

The Role of Lawyers as Deponents to Affidavit in Garnishee Proceedings and the Scope of Section 83(1) of the Sherrif and Civil Process Act

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Abstract

The Sherriff and Civil Process Act, ought to be a law that simplifies enforcement of judgments delivered by a competent courts. However, some of its provisions appear to complicate enforcement of judgements. One of such provisions is section 83(1) of the Sherriff and Civil Processes Act, which states to the effect that a lawyer must personally depose to an affidavit accompanying Motion Ex parte for enforcement of judgements. This raises the question as to whether failure to comply with that requirement, affects the enforcement of such judgement. Equally, does that section mandating a lawyer of the Applicant to depose to an affidavit in Motion Ex Parte accords with Nigerian laws? It is the response to these questions that gives birth to this article. Thus, the aim of this article is to show that literal and strict application of this section will deny successful parties access to justice. Similarly, the role of lawyers in deposing to affidavits on behalf of their clients, conflicts with the Rules of Professional Ethics. In this article, the writers used doctrinal sources such as statutes, case laws, books, and journals. This work hopes to inspire policy formulation and legislative reform.

1. Introduction

This work is compartmentalized into three sections. The first part deals with the theoretical frameworks associated with the subject-matter of this article. After that it examines the brief introductory exposition on section 83(1) of the Sherriff and Civil Process Act,¹ (hereinafter referred to as SACPA). The second part examines how section 83(1) conflicts with some major premises of Nigerian law. The third part examines the effects of the

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¹ Cap S6 LFN, 2004

said section of the Act. The fourth part examines the way forward on how to address the challenges posed by the provision of section 83(1) of SACPA.

2. Theoretical and Conceptual Framework

The interesting theoretical concepts that are engaged in this article include affidavit, deponents, garnishee, judgements, judgement debtors, judgement creditors, lawyer, and rules of professional ethics. This follows the fact that these concepts are deployed in discussing the subject matter of this paper. Thus, these concepts are briefly examined at the subsequent part of this paper.

2.1 Affidavit

This is a written or printed declaration of statements of fact that is voluntarily made, and confirmed by the maker, before a person authorised by law to administer such oath.² It is a written statement deposed to by a person stating the existence of certain facts which he believes to be true as a results of his personal experiences or information relayed to him by a third party. It also refers to sets of information stated by a person buttressing the existence of facts to support a legal argument in order to convince the court to grant a relief. It is from these perspectives that one notices the use of affidavit evidence to accompany a motion for the grant of reliefs by the court.

Affidavits could be classified into contentious and non-contentious affidavits.³ Contentious affidavits are used in cases where parties are in disagreement with each other. It is an affidavit where parties seek to contradict the sets of facts deposed by each other. It is from this angle that contentious affidavits give birth to affidavits in support of motions, counter-affidavits and further affidavits.⁴ On the other hand, contentious affidavit deals squarely with facts that are not contested by any person. It merely states what happened so as to get the approval of authorities to validate certain state of affairs. It is from this perspective that one may refer to affidavits of loss of documents, depositions for travelling, depositions vouching for one's integrity and character as well as affidavits in support of *Motion Ex parte*. One peculiar feature of contentious

2 G Bryant , "Black's Law Dictionary 4th Edn. Pdf ", (West Publishing CO.,1968) 80.

3 M Godfree , "Examining The Scope of Contentious Affidavits in Interlocutory Applications under Nigeria's Adjectival Laws", June 25,2020, The NigerianLawyer, @<https://thenigerianlawyer.com/examining-the-scope->> accessed 23 September 2023>.

4 *ibid*.

affidavit is that it does not require service on any person before it could be approved.

2.2 Deponent

This refers to a person who willingly makes and swears on a written statement accompanied by oath. A deponent is someone who states in writing or by speaking as a witness in a court of law that something is true.⁵ It is also defined, by *Black's Law Dictionary*, as one who deposes to the truth of certain facts; one who gives under oath testimony which is reduced to writing; one who makes oath to a written statement.⁶ The above definition by *Black's Law Dictionary* refers, to a deponent of an oath in three categories. The first category envisages a situation where a person states his knowledge of certain facts via swearing to an oath viva voce. This is the common way of deposing to a fact when giving evidence in court rooms. Here parties either affirm or swear by repeating the words recited by court clerks. The second category refers to a situation where a person's statement or evidence is put down into writing and he is asked to sign as a deponent. This is common in frontloading procedures where statements of witnesses are converted into Witnesses' Statements on Oath by Counsel. This practice is commonly done by illiterate persons at the direction of the Court's Registrar or their Counsel. The third category is where the party testifying has personally made an oath on a statement that was already written. Here all he needs to do is to swear or affirm the statement he as written.

2.3 Garnishee Proceedings

This is a judicial proceeding in which a creditor asks the court to order a third party, who has custody of money belonging to the judgement debtor, who is indebted to the creditor, to turnover to the creditor the debtor's property in the possession of a third party.⁷ This means that garnishee proceedings is a process where a successful party that gets judgement by a court of law can acquire the property of his opponent in the custody of a third party. It is one of the ways of enforcing monetary judgements.⁸

5 Cambridge Dictionary, "Deponent|English meaning-Cambridge Dictionary"@<https://dictionary.cambridge.org> <accessed on September 24, 2023>

6 G Bryant, Loc Cit, 525.

7 Michaelmas Chambers , "Garnishee Proceedings: Its Meanings and Procedures" June 19, 2020@<https://www.michaelmaschambers.com>>...<accessed on 23 September 2023>

8 O Adeyemi , "An Analysis of the Case of Central Bank v Interstellar Communications Ltd & 3Ors (2018) 7NWLR (Pt. 1618) 294"AAACHambers@<https://www.aaachambers.com>> accessed 24 September 2023>

It is a legal process that arms a judgement creditor to recover the fruit of his victory on from monies belonging to the judgement debtor in the custody of a third party. The main feature of garnishee proceedings is that it must be strictly between the Judgement Creditor and the Garnishee, the Judgement Creditor is a stranger.⁹ However, in order to succeed in garnishee proceedings, the Judgment Creditor must ensure that:

- (a) The judgement specified the amount of the money sought to be garnished;
- (b) There is no pending motion for stay of execution yet to be determined;
- (c) The Judgement Creditor must provide the specific details of the Garnishee such as Bank, Account number, etc.; and
- (d) The Judgment Creditor must serve the Order Nisi on the Judgement Debtor as provided in section 83(2).¹⁰

2.4 Lawyer

A lawyer is defined as, “a person learned in law: as an attorney, counsel, or solicitor.”¹¹ It also refers to any person who, for the fee or reward, prosecutes or defends causes in courts of records or other judicial tribunals.¹² These definitions firstly view a lawyer as a professional who is learned in law in the capacity of an attorney, counsel or solicitor. They further qualify lawyers as persons who renders their services on the condition that a person seeking their services must pay for it. As such, a lawyer is a trained professional who represents a client in court for an agreed remuneration. He is also known as advocate because he speaks for the interest of his client. Before a lawyer protects the interest of his client, there must be a lawyer-client relationship. This means that the client must have retained the legal services of a lawyer through an agreement. However, there are instances that a lawyer-client relationship does not need retainership. This is mostly in cases involving *pro bono* services, or where the lawyer is engaged by a third party to represent the client (as in the case of Legal Aid Council and Civil Liberty Organisations who pay lawyers to represent certain classes of persons in the society). In whatever capacity the service of a lawyer is engaged, he owes the state, the

9 UBA PLC v Ekanem (2010) 6 NWLR (Pt. 1190).

10 O Adeyemi. Loc.Cit

11 The Law Dictionary, “Lawyer Definition & Meaning”@<https://thelawdictionary.org>> accessed on September 2023>.

12 *ibid*.

profession and the client to discharge his duty with diligence and professionalism.

2.5 Rules of Professional Ethics

This refers to rules that govern the conducts of professionals in discharging their duties. It governs them to exercise their duties within the bounds of the law. Rules of professional ethic are meant to ensure that professionals behave well in the course of discharging their duties. It also seeks to ensure that professionals have not abuse their roles or misuse it against the public. It is for this reason that professional bodies established disciplinary measures to tackle any acts unbecoming of professionals.¹³

The legal profession in Nigeria is governed by the Rules of Professional Conducts, 2007 (2022 as Amended). The essence of the Rules is that a lawyer should uphold and observe the rule of law, promote and foster the course of justice, maintain a high standard of professional conduct, and shall not engaged in any conduct that is unbecoming of a lawyer.¹⁴ This law regulates the duties of a lawyer to the state where he is expected to prosecute diligently, and not to persecute. The lawyer's duty to the legal profession is to uphold and promote the rule of law and to serve as minister in the temple of justice. He is to avoid anything that will bring him into conflict with the ethics of legal profession. To his clients, a lawyer is expected to be diligent and be accountable to them.

3. Local Content Provision under the Sherriff and Civil Processes Act

3.1 An Exposition of the Scope of Section 83(1) of the Act

The SACPA was enacted to ensure that enforcement of judgments of courts and services of court process are done by the appropriate authorities. These appropriate authorities are designated persons specified by the law which include the Sheriffs and the Bailiffs. This position can be deduced from the preamble of the SACPA which state as follows, "An Act to make provision for the appointment and duties of Sheriff, the enforcement of Judgments and Orders, and the services and execution of civil processes throughout Nigeria."

Flowing from above, the provisions of section 83(1) of the SACPA came into being to ensure that enforcements of judgments are done in accordance with the law. The said section 83(1) is captured under the

¹³ Rule 1 of The Rules of Professional Conduct, 2007 (2022 as Amended).

¹⁴ Rule 17 of The Rules of Professional Conduct, 2007 (2022 as Amended) enjoined lawyers to avoid anything that will lead them into conflicts with their professional responsibility.

statutory headings of “attachments of debts by Garnishee Order.” The specific wordings of sections 83 (1) of the SACPA are reproduced as follows:

The court may, upon the ex parte application of any person who is entitled to the benefit of a judgement for the recovery or payment of money, either before or after any oral examination of the debtor liable under such judgement and upon an affidavit by the applicant or his legal practitioner that judgement has been recovered and that it is still and unsatisfied and to what amount, and that any other person is indebted to such debtor and is within the State, order that debts owing from such third person, hereinafter called the garnishee.

By the above provisions, the law states that a judgement creditor who wants to reap the fruit of his judgement must apply via a *Motion Ex parte*. In that *Motion Ex parte*, the applicant must accompany the said motion with an affidavit. The affidavit must disclose that the debtor is credit worthy to satisfy the judgement awarded against him. It must also state whether or not the judgement debtor has satisfied the judgement awarded against him. However, the main gravamen of this section is with respect to the one of the deponents of the affidavit accompanying the said *Motion Ex parte*. The two persons to depose to the affidavit as provided in section 83(1) of SACPA are the Applicant (Judgement Creditor) and his lawyer. The reference to these persons is on the alternative which means that the affidavit could be deposed by either the Applicant or his lawyer.

Thus, the question is, must a lawyer deposed to such affidavit or can he delegate it to his clerk? Is it professionally right for a lawyer to depose to an affidavit in such circumstances? Can failure by the lawyer to depose to such affidavit invalidate the said *Ex Parte Application*? Put in another way, can the deposition of a lawyer required by law, be alternated with that of his clerk or litigation secretary? What is the principle governing deposition of affidavit by a lawyer vis-à-vis the requirements of the Evidence Act,¹⁵ and the Rule of Professional Conduct?¹⁶ The responses to these questions are addressed in the subsequent part of this article.

15 Cap E14 LFN, 2004.

16 2007(2022 As Amended).

3.2 How Sections 83(1) of SACPA Conflicts with Some Legal Principles on Proprietary of a Lawyer Deposing to an Affidavit in Garnishee Proceedings

Going by the contents of section 83(1) with regards to deposition of affidavit by lawyer, it is glaring that abiding by the wordings of that section will conflict with some laws of Nigeria. Some of these laws and principles that will be in conflict when in compared with section 83 (1) of SACPA include, Evidence Act, Rules of Professional Conducts, waiver of rights, substantive justice, and the permissive nature of sections 83(1) of SACPA.

(i) Conflicts with Evidence Act

The Evidence Act is the principal legislation that governs admissibility of evidence in court of law.¹⁷ The laws and procedures relating to evidence are exclusively governed by the Evidence Act. As such, when it comes to matters relating to deposition in an affidavit, it is the Evidence Act that applies. The procedures and rules outline for deposing to affidavit are spelt out from sections 107 to 118 of the Evidence Act. Of particular interest to this article is the provisions of section 115 (3) and (4) of the Evidence Act which provides to the effect that where a person is deposing to facts outside his knowledge, he shall set forth the source of his information, the circumstances, place, time and date.

The position of the Evidence Act as an exclusive legislation governing affidavit evidence has been judicially recognised in the case of *Kalio v Benjamin*.¹⁸ In this case, there was an objection not to admit a document because it was not registered under Land Registration Instrument Law. The Supreme Court held that the principle of admissibility of evidence is governed by the Evidence Act, and not the Land Instruments Registration Law. As such it is the law of evidence that governs anything relating to evidence. Thus, in the case of *Kalio v Benjamin*,¹⁹ the Supreme Court held that "Evidence Act is a specific legislation that governs matters relating to Evidence."²⁰

The above decision of the Supreme Court in the case of *Kalio v Benjamin*, is further amplified by the decision in the case of *Anagbado v Farouk*.²¹ Here, the Supreme Court held as follows:

¹⁷ See the commencement paragraph of the Evidence Act, Cap E14 LFN, 2004.

¹⁸ (2018) 15 NWLR PT.1648 (SC).

¹⁹ *Supra*.

²⁰ *ibid* 6-38 paras-A-D.

²¹ (2019) 1 NWLR (Pt. 1653) (SC) 292 Paras-A-G.

The law (Cap.85 of Kaduna State (Section 15 thereof), in so far as it purports to render inadmissible any material and relevant piece of evidence that is admissible in evidence under the Evidence Act, 2011, is to the extent inconsistent with the Evidence Act, enacted by the National Assembly pursuant to the powers vested in it by section 4 (2) of the Constitution and item 23 of the Exclusive Legislative list set out in Part I of the Second Schedule to the Constitution. Evidence is in Item 23 in the Exclusive Legislative List. I am of the firm view that, in view of section 4(5) read with section 4(2) of the Constitution and Item 23 of the Exclusive Legislative List set out in Part I of the Second Schedule to the Constitution, in the event of section 15 of the law, Cap.58 of Kaduna State being in conflict or inconsistent with any provisions of the Evidence Act, the provisions of the Evidence Act shall prevail.

From the above expositions of judicial authorities, it is clear that the Evidence Act is a specific legislation that governs matters relating to evidence, including affidavit. Therefore, the requirement of the Sherriff and Civil Processes Act cannot be deployed to dictate how and who can depose to an affidavit. Doing so will conflict with the Evidence Act which is a specific legislation.

(ii) Against the Rule of Professional Ethics

Also, allowing a lawyer to depose an affidavit on behalf of his client violates professional conducts of lawyers. The law outrightly prohibits lawyers to depose to an affidavit. This is because doing so contradicts the provisions of Rules of Professional Conducts. This position is supported by the dictum of the Supreme Court in *Ekpeto v Wanogho*,²² where it was held Per Kalgo, JSC, that:

It is an undesirable practice for a counsel to swear on affidavit in support of motion filed on behalf of his client. Where a Counsel does so it means he is giving evidence in case in which he is appearing.

The above view of the apex court is further reiterated in the case of *Bala v Dikko*.²³ In this case the court was occasioned to hold, per Mohammed JSC, as follows: "... It [is] quite unethical and contrary to the Rules of Professional Conduct in Legal Profession for ...counsel to have filed the

22 (2004) 18 NWLR (PT.905)(SC) @P.413,Paras-B-D.

23 (2013) 4 NWLR (Pt. 1343) (SC) 60 Paras G-H.

motion and at the same time posed as a vital witness in the affidavit in support of the case of his client.”

Adding a recent voice on this matter, the Supreme Court further discountenanced an affidavit signed by a counsel in the case of *Akinlade & 1 Or v INEC & 2 Ors.*²⁴ Here, the Supreme Court held that deposing to such affidavits contravenes the provisions of Rule 20 (4) of Rules of Professional Conduct, 2007 which forbids a lawyer from being a witness to his client. Thus, the Apex Court, per Eko, JSC held that:

The point is so basic and fundamental that the total disregard or lack of it by a lawyer cannot be condoned. Any conduct that is a direct affront or infringement of the express Rules of Professional Conduct can only be regarded as conduct unbecoming...The Appellants’ Counter-Affidavit being so brazenly offensive was accordingly discountenanced.²⁵

Flowing from the above arguments, it clear that interpreting the provisions of section 83(1) of the Sheriff and Civil Processes Act, to the effect that a lawyer to the Applicant must be a deponent to an affidavit in a garnishee proceedings, will further promote unlawful acts by the lawyer. Therefore, the proper thing to do is for the lawyer to relay the information to a third party in compliance with section 115 (3) and (4) of the Evidence Act. Where such is done it will suffice. As such, the Clerk or Litigation Secretary of the Lawyer, can validly deposed to an affidavit contemplated by section 83(1) when the facts are relayed to him by a particular persons, in a particular place, at a specific time and date; it will suffice.²⁶

(iii) Waiver of Rights

The concept of waiver of rights could be another reason why the provisions of section 83(1) of the SACPA, that a lawyer must solely deposed to an affidavit without delegating it, does not appear correct in law. This is because of two reasons. The first reason is that by rule of affidavit evidence, a deponent can delegate it to a third party to depose on his behalf, provided he particularises the circumstances under which such facts are made.²⁷ The second reason is that the right of an Applicant or his Lawyer to depose to an affidavit in support of *Motion Ex parte* within the context of section 83(1) of the SACPA is a right accrued to the

²⁴ (2020) 17 NWLR (Pt. 1639 (SC) 537 Paras-B-A.

²⁵ *ibid.*

²⁶ Evidence Act, 2011 s 115.

²⁷ *ibid.*

Applicant. It is his personal right and he is the beneficiary of such rights. And since it is his private rights, he can elect that a third party (such as a clerk or another person) to depose on his behalf. This is because it is his private right and may be waived. This position agrees with decision of Supreme Court in the case of *Ananuebunwa v AGF*,²⁸ where it was held that:

Waiver must be in respect of a private right and for benefit of a particular person in contradistinction to a public right which one person cannot waive because it is intended for public good. A statutory provision for the benefit of a person can be waived because it confers a private right or protects a private interest.

By the above authority, it means that private rights of citizens like the deposing to an affidavit must not necessarily be complied with. Rather, he can elect to delegate another person to do it on his behalf. The above decision is apt to section 83(1) of the SACPA, because it specifically made reference to indispensability of a private rights or interest that are conferred by statute. By this it means that even where private rights are accrued to one by statutes, he can elect to do away with it. And by this the court will be liberal in interpreting such sections.

(iv) Substantive Justice

The current trend of legal practice in Nigeria is the need to promote substantial justice of a given case. Relying on technicalities is frowned at by the court. This position is reflected in the verdict of the Court of Appeal in the case of *Balogun v E.O.C.B (Nig) Ltd*,²⁹ where the court held opined Per Okoro J that “the court is mere interested in the substance rather than in mere form. Justice can only be done if the substance of the matter is examined. Reliance on technicalities leads to injustice.” Therefore, it will be technical to insist that the deponent of an affidavit in support of *Motion Ex parte*, must be the applicant or his lawyer, and no other person. As such where an affidavit is deposed to by a third party not necessarily the counsel or applicant within the province of section 83 (1) of the SACPA, the court will be interested in whether the third party who deposed to such affidavit complied with the provisions of the Evidence Act in doing so. It is by adverting to this line of legal reasoning that the court will arrive at the substantial justice of this case.

28 (2022) LPELR-557750 (SC) 544 Para F.

29 (2007) 5 NWLR (Pt 1028) 588, 600 Paras E-F.

(v) The Permissive Nature of Section 83(1) of the SACPA

A provision is permissive when relying or abiding to its provision is not mandatory. In other words, it is interpreted in a more liberal manner to ensure that justice of a case is met. A permissive section is characterised by the reflections of such words like, 'may', 'or' and 'should'. Each of these words in its ordinary meaning implies probability, alternative, options and suggestions. The combined effects of having such words in a provision of a law should be able to guide the judge that such section needs liberal interpretation in the permissive sense. Thus, going by the provision of section 83(1) of the SACPA, it could be deduced that the reflections of words like, 'may' and 'or', should be enough indication that such section will not void an affidavit accompanying a *Motion Ex parte* because it was not personally deposed to by an applicant or his lawyer.

4. Impediments on Strict Reliance on Section 83(1) SACPA

Where the courts is to interpret section 83(1) of the SACPA in its strict sense to say that an affidavit contemplated within that provisions must be deposed to by the applicant or his lawyer, it will have adverse effects on the administration of justice. Some of the likely effects of strict interpretation of section 83(1) of SACPA include undue reliance on technical justice, obstruction of substantive justice, prejudicial to unforeseen circumstances, promoting professional misconducts and inter-statutory conflicts. These positions will be examined at the subsequent part of this work.

4.1 Undue Reliance on Technicality

It will amount to undue reliance on technicality to insist that an affidavit accompanying *Motion Ex parte* for garnishee must only be deposed to by an applicant or his lawyer and where a third party deposed to such an affidavit, it shall be voided. This runs contrary to the substantive rules of justice governing affidavits where it is stated that an affidavit can be deposed to by a third party provided certain conditions are met.³⁰ Thus, where a third party deposed to an affidavit after information has been relayed to him and the circumstances under which it was made are stated, it would be highly technical for the court or a party to hold and insist that such affidavit is incompetent because it was not deposed to by the

³⁰ These conditions spelt out in section 115(3) of The Evidence Act, includes stating the circumstances ,time, places and dates when such information is relayed to the third party deposing to an affidavit.

Applicant or the lawyer, being the specific persons mentioned in section 83(1) of SACPA.

4.2 Obstruction of Substantive Justice

Where a court will rely on the strict interpretation of section 83(1) to the effect that an affidavit must be deposed to by a lawyer or an applicant, and consequently, refused such garnishee application, such act may amount to obstruction of substantial justice. This is because at garnishee stage judgement has been delivered, the status of the parties as winners and losers have been determined by the court. The winner is supposed to enjoy the fruit of his victory. Thus, where his application is simply refused because of affidavit not being deposed to by him or his lawyer personally, it would amount to refusing him access to reap the fruit of his victory, given to him by the court.

4.3 Prejudicial to Unforeseen Circumstances

A good law should be able to contemplate certain unforeseen circumstances in its application as well as interpretation. Thus, where a law is so strict and rigid over certain principles, it will rarely meet the justice of a situation it seeks to address. Allying this proposition with the provision of section 83(1) of the SACPA, it is apposite to state that this section does not contemplate the likelihood of certain unforeseen circumstances in its application. For example, what about corporate entities? Who deposed to it in official capacity? Must it be one person or in his absence there is another. Again, stretching this interrogation to sick persons, one is prompted to further ask, what happens in a situation where both the Applicants and his lawyers or one of them falls ill, would affidavit deposed to by a third party void that application? Equally what happens when the applicants and lawyers within the contemplation of section 83(1) are outside Nigeria? Can a deposition by a third party on their instructions (with particulars of circumstances under which such instructions were given) be nullified? These are some of the circumstances that section 83(1) of SACPA does not contemplate.

4.4 Promoting Professional Misconducts

Relying on section 83(1) of the SACPA, to the effect that a lawyer must deposed to an affidavit accompanying Ex Parte motion , will put the lawyer at loggerhead with his professional ethics. This is because the same lawyer that is deposing to the said affidavit contemplated in section 83(1) could be the same lawyer that would move for such ex parte application. Where such situation arises, such a lawyer is said to act in

conflict of interest against his professional ethics. That is why the courts strictly prohibit a lawyer to depose to an affidavit on behalf of his client.³¹

4.5 Inter-statutory Conflicts

The provisions of section 83(1) of the SACPA conflicts two major statutes in Nigerian jurisprudence. The first statute it conflicts with is the Evidence Act. By stating who can be deposed to an affidavit without creating an exception to the rules contemplated by the Evidence Act, section 83 (1) of the SACPA conflicts with the Evidence Act. Since the Evidence Act is the principal Act that governs matters relating to evidence, the SACPA should be subject to the former.

The second statute that section 83 (1) of SACPA conflicts with is the Legal Practitioners Act,³² and the Rules of Professional Conducts. These laws govern legal practice in Nigeria and thereby enjoin lawyers to practice their profession in such a way to avoid conflicts of interest. These conflicts of interest include not deposing to an affidavit in support of a client's case.³³

5. Conclusion

This work starts by appraising the conceptual and theoretical framework associated with the subject matter of this discourse. After that analysis of the provisions of section 83(1) of the SACPA was done. The work further examines how reliance on the provisions of section 83(1) of SACPA conflicts with the rules of professional ethics for lawyers, conflicts with the law on evidence as well as the jurisprudence of substantive justice.

The work further examines some of the challenges that relying on the strict interpretation of section 84(1) of SCAPA will cause. Thus, in order to address these challenges examined in the main body of this article, these writers suggested some proactive measures. These include liberal interpretation of section 83(1) of SACPA, adoption of the maxim of *genaralibus specialibus non dere gante*, and the need to amend the SACPA.

31 Bala v Dikko (Supra).

32 Cap L111 LFN 2004.

33 Akinlade & 1 Or v INEC & 2 Ors (Supra).