ORAL ADVOCACY AND FRONTLOADING IMBROGLIO: WHERE DO ADVOCATES STAND

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ABSTRACT

A lawyer employs oral advocacy, which improves their fluency and confidence, to present their argument in court. A rule known as the frontloading concept, which requires litigants through their counsel to file all documents and supporting evidence along with the originating processes, has recently been developed by the High Courts in several states, starting with Lagos and followed by Anambra, in response to the need to adopt and reform the procedure of the High Courts in civil matters to suit the changing needs of the society. Oral advocacy in civil cases has fallen out of favor since the frontloading rule was implemented. Therefore, the work's objective is to investigate the Court's frontloading rule and the rationale for oral advocacy's demotion. The study's goal has been accomplished by adopting a doctrinal research methodology and using primary and secondary source materials that relate to the topic under consideration. The study discovered that frontloading has been replaced by oral advocacy in civil matters/litigations because it had failed to accomplish the goals for which it had been introduced. The study also discovered that because frontloading restrictions have reduced oral advocacy, law school students who are on court attachments find it difficult to learn from the attorneys who should be arguing their clients' claims because they are now restricted to filing and adopting procedures. The frontloading rule has an equal impact on the Bench, Bar, Litigants, and Members of the Gallery since it makes it more difficult for the Bench to learn from the Bar, for attorneys to share knowledge with one another, and for clients to keep up with the Court's activities. The study suggested that oral argument in civil lawsuits be given more weight.

***Keywords*:** Oral advocacy, frontloading, Advocates, Civil matters, Courts.

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INTRODUCTION

Speaking up for or in favor of someone or something else is called advocating on their behalf. It may be conducted in an open courtroom or outside of a courtroom, orally or in writing; when conducted orally, it is referred to as oral advocacy, and when conducted in writing, it is referred to as written advocacy. Oral advocacy is the more potent of the two types of advocacy. In the legal profession and in court proceedings, the importance of oral argumentation cannot be overstated because it is the foundation of our adversarial judicial system. The efficacy of oral argument was understood by the ancient philosophers, according to legal writers Suzanne Ehrenber, David R. Cleveland, and S. Wisotsky. The idea that speaking is a better mode of communication than writing has persisted in Western thought since Plato[i]. The Greeks "viewed writing as nothing more than a documenting technique. The spoken word was always their litmus test[ii]. In light of how crucial oral advocacy is, they consequently suggested returning to it. Oral advocacy dates back to ancient times, as evidenced by passages in the Holy Bible where people advocate for themselves or for others. King Solomon heard oral arguments from two women claiming to be a baby's birth mother[iii]. Abraham pleaded the cause of Sodom,[iv] Esther pleaded the cause of the Jews,[v] Apostle Paul defended himself before Governor Felis, Governor Festus and King Agrippa [vi] and pleaded the cause of Onesimus[vii].

The role of the attorney in court is to make arguments for or against clients. In the beginning, attorneys hired to represent clients in court used oral advocacy. Courtroom advocates were known as "prolocutors" or "narratores" in the early days of the common law, according to Jay Tidmarsh, whose "duty was to recite the count or narrative of the plaintiff, and to engage in any debate that arose in court."[viii] He continued by saying that it is no coincidence that "the opportunity to be heard," rather than "the opportunity to be read," is one of the fundamental rights protected by the Due Process Clause of the US Constitution. [ix]

The advent of modern civilization, which made it possible for courts of law to be established as an alternative to the earlier primitive, uncivilized, crude, and brutish state of savagery where every man was a law unto himself and only the fittest survived, as described by the English Political Philisopher Thomas Hobbes[x], is also thought to have contributed to the origin of bar advocacy as a crucial element in the administration of justice. Due to this paradigm change, a system of checks and balances was required to guarantee that the legal rights of individuals who gave up their weapons and authority and turned to the courts with their complaints for justice while forsaking themselves were completely preserved. While we're on the subject, it is the attorney who represents the party seeking redress in court who speaks and makes their

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case. According to Stephen L., oral advocacy is a crucial element in the process of litigation. Oral argument is too important and valuable to be sacrificed on the altar of efficiency, according to Washy et al. We advocate for oral advocacy to play a bigger part again[xi]

Oral advocacy is one of the skills that lawyers are taught to develop as part of their learning process in order to enable them to excel, gain respect from their peers, and gain prestige in their chosen profession. However, recently oral advocacy has been relegated to the background in civil cases under the guise of the rule of frontloading, which prefers written briefs or written argument to oral argument or advocacy, with the purported intention of avoiding surprises and accelerating the administration of justice and also believing that the essence of some civil litigations is the attainment of justice but not how it was attained, but it should be known that justice should not only be done but it should be seen to have been done. Up until recently, frontloading was not used in civil litigation, giving oral advocacy a prominent place in both criminal and civil cases. Before the frontloading concept, all that was required of a party seeking redress or intending to bring an action was to file an originating process, such as a writ of summons, originating summons, originating motion, or petition, with a statement of claim, and for the defendant to submit a brief statement of defense.[xii] Oral testimony was given in court during the parties' main evidence and cross-examination of their witnesses.[xiii] Attorneys presented oral closing arguments and arguments in motion.[xiv] The complainants and defendants do not have to frontload anything other than their petitions and responses prior to the introduction of practice instruction for use in the decision of election petitions cases following the 2007 elections. The alleged documents were only presented during the trial; all additional work was completed in court through oral argument or advocacy. For lawyers to effectively represent their clients both in and out of court, oral advocacy is a crucial talent. Other than genuine continual practice and hard work, there is no shortcut to learning this crucial skill known as oral advocacy skill. "Advocacy is an Art without any education but that of experience," said Hilbery Malcom, as cited by the late C.A. Oputa JSC[xv]. The best way to hone oral advocacy skills is through practical experience because that is the best way for courts to share information that will aid in case decision-making. The act of arguing in favor of a client's cause is known as advocacy in the legal profession, and it is how a lawyer presents his client's case to the court. [xvi].

One of the attorneys in Gibbons v. Ogden, [xvii] William Wirt, was described as follows by a New York correspondent:

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> His enunciation is crisp and precise, and his voice is strong and pleasant in tone. His arguments are frequently infused with references to ancient works and witty asides. Numerous dry cases that are meant to wear and tire the audience as well as the Court are thus made fascinating. ."[xviii]

Ironically, this success tool that a lawyer has earned through hard work is being killed off or reduced to oblivion in civil cases under the pretense of handing over control of civil litigation from litigants and their legal counsel to the courts through the use of a rule that called for frontloading.

Although the Court's regulations do not clearly define frontloading, their goal is to expedite the delivery of justice and prevent surprises. According to the frontloading rule, the originating process, the writ of summons, the statement of claim, the list of witnesses to be summoned at the trial, the witness statement under oath, and the documents that will be used as evidence must all be included[xix]. According to the rule, an originating summons must also include an affidavit outlining the facts depended upon, all relevant exhibits, and a written address supporting the application[xx]. Due to the frontloading rule, oral advocacy in court is now limited to 20 minutes,[xxi] if not less, of activity because all that the attorney needs to do is adopt his written brief; there is no longer a need for proper adumbration or pontification in court. This has an adverse effect on lawyers because they hardly ever speak in court outside of when witnesses are being examined. Without his or her words, a lawyer or advocate is dead.

Oral advocacy, the former pride or hallmark of the legal profession, has been significantly diminished by this innovation and is almost dead. Scholars have suggested that spoken advocacy has declined in this age of frontloading or textual advocacy. Many people have expressed alarm over the reduction in oral advocacy or debate, which is why many have written about it. Oral argument is one of the components of the appellate process that has been written about, studied, and disputed the most, according to James C. Martin and Susan M. Freeman. Legal experts, judges, and commentators hold varying opinions on its worth. Some claim that oral debate consumes time and attention that is out of proportion to its contribution to the decision-making process. This point of view is frequently supported by the findings that briefs are far more crucial in determining the final judgment and that oral debate rarely affects the result[xxii]. After all, a party and its counsel can only communicate with the decision-maker during an oral debate. It is a moment when the Court's opinions are on display for the public and the clients, and counsel has the chance to clear up any misunderstandings or missed details.

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According to legal experts, oral argument is the most visible example of the crucial role courts play in resolving the civil and criminal cases that are heard in our courts.

The frontloading idea was also introduced in England, which hurt oral advocacy. The English (Civil Procedure) Rules 1998's Order 1 Rule 1.1(2)(d) states, among other things, that the courts must see to it that cases are resolved quickly and fairly. According to the Civil Procedure Rules of England of 1998, this was interpreted by the Court in England in the case of *Hannigan v Hannigan*[xxiii] to mean that the civil procedure law is entitled to put an end to "the old truth war between Solicitors over technicalities" and to establish "a new climate in which the focus is upon the achievement of Justice."[xxiv] The goals of the several States High Court Civil Procedure Rules in Nigeria, which support the frontloading notion, are all spelled out in plain words or on equal footing with one another. For instance, the 2004 Lagos State High Court (Civil) Procedure Rules, Order 1 Rule 1 (2). According to Order 1 Rule 1(4) of the Anambra State High Court (Civil Procedure Rules),[xxv] the implementation of these Rules shall be focused on achieving a just, effective, and prompt administration of justice.

As an alternative to the foregoing, this study will investigate the frontloading notion, compare it to oral advocacy, and take a position on either of the two components of advocacy.

THE CONCEPT OF ADVOCACY

Great lawyers built their names in the field through oral advocacy, which is the first, most significant, and most effective type of advocacy. Oral advocacy is when a lawyer uses spoken words to represent clients both inside and outside of court. Oral advocacy in law is arguably as old as the Law itself[xxvi]. Oral debate is most likely as old as law itself, according to Jay Tidmarsh, who was paraphrasing others. He proceeds by tracing it back to the time of the Bible, when King Solomon was spoken to orally by the two women vying to be the child's birth mother. We have seen numerous instances in the Bible where people's reasons were argued on their behalf. Abraham argued for Sodom, [xxvii] Esther argued for the rights of the Jews. [xxviii], Paul defended himself[xxix] and argued for Onesimus[xxx]. The English legal system, which is the root of all legal systems, is where contemporary oral advocacy has its roots. The Middle Ages, when the legal profession was developing and the majority of litigants represented themselves in court, are when England's oral tradition began. Most of these litigants had reading and writing skills that were barely functional. The thirteenth century, which was a crucial time in

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the formation of the English legal system, was also a time when neither the printing press nor sophisticated techniques of manufacturing official documents had yet been developed.[xxxi]

Advocacy is derived from the Latin word advocare, which means to summon counsel or seek legal advice. Advoci ecclesiae, or advocates of the church, were patrons hired to fight the church's issues as pleaders or to handle its legal matters. In its ecclesiastical connotation, it meant to avow; to admit a clerk to a benefice. The act of actively supporting something through persuading or arguing for it is known as advocacy[xxxii]. It is described as an action taken by a person or organization with the intention of influencing judgments made by institutions involved in politics, business, and society. By employing facts, their connections, the media, and messaging to inform elected officials and the general public, advocacy encompasses actions and publications that aim to affect public policy, laws, and budgets. Roman law used the term "Advocati" to refer to patrons, pleaders, rhetoricians, and speakers. The word "advocate" in English is derived from the Latin word "advocare." To advocate is to argue for, to support, to vindicate, to suggest, or to speak out in favor of something. In the broadest sense, an advocate is someone who supports, defends, or advocates on behalf of another. According to the law, an advocate is someone who provides legal assistance and counsel while arguing another person's case before a court or other tribunal. Thus, it denotes a lawyer who has received the proper legal training and admission to practice. a person who offers advise to his client(s) and represents them in court. The advocate is viewed by the court as a knowledgeable and persuasive lawyer.

According to Chief Richard Akinjide SAN, advocating entails methodically retelling a narrative. Coherent and compelling [xxxiii] arguments are required; the overuse of certain terms or phrases has a deafening effect. The repeated words or phrases would be ringing in the judge's ears rather than the important facts and submission impressing the Court. Use a highlighter pen to highlight the important parts of your brief. The best presentations frequently stand out for their simplicity and clarity. The writers do not advocate making advocacy a performance art. It combines elements of science and art. Some of each. Regards, Sir Malcom Hilbery

> A school other than experience is not necessary for advocacy. Perhaps the failure of so many is due to the fact itself. They are given the opportunity to perform, but they do so without training or rehearsing, and they have no one to provide them feedback or point out their mistakes or shortcomings. But in the case of the young professional advocate, it's possible that on his first appearance,

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> many potential clients among those who just so happen to be listening to him are evaluating him[xxxiv].

Oputa JSC, of blessed memory, [xxxv] asserted that bar advocacy is a crucial but woefully underappreciated area of the legal profession.

Karen Lukin wrote in his internal counsel:

> A law school graduate needs every advantage to stand out in the legal community given the current climate of intense competition. Trial advocacy equips you with the skills and self-assurance need to enter a courtroom on the first day of your profession. Trial advocacy gives you the abilities and skills necessary for successfully representing your clients, regardless of whether you choose to practice as a trial lawyer or in any other area of law. [xxxvi]

With the courtroom serving as the theater, Dr. Richard Waites CEO views the attorney as a character in a play who uses words as his only weapon. According to him, the courtroom is a theater where the life stories of the litigants are performed in front of judges or juries, who also take on roles in the drama. It is a setting for violent battles between warriors who use knowledge and narrative as their weapons. It serves as a venue for evaluating the morality and significance of human behavior. It is a location where the moral standards of our society are upheld. It is a location where both the judges and the judgeds' souls and goals are rigorously scrutinized. A seat of honor, indeed. [xxxvii] Whether you defend clients in a courtroom or a boardroom, excellent oral argument is crucial. A lot is expected of the advocate, which gives him a heavy workload. The Courts anticipate that lawyers will be knowledgeable, capable, and, to some extent, amusing. Advocates are expected to be powerful and contrarian by adverse counsel. Witnesses anticipate the advocate acting as both a mentor during direct questioning and a defender during cross-examination. The clients anticipate that the advocate will lead the charge in their defense and employ all of their resources to win. This collection of requirements unquestionably generates performance pressure at one of its greatest levels. The advocate must comprehend and be aware of the pressure and expectations. It is in view of the above expectations that the lawyer is called "learned" and he therefore must stand up to his task. Benjamin Cardozo once stated, the law, like the traveler, must be ready for the morrow. The advocate's knowledge of the initial existence of expectations serves as the foundation for comprehension and awareness. In trial advocacy literature, this information or lack thereof is

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frequently ignored. The literature does not address external expectations, thus the student advocate is left to learn trial advocacy tactics while being influenced by his or her own inner structure, or, to put it another way, internal expectations. Unfortunately, trial advocacy literature also does not address internal expectations. The remaining task for student advocates is to learn trial procedures in a non-context environment[xxxviii].

Considering the aforementioned, advocacy is just the capacity to convince, to put the Court in a situation where it would comprehend the concerns and be convinced that the advocate's arguments are true and right. Of course, advocacy involves more than just being able to speak clearly when standing in front of a Court, so that might also be addressed. Additionally, it has a written form in addition to spoken advocacy. Without a lawyer needing to speak in court, a persuasive written argument may influence the outcome of the case. It would be apt and accurate to say that advocacy consists of two components: oral and written. These components must be balanced rather than one being neglected in favor of the other, as is the situation currently where the global legal system is leaning more toward written advocacy. Every lawyer should be proficient in oral advocacy. Time restrictions imposed by various Court regulations for oral addresses have given the impression that oral advocacy is fading from the legal world, but they have actually raised the demand for this skill. Lawyers now have to work harder to convincingly present a solid case for their clients within the allotted time due to the time constraints. Legal professionals who want to help their clients succeed in and out of Court might benefit greatly from oral advocacy skills. You could say that oral advocacy is the thing that the legal industry is most proud of. It is the Courtroom's flower, courting justice like a suitor. William Shakespeare downplayed the effectiveness of oral argument in resolving disputes in his play The Merchant of Venice when he remarked, "In law what plea so tainted and corrupt but being seasoned with a gracious voice obscures the show of evil"[xxxix]. However, Cicero demonstrated it when he informed a client he had successfully defended, "Let me tell you, it was I who provided the required darkness in Court to conceal your crime from being evident to everyone." [xl] The authors define oral advocacy as the oral argument of a client's case before a Court by an attorney on behalf of his client in order to ensure that the Court recognizes the key issues of the case by emphasizing what the attorney thinks is most essential in the case with a view to winning the Court's favor. Oral advocacy is advantageous to a lawyer since it allows him to market his services in Court and attract more clients as a result. What happens if it is taken away or diminished? How can a lawyer advertise himself? Oral argumentation should always be given more weight in civil lawsuits

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since a lawyer cannot support himself on the job if he has no clients. To quote the late C.A. Oputa JSC, of Blessed remembrance[xli], "Advocacy is more than only speaking out or using spectacular language. It has its own art, obligations, purposes, and peculiar qualities. "In the past, oratorical skill was the distinguishing feature of brilliance in advocating," said Chima Centus Nweze JSC. This quality truly has a long history, dating back to the time of Cicero and the plethora of illustrious English lawyers known for their oratory prowess: Cicero, Edmund Burke, Marcus Antonius, Lucius Licinius Crassus.[xlii] These unique eloquence and elegance advocates were absolutely captivating, which contributed to their tremendously successful practice. Their oratory was simply compelling. Their ferocious closing arguments in court made them remark-worthy.

In Nigeria, we had eminent and renowned attorneys who ruled the Courtroom like a giant. Some of these names includes Chief Rotimi Williams, also known as "Timi The Law", E.J.A. Taylor, Olu Alakija, G. B. A. Coker, Chief Gani Fawehinmi, Sir Louis Mbanefo, and Chief J.O.K. Ajayi, among many others, all of blessed memory. Many of these individuals made their names through oral advocacy while they were still alive and actively practicing law. They were renowned for their eloquence in forensic oratory.

THE POWER OF ORAL ADVOCACY IN COURT

The Greeks merely saw writing as a technique of chronicling events. The spoken word was always their litmus test.[xliii] For instance, Plato describes a conversation between Socrates and Phaedrus in which they discuss the value and humanity of oral communication over written communication.[xliv] According to Socrates, writing down one's ideas hinders actual knowledge and understanding since it "produces the same unvarying interpretation, over and over again," which encourages misunderstanding and prevents further questioning. He contends that communication must be personalized for both the speaker and the audience and sown not in ink but in the soul. When put to the test by spoken arguments that make their writings look weak in comparison to them, Socrates urged Phaedrus to inform the speechwriters, including the legislators, that if their compositions are based on understanding the truth and they can defend or prove them, then they are to be called, not only poets, orators, or legislators, but are deserving of a higher name, fitting the serious pursuit of their life.[xlv] The art of oral argumentation predates the law itself. Justice as it is understood today began with "fair hearing," not "fair reading," as its foundation. The Courts must provide people, or clients, a

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chance to be heard in their own cases. The opportunity to be heard,[xlvi] not the opportunity to be read,[xlvii] is one of the fundamental rights outlined in the Due Process Clause of the US Constitution, and this is no accident. The same is true of section 36(1) of Nigeria's 1999 constitution (as amended), which states: "A person shall be entitled to a fair hearing within an appropriate period by a Court or other tribunal established by law and constituted in such a manner as to secure its independence and impartiality in the determination of his civil rights and responsibilities, including any question or determination by or against any government or authority."[xlviii]

The Supreme Court ruled in *George & ors v. Dominion Flour Mills Ltd* that the dictum *"audi alteram partem"* might be used to determine whether a trial was fair. Both parties must be given a chance to be heard.[xlix] In order to properly prosecute a case, oral advocacy or argument is a crucial, if not essential, step. It also has far-reaching consequences. Through advocacy, it is hoped that everyone in society would be able to:

i. make their opinions known on matters that matter to them.
ii. defend and advance their rights.
iii. Have their opinions and wishes genuinely taken into account when decisions are made about their own matters

In his assessment of the value of oratory to society and the state, Crassus claims that oratory is one of a country's greatest achievements.

> He extols the strength that oratory can bestow upon a person, including the capacity to uphold individual rights, the ability to use words to protect oneself, and the capacity to exact retribution on an evildoer. The advantage that humans have over other animals and nature is communication. It is the foundation of civilization. Speech is so vital that it should be used for one's own profit as well as the welfare of others as well as the State as a whole. Scaevota remarked that he (Scaevola) does not believe that orators are what built social groups and that he challenges the superiority of the orator if there were no assemblies, Courts, etc. Scaevota agreed with Crassus but disputed him on two issues.

In 2018, the Oral Argument Task Force of the American Academy of Appellate Lawyers released the following report: The following four reasons are only a few of the advantages of appellate oral argument: [l]

1. By allowing the judges to analyze the case collectively, to challenge the counsel, and to provide the counsel the chance to directly defend his or her client's viewpoint, oral argument enhances the decision-making process.

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2. By demonstrating the panel hearing the argument's personal interest and commitment, oral argument assists in giving litigants the assurance that they have had their "day in court."

3. Oral argument offers broader advantages by bringing the public closer to appellate courts and the appellate justice process.

4. Oral argument teaches attorneys how appellate judges resolve issues, boosting the caliber of appellate representation going forward.

There are many advantages to oral advocacy or argumentation for litigants and their attorneys. The parties have a benefit by confronting the decision-maker, to start with. The chance to interact and observe the Court in person while it decides a case boosts trust in the process and result. The common law system's core feeling of involvement in a reciprocal, if antagonistic, endeavor is provided by oral advocacy. Additionally, it provides the increasingly crucial assurance to plaintiffs that judges are actually making the decisions. Again, oral argument gives parties an interactive chance to draw the panel's attention to the case's key problems, address the Court's top concerns, and address any issues that come up as the case is being considered that weren't immediately clear from the briefing. Oral argument enables a party a richer, more meaningful interaction, in contrast to written contributions, which, as Socrates noted, cannot answer the different questions and values of the reader. Additionally, the chance to shape the result is the most immediate benefit. There is no doubt that judges have indicated that oral argument influences their rulings. When questioned about the value of oral argument, the justices "would answer unanimously that they now, as in the past, rely significantly on oral presentations," Justice Jackson said, adding that "it always is of the highest, and frequently of controlling, importance." [li] Oral argument has a strong ability to influence case outcomes and precedent if, on average, a quarter of all cases reach a different decision as a result of it than they would have without it. Oral argument also gives one the chance to shape the nature of the opinion. Oral debate may result in the Court's opinion being expanded or contracted, even in circumstances where the outcome is unaltered.

It is clear from the foregoing that oral advocacy is a fairly specialized area of the legal profession. Oral arguments have been successful in convincing judges to agree with the lawyer's perspective. Through oral representation, cases and penalties have been lowered on several occasions.

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THE CONCEPT OF FRONTLOADING

It cannot be disputed that the report of the committee formed to examine the English Civil Procedure Rules, which was led by Lord Woolf M. R., had an impact on the frontloading or written advocacy practices lately adopted in Nigeria. Cost, delay, and complexity were named as the committee's top three issues with England's civil justice system. The report[lii] contains principles that are relevant to civil justice reform in England. The principles were articulated thus:

Every effort will be made to prevent litigation. The litigation will be more cooperative and less combative. It will be less difficult to litigate. Litigation will proceed more quickly and with greater certainty. Litigation expenses will be more manageable, predictable, and in line with the worth and difficulty of each case. Parties with low resources will be able to litigate on a more equitable playing field. For the civil justice system, there will be distinct lines of judicial and administrative duty. Effective judicial management will be provided so that cases can be handled in compliance with the new guidelines. The civil judicial system will take the needs of plaintiffs into consideration[liii].

This is how F.O. Akinrele summed it up. The civil justice system must produce just results that are fair to all parties involved. Equal chance to present arguments and respond to opposing arguments must be guaranteed. The process and associated costs should be reasonable given the nature of the problems at hand. It must possess the qualities of speed, usability, effectiveness, organization, and sufficient resources. [liv]

The Woolf report provided a thorough re-evaluation and inclusion of numerous prior initiatives that were either never completed or, at best, just partially completed. Simple procedural modifications were the focus of several reform initiatives, but they were unable to address the underlying issues. There was an urgent need for the Courts to take over management of civil litigation from plaintiffs and their attorneys. The need for judicial case management of civil lawsuits was actually very great. The jurisprudential upshot is that once litigation begins, litigants no longer have complete and unrestricted control over how they pursue their cases. [lv]

The parties must quickly prepare the action in order for it to be resolved within the time range set by the court. According to this theory, plaintiff's attorneys must acknowledge that there is no waiting period after the start of an action and that, in general, trial preparations must be well under way before the case is started. This means that activities must wait until they are prepared to fulfill the deadlines for preparation and hearing before they can be started. However, this is subject to the Courts' inherent authority to modify the condition upon a party's

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application if compliance is impossible due to the statute of limitations or other unique circumstances.

The idea of frontloading, its application, and other features of the 2004 Rules, which were groundbreaking in Nigerian terms, are all well-known to members of the legal profession. Justice should be administered quickly and effectively, which is the main goal of the 2004 Rules. In accordance with Order 1 Rule 1(2),[lvi] "the execution of these rules shall be geared towards the achievement of a just efficient and rapid dispensation of Justice." *Nnaemeka-Agu JSC in Onifade v Olayiwola and Ors*[lvii] *stated:*

> Like the appellate Courts, many States of the Federation have adopted new rules of Court. One of the new features introduced by these rules is the idea of writing advocacy, specifically concise writing. Its primary goal, without a doubt, is to save time that would have otherwise been squandered listening to protracted oral debates.

According to Professor Itse Sagay, SAN, frontloading has the following intentions and goals:

(i) to prevent the filing of flimsy or pointless cases.

(ii) to provide parties a chance to evaluate the respective merits of their claims and to help expedite settlement as soon as practicable before excessive costs are paid.

(iii) to immediately recognize and concentrate attention on the key concerns in order to counteract the propensity to waste energy on unimportant details.

(iv) to reduce the likelihood of pleading amendments, the study continues.

(v) to make it possible for the Court and the opposing parties to fully understand each party's argument and prevent ambush strategies. [lviii]

The rule of frontloading, the authors may add, also requires parties to give fair notice to one another of the case they intend to bring before the Court and prevents parties from coming as a surprise to one another. This enables parties to get started on building their own cases. This emphasizes the prohibition of surprising the other party or bringing up unanticipated issues. The Supreme Court ruled in *George & ors v. Dominion Flour Mills Ltd.* that :

> Maxim, audi alteram patterm can be used to gauge how fair a trial is by requiring that both parties get a chance to be heard. However, a party cannot be expected to plan for the unexpected, and the purpose of pleadings is to notify the other party of the case to be met so that they can prepare their arguments and evidence about the issues addressed by the pleadings and avoid

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> being caught off guard. In addition, it promotes economics. The plaintiff will, and in fact, must, limit his testimony to those matters, but the most important thing is to prevent surprises. [lix]

In the words of the late C.A. Oputa JSC in *Aliu Bello and Others v. A. G., Oyo State* [lx]*:*

> Judges frequently looked on helplessly as lawyers wasted the Court's valuable time by submitting disgusting applications and engaging in all kind of forensic gymnastics. Of course, the integrity of the judicial system and the speed with which justice was administered were the ultimate victims. [lxi]

In *Omojasola v. Plison Fisko Nig. Ltd and Ors, Achike JCA* (as he then was)[lxii] stated that verbose counsel beat about the bush during oral arguments.

Epiphany Azinge once stated:

> The justice delivery system is becoming more and more popular on a global scale. This is based on the apparent case backlog that has overwhelmed the judicial delivery system. When the entire mechanism for delivering justice is in chaos, the idea of justice and the ideals of the Rule of Law suffer severe setbacks in democratic environments. Achieving justice fast and firmly is essential. In order to avoid delays and preserve the integrity of the result, the length of the litigation must be carefully balanced with the conclusion. The quick delivery of justice is one of its fundamental tenets. [lxiii]

Justice delayed is justice denied, according to the Magna Carta, which stated that "To no one will we refuse or delay right or justice.".[lxiv] These moving comments were unable to stop Nigeria's justice delivery system from experiencing a growing number of delays. Justice delayed is justice denied refers to the idea that obtaining justice may be pointless long after any potential advantages would have vanished or become irrelevant. Or, to put it another way, justice delayed is little more than a pointless academic exercise. Court actions and litigation can have enormous financial repercussions, and clients are frequently forced to foot the bill for postponed trials and litigation. The psychological agony that clients or litigants endured while the case dragged on cannot be overstated, nor can the emotional toll it took on the parties.

The public's diminished trust in the legal system is significant. An important factor in determining how well justice is delivered is public perception.

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The consequence is that a decline in confidence can result in "jungle justice," which is bad for the country. Therefore, it is essential that every country work to improve its system for delivering justice in a way that allows for its prompt and certain execution.

Because of this, a paradigm shift in advocacy was required to get rid of the outdated stereotypes and quirks of litigation counsel that were detrimental to justice, the Court and litigants, to make way for a new system of advocacy where substantive justice as opposed to technical justice should rule. This was necessary while acknowledging the essential role of good advocacy in achieving even justice and the development of our judicial system. [lxv]

Therefore, a new system of advocacy became necessary if these serious issues were to be resolved. As a result, many states in Nigeria intervened through significant amendments to the provisions of their civil procedure rules, with the goal of promoting judicial efficiency by limiting the excesses of counsel committed in the name of bar advocacy that cause delays, the denial of justice, and the degradation of the integrity and reputation of the judiciary. In order to block avenues for abuse of the Court system that were common under the previous rules, these new rules of Court introduced some highly innovative features, such as the requirement of frontloading trial processes, pre-trial or case management conferences, arranging of proceedings, written addresses, limits on oral submissions, restrictions on adjournments and amendment of processes, and the requirement of written rather than oral submissions in all applications, including final ones. The striking significance of these ground-breaking provisions is that Judges now have the authority to oversee and regulate the cases before them with their judicial binoculars, unlike under the previous system of rules where litigants through their counsel controlled the manner and pace of proceedings in Courts, leading to never-ending litigations. This is known as Judges becoming dominus litis.

Without a doubt, the idea of frontloading has completely changed how we operate and conduct civil litigation. The manner in which civil proceedings must be initiated is outlined in Order 3 Rule 2 of the High Court (Civil Procedure) Rules of Anambra State (2006) and Delta State (2009). [lxvi] That Rule currently mandates that the following documents be attached to all actions initiated by writ of summons:

(a) Description of a claim

(b) Written affidavits of the witnesses

(c) List of Witness

(d) copies of all the documents that will be used as evidence.

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The 2004 Lagos and Abuja Rules contain similar provisions. However, Order 4 Rule 17 of the Abuja Rules [lxvii] stipulates that a certificate of pre-action counseling signed by counsel and the litigant must be filed with the writ when proceedings are started by counsel to demonstrate that the parties have received adequate advice regarding the relative strength or weakness of their respective cases. The counsel is also personally liable for the cost of the proceedings if they turn out to be frivolous. In order to prosecute and defend an action, the parties must present all documentation and prospective oral evidence they intend to use to the Court at the time of filing the originating process or presenting a defense to the action. This is the essence of the frontloading idea. By doing this, it will be possible for parties to determine whether to reach a settlement or find another way to settle the dispute without going to court, as only actionable cases and defenses would be presented before the Court. Frontloading is important when getting the parties and the Court ready for a pre-trial meeting. The lesson of the frontloading principle is that at the time of instruction, counsel for the claimant/plaintiff and defendant must both be adequately briefed and have access to all relevant witnesses and documents. It's important to keep in mind that Order 5 Rule 1(1&2)[lxviii] of the Delta Rules considers non-compliance with the rule to be an irregularity, whereas Order 3 Rule 3[lxix] considers non-compliance with the rule to be an irregularity if the Registrar accepts the originating process that is against the rule, and the entire proceeding may be dismissed on the request of the Defendant. Any originating procedure which does not follow the rules may be rejected or accepted at the Registrar's discretion. If the registrar accepts the originating papers in violation of the aforementioned rule, the defendant may move to the Court to have the entire action set aside, according to the regulation, which states that failing to comply with sub-rule 2 of the rule above shall be viewed as an irregularity. The High Court Registry is authorized under Order 3 Rule 3 of the Anambra Rules [lxx] to reject any writ and statement of defense that is not supported by the aforementioned processes and papers.

Order 1 Rule 1(4),[lxxi] which states that the application of these Rules shall be geared toward achieving a just, efficient, and rapid dispensation of Justice, clearly states the overarching aims of the Rules on the concept of frontloading. Order 1 Rule 1.1 (2) (d) of the English (Civil Procedure) Rules 1998 states, among other things, that the Courts should guarantee that cases are handled quickly and fairly. This is the English version of the main purpose of their Rules, from which we got our Rules.

One drawback of frontloading, according to Oba Nsugbe QC, is that the parties may "overload" their cases with issues and documents that are unrelated to the issues at hand, reasoning that

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they can always be cut down later, in response to the full disclosure requirements at case beginning and the strict deadlines that go along with them. He proceeded by saying that while doing so could please the client, it will inevitably make the legal procedure more difficult by adding to the workload of judges and attorneys[lxxii]. The benefits that frontloading has brought to our civil litigation process, however, cannot be compared to any potential negative effects that may follow from it.

The Effects of Frontloading on Oral Advocacy

Frontloading, one of the components of advocacy, does not completely eliminate oral advocacy from the civil litigation process; rather, it just lessens or decreases oral advocacy by tending to shorten the length or life of the lawsuit and quicken the justice delivery system. In civil cases, the presence of the attorneys is announced verbally, the witnesses are cross-examined or re-examined, and the attorneys introduce and adopt written addresses orally. If the attorney so desires, there is room for adumbration. The main difference is that the method or process was condensed to reduce needless delay in civil litigations, which invariably would squander the time of the Court, litigants, and their budgets. Motions are still equally moved orally in Court in civil litigations. Justice is delivered more quickly as a result of this. However, the splendor of litigation and dispute is greatly diminished, and the process almost becoming boring. The implementation of the frontloading rule eliminates, curtails, or diminishes oral advocacy.

THE DECLINE OF ORAL ADVOCACY

Oral advocacy, the foundation of the legal system, has evolved, and it is no longer what it once was. Previously, oral advocacy inspired some people to join the bar or to desire their children to follow in their footsteps as members of the noble profession. Sadly, it has been fading away and getting lost in the backdrop. It has been twenty minutes since the last civil lawsuit case[lxxiii]. According to Jay Tidmarsh, the decrease of oral argument is disappointing for anyone who values the classic Anglo-American traditions of dispute settlement and trial. Even though we do not have the same robust oral tradition as our British professional counterparts, American lawyers are nonetheless raised in an oral tradition from the moment they are called upon to speak in a class or present a moot court argument. American lawyers' professional identities still heavily rely on oral advocacy. [lxxiv] The reduction in oral argumentation is almost in

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everywhere in the international legal system. It was brought about by the adoption of the frontloading rule in England and Nigeria, whereas in America, it was brought about by

(a) letting attorneys decide whether or not to make oral arguments in court

(b) little time is provided to attorneys to present their cases in person.

Reasons for the Decline of Oral Advocacy

There is no doubt that oral argument is disappearing practically everywhere in the legal system since it has been demonstrated clearly that there is a drop in oral advocacy or argument, as stated and recorded by the task committee of the American Academy of Appellate Lawyers. [lxxv] C.A. Oputa JSC added his voice to the confirmation of the decline when he said, "Bar Advocacy is an all-important but unfortunately neglected discipline in the legal profession." Why then has oral argument or advocacy decreased? It will be appropriate to understand the reason(s) for the decline, if any. Pierre H. Bergeron asserts that the courts' justifications for the decrease in oral advocacy include a number of factors, which he highlights as follows:

First of all, Courts often object that the demands of their dockets simply do not allow for frequent oral arguments. According to this logic, a busy appellate judge's time is taken away from other tasks at hand, such as opinion writing, while they are involved in oral argument preparation and participation. To a certain extent, this is a reasonable criticism. Although there are undoubtedly other ways to spend the time that would otherwise be spent on the bench hearing oral arguments.

Second, I believe that many judges no longer find oral argument to be as useful as they formerly did because of a slight shift in the appellate Court attitude.

Thirdly, and related to the first two points, judges are mindful of the costs and delays associated with oral argument, and Courts frequently believe that skipping argument is beneficial to parties but not necessarily to lawyers. [lxxvi]

In addition to the aforementioned, in our opinion, the delivery of justice must be sped up in order to save time and lessen the financial burden on litigants. The use of zoom in lawsuits during the COVID-19 epidemic is another result of technology.

Is the Delay in Justice Delivery caused entirely by Oral Advocacy

Even if this work acknowledges that there is a serious delay in the administration of justice in Nigeria, it will not be conceded that the delay is solely due to oral advocacy because there are other variables contributing to the delay. The delivery of justice in Nigeria is delayed for a

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number of reasons, such as population growth, an increase in the desire to seek redress in court, a refusal by parties to settle disputes amicably, insufficient judicial officials, insufficient Courts, counsel attitude, transfer of judges, and many others. As listed by Epiphany Arzinge:

a. fewer judicial officers and courts. This idea was hinted at previously in the speech. Over 1,200 judges in superior courts are terribly insufficient for a nation of about 200 million Nigerians. Due to the courts' excessive caseload, delays or pending cases are a logical outcome.

b. Appalling Courtrooms. The circumstances within the courtrooms are pitiful and decaying. Some of them have leaking roofs, insufficient ventilation, no air conditioners or fans, no retrofitted systems or verbatim recordings, uninspired backroom employees, and badly maintained facilities.

c. Court system without automation. No courtroom in Nigeria could up until this point boast of any type of IT system. The judges and the Court were under a great deal of stress because of this. The Court system was strained, and the pendency of cases was not at all reduced by writing by hand and trying to hear counsel speak without any sort of public address system.

d. Role of Lawyers and Judges

Lawyers have faced harsh criticism for using ruses, deceptions, and dilatory strategies designed to cause delays in the handling of cases. This begins with the filing of several unnecessary or frivolous cases, yet another instance of pointless requests for time extensions. For petty reasons, adjournments are secured. Even the fast track process's regulations continue to be broken by attorneys. Nigerian lawyers are skilled in using the phony justification of trying to have an arbitral verdict overturned for misconduct, corruption, or fraud in situations where the arbitral award is considered final and conclusive. Due to this, many business contracts forgo Nigeria as a potential site or location for arbitration. Additionally, it has had a negative effect on the nation's investment profile. There is without a doubt an inadequate number of judges sitting on the bench. This is tangentially related to some judicial officers' subpar performance or incompetence. Calls for a reassessment of the appointment process have become necessary as a result. Another difficulty is the judges' lack of specialization. Some judges lack the motivation to deal with attorneys who blatantly violate court rules or transgress racial norms. Another important problem that contributes to delays of cases is trial denovo where cases are begun from scratch as a result of judicial officer promotion or transfer.

e. Having too many jurisdictions. It does seem that most of the higher Courts are knowingly or unknowingly overburdened with requirements due to constitutional provisions. Why should cases involving sharia law, customary law, or family problems end up at the Supreme Court?

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Since the Supreme Court is essentially a policy Court, it should not be required to hear every type of case. It has been vigorously argued that a federal structure should be created for the judicial system so that cases from some regions of the nation can be resolved at the highest court in the region, which could be either an appellate court or a specially created supreme court that will require constitutional amendment.

f. overly litigious. According to a survey, Nigerians frequently file lawsuits. Always, disputes that lawyers could settle end up in court. Again, most are frequently unfounded. It could be claimed that litigation is preferable than enforcing one's own laws. There's no denying that. However, we must confirm that any disagreement brought before the Court merits legal action. Given the preceding, it may be concluded that oral advocacy is not the main reason for delays in Nigerian justice systems. Legislative changes should be made to expedite court processes and shorten case pending times in order to combat the problems caused by justice delays. Building a justice sector that will keep up with population expansion should likewise be necessary. The significance of litigation over and above a jungle court system was not established, and judges were not recruited according to a population ratio that was agreed upon. Justice was emphasized, and land disputes dominated court cases both before and after independence, as well as anytime the Supreme Court heard cases from more Southern Nigerian cities, villages, and communities.

CONCLUSION

This essay leans further in favor of urging our Court system to give oral advocacy more weight. People have expressed tremendous worry about the reduction of oral advocacy or argument in civil lawsuits and have inquired about the position and prospects of oral argument in the frontloading age. Since the frontloading rule was implemented in Nigeria in 2004, oral advocacy has become less important in civil cases. As a result, lawyers are finding it more difficult to develop their oral advocacy skills. After all, a party and its advocate can only communicate with the decision-maker during an oral debate. It is a moment when the Court's opinions are on display for the public and the clients, and counsel has the chance to clear up any misunderstanding or an overlooked details. In this way, oral argument serves as the most concrete example of the crucial role that both trial and appellate Courts play in resolving the civil and criminal cases that are heard in our legal system. The Court can be monotonous at times because there aren't any actual proceedings taking place there, no attorneys are giving

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speeches, and clients aren't informed of what's going on. Oral advocacy is advantageous to a lawyer since it allows the lawyer to market himself in court and attract more clients as a result. How can a lawyer market himself if oral advocacy is taken away or diminished? Because a lawyer without clients cannot support himself while working more also, lawyers are not known to be quiet people, they are most recognized by the outspokenness, confidence and eloquence. Oral advocacy should always be given more weight in civil lawsuits.

ENDNOTES

[i] Suzanne Ehrenber, Embracing the Writing-Centered Legal Process. EhrenbergEmbracingthe.pdf (lwionline.org), https://scholarship.kentlaw.iit.edu/fac_schol/205 see also David R. Cleveland and Steven Wisotsky, The Decline of Oral Argument in the Federal Courts of Appeals: A Modest Proposal for Reform, 13 J. APP. PRAC. & PROCESS 119 (2012). https://lawrepository.ualr.edu/appellatepracticeprocess/vol13/iss1/8 Accessed 5 February, 2022.

[ii] Mark R. Kravitz, Words to the Wise, 5 J. App. Prac. & Process 543, 544 (2003) (asserting that appellate Courts, federal and state, have "increasingly sacrificed oral argument on the altar of 'efficiency. Available at: https://lawrepository.ualr.edu/appellatepracticeprocess/vol5/iss2/14. See also, David R. Cleveland and Steven Wisotsky, The Decline of Oral Argument in the Federal Courts of Appeals: A Modest Proposal for Reform, 13 J. APP. PRAC. & PROCESS 119 (2012). Available at https://lawrepository.ualr.edu/appellatepracticeprocess/vol13

/iss1/8. Accessed 5 February, 2022.

[iii] 1Kings 3:16-28 KJV.

[iv] Genesis 18: 16-33 KJV.

[v] Esther 1-10 KJV.

[vi] Act of the Apostles 24-26 KJV.

[vii] Philemon 1 KJV.

[viii] Jay Tidmarsh, The Future of Oral Arguments, 48 Loy. U. Chi. L.J. 475 (2016). Available at: https://scholarship.law.nd.edu/law_faculty_scholarship/1279. Citing J.H. BAKER, AN INTRODUCTION TO ENGLISH LEGAL HISTORY 135 (2d ed. 1979). And Suzanne Ehrenberg, Embracing the Writing-Centered Legal Process. Accessed 5 February, 2022

ix Jay Tidmarsh, The Future of Oral Arguments, 48 Loy. U. Chi. L.J. 475 (2016). Available at: https://scholarship.law.nd.edu/law_faculty_scholarship/1279 . Parties were not required to file written briefs in the United States Supreme Court and the federal Courts of appeals until well into the nineteenth century. See Stephen L. Washy et al., The Functions of Oral Argument in the U.S. Supreme Court, 62 Q. J. Speech 410, 412 (1976) (examining the historical relationship between written briefs and oral arguments) see also Suzanne Ehrenberg, Embracing the Writing-Centered Legal Process, 89 IOWA L. REV. 1159, 1171-78 (2004) (describing the history of the oral tradition of the English common law)., at 1182-83 (discussing the transition over the course of nineteenth-century appellate practice from orality to writing; further noting that "[t]he history of appellate practice in twentieth-century America shows a similar (although less dramatic) movement toward reliance on written briefs and curtailment of oral argument"). Accessed 5 February, 2022

[x] Thomas Hobbes: Methodology. https://iep.utm.edu › hobmeth the State of Nature According to Thomas Hobbes Université Saint-Joseph de Beyrouth, https://www.usj.edu.lb › news

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[xi] Jay Tidmarsh, supra n9.

[xii] As contained in Order 5 Rule 1 of the defunct High Court (Civil Procedure) Rules of Anambra State 1988

[xiii] *Ibid*. Order 39 Rule 1.

[xiv] *Ibid*. See generally Order 37.

[xv] C.A. Oputa, Modern Concept of Bar Advocacy . quoting Sir Malcom Hilbery, Duty and Art in Advocacy. http://www.nigerianlawguru.com › general, Accessed 19 January, 2022.

[xvi] **Chinemerem Nnawuihe,** Advocacy as the lawyer fundamental tool in Court. <https://thenigerialawyer.com>. accessed 19 January, 2022.

[xvii] 22 U.S. (9 Wheat) 1 (1824).

[xviii] William H. Rehnquist JSC, Oral Advocacy: A Disappearing Art. Mercer University. https://ursa.mercer.edu › bitstream › handle. Accessed; 19 January, 2022.

[xix] Order 3 Rule 2(2) Delta State High Court Civil Procedure Rules 2009.
[xx] Order 3 Rule 17(2) Delta State High Court Civil Procedure Rules 2009.
[xxi] Order 31 Rule 4, Delta State High Court Civil Procedure Rules 2009.

[xxii] James C. Martin and Susan M. Freeman, wither oral argument? the American Academy of appellate lawyers says let's resurrect it. 19 J. App. Prac. & Process 89 (2018).
[xxiii] 2002 2FCL 650 Court of Appeal at 659.

[xxiv] *Ibid.*

[xxv] Lagos and Anambra State High Court Civil Procedure Rules 2004 and 2006.

[xxvi] Jay Tidmarsh, The Future of Oral Arguments, 48 Loy. U. Chi. L.J. 475 (2016).. accessed 22, January 2022.
[xxvii] Genesis 18: 16-33 KJV.
[xxviii] Esther 1-10 KJV.
[xxix] Act of the Apostles 24-26 KJV.
[xxx] Philemon 1 KJV.

[xxxi] Jay Tidmarsh supra, In 1537, the first printed reports [of cases] appeared." German goldsmith Johannes Gutenberg is credited with inventing the printing press around 1436. *https://www.history.com › printing-press-renaissance accessed 22.*

January, 2022.

[xxxii] C A. Oputa, Modern Concept of Bar Advocacy. http://www.nigerianlawguru.com › general, Meaning of advocacy *https://www.yourdictionary.com. accessed ; 19 January,2022.*

[xxxiii] Jide Olakanmi & Co, Legal Ethics, 2019 Edition, pg 229.

[xxxiv] C.A.Oputa, Modern Bar Advocacy. Quoting and citing Sir Malcom Hilbery, Duty and Art in Advocacy. http://www.nigerianlawguru.com › general, Accessed 19 January, 2022.

ISSN 2581 3382

[xxxv] C.A.Oputa, Modern Bar Advocacy Justice Watch, 2014 ; ISBN, 9786003527, 9789786003528 ; Length, p267.

[xxxvi] Karen Lukin In-house Counsel, Marathon Oil Faculty, Kessler-Eidson Trial Techniques. Advocacy survey. Trial advocacy perspectives-University of Houston Law Center. http://www.law.uh.edu › blakely › advocacy-survey. accessed 19 January, 2022.

[xxxvii] Dr. Richard Waites CEO, The Advocates Jury and Trial Sciences. Advocacy survey. Trial advocacy perspectives-University of Houston Law Center. http://www.law.uh.edu › blakely › advocacy-survey. accessed 19 January, 2022.

[xxxviii] Advocacy survey. Trial advocacy perspectives-University of Houston Law Center. http://www.law.uh.edu › blakely › advocacy-survey. accessed 19 January, 2022

[xxxix] William Shakespeare, Merchant of Venice Act 3, scene ii, page 119.

[xl] Dominic Grieve QC MP, advocacy, past, present and future - constant values for a modern Bar. A speech at the World bar conference Published 30 June 2012 https://www.gov.uk/government/speeches/advocacy-past-present-and-future-constant-values-for-a-modern-bar. accessed 12 June, 2022.

[xli] C .A. Oputa, the modern concept of bar advocacy http://www.nigerianlawguru.com/articles/practice%20

and%20procedure/THE%20M. accessed:19 January, 2022.

[xlii] Hon Justice Chima Centus Nweze, Random Thoughts On Effective Brief Writing. TheNigeriaLawyer https://thenigerialawyer.com › random-thoughts-on-ef., accessed 12 June, 2022

[xliii] Kravitz, supra n. 2 , at 2 (quoting Oscar Wilde, The Critic as Artist, in Plays, Prose Writings and Poems

[xliv] David R. Cleveland and Steven Wisotsky, The Decline of Oral Argument in the Federal Courts of Appeals: A Modest Proposal for Reform, 13 J. APP. PRAC. & PROCESS 119 (2012). Quoting and citing Plato, Phaedrus, in Selected Dialogues of Plato (Benjamin Jowett trans., Modem Library 2000); see also Walter J. Ong, Orality and Literacy: The Technologizing of the Word (2d ed., Routledge 2002); Marshall McLuhan, The Gutenberg Galaxy: The Making of Typographic Man (U. Toronto Press 1962) https://lawrepository.ualr.edu/appellatepractice

process/vol13/iss1/8, Phaedrus - The Dialogues of Plato (platonicfoundation.org). .accessed 5 February, 2022.

[xlv] *Ibid.*

[xlvi] *Grannis v. Ordean*, 234 U.S. 385, 394 (1914) ("The fundamental requisite of due process of law is the opportunity to be heard."). Section 1 American Constitution Fourteenth Amendment, due process clause.

[xlvii] Parties were not required to file written briefs in the United States Supreme Court and the federal Courts of appeals until well into the nineteenth century. See Stephen L. Washy et al., The Functions of Oral Argument in the U.S. Supreme Court, 62 Q. J

[xlviii] The Constitution of Nigeria 1999 (as amended).

[xlix] (1963) 1 All NLR 71 aT 72. See also *Ati & Anor v. Ekpeyong & ors* (1963) ENLR 21, *Waghorn v. George Wimpey & Co Ltd* (1969) 1 WLR 1764.

[l] American Academy of Appellate Lawyers task force report, *.https://www.actl.com › task-force-on-mentoring. accessed; 24 January, 2022.*

ISSN 2581 3382

[li] A Good Quarrel: America's Top Legal Reporters Share Stories from Inside the Supreme Court 6 (Timothy R. Johnson and Jerry Goldman eds., U. Mich. Press 2009), Mark R. Kravitz, Written and Oral Persuasion in the United States Courts: A District Judge's Perspective on Their History, Function, and Future, 10 J. App. Prac. & Process 247 (2009).

[lii] F.O. Akinrele, Nigeria: Commencement of Civil Actions, Frontloading, Etc. Paper Delivered at the Conference on the Revision of the Civil Procedure Rules of Lagos State, 19th-21st February 2002. Retrieved from http://www.mondaq.com/article.asp? Articleid=68066. accessed on 25 January,2022.

[liii] Woolf's report. LawTeacher.net https://www.lawteacher.net › free-law-essays › civil-law

[liv] F.O Akinrele *supra* n 52 p14.

[lv] *Ibid.*

[lvi] Lagos State High Court (Civil Procedure) Rules 2004. See also Delta State and Anambra High Courts (Civil Procedure) Rules 2009 and 2006.

[lvii] *(1990) 7 NWLR (Pt 161) 130, 160.*

[lviii] Prof. Itse Sagay, SAN, Advancing Justice Delivery And The Integrity Of The Judicial System. Paper Presented At The 2011 Stakeholders Summit Organised By The Lagos State Judiciary On The Theme: Repositioning Of The Administration Of Justice System: Bench And Bar Date: 23 September 2011 Venue: City Hall. http://www.nige

rianlawguru.com/articles/general/ADVANCING%20JUSTICE%20DEL. accessed 23 January,2022.

[lix] *George & ors v. Dominion Flour Mills Ltd* (1963) 1 All NLR 71 at 72. See also *Ati & Anor v. Ekpeyong & ors* (1963) ENLR 21, *Waghorn v. George Wimpey & Co Ltd* (1969) 1 WLR 1764.

[lx] *(1986) 5 NWLR (pt 45) 528, 886.*

[lxi] C.A.Oputa JSC, *painting the picture of law and its technical rules triumphant and justice lying prostrate in the case of Aliu Bello and Ors v A. G, Oyo State.*

[lxii] (1990) (Pt 151) 434,441.

[lxiii] Epiphany Azinge Towards effective justice delivery system in Nigeria. The guardian 22 March, 2022. https://guardian.ng › features › law › towards-effective-.. accessed 25 June, 2022.

[lxiv] Magna Carta of 15 June 1215, clause 40.

[lxv] *Ibid.*

[lxvi] High Court civil procedure rules.

[lxvii] FCT high Court civil procedure rules.
[lxviii] Delta State High Court Civil Procedure Rules 2009.
[lxix] *Ibid.*

[lxx] High Court civil procedure rules 2006.

[lxxi] Anambra State High Court (Civil) Procedure Rules, Order 1 Rule 1 (2) of 2004 Lagos State High Court (Civil) Procedure Rules.

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[lxxii] Oba Nsugbe QC,High Court of Lagos (Civil Procedure) Rules 2003 culture change or culture shock, being a paper delivered at the special Training for judges of the High Court of Lagos State, November 2003.
[lxxiii] Order 31 Rule 4, Delta State High Court Civil Procedure Rules 2009.

[lxxiv] Jay Tidmarsh supra n 16 at p5.

[lxxv] James C. Martin & Susan M. Freeman, Wither Oral Argument? The American Academy of Appellate Lawyers Says Let's Resurrect It!, 19 J. App. Prac. & Process. 89, 99 (2018).

[lxxvi] Pierre H. Bergeron, Covid-19, Zoom, And Appellate Oral Argument: Is The Future Virtual? University of Arizona. *https://journals.librarypublishing.arizona.edu* › article, *https://journals.librarypublishing.arizona.edu. Accessed; 19 february, 2023.*

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