
| RESEARCH ARTICLE

The Efficacy of Class Action Litigation in Ensuring Liability for Defective Products in Nigeria: Judicial Approach in the United States of America, and the European Union.

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| ABSTRACT

Class action litigation has been shown to be very useful in modern times, therefore there is a dire need for it to be fully recognised and adopted by consumers in Nigeria. Sadly, the rules of court of most State high Courts in Nigeria do not provide for class action litigation. Class action litigation have been shown to lead to the obtaining of adequate award of damages, or an injunction by stopping the recurrence of the injury, and also pushing for ways to eliminate the prejudicial effects of the previous injury. Of most importance is how class action litigation has aided in the promotion of deterrence from wrongdoing on the part of manufacturers. The major aim of class action litigation is to agitate for public exposure of an erring manufacturer, thereby emboldening more consumers to enforce their rights, or obtain the judgment of public opinion on the defaulting manufacturer. Therefore, it was recommended that there is an urgent need for the total utilisation and application of class action litigation by Nigerian consumers through massive support from consumer rights associations, as it can totally reshape the Nigerian legal system by providing a sure means for collective action against widespread harm due to the use of defective products. It was also recommended that the framework of class actions be restructured in Nigeria, as it is a viable means for citizens who have suffered wrongs to seek redress and obtain justice, this is ensure that consumers are granted adequate compensation for defective products at a less expense than raising individual claims which is more expensive.

| KEYWORDS

Class action litigation, defective products, consumer protection, consumerism, manufacturer, damages.

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1. Introduction

The rise in digitalisation and globalisation has caused the relationship and interaction between people and manufacturers to grow and expand, and this has also led to the discovery, marketing and production of new products. However, the regulatory institutions in Nigeria have not adequately supervised and regulated manufacturers, which contributes to the growing corporate culture of impunity, and the manufacturing of products which are sometimes defective and unfit for consumption or use. As a consequence, it was of utmost necessity to introduce a mechanism that tackled all similar grievances under one claim, by reducing the workload of courts and in the same vein aiding in the protection of consumers' rights. According to Parsons and Starr, class action introduces judicial economy owing to congested dockets; as courts overwhelmingly rely on the class procedure to reduce the workload.

2. Conceptual Framework

Class action litigation: A class action is a legal procedure which enables one or more persons to sue or be sued on their own behalf and or on behalf of other persons with respect to an alleged wrong. All parties in a class action are usually not identified as individuals but are described in the suit. For an action to qualify as a class action, the individuals in the action must be so large

that individual suits would be impracticable, as determined in the case of *Abraham Adesanya v President of the Federal Republic of Nigeria* (1981) LPELR-147(SC). Furthermore, Black's Law Dictionary, 7th Edition, defined class action as "a lawsuit which a single person or a small group of people represents the interests of a larger group".

Class action litigation is used as a support base for constitutional or statutory policies, which is in tune with the flexibility and judicial discretion that historically formed part of both English and American equity practices. Therefore, class action litigation is very useful in modern society and should be strengthened through legal instruments. Class action litigation also leads to remedy in the form of an award of damages or an injunction stopping the recurrence of the violation, and also pushing for ways to eliminate the prejudicial effects of the previous violation. Of most importance is how class action litigation promotes deterrence from wrongdoing on the part of manufacturers, the key goal of class action litigation is to facilitate public exposure or the judgment of public opinion on the defaulting producer.

Consumer Protection: Consumer protection is the system of preventing or reducing injuries or wrongs being occasioned by a producer, and creating provisions for redress for the purchaser, consumer, user of the said product or service. As a generic term, consumer protection is all encompassing to include all those who stand in a converse position to the consumer in relation to contractual relations, and they include; manufacturers, marketers, retailers, wholesalers, and importers. Monye, also defined consumer protection as the act of safeguarding the interests of the consumer in issues relating to the supply of goods and services, fraudulent and hazardous practices, and also environmental degradation.

Consumerism: The concept of consumerism or consumer activism has been defined as the organised efforts of consumers of which primary aim is to promote, protect and enforce the rights of consumers in their exchange relationship with all organisations and individuals. Consumerism usually flourishes based on the combined efforts of private institutions, individual consumers, the press and government, in most developed or under-developed countries. The term "consumerism" also refers to consumer activism for consumer protection. The consumerism movement, in the process of trade and business between individuals and all types of organisations, fights for the protection and enforcement of consumer rights, through organised efforts by those in the group to push for the interests of others. The filing of class actions or mass tort claims by a group of individuals on behalf of other individuals who may have suffered injury due to the use of a defective product is one of the fundamental precepts of the consumerism movement, which is emboldened by the push to protect and safeguard consumers' interests and wellbeing.

Consumerism or consumer activism is more of a socially induced movement, dedicated to the protecting of the rights of consumers in their dealings with businesses. The four basic consumer rights are; right to safe products, right to be informed, right to be heard, and a right to choose what to buy, which are the first formal declaration of consumer rights protection, and the foundation of the consumerism doctrine. Subsequently, these rights are now enforced and given impetus by various state/federal laws globally. Kumar, equally holds the view that consumerism is society's effort to redress the discrepancy in trade dealings between sellers and consumers.

3. Legal framework of Class Actions in Nigeria

Unlike other developed jurisdictions, Nigeria currently lacks any primary Act or legislation on class actions. The legal framework for class actions in Nigeria is encompassed in the various civil procedure rules of courts in Nigeria as well as judicial decisions which have given an interpretation to this mode of action. An example is the case of *Gallaher Limited & Another v British American Tobacco Co. & Others* (2015) 13 NWLR (Part 1476) 325 where a class action suit was instituted at the Federal High Court against the infringement of a patent/trademark. In this case, the appellants contended that in a class action, the named defendants must qualify as members of the class to be approved to represent other members of the class. The Court of Appeal affirmed the order of the lower court by stating that the class action regime in Nigeria permits both ascertainable and unascertainable defendants, including the plaintiffs.

The unreported case of *the Welcome Foundation v Ope- Oluwa & Co. and 2 Others* Suit No FHC/L/40/89 is also a class action suit bordering on intellectual property rights where an application for the leave of court was granted to institute a class action on behalf of members who were not before the court.

The existing provisions of the civil procedure rules of various courts in Nigeria, indicate the legal subject matters over which class actions can be instituted as follows:

a. **Order 13 Rule 15 of the High Court of the Federal Capital Territory Rules, 2018:** (the "FCT Rules") provides that class actions can only be applied in issues relating to: administration of estates, properties subject to trust, land held under interest as family or community property, construction of any written instrument including a statute, torts and any other subject matter. The

FCT Rules further state that in any action in which the court is satisfied that the person, the class or some members of the class cannot be ascertained or readily ascertained, if ascertained cannot be found, and if ascertained and found, for purposes of expediency and administrative efficiency, a person may be appointed to represent the class or members of a class.

b. **Order 9 Rule 4 of the Federal High Court Civil Procedure Rules, 2019:** (FHC Rules) makes provision for class actions to be filed in court under the following subject matters; trademark, copyright or patents and designs.

c. **Order 15 Rule 13 (1) of the High Court of Lagos State (Civil Procedure Rules) 2019,** clearly states that class actions can be filed in court regarding issues relating to the administration of estates, properties subject to trust, land held under customary law as family or community property, and construction of any written instrument including a statue. The Lagos 2019 Rules also provides for other preconditions to be fulfilled before a claimant can maintain an action as a class action under the Lagos State High Court Rules, which include:

- i. the members of the class of the individuals cannot be ascertained, or if ascertained cannot be found, it is expedient that one or more members of the class represent the whole class;
- ii. the need for the claimant to obtain leave of court to be appointed to represent the class of individuals intended in the class action; and
- iii. the provision of the Lagos 2019 rules on the preconditions for instituting a class action was also shown in the case of *Babalola v Apple Inc* (2019) LPELR-50986 (CA) where the Court of Appeal affirmed the decision of Justice Okuwobi of the Lagos State High Court dismissing the claimant's claims for failure to fulfill the preconditions stipulated in the Rules of Court for class actions.

d. **Order 13 Rule 11 (1) of the National Industrial Court of Nigeria Civil Procedure Rules, 2017:** (the "NICN Rules") empowers one or more persons to sue or be sued on behalf of or for the benefit of persons so interested with respect to labour and employment law matters.

Clearly, in consideration of the extant diverse rules of courts, a class action cannot be rightly maintained without an appointment by the judge, appointing a person or some persons to represent other person(s) or class or members of the class. Further, Order 9 Rule 4 of the FHC Rules, as well as corresponding provisions of other rules of courts, outlines the conditions required before a judge can appoint a person or class of persons to represent others in a class action. The conditions are that:

- i. it is expedient for a person or members of a class to be appointed to represent the class; and
- ii. the courts must ascertain that the class of persons cannot be ascertained, readily ascertained or be found; or the person, the class or some members of the class if ascertained, cannot be found; or the persons, or class and the members thereof cannot be ascertained and found.

It is of most importance to state that these conditions apply to both claimants and defendants in a suit. The NICN Rules do not expressly refer to such actions as class actions but refer to them as actions by numerous persons with the same interest in a suit. It may be presumed that class actions would come under this provision of the NICN Rules considering that class actions are actions undertaken by numerous persons, as well as the fact that the National Industrial Court is the special court for employment and labour matters.

3.1 Legal Remedies Available to Consumers of Defective Products

a. **Class Action Litigation:** Consumers can file class action cases, as demonstrated by the case against Hyundai and Kia. In this case, a large number of consumers who were affected by a defective product filed a class action suit. The consumers alleged that Hyundai and Kia failed to equip their 2011-2022 vehicle models with an immobilizer; a common antitheft device in modern cars that prevents most vehicles from being started unless a code is transmitted from the vehicle's smart key. According to the lawsuit, the lack of an immobilizer, combined with design flaws in the affected vehicles, allowed thieves to steal them in less than 90 seconds. In particular, inadequate security in the steering columns enabled easy access to the ignition assembly, and the ignition cylinders lacked a locking mechanism, making them easily removable with minimal force.

The class-action lawsuits filed nationwide against Hyundai and Kia have been consolidated into multidistrict litigation. Although the companies have reached a settlement valued at over \$200,000,000 (two hundred million dollars) with the affected car owners, this case underscores the importance of manufacturers exercising diligence before releasing products to the public. In class actions like this, a group of individuals with similar claims collectively sues the manufacturer, distributor, or seller. If the case is successful, any damages awarded are distributed among the class members.

- b. **An Action in Tort for Negligence:** Where a consumer can prove that the manufacturer failed to exercise reasonable care in designing, manufacturing, or warning about the product's dangers, an action may lie in damages against such manufacturer.
- c. **Product Liability Lawsuits:** Consumers have the right to file a product liability lawsuit against the manufacturer, distributor, or seller of the defective product under the Federal Competition and Consumer Protection Act (FCCPA) provided the use or consumption of the product has occasioned damages on them, as consumers have the civil right of action for compensation and restitution.
- d. **Insurance Claims:** In circumstances where the consumer has insured the defective product under product liability insurance, such a consumer may be able to seek compensation under the insurance policy.
- e. **State-Sanctioned Actions:** A state or city where the after effects of the use of a defective product are very visible and obvious can bring an action against the manufacturer of such product to make them liable for the harm done to the city or state as a result of the use of such defective product.
- f. **Compensatory Relief:** Damages are usually measured by calculating the likely loss that would directly and naturally result from the act of breach of contract by the seller or buyer. The aim of awarding damages is to put the injured party in the same position he should have been if the contract had been performed. Every manufacturer for a contract of sale of goods must meet the condition; which is performing the terms of the contract, which includes selling goods that are safe and of good quality, failure to fulfill these conditions gives the other party the right to reject the goods and repudiate the contract. The rule as laid down for the measure of damages for breach of quality states that there must be a clear difference between the value of the goods at the time of delivery to the buyer, and the value the goods would have had. Every buyer also possesses a legal authority to repudiate and revoke a contract due to the seller's breach. This power is exercised by the buyer through his legal authority to repudiate a contract due to the seller's breach of a contractual condition.

For a seller claiming damages against a buyer for breach of contract, although the injured party is expected to mitigate his loss, however, damages is measured according to the difference between the contract price and the current market price at the time the goods should have been accepted, or in the event that no time was fixed for the acceptance of the goods, it will be measured by the time of refusal by the buyer to accept the goods.

Damages is the compensation given to a person or entity that suffers harm, loss or injury due to the omission of another, and this results in the person who caused the injury to compensate the party who was injured. For damages to be paid, damage must arise which must be one which is recognized by the law as needing redress although money cannot renew a shattered human frame or restore a life that is lost. Its major aim is to return the consumer who suffered injury to the same position he/she was in before the alleged wrong. Damages can be compensatory and non-compensatory. However, in order for a claimant to be successful in the claim, there must be proof that the injury was not too remote, and was caused by the defendant's behaviour and it should not be reduced due to a failure to mitigate. In the US, plaintiffs are awarded compensatory damages as a recompense for harm suffered, and it falls under general and special damages. The general damages cover the non-monetary aspects of the loss, pain and suffering of the plaintiff. While special damages is compensation for the financial aspects of their loss, such as the out of pocket spending that were incurred as a direct result of the damage.

For non-compensatory damages, it covers areas such as punitive, aggravated and nominal damages. Punitive damages are awarded by the court when the defendant has committed egregious behavior which the courts seek to deter from further reoccurrence. This is only awarded by courts in extreme circumstances when the defendant's behavior is really reprehensible, however if the compensatory damages can deter such conduct of the defendant there will be no need to grant punitive damages.

Damages in tort takes into consideration the nature of the tort which is sought to be remedied, the test for damages in tort is based on the liability of the defendant which is reasonably foreseeable due to the risk that arose from his actions. The aim of damages in tort is to put the claimant in the same position he would have been if not for the loss. Kodilinye, is also of the view that in torts, the occurrence of special damage is what leads to filing for a claim for special damages in court.

3.2 The Efficacy of Class Action Litigation in Ensuring Liability for Defective Products in Nigeria

Consumers of defective goods or products can hold the manufacturer liable in the event the said product, goods, or services is defective as to occasion harm to the consumers. Consumer protection in Nigeria is regulated by the Federal Competition and Consumer Protection Commission (FCCPC). Pursuant to the Federal Competition and Consumer Protection Act (FCCPCA), a manufacturer or producer of defective goods will be liable to the consumers of such defective goods.

In Nigeria, there are uniform provisions on representative actions by the Civil Procedure Rules of various courts which victims may undertake to claim redress. Representative actions are allowed as long as the laid down conditions are applied. For example, the persons must have the same interest in the subject matter of the suit and the representative must sue on behalf, and for the benefit of all the persons in the suit.

Class actions litigation is filed by affected persons brought on behalf of themselves and other persons both known and unknown similarly affected by a strange health condition due to toxins from the use of a manufacturers' product. In Nigeria, some rules of courts do not make provisions for class actions, for example in states such as; Kano, Abia and Ondo, while the rules of Lagos State, and the Federal High Court rules places some restrictions on some subject matters, however Enugu and Ebonyi states allows class actions irrespective of the subject matter. However, by virtue of the overriding powers of the 1999 Constitution of the federal republic of Nigeria, all High Courts of the federation have the right to hear and determine civil proceedings relating to any legal right, liability, duty. Therefore, the limitation to class action litigation by some state high court rules is null and void by virtue of its inconsistency with the 1999 Constitution.

Under the Federal High Court rules, the conditions required before a Judge can appoint a person or class of persons to represent the entire class will arise where the Judge finds that it is expedient for the purpose of efficient procedure that a person or members of a class be appointed to represent the class, then he must also be satisfied that the class of persons interested is not capable of being ascertained; or that if it can be ascertained, the persons cannot be found; or that the persons in the class cannot be found and ascertained. It is worthy of note that these conditions are common to most high court rules and this option is available to both the claimant and defendant in a suit.

Furthermore, the operation of the law makes it so that the decision of the court in such proceedings shall operate to bind the person or class of persons being represented. The rules also allow a disagreeing member to 'opt out' of the class by applying to the Court or Judge in Chambers. An instance that would suffice under the Federal High Court Rules is where a rights owner (for example in a trademark) finds a product that infringes his intellectual property right on sale in various retail stores and he is unable to identify the source from which the retailers obtained the goods. The rights owner can handle this infringement by instituting a class action which will affect all persons who are dealing in the infringing product. Of course, he must obtain the leave of court to sue a few of the persons dealing in the product for themselves and as representatives of all others dealing in the product. In the case of *Welcome Foundation v. Ope-Oluwa & Co. and 2 Ors.*(Suit No. FHC/L/40/89) while applying for the leave of court to bring a class action, the plaintiff prayed for an interim injunction against the defendants and persons they represent to restrain them from further sale of the infringing product. Also relying on *EMI v. Kudhail* (1985) F.S.R 36, the court granted the ex-parte orders prayed for and confirmed that the action was properly before the court although members of the represented class were not before the court.

However, it is unfortunate to point out that class action litigation is not fully utilised by litigants in Nigeria, especially in the subject matter of product liability; either due to lack of enlightenment, the high cost of litigation, or the lack of consumer bodies to file class action suits on behalf of consumers, as such cases are usually very intricate and entails gathering of evidence which takes time and capital. Also, rules of court of a number of states in Nigeria do not provide for class actions for product liability suits, and this position is against the express provision of the Constitution. Filing of class actions must be encouraged as it prevents multiplicity of suits, and serves as a deterrent to careless manufacturers.

Some writers are of the opinion that the full application of strict product liability is capable of leading to an explosion in class action litigation by victims of defective products with increase in the percentage of verdicts which would be highly favourable to claimants and increase in the size of compensation or awards, which will result in huge financial losses by insurance companies, which was experienced in jurisdictions such as the USA. However, the fear of increase in litigation should not be used as a yardstick to deny deserving consumers redress, as on the contrary this would result to an extended unwarranted subsidy to producers to the detriment of consumers.

4. The United States and European Union Consumers' Approach to Class Action Litigation

Class action litigation by victims of defective products in the US and the EU has received massive boost over the years due to the push by consumers to safeguard their rights. The Procter and Gamble (P&G) case is one of such examples, as users of P&Gs cosmetic products between Nov. 4, 2015, and Dec. 31, 2021 brought a class action against the company. Their claim was hinged on the accusation that their products were contaminated with benzene- which is a carcinogen associated with leukemia. Despite the recalls of several of their products by P&G, the consumers still filed multiple class actions against the company, and the company had to agree to an \$8 million class action settlement. The company also agreed to implement material testing, finished product testing, and other measures to monitor for benzene contamination in the future.

The Johnson & Johnson class action suit is a notable case on how courts in the US intervened in product liability cases. Presently, the company had to recall its talc-based baby powder from sale in the US and Canada when carcinogenic chrysotile fibres were detected in the product. The company is facing well over 34,000 lawsuits from women who claimed to have suffered ovarian cancer from its use. The company on the other hand claims non liability and non-usage of asbestos; which is linked to cancer. At the moment, Johnson & Johnson has spent billions of dollars on costs emanating from court judgments and out of court settlements. In Missouri alone, \$2bn has been awarded against the company in favour of 22 plaintiffs who suffered ovarian cancer. Shockingly the Johnson and Johnson products are still being sold outside North America including Nigeria.

Johnson and Johnson while still battling with the class action litigation on their baby powder claimed to cause ovarian cancer, are also faced with another class action on their Neutrogena sunscreen SPF 50 cosmetics product for babies, in *Cecilia Yang and Ors v Johnson & Johnson Consumer Inc.*, the case considered the allegation of violations of state and federal consumer laws. Johnson & Johnson also has been hit with a recent class action lawsuit alleging it manufactured and sold Neutrogena sunscreen contaminated with unsafe levels of the cancer-causing chemical benzene, causing a woman in Georgia to develop cancer.

Furthermore, case law under the US jurisdiction has grown to an astronomical proportion over time due to the filing of class action litigation by victims of defective products. Courts are also very eager and willing to slam heavy damages on defaulting manufacturers' especially big pharmaceutical companies and companies found liable of producing products that cause harm, sickness or injury to the users of the product. Most times these companies may be found guilty for harm that may not even be evident but these products are subjected to testing for a prolonged period of time, as the injury may occur like two to five years after the products were used by the victim. Till date the Johnson and Johnson talc powder case is still undergoing judicial review and victims are constantly being awarded millions of dollars in damages.

Also, the case against a company that sells pet food has recorded payments ranging from \$2,587.44 to \$12.5 million in settlement. Hill's pet food class action was hinged on the case that the company's prescription diet and science diet canned food contained too much vitamin D. This allegedly caused injuries for pets and significant expenses for pet owners. Also, a settlement worth \$55 million was also reached with cancer medication formulators, resulting in payments of up to \$1,968. According to the cancer drug class action lawsuit, pharmaceutical companies conspired to suppress cheaper generic alternatives to Thalomid and Revlimid. As a result, patients and other payers allegedly had to pay a higher price for brand-name cancer drugs. The plaintiffs in the case sought reimbursement for these higher prices. In March 2008, General Motors Corporation faced a product liability suit that claimed a damaging chemical was used in its Dex-Cool coolant, which caused leaks and engine damage. A class-action suit was filed on behalf of about 35 million GM customers for approximately \$150 million. The customers who filed the suit ended up receiving individual payments in the range of \$50 to \$800.

Class action litigation have paved the way for judicial advancement especially in the award of damages by many courts in the US, this has permitted the recovery of damages in respect of the cost of medical monitoring. There is provision for award of damages even where a product has not caused injury yet, but is considered to cause injury in the future, including the costs of regular investigations and appointments with a medical doctor to determine if a complication potentially caused by the product has in fact arisen. Claims have been brought in situations like the *Boston Scientific Medizintechnik GmbH v AOK Sachsen-Anhalt and Others*, where an implanted device had not in fact malfunctioned, and the medical advice to the patient was to carry out regular checks to determine the continued safe operation of the device, rather than running the risk of operating to remove the device. There have also been cases involving medicinal products where medicinal monitoring may be approved to look for, for example, a rare adverse effect which may only become manifest some years after the product was used. Furthermore, a product defect case could proceed as a class action, even if majority of consumers have not experienced any issue with the product. This case comprising of tens of thousands of personal injury suits against makers of meshes used to treat pelvic organ prolapse or stress, and urinary incontinence in women. Plaintiffs allege the mesh degrades over time, is incompatible with human tissue, and cannot always be removed because it becomes embedded in the body, causing various health complications. It was further alleged in the second joined case that the washing machines were deceptively designed and were susceptible to having mould and mildew proliferate the machine during the normal course of use. It was held by two circuit courts, that the lawsuits asserting claims on behalf of all purchasers of the washing machines could proceed on a class wide basis, even though it was not disputed that most of the washing machines never developed any mould problem.

Class action litigations are consistently being filed in the US on issues bordering on pharmaceutical liability and the recall of medical products. There is a constant rise in claims against pharmaceutical companies over the suspected links between talcum powder and ovarian cancer, as well as a potential source of asbestos. In 2016, juries awarded \$72 million, \$55 million and \$71 million, respectively in three separate cases, to plaintiffs in talcum powder cases tried in Missouri. From October 2016, there were believed to be around 1,700 similar lawsuits in state and federal courts.

For the European Union, there is also much advancement in class action litigation. The EU has also released new Directives which allow EU consumers to launch class actions against traders which are to take effect from June 2023. The EU's Representative Actions Directive (EU) 2020/1828 represents a major overhaul of the European class actions landscape, introducing mechanisms for group litigation in every one of the EU's 27 Member States, alongside a new cross-border mechanism for class actions. EU legislation numbering 66 which covers consumer rights, product liability and product safety, medical devices and medicinal products among others are the target of this new Directive. The losing party in these actions will be required to reimburse the winning party's costs; including legal fees. This is designed to act as a deterrent to abusive claims, however, individual consumers won't be ordered to pay costs, unless in exceptional circumstances they are found to have deliberately or negligently increased costs. The EU was reluctant to adopt an approach comparable to the class action system in the US, so recovery is limited to actual loss; not punitive damages, and actions will generally be brought by consumer rights organisations on an opt-in basis.

5. Conclusion

In Nigeria, one of the major reasons for the rise in the sale and distribution of substandard and defective goods is the lack of utilisation of resources by consumers; in the area of seeking redress, and also the lack of strong consumer active associations which can act on behalf of consumers in filing class action litigations. Also the issue of non-recognition of class action litigation under various high court rules of some states in Nigeria, and the limitation of subject matters in some other jurisdictions serve as an impediment to the development and pursuit of class action litigation in Nigeria.

Recommendations:

It is therefore recommended that;

- i. There is an urgent need for the total utilisation and application of class action litigation by Nigerian consumers through massive support from consumer rights associations as is shown in foreign jurisdictions such as the US.
- ii. While considering in totality class action litigation as it is being operated in foreign jurisdictions such as the US and the EU, one will find that there is a whole lot of lacunas as shown in the case law in Nigeria, as there exists little or no judicial interventions especially in product liability cases. This is a wake-up call for Nigerian judges to show judicial activism by encouraging filing of class actions especially for product liability cases.
- iii. While considering the multitude of unsatisfied customers and casualties that arise from consumption of defective food products and drugs, all these litigants could easily fit into the class action procedure if there were no limitations in our provisions. There is an urgent need to restructure the framework for class actions in Nigeria, as it is a viable means for citizens who have suffered wrongs at the hands of big product manufacturers to seek redress and obtain justice, this is ensure that consumers are granted adequate compensation for defective products at a less expense than raising individual claims which is more expensive.
- iv. Also, class action suits would make manufacturers of goods more accountable to their customers. Class action litigation has the high propensity to have the potential to reshape the Nigerian legal landscape by providing a mechanism for collective action against widespread injury due to the use of defective products. Therefore, there is a dire need to create the needed awareness, also States that restrict the subject matter from their high court rules need to make amendments to allow for filing of such cases in court, as class action litigation can become a powerful tool for seeking justice, promoting accountability, and safeguarding the rights and interests of the average Nigerian consumer.

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