



# NIGERIAN BAR ASSOCIATION

NATIONAL SECRETARIAT: Plot 1102, Muhammed Buhari Way, Cadastral Zone A00, Central Business District, Abuja Nigerian Tel: +234 800 333 1111  
[www.nigerianbar.org.ng](http://www.nigerianbar.org.ng)

## ADDRESS OF THE PRESIDENT OF THE NIGERIAN BAR ASSOCIATION, MR YAKUBU CHONOKO MAIKYAU, OON, SAN, AT THE COURT OF APPEAL OPENING OF THE LEGAL YEAR CEREMONY HELD ON 25 SEPTEMBER 2023 AT THE COURT OF APPEAL HEADQUARTERS, ABUJA

### PROTOCOL

1. It is with great delight that I stand before this distinguished audience in commemoration of the 2023/2024 Legal Year Ceremony of this honourable court. In 2021, I had the privilege of being invited as counsel to the maiden edition of this ceremony which held on 13<sup>th</sup> September 2021. At that occasion, I represented the President of the NBA – I was Acting President! By the special grace of God, the invitation for the 2022 legal year ceremony of this Court was extended to me, as the President of the Nigerian Bar Association.
2. While this will be my second participation in this event as the President of the NBA, it is also going to be the last that I will be attending as President. I say this with all respect and humility, to acknowledge the fleeting nature of life and much more the transience of the positions we hold in life. To God be the glory.
3. I thank my Lord, the Honourable, the President of the Court of Appeal, Hon. Justice M. B. Dongban-Mensem, CFR, and other Justices of the court for this invitation to the Bar.
4. The legal year celebration has its root in the English common law tradition from where we inherited our legal system. It is a ceremony that recognises the eminent role of Judges/Justices in the dispensation of Justice, which is an attribute of God. The ceremony takes stock of the activities of the court in the preceding year; the challenges and successes, and seeks to chart a course/give direction for the succeeding year. It is a moment where Judges/Justices seek divine help to perform as mortals, that which is the exclusive preserve of God Almighty. As we welcome Your Lordships from your well-deserved vacation (presumably so), we pray that the Lord God Almighty will continue to guide the court and grant Your Lordships wisdom, boldness, and courage to continually discharge your constitutional responsibilities without fear or favour.
5. While I take the liberty to congratulate my lord, the President of the Court, for the additional justices that were sworn-in on Wednesday, 20 September 2023, with whom we also felicitate as a Bar, I must not omit to extend the condolences of the Bar over the demise of **Honourable Justices, Ayobode Olujimi Lokulo-Sodipe and Raphael Chike Agbo, JJCA.**

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## **Bench and Bar Relationship**

6. Last year, during the 2022 Legal Year Ceremony, I had while addressing this court, made a firm commitment that the Bar under my leadership will continue to maintain a robust Bench and Bar relationship from the understanding that we are both agents of the same principal – Justice – performing different functions towards satisfying the demands of Justice. During the period since then, we have done our bit to protect and defend the integrity and independence of the judiciary and to promote the welfare of members of the bench. In this respect, and for the first time, the Nigerian Bar Association partnered with the Court of Appeal to organise a two-day Virtual Training Workshop for Justices of the Court of Appeal and Judges of the Tribunals Appointed for the 2023 Post-election Disputes on the Electoral Act 2022. This was held on 20 and 21 June 2023. It was in partial fulfilment of our commitment to the people of Nigeria that the Bar shall participate in the 2023 elections honestly and sincerely, within the ambit of the law.
7. A major part of the support of the Bar for the Bench in the overall interest of the nation is the advocacy by the NBA for the review of the salaries and allowances of judicial officers. I am happy to report that we had engagements with the Revenue Mobilization Allocation and Fiscal Commission (RMAFC) and have aligned with the National Judicial Council (NJC), which submitted a proposal for 300% upward review of the basic salaries of all judicial officers. I am also delighted to inform my Lords the President, the Justices of the court and by extension the justices of the entire judiciary, that President Asiwaju Bola Ahmed Tinubu, GCFR, has directed a presidential working group to harmonise the recommendations from RMAFC, NBA and NJC, with the view to include the outcome in the 2024 budget appropriation.
8. It is noteworthy that in addition to proposing an upward review of existing allowances, we have proposed a new set of allowances in recognition of the peculiar demands of judicial office holders that deserve compensation but are not presently included in allowances available to judicial officers. These include:
  - a) Lifestyle Allowance.
  - b) Dual Responsibility Allowance,
  - c) Frequent Transfer Allowance.
  - d) Long Service Allowance.
9. We have also recommended delinking judicial remuneration from that of the civil service. De-linking judicial remuneration from that of the civil service would not only strengthen the perception of judicial independence but would also provide the necessary safeguard and reassurance to Judicial officers. To achieve this in concrete terms we have proposed a separate legislative scheme

for salaries, allowances, conditions of service and retirement benefits for judicial officers.

### JUSUN

10. Another important part of the struggle for the independence of the judiciary which we have missed out (largely ignored) is the demands by the Judiciary Staff Union of Nigeria (JUSUN). The Union is no doubt an important part of the discharge of the primary role of the judiciary in adjudication. JUSUN had on 2/9/2023 issued a 21-day ultimatum for the full implementation of judiciary financial autonomy. I met with the leadership of JUSUN to intervene, knowing that a strike by the Union is a shutdown of the entire judiciary with devastating impact on the economy. We have started making contacts with all the critical stakeholders and we shall convene a meeting of all stakeholders for a resolution of the demands by JUSUN.

### Attacks on the Judiciary

11. Let me quickly state that the responsibility of the Bar does not stop at ensuring that the welfare of Judges/Justices is guaranteed – which is important to engender confidence, courage, independence, and productivity in the dispensation of justice. It is equally the responsibility of the Bar to always show respect to the Court. Some of our colleagues at the Bar, have made it good sport to leave courtrooms and go on-air to attack Judges and the Judiciary for unfavourable decisions.
12. His Lordship, Honourable Justice Abdu Aboki, JSC, (JCA as he then was) speaking at His Lordship's Nigerian Law School Class of 1977 40<sup>th</sup> Call to Bar Anniversary in 2017, had this to say:

*“Most worrisome is the attack on the judiciary by the media and the members of the Bar. This is a huge limitation on the development of the justice system. Before the court makes a pronouncement or a judgment, the media with the help of legal practitioners would have carried out its own trial and passed its own judgment on a matter still pending before the courts. This is indeed worrisome... We wonder at the role legal practitioners play in all of this. You find legal practitioners on air daily, castigating judges and blaming them for all the woes in the justice system and the media of course is quick to run with these sensational stories; spreading it as far as it can get...I think lawyers should put a rein on their utterances, so that we do not with our own hands bring down the profession and legal system we have worked so hard to build. As for those who cannot do this and who continue to attack the judiciary without basis, they should be sanctioned,”*

I cannot agree more with His Lordship on this.

13. The legal practitioner has a bounden duty to educate members of the public on matters of the law. He must always speak objectively without sentiments with the intention of providing direction. When we grant interviews on television and other media outlets, we must remember to speak the law only and to do so devoid of any emotions, sentiments, or other extraneous considerations. It is our responsibility to manage the expectations of the public; not to mislead/misinform the public, by objectively and dispassionately educating them on the law, to guide their expectations. This is why, even at the risk of sounding like a broken record, I will not grow weary of reminding us of the quote by **SIR CHRISTOPHER ALEXANDER SAPARA WILLIAMS** that *“the legal practitioner lives for the direction of his people and the advancement of the cause of his country.”*
14. Judges cannot do or talk anyhow and so also the society cannot do and talk anyhow when it comes to the Judicial process which is not a one-off event but a process commencing from beginning of trial to judgment and in and out of Court conduct of the judges.
15. We must also not forget that it is the engagement between the litigants/counsel with the courts through the instrumentality of the processes prescribed by the rules of court and the evidence adduced – guided by the application of the law of evidence, that determines the outcome of any dispute. The court will not and must not act on anything outside of what was presented to it. While the public may know one thing on a matter, unless and until such is domiciled/presented before the court, within the confines of the rules and law, the court cannot act on the same. *It is the responsibility of the Bar to educate the public in this regard and this is the only way to bring the expectation of the public within the ambit of the law.*
16. Where from this education, societal expectations are conterminous with the facts and the law, then public reactions to judicial proceedings will be civil. Otherwise, anything short of this is self-help and an invitation to chaos and anarchy. Misinforming the public through sentimental or emotional comments/remarks on judgement of the court is to incite the public against the judiciary and thus threatening the existence of this nation.
17. On the other hand, my lords, members of the Bench in carrying out the functions of their office must always bear on their shoulders the duty of ensuring that there is no appearance whatsoever, of compromise on their part. Nothing should be done which creates even a suspicion that there has been improper interference with the course of justice. As a wise man once noted, rule of law is only achievable when members of the society have confidence in the integrity and capacity of the judiciary.

18. In an address to the Bar Association of St Louie titled *Law and the Laymen*, the former Chief Judge of the United States District of Columbia, puts this point a bit more succinctly:

***“There should be two cardinal objectives of courts in a democracy. One is obvious: courts must accomplish justice. The second, often neglected, is: courts must convince those whom they serve that justice is being accomplished.”***

19. It follows therefore My Lords, that as members of the legal profession, we must be deliberate about pursuing the cardinal objectives of the court. We must deal decisively with any issue amongst us that will lead us to ridiculous characterization by the public. This is the only way the legal profession will elicit the confidence of the public and remain relevant in the affairs of this nation.

20. Freedom, peace, order, and good governance – the essentials of any democratic society – depend on responsiveness on the part of the court in the performance of judicial functions. The law as an instrument of social change will remain so only in name if the judiciary is not responsive in applying or interpreting the law to bring about change whenever and wherever the situation calls for it. I noted in my Inaugural Address that the only voice which cannot be suppressed is the voice of the legal profession because it derives its source from justice. Public resentment has grown against members of the executive and legislature. The public no longer sees them as providing the representation for which they were elected to their various offices. Challenging as it maybe for the Judiciary, it remains the only resort for the Nigerian public, and we cannot afford to lose it.

21. Honourable Justice A. M. Ahmadi, the former Chief Justice of the Supreme Court of India, had this to say on the role of the Court:

***“...in recent years, as the incumbent of Parliament have become less representative of the will of the people, there has been a growing sense of public frustration with the democratic process. This is the reason why the (Supreme) court had to expand its jurisdiction by, at times, issuing novel directions to the executive.”***

This must be the posture of this court, and indeed all other courts in Nigeria, if we are to experience the much-desired recovery, reformation, and repositioning in our polity. This calls for courage and boldness, and of course, the support of the Bar. The NBA under my leadership is committed to an unflinching support for the judiciary in this regard. If members of the Bar do not rise in support of the Judiciary within the confines of the law, we will lose this nation.

22. On the 19<sup>th</sup> of September 2023, at the commissioning of the Court of Appeal Chapel, I observed that while all eyes are on the judiciary, with all manner of attacks on the Judges and Justices of the courts, this court led by the President,

and by extension the entire judiciary turned its eyes to God Almighty. And I noted that that was the best response in the circumstance. It is clear, not only has the judiciary in this country consistently maintained its commitment to justice and accountability to the Nigerian people, but also makes itself accountable to God – the ULTIMATE JUDGE of all. I heard the President in her remarks say, **“we heard all they have said, but we leave them to God”**.

### **Concluding Remarks**

23. Before, I conclude, let me use this opportunity to thank my Lord, the President of the Court of Appeal, for the rousing Goodwill Message extended to the NBA at our just concluded 63<sup>rd</sup> Annual General Conference. I also congratulate my Lords, the justices of this court who retired from service within the past one year, My Lords, Honourable Justice M. A. Owoade, Honourable Justice Agube, Honourable Justice A. O. Belgore, Hon. Justice Adefope Okojie, Honourable Justice P. O. Ige, JJCA and Honourable Justice Fatima O. Akinbami, Justices of the Court of Appeal. I wish their Lordships Happy Retirement with sound health and happiness.
24. Finally, on behalf of the Nigerian Bar Association, I once more welcome My Lord, the President, and the Justices of the Court of Appeal back from vacation. As your Lordships prepare to continue to face the assignments and challenges in this new legal year, I wish you God’s strength, guidance, and the ability to uphold the ideals of justice. May the Court of Appeal have a fruitful and productive legal year ahead.
25. I thank you all for listening.

  
**Yakubu Chonoko Maikyau, OON, SAN**  
PRESIDENT