

IN THE HIGH COURT OF LAGOS STATE

IN THE IKEJA JUDICIAL DIVISION

TODAY TUESDAY, 24TH DECEMBER, 2019

HOLDEN AT COURT 6, FAMILY AND PROBATE DIVISION

BEFORE THE HON. JUSTICE SBA CANDIDE- JOHNSON

SUIT NO: ID/6127GCM/2019

BETWEEN:

ADEBAYO AKINLADE

CLAIMANT

AND

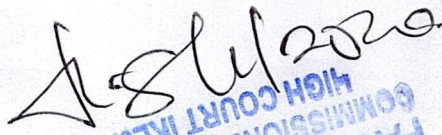
- 1. REGISTERED TRUSTEES OF
NIGERIAN BAR ASSOCIATION**
- 2. EZEKIEL OGBAIDE ESQ.**

DEFENDANTS

JUDGEMENT

This present litigated dispute involves a quarrel and controversy amongst Legal Practitioners at the highest echelon of Legal Professional governance. Unhappily it is not unusual and sometimes customary that at both the Branch and National NBA levels election related disputes (most often intractable) invariably fall to the Courts to resolve.

Contained in the NBA Constitution (Exhibit 8) one of its aims and objectives in Clause 3 (k) is "Promotion and Protection of the Principles


FASHOLA TAIRAT A
COMMISSIONER FOR OATHS
HIGH COURT IKEJA

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of the Rule of Law and respect for enforcement of Fundamental rights, Human rights and People's rights". So when as is happening in this suit, a Legal Practitioner, who is also an NBA Branch Chairman (Ikorodu Branch) asserts and contends against the NBA National that his Fundamental rights have been or are violated, it certainly is an important dispute. In effect, it is helpful to highlight from the start that this suit is a Fundamental rights matter instituted in furtherance of Section 36 CFRN 1999 (as amended) and Article 7 of the African Charter on Human and Peoples' Rights Act. My Ruling of 16/04/2019 issuing Interim Injunctive Reliefs and giving Directions relative to the disposal of this suit cursorily noted "that disputes involving Elections and voters mandate as arise here whether relating to political office or to instructions such as the NBA which is looked up to as a Guardian of the Rule of Law and Due Process calls for careful scrutiny and urgent disposal. In this suit inter-alia, constitutional Fair hearing in relation to an elected office and voters mandate is in issue".

There is a Jurisdictional challenge which will be duly attended to in due course, but the first port of call and foundational step is to identify the essence of Claimant's case and the substantive Reliefs sought: as hereinbelow:

1. **A DECLARATION** that the purported suspension of the Claimant as the Chairman of the Ikorodu Branch of the Nigerian Bar Association on March 28, 2019 by the NEC of the Nigerian Bar Association is illegal, null and void as it violates Sections 14 of the NBA Uniform Bye Laws, 2015.

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2. **A DECLARATION** that the purported suspension of the Claimant as the Chairman of the Ikorodu Branch of the Nigerian Bar Association on March 28, 2019 by the NEC of the Nigerian Bar Association is illegal, null and void as it violates Section 36 of the Constitution of the Federal Republic of Nigeria, 1999 as amended and Article 7 of the African Charter on Human and People's Right Act.
3. **A DECLARATION** that the purported suspension of the Claimant as member of NEC of NBA is illegal, null and void as it violates Section 36 of the Constitution of the Federal Republic of Nigeria, 1999 as amended and Article 7 of the African Charter on Human and People's Right Act.
4. **A DECLARATION** that the appointment of the 2nd Defendant as the Acting Chairman of the Ikorodu Branch of the Nigerian Bar Association by the 1st Defendant is illegal, null and void as it violates Section 17 of the Uniform Bye Laws of the Constitution of the Nigerian Bar Association.
5. **A DECLARATION** that the nullification of the Branch Elections conducted on the 15th March 2019 by the 1st Defendant is illegal, null and void as it violates Section 18(5) of the Uniform Bye Laws of the Constitution of the Nigeria Bar Association.
6. **AN ORDER** setting aside the purported suspension of the Claimant as the Chairman of the Ikorodu Branch of the Nigerian Bar Association forthwith.
7. **AN ORDER of PERPETUAL INJUNCTION** restraining the 2nd Defendant from acting and parading himself as the Acting Chairman

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of the Ikorodu Branch of the Nigerian Bar Association in any manner whatsoever and howsoever.

Before proceeding to the merits howsoever, it is in my considered view fair to note that this present intra-NBA conflict and litigation owes its immediate origin to a Petition dated 8/3/2019 (Exhibit 2) sent by the 2nd Defendant to the NBA.(National). Although the contents of the Letter Exhibit 2 are not determinative of the Fundamental Rights issues arising for determination, yet still, before proceeding I am persuaded of the need to attempt to immortalise in the bosom of case law and posterity this Petition as a tragic reflection in its absolute conflict with, for example, Clause 3 (F) (Aims & Objectives) of the NBA Constitution (Exhibit 8) which reads "maintenance of the highest Standards of Professional conduct; etiquette and discipline" As I read the letter I reflected on the reaction of perhaps The Law Society in England or the American Bar Association in America who would likely cringe at the choice and tone of language and the self-incriminating admissions/confessions of the 2nd Defendant in his Exhibit 2 Petition. I reproduce hereinbelow the entire letter for posterity and of course it will, subsequently, be the epicentre of the NBA's projected investigation of the relevant events surrounding the NBA Ikorodu Branch: Hereinbelow is Exhibit 2 as underlined by me for emphasis.

"EZEKIEL OGBAIDE & CO

(Legal Practitioners /Notary Public), 38

Lagos Road (By Unity Bank) Ikorodu -Lagos

Tel: 08034813015, 08058345969

Email: eogbaide@yahoo.com

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March 8, 2019

The General Secretary
Nigerian Bar Association
NBA House,
Plot 1101 Muhammadu Buhari Way,
Cadastral Zone AOO,
Central Area,
Abuja FCT, Nigeria.

Sir,

NIGERIAN BAR ASSOCIATION IKORODU BRANCH ELECTION 2018
IN RE: PROPOSED FRESH BYE ELECTION TO THE OFFICE OF THE
VICE CHAIRMAN.

I am EZEKIEL OGBAIDE ESQ. the current VICE CHAIRMAN of the
NBA IKORODU BRANCH.

I wish to bring to the notice of your exalted office the plans of the
BAYO AKINLADE led EXCO to conduct fresh Bye Election into the
office of the VICE CHAIRMAN for which I currently occupy.

The election that produced the current EXCO of Ikorodu Branch
was characterized by controversies orchestrated by the **two rival
factions of the Branch.** At the end of it all, the NBA National
had to intervene by constituting a Care Taker Committee to
conduct the election for the Branch and I was returned
unopposed as the Vice Chairman having disqualified Gloria
Cassius Esq. for conflict in the Affidavits purportedly sworn to by
members of her faction in relation to an alteration on her 2016

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Branch due receipt which was also the basis for her disqualification in 2016 Election where no Affidavit were exhibited. In fact, in the history of the Branch it is only this current EXCO that comprise of persons with sworn Affidavit for qualification to contest.

The immediate past Chairman, MR LEVI ADIKWAONE **after falling apart with our faction** that brought him to power unopposed, **crossed to the rival opposing faction on an SOS propaganda** of "they want to impeach me" constituted an Electoral Committee comprising members of their faction with whom he held clandestine nocturnal meetings aimed at installing BAYO AKINLADE and only members of their faction in the current EXCO which they eventually achieved **except myself who is on the opposing camp**. He encouraged other members of the faction to depose to Affidavits in 2018 to resurrect the forgone issue of the alteration on Gloria Cassius 2016 Branch due except (which was the basis for her disqualification in 2016) by claiming responsibility for the alteration and ensure the disqualification of all other formidable contestants to the office of the CHAIRMAN to pave way for the emergence of BAYO AKINLADE.

Immediately after the election, we attended the 2018 AGC at Abuja and BAYO AKINLADE encouraged members of his faction that supported his emergence but never registered for the Annual General Conference to attend the Conference at the expense of the Branch. I raised an objection to this when they were

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effectively bounced back at the entrance gate of the International Conference Centre (ICC) venue of the Annual Conference and BAYO AKINLADE vowed to ensure my removal from "HIS EXCO" which he had attempted severally. He has refused to print the Branch Letter headed paper with the names of the EXCO members because of me as confirmed in the recently published Newsletter of the Branch with my name conspicuously missing even when the proposed Election is yet to be conducted. Copy of the list of EXCO members as reflected in the Newsletter herein attached.

I was therefore not surprised when the **2nd Vice DR. FOLUKE DADA who was assigned to look into the NBA Ikorodu Election crisis took side and recommended that fresh Election be conducted** to the office of the Vice Chairman which I currently occupy as **it is an open secret** That BAYO AKINLADE, LEVI ADIKWAONE, JULIUS NNAMANI, GLORIA CASSIUS, **DR FOLUKE DADA and all others belong to the OBI OKAFOR CAMP** during the run off to the last NBA National Presidential Election.

We have moved on peacefully as a Branch since then and I have presided over our December 2018 monthly meeting in the stead of the Chairman during his absence in line with the Uniform Bye Law; Attached is a copy of the Minutes of the said December 2018 meeting.

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The issue however re-surfaced, when I queried the "two conflicting Branch Account" presented by the BAYO AKINLADE led Exco where he imported expenses incurred in early 2017 by his benefactor and predecessor MR. LEVEI ADIKWAONE to September 2018 expenditure and a claim of PR expenses to "process Government largesse of N5 Million" freely given to all Branches by the Lagos State Government which appeared in one of the Accounts, and disappeared in the other after the query.

Angered by my criticism, he hurriedly constituted a Branch Electoral Committee at our last monthly meeting of 4th March, 2019 with a mandate to conduct a Bye Election within 2 weeks through a show of hand by members **"contrary to the recommendation on the 2nd Vice President's report in this regard which is still awaiting the NBA President's action"** herein attached.

I call on your good office to intervene and correct this ugly situation and save our branch from unnecessary further crisis.

Yours faithfully,
Ezekiel Ogbaide Esq.
(signed)

Cc: (1) President NBA
(2) Secretary NBA Ikorodu Branch."

The substance of the 2nd Defendants complaint in Exhibit 2 is essentially at paragraphs 1 and 2 (supra) of page 1 of Exhibit 2 and

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particularly 2 of page 3 of Exhibit 2 which complains regarding the Claimant that

"he hurriedly constituted a Branch Electoral Committee at our last monthly meeting of 4th March 2019 with a mandate to conduct a Bye Election within 2 weeks through a show of hands by members "contrary to the recommendation on the 2nd Vice president's report in this regard which is still awaiting the NBA President's action" herein attached (underlining mine for emphasis)

One possible example of how brevity and etiquette would have sufficed in the formulation of 2nd Defendant's Exhibit 2 Petition is paragraph 4 of the 1st Defendant Statement of Defence which reads:

"The 1st Defendant in further answer to paragraphs 4 and 5 of the Statement of Claim avers that the Ikorodu Branch (the Branch) announced their intention to conduct a bye-election on Friday March 15, 2019 for the position of the vice Chairman without the full authorization of the National Secretariat.

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Everything else that needed to be said should have been presented to the NBA Investigation Committee else including 2nd Defendant smearing the name of Dr Foluke Dada the 2nd Vice President NBA National as biased ("took side" supra) and his confession that he is an active or fractious factional member of one of "the two rival factions of the Branch" do not demonstrate the maturity, moderation and circumspection requisite of an NBA leader. Indeed all the extravagant rhetoric in Exhibit 2 was unnecessary since as 2nd defendant admitted himself at page 2 of his Exhibit 2 the NBA National had already assigned its 2nd Vice President Dr Dada to look into the crisis at the Ikorodu Branch and she had indeed produced a Report for submission to NBA. With respect, I am unable, obiter dicta, to discern the "highest standard of professional conduct, etiquette and discipline" in Exhibit 2 qua clause 3(F) (supra) at the NBA Constitution (Exhibit 8):

In the final analysis, I leave it entirely to the NBA as an institution to determine whether the excessively formulated Exhibit 2 edifies and lends prestige or otherwise diminishes the corporate reputational image of the NBA and its Branch Structure. Now back to the merits of this suit.

ISSUES FOR DETERMINATION AS FORMULATED BY THE RESPECTIVE PARTIES

2ND DEFENDANT'S ISSUES

- i. As a Preliminary point whether this Honourable Court has the requisite Jurisdiction to determine the instant action.

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- ii. Whether the Claimant's right to fair hearing has been breached in light of the ample opportunities afforded him by the 1st Defendant to be heard in relation to his refusal to comply with the 1st Defendant's directive.
- iii. Whether on the facts and law the Claimant is entitled to the reliefs claimed.

1ST DEFENDANT'S ISSUES

- i. Preliminary Point, whether this Court has the Jurisdiction to entertain this suit being one for the enforcement of the Fundamental right which occurred in Abuja outside of its jurisdiction
- ii. Whether having regard to the evidence and pleadings of parties this Court ought not to dismiss this suit.

3RD DEFENDANT'S ISSUES

- i. Whether this Honourable Court has the Jurisdiction to determine this suit.
- ii. Whether the Claimants right to fair hearing was breached to entitle him to the grant of the Reliefs sought by him.

JURISDICTION

With respect to the issue of whether this Honourable Court has the Jurisdiction to determine this suit:

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1st Defendant has argued in paragraphs 5.7 and 5.89 of its Final Written Address thus:

"We submit that this Court lacks Jurisdiction to entertain the Suit as the alleged infraction of the Claimant's Fundamental Human Rights did not occur in Lagos State. Furthermore, the provisions of Section 46 of the Constitution of the Federal Republic of Nigeria (as amended) is instructive and unambiguous on the point. A party alleging breach or likelihood of breach of Fundamental Human Rights must institute same at the State High Court or Federal High Court within the state where the breach occurred or is likely to occur" and then referred this Court to TUKUR V. GOVERNMENT OF GONGOLA STATE (1988) LPELR-22 (SC). It went further to say that the State High Court, or High Court of Federal Capital Territory or the judicial Division of the Federal High Court must be the Court to entertain this matter.

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The 2nd Defendant also argued in paragraph 13 of his Final Written Address that: his objection is premised on the grounds that (a) the Claimant, in commencing this action before this Honourable Court, in Lagos State, regarding the alleged violation of a Fundamental Right, which occurred in the Federal Capital Territory, Abuja, is in violation of Section 46 of the Constitution and Order 2 Rule 1 of the Fundamental Rights Enforcement Procedure Rules, 2009 (the "FREPR Rules") and (b) the Claimant has failed to satisfy a condition precedent to bringing this action, having not first made a complaint to the Dispute Resolution Committee of the NBA.

In response on the issue of Jurisdiction on the first leg, Claimant in paragraphs 4.10 and 4.14 of his Final Written Address states as follows:

"since the decision of the 1st Defendant to suspend the Claimant as Chairman of Ikorodu Branch of NBA and as NEC member which took place at Abuja was to be carried out in the Ikorodu Branch of the NBA located in Lagos State, we submit that the filing of this suit in the Ikeja Judicial Division of the Lagos State High Court is in line with Section 46(1) of the Constitution"

"-----that the decision of the 1st Defendant to violate the fundamental right to fair hearing was taken in Abuja

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but it was meant to be effected in Ikorodu in Lagos State. In the Circumstance, the Claimant chose to secure the enforcement of his fundamental right to fair hearing at Lagos State High Court since his purported removal from office was to occur in Lagos State”

Claimant then referred this Court to the very instructive case of DR OLU ONAGORUWA V. HONOURABLE JUSTICE NWOKED (1982) 3 NWLR 547.

I hold that Claimant’s paragraph 4.10 and 4.14 (supra) is a complete answer to the Defendant’s objection on the issue of jurisdiction of this Court contended by the Defendants. I therefore hold that this Court has Jurisdiction to hear this matter.

On the issue that the Claimant failed to comply with the condition Precedent created by Section 16 of the NBA Constitution, having not first made a complaint to the Dispute Resolution Committee of the NBA hereinbelow are summaries of the arguments of both Counsel to the Defendants:

The 1st Defendant argued that the failure of the Claimant to comply with the provisions of Order II Rule (1) of the Fundamental Rights (Enforcement Procedure) Rules 2009 renders this suit filed by the Claimant a nullity.

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2nd Defendant argued that Section 16 of the NBA Constitution provides for a pre-condition before any suit can be filed by an aggrieved member of the Association to wit: the aggrieved member must have first made a complaint to the Dispute Resolution Committee of the 1st Defendant which shall consider and dispose of the complaint within 60 (sixty) days of receipt of the complaint. That before instituting the Suit the Claimant did not make a complaint to the Dispute Resolution Committee before instituting this instant action and as such has failed to comply with the condition precedent to instituting this instant action required by the NBA Constitution and then submitted that the Court lacks Jurisdiction to grant any reliefs sought by the Claimant. In response Claimant stated as follows:

5.01 It is submitted that Section 16 of the 2015 Constitution of the NBA, which the 2nd Defendant is relying on as the basis for ousting the jurisdiction of the Honourable Court is subject to the provisions of the 1999 Constitution of the Federal Republic of Nigeria (As Amended).

5.02 it is further submitted that the said Section 16 of the Constitution of the Nigeria Bar Association is a gross violation of Sections 1 (1), 3 and 6 (6) (b) of the 1999 Constitution of the Federal Republic of Nigeria (As Amended). Section 1 (1) and 3 of the 1999 Constitution of the Federal Republic of Nigeria is emphatic on the

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supremacy of the Constitution. Section 16 of the NBA Constitution, seeks to restrict, whittle down, or delay the rights of the Claimant, a citizen of Nigeria, his unhindered, unrestricted access to the Court to ventilate his grievance.

5.03 The Constitution of the Federal Republic of Nigeria, 1999 (As Amended) is the grund norm and no private persons or unions, which are permitted to exist by the Constitution, can validly wave, modify or redefine the provisions of the Constitution. We commend to the Honourable Court the case of **Efiok v. Government of Cross-River State** (2011) AFWLR (Pt. 593) 1999 where the Court held that an enactment will be said to infringe the provisions of Section 6 (6) (b) of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) if:

- (a) It provides for the sharing of judicial powers of the State with any other body other than the Court in which it is vested by the Constitution.
- (b) It purports to remove the judicial powers vested in the Court or to redefine it in a manner as to whittle it down or
- (c) It limits the extent of the power vested in the Court.

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5.04 It is humbly submitted that Section 16 NBA Constitution of 2015 which seeks to restrict, whittle down the right of a citizen of Nigeria his unhindered, unrestricted access to Court, because he is a member of the NBA, like the Claimant herein, is inconsistent with the provisions of the Constitution and therefore null and void to the extent of its inconsistency.

On the issue of Exhaustion of Domestic Remedies in fundamental rights cases Claimant responded thus:

"The Claimant has deposed to the fact that the Nigerian Bar Association has not constituted the Dispute Resolution Committee. To that extent the Claimant could not have referred any dispute to the non-existent Dispute Resolution Committee. Having not set up the Dispute Resolution Committee of the Nigerian Bar Association the 1st Defendant has made it impossible for aggrieved members to exhaust domestic remedies before initiating actions in a law Court. Even if the 1st Defendant has set up the Dispute Resolution Committee of the Nigerian Bar Association, it is submitted that the requirement of exhausting

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domestic remedies is inapplicable in fundamental rights cases. This principle was judicially recognised by the Supreme Court in ***Garba V. University of Maiduguri (1986) ANLR, 149 at 205.***

Claimant then submitted that the action is properly constituted as the High Court is the only forum that is competent to adjudicate on cases alleging the violation of fundamental rights by virtue of Section 46(1) of the Constitution. Since the Dispute Resolution Committee of the NBA lacks the competence to hear and determine allegations concerning human rights violations the Claimant could not have exhausted the internal remedies of the NBA. Therefore, Section 16 of the NBA Constitution cannot be invoked to oust the jurisdiction of this Honourable Court with respect to the enforcement of the fundamental right of the Claimant.

The cases of ***Garba V. University of Maiduguri*** (1986) ANLR, 149 at 205 and ***Adesina V. Unilorin*** (2009) ALL FWLR (PT 452) P. 1208 cited by Claimant are on point, but particularly so is the case of ***Prof. Abel Mac Diakparomre V. Dr Nasir Fagge & Anor*** (UNREPORTED SUIT NO: NICN/ABJ/44/2015) to the effect that where the Constitution itself, as in the case of Section 46, creates or donates a constitutional cause of action, then any statute or regulation such as the NBA Constitution that seeks to restrain, restrict or override such a constitutional cause of action is null and void to such extent. In effect, I hold that Section 16 of the NBA constitution is not and cannot be a

condition precedent to be fulfilled by the Claimant prior to the filing of this Fundamental Human Rights action brought pursuant to the special Constitutional Jurisdiction located in section 46 of the 1999 Constitution (as amended).

FUNDAMENTAL RIGHTS

Is there merit to the Claimant's Fundamental Right complaint? At trial the Claimant testified as CW1, tendered Exhibit 1 to 8 and was examined. Adedotun ADETUNJI Esq, practitioner and an Executive member of the NBA Ikorodu Branch testified as DW1 on behalf of the 1st Defendant and was Cross examined. The 2nd Defendant testified as DW2 and was cross examined.

I am going to strive for simplicity and the gruff point to note is that out of DW1 and DW2, only DW1 was present in Abuja on 28/03/2019 at the National Executive Council meeting of the 2nd Defendant relevant to this suit. DW2 the 2nd Defendant was not in attendance at Abuja and so really other than to confirm his petition dated 8/3/2019 (Exhibit 2) his 3rd Party testimony as to what transpired in Abuja is of no relevance or assistance and is quite simply hearsay as to whether the manner in which that event in Abuja was conducted . I hold therefore that to that extent DW2's evidence is not relevant to this suit. However, as I will expatiate later the singular relevance of DW2 is that he considers himself to still be the substantive Vice Chairman of the NBA Ikorodu Branch who transmuted or metamorphosed into the Acting Chairman of the NBA Ikorodu Branch owing to the events and outcome of 28/3/2019 at the 1st Defendant's Abuja NEC meeting challenged by the Claimant.

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This aspect only of his evidence is relevant to this suit as pleaded in paragraphs 3 and 13 of 2nd Defendant's Statement of Defence as follows

3. "the 2nd Defendant admits paragraph 3 of the Statement of Claim and states further that the 2nd Defendant is the current Vice Chairman (and , following the National Executive Council (NEC) MEETING OF 28 March 2019, also the acting Chairman) of the Ikorodu Branch of the Nigerian Bar Association (NBA)

13. The 2nd Defendant denies paragraphs 16 and 17 of the Statement of Claim and states also, that contrary to the averments contained therein, that the Claimant was formally notified on 2 April 2019 of his suspension by NEC. The 2nd Defendant further states that the bye-election held on 14 March 2019 is null and void, and the 2nd Defendant remains the duly elected Vice Chairman (and Acting Chairman) of the Ikorodu Branch of the NBA.

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Next is DW1, AdedotunAdetunjiEsq. He was in attendance in Abuja and, as with CW1 and DW2, I am really not interested in evaluating their respective testimonies to ascertain who is truthful or credible or otherwise. This Court is not responsible for determining the merits of the 2nd Defendants Exhibit 2 Petition. That responsibility is for the NBA National. What is therefore pertinent to this Fundamental Rights dispute is the Certified Minutes of the meeting of the 1st Defendant's 28/03/2019 NEC Meeting which was never produced in this Court (despite a promise or undertaking to do so by 1st Defendant's Counsel).

Aside from Dw1's Evidence which suggests an uneasy relationship between himself and the Claimant in their interactions at the NBA IKORODU Branch and the variety of accusations DW1 uttered against CW1 during cross examination. I am obliged to hold that DW1's oral testimony cannot be a substitute whatsoever for the documentary Minutes of the 28/3/2019 Abuja NEC meeting. The absence of that document is fatal to the case of the 1st and 2nd Defendants especially the 1st Defendant. Indeed, one must wonder why the NBA General Secretary JonathanGunuTaidi Esq who authored Exhibits 1 and 5 and is the addressee of Exhibit 2 absented himself as a central and critical witness in this suit and instead seconded his responsibility to the truth and justice of this suit to AdedotunAdetunjiEsq. These omissions or strategy fundamentally impact adversely the case of the 1st Defendant and consequentially the 2nd Defendant.

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I am in no doubt that the evidential burden has shifted to the 1st Defendant to demonstrate that transparent due process and fair hearing were deployed by the 1st Defendant in their handling of the Claimant on 28/3/2019 at the Abuja NEC. It is the NBA official Minutes of Meeting of 28/03/2019 that would have done the job and discharged that burden of proof resting on the 1st Defendant's shoulder. But 1st Defendant elected, refused and/or declined to produce it.

Let me also reproduce paragraph 9 and 12 of the 1st Defendant's Statement of Defence below. Paragraph 9 appear to admit that the Claimant's letter of Defence dated 19/3/2019 came too late to be circulated to the NEC members thereby admitting an absence of fair hearing whilst paragraph 10 is contradictory in yet still contending that "Claimant was given adequate opportunity to defend himself at the meeting". How exactly would Claimant have defended himself when his letter of Defence dated 19/3/2019 was not even circulated and therefore not read or available? Hereinbelow is the very self-explanatory paragraph 9 and 10 of the Statement of Defence of 1st Defendant:

9. The 1st Defendant further to paragraph 8 above denies paragraph 12 of the Statement of Claim and avers that the Claimant's letter dated 19th March, 2019 was submitted late after the report had already been

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prepared and circulated to members of the National Executive Council.

10. The 1st Defendant denies paragraph 12, 13 and 14 of the Statement of Claim and avers that the Claimant was given adequate opportunity to defend himself at the meeting in paragraph 9 above but he refused to respond despite the fact that his attention was called to the report and the several allegations against him.

Section 167 Evidence Act 2011 deals with the power of a Court to presume the existence of certain facts and section 167 (d) thereof reads:

167. The Court may presume the existence of any fact which it deems likely to have happened, regards shall be had to the common course of natural events, human conduct and public and private business, in their relationship to the facts of the particular case, and in particular the Court may presume that-

d. evidence which could be and is not produced would, if produced, be

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unfavourable to the person who withholds it; and

I therefore hold that the fundamental withholding and/or failure to produce the NBA NEC Minutes of 28/3/2019 held in Abuja which could have been produced but was not produced would if produced be unfavourable to the 1st Defendant who has withheld the document

On all of the foregoing I am satisfied that the Fundamental Rights of the Claimant for a Fair Hearing was violated by the 1st Defendant and the Claimant is entitled to judicial reliefs from this Court as follows:

1. **A DECLARATION** that the purported suspension of the Claimant as the Chairman of the Ikorodu Branch of the Nigerian Bar Association on March 28, 2019 by the NEC of the Nigerian Bar Association is illegal, null and void
2. **A DECLARATION** that the purported suspension of the Claimant as the Chairman of the Ikorodu Branch of the Nigerian Bar Association on March 28, 2019 by the NEC of the Nigerian Bar Association is illegal, null and void as it violates Section 36 of the Constitution of the Federal Republic of Nigeria, 1999 as amended and Article 7 of the African Charter on Human and People's Right Act.
3. **A DECLARATION** that the purported suspension of the Claimant as member of NEC of NBA is illegal, null and void as it violates Section 36 of the Constitution of the Federal Republic of Nigeria,

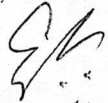
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1999(as amended) and Article 7 of the African Charter on Human and People's Right Act.

4. **A DECLARATION** that the appointment of the 2nd Defendant as the Acting Chairman of the Ikorodu Branch of the Nigerian Bar Association by the 1st Defendant is illegal, null and void .
5. **A DECLARATION** that the nullification by the 1st Defendant of the Branch Election conducted on the 15th March 2019 is illegal, null and void.
6. **AN ORDER** setting aside forthwith the purported suspension of the Claimant as the Chairman of the Ikorodu Branch of the Nigerian Bar Association forthwith.
7. **AN ORDER of PERPETUAL INJUNCTION** restraining the 2nd Defendant from acting and parading himself as the Acting Chairman of the Ikorodu Branch of the Nigerian Bar Association in any manner whatsoever and howsoever.

This is the Judgement of the Court.



HON. JUSTICE SBA CANDIDE-JOHNSON

COUNSEL

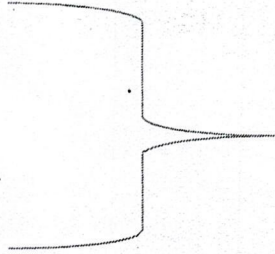
FEMI FALANA (SAN)
WITH HIM
S.O.K. SHILLINGS, ADETUNJI ONI,
GLORIA CASSIUS, LEVI ADIKWAONE
MARK OKORAFOR, OLABIMPE BAMIDELE,
CHRISTIANA ELEKUACHI,
OLADAPO AKODU,
MATTHEW AKPAN, EBUKA NNAMANI,
OLAWUNMI ADEOLA, OLUWASEUN AKA

FOR CLAIMANT

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OLANIRAN OBELE
WITH HIM
MOBISOLA ODIMEGWU
DAMILOLA ODUMOSU
VICTOR KUFORJI.



FOR 1ST DEFENDANT

CHUKWUKA IKWUAZOM
WITH HIM
I.O OMOTOLA
OLADIMEJI OJO
LOLADE TIJANI



FOR 2ND DEFENDANT

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