

## **REVIEW OF THE HIGH COURT (CIVIL PROCEDURE) RULES OF LAGOS STATE 2019.**

Several changes and additions were included in the new high court civil procedure rules of Lagos state which provided for 60 rules, the 2019 rules provided for 64 rules.

The High Court (Civil Procedure) Rules of Lagos State 2019 was an improvement on the old rules with the following addition to the rules namely:

**Order 2: This rule provides for the overriding objectives of the High court rules which are notably absent in the old rules.**

**Order 3: This provides for the application of the High court civil procedure rules.**

**Order 28: This provides for Alternative Dispute Resolutions.**

**Order 34: This provides for Diligent Prosecution of matters that are before the court.**

### **Other differences in the new rules that were absent in the old rules.**

It is worthy to note that due to the additions made in the new rules, the orders of the new rules have changed.

- While Order 3 of the old rule provides that failure to file other supporting documents with an originating process will not be accepted by the Registry, Order 5 of the new rules provides that failure to provide the supporting documents will nullify the action.
- Order 9(5) of the new rules includes the use of electronic mails as a means for substituted service, this is notably absent in the old rule.
- Order 11(2) (2) provides that where a defendant is entering an appearance, his email address should be included among other information.
- Order 11(5) provides that failure to amend within the date prescribed by the rules will attract the sum of N1000 for each year of default. This is absent in the old rules
- Order 21(5) provides that notice to produce document not necessary by a party requesting is now N10000 and no more N5000 as provided in the old rules.
- Order 25(4) provides that a claimant may withdraw when trial has commenced.
- Order 26(4) provides that failure to amend a process within the prescribed time set by the rules will attract the sum of N1000 for each day of default.
- Order 28 which provides for Alternative Dispute Resolution. 14 days is required for the Claimant to file his statement of the case and the Defendant shall file his response within 14 days: Order 28(2)(3). Also, any judgement given under ADR can be set aside upon an application made within 7 days of such judgment and such application shall be by originating motion on notice.

- Order 30(1) (1) provides that issues of fact in dispute have increased from seven to fourteen days.
- Order 34 empowers a judge to strike out a matter suo moto or application for want of diligent prosecution.
- The same order further states that where a matter is before the court and no proceeding or application has been made for a period of twelve months, such matter should be struck out.
- Order 35(3) (4) provides that a written address must not exceed twenty pages and reply on point of law must not exceed five pages.
- Order 59(2) provides for matters that qualify for fast track, these are:
  - a) Matters commenced by Writ of Summons.
  - b) Claim or counterclaim for liquidated money relief not less than ten million naira.
  - c) Where it involves mortgage transaction, charge or other securities.
- Order 59(5) provides that filing for defence and reply is now 30 days and not 42 days.

## **CONCLUSION**

The inclusion of email addresses in processes and for substituted service is a remarkable addition to the High court rules. Parties can't state that they were not served and this will reduce the period of adjournment taken in court and further facilitate the cause of justice.

Furthermore, the punitive measures of failure to file within the stipulated time provided by the rules has its advantages and disadvantages. The advantage being there will not be undue delay by both counsel and litigants knowing the monetary risk attached to such delay and this will further facilitate proceedings in court. However, the disadvantage is that it is detrimental to innocent parties who without a fault of theirs create delay in filing processes; an example of such is where certain documents require certifications before they can be pleaded and it is only necessary that filing of processes will be delayed. The new rules does not create exceptions and litigators would still be required to pay for default for failing to file within the stipulated time.

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