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EXPLORING THE BENEFITS OF PRE-TRIAL CONFERENCE PROCEDURE TO JUDICIAL PROCEEDINGS IN NIGERIA*

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ABSTRACT: *There has been great concern accross the world over the slow pace of judicial proceedings. The fear in many quarters is that this problem could ultimately defeat the very purpose of adjudication, to wit, dispensation of substantial justice. As a consequence, the pretrial conference procedure has evolved as way of preventing unnecessary delays in judicial proceedings/ This procedure has been adopted in Nigeria with so many pitfalls. This paper attempts a review of the extent to which the procedure has been put to use by the Nigerian courts. The paper also assesses the benefits accruable to the Nigerian judicial system by an efficcient application of the procedure. In view of the fact that the world has become a global village, a comparative analysis of the use of the procedure by different countries of the world is also made in this paper. At the end, the paper recommends a way foward in the application of the pretrial conference procedure in Nigerian judicial proceedings.*

KEYWORDS: Pretrial conferencce, Pretrial Order, Case management conference (C.M.C.), Final Status Conference (F.M.C.)

INTRODUCTION

The concept of "Pre-Trial Conference" has been defined in various ways. The Blacks Law Dictionary has defined the term as:

> An informal meeting at which opposing attorneys confer, usually, with the judge, to work towards the disposition of the case by discussing matters of evidence and narrowing the issues that will be tried.[1]

Pre-trial conferences usually take place shortly before the trial and results in the issuing of pre-trial orders by the court. The rationale of pre-trial conference from the above definition is a supposition that some of the issues which occur or arise during trials and which consequently prolong the duration of trials unnecessarily are frivolous ones which could be dealt with and disposed of at the pre-trial conference. It is at the pre-trial conference that matters of evidence to be tendered at the trial are agreed upon. The issues for determination between the parties are also established during the pre-trial conference. The overall aim is to shorten the duration of trial or possibly avoid the trial by means of promoting an amicable settlement of the dispute.

Pre-trial conference has further been defined as:

[1] Bryan A. Garner (ed) Blacks Law Dictionary (8th ed) St. Paul Minnesota, 2007 P. 1226

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> … a meeting between both parties to a case, orchestrated by a Judge or another court official and that is held before the commencement of a trial.[2]

A court may order a pre-trial conference or the parties to a case may request it. It is at the heart of the pre-trial conference procedure to simplify and shorten court trials as well as avoiding them, if possible, by promoting an amicable settlement of the dispute between the parties. The underlying presumption beneath this attitude is that majority of the cases which are brought before the courts for trial may be frivolous and that where an appropriate forum is provided for the parties, they may settle their differences without the necessity of undergoing the rigours of court room trials. In cases where formal trials become inevitable, the pre-trial conference affords a shortened and simplified form of trial where court room **jigsaws** over evidence to be tendered and those to be disallowed are avoided.

At the end of a pre-trial conference a pre-trial order is supposed to be made. A pre-trial order has been defined as:

> A court order setting out the claims and defenses to be tried, the stipulations of the parties, and the cases, procedural rules, as agreed to by the parties or mandated by the court at a pre-trial conference.[3]

The pre-trial order lays down the future direction of the trial. It is expected that all interlocutory applications and motions which are of a preliminary nature are disposed of during the pre-trial conference. Documents to be relied upon at the trial are also discovered at the pretrial stage so that much precious time is not wasted on objections to admissibility of documents during the trial proper if the case eventually proceeds to trial.

Origin, Nature and Purpose of the Pre-Trial Conference

The first pre-trial conference in the United States of America which shares a common legal system with Nigeria was held in Michigan in 1929[4]. In the United States of America where the practice has become entrenched, a pre-trial conference may be requested by a party to a case or may be ordered by the court. The term "pretrial conference" in American judicial practice is used interchangeably with the term "pre-hearing". However, they do not mean exactly the same thing. The major difference lie in the fact that while a pretrial conference usually precedes a trial, a pre-hearing could be ordered over any special issue that crops up after the conference.

Over the years, the courts have become more crowded and this has rendered the pre-trial conference more important than ever before. Pretrial conference, where properly conducted, ought to assist the court in saving time by narrowing the focus of the trial and resolving preliminary matters. Pre-trial conferences also help the courts in the fair and impartial adjudication of disputes by facilitating the discovery of documents and reducing the element of surprise at trial.

In the United States of America, where the practice has become well established, it is made a mandatory procedure and not left at the choice of the parties and or at the discretion of court. The courts always adopt the procedure as a matter of law. The courts are imbued with powers

[2] http/www.ehow.co.uk/info 843103/happens.judgment.pretreial.co.
[3] *op.cit.*,fn.1 p. 1226
[4] http:/legal-dictionary. the freedictionary.com/pretrial.-confrerence, p. 2 of 4 (accessed on 2/04/2012)

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to dismiss a suit or impose a penalty on any party who fails to turn up for the conference once it is ordered. In *G. Heinemann Brewing Co. V. Joseph Oat Corp*[5], the court entered judgment against a defendant who refused to appear in a pretrial conference ordered by it. In civil cases, the pretrial conference aims at:

1. Formulation and simplification of the issues in controversy between the parties;
2. Elimination of frivolous claims and defenses;
3. Obtaining admission of facts and documents to avoid unnecessary proofs;
4. Identification of documents and witnesses;
5. Making schedules for the submission of pre-trial briefs and motions;
6. Making rulings on motions submitted before the conference;
7. Setting dates for further conferences;
8. Discussing the possibility of settlement and
9. Discussing the consideration and management of large and complex cases.[6]

From the foregoing, it is trite that the rationale for a pre-trial conference may be summed as follows:

(a) To expedite the disposition of the case.

(b) To help the court to establish firm management of the case.

(c) Discourage wasteful pre-trial activities

(d) Improve the quality of the trial with thorough preparation.

(e) Facilitate a settlement of the case.

It is pertinent at this stage to point out that the liability or guilt of the parties is not dealt with at the pretrial conference. A pretrial proceeding may be held at the discretion of the judge or at the instance of any of the parties in a civil proceeding. In a criminal case however where the defendant claims that the prosecutor has breached a plea bargain agreement, failure to hold a pretrial conference is regarded in the United States of America as an unconstitutional denial of due process rights.

In *United States v. Ataya*[7], it was held that the defendant has a right as a matter of due process to a pretrial hearing when he claimed that the prosecutor had breached a plea bargain agreement. In criminal cases, the major purpose of pretrial conferences is to inquire into matters that do not touch on the guilt or innocence of the accused persons. In such cases, pretrial conferences in the United States of America are conducted to promote a fair and expeditious trial of the accused person.

It is at the stage of pretrial conference that the issue of the evidence to be excluded at the trial and the witnesses that will be allowed to testify are sorted out. The substance of pretrial

[6] http://www.ehow.co.uk/info 8431031 happens-judgement-pretrail.co...(accessed on 02/04/2012)

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conferences is the same for both criminal and civil matters in the United States of America except that defendants in criminal cases enjoy more procedural protection. Generally, once an accused person has requested the attendance of counsel, he may not be required to attend the pretrial conference without a counsel. No admissions made by an accused person or his counsel may be used against him in the trial except such an admission is in writing signed by the accused and his counsel[8]. The prosecutor must let the accused know before trial of his intention to use any special evidence such as the ones obtained as a result of a search or seizure, evidence obtained by electronic surveillance mechanism, evidence culled from a confession or admission or statement made by the accused elsewhere and evidence relating to a lineup, show up, picture or voice identification of the accused person[9].

Under the American Uniform Rules of Criminal Procedure, defendant or accused person must raise timely issues of defences or objections based on defects in the formal charging instrument, requests regarding discovery or disclosure of evidence, request to exclude from the trial certain potentially inadmissible evidence, requests for severance of the trial where several defendants or accused persons are jointly charged, requests for the dismissal of the case or its transfer to another court or jurisdiction. Where a defendant or accused person fails to raise the above issues at the pretrial conference, he may never be allowed to raise them during trial. Some American jurisdictions have divided the pretrial conference into two distinct conferences. The first is the trial or case management conference where administrative aspects of the case such as scheduling are discussed. The other conference is the dispositional conference where the parties discuss the possibilities of a settlement or a plea bargain.

Global Trends in the Adoption of the Pretrial Conference Procedure

In many countries of the world, pre-trial conferences are not mandatory. Pakistan is currently working on making pretrial conferences mandatory in trial suits by conducting a review of its Code of Civil Procedure, 1908[10]. The report received by Pakistan from the Secretariat of the Conference of Chief Justices of Asia and the pacific on pretrial hearing and conferences in civil litigation contained statutory provisions and rules practiced in some 40 countries of Asia, the Pacific, Africa and the United States.[11] The country intends to use this report to examine and suggest ways that delay in disposal of cases can be curtailed by introductory pretrial conference and empowering the courts to make pretrial orders.[12]

Many countries do not have specific and well defined provisions for conducting pretrial conferences. Countries like Bangladesh, India, Japan Korea and Pakistan have no provision for pretrial conference in their rules of litigation. There are some states however that have specific and elaborate provisions for pretrial conferences in their rules of court. These countries include Queensland (Australia), South Australia, Western Australia, Hong Kong, Nigeria(civil procedure only), Philippines, Singapore and the United States of America. Pretrial conferences may also appear to be optional in some countries. They are however mandatory in countries like Fiji, Hong Kong, Martial Islands, Micronesia, Nigeria (civil, Philippines and the United States.

[8] o*p. cit* fn. 4
[9] i*bid* p.4 of 4
[10] pkljc 35 at p. 2 of 13
[11] *ibid* at p. 3 of 13
[12] *ibid* at p. 4 of 13

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In countries where pretrial conferences are mandatory, the courts are bound to apply the procedure and parties are bound to comply. This is because default could lead to sanctions such as dismissal of the suit *in limine* or the imposition of fines as seen in the American case of *Heinemann Brewing Co V. Joseph Oat Corp.*

In Nigeria, pretrial conferences are mandatory in civil litigation and have elaborate provisions for same in the Uniform High Court Rules and the High Court of Lagos State (Civil Procedure) Rules, 2004. There are however no provisions for pretrial in criminal cases unlike are the case with the United States. The summary procedure of the lower courts such as the Magistrate and District Courts in Nigeria has no rules also for pretrial conference.

Provisions for Pretrial Conference under Nigerian Laws

There are no provisions for pretrial conference in criminal cases in Nigeria. Similarly, the summary trial procedure adopted by the Magistrate and District Courts do not contain provisions for pretrial conference.

The specific and elaborate provisions for pretrial conference are to be found in the High Court rules of Lagos State and other states of Nigeria. The High Court of Lagos State (Civil Procedure) Rules, 2004 contain the following provisions for pretrial conference:

> Within 14 days after close of pleadings, the claimant shall apply for the issuance of a pretrial Conference Notice as in Form 17 accompanied by a pre-trial information sheet as in Form 18 for the purposes set out hereunder:
>
> a. disposal of matters which must or can be dealt on interlocutory application.
>
> b. giving such directions as to the future course of the action as appear best adopted to secure its just, expeditious and economical disposal.
>
> c. promoting amicable settlement of the case or adoption of alternative dispute resolution.[13]

The judge shall enter a scheduling order at the pretrial conference for joining parties, amending pleadings or any other processes, filing motions, further pretrial conferences, any other matter appropriated in the circumstances of the care.[14] The judge shall also consider and take appropriate action as may be necessary or desirable in respect of formulation and settlement of issues, amendments and further and better particulars, the admission of facts and other evidence by consent of parties, control and scheduling of discovery, inspection and production of documents, narrowing the field of dispute between expert witnesses by their participation in the pre-trial conference or by any other manner, hearing and determination of objections on point of law, giving orders or directions for separate trial of a claim, counter claim, set off, cross-claim or third party claim or of any particular issue in the case, settlement of issues, inquiries and accounts, securing statement of special case of law or facts

[13] Order 25, rule 1, High Court of Lagos State (Civil Procedure) Rules, 2004.
[14] Order 25, rule 2, *ibi*d 15 Order 25, rule 3 *ibid*.

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determining the form and substance of the pre-trial order and such other matters as may facilitate the just and greedy disposal of the action.[15]

A maximum period of 3 months is provided under the rules for pretrial conference.[16] At the end of a pre-trial conference or series of pretrial conferences, the judge shall issue a report which shall guide the subsequent course of proceedings unless modified by the judge.[17]

Where a party or his legal practitioner fails to attend a pretrial conference or fails to participate in good faith, the judge shall in the case of the claimant, dismiss the case and in the case of the defendant enter final judgment against him[18]. Any judgment that is given for default of attendance at a pretrial conference or bad faith during the conference may be set aside upon the application of the aggrieved party if made within 7 days from the date of judgement or such other period as the pretrial judge may allow, not exceeding the three months designated for pretrial conference under the rules.[19]

The implication of this provision is that a pretrial judgement can no longer be set aside by the trial court after 3 months. The aggrieved party can, however approach the Court of Appeal for an order of retrials on the merits. This again cannot be granted as a matter of course unless sufficient reasons are adduced for the conduct of the party leading to the pretrial judgement and his inability to bring an application to set same aside at the pretrial court within 3 months. The Agenda for the pre-trial conference for the attainment of the purpose of the conference shall be set and directed by the judge and the parties and their legal practitioners are expected to co-operate with him for the successful completion of the conference.[20]

The High Court rules of Anambra[21], Ebonyi[22], Enugu[23] and the other states of the federation have also made similar provisions for pretrial conference.

The Application of the Rules of Pretrial Conference by Nigerian Courts

Regrettably, the Nigerian courts and the legal practitioners appearing before them do not seem to understand or even appreciate the pretrial conference procedure as contained in the High Court Rules of the thirty six states and the Federal Capital Territory (FCT).This is in spite of the lofty objectives and advantages offered to the Nigerian adjudicatory process by the pretrial conference procedure. The practice is that in many cases, parties and their counsel seldom apply for the issuance of the pretrial conference notice as required under the rules of court. The usual practice is that at the close of pleadings the counsel to the plaintiff merely fills and files certain forms in court. This presupposes that the forms are routinely filled without the making of any application as required under the rules. A mere letter to the judge

[15] Order 25, rule 2
[16] Order 25, rule 4 *ibid*
[17] Order 25, rule 5 *ibid*
[18] Order 25, rule 6 i*bid*
[19] Prove to order 25, rule 6.
[20] Order 25, rule 7 *ibid*
[21] Anambra State High Court (Civil Procedure) Rules, 2006
[22] High Court Rules of Ebonyi State, 2008.
[23] High Court Rules of Enugu State, 2006.
[24](2012) 1 NWLR (PT 282) 560. para 18 of the 1st Schedule to the Electoral Act 2010)

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for the issuance of a pretrial conference notice suffixes to activate the procedure. This was the position of the Supreme Court in *Gerbi v. Dahiru* [24]

The first schedule of the Electoral Act 2010 as amended governs the rules for procedure in election petition matters and contains identical provisions for pretrial conference as the State High Courts Rules.[25]

Failure to file an application for pretrial conference as required by the above provisions of the rules could lead to the dismissal of an election petition. Such a petition shall be deemed as having been abandoned.[26]

The purport of the schedule to the Electoral Act of 2013 is the need to avoid delay in hearing election petition. It therefore empowers the tribunal or court to conduct a pretrial conference where parties are allowed to admit or exclude documents by consent, direct the parties to streamline the number of witnesses they intend to call to those whose testimonies are relevant and indispensable. In Lagos State, the rules of pretrial conference have been judicially interpreted. In *Nduka Ikeyi v Crown Realities Ltd* [27] the court of appeal Per **RHODES-VIVOUR JCA,** (as he then) made the following remarkable pronouncement on the aim of the pretrial conference:

> A pretrial conference is an extraordinary procedure before trialwhere the parties are encouraged to resolve the dispute and settle the dispute or settle the case. The policy under Order 25 of the High Court of Lagos State (Civil Procedure) Rules 2004 is designed to save precious judicial time; expenses involved in a full trial, and avoid unnecessary litigation when there are no longer any life issues after a successful pretrial conference. Successful pretrial conference reduces drastically a judge's docket thereby hopefully ensuring speedy conclusion of contested cases. A pretrial conference is initiated by the claimant or if the claimant defaults, the defendant can initiate it or apply for an order to dismiss the action and it takes place at the close of pleadings. [28]
>
> At the conclusion of the pretrial conference or series of conferences, as in this case, the judge shall issue a report..[29]The report shall guide the subsequent cause of proceedings at the trial and can be modified by the trial judge. Where there are no issues left for trial, the trial judge was perfectly correct to strike out the suit since there were no issues for trial in the normal way.

The Benefits of the Pretrial Conference

Pretrial conference is quite a commendable practice as it ensures the just, economical and speedy disposition of cases. Firstly, most court trials are only able (that is where they do) to achieve justice according to law. It is a well known fact that the law is sometimes such a

[25] para 18 of the 1st Schedule to the Electoral Act 2010)

[26] Unreported suit No.CA//E/EPT/40/2011; see also the decision of the Court of Appeal Enugu Division in All Progressive Grand Alliance (APGA) & Anor. v Fort Ifeanyichukwu Dike & 7Ors[25].

[27] (**2010)** 6NWLR (Pt. 1189 p114)

[28] See Order 25, Rules 1(1) (3)

[29] See Order 25 Rule 3 *Supra*

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complex web with its insistence on rules and precedents that sometimes the courts are only able to achieve legal justice without real justice. The pretrial conference affords the parties to a dispute the opportunity of having their dispute referred to a third party for alternative dispute resolution in the mould of conciliation, mediation and arbitration. The informal atmosphere pervading a pre-trial conference as distinct from a courtroom trial encourages the parties to open up and come to terms with the real issues in controversy between them such that it becomes easier to promote amicable settlement of the dispute between the parties.

Secondly, the narrowing down of the issues for determination between the parties reduce the final cost of litigation by eliminating irrelevant and frivolous evidence that have no bearing on the real issues in controversy. After a properly conducted pretrial conference, the parties already know what to meet at the trial. In a sense, this could propel a party who have initiated an action or is defending one on the basis of an honest but mistaken belief to withdraw the action or submit to judgement. It is also at the pretrial conference stage that proceedings in lieu of demurer are supposed to be heard and determined as objections on points of law.[30]

The economic consequence of this could be to terminate a suit *in limine* and save the huge economic expense that would have been involved in a full trial. It is most proper and economical for a court to hear and determine objections pertaining to its jurisdiction to entertain a suit at the pretrial conference. Where the court properly rules that it has no jurisdiction to entertain a suit at the pretrial stage, it will save it and the parties the rigors and costs of a full trial. Where pretrial conferences are properly done, it will decongest the overcrowded cause lists of most of our courts.

A major devastating blow to Nigeria's justice delivery system is delay in the dispensation of justice. As William Gladstone once said "justice delayed, is justice denied". Some cases have been known to last for as long as 25 years or more in Nigeria. There is this story of a certain case which lasted for 25 years. At the end, the plaintiff was successful and the court made some orders against an American Company for the payment of some money to the plaintiff. By the time, the plaintiff sought to enforce his judgement, the American company had already left Nigeria. At the time, he traced the company to the United States and engaged an Attorney to help him enforce the judgement in the United States, the company was already liquidated. This is the irony of prolonged litigation that lasts unusually longer than it should actually last. The pretrial conference takes care of those elements that would have usually delayed the conclusion of a case. For example, most interlocutory motions are usually heard and determined at the pretrial conference. It is expected that effective practice of the pretrial conference procedure by our courts will greatly reduce the delay in justice delivery in Nigeria.

The use of discovery method and the requests for admission are all tools employed in the pretrial conference to shorten the duration of cases. According to the U.S Supreme Court, the purpose of modern discovery is to "make trial less a game of blind man's bluff and more of a fair contest with basic issues and facts disclosed to the fullest possible extent".[31]Pretrial conferences thus remove litigations by trial from the realm of "hide and seek" to that of a fair and factual context. It prevents trial by ambush. Surprise, which is still being used as a tool in litigation by many Nigerian lawyers, has been discouraged by modern practice and procedure. For instance, where a document that was not previously in the knowledge of an

[30] order 22, rule 2 (Lagos), order 25, rule 3 (f), (Anambra)
[31] Oladele, Rayode, judicial efficacy in Nigeria: issues & lessons at www

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opposing party is sought to be tendered, this will lead to such a party asking for adjournment in order to respond and the consequence will be an unconscionable delay of the case.

In summary, it is the position of this paper that proper pretrial conferences will lead to a just economical and speedy determination of disputes. From the foregoing, it is saying the obvious and at the risk of repetition that the rationale for a pre trail conference is to expedite the disposition of the case; discourage wasteful pre trail activities; helps the court in the proper management of the case; facilitates settlement of the case; and improves the quality of trail with thorough preparation.

It is at the pretrial conference that most interlocutory applications are taken. Applications relating to joinder of parties, amendment of pleadings and further and better particulars are considered at pretrial conference. Other issues germane for pretrial conference are as follows: formulation and settlement of issues in controversy; admissions of facts and other evidence by consent of parties; control and scheduling of discovery, inspection and production of documents; narrowing the area of dispute between expert witnesses by their participation at the pretrial conference or in any other manner; hearing and determination of objection on points of law; giving orders or directions for a separate trail of a claim, counterclaim, setoff, cross claim or third party claim or of any particular issues in the case; settlement of issues, etc.

In a situation where pretrial conference are properly held, the courts are enjoined in addition to the foregoing to take steps to ensure that hearing is not delayed by the number of witnesses and objections to documents to be tendered and shall at the session allow parties to admit or exclude documents by consent and direct parties to streamline number of witnesses to those whose testimonies are relevant and indispensable. To further achieve the aims of pretrial conference, the parties and the court are agreed not only as to the number of witnesses to be called by each party but the number of days and timing for cross examination of the witnesses. Those documents that the parties fail to admit or exclude by consent are subjected to oral arguments on their admissibility provided that where the court finds that the objection to admissibility of documents are predicated on frivolous grounds, heavy costs are visited on the objecting party.

Since admitted facts are already known at the pretrial conference, the issues in controversy are settled and cross examination limited to those issues. The sky is no longer the limit for counsel who is cross examining a witness as he should concentrate on the issues in controversy so as to make proper and adequate use of the limited time apportioned to him for the purpose by the judge during pretrial conference. During the trial proper, the parties are again restricted to the issues in controversy that were settled at the pretrial except in rare cases and with the leave of the court, parties are not allowed to raise other issues for determination in their final addresses as that will amount to taking the other party and the court by surprise.

In the United States of America and Lagos State of Nigeria, where the pretrial conference procedure appears to be entrenched, the parties are encouraged to amicably settle the case or resort to alternative dispute resolution during the pretrial conference. In Lagos State of Nigeria, the judges will often refer matters and the parties to the multi-door dispute resolution centre, a hybrid arbitration panel which was set up by the Lagos State judiciary as an alternative dispute resolution centre. The centre has recorded marvelous and very impressive successes. In the United States' State of California, the pretrial conference is divided into two

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major conferences or session/the "**CASE MANAGEMENT CONFERENCE" (C.M.C)** and the **"FINAL STATUS CONFERENCE" (F.S.C)**. During the case management conference, the date for mediation and the trial date amongst others are fixed. The Final Status Conference is usually about two weeks to the trial date already fixed during the CMC. .It is during the FSC that parties must report the outcome of mediation and where it failed, must state the reason for the failure.

RECOMMENDATIONS AND CONCLUSION

The pre-trial conference procedure undoubtedly facilitates the just, economical and speedy conclusion of disputes brought before the courts. It is also obvious that the High Court (Civil Procedure) Rules of both the Federal Capital Territory (FCT) and the 36 states have made elaborate provisions for the adoption of the procedure in all civil litigations before the High Courts. Some of the states such as Ebonyi and Enugu States omitted the nomenclature (Civil Procedure) from their own rules. The reason for this is not so clear.

The fact remains however that the legal provisions for the procedure is presently yet confined to civil proceedings before the High Courts. It is suggested that the procedure should be extended to criminal proceedings before the High Courts as is the practice elsewhere; furthermore, the procedure can also be used in the Magistrate and District Courts and incorporated into their summary trial procedures. It is a well known fact that certain proceedings in the Magistrate and District Courts sometimes last for as long as 5 years despite the summary trial procedure adopted by them. The pretrial conference procedure if adopted in these inferior courts can also eliminate those usual delays that prolong the life of cases before these courts.

Another set-back to the effective functioning of the pretrial conference procedure is the workload of judges. It is well known that the cause list of many of our courts are jam packed with cases some as old as 20 years. The judges have a vast jurisdiction and perform other numerous functions apart from conducting pretrial conferences. The consequence of this is that they do not give full attention to the pretrial conference. The conferences are carried out in routine manner and most judges and lawyers view it not as a serious step in the determination of cases but as a step that is taken to fulfill all righteousness. It is for instance difficult to point to cases outside Lagos within the other State High Courts where parties have been able to settle amicably at the pre-trial stage. Some cases may however have been successfully dismissed *in limine* at the pretrial stage as a result of one party successfully objecting to the suit on points of law.

A way out of this problem is the appointment of Magistrate and Judges to handle pretrial hearings as practiced in the United States of America. This will enable the fully fledged judges to focus their attention on more fundamental duties such as conducting trials. Newly appointed judges may also be made to spend the first two years of their appointment conducting pre-trial conferences. At the end of such conferences, the matters that are going for trial are then transmitted to a judge for trial. The present system where the same judge who conducts the pretrial conference and issues a report is also the judge to conduct the trial is also not desirable. This is because at the end of a pretrial conference properly conducted, a

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trial judge would have developed a certain mindset about the likely outcome of the suit at trial. This may not augur well for his neutrality in conducting the full trial. It is suggested that when an administrative Judge assigns a case, the case should be assigned to two courts; one for pretrial conference and the other for the conduct of the main trial if the dispute is not settled at the pretrial stage.

Another important way of improving the practice of the pretrial conference procedure is to hold such conferences in the chambers with only the parties and their legal practitioners in attendance. By so doing, the parties are able to open up and this could assist in the amicable settlement of the dispute between them. The amicable settlement of the dispute between the parties is a cardinal purpose of the pretrial conference procedure.

In Nigeria, the benefits of pretrial conference are still far from being realized in the country as a result of the foregoing loopholes identified in the system. For the procedure to yield maximum benefit to the Nigerian judicial system, certain anachronisms such as the recording of entire proceeding in long hand by Judges must also be addressed. In this millennium technology age, there are several and even cheap recording devices that can be employed by the courts for the recording of proceedings allowing the judge the opportunity to make only skeletal notes. Little wonder our judges are so fatigued. Where the pretrial conference procedure is effectively practiced, there is no reason why any case should last for more than 2 years. It is only when there is an assurance of a just and quick dispensation of justice that the rule of law can be completely achieved and thus the transformation from dictatorship to democracy attained.

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