

FOR SERVICE ON:

1. THE 1ST DEFENDANT

INCORPORATED TRUSTEES OF THE NIGERIAN BAR ASSOCIATION

NBA House, Plot 1101

Mohammadu Buhari Way,

Central Business District,

Abuja, FCT

2. THE 2ND DEFENDANT

GENERAL COUNCIL OF THE BAR (BAR COUNCIL)

NBA House, Plot 1101

Mohammadu Buhari Way,

Central Business District,

Abuja, FCT

3. THE 3RD DEFENDANT

THE CHIEF JUSTICE OF NIGERIA

Supreme Court of Nigeria,

Three Arms Zone,

Abuja, FCT

4. THE 4TH DEFENDANT

CHIEF REGISTRAR OF THE SUPREME COURT OF NIGERIA

Supreme Court of Nigeria,

Three Arms Zone,

Abuja, FCT

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**IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**

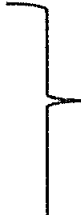
SUIT NO:

BETWEEN:

UBONG ESOP AKPAN

(Legal Practitioner, 12 Yalinga Street, **PLAINTIFF**
Off Adetokunbo Ademola Way,
Wuse 2, Abuja, FCT, Nigeria)

AND

- | | | |
|---|---|-------------------|
| <ul style="list-style-type: none">1. INCORPORATED TRUSTEES OF THE NIGERIAN BAR ASSOCIATION2. GENERAL COUNCIL OF THE BAR (BAR COUNCIL)3. THE CHIEF JUSTICE OF NIGERIA4. CHIEF REGISTRAR OF THE SUPREME COURT OF NIGERIA |  | DEFENDANTS |
|---|---|-------------------|

ORIGINATING SUMMONS

BROUGHT PURSUANT TO SECTIONS 2(1) AND 8 OF THE LEGAL PRACTITIONERS ACT, CAP L11, LFN 2004, SECTIONS 6(6)(B), 17(2)(E) AND 36(6)(C) OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999 (AS AMENDED), ORDER 3 RULE 9 OF THE FEDERAL HIGH COURT (CIVIL PROCEDURE) RULES, 2019, AND UNDER THE INHERENT JURISDICTION OF THIS COURT

Let the Defendants, the Incorporated Trustees of the Nigerian Bar Association (incorporated on April 8, 1983, under the Land (Perpetual Succession) Ordinance 1924, now governed by the Companies and Allied Matters Act (CAMA) 2020), General Council of the Bar (Bar Council), The Chief Justice of Nigeria, and Chief Registrar of the Supreme Court of Nigeria, within thirty days after service of this summons on them, inclusive of the day of such service, cause an appearance to be entered for them and file any other process in response to this Originating Summons, which is issued upon the application of Ubong Esop Akpan, a legal practitioner of 12 Yalinga Street, Off Adetokunbo Ademola Way, Wuse 2, Abuja, FCT, Nigeria, for the determination of the following questions and reliefs:

QUESTIONS FOR DETERMINATION

- 1. Whether Rule 11(1) of the Rules of Professional Conduct for Legal Practitioners (RPC), 2007 (as amended), which mandates participation in the Mandatory Continuing Professional Development (CPD) Programme operated by the Incorporated Trustees of the Nigerian Bar Association as a condition for legal practice, is valid and enforceable, given

that it imposes a condition beyond the statutory requirement of enrollment on the Supreme Court roll under Section 2(1) of the Legal Practitioners Act (LPA), Cap L11, Laws of the Federation of Nigeria, 2004.

2. Whether the Nigerian Bar Association Mandatory Continuing Professional Development (MCPD) Rules, 2025, particularly Rules 3 and 23, which require lawyers to earn five (5) CPD credit hours annually and obtain an Annual Practicing Certificate issued by the Incorporated Trustees of the Nigerian Bar Association to practice, are valid and enforceable, considering:
 - 1) The failure of the General Council of the Bar to enact the said rules, as required by Section 12(4) of the LPA.
 - 2) The absence of approval by The Chief Justice of Nigeria, as mandated by Section 12(4) of the LPA.
 - 3) The conflict with Section 8 of the LPA, which vests the issuance of practicing certificates in the Chief Registrar of the Supreme Court of Nigeria, not the Incorporated Trustees of the Nigerian Bar Association.
 - 4) The conflict with Section 2(1) of the LPA, which conditions the right to practice solely on enrollment.
3. Whether a subsidiary legislation, such as the RPC and the MCPD Rules, 2025, can validly impose conditions (e.g., mandatory CPD participation) that restrict the statutory right to practice conferred by Section 2(1) of the LPA, without express authorization in the parent statute, as held in *Afolabi v. Gov. of Oyo State* (1985) 2 NWLR (Pt. 9) 734, (P. 778, para. H), *Gov., Oyo State v. Folayan* (1995) 8 NWLR (Pt. 413) 292, (P. 327, paras. C-D), and *INEC v. NNPP* (2023) LPELR-60154(SC) (Pp 25 - 26 Paras E - C).
4. Whether the imposition of CPD requirements and the requirement for an Annual Practicing Certificate issued by the Incorporated Trustees of the Nigerian Bar Association, as stipulated in Rule 23 of the MCPD Rules, 2025, infringe on the Plaintiff's constitutional rights under Sections 17(2)(e) and 36(6)(c) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), to access courts and practice as a legal practitioner.
5. Whether the declaration of non-compliance with CPD requirements as professional misconduct under Rule 23(8) of the MCPD Rules, 2025, is ultra vires, given that disciplinary powers are vested in the Legal Practitioners Disciplinary Committee under Section 10 of the LPA.

RELIEFS SOUGHT

The Plaintiff seeks the following reliefs:

1. **A DECLARATION** that Rule 11(1) of the Rules of Professional Conduct for Legal Practitioners (RPC), 2007 (as amended), which mandates participation in the Mandatory Continuing Professional Development (CPD) Programme as a condition for legal practice, is ultra vires, null, and void for being inconsistent with Section 2(1) of the Legal Practitioners Act (LPA), 2004, which conditions the right to practice solely on enrollment on the Supreme Court roll.
2. **A DECLARATION** that the Nigerian Bar Association Mandatory Continuing Professional Development (MCPD) Rules, 2025, particularly Rules 3 and 23, are null, void, and of no legal effect due to: a. The failure of the General Council of the Bar to enact

the said rules, as required by Section 12(4) of the LPA. b. The absence of approval by The Chief Justice of Nigeria, as mandated by Section 12(4) of the LPA. c. The conflict with Section 8 of the LPA, which vests the issuance of practicing certificates in the Chief Registrar of the Supreme Court of Nigeria. d. The conflict with Section 2(1) of the LPA, which conditions the right to practice solely on enrollment.

3. **A DECLARATION** that a subsidiary legislation, such as the RPC and the MCPD Rules, 2025, cannot validly impose conditions that restrict the statutory right to practice conferred by Section 2(1) of the LPA, without express authorization in the parent statute.
4. **A DECLARATION** that the imposition of CPD requirements and the requirement for an Annual Practicing Certificate issued by the Incorporated Trustees of the Nigerian Bar Association under Rule 23 of the MCPD Rules, 2025, infringe on the Plaintiff's constitutional rights under Sections 17(2)(e) and 36(6)(c) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), to access courts and practice as a legal practitioner.
5. **A DECLARATION** that Rule 23(8) of the MCPD Rules, 2025, which deems non-compliance with CPD requirements as professional misconduct, is ultra vires and void, as disciplinary powers are vested in the Legal Practitioners Disciplinary Committee under Section 10 of the LPA.
6. **AN ORDER OF PERPETUAL INJUNCTION** restraining the Incorporated Trustees of the Nigerian Bar Association (1st Defendant) and its agents, privies, or assigns from enforcing Rule 11(1) of the RPC and the MCPD Rules, 2025, or any other rule requiring mandatory CPD participation or an Annual Practicing Certificate issued by the Incorporated Trustees of the Nigerian Bar Association as a condition for legal practice.
7. **AN ORDER** directing the Chief Registrar of the Supreme Court of Nigeria (4th Defendant) to issue the Plaintiff an Annual Practicing Certificate upon payment of the prescribed practicing fees under Section 8 of the LPA, without requiring compliance with the CPD programme or an Annual Practicing Certificate issued by the Incorporated Trustees of the Nigerian Bar Association.
8. **AN ORDER** setting aside any decision, notice, or action by the Incorporated Trustees of the Nigerian Bar Association or the General Council of the Bar refusing the Plaintiff the right to practice for non-compliance with the CPD programme.
9. **COSTS** of this action.
10. **SUCH FURTHER OR OTHER ORDERS** as this Honourable Court may deem fit to make in the circumstances.

DATED THIS 8TH DAY OF SEPTEMBER, 2025.



This summons was taken out by **IKENNA EMEAH**, of THE CHAMBERS OF UBONG AKPAN, whose address for service is, NO. 12 YALINGA STREET OFF ADETOKUNBO ADEMOLA CRESCENT WUSE 2, ABUJA, legal practitioner for the plaintiff whose address is same as indicated herein. The defendant may appear hereunto by entering appearance personally or by a legal practitioner either by filing the appropriate processes

(as in Order 7) in response at the Registry of the Court where the summons was issued or by sending them to that office by any of the methods allowed by these Rules.

.....
REGISTRAR

Note:

If the Defendants do not respond within time at the time and place above mentioned or at the time mentioned in the endorsement, such order will be made and proceedings taken as the judge may think just and expedient.



UBONG ESOP AKPAN
USENOBONG AKPABIO

✓ EMEH IKENNA

BLESSING ELENG

OLAWALE AMINU-SARUMI

THE CHAMBERS OF UBONG AKPAN

COUNSEL TO THE PLAINTIFF

NO. 12 YALINGA STREET

OFF ADETOKUNBO ADEMOLA CRESCENT

WUSE 2, ABUJA

08033267760

secretariat@chambersakpan.com

secretariat@chambersakpan.law

ubongesopakpan@nigerianbar.ng



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IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

SUIT NO:

BETWEEN:

UBONG ESOP AKPAN

(Legal Practitioner, 12 Yalinga Street, PLAINTIFF
Off Adetokunbo Ademola Way,
Wuse 2, Abuja, FCT, Nigeria)

AND

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|---|---|------------|
| 1. INCORPORATED TRUSTEES OF THE NIGERIAN BAR ASSOCIATION | } | DEFENDANTS |
| 2. GENERAL COUNCIL OF THE BAR (BAR COUNCIL) | | |
| 3. THE CHIEF JUSTICE OF NIGERIA | | |
| 4. CHIEF REGISTRAR OF THE SUPREME COURT OF NIGERIA | | |

AFFIDAVIT IN SUPPORT OF ORIGINATING SUMMONS

I, Ubong Esop Akpan, a legal practitioner, male, adult, Christian, and Nigerian citizen of 12 Yalinga Street, Off Adetokunbo Ademola Way, Wuse 2, Abuja, FCT, Nigeria, do hereby make oath and state as follows:

1. That I am the Plaintiff in this suit and, by virtue of my position, conversant with the facts deposed herein.
2. That I am a legal practitioner duly called to the Nigerian Bar in 1989 with call number: SCN012906 and enrolled on the roll of legal practitioners maintained by the Supreme Court of Nigeria, as required by Section 2(1) of the Legal Practitioners Act (LPA), Cap L11, Laws of the Federation of Nigeria, 2004. A copy of my Call to Bar Certificate is attached as **Exhibit "A"**.
3. That I have paid all prescribed practicing fees to the Chief Registrar of the Supreme Court of Nigeria, as required by Section 8 of the LPA, for the year 2025, and I am entitled to practice as a barrister and solicitor in Nigeria. Receipt of payment of practicing fees for 2025 is attached as **Exhibit "B"**.
4. That the 1st Defendant, the Incorporated Trustees of the Nigerian Bar Association, incorporated on April 8, 1983, under the Land (Perpetual Succession) Ordinance 1924, now governed by the Companies and Allied Matters Act (CAMA) 2020, has juristic personality, perpetual succession, the ability to hold property, and the capacity to sue and be sued in its corporate name. A copy of the certificate of Incorporation of the Incorporated Trustees of the Nigerian Bar Association dated April 8, 1983 is attached as **Exhibit "C"**. Although not

established by a specific statute, the NBA's roles and powers are recognized by various legislative instruments and judicial decisions, including the LPA, which indirectly governs its activities through the General Council of the Bar established under Section 1 of the LPA. A copy of the Legal Practitioners Act, Cap L11, Laws of the Federation of Nigeria, 2004 is attached as **Exhibit "D"**.

5. That the General Council of the Bar (2nd Defendant), established under Section 1 of the LPA, is charged with functions outlined in the LPA and the NBA Constitution, and collaborates with the NBA to regulate legal practice.
6. That the 1st Defendant has imposed a requirement under Rule 11(1) of the Rules of Professional Conduct for Legal Practitioners (RPC), 2007 (as amended), and the Nigerian Bar Association Mandatory Continuing Professional Development (MCPD) Rules, 2025, that I must participate in a Mandatory Continuing Professional Development (CPD) Programme and obtain an Annual Practicing Certificate issued by the 1st Defendant to continue practicing law. Copies of the Rules of Professional Conduct for Legal Practitioners, 2007 (as amended) and Nigerian Bar Association Mandatory Continuing Professional Development (MCPD) Rules, 2025 are attached as **Exhibits "E" & "F"** respectively.
7. That the said CPD requirement mandates that I earn a minimum of five (5) CPD credit hours annually, as stipulated in Rule 3 of the MCPD Rules, 2025, and that failure to comply prevents me from obtaining an Annual Practicing Certificate, as provided in Rule 23 of the MCPD Rules, 2025, which states, "A legal practitioner, unless he holds an Annual Practicing Certificate issued by the NBA under this rule, shall not... conduct or take part in any proceedings in the court, judicial tribunal, or panel of inquiry." A printout of the NBA-ICLE CPD/CLE Points Allocation Guide (NBA-ICLE CPD/CLE Points Allocation Guide) is attached as **Exhibit "G"**.
8. That I was informed by my Counsel, Ikenna Emeh, in Chambers at No.12 Yalinga Street, off Adetokunbo Ademola Crescent at 1:00pm on 4th September, 2025 and I verily believe him that the said CPD requirement and the requirement for an Annual Practicing Certificate issued by the 1st Defendant are unlawful and ultra vires for the following reasons:
 - 1) The General Council of the Bar (2nd Defendant) did not enact the MCPD Rules, 2025, or the relevant provisions of the RPC, as required by Section 12(4) of the LPA, which states, "The General Council of the Bar may, with the approval of The Chief Justice of Nigeria, make rules for the purpose of regulating the professional conduct of legal practitioners."
 - 2) The 3rd Defendant, The Chief Justice of Nigeria, did not approve the MCPD Rules, 2025, or the relevant provisions of the RPC, as mandated by Section 12(4) of the LPA.
 - 3) The imposition of CPD as a condition for practice conflicts with Section 2(1) of the LPA, which states, "Subject to the provisions of this Act, a person shall be entitled to practise as a barrister and solicitor if, and only if, his name is on the roll."
 - 4) The requirement for an Annual Practicing Certificate issued by the 1st Defendant under Rule 23 of the MCPD Rules, 2025, conflicts with Section 8 of the LPA, which vests the issuance of practicing certificates in the 4th Defendant, the Chief Registrar of the

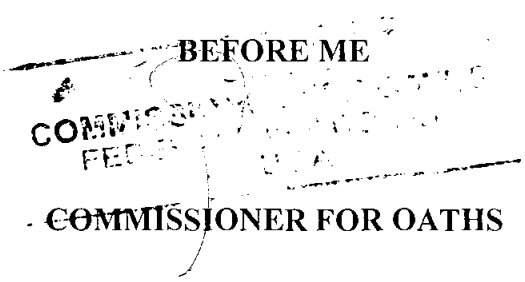
Supreme Court of Nigeria, with specific fees such as N200 for Senior Advocates, N100 for 15+ years standing, N75 for 10-15 years, N40 for 5-10 years, and N20 for less than 5 years.

- 5) The declaration of non-compliance with CPD as professional misconduct under Rule 23(8) of the MCPD Rules, 2025, is ultra vires, as disciplinary powers are vested in the Legal Practitioners Disciplinary Committee under Section 10 of the LPA.
 - 6) The 1999 Constitution, under Section 36(6)(c), guarantees the right to be defended by a legal practitioner, implying that lawyers should have reasonable access to practice. Imposing CPD as a condition could be challenged as an undue restriction, particularly if it lacks proper statutory backing.
 - 7) The CPD requirement infringes on my constitutional rights under Sections 17(2)(e) and 36(6)(c) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), to access courts and practice as a legal practitioner. A copy of the specific quoted sections of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) is attached as **Exhibit "H"**.
 - 8) A subsidiary legislation such as the RPC and the MCPD Rules, 2025, cannot impose conditions that restrict the statutory right to practice conferred by Section 2(1) of the LPA.
9. That I am aggrieved by the 1st Defendant's enforcement of the CPD requirement and the threat to withhold my right to practice for non-compliance, which has caused me significant hardship and threatens my livelihood.
 10. That I seek the reliefs set out in this Originating Summons to protect my statutory and constitutional rights and to prevent further enforcement of the invalid rules.
 11. That I make this affidavit in good faith, conscientiously believing the same to be true and correct, in accordance with the Oaths Act, Cap O1, Laws of the Federation of Nigeria, 2004.


DEPONENT

SWORN TO AT THE REGISTRY OF THE FEDERAL HIGH COURT, ABUJA

THIS DAY OF SEPTEMBER, 2025.


BEFORE ME
COMMISSIONER FOR OATHS
FEDERAL HIGH COURT
ABUJA

**IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**

SUIT NO:

BETWEEN:

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|---|---|-------------------|

LIST OF EXHIBITS

| S/N | DESCRIPTION | EXHIBIT |
|-----|--|---------|
| 1 | Copy of the Plaintiff's Call to Bar Certificate. | A |
| 2 | Receipt of payment of practicing fees for 2025 | B |
| 3 | Certificate of Incorporation of the Incorporated Trustees of the Nigerian Bar Association dated April 8, 1983. | C |
| 4 | Copy of the Legal Practitioners Act, Cap L11, Laws of the Federation of Nigeria, 2004. | D |
| 5 | Copy of the Rules of Professional Conduct for Legal Practitioners, 2007 (as amended). | E |
| 6 | Copy of the Nigerian Bar Association Mandatory Continuing Professional Development (MCPD) Rules, 2025. | F |
| 7 | Printout of the NBA-ICLE CPD/CLE Points Allocation Guide (NBA-ICLE CPD/CLE Points Allocation Guide). | G |
| 8 | Specific quoted Sections of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). | H |

DATED THIS 8TH DAY OF SEPTEMBER, 2025.



UBONG ESOP AKPAN
USENOBONG AKPABIO
✓ **EMEHIKENNA**

BLESSING ELENG
OLAWALE AMINU-SARUMI
THE CHAMBERS OF UBONG AKPAN
COUNSEL TO THE PLAINTIFF
NO. 12 YALINGA STREET
OFF ADETOKUNBO ADEMOLA CRESCENT
WUSE 2, ABUJA
08033267760
secretariat@chambersakpan.com
secretariat@chambersakpan.law
ubongesopakpan@nigerianbar.ng

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THE CHIEF JUSTICE OF NIGERIA
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|---|---|-------------------|

WRITTEN ADDRESS IN SUPPORT OF ORIGINATING SUMMONS

1. INTRODUCTION

This Originating Summons is brought by the Plaintiff, Ubong Esop Akpan, a legal practitioner duly enrolled on the Supreme Court roll with call number: SCN012906, seeking declarations and orders to invalidate Rule 11(1) of the Rules of Professional Conduct for Legal Practitioners (RPC), 2023 (as amended), and the Nigerian Bar Association Mandatory Continuing Professional Development (MCPD) Rules, 2025, on the grounds of non-compliance with the Legal Practitioners Act (LPA), Cap L11, Laws of the Federation of Nigeria, 2004, ultra vires imposition of conditions on a statutory right, and infringement of constitutional rights.

2. STATEMENT OF FACTS

- 2.1 The Plaintiff is a legal practitioner entitled to practice under Section 2(1) of the LPA, having paid the prescribed practicing fees under Section 8 for the year 2025. The 1st Defendant, the Incorporated Trustees of the Nigerian Bar Association, incorporated on April 8, 1983, under the Land (Perpetual Succession) Ordinance 1924, now governed by the Companies and Allied Matters Act (CAMA) 2020, has juristic personality, perpetual succession, the ability to hold property, and the capacity to sue and be sued in its corporate name. Although not established by a specific statute, the NBA's roles and powers are recognized by various legislative instruments and judicial decisions, including the LPA, which indirectly governs its activities through the General Council of the Bar established under Section 1 of the LPA.

2.2 The General Council of the Bar (2nd Defendant), established under Section 1 of the LPA, is charged with functions outlined in the LPA and the NBA Constitution, and collaborates with the NBA to regulate legal practice. The 1st Defendant has imposed a Mandatory Continuing Professional Development (CPD) requirement under Rule 11(1) of the RPC and the MCPD Rules, 2025, conditioning the Plaintiff's right to practice on earning five (5) CPD credit hours annually and obtaining an Annual Practicing Certificate issued by the 1st Defendant, as stipulated in Rules 3 and 23 of the MCPD Rules, 2025.

2.3 The Plaintiff contends that these requirements are invalid due to:

- 1) The failure of the 2nd Defendant (General Council of the Bar) to enact the MCPD Rules, 2025, as required by Section 12(4) of the LPA.
- 2) The absence of approval by the 3rd Defendant (The Chief Justice of Nigeria), as mandated by Section 12(4) of the LPA.
- 3) The conflict with Section 2(1) of the LPA, which conditions the right to practice solely on enrollment.
- 4) The conflict with Section 8 of the LPA, which vests the issuance of practicing certificates in the 4th Defendant (Chief Registrar of the Supreme Court of Nigeria).
- 5) The ultra vires declaration of non-compliance with CPD as professional misconduct under Rule 23(8) of the MCPD Rules, 2025, as disciplinary powers are vested in the Legal Practitioners Disciplinary Committee under Section 10 of the LPA.
- 6) The infringement of the Plaintiff's constitutional rights under Sections 17(2)(e) and 36(6)(c) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

3. ISSUES FOR DETERMINATION

The issues for determination are as set out in the Originating Summons, summarized as:

- 1) Whether Rule 11(1) of the RPC and the MCPD Rules, 2025, are valid given the procedural and substantive defects under the LPA.
- 2) Whether a subsidiary legislation can impose conditions restricting the statutory right to practice under Section 2(1) of the LPA.
- 3) Whether the CPD requirement and the Annual Practicing Certificate issued by the 1st Defendant infringe on the Plaintiff's constitutional rights.
- 4) Whether the declaration of non-compliance with CPD as professional misconduct is ultra vires.

4. LEGAL ARGUMENTS

4.1 Issue 1: Legal Framework Governing the Incorporated Trustees of the Nigerian Bar Association

- 1) The 1st Defendant, the Incorporated Trustees of the Nigerian Bar Association, was incorporated on April 8, 1983, under the Land (Perpetual Succession) Ordinance 1924, now governed by the Companies and Allied Matters Act (CAMA) 2020. This registration grants the NBA juristic personality, perpetual succession, the ability to hold property, and the capacity to sue and be sued in its corporate name. Although not established by a specific statute, the NBA's roles and powers are recognized by various legislative instruments and judicial decisions, primarily through the Legal Practitioners

Act (LPA), Cap L11, Laws of the Federation of Nigeria, 2004, which indirectly governs its activities via the General Council of the Bar.

- 2) The LPA is the principal legislation regulating the legal profession in Nigeria. Section 1 of the LPA establishes the General Council of the Bar (2nd Defendant), which is charged with functions outlined in the LPA and the NBA Constitution. The Bar Council has powers under the LPA, the NBA Constitution, and those delegated by the Rules of Professional Conduct (RPC). The NBA collaborates with the Bar Council to regulate legal practice, but its authority to impose conditions such as the CPD requirement must comply with the LPA's procedural and substantive requirements.

4.2 Issue 2: Compliance with the Legal Practitioners Act (LPA), 2004

The LPA, 2004, governs the legal profession in Nigeria, and the circumstances outlined raise specific compliance issues, which render the RPC's CPD provisions and the MCPD Rules, 2025, invalid.

1) Non-Enactment of MCPD Rules by the General Council of the Bar

- a) **LPA Provision:** Section 12(4) of the LPA states, "The General Council of the Bar may, with the approval of The Chief Justice of Nigeria, make rules for the purpose of regulating the professional conduct of legal practitioners" (Legal Practitioners Act).
- b) **Issue:** The Plaintiff submits that the General Council of the Bar (2nd Defendant) did not enact the MCPD Rules, 2025, or the relevant provisions of the RPC, as required by Section 12(4). The Bar Council, established under Section 1 of the LPA, is the body responsible for creating rules governing professional conduct, including CPD programs. Without its involvement, any rules purportedly made by the 1st Defendant alone are procedurally defective.
- c) **Legal Implication:** The absence of Bar Council enactment violates the LPA's procedural requirement, rendering the MCPD Rules ultra vires. In *Ewete v. Gyang* (1997) 3 NWLR (Pt. 496) 728, (P. 735, paras. B-C), the Court struck down a regulation for its inconsistency with the parent statute's procedural mandates, holding that a subordinate legislation is, prima facie, ultra vires if it is inconsistent with the Substantive provisions of the statute by which the enabling power is conferred or of any other statute.
- d) **Conclusion:** The non-enactment by the Bar Council invalidates the MCPD Rules, 2025, and Rule 11(1) of the RPC, as they do not comply with Section 12(4) of the LPA.

2) Lack of Approval by The Chief Justice of Nigeria

- a) **LPA Provision:** Section 12(4) explicitly requires approval by The Chief Justice of Nigeria for rules made by the Bar Council, stating, "with the approval of The Chief Justice of Nigeria."
- b) **Issue:** The Plaintiff submits that the 3rd Defendant did not approve the MCPD Rules, 2025, or the relevant provisions of the RPC, as mandated by Section 12(4).

The CJN's approval ensures oversight and alignment with the public interest and judicial standards.

- c) **Legal Implication:** Without CJN approval, the MCPD Rules and Rule 11(1) of the RPC are legally defective. In *AG Federation v. AG Lagos State* (2013) 16 NWLR (Pt. 1380) 249, the Supreme Court emphasized that subsidiary legislation must adhere to the procedural requirements of the parent statute, or it risks being declared null and void. The lack of CJN approval renders the MCPD Rules unenforceable.
- d) **Conclusion:** The absence of CJN approval further undermines the validity of the MCPD Rules, 2025, and related RPC provisions.

3) Section 2(1): Enrollment as Sole Condition for Practice

- a) **LPA Provision:** Section 2(1) states, "Subject to the provisions of this Act, a person shall be entitled to practise as a barrister and solicitor if, and only if, his name is on the roll" (Legal Practitioners Act).
- b) **Issue:** The LPA explicitly conditions the right to practice on enrollment on the Supreme Court roll, with no mention of CPD or other requirements like participation in a program operated by the 1st Defendant. Rule 11(1) of the RPC, which states, "A lawyer who wishes to carry on practice as a legal practitioner shall participate in and satisfy the requirements of the mandatory Continuing Professional Development (CPD) programme operated by the Nigerian Bar Association," and Rule 3 of the MCPD Rules, 2025, which requires five (5) CPD credit hours annually, impose conditions not contemplated by the LPA.
- c) **Legal Implication:** A subsidiary legislation cannot impose conditions that conflict with or exceed the parent statute's provisions. In *INEC v. NNPP* (2023) LPELR-60154(SC) Per HELEN MORONKEJI OGUNWUMIJU, JSC (Pp 25 - 26 Paras E - C)., the Supreme Court held that there is no doubt that where there is conflict between the provision of a substantive legislation and a subordinate legislation, the provision of the substantive legislation supersedes. Similarly, in *Afolabi v. Gov. of Oyo State* (1985) 2 NWLR (Pt. 9) 734, (P. 778, para. H), the Supreme Court held that A subsidiary instrument cannot be construed in such a way as to be inconsistent with the enabling law. The CPD requirement restricts the statutory right to practice based solely on enrollment, rendering it ultra vires.
- d) **Conclusion:** The CPD requirement violates Section 2(1) of the LPA, making Rule 11(1) of the RPC and Rule 3 of the MCPD Rules legally invalid.

4) Section 8: Practicing Fees Managed by the Chief Registrar

- a) **LPA Provision:** Section 8(2) states that practicing fees are to be paid to the Chief Registrar of the Supreme Court of Nigeria, with specific amounts outlined (e.g., N200 for Senior Advocates, N100 for 15+ years standing, N75 for 10-15 years, N40 for 5-10 years, and N20 for less than 5 years), and the Chief Registrar issues practicing certificates (Legal Practitioners Act).
- b) **Issue:** Rule 23 of the MCPD Rules, 2025, states, "A legal practitioner, unless he holds an Annual Practicing Certificate issued by the NBA under this rule, shall not... conduct or take part in any proceedings in the court, judicial tribunal, or panel

of inquiry.” This conflicts with Section 8, which assigns the issuance of practicing certificates to the Chief Registrar, not the 1st Defendant, and does not link certification to CPD compliance.

- c) **Legal Implication:** The 1st Defendant’s claim to issue practicing certificates tied to CPD compliance usurps the Chief Registrar’s statutory role. In *Nze v. N.P.A.*(1997) 11 NWLR (Pt. 528) 210, the Court held that a body cannot exercise powers not expressly granted by statute, see also *ADC & ORS v. INEC* (2022) LPELR-59395(CA) where the Court of Appeal held Per HAMMA AKAWU BARKA, JCA (Pp 16 - 17 Paras F - A), that it is a legal principle long established that where the exercise of power is statutory, such power can only be exercised within the confines of the statute. See also *Danladi vs. Dangiri* (2014) LPELR - 24020 (SC). The LPA does not grant the 1st Defendant authority to issue practicing certificates or condition them on CPD, making Rule 23 invalid.
- d) **Conclusion:** The 1st Defendant’s imposition of CPD as a condition for issuing practicing certificates violates Section 8 of the LPA.

4.3 Issue 3: Can Subsidiary Legislation (RPC) Impose Conditions on a Statutory Right?

- 1) **Legal Principle:** Subsidiary legislation, such as the RPC, derives its authority from the parent statute (LPA). It cannot impose conditions that contradict or exceed the scope of the enabling statute. In *Din v. AG Federation* (1988) 4 NWLR (Pt. 87) 147, (Page 187 para H), the Supreme Court held that subsidiary legislation must be consistent with the parent statute and cannot restrict rights granted therein unless explicitly authorized. Also in *FAMFA OIL LTD v. AG FEDERATION & ANOR* (2007) LPELR-9023(CA), the court of Appeal per, UMARU ABDULLAHI, JCA held at Pp 29 - 29 Paras E – F, that "It is the law that subsidiary legislations must conform with the principal law which provided the source of their existence." Subsidiary legislation cannot impose burdens beyond those authorized by the parent statute.
- 2) **Application to Rule 11(1) of the RPC:** Rule 11(1) imposes CPD as a condition for practice, which is not mentioned in Section 2(1) of the LPA, the primary provision governing the right to practice. Section 12(4) of the LPA authorizes the Bar Council to make rules for professional conduct, but it does not explicitly permit adding conditions to the statutory right to practice. The imposition of CPD as a prerequisite for practice exceeds the scope of “professional conduct” and infringes on the right to practice conferred by Section 2(1).
- 3) **Legal Implication:** If Rule 11(1) adds a condition not contemplated by the LPA, it is ultra vires. The CPD requirement, by restricting practice rights, is invalid unless justified as a reasonable regulation within the LPA’s framework.
- 4) **Constitutional Consideration:** The 1999 Constitution, under Section 36(6)(c), guarantees the right to be defended by a legal practitioner, implying that lawyers should have reasonable access to practice. Imposing CPD as a condition could be challenged as an undue restriction, particularly if it lacks proper statutory backing.
- 5) **Conclusion:** Rule 11(1) of the RPC, as a subsidiary legislation, cannot validly impose CPD as a condition for practice unless clearly authorized by the LPA and compliant with its procedural requirements. In the circumstances described, it is invalid.

4.4 Issue 4: Validity of NBA MCPD Rules, 2025

- 1) The NBA MCPD Rules, 2025, adopted on February 6, 2025, detail the CPD requirement's implementation. Key provisions include:
 - a) Rule 3: "A lawyer shall be certified as having satisfied the requirement of the CPD Programme if, and only if, during the relevant year he earns five (5) credit hours of participation in the Programme required under or pursuant to these rules."
 - b) Rule 23: "A legal practitioner, unless he holds an Annual Practicing Certificate issued by the NBA under this rule, shall not... conduct or take part in any proceedings in the court, judicial tribunal, or panel of inquiry."
- 2) **Legal Basis and Validity:** The MCPD Rules claim to derive authority from Rule 16 of the RPC, 2023, which presumably mandates the 1st Defendant to regulate CPD programs. However, if Rule 11(1) of the RPC is invalid due to non-compliance with the LPA (i.e., lack of Bar Council enactment or CJN approval), the MCPD Rules, as a derivative instrument, are also invalid. Furthermore, Rule 23's assertion that the 1st Defendant issues practicing certificates conflicts with Section 8 of the LPA, which assigns this role to the Chief Registrar. The enforcement mechanism deeming non-compliance as professional misconduct (Rule 23(8)) exceeds the 1st Defendant's authority, as disciplinary powers are vested in the Legal Practitioners Disciplinary Committee under Section 10 of the LPA. In *ICPC v. ADEPOJU & ANOR* (2025) LPELR-80297(CA) (Pp 45 - 46 Paras F - F), the Court of Appeal held it is trite law that a statutory disciplinary power cannot be delegated unless there is an express statutory authority in the enabling to delegate.
- 3) **Legal Implications:**
 - a) Ultra Vires Doctrine: The MCPD Rules are ultra vires if they impose conditions not authorized by the LPA or were not enacted by the Bar Council with CJN approval.
 - b) Conflict with Section 2(1): By requiring CPD compliance for practice, the MCPD Rules add a condition beyond enrollment, violating Section 2(1).
 - c) Constitutional Concerns: The restriction on practice without an Annual Practicing Certificate issued by the 1st Defendant infringes on constitutional rights under Sections 17(2)(e) and 36(6)(c), particularly if the rules lack statutory backing.
- 4) **Conclusion:** The MCPD Rules, 2025, are invalid due to lack of Bar Council enactment, absence of CJN approval, conflict with Sections 2(1) and 8 of the LPA, and unauthorized declaration of professional misconduct.

4.5 Issue 5: Infringement of Constitutional Rights

The imposition of CPD requirements and the requirement for an Annual Practicing Certificate issued by the 1st Defendant under Rule 23 of the MCPD Rules, 2025, infringe on the Plaintiff's constitutional rights under Sections 17(2)(e) and 36(6)(c) of the 1999 Constitution, which guarantee access to courts and the right to legal representation. In *A.C.B. v. Losada (Nig.) Ltd.* (1995) 7 NWLR (Pt. 405) 26, the Supreme Court held that statutory provisions cannot render constitutional rights nugatory. The CPD requirement imposes an undue restriction on the Plaintiff's right to practice, particularly in the absence of proper statutory backing.

4.6 Issue 6: Statutory Foundation for the NBA's Regulatory Role

- 1) The legal basis for CPD lies in Rule 11 of the RPC, authorized by Section 12(4) of the LPA. However, the failure to involve the Bar Council and obtain CJN approval invalidates the RPC's CPD provisions and the MCPD Rules. The imposition of CPD as a condition for practice exceeds the LPA's explicit conditions (enrollment and practicing fees), making it ultra vires. The 1st Defendant's regulatory role is recognized under the LPA, particularly through its collaboration with the Bar Council, but it cannot unilaterally impose conditions without statutory authorization. The conflict with Section 8 regarding practicing certificates further weakens the 1st Defendant's authority.
- 2) No court has directly ruled on the validity of the CPD requirement as of September 8, 2025. However, cases like *AG Federation v. AG Lagos State* (2013) 16 NWLR (Pt. 1380) 249 emphasize that subsidiary legislation must comply with the parent statute's procedural and substantive limits. The opinion piece by Amb. Hameed Ajibola Jimoh argues that CPD requirements infringe on constitutional rights, but this remains untested.
- 3) The 1st Defendant's active enforcement of CPD, as seen in the NBA-ICLE's CPD/CLE Points Allocation Guide (June 22, 2025) (NBA-ICLE CPD/CLE Points Allocation Guide), suggests practical implementation, but without proper statutory backing, this enforcement is legally vulnerable.

4.7 Issue 7: Broader Implications

- 1) **Constitutional Rights:** The imposition of CPD as a condition for practice restricts lawyers' constitutional rights to practice, implied from Sections 17(2)(e) and 36(6)(c). A court challenge could argue that such restrictions are unreasonable, especially without statutory authorization.
- 2) **Public Interest:** CPD is a globally accepted standard to ensure professional competence, however, its validity in Nigeria hinges on compliance with the LPA.
- 3) **Practical Considerations:** Non-compliance with CPD could lead to practical barriers, such as inability to obtain a practicing certificate, but these barriers are legally questionable if the underlying rules are invalid.

5. CONCLUSION

5.1 The Plaintiff respectfully urges this Honourable Court to grant the reliefs sought, as Rule 11(1) of the RPC and the MCPD Rules, 2025, are invalid for:

- 1) Non-compliance with Section 12(4) of the LPA (lack of Bar Council enactment and CJN approval).
- 2) Conflict with Section 2(1) of the LPA, which conditions practice solely on enrollment.
- 3) Conflict with Section 8 of the LPA, which vests practicing certificate issuance in the Chief Registrar.
- 4) Imposition of conditions beyond the LPA's authorization, rendering them ultra vires.
- 5) Infringement of constitutional rights under Sections 17(2)(e) and 36(6)(c).
- 6) Unauthorized declaration of professional misconduct under Rule 23(8).

5.2 The Plaintiff relies on the authorities cited, including *Ewete v. Gyang* (1997) 3 NWLR (Pt. 496) 728, P. 735, paras. B-C), *ADC & ORS v. INEC* (2022) LPELR-59395(CA) Per HAMMA AKAWU BARKA, JCA (Pp 16 - 17 Paras F - A), *Nze v. N.P.A.*(1997) 11 NWLR (Pt. 528) 210, *Afolabi v. Gov. of Oyo State* (1985) 2 NWLR (Pt. 9) 734, (P. 778, para. H), *Gov., Oyo State v. Folayan* (1995) 8 NWLR (Pt. 413) 292, (P. 327, paras. C-D), *INEC v. NNPP* (2023) LPELR-60154(SC) (Pp 25 - 26 Paras E - C), and *A.C.B. v. Losada (Nig.) Ltd.* (1995) 7 NWLR (Pt. 405) 26, the affidavit in support, and the legal principles established therein.

6. LIST OF AUTHORITIES

6.1 CASES

- 1) *Ewete v. Gyang* (1997) 3 NWLR (Pt. 496) 728, P. 735, paras. B-C)
- 2) *AG Federation v. AG Lagos State* (2013) 16 NWLR (Pt. 1380) 249
- 3) *Afolabi v. Gov. of Oyo State* (1985) 2 NWLR (Pt. 9) 734, (P. 778, para. H),
- 4) *Gov., Oyo State v. Folayan* (1995) 8 NWLR (Pt. 413) 292,(P. 327, paras. C-D),
- 5) *INEC v. NNPP* (2023) LPELR-60154(SC) (Pp 25 - 26 Paras E - C)
- 6) *Famfa Oil Ltd V. Ag Federation & Anor* (2007) Lpelr-9023(Ca), Umaru Abdullahi, JCA (Pp 29 - 29 Paras E - F)
- 7) *Nze v. N.P.A.*(1997) 11 NWLR (Pt. 528) 210
- 8) *ADC & ORS v. INEC* (2022) LPELR-59395(CA) per HAMMA AKAWU BARKA, JCA (Pp 16 - 17 Paras F - A),
- 9) *Danladi vs. Dangiri* (2014) LPELR - 24020 (SC)
- 10) *A.C.B. v. Losada (Nig.) Ltd.* (1995) 7 NWLR (Pt. 405) 26

6.2 STATUTES

- 1) Constitution of the Federal Republic of Nigeria, 1999 (as amended) – Sections 6(6)(b), 17(2)(e), 36(6)(c)
- 2) Legal Practitioners Act, Cap L11, Laws of the Federation of Nigeria, 2004 – Sections 1, 2(1), 8, 10, and 12(4)
- 3) Rules of Professional Conduct for Legal Practitioners, 2007 (as amended) – Rule 11(1)
- 4) Nigerian Bar Association Mandatory Continuing Professional Development (MCPD) Rules, 2025 – Rules 3 and 23

DATED THIS 8TH DAY OF SEPTEMBER, 2025.



**UBONG ESOP AKPAN
USENOBONG AKPABIO**

**✓ EMEH IKENNA
BLESSING ELENG**

**OLAWALE AMINU-SARUMI
THE CHAMBERS OF UBONG AKPAN
COUNSEL TO THE PLAINTIFF**

NO. 12 YALINGA STREET
OFF ADETOKUNBO ADEMOLA CRESCENT
WUSE 2, ABUJA
08033267760
secretariat@chambersakpan.com
secretariat@chambersakpan.law
ubongesopakpan@nigerianbar.ng

FOR SERVICE ON:

1. THE 1ST DEFENDANT

INCORPORATED TRUSTEES OF THE NIGERIAN BAR ASSOCIATION
NBA House, Plot 1101
Mohammadu Buhari Way,
Central Business District,
Abuja, FCT

2. THE 2ND DEFENDANT

GENERAL COUNCIL OF THE BAR (BAR COUNCIL)
NBA House, Plot 1101
Mohammadu Buhari Way,
Central Business District,
Abuja, FCT

3. THE 3RD DEFENDANT

THE CHIEF JUSTICE OF NIGERIA
Supreme Court of Nigeria,
Three Arms Zone,
Abuja, FCT

4. THE 4TH DEFENDANT

CHIEF REGISTRAR OF THE SUPREME COURT OF NIGERIA
Supreme Court of Nigeria,
Three Arms Zone,
Abuja, FCT

**IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**

SUIT NO:

UBONG ESOP AKPAN

**(Legal Practitioner, 12 Yalinga Street, PLAINTIFF
Off Adetokunbo Ademola Way,
Wuse 2, Abuja, FCT, Nigeria)**

AND

- | | | |
|---|---|-------------------|
| 1. INCORPORATED TRUSTEES OF THE NIGERIAN BAR ASSOCIATION | } | DEFENDANTS |
| 2. GENERAL COUNCIL OF THE BAR (BAR COUNCIL) | | |
| 3. THE CHIEF JUSTICE OF NIGERIA | | |
| 4. CHIEF REGISTRAR OF THE SUPREME COURT OF NIGERIA | | |

AFFIDAVIT OF NON-MULTIPLICITY OF ACTION

I, Ubong Esop Akpan, a legal practitioner, male, adult, Christian, and Nigerian citizen of 12 Yalinga Street, Off Adetokunbo Ademola Way, Wuse 2, Abuja, FCT, Nigeria, do hereby make oath and state as follows:

1. That I am the Plaintiff in this suit and, by virtue of my position, conversant with the facts deposed herein.
2. That I am a legal practitioner duly called to the Nigerian Bar in 1989 with call number: SCN012906 and enrolled on the roll of legal practitioners maintained by the Supreme Court of Nigeria, as required by Section 2(1) of the Legal Practitioners Act (LPA), Cap L11, Laws of the Federation of Nigeria, 2004.
3. That I have paid all prescribed practicing fees to the Chief Registrar of the Supreme Court of Nigeria, as required by Section 8 of the LPA, for the year 2025, and I am entitled to practice as a barrister and solicitor in Nigeria.
4. That the 1st Defendant, the Incorporated Trustees of the Nigerian Bar Association, incorporated on April 8, 1983, under the Land (Perpetual Succession) Ordinance 1924, now governed by the Companies and Allied Matters Act (CAMA) 2020, has juristic personality, perpetual succession, the ability to hold property, and the capacity to sue and be sued in its corporate name. Although not established by a specific statute, the NBA's roles and powers are recognized by various legislative instruments and judicial decisions, including the LPA, which indirectly governs its activities through the General Council of the Bar established under Section 1 of the LPA.

5. That the General Council of the Bar (2nd Defendant), established under Section 1 of the LPA, is charged with functions outlined in the LPA and the NBA Constitution, and collaborates with the NBA to regulate legal practice.
6. That the 1st Defendant has imposed a requirement under Rule 11(1) of the Rules of Professional Conduct for Legal Practitioners (RPC), 2007 (as amended), and the Nigerian Bar Association Mandatory Continuing Professional Development (MCPD) Rules, 2025, that I must participate in a Mandatory Continuing Professional Development (CPD) Programme and obtain an Annual Practicing Certificate issued by the 1st Defendant to continue practicing law.
7. That the subject matter of this suit is not pending before any other Federal High Court or any other Court in Nigeria, as our institution is only just challenging the statutory instrument under reference for the first time.
8. That I make this affidavit in good faith, conscientiously believing the same to be true and correct, in accordance with the Oaths Act, Cap O1, Laws of the Federation of Nigeria, 2004.


DEPONENT

SWORN TO AT THE REGISTRY OF THE FEDERAL HIGH COURT, ABUJA

 THIS DAY OF SEPTEMBER, 2025.

BEFORE ME
COMMISSIONER FOR OATHS
FEDERAL HIGH COURT
COMMISSIONER FOR OATHS

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

BETWEEN:

SUIT NO:

FHC (ABJ) CS/1862/2025

UBONG ESOP AKPAN

(Legal Practitioner, 12 Yalinga Street, PLAINTIFF
Off Adetokunbo Ademola Way,
Wuse 2, Abuja, FCT, Nigeria)

AND

1. INCORPORATED TRUSTEES OF
THE NIGERIAN BAR ASSOCIATION
 2. GENERAL COUNCIL OF THE BAR (BAR COUNCIL)
 3. THE CHIEF JUSTICE OF NIGERIA
 4. CHIEF REGISTRAR OF
THE SUPREME COURT OF NIGERIA
- } DEFENDANTS

ORIGINATING SUMMONS

BROUGHT PURSUANT TO SECTIONS 2(1) AND 8 OF THE LEGAL PRACTITIONERS ACT, CAP L11, LFN 2004, SECTIONS 6(6)(B), 17(2)(E) AND 36(6)(C) OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999 (AS AMENDED), ORDER 3 RULE 9 OF THE FEDERAL HIGH COURT (CIVIL PROCEDURE) RULES, 2019, AND UNDER THE INHERENT JURISDICTION OF THIS COURT

DATED THIS 8TH DAY OF SEPTEMBER, 2025



UBONG ESOP AKPAN
USENOBONG AKPABIO

✓ EMEH IKENNA
BLESSING ELENG

OLAWALE AMINU-SARUMI
THE CHAMBERS OF UBONG AKPAN
COUNSEL TO THE PLAINTIFF

NO. 12 YALINGA STREET
OFF ADETOKUNBO ADEMOLA CRESCENT
WUSE 2, ABUJA

08033267760

secretariat@chambersakpan.com
secretariat@chambersakpan.law
ubongesopakpan@nigerianbar.ng

