

## LEGAL EXAMINATION OF SECRET TOOLS FOR TRIAL LAWYERS IN NIGERIA

By

Dr Setechi Okechukwu-Jnr Eli\*

### Abstract

*The legal profession has diverse career areas one of which is litigation; which appears to be quite daunting with regards to the various requirements for a successful litigation process. It is imperative, therefore, that lawyers involved in litigation are better equipped with special tools and skills to stand out in trial proceedings. This article brought to the fore, the various tools and skills every trial lawyer must be equipped with in order to attain success in trials. The research methodology adopted is the doctrinal research approach. This article started with an introduction to the secret tools for trial lawyers and defined key concepts, then proceeded to itemize and elucidate the tools very essential and central to the success of trial lawyers career.*

**Keywords:** *Tools, litigation, trial, lawyer, legal, practitioner, information, technology*

### 1.0. Introduction

A secret connotes what is not open to the public. It connotes what is hidden and known only by one person or a group of persons within a particular social or business interest. Secret tools for trial lawyers are not necessarily secrets *per se*, they are actually open secrets of a sort. What makes it seem like secrets is probably because some persons are yet to discover it or not intentional that it is necessary for the success of a trial.

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\* [LLB HONS (RSUST), BL (Abuja) LLM (RSU)]; PhD (RSU); Senior Lecturer, Department of Jurisprudence and International Law, Faculty of Law, Rivers State University, Port Harcourt; Email: setechi.eli@ust.edu.ng.

Accordingly, the secret tools for trial lawyers to be considered in this seminar are respectfully, very germane. No one should be preferred over the others, as their application is peculiar within the circumference of the specific area of their usage. Before we proceed on the purport of this seminar, let us look at the conceptual clarifications.

## **2.0. Conceptual Clarification- The meaning of Secret Tools for Trial Advocacy**

Secret tools for trial advocacy simply means the skills a lawyer needs to be effective as a courtroom lawyer or in trial proceedings that seems not to be open to the public but are in fact open, and only limited by ignorance of legal practitioners or their awareness. Efficiency relates to machines; effectiveness refers to human beings. Secret tools for trial advocacy also means the traits that a legal practitioner must possess to be effective in litigation or what has now come to be known as legal practice. Let us proceed to discuss these secret tools.

## **3.0. Legal Examination of Secret Tools for Trial Advocacy in Nigeria**

The following are the secret tools of trial advocacy, namely: continuous reading, read your law reports, read your law journal articles and other periodicals, master your Rules of Court, master your facts, master your Evidence Act, master your logic and fallacies in argument, master your Limitation Law, master legal technicalities, be ethical, know how to properly address the Court, be original, be strategic and be disciplined, to mention but a few. We shall now proceed to respectively look at these secret tools for trial lawyers.

### **3.1. Continuous Reading**

Reading for a legal practitioner involved in trial law does not end at law school. It actually starts after law school. Without continuous reading you may have difficulty mastering legal principles. You

must continue to study your substantive and procedural law after law school to be successful as a trial lawyer. This is because if you stop learning, you forget what you already know.<sup>1</sup>

You will have to read the Constitution, Acts, laws, other subsidiary legislation, law text books, logic, fallacies in arguments and law reports. According to Habeeb Adewale Olumuyiwa Abiru, JSC in the case of *Akinsanyav Attorney General of the Federation & Ors*,<sup>2</sup>

A counsel has a duty, once he accepts a brief, to put his client's case forward in the best possible manner, with a proper understanding of the relevant legal principles, and he should not rely on the good fortune of the knowledge of the Judge or Justices hearing the case... Counsel to all the respondents need to do more, going forward, in protecting the interests of their clients.<sup>3</sup>

### 3.2. Read Law Reports

There are many law reports in circulation. Buy it and read. The importance of reading your law report is that it is the easiest way to learn legal principles and the attitude of the court to facts presented in that regard. Reading law reports is also the best way for a trial lawyer to know the latest legal developments and innovations in legal practice and for you to know how to apply them in your field.

### 3.3. Master your Rules of Court

Refuse to be carried away by the provisions of the Rules that treat non-compliance as an irregularity.<sup>4</sup> This is because Rules of Court which is a subsidiary legislation with a force of law have a binding

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<sup>1</sup> Bible, Proverbs 19:27 CEV.

<sup>2</sup> [2025] 6 NWLR (Pt 1987) SC 481, 540, Para B-C; See also *Sebastine v State* [2020] LPELR 50319; *Rukuje v Deba* (2018) LPELR 44422

<sup>3</sup> (n2).

<sup>4</sup>High Court of Rivers State (Civil Procedure) Rules 2023, Or 7.

force and a lawyer coming to court must properly study the Rules.<sup>5</sup> When a court insists that the Rules must be obeyed, it would not be said to be a reliance on technicalities.<sup>6</sup>

### **3.4. Master your Facts**

Cases are won and lost based on the pleading of a trial lawyer. Therefore, a trial lawyer must master his or her facts in order to plead appropriately in court processes. You must understand that facts pleaded but not given in evidence are deemed to have been abandoned, that facts not pleaded but given in evidence go to no issue. You must be able to know facts that must be specifically pleaded and possibly particularized, for example, custom, customary law, limitation law, fraud, to mention but a few.

### **3.5. Master your Evidence Act 2011 (as amended)**

It is trite knowledge that judges are not spirits to know what transpired before the court, even when they do, they will still need to decide cases based on evidence. The Evidence Act is the trial power house as nobody can win a case in court without substantiating it with evidence. A proper court ought not to decide cases based on sentiment, speculation or public opinion. Therefore, a trial lawyer must master the Evidence Act to be able to know relevant facts and irrelevant facts, to be able to know legally admissible and inadmissible evidence, and so on.

### **3.6. Master Logic and Fallacies in Argument**

This is very important because it will help a trial lawyer in drafting his pleadings, written address and brief of argument. This will help a trial lawyer to be able to distinguish between relevant facts and irrelevant facts and channel his energy in responding to relevant facts. This will also help a trial lawyer to detect fallacies in facts and

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<sup>5</sup>*Adeneranv Olusokun II* [2019] 8 NWLR (Pt 1673) 98, 114, Paras A-G.

<sup>6</sup> (n5).

argument and concentrate on giving a logical presentation of facts and legal argument in the written address or brief of argument.

### **3.7. Master your Limitation Law**

Proper knowledge of the limitation law will help a trial lawyer to know when a suit is statute barred and what to do in that circumstance. Filing a stale case without doing the needful or responding to an inquiry on a stale fact, as the case may be speaks volume on the capacity of a trial lawyer.

### **3.8. Master the use of Legal Technicalities**

It is only a legal practitioner who knows the law by reading his legislation, rules of court, Evidence Act, limitation laws and fallacies in logic and so on that would be able to appropriately make use of legal technicalities. The Supreme Court has held that when a court insists that its Rules must be obeyed, the same should not be seen as technicalities.<sup>7</sup>

### **3.9. Be Ethical**

This is the most important tool a trial lawyer must possess. The foundation of Ethics in the legal profession in Nigeria is the Rules of Conduct for Legal Practitioners 2023, which contains the basic ethical standard for lawyers. Non compliance with these ethical standards has severe consequences, including but not limited to loss of license to practice law in Nigeria.

Ethics means moral principles or force that governs a person's behavior or the conducting of an activity. According to the Josephson Institute of Ethics, a non partisan, none profit organization that exists to improve the ethical quality of society, ethics includes how we meet the challenge of doing the right thing

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<sup>7</sup> (n5).

when that will cost more than we want to pay.<sup>8</sup> Every profession has its own ethics. No matter how talented, gifted or brilliant you are as a trial lawyer, if you are not ethical you will not succeed in the long term. Being ethical is the basic foundation to achieving and protecting your success as a legal practitioner.<sup>9</sup>

As a foundation, let us start from the ethical framework for law students in the University, using the Rivers State University as a case study, the said ethical standard is contained in section Four paragraph “O” (page 42)-Classification of Examination Offences/Punishment and Code of Conducts for Students under Section Five- Professional Ethics for Staff and Students (pages 44 to 45). It contains about 19 Code of conducts. See for instance Code 3 against membership of secret cult and code 8 against examination malpractice. The issue of examination malpractice is crucial because it can impact negatively on your aspiration to the Bar and the Bench. Apart from communicating in the examination hall with intent to share information relevant to the exam that has “F” score as punishment, other examination misconducts ranges from suspension for one academic session to dismissal. For the Law students, the truth is that once law school finds that your delay in going to the law school or graduation is due to suspension related to examination malpractice, you will be placed on hold for up to 10 years, thus impacting negatively on your timeous admission to the Bar.<sup>10</sup> Issues of malpractice by way of copying is not only unethical in the university but has been held to be a deplorable and unprofessional practice that needs to be sanctioned.<sup>11</sup> In the case of *Dangote Cement Plc v Ager*,<sup>12</sup> Per Garba, J. S. C. stated as follows:

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<sup>8</sup> <<https://josephsoninstitute.org/med-1makingsense/ethics>> accessed September 2024.

<sup>9</sup> S O Eli, ‘Legal Appraisal of Requirements for Success as a Legal Practitioner and Judge in Nigeria’ (2025) 5 (1) *Journal of Law and Policy*; 198.

<sup>10</sup> (n9), 199.

<sup>11</sup> *Dangote Cement Plc v Ager* [2024] 10 NWLR (Pt 1945) 1, 32-33, paras H-E.

<sup>12</sup> *Ibid.*

Because the issue raised in the 2<sup>nd</sup> respondent's brief are the same as those submitted in the 1<sup>st</sup> respondent's brief, the arguments on the issue are not only identical, but copied and so the same; word for word as those canvassed in the 1<sup>st</sup> respondent's brief and reviewed above. I must say that this practice by counsel of copying briefs of argument and arguments therein filed by another counsel for a different party to an appeal in this court or in any appellate court, is not only appalling, but also shows clear admission of professional incompetence and breach of professional duty to the client/party who retained the services of such counsel.

Accordingly, for trial lawyers, the Code of Conducts for Legal Ethics in the Bar is basically, the Rules of Professional Conduct for Legal Practitioners 2023 (RPCLP 2023), which revoked the Rules of Professional Conduct for Legal Practitioners 2007<sup>13</sup> and became operative on the 1<sup>st</sup> day of January, 2024.<sup>14</sup> It was made by the General Council of the Bar pursuant to *section 1 (1) (4)* of the Legal Practitioners Act 1975 (LPA 1975). The RPCLP 2023 consist of three chapters, Part 1 consists of Rules 1 to 54 (Practice as a Legal Practitioner, Relations with Clients, Relations with other Lawyers, Relations with the Court, improper attraction of business, Remuneration and fees. Chapter 2 consists of Rules 55 to 72 (Guidelines and Rules for Anti Money Laundering and Combating the Financing of Terrorism by Legal Practitioners and chapter 3 consists of Rules 73 to 78 (Miscellaneous provisions).<sup>15</sup>

If a lawyer acts in contravention of any of the provisions in the RPCLP 2023 or fails to perform any of the duties imposed therein, he shall be guilty of a professional misconduct and liable to punishment as provided in *section 11* of the Legal Practitioners Act,

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<sup>13</sup> RPCLP 2023, s 75.

<sup>14</sup> RPCLP 2023, s 76.

<sup>15</sup> (n9), 199-200.

1975.<sup>16</sup> It is the duty of every lawyer to report any breach of any of the rules of professional conduct that comes to his knowledge to the appropriate authorities for necessary disciplinary action.<sup>17</sup> By virtue of *section 74 (1)* of the RPCLP 2023, failure to report a breach of the rules of professional conduct by a legal practitioner as provided in *section 74 (2)* of the RPCLP is itself a professional misconduct. It is imperative to stress at this point that the Rules made pursuant to the Legal Practitioners Act 1975 partake of the nature of Subsidiary Legislations by virtue of *section 18 (1)* of the Interpretation Act 1964<sup>18</sup> and therefore have the force of Law.<sup>19</sup>

For the Judges or the Bench, what regulates the Code of Conduct for the Bench in Nigeria is the Revised Code of Conducts for Judicial Officers of the Federal Republic of Nigeria 2006 and the Judicial Discipline Regulation 2017. The Revised Code of Conduct for Judicial Officers of the Federal Republic of Nigeria 2016 (RCCJO 2016) forbids judicial officers from accepting gifts or favours of any sort in exchange for anything done or omitted in the course of their duty,<sup>20</sup> whether by himself or by members of his family,<sup>21</sup> prohibits the giving and taking of bribe by a judicial,<sup>22</sup> and ethical standard shall be communicated to family members and court staff of the judicial officer by the judicial officer and a discouragement to them from breaching same.<sup>23</sup> The Judicial Discipline Regulation 2017 (JDR 2017) came into force on the 29<sup>th</sup> Day of June 2017 and was made pursuant to the power discipline of the National Judicial Council (NJC).<sup>24</sup> The NJC's power to exercise disciplinary control

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<sup>16</sup> RPCLP 2023, s 74 (1).

<sup>17</sup> RPCLP 2023, s 74 (2).

<sup>18</sup> Cap I 23 LFN 2004.

<sup>19</sup> *Adeniran v Olusokun II* [2019] 8 NWLR (Pt 1673) 98 Ratio 13, 114 Paras A-G, Per Mary Peter-Odili JSC.

<sup>20</sup> RCCJO 2016, Rule 10 (1) (i) (ii).

<sup>21</sup> *Ibid*, Rule 13 (1).

<sup>22</sup> *Ibid*, Rule 10 (1) (iii).

<sup>23</sup> *Ibid*, Rule 10 (2).

<sup>24</sup> CFRN 1999, 3<sup>rd</sup> Sch, pt 1, para 21 (b) (d).

over Judicial Officers under the *third Schedule, part 1* of the CFRN 1999 is governed by the JDR 2017, which governs allegations and complaints of misconduct against Judicial Officers, as well as proceedings initiated in the exercise of that power by the NJC under the *third Schedule, part 1* of the CFRN 1999.<sup>25</sup> A petition for official corruption or breach of Code of Conduct for Judicial Officers is sent to the NJC.<sup>26</sup> NJC asks the respondent to respond if need be.<sup>27</sup> A preliminary committee looks at the petition and the response.<sup>28</sup> A *prima facie* case is established or not established.<sup>29</sup> If not established, further investigation is terminated at this stage.<sup>30</sup> If established, NJC constitutes a minimum of three and maximum of five members Investigating Committee.<sup>31</sup> The Investigating committee reports their findings to NJC after thorough hearing.<sup>32</sup> If findings exonerate the judicial officer, the petition terminates at this stage.<sup>33</sup>

The Judicial officer is disciplined by the NJC if found guilty to have breached the RCCJO or there is a likelihood of having done so.<sup>34</sup> The discipline ranges from censure and reprimand,<sup>35</sup> suspension,<sup>36</sup> placement on watch list,<sup>37</sup> prohibit his nomination to a higher office permanently or within a specific time,<sup>38</sup> and dismissal.<sup>39</sup> In most cases, establishment of breach of code of conduct relating to official

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<sup>25</sup> JDR 2017, Reg 2.

<sup>26</sup> Ibid, Reg 15.

<sup>27</sup> Ibid, Reg 17 (3) (a) – (e); Reg 18 (1) (a) (b).

<sup>28</sup> Ibid, Reg 17 (1).

<sup>29</sup> Ibid, Reg 17 (2).

<sup>30</sup> Ibid, Rule 17.

<sup>31</sup> Ibid Reg 19; Reg 20 (1).

<sup>32</sup> Ibid, Reg 23.

<sup>33</sup> Ibid, Reg 25 (1) (a) (b).

<sup>34</sup> Ibid, Reg 25 (1) (d).

<sup>35</sup> Ibid, Reg 25 (1) (d) (i).

<sup>36</sup> Ibid, Reg 25 (1) (d) (ii).

<sup>37</sup> Ibid, Reg 25 (1) (d) (iii).

<sup>38</sup> Ibid, Reg 25 (1) (d) (iv).

<sup>39</sup> Ibid, Reg 25 (2).

corruption ends in dismissal of the said judicial officer.<sup>40</sup> Upon the dismissal of the said judicial officer, the police, EFCC or the prosecutor can now arrest the judge and charge him for the offence of official corruption if any.

Consequently, where a legal practitioner acts unethically by refusing to observe the RPC 2023, there is no way that the legal practitioner will not be suspended or expelled from practicing law in Nigeria. There are also ethical standard for judicial officers as can be seen above and non compliance with same attracts far reaching consequences.<sup>41</sup>

The question is, if you are suspended as a lawyer or debarred from practicing law in Nigeria, how can you talk about utilizing other secret tools? Your answer is as good as mine. In the case of *Homan Engr. Co. Ltd. v U.W.S. Ltd.*,<sup>42</sup> Habeeb Adewale Olumuyiwa Abiru, JSC, stated as follows:

The court has refrained from commenting on the unprofessional conduct of the lawyers that assisted the appellant in the disgraceful abuse of the processes of court. Suffice to say that lawyers as operators of the administration of justice system owe a duty, to the society that nurtured them and them what they are, to ensure that they conduct their activities in a manner that edifies and brings honour, respect and belief to the justice system. They should not allow themselves to be used by litigants to bring the justice system into disrepute.<sup>43</sup>

Accordingly, a trial lawyer must be prompt to Court as all courts sits by 9:0am, except otherwise stated. A trial lawyer must always dress

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<sup>40</sup> JDR 2017, Reg 25 (2).

<sup>41</sup> (n9), 201.

<sup>42</sup> [2025] 6 NWLR (Pt 1987) SC 423, 447 - 448, Paras H-B.

<sup>43</sup> See also *Dagazu Carpets Ltd. v Bokir Int'l Co. Ltd.* [2025] 8 NWLR (Pt 1992) SC 271, 306, A-B.

in the prescribed regulation dress code for each court. A trial lawyer must always comply with rules.

A trial lawyer must know how to properly address the Court. A legal practitioner must not address the court in first person or second person pronoun. A judge must be addressed as my lord, your lordship, his lordship, milord, as the case may be. A Magistrate in Rivers State of Nigeria is to be addressed as “Your Worship” or “His Worship.” A Chairman or member of the Customary Court in Rivers State is to be addressed as “Your Honour” or “His Honour” as the case may be.

### 3.10. Master your Drafting Skills

One of the invaluable assets that a counsel must always possess is drafting skills.<sup>44</sup> The pleadings consisting of the statement of claim, statement of defence, reply, affidavit, counter affidavit and further affidavit, as the case may be in the trial court, and the brief of arguments in an appeal contain the story of a party on which the appellate court is called to adjudicate, therefore it must flow, be consistent, concise, comprehensive, comprehensible, accurate, brave and precise. It must not be too short as to leave out the essentials and must not be too long as to become otiose.<sup>45</sup> In the words of Habeeb Adewale Olumuyiwa Abiru, JSC,

In this case, the 1<sup>st</sup>, 3<sup>rd</sup> and 4<sup>th</sup> respondents’ briefs of argument, though filled with a lot of energy and verve, contained arguments lacking in accuracy and precision. The arguments did not confront or address the complaints expressed in the appellant’s brief of argument, rather they were directed at what the respondents’ counsel imagined were the complaints of the appellant. The arguments in the 2<sup>nd</sup>

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<sup>44</sup>*Akinsanya v A.-G., Fed.* [2025] 6 NWLR (Pt 1987) SC 481, 539, Para E;  
*Nagebu Co. (Nig.) Ltd. v Unity Bank PLC* [2014] 7 NWLR (Pt 1405) 42.

<sup>45</sup> (n8) para E-F.

respondent's brief of argument addressed only a minute part of the complaints of the appellant in the appeal and consisted of repetitions of the statements made by the Court of Appeal in rejecting the arguments of counsel to the Appellant on that minute issue in the appeal before it.<sup>46</sup>

A legal practitioner must definitely make use of precedents in all forms of legal drafting, including drafting of court processes. However, a legal practitioner must not sheepishly make use of precedents. He must be able to adapt them to the circumstance of his case, even when the facts are very similar. The copying of a professional colleagues brief word for word without any input has been held to be an admission of professional misconduct.<sup>47</sup>

### 3.11. Be Strategic

Knowledge of the law and facts is very good. However, strategy is imperative in winning your case as a trial lawyer. This ranges from forum shopping<sup>48</sup> within the circumference of the Realist School of Law where necessary, the order of presentation of witnesses and tendering of exhibits as the case maybe. Some good cases are lost based on bad strategy or what some call case theory and/or trial plan.

### 3.12. Be Disciplined

You must be disciplined to be effectively ethical and model the secret tools for trial lawyers highlighted above. You may have to say no where your feelings and emotion want you to say yes. You may have to wake up from sleep when you feel like sleeping more, to be

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<sup>46</sup> 439-440 paras G-B.

<sup>47</sup> *Ager v Dangote Cement PLC* [2024] (Pt 1945) 23.

<sup>48</sup> S O Eli, Appraisal of Hon Justice Simeon Amadi's Two Years in Office as the Chief Judge of Rivers State: 26<sup>th</sup> of May 2021 to 25<sup>th</sup> of May 2025, <<https://thenigerialawyer.com/appraisal-of-hon-justice-simeon-amadis-two-years-in-office-as-the-chief-judge-of-rivers-state-26th-of-may-2021-to-25th-of-may-2023/>> accessed 18 July 2025.

effective as a trial lawyer, which underscores the principle of discipline.

Another area to discipline yourself as a trial lawyer is in relation to your well health. Only a healthy person can think about excellence as lawyer or judge. Therefore, next to God, you have to prioritize your health before any other thing. This is because no dead person talks about success as a trial lawyer.<sup>49</sup> Eating the right food, exercising and resting will help you to stay healthy.<sup>50</sup>

### **3.13. Spirituality**

This focuses on the area of spiritual protection for life because only the living can pursue success as a trial lawyer. A lot of things happen in the legal profession. Spiritual attacks come from litigants and fellow learned colleagues. There have been cases where a judgment that was supposed to be in favour of a trial lawyer's client was delayed for over a year, on the date the said trial lawyer concluded his prayer sessions, he was given a date for the judgment delivery, and the judgment was delivered in favour of the said trial lawyer client. This further buttress the need for a trial lawyer to be very prayerful no matter how busy legal practice may be.<sup>51</sup>

### **3.14. Information and Communication Technology**

In order to adequately learn and practice the law in a digitalized world, you must have knowledge of how to operate the computer and effectively use the internet, especially in this e-filing and e-trial era. This is not the same as knowledge of how to program the computer.<sup>52</sup> Your knowledge of how to operate the computer will help you to adequately type your pleadings, court processes, prepare and make your presentations using power points, thus saving time in the long run. It will also help you to know how to use digital

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<sup>49</sup> S Eli, *The Laws of Academic Excellence* (3i's Publishers 2016) 23. 35.

<sup>50</sup> (n49) 37.

<sup>51</sup> (n9), 203.

<sup>52</sup> Ibid.

boards for your presentation. The basic computer program that a lawyer or judge should be aware of is Microsoft word and internet because it helps one to type his or her work and enables one to access and read digital materials inputted in that format.

Accordingly, there are various online meeting platforms like goggle meet, zoom, etc. These platforms are sometimes used to hold lectures, meetings, hearings or used to make presentations. A trial lawyer should know how to set up and access these meeting platforms. Adequate knowledge on how to file and access processes in the RIVCOMIS and other e-filing platforms cannot be overemphasized for a trial lawyer.

The use of Artificial Intelligence (AI) alone in legal research either for brief writing or otherwise, without adequate modifications and inputs from a trial lawyer is seriously discouraged. It is not only a mark of laziness but impacts negatively on the competence and capacity of a trial lawyer to meet the need of his client and the society.

#### **4.0. Conclusion**

In essence, to be effective as a trial lawyer, you must be a continuous reader, you must read your law reports regularly, read your law journal articles and other periodicals regularly, master your Rules of Court, master your facts, master your Evidence Act 2011 (as amended) as well as logic and fallacies in argument. Other tools a trial lawyer must possess are: you must master the limitation laws and legal technicalities; you must be ethical, courageous, original, strategic, disciplined, spiritual and knowledgeable in information and communication technology. In this information age, it will be difficult for a trial lawyer who resents the virtual world to make sustainable progress.