

Olowe v Aluko: A Sword, A Shield, or A Pitfall?

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1. Introduction

The incompetence of court processes, although technical, could result in multi-billion-naira liabilities for companies. The ability of a law firm to sign or frank court processes is one of those grounds of incompetence and is as significant as other germane legal complications that could sink the cases of corporate bodies. Hence, the developing position of the court and law on this subject is a concern for lawyers and in-house lawyers who seek to protect the interests of their respective clients and companies from technicality-enabled liabilities.

The jurisprudence surrounding the status of a law firm under *Section 2(1) of the Legal Practitioners Act* has long been a subject of controversy.¹ Courts have repeatedly been invited to interpret the scope of this provision and to clarify whether a law firm can validly frank court processes in place of a named legal practitioner.

The Supreme Court's decision in *Olowe v. Aluko*² revisited the competence of processes signed by law firms and controversially appeared to depart from its earlier position in *Okafor v. Nweke*,³ where the Court unequivocally held that processes signed in the name of a law firm are incompetent and defective. The consequences of such incompetence are most severe where a writ of summons or other originating process bears only the name of a law firm. Following *Okafor v. Nweke* and subsequent decisions affirming it, legal practitioners have consistently raised objections on this ground, urging courts to strike out suits or applications.

This article examines the decision in *Olowe v. Aluko*, specifically whether it constitutes an exception to the earlier decision in *Okafor v. Nweke*, the practical implications of the Supreme Court's decision for clients, law firms, legal departments, and the need for administrative caution and internal compliance systems. Ensuring corporate risk management and eliminating negligence exposure.

¹ Legal Practitioners Act, Cap. L11, LFN 2004

² (2025) 13 NWLR (Pt. 2003)

³ (2007) LPELR-2412(SC)

2. Summary of Decision of The Supreme Court

This matter arose from a long-standing dispute dating back to the 1950s between the ancestors of the parties involved, one that had been judicially decided at some point. However, sometimes in May 1994, the Respondent instituted an action at the High Court of Osun State, seeking, among other things, a declaration of entitlement to possession of the land in dispute, as well as the sum of N500,000 (five hundred thousand naira) as damages for trespass committed by the Appellants, and an injunction restraining the Appellants from further trespassing on the said land.

At the trial Court, the Writ of Summons was signed by Akin Olujimi, Esq; however, the Statement of Claim was signed by Akeredolu & Olujimi. This was contested fiercely by the Appellants at the Supreme Court, who argued that the Statement of Claim was incompetent, therefore affecting the validity of the suit, having been signed by a Law Firm, “Akeredolu & Olujimi”.

The Supreme Court held that the Statement of Claim was properly signed and endorsed, and that the way and manner of signing the process met the essence and purpose of the provisions of the Legal Practitioners Act (the Act).⁴ The Apex Court stated that the combined effect of *Sections 24 and 2(1)* of the Act is that for a person to be qualified to practise as a legal practitioner, he must have his name on the Roll of Legal Practitioners; otherwise, such a person cannot engage in any form of legal practice in Nigeria. The Court held that the names of the signatories, Olujimi and Akeredolu were clearly identifiable as belonging to persons duly qualified and entitled to practice law under the provisions of the Legal Practitioners Act, and that there is nothing on the Statement of Claim suggesting that it was signed in the name of a law firm. It stated that once a name appearing on a legal process is identifiable as that of a person duly enrolled as a legal practitioner in Nigeria, the requirements of the Legal Practitioners Act are deemed to have been complied with, and such process is valid in the eyes of the law.

The court further stated that there was no uncertainty or ambiguity as to their professional standing, and that the Writ of Summons in the suit having also been signed by Akin Olujimi, Esq., and the individuals being legal practitioners,

⁴ Cap L11, Laws of the Federation of Nigeria, 2004.

distinguished and properly enrolled to practice law within Nigeria, the endorsement on the originating processes sufficiently satisfies the statutory requirement for proper signing by a legal practitioner.

Lastly, the Court held that the essence of the Legal Practitioners Act is to regulate the legal profession in Nigeria, and that includes ensuring only qualified persons who have been duly called to the Nigerian Bar and whose names are inscribed on the Roll of Legal Practitioners are permitted to engage in legal practice, and that it was therefore not the case of the Appellants in the matter, that either Mr. Akeredolu or Mr. Olujimi, in whose names the Statement of Claim was signed, was a person whose name is not on the Roll of Barristers and Solicitors in Nigeria.

3. The Court on The Competence of A Law Firm

The Court has always been protective of the sanctity of legal protection, even from the early days of legal practice in Nigeria, as seen in the case of *Awolowo v Minister of Interior*, where the Court held that a legal practitioner would not be recognised having failed the status requirements of a legal practitioner.⁵

This protection was reduced to the provision of the law under the Act, which guides the qualification of an individual to practice law. Section 2(1) of the Act provides that “Subject to the provisions of this Act, a person shall be entitled to practice as a barrister and solicitor if, and only if, his name is on the roll.” Section 24 of the Act also provides that;

'legal practitioner' means a person entitled in accordance with the provisions of this Act to practise as a barrister or as a barrister and solicitor, either generally or for the purposes of any particular office or proceedings.

Following these provisions and other laws and rules guiding the legal practice, it must be ascertainable that only a lawyer can be either a signatory or a participant in a Court process. Hence, a law firm, being neither a person nor a legal practitioner within the scope of the Act, is not permitted to sign a process. This position was upheld by the Supreme Court in a plethora of cases, including the *locus classicus* case of *Okafor v Nweke*, where the Court held that only an individual who was properly called to the Nigerian bar and whose name is on the

5 (1962) LLR 177

roll of legal practitioners can sign a process; hence, a law firm is not capable of doing the same. This has been the position of the law and subsequently upheld by the Supreme Court.

To further expatiate this position, the Court has had cause to visit the rationale behind *Okafor v Nweke*, for instance, in the cases of *Habu v. Sule & Ors*,⁶ *Menakaya v. Ezim*,⁷ and *Asabe v Babale*,⁸ where the Court noted that the mere existence of “co” or similar terms implies that there are multiple individuals at the firm, making it challenging to determine who signed the process. This reinforces the position in *Okafor v Nweke*.

This rationale was seemingly questioned in *Olowe v Aluko*, the case under review. The Court in this case held that a Statement of Claim signed by “Olujimi & Akeredolu” will not be incompetent as both names are identifiable lawyers whose names are on the roll of legal practitioners in Nigeria. The article will therefore proceed to analyse this decision to further understand if this was a move from the existing position in *Okafor v Nweke* or not.

4. Understanding The Ratio in *Olowe v Aluko*

One of the principal positions of the Supreme Court in this matter was the restatement of the provisions of *Section 2(1) and Section 24 of the Legal Practitioners Act*.⁹ Section 2(1) and 24 provide that;

2(1) - 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.

24 - legal practitioner" means a person entitled in accordance with the provisions of this Act to practise as a barrister or as a barrister and solicitor, either generally or for the purposes of any particular office or proceedings

The Court aligned itself with the position above, and similarly with the holding of the Court in *Okafor v Nweke*, when it held that;

6 (2024) LPELR-63002(SC)

7 (2025) LPELR-81505(SC)

8 (2025) LPELR-81714(SC)

9 Ibid.

Applying the literal rule of statutory interpretation which requires that the words of a statute be given their plain, ordinary, and grammatical meaning, with emphasis on what the law expressly states, it becomes evident that only a person whose name is duly entered in the Roll of Legal Practitioners maintained by the Registrar of the Supreme Court of Nigeria is entitled to practice as a barrister and solicitor in Nigeria pursuant to the provisions of Section 2(1) and Section 24(1) for the Legal Practitioners Act...

Beyond the literal interpretation, the Court also applied the mischief rule to identify the mischief that the lawmakers intended to curb by enacting these provisions. Upon consideration of this section, the Supreme Court held;

The essence of the Legal Practitioners Act, originally enacted in 1962, is to regulate the legal profession in Nigeria by ensuring that only qualified persons who have been duly called to the Nigerian Bar and whose names are inscribed on the Roll of Legal Practitioners are permitted to engage in legal practice. The legislative intention behind the Act is to curb the unauthorised and unqualified practice of law by individuals who have not undergone the prescribed legal training, including attendance at the Nigerian Law School and successful completion of the Bar Final Examinations. Consequently, once the name of a person is identifiable as a legal practitioner, the requirements of Section 2(1) of the Legal Practitioners Act are deemed to have been satisfied. This provision serves as a safeguard to uphold the integrity of the legal profession and to protect the public from unqualified representation.

The decision in *Olowe v Aluko* hinges on the consciousness that the legal profession must not be vulnerable to the exploitation of “unauthorised and unqualified practice of law by individuals.” On this reasoning, the Court held that since the statement of claim bore the names “Akeredolu and Olujimi,” which (although the exact name of their law firm) are also the names of two distinguished legal practitioners called to the Nigerian Bar, it was not defective. Both Rotimi Akeredolu and Akin Olujimi were “clearly and unequivocally identifiable” as seasoned lawyers on the Roll of Legal Practitioners.

Hence, the Court held that although the Statement of Claim was signed by Akeredolu and Olujimi, it would not be defective, as both names were not only in the Roll of Legal Practitioners but were also distinguished and undisputed legal practitioners who had apparently been in practice since 1978 and 1979, respectively.

While this position might be a slippery slope, the Court had implicitly relied on the surrounding circumstances to justify its presumption. For instance, the writ of summons in the matter was signed by Akin Olujimi Esq, making it reasonable to infer that the subsequent statement of claim was signed either by him or by Rotimi Akeredolu.¹⁰

The first presumption from this decision is that processes signed by law firms whose names are formed from the names of known and enrolled legal practitioners will not be defective. However, this also opens up room for speculation. Aside from the indication that the writ of summons was clearly signed by Akin Olujimi, the authors' position is that once anything more is added to the name, the case of *Olowe v Aluko* cannot be relied upon. This means that firms like “ABC & Co,” “XYZ LP,” “ABC Associates & Solicitors,” “John Doe and Partners,” etc, will not fall under the scope of *Olowe v Aluko*.

To interpret otherwise means that the doors of speculation have been thrown wide open, and the provisions of *Sections 2 and 24 of the Legal Practitioners Act* will be breached.¹¹ This could lead the Court to interpret absurdity into the construction of statutes.¹² To support the position above on the exclusion of other additions to the known and enrolled names, the Court has often struck out matters where those additions have been made.

For instance, in construing “co” at the back of a law firm's name to imply more than one person or multitude, the Supreme Court held in *Habu v. Sule & Ors* that;¹³

In our law, the simple truth is that the phrase - "and Co" is not a phrase of surplusage. It means: "and company". It is a business name which implies that the business is owned and operated by more than one person. The name I.A. Yusuf is a personal name but when "& Co" is added, it becomes the name of a partnership or a

10 In the early 1990s, there was no need to file both writ of summons and statement of claim together. In this case, the statement of claim was signed months after the writ of summons was filed.

11 *Ivienagbor v. Bazuaye* (1999) 9 NWLR (Pt. 620) 552 (P. 561, para. E)

12 *TINUBU v. I.M.B SECURITIES PLC* (2001) LPELR-3248(SC)

13 (2024) LPELR-63002(SC)

business name under our law and not a personal name. It follows therefore, that the phrase "& Co" is not a mere surplusage or an innocuous addition to a person's name. It is a phrase creating an artificial personality that cannot be enrolled to practice as a legal practitioner in Nigeria. It is not just an irregularity but a fundamental blunder that snuffs life and legitimacy from the notice of appeal. It is trite that without a competent notice of appeal, the lower Court was not clothed with the jurisdiction to entertain the matter before it. See Enyi Bros Food Processing Company (Nig.) Ltd & Anor v. NDIC (2021) LPELR-55330 (SC), Kente v. Ishaku & Ors. (2017) LPELR-42077 (SC), Ashaka v. Nwachukwu (2024) LPELR - 61796 (SC).

This position was re-echoed in the Supreme Court's decision of *Menakaya v. Ezim*¹⁴ decided about two weeks after the decision in *Olowe v Aluko*. The Court in that case held that, despite the fact that it was obvious that the signature on the Motion on Notice in contention in the matter belonged to J. H. C Okolo SAN himself, it would still be defective as the name that was indicated to have signed it was "J. H. C Okolo SAN & Co." The Court further stated that it is the name that signed a process that is important and not the signature, as it is the name, not the signature, that is enrolled in the Roll of Legal Practitioners. Also, in *Asabe & Anor v. Babale* the Court held that the writ of summons signed by "Ibrahim Babale & Co" was incompetent and not able to sustain the matter.¹⁵

While many authorities, from *Okafor v Nweke* to *Asabe v Babale*, abound, they do not imply that the Supreme Court in *Olowe v Aluko* departed from its own decisions or that subsequent decisions, such as *Manakaya v Ezim* and *Asabe v Babale* (decided after *Olowe v Aluko*), mean that *Olowe v Aluko* is no longer the law. *Olowe v Aluko* is distinguishable from others, as the circumstances surrounding it imply fewer speculations, especially given the names of the signatories.

Unfortunately, it does not mean that the Supreme Court could not have been in error. The mere fact that Rotimi Akeredolu and Akin Olujimi were both known and enrolled lawyers does not mean other people who are not called but are members of staff of the Akeredolu and Olujimi law firm could not have signed the

¹⁴ (2025) LPELR-81505(SC)

¹⁵ (2025) LPELR-81714(SC) This was also decided on the same day with *Manakaya v Ezim*.

process. The Court was only trusting the integrity of the learned silks, but would it be totally unimaginable that someone else would have signed the statement of claim? What will be the case in matters signed by common names like *Emmanuel and Emmanuel*, *Chidera and Chidera*, *Thomas and Thomas*, and others? There are thousands of Emmanuels, Chidera, and Thomas on the roll.

5. A Sword, Or A Shield

Flowing from the decision of the Supreme Court, it is crystal that the Court did not outrightly depart from its position in *Okafor v. Nweke*. What it did was to interpret the law to cover situations where the name of the signatory, though presented as a law firm, consists of identifiably enrolled legal practitioners, without any additions like “co” to those names. The question then is whether this position can be used as a sword, that is, whether firms within this category can confidently sign processes in their law firms' names or whether it merely serves as a shield against objections to the competence of documents already signed.

It is important to note that the Court adopted a case-by-case approach in *Olowe v. Aluko*, paying attention to the fact that other processes in the case were signed by Akin Olujimi, a well-known legal practitioner, and also weighing the broader justice of the matter. The Justices of the Supreme Court were careful not to hold that law firms are capable of franking processes expressly. Hence, the coast is far from clear, given both the cautious reasoning of the Supreme Court and the express provisions of the Legal Practitioners Act.

Nevertheless, the decision may operate as a shield where the identity of the lawyer is not in dispute, thereby limiting the Court's need to speculate. In *Olowe v. Aluko*, the identities of Olujimi and Akeredolu were not contested, and the Court also had a properly signed writ of summons to rely upon. Thus, while the case may be invoked to resist an objection against the competence of a process, the Court would still need to be satisfied that the names in question belong to duly enrolled practitioners.

The Supreme Court did not, strictly speaking, overturn *Okafor v. Nweke*. Rather, it carved out what may be described as a “factual exception,” applicable only in very specific circumstances. For this reason, the principle functions more as a

shield than as a sword. To treat *Olowe v. Aluko* as opening the door for law firms to generally sign processes would be to stretch Sections 2(1) and 24 of the Legal Practitioners Act beyond their proper meaning.

6. The Pitfall

The judgment of the Supreme Court in *Olowe v. Aluko* (supra) has seemingly unsettled the clarity and consistency that previously guided the procedure for signing court processes by legal practitioners in Nigeria. Although the Court was careful not to overrule its earlier decision in *Okafor v. Nweke* expressly, its reasoning in *Olowe* presents a significant consideration that, if not carefully scrutinised, could compromise the standard required for signing court processes under the Act.

A key pitfall in the above decision is that the Court departed from the clear, textual interpretation of Sections 2(1) and 24 of the Legal Practitioners Act. These provisions emphasise the question of “who actually signed the process” rather than simply “whose name appears on it.” The Court, instead of focusing on who signed the process, as required by law, inferred that the said process must have been signed by “Akeredolu & Olujimi” simply because the names were identical with or are identifiable and well-known legal practitioners.

The Legal Practitioners Act mandates that only an individual whose name is on the Roll of Legal Practitioners can sign and authenticate legal documents for court proceedings. As the Court rightly observed, “Akeredolu & Olujimi” refers to two distinct individuals, but the Court did not avert its mind to the fact that it is not possible for both individuals to have signed the same process at the exact same time. However, the Court was more concerned with whether the names looked familiar as those of known legal practitioners, rather than confirming who actually signed the process.

Statutory language (from the Act) envisages a singular, identifiable legal practitioner taking responsibility for affixing his signature on a process. Standard legal practice has thus evolved around the principle that only one legal practitioner should sign a process at a time, not multiple names acting jointly or

collectively. However, the Court's reasoning in this case inadvertently introduced further ambiguity regarding who bore legal responsibility for the document.

This creates room for subjective interpretation. What if the names belong to individuals within the firm who are not qualified to practice law in Nigeria? Or what if the names are identical to those of qualified lawyers but actually refer to entirely different people? According to the decision, as long as the names match those of recognised members of the firm who are listed on the Roll of Legal Practitioners, they will be presumed to have signed the process, regardless of who actually did.

The decision implies that if a judge recognises your name, that alone satisfies the legal requirement. But the Act does not support such assumptions. The Act requires certainty as to who signs a court process, rather than familiarity with the name on the process. In reality, the process might have been signed by someone else in the firm, such as a secretary, litigation clerk, or paralegal, who lacks the legal authority to do so. This ordinarily renders the process defective. In effect, the Court shifted the goalpost from the clear legal standard, much like a movable feast. The Court's reasoning does not entirely eliminate the possibility that a non-qualified person within the firm could have signed the process in issue. The mere identifiability of the names in the firm does not guarantee that the signature was affixed by one of the enrolled legal practitioners themselves.

The implication of the decision in *Olowe v. Aluko* is that the certainty and predictability that the earlier decision in *Okafor v. Nweke* brought to Nigerian procedural law may now be compromised by a case-by-case approach that relies on judicial discretion and the recognition of the names in question. This opens the door to speculation and potentially creates unequal application of the law, one for famous legal practitioners and another for less prominent names. In doing so, the Court risks replacing a clear statutory test with a subjective one.

Even though the authority in *Olowe v. Aluko* may have been guided by considerations of justice and pragmatism, its potential to destabilise the established test for signing of Court processes by legal practitioners cannot be ignored. It introduces a pitfall that could lead to speculative adjudication, dilution of statutory standards set by the Legal Practitioners Act, and unequal treatment

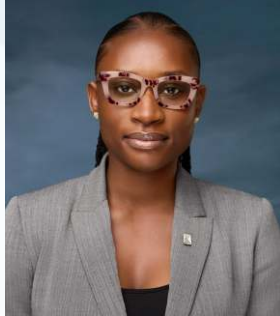
under the law. Courts must therefore treat the decision with caution and refrain from applying its logic beyond the narrow circumstances in which it was decided. Any broader interpretation would contradict settled authority, such as *Okafor v Nweke*, and would also compromise the legislature's intention in drafting Sections 2(1) and 24 of the Legal Practitioners Act.

7. Conclusion

The authors' position is that the decision in *Olowe v Aluko* does not imply a full departure from *Okafor v Nweke* but creates a factual exception based on a case-by-case approach that appears to soften the rigidity of *Okafor v Nweke*. The authors further posit that the principle in *Olowe v Aluko* is rather a shield to objections where the facts and circumstances suggest that the identity of the signatories is not in contention.

The decision must also be understood to be a risk to the spirit of the Act. It seems to open the door for the floodgates of presumptions that defeat the intentions of the drafters of the Act.

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