



**NIGERIA GOVERNORS' FORUM  
NATIONAL SECRETARIAT  
ABUJA**

**INTERNAL MEMO**

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To: The Nigeria Governors' Forum  
From: The Director-General  
Date: 17<sup>th</sup> March 2020  
Subject: **UPDATE ON THE MEETING WITH THE LAW FIRM OF ALEGH & CO.**

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Following the resolution passed at the last NGF meeting held on 26<sup>th</sup> February 2020, the Secretariat met with the law firm of Alegeh & Co. to discuss the terms of engagement in respect of their proposal to facilitate the recovery of funds meant for the capital and recurrent expenditure of the States' Judiciary from the Federal Government.

Discussions are on-going with the Law firm to determine the percentage fee. However, we made it clear to them that the NGF does not do double digit percentage fees and negotiations are on course.

Memos have been prepared for States seeking relevant information and data ahead of the Consultants' task. These memos would be dispatched as soon as discussions on acceptable fees have been concluded.

For YE's consideration.

**Director-General**

**AC**  
**ALEGEH & CO**  
LEGAL PRACTITIONERS & NOTARIES PUBLIC

Lagos: 35, Cameron Road, Ikoyi - T: 09060006821 | Abuja: 22 Ziguinchor Street, Wuse Zone 4 T: 09060006823 | Benin-City: 16, Emezie Street, Delta Crescent. T: 08052014934  
Website: [www.alegelaw.com](http://www.alegelaw.com)

23<sup>rd</sup> January, 2020

**The Chairman, Nigerian Governors Forum**  
**His Excellency, Governor Kayode Fayemi**  
Executive Governor, Ekiti State  
c/o The Nigerian Governors Forum Secretariat  
51, Lake Chad Crescent  
Maitama  
Abuja.

SG-NGF

As discussed -

*[Signature]*  
27/1/20

Your Excellency,

**RE: FUNDING OF CAPITAL EXPENDITURE FOR STATE COURTS BY STATE GOVERNMENTS**

We write in respect of the above stated matter.

His Excellency, Governor Godwin Obaseki, Executive Governor of Edo State instructed us to review the Constitutional provisions in respect of the funding of State High Courts, Sharia Courts of Appeal and Customary Courts of Appeal. Our Legal Opinion was to the effect that Edo State Government could successfully maintain an action against the Federal Government for refund of all monies expended by Edo State Government in respect of funding capital expenditure of the State Judiciary and for the Federal Government to henceforth fund all capital expenditure for the said Courts in Edo State.

His Excellency, Governor Godwin Obaseki has taken the view that the matter would be better addressed collectively by all State Governors under the auspices of the Nigerian Governors Forum.

We hereunder underline the critical basis contained in the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) [CFRN] for the proposed action as follows:

**1. Section 6 of CFRN:**

This Section establishes the judicial powers of the Judiciary and the Courts of Record in the Constitution.

Section 6(5) of CFRN provides specifically as follows:

**“Section 6(5): This section relates to**

- (a) the Supreme Court of Nigeria;**
- (b) the Court of Appeal;**
- (c) the Federal High Court;**



- (cc) the National Industrial Court;
- (d) the High Court of the Federal Capital Territory, Abuja;
- (e) a High Court of a State;
- (f) the Sharia Court of Appeal of the Federal Capital Territory, Abuja;
- (g) a Sharia Court of Appeal of a State;
- (h) the Customary Court of Appeal of the Federal Capital Territory, Abuja;
- (i) a Customary Court of Appeal of a State."

2. **Section 81(3) of CFRN:**

This Section provides for the funding of the Judiciary and provides as follows:

**"Any amount standing to the credit of the judiciary in the Consolidated Revenue Fund of the Federation shall be paid directly to the National Judicial Council for disbursement to the heads of courts established for the Federation and the State under section 6 of this Constitution"**

3. **Item 21(e) of The Third Schedule to CFRN**

This provision sets out the powers of the National Judicial Council [NJC] and provides clearly as follows:

**"The National Judicial Council shall have power to-**

- (e) **collect, control and disburse all moneys, capital and recurrent, for the Judiciary"**

In our considered Legal Opinion, a combined reading of these above stated sections of CFRN make it clear and without any argument that the Federal Government has the constitutional duty of funding all the Courts established by Section 6(5) of CFRN and the State High Courts, Sharia Courts of Appeal and Customary Courts of Appeal being Courts created by Section 6(5) of CFRN must be funded for capital and recurrent expenditure by the Federal Government.

The current practice is that the Federal Government pays only salaries of Judges and Khadis of the High Courts, Sharia Courts of Appeal and Customary Courts of Appeal. There is no constitutional basis for this partial funding.

**Plan of Action**

We have prepared an Originating Summons to be filed by all 36 States against the Federal Government at the Supreme Court claiming the following reliefs:

- i. **A DECLARATION** that by virtue of the clear, lucid and unambiguous provisions of Sections 6 and 81[3] of the Constitution of the Federal Republic of Nigeria, 1999 [As



Amended] [CFRN] the Defendant is constitutionally responsible, obligated and charged with the funding of all capital and recurrent expenditure for the High Courts, Sharia Courts of Appeal and Customary courts of Appeal of the States of the Federation of Nigeria, being Courts created under Section 6 of CFRN.

- ii. **A DECLARATION** that by virtue of the clear, lucid and unambiguous provisions of item 21[e] of the Third Schedule to the Constitution of the Federal Republic of Nigeria, 1999 [As Amended] [CFRN] the Defendant is constitutionally responsible, obligated and charged with the funding of all capital and recurrent expenditure for the High Courts, Sharia Courts of Appeal and Customary courts of Appeal of the States of the Federation of Nigeria, being Courts created under Section 6 of CFRN.
- iii. **A DECLARATION** that the refusal, failure and neglect of the Defendant to fund the capital expenditure of the High Courts, Sharia Courts of Appeal and Customary courts of Appeal of the States of the Federation of Nigeria, being Courts created under Section 6 of CFRN is unconstitutional.
- iv. **AN ORDER** compelling the Defendant to henceforth fund all capital and recurrent expenditure for the High Courts, Sharia Courts of Appeal and Customary courts of Appeal of the States of the Federation of Nigeria, being Courts created under Section 6 of CFRN.
- v. **AN ORDER** compelling the Defendant to refund to the Plaintiffs all sums expended by the Plaintiffs in funding the Capital Expenditure of the High Courts, Sharia Courts of Appeal and Customary courts of Appeal of the respective Plaintiff States of the Federation of Nigeria, being Courts created under Section 6 of CFRN which said funds ought to have been expended by the Defendant.
- vi. **AN ORDER** compelling the Defendant to refund and pay over to each Plaintiff state the amount set out against the name of each Plaintiff in the Schedule hereunder being the true and actual amount expended by each Plaintiff for the funding of the capital expenditure of the High Courts, Sharia Courts of Appeal and Customary courts of Appeal of the respective Plaintiff States of the Federation of Nigeria, being Courts created under Section 6 of CFRN, for the period 1st January 2010 to 31<sup>st</sup> January, 2020.
- vii. **AN ORDER** compelling the Defendant to refund and pay over to each Plaintiff State all amounts expended by each Plaintiff for the funding of the capital expenditure of the High Courts, Sharia Courts of Appeal and Customary courts of Appeal of the States of the Federation of Nigeria, being Courts created under Section 6 of CFRN, from 31<sup>st</sup> January 2020 until date of delivery of judgment by the Supreme Court of Nigeria.



We request a formal letter of Instruction from each State Governor authorizing us to proceed on behalf of their respective States, in the manner set out under **ANNEXURE 1 [Draft Letter of Instruction]** attached herein.

We request information from each State Government on details of capital expenditure for their respective High Courts, Sharia Courts of Appeal and Customary Courts of Appeal for the period under review to wit; 1<sup>st</sup> January, 2010 to 31<sup>st</sup> January, 2020, in the manner set out under **ANNEXURE 2 [Details of Capital Expenditure by each State]** attached herein.

We believe the success of this action will greatly improve the financial position of all States of the Federation. The Refund claimed against the Federal Government would also act as a Set-Off of debts being claimed from the various States by the Federal Government of Nigeria.

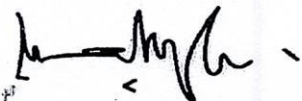
**Legal Fees:**

Our Legal and Professional Fees for our services in respect of this matter shall be **20%** of the amounts claimed from the Federal Government by all 36 States of the Federation and **10%** of the future savings for each State.

We are willing to discuss our financial terms at your earliest convenience.

Please accept the assurances of our warm regards and high esteem.

Yours faithfully,  
For: Alegeh & Co.



**Augustine Alegeh SAN, FCI Arb.[UK]**

**Principal Partner**

**+2348033000770**

**[alegeh@alegehlaw.com](mailto:alegeh@alegehlaw.com)**

27<sup>th</sup> January, 2020

**Messrs. A.O Alegeh & Co.**  
Legal Practitioners & Notaries Public  
22, Ziguinchor Street  
Off IBB Way  
Wuse, Zone 4  
Abuja.

**Attention: Mr. Augustine Alegeh SAN, FCI Arb.[UK]**

Dear Sir,

**RE: FUNDING OF CAPITAL EXPENDITURE FOR STATE COURTS BY STATE GOVERNMENTS**

The above subject matter refers.

**Brief History**

The Constitution of the Federal Republic of Nigeria, 1999 (As Amended) provides for the funding of the Judiciary and vests the responsibility of funding the capital and recurrent expenditure of the Judiciary on the Federal Government vide the clear and unambiguous provisions of **Sections 6, 81(3) and Item 21(e) of the Third Schedule** to CFRN.

Currently, the Federal Government only funds the recurrent expenditure of the State High Courts, Sharia Courts of Appeal and Customary Courts of Appeal by the payment of Salaries and Allowances of the respective Judges and Khadis of the aforementioned Courts in contravention of the clear provisions of CFRN.

Following the Federal Government's refusal, neglect and failure to comply strictly with the extant provisions of the CFRN in respect of funding all recurrent and capital expenditure of the Judiciary, particularly Courts set out under **Section 6(5) (e),(g) and (i)** of CFRN, the respective State Governments have been compelled to fund the capital expenditure of the aforesaid Courts.

**Our Instruction**

In view of the above, you are hereby instructed to act as Solicitors to **XXXX** State Government and to institute an action on behalf of **XXXX** State Government against the Federal Government of Nigeria at the Supreme Court of Nigeria seeking the following Reliefs, amongst others:



1. An Order compelling the Federal Government of Nigeria to fund the capital and recurrent expenditure of the High Courts, Sharia Courts of Appeal and Customary Courts of Appeal in compliance with the extant provisions of the CRFN;
2. An Order compelling the Federal Government of Nigeria to refund to XXXX State Government all the sums expended by XXXX State Government in funding the capital expenditure of the High Courts, Sharia Courts of Appeal and Customary Courts of Appeal.

Attached herewith are copies of all the relevant documents to aid in the successful execution of this Brief.

### **Professional Fees**

Your professional fees for handling this matter shall be xx% of the amounts claimed from the Federal Government and xx% of the future savings.

Kindly forward your letter of acceptance within Seven (7) days of the receipt of this letter

### **Communication**

Please note that you are required to provide us with periodic reports of this matter to:

**The Honourable Attorney General and Commissioner for Justice**  
**Ministry of Justice**

xxxxxxxxxx

xxx State

Please accept the assurance of our warm regards and high esteem.

Yours faithfully,