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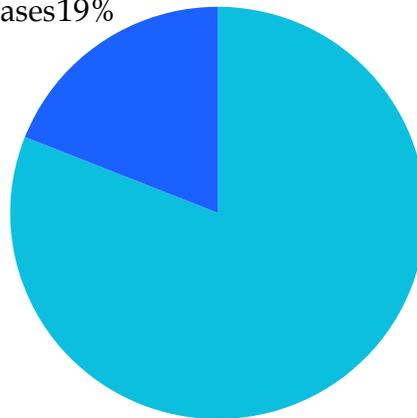


## 50 years of Arbitration related cases at Nigeria's Appellate courts (1)

G.O. Sodipo & Co.'s dispute resolution team are pleased to share with you the first in a series of reviews of the arbitration related cases adjudicated in Nigeria's appellate courts in the last 50 years. The review features 145 commercial arbitration related cases that have been adjudicated at the appellate courts in Nigeria in the last 50 years featuring about 118 Court of Appeal cases and 27 Supreme Court cases.

Supreme Court

Cases 19%



Court of Appeal

Cases 81%

The aim of this first exercise is to examine the nature of commercial disputes with arbitration clauses that have been adjudicated at the appellate courts and the response of the courts to such disputes. The exercise excluded customary arbitration cases and treaty-based arbitration. This first exercise reveals that various types of commercial arbitration related disputes have been litigated in Nigerian courts and the judges have been friendly towards the enforcement of arbitration agreements and arbitral awards.

Section 91(1) of the Arbitration and Mediation Act, 2023 (AMA), defines "commercial" to include "matters arising from all relationships of a commercial nature whether contractual or not, such as any trade transaction for the supply or exchange of goods or services, distribution agreement, commercial representation or agency, factoring, leasing, construction works, consulting, engineering, licensing, investment, financing, banking, insurance, exploitation agreement or concession, joint venture and other forms of industrial or business co-operation, carriage of goods or passengers by air, sea, rail or road. Given the use of the term "includes" in the definition of "commercial" in section 91 of the AMA, this list is not exhaustive. Section 91 of the AMA is almost on all fours with section 57(1) of Nigeria's recently repealed Arbitration and Conciliation Act 1988 (ACA), under which most of the cases reviewed, were adjudicated.

This exercise presented a number of challenges. First, 12.4% of the judgments did not indicate the nature of the disputes, hence such cases could not be categorized. Second, some of the disputes fall into more than one category but for the purpose of this exercise, we only classified them into one. Third, the nature of some of disputes may not fall into the s.91 definition list of commercial, but they are regarded as commercial otherwise they would not have been adjudicated under the ACA which was the precursor to the AMA.

Construction disputes are the largest type of disputes with 18.6%, followed by shipping with 12.4%. Oil and gas disputes are next in line tying with service and management disputes each of 8.2%.

7.58% of the cases dealt with Lease/Tenancy disputes, 4.1% dealt with supply contracts including commodities, 3.4% were on insurance disputes whilst 2.75% dealt with partnership disputes.

The following categories of disputes had only 1.37%: tax, shareholders, waste disposal, joint ventures and distributorship agreements. The following categories of disputes had 0.68% manufacturing, intellectual property book publishing, aircraft maintenance, agricultural development, banking loan agreement, employment contract for a company's executive Director and investment Tripartite Agreement on Syndicated Note Issuance Facility.

0.68% of the disputes arose from the dispute clause in the Constitution of an association prescribing arbitration. 0.68% disputes arose from Cooperative society issues where the statute mandated that disputes must be resolved by the Director of Cooperative Societies.

## Appellate Cases on Arbitration over the last 50 years %

