



NIGERIAN BAR ASSOCIATION

NATIONAL SECRETARIAT: NBA House, Plot 11o1 Muhammed Buhari Way, Cadastral Zone A00, Central Business District, Abuja - Nigeria. Tel:+234810 402 5812
www.nigerianbar.org.ng

ADDRESS BY OLUMIDE AKPATA, PRESIDENT OF THE NIGERIAN BAR ASSOCIATION AT THE SPECIAL SESSION OF THE SUPREME COURT FOR THE CONFERMENT OF THE RANK OF SENIOR ADVOCATE OF NIGERIA ON 14 DECEMBER 2020

PROTOCOL

1. It is with utmost delight that I stand before your Lordships today to felicitate Your Lordships, on behalf of the Nigerian Bar Association (“NBA”), on the 2020/2021 New Legal Year ceremony and to congratulate the 72 (seventy-two) eminent practitioners and academics who are being conferred with the distinguished rank of Senior Advocate of Nigeria (“SAN”).
2. It is consistent with the highly unusual nature of the year 2020 that we are marking the Supreme Court New Legal Year in December; that we are today celebrating the elevation of 72 (seventy-two) SANs; and we are also officially welcoming 8 (eight) brand new Supreme Court Justices to the highly revered Supreme Court Bench.
3. The Supreme Court occupies a critical place as the foremost and final court in the land. Considering that prior to Your Lordships’ appointment and swearing in, the Supreme Court bench had been one of the thinnest in living memory, in terms of the number of Justices on the court, and coupled with the disruptions occasioned by the COVID-19 pandemic which has surely exacerbated the problem of delay and congestion of cases in Nigeria, there is no doubt that Your Lordships’ appointment is very timely. It not only eases a lot of pressure off the older Justices of the Court but the appointment also comes as a source of succour to thousands of Nigerians whose cases are pending before the court.
4. It is against this backdrop that I wish on behalf of the Nigerian Bar, to formally congratulate My Lords, new Supreme Court Justices on their deserved appointment. The Bar wishes Your Lordships a most successful tenure, and we pray that the Almighty God will grant Your Lordships the wisdom, good health, and sound mind to serve in this critical court, even as we pledge our cooperation in the fulfilment of your mandate of dispensing justice to all manner of men and ensuring that wherever there is a right, there is a remedy.

NATIONAL OFFICERS

Olumide A. Akpata, **President**

Joyce Oduah, **General Secretary**; John Aikpokpo Martins, **1st Vice President**; Debo Adeyemo kazeem, **2nd Vice President**; Mercy Ijato Agada, **Treasurer**;
Olakunle Edun, **Welfare Secretary**; Raphael Nnamdi Anagor, **Financial Secretary**; Dr. Rapuluchukwu Nduka, **Publicity Secretary**; Uchenna Nwadialo, **Assistant Secretary**;
Ferdinand Naza, **Assistant Publicity Secretary**

5. Permit me to use this opportunity to inform the Honourable Chief Justice of Nigeria, Hon. Dr. Justice Ibrahim Tanko Mohammed CFR (“Honourable CJN”) and other Justices of the Supreme Court that as part of our efforts to strengthen the Bar-Bench relationship at the national level, the NBA will host the new Justices of the Supreme Court to a dinner early next year. My office will discuss with the office of the CJN to discuss the modalities of hosting the event and to agree on a mutually convenient date in Your Lordships’ diaries.
6. To describe the year 2020 as an extraordinary year is to state the obvious. The year will forever be identified with the COVID-19 pandemic; a virulent virus that knows no boundary or territory and has so far infected almost 70 million people globally and killed about 1.6 million. In Nigeria, as at midnight of 13 December 2020, the pandemic had infected approximately 72,000 persons, while claiming the lives of over 1200 Nigerians, including Judges and legal practitioners. May their souls continue to rest in peace.
7. It is not all the time that non-courtroom litigators like me get the opportunity of addressing my Lords and having been given this golden opportunity today, I will also use it to say a few words, not only to the new Learned Silks but also for the benefit of my Lords.
8. The New Legal Year ceremony affords us the opportunity to appraise the events of the past legal year and their effects on the justice sector and administration of justice; issues of Rule of Law; Independence of the Judiciary; regulation of the legal profession; good governance and other related matters. It also provides us a clear opportunity to rededicate ourselves to those values and principles on which justice is founded including respect for the rule of law, upholding the Nigerian Constitution and other laws, truth, honesty, integrity, courage, the entrenchment of social and economic justice, etc.
9. The judiciary is of prime importance in the life of any nation, and an independent judiciary is crucial to upholding the rule of law in a democratic society. The concepts of the rule of law, protection of human rights, providing the enabling environment for foreign direct investment and economic growth etc, cannot be sustained without a reliable, effective and efficient Judiciary. This entails the provision of adequate funding that the judiciary requires to conduct its business, enabling the Courts to freely decide cases without external influence, and ensuring that orders and judgments of courts are respected by persons.
10. The New Legal Year also presents us with the platform to highlight the welfare of our judicial officers while also calling for the instatement of true autonomy for this important but often neglected arm of government. Indeed, this year will be no different because the need for improved welfare of our judicial officers, at all

levels, notably their compensation packages and allowances, cannot be overemphasised. For such a critical arm of government, it is a no-brainer that we must adequately remunerate our judicial officers. The fight against corruption is best fought by tackling the incentives for corruption such as the extremely inadequate compensation packages for our judicial and public officers generally. The NBA appreciates the unique situation of Your Lordships and the fact that the nobility of Your Lordships' calling precludes Your Lordships from advocating for your improved welfare. It therefore behoves the Bar to continue on this crusade on your behalf by advocating for the upward review of the compensation packages of our judicial officers at all levels, to objectively eliminate any incentive for corruption in the judiciary. It is my pledge today that we shall not shy away from that noble responsibility.

11. At the same time, we call on the National Judicial Council ("NJC") not to relent in its efforts to rid our bench of corruption and to continually tackle the issue of the discipline of judicial officers. In a recently released report credited to the Independent Corrupt Practices Commission ("ICPC") and titled "Nigeria Corruption Index: Report of a pilot survey", the survey which was carried out by the Anti-Corruption Academy of Nigeria, the intellectual arm of the ICPC ranked the Judiciary at the top of the Nigeria Corruption Index between 2018 and 2020 and claimed that over Nine Billion Naira was offered or demanded and paid as bribe to judges by lawyers in Nigeria. This shows that there is still a lot of work to be done in rooting out this monster in our justice delivery system.
12. It remains the position of the Bar that the process prescribed by law for investigating and disciplining errant judicial officers and to preserve the dignity that attaches to the office of judicial officers must be handled by the NJC to secure the independence of the judiciary. The NJC must however continue to utilise and constantly oil the internal self-regulating powers vested in the Council by law to weed out the few bad eggs who give the judiciary a bad name. This is the only way to strengthen public confidence in the institution. Your Lordships are assured of our utmost cooperation in this regard.
13. We also note the issues surrounding the financial autonomy of the judiciary at the State levels following the issuance of the Executive Order No. 10 of 2020 by President Muhammadu Buhari and we call on all relevant stakeholders to ensure the prompt resolution of all these issues in the interest of the smooth administration of justice. We are aware that the dispute has been submitted to Your Lordships for determination. Consequently, I shall say no more on the topic.
14. On a separate but related note, the congestion of Your Lordships' dockets and the need for a comprehensive solution to the problem of delay and congestion of cases in a sustainable manner is of utmost concern to the Nigerian Bar and the

Nigerian citizenry. Last year, my predecessor Mr Paul Usoro, SAN acknowledged that Your Lordships have for some time now been burdened by and with political cases, and that due to the time limitation in respect of these election-related matters, Your Lordships have had to prioritize these appeals, to the detriment of the other conventional matters that remain the constitutional responsibility of the Supreme Court including commercial disputes. Sadly, we still find ourselves in this same situation in 2020.

15. The NBA shall continue to call for renewed collaboration between the Bar and the Bench to critically examine ways forward and to constructively collaborate with all relevant stakeholders notably the executive and the legislature in devising effective means of actualising the needed reforms to enhance the justice delivery system in the country and ensure speedy dispensation of justice. For example, it should not be heard that in 2020, our courts are still taking copious notes of court proceedings in long hand. It is not only a major source of the delay and congestion of cases in Nigeria but also does have lasting adverse consequences on the mental and physical wellbeing of Your Lordships.
16. If there is one thing the COVID-19 has taught us, it is that we can no longer afford to pay lip service to the issue of legal technology and the need to leverage the use of technology to facilitate access to justice in Nigeria. Thankfully, we have seen innovative solutions proposed by the Honourable Attorney General of the Federation (“AGF”) as well as the guidelines released by the National Judicial Council and the practice directions from various heads of court on how the justice system must continue without delay in the wake of the COVID-19 pandemic. We call on My Lords to ensure that these measures are not mere stop-gap initiatives and must constitute a fundamental part of the justice delivery system going forward. The NBA hereby pledges its total support and readiness to partner with the courts to actualise these objectives. In the new year, we shall be seeking audience with the Honourable CJN and the Honourable AGF to put forward practical ideas for the reform of the system of Administration of Justice in Nigeria.
17. In his address at the NBA Annual General Conference earlier this year, My Lord, the Honourable CJN lamented the filing of frivolous cases by lawyers. It is not disputed that there is a significant problem of delay in the determination of cases in Nigeria, and My Lord the Honourable CJN is right that much of the delay is attributable to the sheer number of cases, including many frivolous ones, which our judges have to deal with. In this regard, permit me to call on My Lords to have a serious rethink on the issue of award of costs. It is my conviction that the award of substantial costs will go a long way towards reducing the incidence of filing frivolous cases. Except in isolated cases, the Nigerian judicial attitude towards award of costs does not seem to punish frivolous claims when they are eventually

identified. Rather, our courts are known to award relatively miniscule amounts as costs even in high profile commercial disputes.

18. While I understand that the rationale behind the policy of awarding seemingly nominal costs is to ensure that access to justice is not prohibitive, costs must strike a balance and deter parties from wasting precious judicial time. In my opinion, significant costs (including legal fees) must necessarily follow whenever frivolous claims come before our courts. This is an effective way for incentivising fidelity to contractual arrangements. If done consistently, then it is inevitable that sooner rather than later, parties to commercial transactions will be wary of commencing flimsy claims, raising sham defences, or pursuing needless appeals. This, in turn, will improve the overall efficiency of our justice delivery system, improve trade and commerce and, very importantly too, better the lot of Nigerian lawyers. It is in this wise that I must respectfully throw back the challenge to My Lord, the Honourable CJN, and assure my Lords that the NBA is willing to support this measure. I call on my Lords to immediately issue a Practice Direction on the Award of Costs. The NBA is available to provide a working draft to Your Lordships for consideration.
19. The NBA shall also continue to support all measures aimed at proper case management and scheduling of cases by Judicial Officers to curb unnecessary adjournments. We shall continue to call on Your Lordships to ensure that in the unavoidable cases where the courts do not sit, counsel are given adequate notice instead of the situation where some courts fail to inform counsel, some of whom come from outside jurisdiction and are forced to sit in court for long hours only to be informed that the court would not sit. This practice which pervades through the entire court system across the country should be deprecated and discouraged and there is no better authority to address this challenge from a central position than Your Lordships. We strongly believe that proper case management is possible, and we pledge the resources of our highly skilled members to support Your Lordships in addressing this.
20. In the same way that the NBA under my leadership has promised to prioritise the continued professional development of legal practitioners, we also humbly call on Your Lordships to continue investing in the progressive training of judicial officers especially newly appointed ones. The beauty of knowledge is that it is never ending and in an ever-changing world, characterised by continuous changes and transformation in diverse areas of the economy, our courts must continue to be equipped with the human and material resources to meet the needs of a sophisticated society.
21. Further, one pledge I made at my inauguration was that the NBA shall henceforth monitor compliance with the NJC Rules and Procedure for the selection and

appointment of superior court judges strictly. It is for this reason that I have had to release statements on the unfortunate and protracted crisis in the judiciary in some States like Cross River State over the appropriate person to be appointed as the Chief Judge of the State, despite clear provisions of the Constitution in this regard. There are also similar cases in some other States of the Federation, and we shall continue to monitor these cases and will not tolerate any process that is inconsistent with the clear provisions of the Constitution.

22. Permit me to now turn to the new Silks. In congratulating them, it is perhaps pertinent to acknowledge that the events that heralded my emergence as President of the NBA, the first non-Senior Advocate of Nigeria to win election to that office in over thirty years, had led some to question the continued utility of that rank. May I use the opportunity of this auspicious event to assure my Lords, as well as all learned Silks that it is not, and has never been, my intention to challenge the Inner Bar, the members of whom I have the utmost respect for. Indeed, many lawyers may have issues with the award process and in some cases the abuse of the privileges that come with the rank, but one thing that is obvious is that the rank is one for which all lawyers have the greatest respect. It is therefore my pledge that the NBA under my administration, will continue to work with the Legal Practitioners Privileges Committee (“LPPC”) to continually enhance the process of the conferment of that prestigious rank and to maintain the prestige and dignity of the rank and that of the legal profession in general. I am proud to say that NBA contributed significantly to the process that heralded the colourful event that we are witnessing today.
23. The Inner Bar, into which all the new Silks have today been admitted, has significant roles to play towards the entrenchment of the profession of our dreams. As I conclude, I will dwell on just three of those roles. One area where I believe that the Inner Bar must play a critical role is in helping dispel the impression that court room litigation is all there is to the legal profession. To enable lawyers tap from the goldmines that abound in diverse areas of this profession, all Silks must add their voice in sending across this message and encouraging our young lawyers to foray into varied practice areas and introduce measures to support them in this regard. This way, their options for potential employment and income will necessarily expand, for the general good of the profession.
24. Secondly, members of the Inner Bar must, as senior members of the profession, make more deliberate efforts towards mentoring others in the profession (especially our young lawyers). The place and benefits of mentorship in the 21st century legal profession cannot be overemphasised and must be taken seriously by all of us. The NBA under my leadership is working on an institutionalised mentorship program for our members and we will be counting on all of you to

help drive that process as part of your commitment to improving standards and raising the bar at the Bar.

25. The third where SANs must step up is in the remuneration of our lawyers. Although this is not limited to SANs, it is important that as senior members of the profession, they set the standard and lead by example. In recent times there have been agitations for the introduction of a minimum wage for lawyers in private practice. While we continue to examine the modalities to best achieve the overall objective, our SANs and indeed all senior lawyers have to ensure that there is considerable benefit for young lawyers who work in their offices both in terms of pay and general working conditions. While commending those who have been living up to this responsibility, I call on the LPPC, under the leadership of the Honourable CJN, to ensure that the remuneration and working conditions of young lawyers is made one of the cardinal standards to measure the contribution of lawyers to the development of the profession and by implication, a yardstick for determining qualification for elevation to the SAN rank.
26. In conclusion, on behalf of the Bar, I wish Your Lordships the best in this 2020/2021 Legal Year. We pledge to continue to work with Your Lordships in protecting the temple of justice and advocating for the independence of the judiciary while promoting and defending the rule of law in all its ramifications. We continue to wish Your Lordships good health, long life, and divine wisdom to navigate the affairs of the judiciary in this new Legal Year.

Olumide Akpata
NBA President

