



## COURTS WAIVE DEFAULT FEES PAYMENT

On April 6, 2021, members of the Judiciary Staff Union of Nigeria (“JUSUN”) commenced an industrial action to press home their demand for financial autonomy for the Judiciary. The effect of the industrial action was that courts across Nigeria were closed to members of the public and judicial activities were suspended, except in limited circumstances where time-bound judgments and rulings were delivered virtually by some courts. Also, the filing of court processes which are time-sensitive was adversely affected.

Computation of time for filing pleadings and related court processes are regulated by the Rules of Court and, in most cases, these Rules of Court prescribe penalties in the form of payment of daily default fees for late filing. For example, under the *Federal High Court (Civil Procedure) Rules, 2019* (the “FHC Rules”), a defendant, in a suit commenced by Writ of Summons, has 30 days from the date of service of the Writ of Summons, to file a Statement of Defence and where the defendant fails to file the Statement of Defence within the prescribed period, the defendant is required to pay the sum of NGN1,000 (One Thousand Naira) for every day of default, until compliance.

After a stakeholders’ meeting on June 9, 2021, the leadership of JUSUN agreed to suspend the industrial action, effective from June 15, 2021. Following the suspension, several heads of court, in the exercise of their powers under the *Constitution of the Federal Republic of Nigeria, 1999* (as amended) and the legislation creating their respective courts, issued practice directions/circulars effectively waiving the payment of default fees that may have accrued during the period of the industrial action. Some of the practice directions/circulars which have been issued to date, include the:

- **Federal High Court of Nigeria (Exemption of Payment of Default Fees for Filing of**

**Processes) Practice Directions (No. 2) 2021;**

- **National Industrial Court of Nigeria (Exemption of Payment of Default Fee for Processes for the Period of the JUSUN Strike from 6 April 2021 to 14 June 2021) Practice Direction (No. 1) 2021;**
- **High Court of Delta State (Exemption of Payment of Default Fees for Filing of Processes) Practice Direction (No. 2) 2021;** and
- **Lagos State Judiciary Circular dated June 11, 2021.**

In addition to waiving default fees, some of the practice directions (such as the practice directions issued by the Federal High Court and the High Court of Delta State) go a step further to exempt the period of the industrial action (i.e. April 6, 2021 - June 14, 2021) in determining and computing the time to undertake any time-bound assignment under the Rules of Court.

The industrial action halted prospective and pending actions/proceedings and raised new challenges concerning access to, and effective administration of, justice and case management in the country. Time is of the essence in the administration of justice and the enforcement of legal rights must be triggered within a given period after the right of action accrues. The time limits to commence a suit, to deliver judgments and to file an appeal are all prescribed by law and, failure to adhere strictly to these timelines have attendant consequences and may adversely affect the right of an aggrieved party to seek remedy in court.

Although there has been no attempt, to our knowledge, to resolve issues relating to the effect of intervening events such as industrial actions,



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protests, riots, government-imposed lockdowns etc., on the timelines imposed by substantive legislation (for example, statutory provisions concerning limitation periods and lodging appeals to the Court of Appeal and Supreme Court), it is instructive to note

that our courts are beginning to proactively address some of the challenges faced by the courts and litigants; which have been occasioned by extenuating circumstances.

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