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2018 (1439 A.H.).

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Assented to this 25th day of April, 2018 (1439 A.H).

DR. ABDULLAHI UMAR GANDUJE, OFR
Governor,
Kano State of Nigeria

KANO STATE MAGISTRATE COURTS LAW 2018 (1439 A.H)

No. 2

2018



K.S. Law No. 2 of 2018
Kano State of Nigeria

A Law to Repeal Kano State Magistrate Courts Law 1991 Cap 89 Laws of Kano State and to replace it with a New Magistrate Courts Law 2018 (1439 A.H) and for other matters connected therewith:

BE IT ENACTED by the Kano State House of Assembly as follows:-

PART I – PRELIMINARY

- | | |
|---|--------------------------------|
| <p>1. This Law may be cited as Kano State Magistrate Courts Law 2018 (1439 A.H) and shall come into operation on the 25th day of April, 2018(1439 A.H)</p> | <p>Title and Commencement.</p> |
| <p>2. In this Law unless the context otherwise requires: -
 “Action” Means a civil proceeding commenced by plaint or in such other manner as may be prescribed by rules of court but does not include criminal proceedings;
 “Chief Judge” means the Chief Judge of the state;
 “Attorney General” means the attorney General of the State;
 “Cause or Matter” includes any action, suit or other original proceeding between a plaintiff and defendant, and any criminal proceeding;</p> | <p>Interpretation.</p> |

“Chief Registrar” means the Chief Registrar of the High Court;

“Civil proceeding” means all actions triable by a Magistrate and all proceedings in relation to the making of an order for the payment of a sum of money or for the doing or abstaining from doing of any acts or things not enforceable by fine or imprisonment in the first instance;

“Constitution” means the constitution of the Federal Republic of Nigeria 1999 (as amended).

“Criminal” includes quasi-criminal and with reference to matters of Jurisdiction comprehends all proceedings which are not civil proceeding;

“Defendant” includes every person served with any summons or process or served with notice of or entitled to attend any civil proceedings and also every person charged under any process of the Court with any crime or offence;

“Gazette” means the Kano State of Nigeria Gazette;

“The Governor” means the Governor of the State;

“High Court” means the High Court of the State;

“Judge” Means a judge of the High Court and includes the Chief Judge of the State;

“Judicial service Commission” means the Judicial Service Commission of the state;

“Justice of the peace” means a justice of the peace appointed under the provisions of this Law

“Law officer” means the Attorney General of the state or his representatives;

“Local Government” means a Local Government Council in the State;

“Magistrate” means person appointed as Magistrate under this Law;

“Part-heard” means a civil cause or matter pending in court in which at least one witness has given evidence

“Plaintiff” includes every person asking any relief otherwise than by way of counter-claim as defendant against any other person by any form or proceeding, whether summons petition or otherwise

“Registrar” means a Registrar appointed under the provisions of this law;

“Residential Premises” means a house or building or any part thereof which is let out wholly or in part as a residential accommodation and includes the grounds and appurtenances -let together with or forming part of such house or building;

“The State” means the Kano State of Nigeria;

“Sheriff and Civil Process Law” includes Sheriff and Civil Processes Act.

PART II ESTABLISHMENT OF MAGISTRATE

3. (1) There is hereby established in and for the State a court to be called the Magistrates' Court. Establishment of Magistrate Court
- (2) "The Chief Judge may for the purposes of this Law:-
- (a) divide the State or any part thereof into districts for the purpose of constituting the Court;
 - (b) constitute any part of the State into a district for purposes of such a court;
 - (c) distinguish such districts by such names or numbers as he may think proper and
 - (d) vary the limits of any such districts.
4. (1) The Judicial Service commission shall appoint such number of persons as it may consider appropriate to be magistrate and may designate any of such persons as:- Appointment.
- (a) Chief Magistrate Grade I
 - (b) Chief Magistrate Grade II
 - (c) Senior Magistrate Grade I
 - (d) Senior Magistrate Grade II
 - (e) Magistrate Grade I
 - (f) Magistrate Grade II
- (2) Any legal practitioner of not less than five (5) years post call with relevant experience shall be eligible for appointment as a magistrate by the commission.
- (3) A magistrate appointed under sub-section (1) shall subject to such directions as may- be contained in his instrument of appointment or given to him by the Judicial Service Commission perform the functions of any other magistrate whether or not of the same, higher or lower grade.
5. A magistrate shall have and may use an official seal bearing the device and impression approved by the commission with inscription the "magistrate court of Kano State". Seal.
6. Every magistrate shall have jurisdiction throughout the State unless his appointment is expressly limited to the area district or districts, but may-be assigned to any other district or transferred from one district to another by the Chief Judge General Jurisdiction.

Special Jurisdiction	<p>7. Where any cause or matter arises over which a magistrate has jurisdiction in any aircraft, such cause or matter may be heard or determined either by the magistrate exercising jurisdiction over the place where the aircraft was at the time when the cause or matter arose or by the magistrate exercising jurisdiction over the place at which the aircraft falls after the cause or matter has arisen.</p>
Justice of the Peace.	<p>8. Every magistrate is an ex-officio justice of the peace for the state.</p>
Designated Magistrate.	<p>9. (1) There shall be assigned by the Chief Judge for each district a magistrate who shall be the Designating Magistrate.</p> <p>(2) In addition to any other duty conferred by this Law, it shall be the duty of a Designating Magistrate assigned by the Chief Judge in each District to ensure as practicable: -</p> <ul style="list-style-type: none">(a) the even distribution of work among the Magistrates in the District;(b) the expeditious disposal of all pending legal matters and actions; and(c) to take such steps as may be necessary to relieve congestion in the courts under the District.
Procedure when magistrate is personally interested in the case before him.	<p>10. Where a magistrate is a party to any cause or matter or unable from personal interest or for any other sufficient reason to adjudicate on any cause or matter the Chief judge shall direct the other magistrate to act instead of such magistrate for the purpose of hearing and determining that cause or matter.</p>
Appointment and Removal of Justice of Peace.	<p>11. (1). The judicial service commission may by notice in the Gazette appoint any person as justice of the peace.</p> <p>(2). Justice of Peace shall be a person:-</p> <ul style="list-style-type: none">(i) Knowledgeable and of proven integrity; and(ii) who contributed to the development of the Society.
Powers and functions of the justice of peace.	<p>12. Subject to the provisions of this Law and any other enactment every justice of the peace shall subject to any exceptions which may be contained in the notice of his appointment have;</p> <ul style="list-style-type: none">(a) power to preserve the peace, to suppress riots and affrays and to dispel all disorderly and tumultuous

assemblies and for any of those purposes, to call in aid and assistance, any police officer or any person who shall be bound to obey any or all lawful directions of the justice of the peace.

(b) issue summons for the purpose of compelling the attendance of accused persons and witnesses before the court;

13. (1) The duties of a registrar shall be: -

(a) to attend sittings of the court as the magistrate direct;

(b) to prepare or cause to be prepared summonses warrants orders, convictions, recognizance, writs of execution and such other documents as the magistrate may direct and submit the same for the signature of the magistrate;

(c) to make or cause to be made copies of proceedings when required to do so by the magistrate and to record the judgments convictions and orders of the court.

(d) to receive all fees, fines and penalties and all other money paid or deposited in respect of any proceedings in the court and to keep or cause to be kept accounts relating to such monies; and

(e) to perform or cause to be performed such other duties connected with the court as may be assigned to him by the magistrate.

(2) the registrar may delegate any of the above functions to a clerk in his court.

Duties of the Registrar

PART III JURISDICTION AND LAW

14. Subject to the provisions of the constitution this Law and any other enactment, a Magistrate shall have and exercise jurisdiction in any civil cause or matter;

(a) in all personal actions whether arising from contract or from tort, or from both where the demand or damage claimed whether as balance of account or otherwise is not more than Ten Million Naira (N10,000,000.00) in the case of Chief and Senior Magistrates or Five Million (N5,000,000: 00k) in the case of Magistrates Grade I and II;

(b) in all actions between landlord and tenant for recovery of rent or possession of land or premises claimed under an agreement or refused to be delivered up where the annual value or rent does not exceed Ten Million Naira

Civil Jurisdiction of the Magistrate.

(10,000,000.00k) in the case of Chief and Senior Magistrates or Five Million (5,000,000:00k) in the case of Magistrates Grade I and II;

(c) in all actions for the recovery of any penalty, rates expense contributions for other like demand which is recoverable by virtue of any Law for the time being in force if:

(i) is not express provided by that or any other law that the demand shall be recoverable only in some other court; and

(ii) the amount claimed in the action does not exceed Ten Million Naira (N10,000,000.00) in the case of Chief and Senior Magistrates or not exceeding (N5,000,000.00) in case of Magistrate Grade I and II.

Provided that for the purpose of this paragraph the expression "penalty" shall not include a fine to which any person is liable on conviction for a criminal offence,

(d) in all civil proceedings in respect of which jurisdiction has been conferred upon the Magistrate' Court by the land use Act where the amount claimed or the capital value of the land the subject matter of the proceedings, as the case may be, does not exceed Ten Million Naira (N10,000,000.00) in case of Chief Magistrate and Senior Magistrate or not exceeding Five Million Naira N5,000,000 in case of Magistrate Grade I and II

(e) in any civil proceedings in respect of which jurisdiction has been conferred upon the Court or by any other enactment may be instituted in the court where the amount claimed or the value of the subject matter of the proceedings as the case may be, does not exceed Ten Million Naira (N10,000,000.00) in case of Chief and Senior Magistrate or not exceeding Five Million Naira N5,000,000 in case of Magistrate Grade I and II.

(f) to appoint guardians *ad-litem* and to make orders and issue and give directions relating thereto; and

(g) to grant, in any action instituted in the Court, injunctions or orders, to stay waste or alienation or for the detention and preservation of any property the subject matter of such action or to restrain breaches of contract or torts.

Restriction of jurisdiction in land and other matters.

15. (1) subject to the provisions of this Law and any other law, a Magistrate shall not exercise jurisdiction in any cause or matter which:-

- (a). raises any issue as to title to land, or to interest in land; or
- (b) raises any issue as to validity of any devise bequest or limitation under any will or settlement; or
- (c) is subject to the jurisdiction of Sharia Courts relating to marriage, family status, guardianship to children, inheritance or disposition of property on death.

16. A magistrate shall have jurisdiction to hear and determine any action where the debt or demand claimed in the action, is after the plaintiff's own admission of the defendant's counter claim or set off against him, not more than an amount with respect to which the magistrate has jurisdiction.

Special Cases

17. (1) Subject to the provisions of the Criminal Procedure Code or any other Law, any offence under the penal Code may be tried by any magistrate by whom the offense is shown in the sixth column of Appendix A of the Criminal Procedure Code to be triable or by any magistrate having superior jurisdiction

Criminal
Jurisdiction.

(2) Subject to the Provisions of the Criminal Procedure Code any offence under any law other than the penal Code may be tried by any magistrate given jurisdiction in that behalf by the law.

Provided that a magistrate may, notwithstanding any provisions in the Criminal Procedure Code limiting his jurisdiction but subject to any other law, try any offence save an offence punishable with imprisonment for a term which may not exceed;

- (a) in the case of a Chief magistrate grade I, fourteen years or with a fine which may not exceed three hundred thousand naira, (N300,000).
- (b) in the case of a chief magistrate grade II, twelve years or with a fine which may not exceed two hundred thousand naira, (N200,000)
- (c) in the case of a Senior magistrate grade I, ten years or with a fine which may not exceed one hundred thousand naira, (N100,000)
- (d) in the case of a senior magistrate grade II, eight years or with a fine which may not exceed seventy thousand naira, (N70,000)
- (e) in the case of a magistrate Grade I, five years or with a fine which may not exceed fifty thousand naira,

	(N50,000) (f) in the case of a magistrate Grade II, three years or with a fine which may not exceed forty thousand naira, (N40,000)
General powers of Magistrate	18. Every magistrate may administer oaths and take solemn affirmations and declarations, accept production of books and documents and make such decrees and orders and exercise such powers judicial and administrative, in relation to the administrations of justice as shall from time to time be prescribed by any special order of the Chief judge.
Magistrate to have process of High Court executed	19. Every magistrate shall, when so required by the High Court cause to be executed any writ, order or process issued from the High Court and shall, in default of security from any person named in such writ or order for his appearance in the High Court and shall, in default of security being given or when the High Court so orders, send the person to the place named in the writ
Action by or against officer of the court	20. subject to the provisions of section 9 of this law, any civil proceedings by or against any magistrate or other officer of the court with respect to any cause or matter within the jurisdiction of the magistrate shall be commenced in the court of any magistrate of competent jurisdiction other than the court of the magistrate or officer commencing the action or against whom the action is commenced.
Oaths	21. (1) A person appointed as a magistrate shall not perform the functions of his office until he has taken or subscribed to a judicial oath. (2) A Magistrate may administer any oath which is requested to be taken before him in the exercise of any of the jurisdictions and powers conferred upon him by this or any other Law.
Application of English Law	22. Subject to the provisions of this law and any other law:- a. The common law; b. The doctrine of equity, may in so far as they relate to any matter with respect to which the House of Assembly of the state is for the time being competent to make laws, apply to any case coming before the courts constituted by this Law.

23. (1) In every civil cause or matter in the court, law and equity shall be administered concurrently.

Application of
Common Law
and Equity

(2) A magistrate in exercise of the jurisdiction vested in him by this law may in any cause or matter, grant, either absolutely or on such terms and conditions as shall seem fit, all such remedies and reliefs that the parties may be entitled to in respect of any legal or equitable claim properly brought forward by them in the cause or matter so that as far as possible, all matters in controversy between the parties may be completely and finally determined and all multiplicity of legal proceeding concerning any such cause or matter may be avoided.

(3) In any cause or matter in which there is conflict between the rules of equity and the rules of the common law with reference to any issue the rules of equity shall prevail.

24. (1) A magistrate shall observe and enforce the application of every customary law which is not repugnant to natural justice equity and good conscience, and is not incompatible either directly or by implication with any enactment for the time being in force and nothing in this law shall be construed to deprive any person of the benefit of such customary law.

Application of
Customary Law

(2) Customary law shall apply in any cause or matter where:-

- (a) the parties are Nigerians;
- (b) one of the parties is a Nigerian; and
- (c) it appears to the court that substantial injustice would be done to either party by strict adherence to any other rule or law which would otherwise be applicable.

(3) No party shall be entitled to claim the benefit of any customary law if, it appears either from express contract or the nature of the transaction out of which the suit or question arose that, the parties to the contract or transaction intended their rights and obligations there under to be governed by some other law than customary law.

(4) In any case where no express rule is applicable to any matter in controversy, the court shall be governed by the principles of natural justice equity and good conscience.

ALTERNATIVE DISPUTE RESOLUTION

25. In any civil cause or matter the magistrate shall as far as practicable, promote reconciliation between the parties to the dispute who are subject to his jurisdiction and may

Alternative
Dispute
Resolution

Settlement in Criminal matters	<p>encourage and facilitate the settlement in an amicable manner of all matters in controversy between them.</p> <p>26. In any criminal cause matter, the magistrate may invoke the provisions of Section 339 of Criminal Procedure Code to facilitate settlement in an amicable manner of proceeding relating to any offence which is compoundable under the provisions of the Criminal Procedure Code or any other Law.</p>
	<p>PART IV- SITTING AND DISTRIBUTION OF BUSINESS</p>
Places for sittings	<p>27. The Chief Judge may by notice in the Gazette appoint the places where any magistrate shall sit for the dispatch of the business of the court and may in like manner change such places or any of them.</p>
Time of sittings	<p>28. (1) The Court shall be open throughout the year except on Saturdays, Sundays and public holidays for the transaction of business and shall sit at such times as may be determined by the magistrate subject to any direction of the Chief Judge.</p> <p>(2) when any day appointed for the sitting or adjourned sitting of the court falls on a Saturday, Sunday or public holiday, the magistrate may if practicable attend and transact the business appointed to be heard at such sitting on the day next after the Saturday, Sunday or public holiday.</p> <p>(3) Notwithstanding sub section (1) above at least one court in every magisterial district shall be open and available for business on any given Saturday for the hearing of matters related to remand, bail and other custodial disposition.</p>
Business at any sitting.	<p>29. At any sitting of the court, the magistrate may hear and determine any civil or criminal cause or matter or both.</p>
Adjournment	<p>30. (1) A magistrate may adjourn any sitting of the court from day to day or any convenient day.</p> <p>(2) If the magistrate is not present at the time and place appointed for any sitting of the court, an officer of the court or any other person authorized in that behalf by the magistrate may, by public notice written, oral or by electronic devise, adjourn the sitting until such time and to such place as may have been communicated to him by</p>

the magistrate and in the absence of any such communication, until such time and such place may be convenient and persons bound to be present at the sitting so adjourned shall equally be bound to be present at the time and place appointed by such notice.

(3) Where the court adjourns any sitting without appointing any new day or place for its next sitting any person bound to attend the court shall be deemed to have been present at the court if he is present at the place where the court last adjourned and on the next succeeding business day.

(4) A magistrate may summon the parties to appear in court notwithstanding that the period for which the case was adjourned has not expired.

POWER TO TRANSFER

31. A magistrate may at any stage of the proceedings and before final judgment transfer any cause or matter before him to any other magistrate having jurisdiction to try the case with the consent of that other magistrate and such cause or matter shall be continued or commenced de novo or tried and disposed of by that other magistrate as if the case had originally been commenced before him.

Transfer between Magistrates

Provided that no cause or matter which had been specifically transferred by the High Court for trial by a magistrate shall again be transferred from the magistrate without leave of the Chief Judge.

32. (1) A magistrate may, of his own motion, or on application of any person concerned, report to the Chief Judge any civil or criminal cause or matter, pending before him which in his opinion ought for any reason to be transferred to another magistrate or to the High Court.

Cases subject to transfer.

(2). The Chief Judge shall with respect to any cause or matter reported to him under sub-section (1) give directions as to the manner, place and by whom the cause or matter shall be heard and determined.

33. (1) Subject to sub-section (2), a magistrate may, at any stage of any proceeding and before final judgment, by order direct that any cause or matter pending before him be transferred to Shari'a Court having jurisdiction to try that cause or matter and the magistrate shall inform the sharia court in writing of reasons for making the order.

Transfer to Shari'a Court

	<p>(2) Notwithstanding sub-section (1), a magistrate shall not;</p> <p>(a) transfer to Sharia court a cause or matter which has been transferred to his court by the high court;</p> <p>(b) save by leave of a judge of the High Court, re-transfer to sharia court a cause or matter which has been transferred to the court in accordance with the provisions of the sharia courts law; and</p> <p>(c) transfer to Sharia court any criminal case on which he is taking cognizance.</p>
Transfer of case by the Chief Judge	<p>34. (1) The Chief Judge may, at any time before final judgment and in the interest of justice, transfer any cause or matter before any magistrate to another magistrate or to High Court on any particular cause or matter;</p> <p>i. in its entirety; or</p> <p>ii. in respect of any part thereof; or</p> <p>iii. in respect of any proceeding to be taken therein; and</p> <p>iv. generally to all such causes or matters whether future or pending at the date of the transfer.</p> <p>(2) The Chief Judge may, at any time cancel, alter, add to or amend any such transfer.</p>
Effect of transfer	<p>35. Every transfer of a cause or matter shall operate as a stay of proceedings before the magistrate from whom the proceeding are directed to be transferred and the process and proceedings in every such cause or matter and an attested copy of all entries in the books of the court relative thereto shall be transmitted to the High court or to the court specified in the direction as the case may be; Provided that the powers of transfer vested in the Chief Judge under section 31, 32, 33 and 34 shall be exercised by him or through the office of Chief Registrar.</p> <p>36. No transfer made under the provisions of sections 31, 32, 33 and 34 shall be subject to appeal.</p>
Where to sue.	<p style="text-align: center;">VENUE</p> <p>37. (1) Subject to the provisions of this law and of any other enactment, civil proceedings shall be commenced in the court of a magistrate having jurisdiction in the district in which:</p> <p>a) the defendant or any one of the defendants</p>

resides or carries on his business; or

a) the cause of action or claim arose, wholly or in part; or

b) the subject matter of the action is located.

(2) In any other case where under the provisions of section 34, 35 and 36 an order has been made for the transfer of any case from one court to another court, the other court shall, notwithstanding anything contained in subsection (1) have jurisdiction to hear and determine the cause or matter.

PRACTICE AND PROCEDURE

38. Subject to the provisions of this law any other enactment the practice and procedure of the court shall in its civil jurisdiction be regulated by rules of court, and its criminal jurisdiction be regulated by the provisions of the criminal procedure code

Practice and procedure

39. Subject to the provisions of this law, a magistrate shall be the sole judge in all proceedings brought in the court, and shall determine all questions of fact and law.

Proceedings to be disposed of by a single Magistrate

40. Where a magistrate has issued any summons or warrant, or otherwise taken or commenced any proceedings or matter, whether civil or criminal, under any authority however conferred and subsequently ceases to have or to exercise jurisdiction in respect of such proceedings or matter, it shall be lawful for the person in whose hands the summons or warrant may be to execute or serve the summons or warrant in the same manner as if the magistrate who issued the summons or warrant had not ceased to have or to exercise such jurisdiction and any person who is the successor of or is acting for such magistrate may hear, determine, execute, enforce or carry to completion any proceedings or matter so commenced as aforesaid save that such person shall commence the trial of the proceedings or matter de novo.

Completion of process

41. (1) A judgment of the Supreme Court the Court of Appeal, the Federal High Court, the State High Court, the Sharia court of appeal or any other superior court of any state of Nigeria, in favour of any party to any cause or matter may in respect of the same cause or matter and between the same parties or their privies, be pleaded as a defense in any

Judgment of superior courts

action commenced in the court.

(2) Nothing in this section shall be construed to prevent any judgment, other than a judgment referred to in subsection (1) being pleaded as a defence in any magistrate court established under any law immediately before the commencement of this law.

RECORD OF PROCEEDING

Record of proceedings

42. (1) At the hearing of any proceeding, the magistrate shall record in writing:

- a) any question of law or equity raised at the hearing; and
- b) any legal submission made together with any authorities cited in support of the same; and
- c) all oral and documentary evidence given before the courts; and
- d) his decision thereon and the reason for the decision and sign the record at the conclusion of each day's proceedings.

(2) A copy of the record of proceedings compiled in accordance with subsection (1) and signed by the magistrate or certified by the registrar as true copy of the original shall on application by any party to proceedings, whether or not notice of appeal has been given and after payment by that party of such fees as may be prescribed, be furnished to the applicant.

(3) A signed or certified true copy of the record of proceedings in accordance with subsection (2) may be admitted in any court as evidence of such proceedings and of the statements made by the witnesses.

Summons to witnesses.

43. A party to any cause or matter may apply to the registrar of the court for a summons to be issued to any witness with or without a statement requiring the production by the witness of books, documents or other materials of evidential value in his possession or control to appear in court and give evidence on behalf of the party issuing the summons and such summons shall be served in accordance with rules of the court made under this law.

- 44.** Every summons, warrant, order, judgment, writ of execution or other process or proceedings, whether civil or criminal issued or taken by or upon the authority of any magistrate with respect to any cause or matter may be served or executed anywhere within the state by a bailiff of the court or by a member of the police force to whom the same may be directed and in the absence of any such direction by any other member of the police force. Service of process.
- 45.** (1) Every summons, warrant, order, conviction, recognizance and other process in any criminal proceedings shall subject to section 12, be signed by a magistrate. Issue of process.
- 46.** (1) Subject to the provisions of the Evidence Act, any person summoned as a witness in court who refuses or neglects, without sufficient cause, to appear or to produce any document required by the summons to be produced; shall forfeit not more than Five Thousand Naira (N5,000.00) as the magistrate may direct. Disobeying witness summons.
- (2) Notwithstanding subsection (1), no person summoned to testify in a civil cause or matter shall suffer any penalty unless there has been paid or tendered to him at the time of the service of the summons such amount in respect of his expenses, as may be prescribed for the purpose of this section.
- (3) The magistrate may in his order direct that the whole or any part of the sum forfeited after making allowances for such costs as he may think appropriate, be paid to the party injured by the refusal or neglect of the witness to testify.
- 47.** In any cause or matter a magistrate may on the application of either party, or of his own motion make such order for the inspection by the court, the parties or witnesses, of any movable and immovable property, the inspection of which is in his opinion, material to the proper determination of the question in dispute and may give such direction regarding such inspection, as he may think fit. Inspection
- 48.** Every police officer shall obey the warrant and carry out the directions of any magistrate in the exercise of his criminal and civil jurisdiction. Duty of Police

Contempt of Court

49. The magistrate Court shall have power to punish for contempt of Court where the contempt is committed in the face of the court or in connection with any proceedings in the court.

Reference to Alternative Dispute Resolution

50. (1) A magistrate may, with the consent of the parties to any civil proceedings and subject to such terms and conditions as the magistrate may consider just, order such proceedings to be settled by any person by Alternative Dispute Resolution together with any other matter in dispute between the parties and within the jurisdiction of the court.

(2) A matter referred for Alternative Dispute Resolution for settlement under sub-section (1) shall not be revocable by any party except with the consent of the magistrate.

(3) Any award/term of settlement made under sub-section (1) Pursuant to an order made under sub-section (1) Shall be entered as the judgment in the proceedings and shall be binding and effectual to all intents and for all purposes as it were a judgment of the magistrate.

Provided that the magistrate may in the interest of justice revoke the award/terms of settlement: -

- a) on the application by any party not later than seven days after the making of the award/terms of settlement alleging misconduct, fraud or misrepresentation on the part of the arbitrator or any other party;
- b) if both parties require the arbitration/terms of settlement to be set aside; or
- c) if in his opinion another order for settlement by arbitration ought to be made.

Reference to a referee/expert

51. (1) A magistrate may refer to a referee/expert for inquiry and report any question in dispute between the parties relating to:

- a) any civil proceedings which requires:
 - i. prolonged examination of documents; or
 - ii. scientific investigation; or
 - iii. investigation of any matter, relating to any locality; which cannot in the opinion of the magistrate be conveniently disposed of by or before him;
- b) any civil proceedings where the question consist wholly or in part of accounts;
- c) any other matter arising out of any civil proceedings where the parties give their consent

and he is satisfied on grounds to be recorded by him, that it is a proper case to refer.

(2) Where in any proceedings any question is referred to a referee/expert in accordance with subsection (1) the magistrate may:

- a) give direction as to the manner of conducting the investigation or the form the report shall be made;
- b) refer back any such report for further inquiry and report; and
- c) give such judgment or make such order in the proceedings as may be just.

(3) Where the question in dispute between the parties relate to paragraph (b) of subsection (1), the dispute may be referred to the registrar for inquiry and his report with respect to the matter may be received in evidence against or in favour of any party to the proceedings.

(4) Subject to any direction which the court may give with respect to an inquiry under this section, in every such inquiry:

- (a) evidence shall be taken before referee/expert or the registrar; and
- (b) the inquiry shall be conducted in the same manner as nearly as circumstances admit as trial before the court .

Provided that the tribunal of the referee/expert or the registrar shall not be conducted in such a manner as if it were a public court of justice.

(5) For the purposes of an inquiry under this section the referee/expert or registrar shall have power:

- a) to issue summons to enforce the attendance of any witness;
- b) to compel the production of any document; and
- (c) to report to the magistrate the disobedience of any summons by any witness to answer any questions or give evidence.

(6) A magistrate may, in respect of any witness reported under paragraph (c) of subsection (5) make such order as he may consider necessary and as he would have made if the witness had appeared before him.

52. (1) In any proceedings pending before the court, a magistrate may, if he thinks fit, upon application either orally or in writing by any party issue a warrant or order under his hand for the bringing up before the court of any person (herein in this section referred to as a prisoner) confined in

Evidence of
prisoners

any place under sentence or under commitment for trial or otherwise, to be examined as a witness in the proceedings.

(2) The prisoner mentioned in any such warrant or order shall be brought before the court under the same custody and shall be dealt with in the same manner in all respect, as a prisoner required by warrant to be brought before the High Court and examined therein as a witness.

Provided that in civil proceedings the person having the custody of the prisoner shall not be bound to obey the warrant or order unless it is tendered to him a reasonable sum for the conveyance of the prisoner in going to remaining at and returning from the court as may be determined by the Magistrate.

ABSCONDING DEFENDANT

Arrest of
absconding
defendant

53. (1) Where the plaintiff in any action proves, at any time before final judgment by evidence on oath or by affidavit to the satisfaction of the magistrate:

- a) that he has good cause of action within the limits of the jurisdiction of such magistrate against the defendant to an amount of not less than five thousand naira (N5,000.00)
- b) that there is probable cause for believing that the defendant is about to quit the state unless he is apprehended; and
- c) that the absence of the defendant from the state will materially prejudice the plaintiff in the prosecution of his action; The magistrate may in the manner prescribed by rules of the court, order the arrest of the defendant.

(2) The defendant (herein referred to as absconding defendant) shall, upon his arrest be brought as soon as practicable before magistrate and the action shall there and then be heard and determined and all proceedings consequent thereon shall be immediately taken; or the magistrate may if he thinks fit adjourn the hearing for a reasonable time, after releasing the absconding defendant on bail. if the absconding defendant gives security to the plaintiff by bond with one surety, to be approved by the magistrate.

(3) Where an adjournment is made and the absconding defendant fails to give the security in accordance with subsection (2) above, the magistrate may commit him to prison custody until his action is finally heard and determined:

Provided that:

- a) no such commitment shall be for a term exceeding seven days but without prejudice to the power of the magistrate to remand the defendant from time to time, save that no such imprisonment shall continue for more than one month; and
- b) upon the final adjudication of the action, the magistrate shall order the release of the defendant if he is then in custody.

(4) If the absconding defendant gives a bond in accordance with this section and subsequently fails to appear at the hearing, if judgment is given for the plaintiff, execution may be levied on the bond to recover the amount of the judgment and costs awarded by the magistrate, but if the defendant appears at the hearing, the magistrate shall in such case, when judgment has been given, cancel the bond and deliver it up to the defendant.

54. (1) If the absconding defendant is arrested outside the jurisdiction of the magistrate who issued the warrant of arrest, he shall on application be brought as soon as practicable before the nearest magistrate who may order the release of the defendant, subject to the defendant's compliance with subsection (2) of section 53.

Release by any other Magistrate

(2) The magistrate by whom the defendant is released shall cause the deposit made or the bond entered into by the defendant to be sent with all convenient dispatch to the magistrate court having jurisdiction to hear and determine the cause.

INTERIM ATTACHMENT OF PROPERTY

55. In any suit, the court may on the application of the plaintiff made at any stage before final judgment and in such circumstances as may be specified in the rules of court made under this law order the defendant to furnish sufficient security to satisfy any judgment that may be given against him in the suit or direct that any property movable or immovable belonging to the defendant shall be attached until further order of the court.

Interim attachment of property.

JUDGMENTS

Judgment on
conclusion of
hearing

56. On the conclusion of the hearing of any cause or matter the magistrate shall:-

- a) either at the same or at a subsequent sitting of the court and in any case not later than 90 days thereafter deliver judgment in the cause and formal judgment shall be entered in the appropriate form;
- b) if so required by the plaintiff or defendant and on payment of the prescribed fee, cause to be delivered to the plaintiff or defendant as the case may be, a certified copy of the judgment so delivered.
- c) in any case where judgment has been prepared by a magistrate and such magistrate is unavailable for any reason to deliver same, another magistrate may read such judgment.

Judgment in
action for
recovery of
chattel.

57. If the plaintiff in an action for the recovery of any chattel or things establishes his claim, the magistrate may give judgment either for the delivery of the chattel or thing or for payment of the value thereof as proved at the hearing and in either case the court may award in addition to such damages as the justice of the case may require.

Orders that may
be made

58. Subject to the provision of this law, any other law and the rules of the court a magistrate may in any cause or matter make any order which he considers necessary for doing justice in the case whether or not such order has been expressly asked for by the person entitled to the benefit thereof.

Provided that a decision of the court shall not be set aside or treated as a nullity solely on the ground of non-compliance with the provisions of this section unless the court exercising jurisdiction by way of appeal from or review of that decision is satisfied that the party complaining of such non-compliance has suffered a miscarriage of justice by reason thereof.

Order to be
obeyed.

59. A person directed to pay money or do any act is bound to obey the order without any demand for payment or performance, and if no time is therein expressed he is bound to do so within two days after the order has been made, except as to costs where the amount thereof is required to be ascertained by taxation and unless the

court enlarges the time by the same or other subsequent order.

60. (1) When a judgment is given or an order made by the court under which a sum of money of any amount is payable, whether by way of satisfaction of the claim or counter-claim in the proceedings or by way of costs or otherwise the court may as it thinks fit, order the money to be paid either:

Payment and suspension of judgment and orders

- a) in one sum, whether forthwith or within such period as the court may fix; or
- b) by such installments payable at such times as the court may fix.

(2) If at any time it appears to a magistrate that a party to any proceedings is unable from any cause to pay any sum recoverable against him or any installment thereof whether by way of satisfaction of the claim or counter-claim in the proceedings or by way of costs or otherwise, the magistrate may, in his discretion and for the purpose of doing justice to all parties concerned, suspend or stay the judgment or order given or made in the proceedings for such time and on such terms as the magistrate thinks fit and so from time to time until it appears that the cause of the inability has ceased

61. The issue of any execution in any proceedings shall be in accordance with provisions of the Sheriffs and Civil Process Law/Act.

Execution.

62. Every judgment and order of the court shall, except as provided by this law or any other law be final and conclusive between the parties.

Finality of judgment.

Provided that: a magistrate shall have power to non-suit the plaintiff in every case in which satisfactory proof shall not be given entitling either the plaintiff or defendant to judgment.

63. A magistrate may on application and upon sufficient grounds being shown by the applicant at any sitting of the court set aside any judgment or order given or made against any party in default of his appearance before the court together with any order made consequent upon the judgment or order, and may grant a new trial or hearing upon such terms as he may think just.

Setting aside defaulting judgment.

Relistment of case struck out.

64. Any case struck out, may by leave of the court, be restored on the cause list on such terms as the court may deem fit.

COSTS

Cost in the discretion of the court.

65. (1) All costs in any action or proceedings in the court, including any form of alternative dispute resolution not herein otherwise provided, shall be paid by or apportioned between the parties in such manner as the court in its discretion order and in default of any such order shall abide by the event of the action or proceedings.

(2) Execution may issue for the recovery of any such fees and costs in like manner as if they were judgment obtained in the said court.

(3) Costs shall be in the discretion of the court and accordingly the court may in exercise of that discretion award or refuse to award any of such costs to any party as it may think fit.

Unclaimed money in court

66. (1) A registrar shall in the month of December in each year make out a correct list of sums of money belonging to all parties to any cause or matter in the Court which shall have been paid into court and which shall have remained unclaimed for five years before the first day of January of each year, specifying the names of the parties to whom or on whose account the same were so paid into court.

(2) A copy of such list shall be posted in a conspicuous position and remain so posted during court hours at each place at which the court is appointed to sit.

Unclaimed money
in court

(3) All sums of money which shall have been paid into court to the use of any person whether a party to a cause or not and which shall have remained unclaimed for a period of six years or more on the first day of January next after the posting of the list in accordance with subsection (2) shall be accounted for by the registrar to the Chief registrar.

67. Any book required to be kept by this law or by rules of court relating to the proceedings of the court, or a copy of any entry therein purporting to be signed and certified as true copy by a registrar shall at all time without further proof be received in any court as evidence of the entries in such book or the so copied (at the case may be) and of the proceedings referred to and of the regularity of the proceedings.

Evidence of
record of
proceedings.

68. A plaintiff may by the same plaint in the court sue in respect of more than one cause of action.

Several causes of
action.

69. (1) Where the plaintiff's claim exceeds jurisdiction of the magistrate he may if he desires to bring the action within the jurisdiction of the magistrate claim in his action only the amount not exceeding Ten Million Naira (N10,000,000) in the case of Chief and Senior Magistrates or Five Million Naira (N5,000,000.00k) in the case of magistrate Grade I and II and abandon the amount in excess of the jurisdiction of the magistrate.

Partial
abandonment to
give jurisdiction.

(2) A judgment obtained in accordance with subsection (1) shall operate to fully discharge the defendant against any further claim or demand in respect of that cause of action and judgment to that effect shall be entered accordingly.

70. Judgment and Execution shall be in the like manner as would have been given or issued in the High Court.

Execution of
Judgment.

71. (1) Where a plaintiff has a claim recoverable under the law against two or more persons jointly, it shall be sufficient to serve any one or more of those persons with process, and judgment may be obtained and execution issued against any of them so served, notwithstanding that others jointly liable may not be within the jurisdiction of the court..

Procedure where
persons jointly
liable.

(2) Where judgment obtained against any person under subsection (1) is satisfied by that persons, he shall be

entitled to recovery contribution from any other person jointly liable with him.

PART VI-APPEALS

Right of Appeal in criminal cases.

72. (1) Any person aggrieved by the judgment or order of magistrate in a criminal cause or matter in respect of any charge may within 30 days appeal to the High Court from such judgment or order.

(2) An appeal from the court to the High Court in any criminal cause or matter, and the procedure in respect of that cause or matter shall be in accordance with the constitution, the High Court law and the Criminal Procedure Code.

Right of Appeal against sentence.

73. A person convicted of any offence and sentenced may appeal to the High Court against such sentence within 30 days.

Appeal by prosecution.

74. (1) Where an accused person has been acquitted or an order of discharge has been made in respect of him by a magistrate the prosecution may appeal to the High Court from such acquittal or discharge on the ground that the acquittal or discharge is in excess of the jurisdiction of the magistrate.

(2) Where a person has been convicted by a magistrate of an offence in respect of which the magistrate is required by any statutory provision to impose the minimum sentence or make such other order as the statute prescribes the prosecution may if the magistrate fails to comply with the statutory provisions appeal to the High Court on the ground that the magistrate has failed to impose such sentence or make such order.

Right of Appeal in civil cause.

75. (1) Subject to subsection (2) of this section an appeal shall lie as of right to the High Court from any decisions, judgment or order of any magistrate in any civil matter within 30 days.

(2) Except with leave of the High Court from any decision, judgment or order of a magistrate in any civil cause or matter:

- a) where the sum claimed is less than Five thousand naira (5,000.00);
- b) where the value of the subject matter or right claimed or determined is less than Five thousand naira (5,000.00)

76. Subject to the provisions of this law the procedure, practice and manner of appeal from the decision, judgment or order of the court in any civil cause or matter shall be in accordance with the rules made under this law, the High Court law and any other enactment empowering the making of such rules.

Civil Appeal Procedure.

77. An appeal shall not lie directly from an order made *exparte* but any person aggrieved by such order may apply to the court to vary or discharge the order and an appeal shall lie from the decision on such application in like manner as if it were an appeal under subsection (2) of section 75 of this law.

Exparte order.

78. (1) Whereby the direction of the high court under section 55 of the High Court Law additional evidence is to be taken by a magistrate and specific findings of fact made, the magistrate taking the evidence or making the findings shall certify such evidence or findings of the High Court.

Additional evidence.

(2) Unless the High Court otherwise direct, the appellatant or the legal practitioner representing the appellatant shall be given the opportunity of being present when additional evidence is taken under subsection (1) of this section.

(3) Evidence taken in pursuance of a direction referred to in subsection (1) shall be taken as if it were evidence at a trial before the magistrate court.

(4) In forwarding to the high court any additional evidence taken by a magistrate in pursuance of a direction the magistrate may express his opinion on the demeanor of the witnesses and the value of their evidence may also, if he is the magistrate against whose decision the appeal has been made, state whether or not he would have come to a different decision had the additional evidence been brought at the trial.

79. Upon receipt of a certificate of the judgment or order of the High Court upon an appeal and subject to the provisions of this section a magistrate shall have the same jurisdiction and power to enforce, and shall enforce any decision which is affirmed, amended, substituted or pronounced by the High

Enforcement of judgment.

- Court, in the same manner and in all respects as if such decision or judgment had been pronounced by himself.
- Appeal not to operate as stay. **80.** Subject to the provisions of this or any other law, an appeal shall not operate as a stay of execution but a magistrate or the High Court may order a stay of execution either unconditionally or upon the performance of such conditions as may be imposed in accordance with rules of court.
- Abetment of appeal. **81.** Every criminal appeal, other than an appeal from a sentence of fine, shall abate on the death of the appellant.
- Case stated. **82.** At any time during the hearing of a criminal case and before the decision of the magistrate has been pronounced the magistrate may, and when so required by the Attorney General shall, state a case on a point of law for the opinion of the High Court.
- Attorney General may require a case to be stated. **83.** Where, in any criminal cause or matter the Attorney-General is of the opinion that the decision of a magistrate is erroneous in Law, he may at any time within six months from the date of the decision require the magistrate to state a case thereon for the opinion of the High Court.
- Requirement of stated case **84.** A case stated by a magistrate shall set out: -
a) the charge, summons, information complaints;
b) the facts found by the magistrate to be admitted or proved;
c) any submission of law made by or on behalf of the accused, during the trial;
d) the finding of and in case of conviction, the sentence imposed by the magistrate;
e) any question of law which the magistrate desires to be submitted for the opinion of the High Court; and
f) any question of law which the Attorney-General requires to be submitted for the opinion of the High Court.
- 85.** In addition to and without prejudice to the right of appeal conferred by this law or any other law, a magistrate may reserve for consideration by the High

Court on a case to be stated by him any question of law which may arise in any cause or matter by him any question of law which may arise in any cause or matter before him and may give any judgment or decision subject to the opinion of the High Court.

PART VII- MISCELLANEOUS PROVISIONS

86. (1) The fees and costs set forth in the rules of court made under this law and the first schedule of the High Court rules may be demanded and received by the registrar or other officers of the court appointed to receive such fees and costs for and in respect of the several matters therein mentioned. Fees and costs.

(2) In the absence of the registrar or in the event of there being no registrar or other officers appointed to receive such fees and costs, such fees and costs may be demanded and received by the magistrate.

87. (1) All fees or costs payable under or by virtue of this law shall in the first instance be paid by the party applying for the summons, warrant or other process or document in respect of which the fees or costs are payable. By whom payable

(2) Notwithstanding subsection (1) a case instituted by a public officer when acting in his official capacity or in any case on which the magistrate endorses on the plaint his authority for the remission of fees on account of the poverty of the party or for any other sufficient reason and in every such case the fees or costs shall at the discretion of the magistrate be recoverable from the other party if the decision is given against him.

88. Section 86 and 87 shall apply to monies received by the registrar or other officers of the court under the provisions of this law or any other law, whether the same be fees, cost, forfeitures or money paid into court for any purposes, or received or recovered under or by virtue of any process of execution distress. Fees effected.

89. In all cases where a magistrate or justice of the peace refuses to do any act relating to the duties of his office, it shall be lawful for the party requiring the act to be done to apply to the High Court for an order and no action or proceedings whatsoever shall be commenced or prosecuted against the magistrate or justice of the peace for obeying the order. Magistrate/Justice of Peace refusing to act.

Protection of
judicial officers.

90. (1) No magistrate or justice of the peace shall be liable for any act done by him or ordered by him to be done in the discharge of his judicial duty, whether or not the act was within the limits of his jurisdiction.

Provided that, he, at that time and in good faith believed himself to have jurisdiction to do or order to be done the act in question.

(2) No person required or bound to execute any warrant or order issued by a magistrate or justice of the peace in excess of the jurisdiction shall be liable in any action for damages in respect of the execution of such warrant or order.

Right of
appearance of
legal practitioner.

91. Subject to the provisions of this law or any other law a person for the time being entitled to practice as legal practitioner in the Supreme Court shall have the right to practice as such in the Magistrate Courts unless he is suspended or prohibited from so practicing by or under the provisions of any law.

Representation of
State
Government and
Departments.

92. (1) In the case of a prosecution by or on behalf of the state or by any public officer in his official capacity, the state or that officer may be represented by a law officer, state counsel or police officer, or by any legal practitioner or other person duly authorized in that behalf by or on behalf of the Attorney-General or, in revenue cases, by the Head of the Department concerned.

(2) Subject to the provisions of the Land Use Act, in any civil cause or matter to which the state or any public officer in his official capacity is a party or in any civil cause or matter affecting revenues of the State, the State or that officer may be represented by a Law Officer or State Counsel or by any legal practitioner or other person duly authorized in that behalf or on behalf of the Attorney-General or in revenue cases, by the head of the Department concerned.

Cost against
public officers

93. In any cause or matter in which a public officer in his official capacity is a party and is represented by a law officer, state counsel, legal practitioner or other person duly authorized in that behalf by or on behalf of the Attorney-General, the magistrate may award costs either:

- a) to or against such public officer personally;
- or
- b) to or against the Government represented by the public officer.

94. In any cause, matter or appeal to which a Local Government Council is a party, such Local Government Council may be represented at any stage of the proceedings by a legal practitioner or by any member or officer of the Local Government Council who shall satisfy the magistrate that he is duly authorized in that behalf.

Representation of
Local
Government
Council

PART VIII- RULES AND REGULATIONS

95. (1) The Chief Judge may make regulations for carrying this law into effect and in particular may make rules of court for:

Regulations

- a) regulating the practice and procedure of the court in criminal proceedings in respect of which no specific provision is made in this or any other law including all matters connected with the books and forms to be used;
- b) regulating the practice and procedures in civil appeal and criminal appeals from the court where no provision is made by the High Court law or by rules of court there under;
- c) the reference of Civil Proceedings to Alternative Dispute Resolution are matters connected with or incidental thereto including remuneration and fees for arbitrators and referees;
- d) the recording and keeping in such manner and form as he may think fit of any civil or Alternative Dispute Resolution proceedings;
- e) the maintenance, preservation, destruction of record of civil and criminal proceedings;
- f) the books and forms of account to be used in the court and the keeping of the same;
- g) prescribing the forms and the times of forwarding return of criminal cases decided in the court to the Chief Judge or to Judge;
- h) prescribing the fees, costs and other amounts which lawfully be demanded and received in respect of any proceedings in court and the service of process;
- i) the acceptance, retention and disposal of fees whether in civil or criminal proceedings;
- j) the waiving and remission of fees payable by persons and the admission of persons to sue in forms pauperis;

- k) the receipt of money paid into court and moneys received or recovered under or by virtue of any process, execution or distress;
 - l) the payment out of court of money to person entitled to receive the same;
 - m) the fees payable in respect of the inspection and copying records of Civil Proceedings and documents and other matters relating to such record;
 - n) regulating the arrest of absconding defendants and the giving of security for their release;
 - o) the imposition of penalties on any person who fails to take any action required by any rule of court or who disobeys any such rules;
 - p) the service and execution of any writ or summons, warrant, order or other process issuing out of or transmitted by Sharia Court to the courts;
 - q) the condition precedent to such service or execution either in respect of such process generally or in respect of any specified class of process, the procedure to be followed after the service or execution of such process, and the payment of allowance to persons effecting such service or execution; and
 - r) carrying into effect the provisions, objects and intentions of this law.
- (2) Any rules of court made under this section shall apply to all parties in any proceedings before the court.

PART IX- TRANSITIONAL PROVISIONS AND REPEAL

Saving of existing
appointment

- 96.** Nothing in this law shall be construed:
- (a) to affect the appointment, tenure of office, powers or status of any magistrate or any justice of the peace holding office on the coming into force of this law;
 - (b) to affect the appointment, tenure of office or powers of any registrar or other officers who on the coming into operation of this law is performing duties in connection with a court having jurisdiction within the state constituted under the Magistrate courts law and every such magistrate, justice of the peace registrar or other officer shall be deemed to have been appointed under this law and to be subject to the provisions thereof.

97. (1) All civil proceedings instituted, commenced or taken in accordance with the rules or practice of a Magistrate court established under the provisions of the Magistrate court law in respect of a cause or matter pending at the date of coming into force of this law shall be valid and effectual as though the proceedings had been instituted commenced or taken in accordance with the provisions of this law and such proceedings shall continue before the court in accordance with the provisions of this law.

Saving of pending proceedings

(2) Any criminal cause or matter instituted before any magistrate court established and constituted under the provisions of section 5 to 10 of the criminal procedure code which was pending immediately before the coming into operation of this law shall be deemed to be a criminal court established and constituted under the provisions of this law.

98. Any civil cause or matter which has been transferred from Sharia Court to a Magistrate court established under the provisions of the Magistrate courts law and which has not been part-heard on the day of the coming into operation of this law shall be heard and determined by a Magistrate as though such order of transfer has been made to the court established under the provisions of this law.

Savings as to causes transferred from sharia courts.

99. The Magistrate Court laws CAP 89 Laws of Kano State is hereby repealed.

Repeal.

AUTHENTICATION BY THE CLERK

This printed impression has been carefully compared by me with Kano State Magistrate Courts Law 2018 (1439 A.H) which was passed by the State House of Assembly and found by me to be a true and correctly printed copy of the said Law.

ABDULLAHI ALFA
*Clerk/Permanent Secretary,
Kano State House of Assembly*

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

PHYSICS 351

LECTURE 1

LECTURE 2

LECTURE 3

LECTURE 4

LECTURE 5

LECTURE 6

LECTURE 7

LECTURE 8