

# **The Importance, Challenges and Disparaging Differentiation Relating to The Use of The NBA Stamp: The Need for a Judicial and Logical Review**

**By**

**Mariam Olubukunola Adebayo\***

## ***Abstract***

*The need to verify the identity of lawyers remains essential especially in the wake of the emergence of impersonators. The legal profession has seen instances where people who are not qualified to practice engage in unauthorized practice of the profession. This is obviously a wakeup call to stakeholders and regulators of the legal profession who continued to search for ways to verify the identity of those who are qualified to practice as lawyer. One of the ways they have adopted is the introduction of Stamp and Seal to be affixed on all documents and pleadings prepared by qualified lawyers. The introduction of Stamp and Seal has attempted to reduce the unauthorized practice of the Bar but it's not without its challenges. This paper adopts a doctrinal methodology by analysing primary and secondary materials such as statutes, case law and texts. It found that there are indeed instances of legal Practice by certain quacks who hold themselves out to be lawyer. It also found, among others, that the introduction of the Stamp and Seal has led to certain unintended consequences that needs to be attended to. The paper submits inter alia, that is the Nigerian Bar Association (NBA) should endeavour to ensure that the stamp is made in a better nature. It is advised that the NBA should adopt the permanent form of the seal to ensure that the seal gets a stronger backing and importance.*

**KEYWORDS:** Legal Practice, Lawyers, Seal, Impersonation

## **Introduction**

It is generally assumed that once a person qualifies as a lawyer, he or she must engage in litigation and be in court regularly. This is a very wrong assumption. Law is a utility subject and very dynamic as well. As a professional, a lawyer does not have to engage in litigation as a barrister.<sup>1</sup> There are probable more lawyers practicing outside and in the corporate world. We have lawyers in the Banks, manufacturing and distribution industry, commerce, teaching, legal advisers in various private and public institutions as well as corporate bodies, civil service, in active party politics, in the police and various arms of government and military. Wherever you find them, lawyers remain the most respected and successful professional especially with regards to their deep learning, training, and knowledge in handling human affairs.

It is acknowledged that lawyers have a great role to play in nation building. This is even particularly in Nigeria. Lawyers are influential agents of change having prominent roles as organizers and spokesmen of civic reform groups. Hence the need to distinguish lawyers in all ramifications of carrying out their duties as lawyers

## **Rational behind the Introduction of the Stamp Policy**

Despite the strict and rigorous training and licensing of legal practitioners in Nigeria, there have been several challenging situations of non-lawyers portraying themselves as lawyers to the extent of representing unassuming individuals/clients in matters in court as well as drafting legal documents on behalf of clients. There are loads of instances of non-lawyers appearing

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\* LLM, FCIS, NP, AICMC Managing Partner, Insight Solicitors, Abeokuta. Former lecturer Bola Ajibola College of Law, Crescent University, Abeokuta, Nigeria.

<sup>1</sup> In Nigeria, persons who qualify as lawyer and are called to the Nigerian Bar are enrolled by the Supreme Court of Nigeria as both Barristers and Solicitors.

## The Importance, Challenges and Disparaging Differentiation Relating to The Use of The NBA Stamp: The Need for a Judicial and Logical Review

before the Courts and referring to and portraying themselves as lawyers. Between February and June 2018, three different persons were arraigned before the Courts for this criminal act. The Kwara State Police arrested and arraigned one Peter Akogun who had no law training but had practiced law in Ilorin for 10 years and won cases in the Supreme Court of Nigeria, before an Ilorin magistrate's court convicted him for certificate and identity theft in the state capital<sup>2</sup>. He was arrested, following a petition written to the police on behalf of the Ilorin branch of the Nigerian Bar Association by its legal adviser, Oyetunji Ojuokaiye. According to the First Information Report, Mr. Adogun had been practising as a lawyer in Ilorin and its environs since 2007 with the name "Barrister I. T. David."

In June 2018, detectives in Lagos exposed another fake lawyer who had been operating at Ojo Magistrate's Court for three years. They identified the suspected fake lawyer as Mr. Uche Julian Nwajiakwu. According to SP Chike Oti, the arrest of Nwajiakwu by officers at Nigerian Police Ojo Division, on May 25, marks the second time a fake lawyer would be arrested at Ojo Magistrate Court. The first was the arrest of one Chris Elisha, who was nabbed on February 6, 2018, after being in illegal practice for 15 years. He said that Nwajiakwu had been practicing illegally since 2015<sup>3</sup>.

The suspect allegedly told the police that he fell in love with law practice when his friend commissioned him to act as a lawyer in order to serve his tenant a Quit Notice and he was handsomely rewarded after the deed was done. Nwajiakwu was arrested on May 25, while he was arguing on a bail application for his client when lawyers in court became suspicious. The lawyers allegedly said his quackery was too obvious to be ignored.

The quest to demystify this recurring embarrassment to the noble profession as well as separate wheat from chaff is best assumed to be one of the major reasons for the implementation and great observance of the use of Stamp policy and for ensuring its exclusivity to each lawyer. This policy has helped distinguish lawyers from non-lawyers both in court litigation, and most especially in drafting legal documents and court processes.<sup>4</sup>

### **Statutory Provisions and Judicial Pronouncements**

The Rules of Professional Conduct (RPC) were made by the General Council of the Bar pursuant to Section 1 of the Legal Practitioners Act, Laws of the Federation, 2004. It is a subsidiary legislation and has the force of law<sup>5</sup>. The Rules of Professional Conduct 2007 serves as a guiding regulator for all lawyers and provides for the mandatory requirement of stamp and pursuant to this, the Augustine Alegeh, SAN led National Executive Committee of the Nigerian Bar Association (NEC) introduced stamps for Lawyers<sup>6</sup>.

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<sup>2</sup> <http://www.nigerianmonitor.com/fake-lawyer-arrested-in-kwarafake-lawyer-who-has-won-cases-at-supreme-court-arrested/>, accessed 12<sup>th</sup> December 2018.

<sup>3</sup> <https://guardian.ng/news/again-fake-lawyer-nabbed-in-lagos-court/>, <https://www.vanguardngr.com/2018/02/police-arrest-fake-lawyer-magistrates-court-lagos/>, accessed 12<sup>th</sup> September, 2021.

<sup>4</sup> D. O. Odumosu, "Seal And Stamp Policy: Arising Controversies And The Way Forward", Available at <https://www.lawyard.ng/seal-and-stamp-policy-arising-controversies-and-the-way-forward/>, accessed 7<sup>th</sup> September, 2021.

<sup>5</sup> Section 18 of the Interpretation Act.

<sup>6</sup> A resolution to introduce the stamp was approved at NBA National Executive Committee meeting held on 14<sup>th</sup> November 2014 at Uyo, Akwa Ibom State, Nigeria.

Rule 10 of the RPC states thus:

- (1) That a lawyer acting in his capacity as a legal practitioner, legal officer or adviser of any Governmental department or Ministry or any corporation, shall not sign or file a legal document unless there is affixed on any such document a seal and stamp approved by the Nigerian Bar Association.
- (2) For the purpose of this rule, “Legal documents” shall include pleadings, affidavits, depositions, applications, instruments, agreements, deed letters, memoranda, report, legal opinions or any similar documents.
- (3) If without complying with the requirements of this rule, a lawyer signs or files any legal documents as defined in sub-rule (2) of this rule, and in any of the capacities mentioned in sub-rule (1), the document so signed or filed shall be deemed not to have been properly signed or filed.

In furtherance to this Rule and the NEC approval, lawyers were required to affix their stamp on every legal document prepared and/or endorsed in accordance with law. The use of the stamps became mandatory from the 1st day of April 2015. Legal practitioners readily welcomed the innovation to enable all distinguish themselves by complying with the regulations guiding the usage of seal and stamp in the process of preparing of instruments, processes, documents, agreement and in the adjudication of justice. The General Council of the Bar, NBA, and other regulatory bodies in the legal profession in Nigeria have worked tirelessly in all aspects with respect to the seal and stamp policy. In trying to maintain the exclusivity and individuality attached to the use of the stamp, the NBA commenced the policy process with the inclusion of the names and enrolment number of the lawyer on his stamp.

On the legal consequences of noncompliance with Rule 10 of the RPC the court has ruled that failure to affix the stamp by a legal practitioner being a mere irregularity that can be subsequently corrected, rather than a nullity of the whole processes. The Judiciary has given its blessings to the use of the stamp not alone by judicial notice but through its pronouncements and rulings in decided cases. The Supreme Court gave effect to the use of stamp and seal on legal documents by lawyers in the case of *General Bello Sarkin Yaki (Rtd) & Anor v. Senator Abubakar Atiku Bagudu & 2 Ors*<sup>7</sup>, where the court opined that

‘In this appeal this court says that legal processes without stamp or seal are voidable. That is to say such documents are deemed not to have been properly signed and not that they are invalid. Such documents are redeemed and made valid by a simple directive by the judge or the relevant authority at the time of filing the voidable document for erring counsel to affix stamp and seal as provided for in Rule 10 of the Legal Practitioners Act’.<sup>8</sup>

In the case which became the locus classicus on the stamp and seal policy, a lawyer prepared a document on which there was no stamp and seal as recommended and approved by the NBA. The 2nd respondent in his cross-appeal raised a single issue for determination:

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<sup>7</sup> LER [2015]SC:722/2015.

<sup>8</sup> Per O. Rhodes-Vivour, J.S.C.

## The Importance, Challenges and Disparaging Differentiation Relating to The Use of The NBA Stamp: The Need for a Judicial and Logical Review

"Whether the Court of Appeal was right to hold that failure of a legal document to have affixed to it a stamp/seal as mandated by Rule 10(1) of the Rules of Professional Conduct did not carry with it the consequence of rendering such legal document incompetent."

Two major arguments canvassed in favour of the said document are:

- (i) The rule does not provide for any punishment for its breach.
- (ii) The rule constitutes a curtailment of the right of appeal under the 1999 Constitution of the Federal Republic of Nigeria.

In furtherance to these arguments, the Supreme Court held that it is enough punishment for the breach of the rule that the document or process is deemed not properly signed and filed. It also held that no right, including the right of appeal, is absolute. That right has to be exercised within the purview of the prescribed rules of legal practice. In allowing the cross appeal by the 2nd respondent the Supreme Court unanimously held as follows:

- a) The document or process so signed and filed is a legal process within precedent to its proper signing and filing was not met.
- b) The document or process is not null and void or incompetent like the case of a court process signed in the name of a corporation or association or law firm as held in *Okafor v. Nweke*.<sup>9</sup>
- c) The document or process signed and filed in breach of Rule 10(1) of the Rules of Professional Conduct can be saved and its signing and filing regularized by affixing the approved seal and stamp on it as the breach is not a substantive infraction but a mere irregularity which can be remedied.
- e) By affixing the seal and stamp on such a document or process the filing becomes proper in law. Since that was not done the court could not take cognizance of the document, which was not properly filed, and the filing not regularized<sup>10</sup>.

By this case, it was agreed upon that there are two ways of regularizing such irregularity. It could be through an oral application filed in an open court at any stage in the proceedings involved, even on appeal for and production and affixing of the seal on the document or process in question or through a formal application. Same way, it follows that except in exceptional instances, there is no unreasonable time or period within which such document can be regularized. In the case of *Nyesom v. Peterside & Ors*<sup>11</sup>, the Supreme Court reaffirmed its decision on stamp by citing the case of *General Bello Sarkin Yaki (Rtd) & Anor v. Senator Abubakar Atiku Bagudu & 2 Ors*<sup>12</sup> that failure to affix the approved stamp of the NBA on a process does not render the process null and void. It is an irregularity that can be cured by an application for extension of time and a deeming order."<sup>13</sup>

The courts by virtue of section 122 (2) (m) of the Evidence Act<sup>14</sup> have taken judicial notice of this policy and ensured the strict observance of same in related cases. At the commencement of the policy, the stamp costs Four Thousand Naira (N4,000) for a packet of 120 pieces of Stamp and seal. However, the Executive Council of the NBA informed all of the need to revise

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<sup>9</sup> (2007) 10 NWLR (Pt.1043) 521 SC.

<sup>10</sup> M. A. Etti, published in LASJ NEWS Vol. 01 No.04 July – December 2016. Page 29. A bi-annual publication of the Lagos State Judiciary.

<sup>11</sup> (2016) LPELR-40036(SC).

<sup>12</sup> *Supra*.

<sup>13</sup> *Kekere-Ekun, J.S.C. (P. 35, Paras. B-D).*

<sup>14</sup> Cap E14, Laws of the Federation 2011..

the number of stamps to be issued to each lawyer at the same Four Thousand Naira due to the rising economic situation. Presently, there are three options of purchase and these are:

- 1) Option I- Pack of 96 Stamps (4 Sheets) N 4,000:00 (Four Thousand Naira)
- 2) Option II- Pack of 48 Stamps (2 Sheet) N3, 000:00 (Three Thousand Naira)
- 3) Option III- Pack of 24 Stamps (1 Sheet) N1, 500:00 (One Thousand Five Hundred Naira)

Two types of stamps are in use. These are the green stamp which is for private legal practitioners, and the red stamp for legal practitioners in public and salaried/corporate employment. A cursory look would be given to this differentiation as it is believed that the rationale behind the two types has not totally curbed the infiltration of the private practise by the lawyers in the government institutions.

There are some public practitioners who carry out pro bono services in their private capacity, are they allowed to have the two types? Would this not be in conflict with the rationale behind the differentiation. The NBA has stated that a certain clearance would be given to such public practitioner and a certificate issue which affords him the opportunity to use his seal for such pro bono service.<sup>15</sup>



Rule 8 of the RPC provides that:

- (1) A lawyer, whilst a servant or in a salaried employment of any kind, shall not appear as advocate in a court or judicial tribunal for his employer except where the lawyer is employed as a legal officer in a government department.
- (2) A lawyer, whilst a servant or in a salaried employment, shall not prepare, sign, or frank pleadings, applications, instruments, contracts, deeds, letters, memoranda, reports, legal opinion or similar instruments or processes or file any such document for his employer.

<sup>15</sup> A. Alegeh, 'Stamp and Seal Now Mandatory for all Legal Documents'. Available at <https://www.pressreader.com/nigeria/thisday/20150414/282480002323516>, accessed 26<sup>th</sup> December, 2018.

## The Importance, Challenges and Disparaging Differentiation Relating to The Use of The NBA Stamp: The Need for a Judicial and Logical Review

A perusal of the wordings of Rule 8(1) of the RPC suggests that any lawyer in salaried employment i.e., a lawyer in corporate employment shall not appear as an advocate, prepare, or even sign any legal document for his employer. The rule is very clear and dismisses of every ambiguity. To this end, there is a conflict between the NBA directive and the provisions of the enabling legislation, and it can be assumed that the provision of red stamps for lawyers in corporate employment is directly opposed to Rule 8 of the RPC.<sup>16</sup>

Furthermore, in situations where a learned counsel is a litigant in a suit, Ogbe<sup>17</sup> observed that *“a lawyer is not expected to affix a seal and stamp of the NBA to a document which he prepares and files in court in a suit which he initiates as a litigant. In other words, if a lawyer is a litigant in a suit, and in which case he personally prepares the process upon which the suit is prosecuted, the lawyer is not expected to affix the seal and stamp of the NBA to any such process which he so prepares, as he will be deemed not to be acting in his capacity as a legal practitioner but as a litigant.”*

Ogbe further observed that, *“this position also applies to any legal document which might not necessarily be filed in court, but which a lawyer prepares for his use and not the use of any other person, such as a letter written by a lawyer, seeking the performance of a legal duty by another, which is to be for his benefit.”*<sup>18</sup>

With the extent of proliferation of activities of non-lawyers in the legal profession and the use of quacks to produce legal documents, we hold the opinion that no responsible member of the noble profession will sign or present any legal document which does not have his seal on it or withhold his support to the continued use of the seal. This show of authentication and responsibility is in the interest of lawyers. The fact of not countenancing documents filed without a seal is a welcomed development. The idea of the seal being restrictive and exclusive is also very innovative.

In another view, one of the crises being faced by some lawyers is that of insufficient/exhausted stamp and seal. It usually occurs that a lawyer’s stamps are exhausted before the legal year end, thereby creating problems for such lawyers due to the time frame for the production and supply of a new set. By this, it is possible that such lawyers “borrow” stamps from colleagues to file processes which they have personally executed. It is often argued that as long as there is stamp on the process, it is competent notwithstanding that the stamp was borrowed and does not bear the name of the counsel who signed the process.

Further the court in its ruling gave its rationale in the case of *General Bello Sarkin Yaki*<sup>19</sup> on why lawyers who prepared legal documents should affix their stamp and seal bearing their name and not that of another lawyer. S. N. Onnoghen, J.S.C as he then was giving the rationale for affixing stamp and seal on legal documents and also for lawyers to be given a chance to prove their call by affixing their personal stamp and seal, not borrowed ones whenever such objection is raised. Learned Justice stated that; *“it is only fair to the client, the legal profession*

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<sup>16</sup> T. Anjorin, ‘*The NBA seal and stamp policy, prospects and constraints*’. Available at <https://9jalegal.com.ng/news/the-nigerian-bar-association-nba-seal-and-stamp-policy-prospects-and-constraints/>, accessed 26<sup>th</sup> December, 2018.

<sup>17</sup> C.D. Ogbe, ‘*Contentious issues bordering On the use of The Seal and Stamp of The Nigerian Bar Association*’, (Enugu, Chudanog Publishers Limited, 2017) pg. 6

<sup>18</sup> *Supra* footnote 3.

<sup>19</sup> *Ibid.*

*and in the interest of justice that the Legal Practitioner involved be given opportunity to prove his call to Bar and enrolment at the Supreme Court of Nigeria by affixing his seal to the document involved at any stage in the proceeding including appeal or whenever an objection to the authenticity of the document is raised under the provisions of the said Rules of Professional conduct, 2007.”*

If the rationale for affixing the stamp as stated by His Lordship is basically to prove that the person who prepared and signed the document or process is a legal practitioner properly enrolled in the Supreme Court of Nigeria, then it would not be proper for a lawyer to sign a document and thereafter affix the stamp bearing the name of another lawyer due to insufficiency. If this is allowed to prevail, then the purport of Rule 10 of the Rules of Professional Conduct would be defeated. Section 10 of the Rules of Professional Conduct may not have stated expressly that such seal or stamp must be that of the lawyer who signed the legal document, however it is proper and good practice for it to carry the name of the lawyer who signed it otherwise such document would be voidable at the instance of the party raising objection unless the offending counsel applies to the court to regularise it.

When a legal practitioner uses the stamp and seal of another lawyer such a document is voidable and incompetent unless regularised. It would amount to bad practice when the counsel who borrowed stamp and seal to argue that such document is competent before the court or that the stamp on the document is that of a lawyer from the same law firm, hence competent. In such circumstance where a lawyer runs out of stamp and seeks to use the stamp of another lawyer in the firm, the lawyer who has the stamp should sign the process so as to have the signed name reflect the affixed stamp. The position of the law is that the stamp to be affixed must be that of the lawyer who signed it.

What the lawyer should do is to inform the court that he wishes to remove the stamp already on the document which is not his own to affix his own. Otherwise, such process or document would not be acted upon. It would be an incompetent document.<sup>20</sup> However, where a lawyer's stamps are exhausted and he is yet to receive a new batch after applying for same, it was held by the Court of Appeal in the case of *Today's Car Limited v. Lasaco Assurance Plc & Anor.*<sup>21</sup>, that “*a lawyer who makes payment for his seal and stamp can affix the receipt evidencing payment made in that regard to the document in the absence of the seal and stamp*”.

### **Which Should Prevail: LPA or RPC?**

Is the provision on NBA stamp in conflict with section 2(1) of Legal Practitioners Act (LPA)<sup>22</sup>? Section 2(1) of the LPA provides that

*“subject to the provisions of this Act, a person shall be entitled to practise as a barrister and solicitor if, and only if, his name is on the roll”.*

Section 8(2) of the LPA further provides that

*“no legal practitioner shall be granted audience in any court in Nigeria in any year unless he has paid the practicing fee for that year.”*

Rule 9 (1) and (2) of the RPC in the same vein states that

*“a lawyer shall pay his annual practicing fees not later than 31st March every year, and any lawyer in default shall not sign or file any document as a legal practitioner”.*

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<sup>20</sup> *Barr. Benjamin Wayo v. Engr. George T. A. Nduul & others* LER [2017]SC.331/2016.

<sup>21</sup> (2016) LPELR -412600 (C.A.).

<sup>22</sup> Cap L11 L.F.N. 2004



## The Importance, Challenges and Disparaging Differentiation Relating to The Use of The NBA Stamp: The Need for a Judicial and Logical Review

Is it possible for the decision of the Supreme Court in *Yaki v. Bagudu*<sup>23</sup> be interpreted as a reason to bar a legal practitioner whose name is on the roll and who has paid the requisite practicing fees from filing a legal process without the stamp and seal, and from appearing as counsel in a lawsuit, even if such legal practitioner can otherwise establish the fact of payment by alternative means? It is glaring that the provisions of the LPA (and the RPC prior to the recent amendment) summarized above are sufficiently comprehensive and only require proper and effective enforcement. Since the new directive is designed to supplement the provisions of the LPA, it should not be implemented in such manner that it would clash with the overriding provisions of the LPA on the same issue.<sup>24</sup>

At commencement of the policy, we were informed that the primary objective for the introduction of the policy was to put a stop to the infiltration of the noble profession by unqualified persons. If this was the case, why should a lawyer who has the capacity and tenacity to represent his client after complying with Rules 9 of the RPC and Sections 2 and 8 of the LPA be prevented from doing so due to his noncompliance with Rule 10 of the RPC which is a subsidiary legislation to the LPA?

To insist that a court document, duly signed and filed by a legal practitioner, cannot be admitted due to non-compliance with the new directive is to elevate an essentially technical requirement over substantial compliance. Such a rigid interpretation unwittingly and avoidably pits the Rules of Professional Conduct against the provisions of the Legal Practitioners Act, which clearly stipulates the requirements for admission and practice of the profession in Nigeria.<sup>25</sup> The RPC being a subsidiary legislation made pursuant to the substantive provisions of a superior statutory instrument is clearly subservient to the overriding law and cannot be elevated above the parent law. If the practice in other jurisdictions is anything to go by, the commendable ancillary objectives of digitizing the regulation of the profession, updating the database of lawyers for more effective monitoring of members can still be attained without introducing an additional layer of verification with attendant annual financial implications. The NBA may more appropriately insist on the use of bar admission numbers on all court processes issued under the hand of legal practitioners who practice before the various courts.<sup>26</sup>

### **RPC 2007 and The Entitlement to Practice as Barristers and Solicitors (Federal Officers) Order 1992, Which Prevails?**

The provisions of Rule 8 and 10 (1) of the RPC and Rule 1 (2) of the Entitlement to practice as Barristers and Solicitors (Federal Officers) Order are presumed to be in conflict while they both derive their efficacy from the same principal legislation (the Legal Practitioners Act).<sup>27</sup>

While Rules 8 and 10 of the RPC (above quoted) state that any legal officer in a government department can appear as an advocate in a court or tribunal, the latter (Rule 1 (2) of the Entitlement to practice as Barristers and Solicitors (Federal Officers) Order which states that any person holding office in the Civil Service of the Federation, other than law officers in the

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<sup>23</sup> *Supra* see footnote 5.

<sup>24</sup> F. Oyeti, 'Implications of the Recent Supreme Court Decisions on Non-Compliance with Rule 10 of the Rules of Professional Conduct on use of Authenticating Stamps and Seals'. Available at [www.spaajibade.com/resources/wp-content/.../02/NBA-Stamp-and-Seal-Article.pdf](http://www.spaajibade.com/resources/wp-content/.../02/NBA-Stamp-and-Seal-Article.pdf), accessed 26<sup>th</sup> December, 2018.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*

<sup>27</sup> Cap L11 Laws of the Federation, 2004.



Federal Ministry of Justice shall not practice as a Barrister or Solicitor in Nigeria while still a holder of that office, implies that only law officers in the Federal Ministry of Justice shall and can practice as Barristers and Solicitors. Others in the civil service of the Federation shall not be entitled to that privilege.

It is an established principle of law that where legislation is specific on a subject and another is general, the former shall be given priority. It is, however, instructive to note that while the Entitlement to Practice as Barristers and Solicitors (Federal Officers) Order is a legislation which came into effect in 1992, the RPC was enacted in 2007 and took effect then. The RPC being a latter legislation takes precedence and accords more with reason. Support is drawn from the provisions of Section 144 of the Electoral Act 2010 which provides that a legal officer of the Independent National Electoral Commission (INEC) can represent the Commission at the tribunal or in court. This is unarguably in consonance with Rules 8 and 10 of the RPC.<sup>28</sup>

At a time when the legal profession is not having it smooth, the stamp policy for lawyers is a laudable one which is in the interest of lawyers as it will restore sanity and pride into the profession. It will prevent sharp practices and impersonation of lawyers by non-lawyers. The interpretation of Rule 8 of the RPC in clear terms exempts lawyers in salaried employment i.e. lawyers in corporate employment from preparing or signing legal documents. In consonance with this provision, the NBA should limit the stamp to legal practitioners in private practice and law officers in government departments.

## **Challenges and Criticisms of The Seal and Stamp Policy**

### **Stamp Expiry Date**

The greatest criticism against the stamp policy is the rationale of including an expiry date on the stamp. This is the dilemma of all lawyers. A cursory look at this challenge brings to the limelight the predicament of some lawyers who are unable to use all the stamps purchased in a particular year. We would now examine the implication of using expired seals?

The Supreme Court in the case of *Emechebe v. Ceto International Limited*<sup>29</sup> brought an end to this obnoxious NBA stamp policy. By virtue of this judgement, the expiry date is a thing of the past and lawyers can now exhaust their stamps to the very last notwithstanding the expiry date written on same.

### **Delays in The Issuance of The Stamp**

In compliance with the RPC, lawyers make the necessary payment and fill the required form for the issuance of the stamp. There is a general complaint that stamps are not issued timely after payment. In numerous instances, stamps are issued three to four weeks after due payment. The main purpose of the stamp is defeated if lawyers cannot have them as and when needed. The NBA should consider a decentralization process whereby the country is split into geographical zones for the production and distribution of stamps

### **Cost of The Stamp**

For the senior lawyers, the cost of the stamp seems a nominal amount which they can easily afford. What about the young lawyers? Some young lawyers find it a big challenge to pay for these stamps It is a welcomed gesture that there are three options for the procurement of the

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<sup>28</sup> *Supra* footnote 13.

<sup>29</sup> (2018) 11 NWLR (PT. 1631) @534.

## The Importance, Challenges and Disparaging Differentiation Relating to The Use of The NBA Stamp: The Need for a Judicial and Logical Review

stamps, but it should be borne in mind that the extraneous costs affiliated to the fulfilment of this Rule thus makes it cumbersome for some lawyers to apply for the stamps. The extraneous costs include the NBA local dues, or any other fee introduced by the Local NBA.

We propose that the processing of the application for the stamp should not be tied to the payment of these NBA local dues but only to the professional practising fees.

### **Colour of the Stamps**

These stamps have been differentiated to ensure that those in Government institutions do not partake in private practice as this is against the Rules of the Professional Conduct also. However, this policy has not fully solved this issue as there are still some cases of some public servants applying personally for the green stamps for their use in law practice. Also, this color differentiation creates the impression that some classes of legal practitioners are superior to certain other class of legal practitioners due to the fact that their stamps are red in colour.

### **Inability To Keep Up with New Trends**

The latest trend in Nigeria that requires the seal and stamp of lawyers is the online registration of companies by the Corporate Affairs Commission. The Companies and Allied Matters Act requires a solicitor to declare that the statutory requirements have been complied with. Since a lawyer in Nigeria is enrolled as Barrister and Solicitor of the Supreme Court of Nigeria it is necessary to affix the stamp on the said CAC Form. Without affixing the stamp, lawyers would merely be registering companies without affixing their stamp on the online Form CAC 4.

### **Nature of The Stamp**

The stamp issued to lawyers by the Nigerian Bar Association, though in a permanent form is not reliable as it could get missing, torn or damaged or stained. There have been several instances of lawyers (while trying to minimise the use of the seal) trying to pull off a seal from unused documents and this seal gets damaged or loses its gum potency, thereby rendering the seal unusable and wasted.

### **Lawyers in The Academia**

There are controversies regarding whether or not lawyers in academic can take up private practise or not. This has been debated upon at several instances including the last annual Conference of the National Association of Law Teachers. By this controversy, it raises the poser whether law teachers should be allowed to procure these stamps? For those who say no private practise for law teachers, so of what use, and essence is the stamp to the law teachers?

### **Posers?**

On the death of a lawyer who prepared and filed an irregular document, and the document is to be regularized on appeal by his partner in his chambers, whose stamp should be affixed? Will it be that of the living partner or the dead partner that will be appropriate to affix on the document or is the avenue for regularization shut to the document because its author is late?

- 1) If the document is to be regularized on appeal but the legal practitioner who signed the document has been debriefed and is also not available and a new legal practitioner conducts the appeal, is it sufficient if the new legal practitioner affixes his NBA stamp on the document?
- 2) Can a party make the failure of the trial court to grant a regularization of a stamp irregularity a ground of appeal at an appellate court?

- 3) Where an application such as a Motion on Notice has other documents (such as an affidavit and a written address prepared by a lawyer) attached to it, is it sufficient that the Motion paper alone has the NBA stamp?
- 4) Where a legal document has several names of legal practitioners at its foot or franking portion, is it sufficient if the document bears the NBA stamp of any one of them irrespective of who among them signed the document or must it compulsorily be that of the lead counsel?<sup>30</sup>
- 5) A lawyer has prepared a document and there are four original copies, how many stamps is he supposed to affix to such a document?

There are instances of lawyers affixing just a stamp to one and then making copies of that page unto the other copies of the documents, while instances have also been seen of lawyers affixing original seals on all copies of the document. Which do you subscribe to? Affixing a stamp to one document and making copies of same unto the other copies of the documents is good enough for all concerned. This does not make any document lose its originality or potency, but rather goes to show that all documents are from some source.

### **Recommendations and Conclusion**

As earlier stated the expiration date catastrophe has been resolved, thereby allowing lawyers to exhaust all stamps notwithstanding the date written on same. However, there is the need to appeal to the Executive Council of the Nigerian Bar Association to look for ways of ensuring the seamless and easy access to the availability and procurement of stamps within a shorter period of time. The centralization of the scheme has made it difficult for so many lawyers to get their applications treated within the shortest possible time. The NBA should consider several other means including the decentralization of the scheme and allow branches being representatives of the national body to approve the stamps for their branch members.

The quality of the stamp should be improved. Regarding affixing the stamp on the online Form CAC 4, NBA should develop a digitalized stamp which is to be issued to all accredited CAC lawyers who have been duly verified by the NBA. This digitalized stamp should contain the enrolment number of the lawyer, name and the logo of the NBA. The usage of this digitalized stamp should be restricted to registration of companies only till the need arises for it to be expanded in the scope of its usage.<sup>31</sup>

The stamp policy is a welcome development which the bar and bench appreciates. It also adds to the integrity of the bar. The development should not be idle, it should be followed with constant improvements.

In conclusion, there is the need to also consider the young lawyers in the decisions of the NBA. If the annual practicing fee varies according to the year of call, it is most appropriate that the same scale be adopted for the sale of stamps. This policy can be assimilated under the annual practicing fee considering its recent upward review.

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<sup>30</sup> *Supra* footnote 3.

<sup>31</sup> *Supra* footnote 3.