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## OBA NSUGBE KC, SAN

Has cultivated an impressive reputation in the Nigerian market, representing clients in a range of oil and gas and energy-related disputes, handling several disputes in the wake of high-profile corporate insolvencies

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Regarded as a leading practitioner in the UK and Nigeria, Oba Nsugbe KC, SAN has a broad international practice focussing on Africa related litigation and dispute resolution. He provides high-level advice and representation for individuals, corporate clients and other organisations, (including NGOs), in matters ranging from business crime and corrupt practices to contractual and corporate disputes. His ongoing international work includes advising the Swiss Government in its case against Nigeria before ITLOS, acting as joint lead Counsel for two US companies in only Nigeria's second case at ICSID, and Counsel in a multi-jurisdictional claim for families of multiple victims of the Dana Air Crash in Lagos in 2012. He advised and appeared for the Lagos State Government in arbitral proceedings instituted against it following the collapse of Enron and the termination of various related contracts entered into by the State. Oba has also provided expert advice and evidence on issues of Nigerian law to a wide range of institutional, corporate and individual clients ranging from the Treasury Solicitors to leading City firms and business entrepreneurs.

Called to the Bar in 1985, when Oba took silk in 2002 aged only 39, he was described in a leading law commentary as "a rising star of the Bar of England and Wales". He commands considerable respect from both clients and peers. Numerous entries in Chambers and Partners over the years have described him as "a first-class advocate" as well as "a true gentleman who deserves his fabulous reputation", adding that he has a "fine forensic mind" and is admired for his "technical excellence". Contributors to the directory have also remarked that he is "fabulously personable, easy-going, and adored by judges and juries", "works extremely well in a team" and "impresses interviewees with his calm and genial manner". In February 2021, he was recognised as one of Africa's top 30 arbitrators in Africa's Arbitration Power list Awards administered by the Africa Arbitration Academy.

## Nigerian Law

He is qualified in both the UK and Nigeria and over time has built up extensive knowledge and experience of both jurisdictions. He specialises in arbitration and complex commercial disputes acting for companies and individuals working in Africa, in particular Nigeria. He has substantial experience of institutional and ad hoc arbitration. He is also experienced in fraud and Asset recovery work. Instructed in some of the most significant and high profile ongoing and past cases in Nigeria, (including acting for families affected by the Dana Air Crash in product liability and Montreal Convention claims, the constitutional challenge to Nigeria's Same Sex Marriage Prohibition Act, and the successful defence of individuals said to have aided and abetted former Governor James Ibori in the large scale money laundering trials conducted in the UK), Oba provides high level advocacy and advisory services to a wide range of local and international clients. He is frequently involved in multi-jurisdictional cases.

He has also provided expert advice and appeared as an expert witness in a significant number of UK cases involving issues of Nigerian matrimonial and customary law, particularly disputes relating to the validity of the marriage, financial relief and custody of the children. He gave expert evidence in the reported case of *Howard v. Shirlstar* in which he testified about the Nigerian aviation laws and regulations contravened by Howard, a British pilot, who was contracted to recover a plane owned by Shirlstar Container Ltd, which he flew to Ivory Coast, evading MIG fighter jets in the process. In addition, he routinely works with lawyers from other overseas jurisdictions such as the US, Switzerland, Germany, the Cayman Islands, Tanzania, Ghana, Kenya, South Africa and Zimbabwe.

## Regulatory & Disciplinary

Oba is able to provide expert regulatory guidance to businesses needing to comply with the legal framework in Nigeria. Furthermore, through a close network of established and highly specialist partner firms, he is able to cover other African jurisdictions as well. He is regularly called upon to advise on the drafting of contracts and commercial agreements, as well handling contentious contractual issues and other litigation, for some of the world's largest companies in the oil and gas, leisure, banking, financial and publishing sectors. In the Cayman Islands his cases typically involve offshore trusts or insolvency, often with criminal recovery aspects. In addition, he has considerable alternative dispute resolution experience as both an Arbitrator and Counsel instructed in international arbitrations.

## Selected Cases

Successful defence of wife of a former Chief of Staff charged with money laundering offences.

### [R v P Ltd and Another \[Times Law Report 13th August 2007\]](#)

Leading case on mens rea of officer of a body corporate under s.37 HSWA 1974.

### [R v Davies \(David Janway\) \[2002\] EWCA 2949 at 586](#)

Leading case on reverse burden in health and safety cases and impact of Human Rights Act.

### [R v Howe & Son \(Engineering\) Ltd \[1999\] 2 ALL ER 249](#)

Leading case on sentencing in health and safety cases.

### [Howard v Shirlstar Container Transport Ltd \[1990\] 1 WLR 1992](#)

Contract involving illegal performance – effect

## Criminal

Oba has extensive criminal law experience both as counsel and as a part-time judge of the Crown Court. In his capacity as Counsel, he has prosecuted and defended serious cases involving allegations of murder, manslaughter, cases, corrupt practices, money laundering, grievous bodily harm, fraud and a wide range of sexual offences. He has sat as a Recorder in the Crown Court for over twenty years in which time, short of murder and manslaughter, he has a very wide ranging experience of trying of criminal allegations including conspiracy to defraud, fraud, burglary and theft cases, death by dangerous driving, handling stolen goods, serious offences of violence etc. He has been authorised by the Presiding Judge of Circuit to try serious sexual offences. Notable cases include:

## Selected Cases

### [R v Pogoson & Ors](#)

Defended Personal Assistant of the former Governor of Delta State James Ibori who was charged with corruptly defrauding Delta State of millions of pounds. Bimpe Pogoson was charged with laundering the proceeds of his crime. This was a complex multi-handed corruption and fraud trial involving numerous arguments of law relating to jurisdiction, legal effect of acquittals in Nigeria – whether double jeopardy; foreign law; admissibility of evidence; expert evidence on accounting, lavish spending, and banking.

### R v Prekko

Acted for former Goldman Sachs investment banker accused of setting up numerous trusts and other offshore investment vehicles and accounts for Governor James Ibori in order to launder proceeds of corruption from Nigeria: case complexities in the case revolved around whether unused material had been properly disclosed; whether evidence tainted by the fact that aspects of it had been investigated by police officers found to be corrupt in a separate but linked case.

### Regina v Beasley & Ors

Prosecuted conspiracy multi-handed conspiracy to murder. Case concerned significant amount of expert evidence relating to satellite phone evidence and facial mapping.

### Grand Court of the Cayman Islands

Defended the son of a high-profile Caymanian citizen and business personality charged with perverting the course of justice.

### R v Hampshire [1995] 2 ALL ER 101

Competency of child's evidence in sexual cases.

### R v Rachel [CA] 1993 Cr App R. (S) 265

Sentencing in Manslaughter cases

### Krumpa & Anor v. DPP [1989] Crim LR 295 S39 -

Public Order Act 1986 – definition of offences.

### R v P Ltd and Another [Times Law Report 13th August 2007]

Leading case on mens rea of officer of a body corporate under s.37 HSWA 1974.

### R v Davies (David Janway) [2002] EWCA 2949 at 586

Leading case on reverse burden in health and safety cases and impact of Human Rights Act.

### R v Howe & Son (Engineering) Ltd [1999] 2 ALL ER 249

Leading case on sentencing in health and safety cases.

## Howard v Shirlstar Container Transport Ltd [1990] 1 WLR 1992

Contract involving illegal performance – effect of illegality on enforceability of the contract.

## Inquests & Inquiries

Experienced Arbitrator and Dispute Resolution practitioner.

Legal Assessor to the General Medical Council.

Legal Assessor to the General Pharmaceutical Council.

Legal Assessor to the General Osteopathic Council.

## Commercial Litigation

Selected ongoing and recent cases include:

Advising multinational bank seeking to establish card services in Nigeria – compliance with applicable regulatory and banking regulations.

Advising large Nigerian construction company over contractual dispute with local company constructing a hotel in Lagos.

Advising local Nigerian company on complex construction dispute with developer re: Lekki Expressway construction.

Acting for Nigerian Deposit Insurance Corporation on validity of asset disposal in UK by failed Nigerian Bank.

Acting for UK pilot suing Virgin Nigeria for breach of contract in the Lagos High Court.

Acting as expert witness on Nigerian Law for the largest African Hotel Group in arbitral dispute with leading Nigerian company in which a multi-million dollar claim for damages made for alleged breaches of agency and marketing agreements in establishment of 5 star hotel in Nigeria.

## Alternative Dispute Resolution

Oba has extensive international arbitration experience both as an arbitrator and as counsel. A selection of ongoing and recent arbitration cases include:

### **ICC25501/DDA**

Co-arbitrator with Dominic Spenser Underhill and Charles Debattista KC: Contractual dispute between two Sierra Leonian companies in relation to damage caused to Claimant's plant, machinery and equipment by allegedly defective petroleum products purchased from the Respondent – breach of Settlement Agreement; damages; causation; expert evidence.

### **International Centre for the Settlement of Investment Disputes (“ICSID”)**

Interocean v the Federal Republic of Nigeria – Lead Counsel with Supo Shasore SAN for the InterOcean companies in multi-million dollar arbitration investor protection claim against the Nigerian Government; whether oil and gas investment directly or indirectly expropriated

### **LCIA No 153160 (with Dr Tunde Ogowewo and Alain Choo Choy KC)**

Commercial dispute between Zambian power utility company and Nigerian electricity distribution company following successful prequalification and registration with the Nigerian Bureau of Public Enterprise (BPE); whether Shareholders and Funding and Agreements breached; nature and effect of alleged misrepresentations; whether shares validly transferred; status of escrow agreement and further equity commitment; whether Zambian company entitled to declaratory relief and damages.

### **LCIA No 173709 (Sole arbitrator)**

Sole arbitrator in substantial sale of business and share purchase agreement dispute of established Kenyan confectionaries company to P.E; claim for alleged breaches of Business Transfer and Share Purchase Agreements; whether performance of the business overstated; misrepresentation and/or breach of warranties; whether sellers entitled to the “Retention Amount”; measurement of damages in breach of warranty and/or misrepresentation case.

### **International Tribunal for the Law of the Sea (“ITLOS”)**

Counsel for Switzerland in arbitration against Nigeria before ITLOS under UN Convention on the Law of the Sea; arrest and detention of Swiss ship and crew in Nigeria EEZ; whether Nigeria in breach of convention duties; provisional measures application; effect of proceedings in domestic court for alleged offences by ship owner, charterers and crew.

### **London Maritime Arbitrators Association – 2020.1578AEV**

Co-arbitrator – Norwegian Owners of vessels sue for alleged breach of time charter party by Nigerian offshore service vessel operator; claim for alleged unpaid hires fees and damages; whether repudiatory breach by charterers; whether force majeure clauses properly triggered; effect of COVID-19.



### **ICC 24188/TO**

Co-arbitrator with Olufunke Adekoya SAN C.Arb and Chikwendu Madumere C.Arb (Chair); dispute in relation to agreement for sale of Tank Farms between AMCON and Nigerian companies; whether breach of contractual warranties; whether condition precedent incorporated into agreement; whether deposit wrongfully retained; whether entitled to damages for breach of contract.

### **LCIA 194508**

Sole Arbitrator; contractual dispute between US owned multinational and Nigerian company over alleged breach of Strategic Cooperation Agreement for Special Presidential Intervention Project in the Tertiary Health Sector; whether SCA gave rise to binding legal obligations; whether breach.

### **ICC 19021/MD**

Co-arbitrator with Mr Michael Tselentis KC (Chair) and Mr Vinayak Pradhan in tripartite engineering project dispute over design and upgrade of operations and security complex at OML58 in Nigeria.

### **ICC 15539/VRO**

Counsel for multinational steel construction companies in arbitration claim against Nigerian Government alleging expropriation of investments and wrongful termination of concessions. Case presently stayed for mediation.

### **LCIA**

Acting as Counsel for one of Nigeria's largest insurance companies defending a claim for breach of reinsurance agreements – effect of non-payment of premiums.

### **LCIA No.132515**

Counsel for UK based private equity in claim against Investment Manager and one of its Directors for alleged fiduciary and contractual breaches of senior loan note subscription agreement.

### **ICC**

Advising UK company on contractual dispute involving supply of security equipment to African country.

### **ICC 29386/TO**

Acting for Nigerian Oil services company defending claim for alleged breaches of joint bidding and tender for lifeboat services brought by multinational company.

### **ICC 20558/TO**

Acting for Nigerian company in claims against Chinese multinational for alleged payment failures under Zungeru Power Project bidding and services agreements law.

### **ICC Case No.14417/EBS/VRO/AGF**

Acting for Lagos State in large scale arbitration involving Enron. Defending Lagos State against substantial claims for damages for alleged breaches of power supply projects.

**LCIA No. UN 81038 :**

Acting as arbitrator with in substantial arbitration involving a multinational oil company and its Nigerian oil services party where breaches of contracts and bailment alleged.

**LCIA Arbitration No. 184113 C**

Co-arbitrator with Professor Zachary Douglas (Chair) and Claire Ambrose. Dispute over electricity sale and supply contract. Whether one party had power to suspend contract over alleged non-payment. Effect of Italian Government regulatory changes on General Agreement.

**LCIA Arbitration No. 153195:**

Co-arbitrator with Makhdoom Ali Khan SC and Jonathan Hirst KC in ongoing international arbitration. Oil and Gas Dispute – disagreement over effect of performance guarantees and “Crude Swap” contract.

**ICC Case No. 203331/TO :**

President (with co-arbitrators Mrs Dorothy Ufot SAN and Mrs Doyin Rhodes-Vivour) in arbitration at the Lagos Court of Arbitration involving dispute between a multinational and indigenous gas processing operator over alleged breached of a Gas Production Agreement in which multinational was to supply domestic company with rich gas for processing to natural gas liquid.

**LCIA**

Acting for Norwegian based insurers and marine geophysical company in arbitration pursuant to Arbitration and Conciliation Act(Cap A18) Laws of the Federation of Nigeria involving collision between vessel and offshore platform in Nigerian coastal waters.

Arbitrator in ad hoc arbitration under Arbitration Act 1996 with Christopher Symons KC and Anthony Marks. UK company claiming substantial damages against Nigerian Bank for failure to make payments under services agreement to design a prepaid card programme under Visa and Mastercard brands.

**LCIA No. 184023**

President of Tribunal with Dame Elizabeth Gloster DBE and Sir Bernard Eder. Substantial and complex shareholders dispute between multinational telecoms provider operating all over Africa and its local Cameroonian shareholder. Whether tranche loans repaid, whether breaches of numerous assignment, hypothecation, and loan agreements, whether breaches of local law and illegality shown, whether various services agreements under sale share agreement made at arm’s length and in good faith.

**LCIA 194508**

Sole Arbitrator in Nigerian contractual dispute between multinational logistics and services company and Nigerian medical equipment provider. Whether strategic services cooperation breached, whether procedurally fair to hold remote hearing where one party objects.

**LCIA No. 204945**

President of Tribunal with Anibal Sabater and Kabir Duggal. Alleged breach of Rig Share Deed and Aviation Services Sharing Agreements; whether claims to be consolidated under Art 22.8(ii) LCIA Rules; whether cases suitable for Early Determination under Art 22,1 (viii); correct procedure and test to be applied; whether equivalent of summary judgment under English CPR.

#### **LCIA No. 204819**

Co-arbitrator with Mr Segun Osuntokun and Alain Choo Choy KC (Presiding). Contractual dispute concerning Share Purchase Agreement to purchase of leading retailer of fuels and lubricants in Nigeria; whether failure to disclose liabilities by seller and/or material misstatement of company value; breach of warranty, whether due diligence adequately carried out; appropriate loss valuation method; whether value at accounting date or execution date.

## Family Law

- **Re: O and O**  
Whether partner of deceased entitled to share of estate; whether parties validly married at Isoko native law and custom; requirements for a valid marriage under customary law; whether valid if bride not present at ceremony; whether valid if deceased's family not present.
- **Re: LM (a child)** (Instructed by Shakespeare Martineau and Mordi & Co)  
Child with dual nationality (Nigerian/British). Father, Nigerian and British nationality. Mother, Nigerian and US nationality. -application for Child Arrangements Order, Specific Issue Order and Prohibited Steps Order by Father – advising on law relating to parenting of children and rights and responsibility of parents in Nigeria – whether mirror orders obtainable in Nigeria for orders of English courts; procedure for registration and enforcement, if any, of English Orders.
- **N v D [2015] EWFC 28** (Before Jackson J)  
D and N had four children between them however a dispute arose as to whether they had been validly married at native law and custom. N contended that they had been married in a customary marriage in their native Nigeria in 2005. D stated that the ceremony had been no more than a n “introduction”. Advising on nature and status of “introduction” in Nigeria; whether they are any different in the Igbo and Yoruba traditions; the essential components of a valid marriage at native law and custom for the Igbo and Yoruba; whether registration of marriage essential.
- **Re: JO (a child)** (Instructed by London Borough of Greenwich)  
Local Authority seeking permanent placement of British/ Nigerian child with relatives in Nigeria after findings that there had been failures to protect him from harm by mother and unsuitable parent. Expert evidence requested by Judge in respect of Nigerian care laws for placement of child; English orders necessary for placement; whether enforceable in Nigeria; whether mirror orders could be made by Nigerian court and law generally to ensure child and Nigerian foster parents adequately protected in law: adoption of child, procedure and effect.- Child's Rights laws; Reciprocal Enforcement of Judgment Act; Constitution of Nigeria.

- **Re: EN** (a child) (Instructed by Lancashire Borough Council)  
Whether orders of English High Court (Family Division) registrable and enforceable in Nigeria. Whether Nigerian Court has power to make “mirror orders” to that of the English Court. Advising on powers of Nigerian Family Court to make orders in the interests of protecting child to be resettled in Nigeria with relatives of parents.
- **Re: MA** (a child) (Instructed by the Secretary of State for the Home Department)  
Recognition of Foreign Adoption Order made by the Family Court of Osun State in Nigeria. Whether Order made satisfies Nigerian law. Whether Order should be registered in England and Wales.
- **A & A** – Central Family Court (Instructed by Waterfords Law – joint instruction)  
English Divorce Proceedings – ownership of assets owned in Nigeria – whether owned by husband of by children of marriage – effect of deed of assignment under Nigerian law – procedure for registration of property – effect of delay.
- **Re: M** – Central Family Court (Instructed by Radcliffes Le Brasseur)  
Whether parties validly married at Nigerian customary law – requirements. Whether validly divorced. Whether divorce procedural or non-procedural proceedings – whether divorce falls to be recognised under section 46 of the FLA 1986.
- **Chief O.E and O.A.** – High Court, Family Division Principal Registry (Instructed by Fitzpatrick & Co)  
Wife arriving in UK on holiday with children. On arrival issues divorce proceedings and puts children into school in UK. Couple married in Nigeria. Whether English Courts have jurisdiction over children. Parental rights under Nigerian native law and custom and statute.
- **O and O and Ricky International Group** – High Court, Family Division (Instructed jointly by Hodge Jones & Allen and Svedbergs Solicitors)  
Parties allegedly married in Nigeria under the Civil law. Husband disputed marriage. Alleged that marriage certificate forged. Whether marriage registered in customary court or at registry – effect of non-registration. Expert Opinion sought as to requirements for valid marriage under Nigerian civil law and native law and custom – requirements for valid divorce under Nigerian law. Whether marriage valid if husband married to someone else at time of marriage.
- **Re: N** (Instructed by Mordi & Co)  
Application for letters of administration from Probate Registry in UK. Applicant and deceased married at Nigerian native law and custom. Deceased alleged to have abandoned applicant whilst alive. Whether validly divorced at native law and custom – requirements – effect of absence of divorce certificate requested by Registry.
- **Re: In the matter of F. O.** (Instructed by Howard Kennedy Solicitors)  
Advising Executors of deceased’s estate. Will devised property both in Nigeria and abroad. Interpretation of Will under Nigerian and English law as regards persons entitled to benefit under Will. Conflict of laws. Advisability of issuing a construction summons in English Court.
- **U and U** – High Court, Nottingham District Registry (Instructed jointly by Campions Solicitors for Petitioner and Respondent in person)

Validity of ceremony gone through by Petitioner and Respondent challenged. Respondent saying only ceremony of blessing and of no legal effect. Petitioner alleged marriage ceremony and parties validly married. Expert opinion sought as to different forms of legal marriage in Nigeria, requirements; nature of “introduction”, meaning and effect; whether an agreement to pay bride price in the future sufficient for valid marriage.

- **Re: E. A** (Instructed by TWM Solicitors LLP)  
Service of English Divorce Petition in Benue State, Nigeria. Requirements under Nigerian Law for valid service. Carrying out instruction to serve husband. Whether personal service or substituted service effective under Nigerian law. Rules as to substituted service.
- **Re: Owodunni and Owodunni** – High Court Lagos, Mercantile Court, England & Wales, (Instructed by Nigerian & UK Solicitors) Sale of shares belonging to Estate by Agent. Whether Agent acted outside power; Whether Executors entitled to bring proceedings under Nigerian Law; Whether UK or Nigerian jurisdiction-appropriate forum for the action.
- **Re: S.O. B.** (Instructed by Royal Borough of Greenwich)  
Age of party in dispute. Whether applicant a minor. Council’s duties in respect of him depending on true age. Whether birth certificate, school certificates, genuine. Whether to be returned to Nigerian. Position under Nigerian law as to duties of State in respect of minor if returned.
- **Re: O O** ( A child) (Instructed by Secretary of State for the Home Department)  
Recognition of Foreign Adoption Order made by the Anambra State Magistrates Court. Whether Order valid and in accordance with Nigerian Law. Whether Order should be registered in England and Wales.
- **Ogbogbo and Ogbogbo**  
Letters of administration taken out by “second wife” of deceased. Whether entitled to letters of administration in UK. Whether parties validly married at native law and custom.
- **Re: A Minor** (Instructed by RTE Solicitors)  
Civil claims for alleged sexual Assault Defendant claiming believed no offence being committed. Advising on Nigerian law. Age of Consent Whether religion making a difference.

## Qualifications

- LLB (Hons), Hull University
- Barrister at Law, England and Wales
- Barrister & Solicitor, Supreme Court of Nigeria

## Professional associations

- Association of Regulatory & Disciplinary Lawyers (ARDL)
- British Nigeria Law Forum (Founder & Past Chair)
- Criminal Bar Association
- COMBAR

## Professional activities

- 1999: Appointed Crown Court Recorder
- 2002: Appointed Queen's Counsel
- 2004/8: Chair of the British Nigeria Law Forum
- 2004: Gray's Inn Advocacy Trainer – Grade A
- 2005: Elected Bencher of Gray's Inn
- 2006: Elected Fellow of the Royal Society of Arts (FRSA)
- 2006/10: Legal Advisor to Central Association of Nigerians in the UK (CANUK)
- 2007: Head, Pump Court Chambers
- 2007: Legal Assessor for the General Medical Council
- 2010: Visiting Professor of Law, City University
- 2011: Trustee of the Africa Centre
- 2013: Legal Assessor to the Nursing and Midwifery Council
- 2014: Legal Assessor to the General Pharmaceutical Council
- 2020: Chair Africa Centre, United Kingdom

### Overseas Appointments:

- 2005: Appointed Senior Advocate of Nigeria
- 2005: Member Body of SANs, Nigeria
- 2006: Chair of g50 business group (Investing in Nigeria)
- 2007: Fellow Nigeria Leadership Initiative ( "NLI" )
- 2010: Board Member, Oxford and Beaumont Solicitors, Ghana
- 2014: National Competitiveness Council of Nigeria on the appointment of H.E. Goodluck Jonathan
- Appointed to the Lagos Chamber of Commerce International Arbitration Centre Court of Arbitration