

Dispute Resolution and ADR

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Introduction

The first half of 2025 witnessed several landmark cases decided by Superior Courts of record, where the Courts increasingly departed from some established norms and developed principles that clarified longstanding legal debates. These advancements are vital to the nation's commercial and economic ecosystem, as stakeholders must stay informed to navigate conflict resolution and enforcement processes effectively.

This half-yearly newsletter provides a comprehensive overview of the cases and developments that have impacted our legal practice during the first six months of 2025. It highlights key legal rulings, expert opinions, and stakeholder engagements, providing valuable insights into their impact on individuals, businesses, and the broader justice system.



News Updates

a. The Supreme Court clarifies the Burden of Proof in Civil Forfeiture Cases in *Melrose General Services Ltd v E.F.C.C* (2025) 1 NWLR (Pt. 1972) 1

The Nigerian Governors Forum (NGF) contracted a consortium (GSCL Consulting and Bizplus Consulting Services Limited) to verify and recover over-deductions on Paris and London Club Loans and paid consultancy fees for their services. In August 2016, Melrose General Services Limited (the Appellant) also offered similar consultancy services to the NGF and paid NGN3.5 billion for its services. Suspecting fraudulent activities, the EFCC (the 1st Respondent), launched an investigation and in October 2017, obtained an interim Court Order for the forfeiture of NGN1.22 billion in the Appellant's bank account and NGN220 million from the bank accounts of the 2nd (Wasp Network Limited) and 3rd Respondent's (Thebe Wellness Services).

The trial Court ruled in favor of the 1st Respondent (Plaintiff at the trial Court), finding that the Appellant (1st Defendant at the trial Court) had not legitimately earned the funds, and ordered final forfeiture to the federal government. On appeal, the Court of Appeal upheld the decision of the trial Court, citing evidence that the Appellant merely reproduced the consortium's work.

Being dissatisfied with this decision, the Appellant appealed to the Supreme Court, raising four issues for determination. The Supreme Court in its judgment focused on whether or not the 1st Respondent discharged the burden and standard of proof required to establish that the Appellant's fund ought to be forfeited to the Federal Government of Nigeria.

The Supreme Court held that no interim or final forfeiture can be made under the Advance Fee Fraud and Other Related Offences Act (AFFA) unless it is shown that the property in question is reasonably suspected to be proceeds of unlawful activity. The Court reaffirmed the principle that “reasonable suspicion” is not suspicion that is 'baseless or whimsical or less than

reasonable, rather, it is determined reasonable if the circumstances suggest a breach of any of the provisions in the statutes listed in section 17(1) AFFA.

The Court found that the 1st Respondent failed to discharge the burden of establishing a reasonable basis for suspicion under the AFFA, as it did not demonstrate that the NGN3.5 billion paid to the Appellant by the Nigerian Governors Forum (NGF) was linked to any unlawful activity. Consequently, the burden of proof never shifted to the Appellant. The Court further noted that there was no evidence suggesting that the consultancy agreement between the Appellant and the NGF was illegitimate or fraudulent, especially as the NGF did not deny engaging the Appellant.

b. The Supreme Court Reaffirms Estoppel by Conduct and that appellate Courts are confined to the grounds of the Notice of Appeal in NNPC & Anor v. Owners of M.T. Venturer (2025) LPELR-80666(SC)

The dispute arose from the Plaintiff's prayer at the trial court to have its matter adjourned pending the outcome of a ruling on a similar application in a sister case before another judge (Justice Sanyaolu). The Plaintiff had proposed that the ruling in the sister case would be determinative of the preliminary objection raised by the Appellants in the instant case. The trial Court agreed and adjourned proceedings accordingly. Justice Sanyaolu's eventual ruling was unfavourable to the Plaintiff, and the trial Court applied that decision and dismissed the Plaintiff's suit.

The Plaintiff, appealed to the Court of Appeal, where it sought to distance itself from its earlier position. The Court of Appeal overruled the trial Court's decision and allowed the appeal. This led to a further appeal to the Supreme Court by the original Defendants (now Appellants).

The Supreme Court held that since the Trial Court's finding that the Plaintiff (now Respondent) chose to be bound by Justice Sanyaolu's ruling was not

appealed, the Court of Appeal has no jurisdiction to consider a position that had been settled by the parties. Furthermore, the Supreme Court held that the Plaintiff (now Respondent), through its counsel, had expressly requested the trial court to adjourn the matter and await the outcome of Justice Sanyaolu's ruling in a sister matter. The Plaintiff (now Respondent) had thereby made a conscious election and could not later withdraw from that position simply because the ruling was adverse to its interest.

Finally, the Court held that the Plaintiff (now Respondent) had not been denied an opportunity to be heard. On the contrary, it was the Plaintiff (now Respondent) who proposed the procedure of awaiting the ruling in the sister case. Having voluntarily opted for that route, Plaintiff (now Respondent) could not later claim that its right to be heard had been breached.

c. The Supreme Court offers key clarification on the issues surrounding the scope of admiralty jurisdiction, especially as it relates to cases concerning commercial contracts in *Sopetro Marine Ltd v Nepal Oil & Gas Services Ltd & Anor* (2025) LPELR-80380(SC)

The Respondents alleged that they engaged the Appellant (Sopetro Marine Ltd), to transport 5,000 metric tonnes of petroleum products using the vessel S.P. Brussels, but only 2,500 metric tonnes were delivered. They also claimed to have paid the Appellant the sum of \$200,000 for the charter of the vessel S.P. Brussels, which was allegedly diverted by the Appellant, requiring them to make a second payment directly to the vessel's owner. Additionally, the Respondents advanced ₦12 million for the bunkering of another vessel, M.T. Sea Tiger, on the condition that it would be refunded within 30 days or attract 7.5% interest per month, but the Appellant failed to repay the amount.

At the trial Court, the Appellant (Defendant at the trial Court) filed a Preliminary Objection contending that the suit relates to maritime operations and, therefore, the Lagos State High Court lacked jurisdiction. However, the

trial court held that the claims were simply contractual in nature, rather than maritime, as they pertained to the recovery of monies had and received, and not to the management, operation, or use of a ship in a manner that would invoke admiralty jurisdiction. The Court of Appeal affirmed the trial Court's decision. Dissatisfied, the Appellant appealed to the Supreme Court.

The Supreme Court affirmed the preliminary objection raised by the Appellant at the trial court, emphasizing that for admiralty jurisdiction to be properly invoked, the subject matter must directly relate to maritime activities such as shipping, navigation, or cargo that remains onboard a vessel. The Court clarified that once cargo has been discharged or where the claim is merely for a refund or breach of financial obligation unrelated to actual shipping operations, the matter ceases to be admiralty in nature. Thus, the High Court of Lagos State was competent to hear the case.

d. The Supreme Court provides clarity on the provisions of the Oil Pipelines Act, especially as it concerns the Compensation regime for oil spill incidents in SPDC v Okeh & Ors (2025) LPELR-80874(SC)

The Respondents alleged that on or about the 6th of August 2006, there was an oil spill along the Appellant's Trans Niger Pipeline (TNP) at 24" Nkpoku to Bomu Trunkline at Eneka which destroyed the Respondents' large expanse of land, farmlands and economic trees and crops thereon. The Appellant joined issue with the Respondents by filing a statement of Defence where it raised sabotage as a Defence against the Respondents' action. The Trial court delivered judgment in favour of the Respondents and granted its claims in part. The appellant, dissatisfied with the decision of the Trial Court, appealed to the Court of Appeal which dismissed the appeal but overturned the decision of the Trial Court as it relates to the quantum of damages awarded.

Dissatisfied with the decision of the Court of Appeal, the Appellant appealed to the Supreme Court and raised four issues for determination in its brief of

argument, to wit Firstly, whether the claims complied with the Oil Pipelines Act and, if not, whether the Court lacked jurisdiction. Secondly, whether the suit was competently brought as a representative action. Another issue raised was whether the lower courts erred in holding SPDC liable despite its sabotage defence. And finally, whether the award of special damages was supported by proper evaluation of evidence. The Supreme Court, in delivering its judgment and resolving the issues raised, held that claims for compensation under the Oil Pipelines Act could be pursued through regular judicial proceedings, and the Trial court had jurisdiction to hear the matter.

The Court held that the farming and economic activities by the Respondent and the Okeh Family, whom they represented, upon the large tract of land polluted by the spill, were proof of the existence of a commonality of interest and grievance. The Court further held that it is the law that if the group or class of persons represented are easily identifiable and have a common purpose or interest, the suit can be filed in a representative capacity. In resolving the third issue the court went further to hold that the Defence of sabotage or malicious act of a third party is enshrined in Section 11(5)(c) of the Oil Pipeline Act, and it is a criminal act which the law demands that it must be proved beyond reasonable doubt of which the allegation of sabotage by SPDC was not substantiated by credible evidence and the burden of proving sabotage rested on SPDC, and it failed to discharge it. On the final issue, the Court found that the award of special damages was supported by evidence, including a valuer's report and witness testimony. The Court of Appeal had properly affirmed it. The Supreme Court therefore upheld the decision of the Court of Appeal and affirmed SPDC's liability for the environmental damage caused by the spill.

e. The Supreme Court upholds that the Judgment of a Court can only be written by a Judge who participated in the hearing of the matter in *Ubabuike v. GT Bank Plc & Anor* (2025) LPELR-80648(SC)

This case arose from a dispute between Mr. Patrick Ubabuike (Appellant) and GT Bank Plc (1st Respondent) over a ₦10 million loan. The Appellant instituted the suit at the Trial Court, claiming, among other things, that the mortgage of his property, used as security for the facility, was illegal and fraudulent because the Governor's consent was not obtained. The Trial Court struck out the case on the ground that the writ of summons was incompetent and deprived the court of jurisdiction to adjudicate over the suit but proceeded to dismiss the appellant's claims on the merits and granted the 1st Respondent's counterclaim.

At the Court of Appeal, the Court struck out the appeal on the grounds of the proliferation of issues without considering the substantive merits. Aggrieved with the decision of the Court of Appeal, the Appellant brought this appeal before the Supreme Court by a Notice of Appeal dated and filed on 14th September 2020. The issue for determination before the Supreme Court was whether the Court of Appeal was right to have struck out the appellant's appeal without determining the substantive issues. However, before addressing that question, the Supreme Court discovered that the panel of Justices that delivered the Court of Appeal's judgment was not the same as the one that heard the appeal. Specifically, one of the Justices who wrote a concurring judgment did not participate in the hearing.

The Supreme Court held that this irregularity rendered the decision of the Court of Appeal a nullity and that it was a defect that deprived the Court of Appeal of competence and, by extension, stripped the Supreme Court of the jurisdiction to hear the appeal on its merits. Nonetheless, due to the unique circumstances of the case, the Supreme Court chose to address the merits of the case. It agreed that the Court of Appeal was right to strike out the appeal due to the proliferation of issues.

However, it also noted that the Court of Appeal erred by failing to determine the merits of the appeal despite its finding on jurisdiction, contrary to the Supreme Court's established guidance. Since this error did not lead to a miscarriage of justice, the Supreme Court dismissed the appeal.

f. Our Associate, Chidera Ezenwanne facilitated three Sessions at the NSITF Workshop

On June 19, 2025, our Associate, Ms Chidera Ezenwanne facilitated three sessions at the Nigeria Social Insurance Training Fund workshop themed “Advanced Course in Practice and Procedure before a Superior Court of Record.

g. Prof Fabian Ajogwu delivered an insightful panel discussion on 'Ethics in International Arbitration: The IBA Rules on Conflicts of Interest and Rising Disclosure Concerns' at the 2nd ICC Nigeria Arbitration Days.

Professor Fabian Ajogwu, OFR, SAN, was a panelist at the ICC Nigeria Arbitration Days, discussing the topic “Ethics in International Arbitration: The IBA Rules on Conflicts of Interest and Rising Disclosure Concerns” on July 2, 2025. The event gathered professionals across fields to enhance arbitration and alternative dispute resolution (ADR) in Africa, focusing on the future of arbitration and ADR practices on the continent.



Regulatory Updates



National Policy on Arbitration & ADR

The [paper](#) examines key provisions of the National Policy on Arbitration and Alternative Dispute Resolution (ADR), 2024, with a focus on its objective of positioning Nigeria as a premier hub for domestic, regional, and international commercial arbitration. The Policy reflects Nigeria's commitment to advancing a robust arbitration and ADR framework capable of efficiently managing disputes and enhancing investor confidence in Nigeria.

The paper further highlights the thematic focus areas and interventions outlined in the Policy, providing insight into its proposed implementation pattern and review mechanism. It also emphasizes a fair assessment of the Policy, noting that successful implementation of the policy's objectives will require coordinated legislative action at both the federal and state levels.

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