Judiciary. We therefore propose as follows:

a. Those who apply for appointment as judicial officers, especially to the High Courts, Federal High Court, and National Industrial Court, should be subjected to written tests conducted by an independent body.
b. The results of such an examination should be published within 6 (six) hours of the completion of the same.
c. Such an examination should not only test their knowledge of the law but equally test their verbal and quantitative aptitude. Thus, the tests should be structured in a manner that enables the prospective judicial officers to show their legal writing, comprehension, and legal reasoning skills.
d. Judicial appointment processes should be reformed to focus on skill, professional and technical ability, in addition to integrity and personality.
e. Appointments into the Bench at whatever level, the Higher Bench especially, must henceforth be predicated upon merit and the concurrent recommendation of the Bar.

f. The recommendation must be based on discernible and objective criteria that consider factors like high professional integrity, reputation, sound knowledge of law, etc. This is to ensure that only quality people are appointed as Judicial Officers, and that corruption and lack of competence are reduced to the barest minimum.

18 My Lords, may we respectfully note that bail continues to be used as a tool of abuse of judicial power, oppression, unjust remands, over-crowding of the detention centers, and delay in many courts in Nigeria. This abuse is best highlighted with the order made by an Owerri Chief Magistrate, Obinna Njemanze, for the remand at the Owerri Correctional Centre of our colleague, Chinedu Agu after his arraignment on charges alleging cyberstalking, criminal defamation and incitement over opinion articles criticizing the Imo State government, once more brings to the front-burner the involvement of our courts in enabling political oppression, emasculating free speech and putting the bail process to the wrong use. Some judges and magistrates are increasingly becoming enablers of political oppression and suppression of dissenting views by remanding persons charged with alleged criminal defamation of cyberstalking under Section 24 of the Cybercrime (Prohibition, Prevention etc) Act 2015 as amended in 2024.

19 Judges and magistrates increasingly deny bail when such charges of internet and online related offences are preferred against defendants despite the matter being ordinarily bailable. It is then worrisome that even though the law provides that a court may require a suspect or defendant to execute a bond, with or without sureties, for his appearance before a court, our courts rarely utilize such procedure. Rather the bail process has been rendered very technical, time-wasting and cumbersome. Sometimes courts impose bail conditions that amount to a denial of bail. At other times they would impose a condition requiring a prosecutorial agency or some other third party to verify sureties before a defendant could be released on bail, leading to abuse and prolonged detention even after bail has been granted.

20 This has unwittingly given the impression that justice is not served in such circumstances but that the judex has rather chosen to enable the unjust incarceration of a citizen to say that which made somebody

unhappy or uncomfortable. It is well known that the essence of bail is to ensure that a defendant attends court to answer charges that may have been brought against him/her. It is therefore worrisome why a court would refuse bail for a person charged with an offence that does not carry more than three years imprisonment upon conviction. Judges and magistrates who deny bail to defendants in such circumstances must know that the judiciary should not be seen under any circumstances to side with those who wish to silence criticism, dissent and refuse to be held accountable.

21 I need not remind us that when the government of Jim Nwobodo charged Chief Arthur Nwankwo, a publisher, with sedition for writing a book in 1982 titled: "How Jim Nwobodo Rules Anambra State"(a book that seriously attacked Chief Nwobodo, then Governor of Old Anambra State, accusing him of corruption and tyranny), the Court of Appeal in quashing his conviction by the High Court of Anambra State held that Sedition law – Sections 50 and 51 of the Criminal Code is inconsistent with Section 36 of the 1979 Constitution which guarantees freedom of expression of the 1979 Constitution (the current section 38 of the 1999 Constitution) and therefore void, and the conviction of Nwankwo overturned and therefore void and the conviction of Nwankwo overturned.

22 In the judgment reported as Arthur Nwankwo v The State (1985)6NCLR 228), **Olatawura JCA** stated: "It is my view that the law of Sedition which has derogated from the freedom of speech guaranteed under this Constitution is inconsistent with the 1979 Constitution, more so when this cannot lead to a public disorder as envisaged under Section 41(a) of the 1979 Constitution. We are no longer the illiterates or the mob society our colonial masters had in mind when the law was promulgated. The safeguard provided under Section 50(2) is inadequate more so where the truth of what is published is no defence. To retain Section 51 of the Criminal Code in its present form, that is even if not inconsistent with the freedom of expression guaranteed by our Constitution, will be a deadly weapon and to be used at will by a corrupt government or tyrant … Let us not diminish from the freedom gained from our colonial masters by resorting to laws enacted by them to suit their purpose. The decision of the founding fathers of this present Constitution which guarantees freedom of speech must include freedom to criticize should

be praised and any attempt to derogate from it except as provided by the Constitution must be resisted. Those in public office should not be intolerant of criticism. Where a writer exceeds the bounds, there should be a resort to the law of libel where the plaintiff must be of necessity put his character and reputation in issue. Criticism is indispensable in a free society".

23 We therefore use this opportunity to call on the Chief Judges of the Federal High Court and the High Courts of the State and of the Federal Capital Territory, Abuja to exercise the powers given to them by Section 187 of the Administration of Criminal Justice Act and the respective States equivalent, by making regulations for the registration and licensing of corporate bodies or persons to act as bondspersons within the jurisdiction of the court in which they are registered. We must make a commitment to ensure that the bail process is made in such a way that it ensures that a defendant appears in court to face trial and same is not abused.

24 We will not fail to use this opportunity to call attention and deprecate the distasteful circumstances surrounding the hearing of the appeal filed by our colleague, Bright Ngene against his conviction by a magistrate court in Enugu State. The prolonged delay in determining the appealgives an impression of a deliberate effort to ensure that his appeal is never heard. It is disturbing that the matter, which had reached judgment stage, was truncated on the very day judgment was to be delivered because the presiding judge recused himself suo motu. Owing to public outcry the appeal was assigned to a new judge who rescheduled it for hearing on 23rd September 2025. This offered a glimmer of hope. Unfortunately, as usual, the new judge like the previous ones equally dashed all hopes that the appeal would be heard and determined on its merit, as the judge, Honourable Justice Oluedo, equally recused herself from the matter creating another hurdle in a case that has already suffered undue stagnation.

25 it is beginning to look as if there is a concerted effort to ensure that the appeal is never heard so that Bright Ngene would serve the full term imposed om him by the Court. If this is indeed true, then this is not the face of justice we want to present to the world. We wonder if the Judiciary in Enugu State has become weak or unwilling to live up to the judicial oath to do justice to all men without affection or ill-will. For how

long shall we allow t The cumulative effect is a violation of Mr. Ngene's right to a fair and timely trial. This, to say the least is a painful reflection of systemic delay that risks decreasing public confidence in our justice delivery institutions. It is convenient point to remind them of I will like to quote Lord Atkins' dissenting judgment in **Liversidge v Anderson** [1941] UKHL 1; "In England, amidst the clash of arms, the laws are not silent. They may be changed, but they speak the same language in war as in peace. It has always been one of the pillars of freedom, one of the principles of liberty for which on recent authority we are now fighting, that the judges are no respecters of persons, and stand between the subject and any attempted encroachments on his liberty by the executive, alert to see that any coercive action is justified in law". The continued detention without any judge accepting to hear Bright Ngene's appeal strikes at the heart of our collective sense of justice as a profession. Bright Ngene deserves justice an d the wilful refusal of the judges of the Enugu State High Court to hear his case strikes at the heart of justice and portrays in a terrible light. According to an African proverb 'If the crocodile eats its own eggs, what then will it do to the flesh of the frog.

26 My Lords, may I respectfully crave the Court's indulgence to address matters that have weighed heavily on the public conscience of our nation. Sometime ago there was outrage over the arraignment of seventy-six (76) protesters, including thirty-two (32) minors, who were charged with serious crimes like treason and incitement to mutiny. Arrested during August's #EndBadGovernance protests, the young defendants – evidently weak, unkempt, and malnourished– were presented in court after nearly three months of detention. The case brought to the fore the treatment and application of laws to minors in conflict. It also highlighted the absence of detention facilities or borstal homes for the detention of minors as well as highlight a failure to seek alternatives to remand for children or minors in conflict with the law. The case calls to mind the role of the judiciary in ensuring that where the prosecution insists on doing the wrong thing, the court would come to the aid of such ones. Our courts are urged to develop best practices to ensure that children are neither charged along with adults nor sent to adult detention facilities. The courts should also activate the provisions

of the law about how to determine the age of such children where there is no doubt about same.

27 The issue of digitizing our courts remains pressing. The Supreme Court Rules, 2024, provided a foundation for electronic filing, but the system is yet to achieve full operationalization across our superior courts. Our courts still struggle with manual processes that encourage delays and inefficiency. In 2025, this should no longer be acceptable. Many jurisdictions have shown that technology can drastically improve efficiency, transparency, and public trust. Nigeria must not lag behind. The NBA therefore renews its call for: adoption of electronic filing and service of processes; Digital recording of court proceedings in all superior courts of record; Efficient case management systems with strict scheduling and time slots; Integration of Legal Mail as the exclusive medium for court–lawyer communication.

28 No judiciary can command respect if questions persist about the discipline and integrity of its officers. The National Judicial Council (NJC) must be unwavering in upholding ethical standards, while at the same time protecting judicial independence from political interference. As Mohammed Lawal Uwais GCON, CJN (of blessed memory) once said, "for a judiciary to function effectively, it must have the trust and confidence of the people." This trust will be strengthened only when judges are seen to be above reproach, and when disciplinary processes are swift, fair, and transparent.

29 We must, therefore, renew our focus on access to justice for indigent citizens, speedy trial of cases, and regular inspection of detention facilities to curb unlawful incarceration. The judiciary is not an ivory tower immune from the gaze of the people; it is an institution that must constantly earn public trust through fairness, timeliness, and transparency. Many magistrate and high courts operate with derisory infrastructure, from poor electricity supply to a lack of recording equipment, making effective case management difficult. The viral video of the leaking roof of a magistrate court in Anambra state highlights the neglect into which the inferior courts have fallen into. We therefore use this opportunity to call on the persons responsible to make intentional efforts to improve the infrastructure of magistrates and judges of lower courts.

30 To our colleagues newly conferred with the rank of Senior Advocate of Nigeria and members of the inner bar, congratulations. Your elevation is the product of excellence, hard work, and integrity. The rank is not an ornament; it is a call to higher duty. You are now among the torchbearers of the profession, mentors, leaders, and custodians of justice. Younger lawyers look up to you not only for technical brilliance but also for ethical guidance. As you don the silk, may you remember always that privilege comes with responsibilities. We urge you to adhere to high standards required by our Rules of Professional Conduct. We will not hesitate to investigate and initiate disciplinary action against any legal practitioner if a prima facie case is made against him/her. We are currently investigating allegations against our colleagues whom it was found by Judge Ewan Paton, of the First-Tier Tribunal Property Chamber Land Registration in the United Kingdom to have contrived evidence in order to secure the registration of a property in his favour. We have in particular written a letter requesting explanation of the role played in the proceedings.

31 The NBA also reiterates its call for a review of the Guidelines for Conferment of the SAN rank to broaden inclusivity, particularly for academics and law teachers. We also call for the removal in the guideline, the requirement that a person facing disciplinary action or a pending criminal case should not apply for the rank until the determination of the case as this negates the constitutional presumption of innocence and indirectly imposes punishment on the person who may otherwise be innocent. Not to be forgotten is the fact that the provision can be abused to ensure that a person does not apply or even get the rank. We believe that since there is a procedure for withdrawal of the rank from erring SANs, the above requirement becomes otiose.

32 As we commence this new legal year, let us recall the words of Justice Taslim Elias: “Justice is the greatest concern of man on earth.” Our collective duty, Bench and Bar alike, is to ensure that justice is not a distant ideal but a daily reality for all Nigerians. The NBA pledges its continued partnership with the judiciary to pursue reforms, advance digital transformation, enhance access to justice, and strengthen discipline within the profession.

33 May this new legal year mark a turning point in our collective resolve to restore public confidence in the judiciary and to build a justice system worthy of our democracy.

God bless the Supreme Court of Nigeria!
God bless the Judiciary!
God bless the Nigerian Bar Association!
God bless the Federal Republic of Nigeria!

Mazi Afam Osigwe, SAN
President, Nigerian Bar Association
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