

**SUMMARY OF AND JUDGEMENT IN SUIT NO. FHC/ABJ/CS/500/08:
ATTORNEY GENERAL, RIVERS STATE VERSUS ATTORNEY
GENERAL, AKWA IBOM STATE AND OTHERS AT THE FEDERAL
HIGH COURT ABUJA**

The Attorney General of Rivers State, through its Counsel, Mr. Bello Adoke SAN, of M.A. Bello & Co approached the Federal High Court, Abuja Division by way of an Originating Summons dated 04 September 2008 against (1) Attorney General, Akwa Ibom State; (2) Attorney General of the Federation; (3) National Boundary Commission; (4) Revenue Allocation Mobilisation and Fiscal Commission; (5) Department of Petroleum Resources and (6) Accountant General of the Federation, praying the Court to determine the following questions:

- I. “Whether the 3rd Defendant can lawfully purport to demarcate, delineate or verify the maritime boundaries between Littoral States through the office of the Surveyor General of the Federation through the use of indices other than those in accordance with current national and international laws and conventions including the United Nations Convention on the laws of the Sea (UNCLOS) 1982?
- II. “Whether in accordance with International Laws and conventions, the Strict Technical Equidistance Lines Method of delineating maritime boundary of littoral states on maps is not the most internationally acceptable means of resolving oil wells distribution disputes as against the Historical Title Method?
- III. “Whether the 1st Defendant having agreed through its legal representative, its Executive Governor sometime in 2006 to adopt the Political Solution in resolving its dispute with the Plaintiff over the oil wells distribution with the Federal Government of Nigeria, can now unilaterally and lawfully seek to rescind the said agreement and now seek the application of the Historical Title method in resolving the same dispute?
- IV. “Whether the 4th Defendant can legally proceed to act on the report of its Crude Oil Monitoring Committee which attributed several of the Plaintiff’s oil wells to the 1st Defendant without considering the existing Political Solution Agreement between the parties and without reverting to the Strict Technical Option in resolving the dispute but instead placing reliance on the coordinates provided by the 5th Defendant *simpliciter*?

In simple terms, by filing the Suit, Rivers State is seeking the return of several oil wells from Akwa Ibom State, which oil wells were attributed to Akwa Ibom State at a Stakeholders Retreat held in August 2008 titled: *Report of the Inter-Agency Meeting on the Attribution of Offshore Oil Wells to Littoral States*". Rivers State supported its Originating Summons by a 29-paragraph Affidavit sworn to by Mr Rotimi Ogunjide, a Counsel in the Law Firm of M.A Bello & Co to which was attached several exhibits including the said Report, annexed as Exhibit RO1.

Essentially, the Plaintiff's case is that the Historic Title Method that is propagated by Exhibit RO1 for the delineation of the maritime boundary between the Plaintiff and the 1st Defendant ought not to be applied and that, in its stead, the Strict Technical Equidistance Lines Method ("**Strict Technical Option**") should be applied. In the alternative to the Strict Technical Option, the Plaintiff advocates and falls back on the Political Solution that was engineered and imposed on the parties by President Olusegun Obasanjo, *vide* Exhibit RO4, a letter by President Obasanjo, addressed *inter alia* to all the parties hereto and dated 31 October 2006.

In response to the Originating Summons and the Supporting Affidavit, the 1st Defendant, that is, Attorney General of Akwa Ibom State, filed a Counter Affidavit sworn to by Mr Edwin Inegedu, a Counsel in the Law Firm of Paul Usoro & Co, one of the Counsel to the 1st Defendant in this matter. In summary, the 1st Defendant, in its Counter Affidavit, holds on to the Historic Title Method for the demarcation of the maritime boundary between the Plaintiff and the 1st Defendant and disputes and rejects both the Strict Technical Option and the Political Solution *inter alia* on the ground that the Political Solution is illegal and that the 1st Defendant did not accede howsoever thereto.

However and more critically, as a preliminary issue, the 1st Defendant and some other Defendants in the Suit challenged the competence of the Suit and the jurisdiction of the Federal High Court to hear and determine same on several grounds. Specifically, the 1st Defendant in its Preliminary Objection contended, among others, that the Federal High Court does not have jurisdiction seeing as the main dispute is between the Plaintiff and the 1st Defendant. 1st Defendant therefore argued that at best, the Supreme Court of Nigeria is the only competent forum to hear and determine the dispute between the parties pursuant to Section 232 of the 1999 Constitution of the Federal Republic of Nigeria.

With all relevant facts and materials already before the Court, Honourable Justice A. Bello of the Federal High Court Abuja consolidated the hearing of both the Preliminary Objections and the Substantive Originating Summons together. After the parties have addressed the Court and adopted their respective Written Addresses, the Court adjourned the Suit for Judgement on both the Preliminary

Objection and substantive Originating Summons, if need be, which judgement was eventually delivered today, the 26th of January 2010.

In a well researched, reasoned and articulate Judgement, the Court after reviewing all the materials placed before it and in accordance with precedent, considered the potency of the various Preliminary Objections filed by the Defendants, before the merit of the substantive Originating Summons. The Court, in a nutshell, ruled that the crux and substance of the dispute as shown in the Originating Summons is between the Plaintiff and the 1st Defendant, and in accordance with Section 232 of the 1999 Constitution of the Federal Republic of Nigeria, it is only the Supreme Court that has the competence and jurisdiction to hear and determine disputes between States. The Court further held that the 3rd to 6th Defendants in this Suit were joined as nominal parties and accordingly, their joinder does not confer jurisdiction on the Federal High Court. The Court, without mincing words held that it has no competence and jurisdiction to hear and determine the Suit and therefore struck out the Suit in its entirety.