

17 November 2025

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Signing of Court Processes in Nigeria: What did the Supreme Court decide in F.B.N. Plc v. Asikpo?

1. Introduction

It appears the Supreme Court is still bogged down by appeals arising from the vexed issues surrounding the signing of court processes in civil litigation in Nigeria. This is not altogether surprising. Despite more than six decades of judicial molding – taking its decision in *The Registered Trustees of Apostolic Church, Lagos Area v Rahman Akindele*(1967) N.M.L.R. 263 as a starting landmark – the Supreme Court still struggles to establish a clear precedent in this area of our civil procedure, with the result that the jurisprudence on the subject remains blurred.

In this edition of our Case Note, we examine the recent decision of the Supreme Court in *F.B.N. Plc v. Asikpo* (2025) 16 NWLR (Pt. 2012) 473, which addresses some aspects of this issue, to determine whether the Court has said anything new.

Relevant Facts

The respondent filed a suit at the High Court of Akwa Ibom State by a writ of summons filed on 25 April 2008, seeking declaratory and monetary reliefs against the appellant. The respondent's legal practitioner did not sign the writ, although it bore his name and address.

The appellant raised a preliminary objection, arguing that the unsigned writ was incompetent and deprived the court of jurisdiction. The court dismissed the objection. Dissatisfied, the appellant appealed to the Court of Appeal, which affirmed the trial court's ruling. Still aggrieved, the appellant appealed to the Supreme Court.

Decision of the Court

In its judgment, the Supreme Court also dismissed the appeal, holding that both the original writ in question (filed on 25 April 2008) and the amended writ (filed on 13 July 2009) predated the *High Court of Akwa Ibom State (Civil Procedure) Rules 2009*, which came into force on 1 December 2009. The applicable law was therefore the *High Court (Civil Procedure) Rules Edict No. 24 of 1989*, which required only the registrar, not a legal practitioner, to sign the writ. The Court reiterated that procedural rules cannot be retrospectively applied and a valid process filed under existing rules cannot be invalidated by later amendments. The Court went further to hold that courts are not to penalise litigants for omissions not required by law, nor should they create uncertainty by shifting procedural goalposts.

Addressing the delays caused by filing interlocutory applications, the Court deprecated the appellant's dilatory tactics and reminded counsel that such practices undermine public confidence in the justice system. The Court enjoined counsel on both sides to reconsider their litigation strategies and adopt a more expeditious and justice-oriented approach.

Commentary

This case reaffirms the nuanced position of law that technicalities should not be allowed to override substantial justice. In particular, the Supreme Court's reasoning underscores that procedural rules must be judged under the legal framework in force at the time a process was filed, and not retroactively. By refusing to invalidate the writ based on later procedural changes, the Court protected the sanctity of vested rights and ensured certainty in the administration of justice.

The Court's admonition against procedural rigidity and delay highlights the judiciary's duty to ensure fairness, efficiency, and the expeditious delivery of justice. Ultimately, the decision reinforces the principle that substance must prevail over form, and that procedural compliance should serve the ends of justice – not frustrate it. It is hoped that the Supreme Court will remain mindful of its position in this case when considering future cases, and that other courts lower in the Nigerian judicial hierarchy will adopt the same approach when faced with similar objections.