

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
HOLDEN AT ABUJA

ON TUESDAY 28TH DAY OF JANUARY 2020

BEFORE HIS LORDSHIP: HON JUSTICE O. A. ADENIYI

SITTING AT COURT NO. 14 APO – ABUJA

SUIT NO: FCT/FT/CV/20/2016

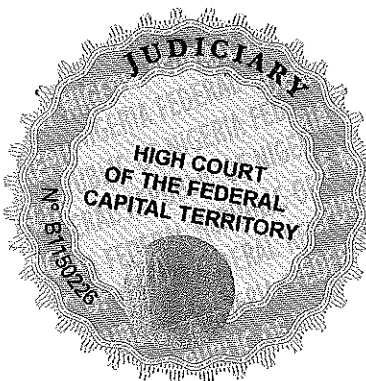
BETWEEN:

ARTHUR OBI OKAFOR, SAN CLAIMANT

AND

- | | | |
|--|---|------------|
| 1. INCORPORATED TRUSTEES OF THE NIGERIAN
BAR ASSOCIATION (NBA) | } | DEFENDANTS |
| 2. MR. ABUBAKAR BALARABE MAHMOUD, SAN
(President, Nigerian Bar Association) | | |
| 3. PROF. AUWALU YADUDU
(Chairman, Electoral Committee, NBA [ECNBA]
For himself and other members of ECNBA) | | |
| 4. MR. PAUL USORO, SAN | | |
| 5. PROF. ERNEST OJUKWU, SAN | | |
| 6. CRENET TECHLABS LIMITED | | |
| 7. CHAMS PLC & 30 OTHERS | | |

JUDGMENT



Fee - #500
Seal - #200
D/N - 211688400
Date - 30/01/20

FEDERAL REPUBLIC OF NIG.
F.C.T JUDICIARY

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NAME
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At the time material to this suit, the Claimant is a registered member of the Nigerian Bar Association (**NBA**); a Senior Advocate of Nigeria; member, National Executive Committee of the **NBA** and Chairman, Administration of Criminal Justice Committee of the **NBA**. Having been cleared by the Electoral Committee of the NBA (**ECNBA**), he contested for the office of the President of the Nigerian Bar Association (**NBA**) at the National Officers' Elections conducted by the 2nd and 7th Defendants from the 18th – 20th August, 2018.

As it turned out, the 3rd Defendant, Chairman of the Electoral Committee of the NBA (**ECNBA**), declared the 4th Defendant as the winner of the election to the office of the President of the **NBA** having polled a total number of **4509**

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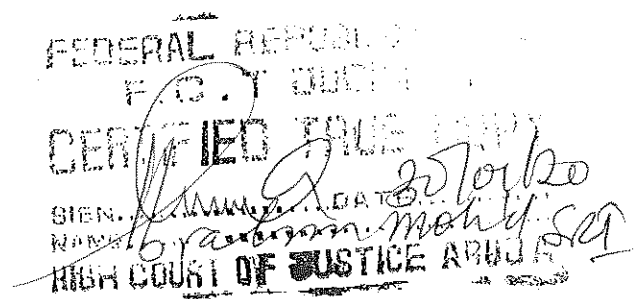
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votes; whilst the Claimant was declared as runner-up at the election with a total number of **4423 votes**.

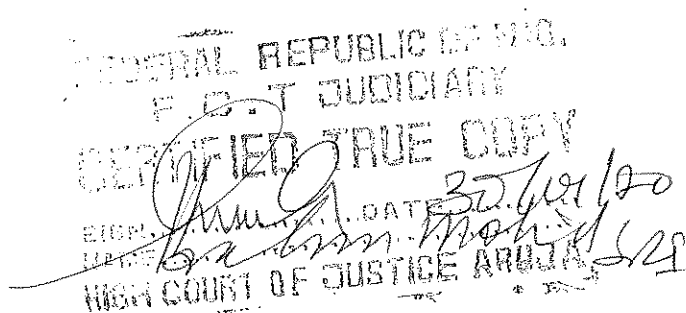
The Claimant was aggrieved and dissatisfied with the conduct and outcome of the elections, on the principal ground that the 3rd Defendant failed and omitted to conduct post-election audit/and or verification of votes as agreed to by all stakeholders in pursuance of the **NBA Constitution** and as announced in a Press Statement issued by the 2nd Defendant, on 21/07/2018. The Claimant's subsequent protests to the 2nd Defendant; calling for a post-election audit; was not heeded.

As a result, the Claimant took out the instant action, *vide* Originating Summons, filed in this Court on 29/08/2018, and subsequently amended by order of Court of 13/11/2018; and by Amended Originating Summons filed



On 13/11/2018, the Claimant sought the determination of the questions set out as follows:

1. *Whether in the face of the exhibits A, B, C, D, F, G, G1 and H, it is right for the 3rd Defendant (ECNBA) to have announced the purported result of the election for the 2018 National Officers of the NBA (for the opposed or contested positions) without verification of the votes cast at the said election and without instituting a post-election audit of the electoral processes leading to the said election?*
2. *Whether it was right for the 3rd Defendant (the ECNBA) to announce the purported result of the election and to issue certificate of return to the 4th Defendant without first conducting a post-election audit and/or verification of votes?*



3. *Whether in the face of the exhibits A, B, C, D, F, G, G1 and H, it is right and proper for this Honourable Court to make an order directing the institution of participatory, independent post-election audit of the electoral processes (for the contested positions) for the 2018 National Officers' election of the NBA?*
4. *Whether it is right for the Honourable Court to direct that the outcome of the participatory, independent post election audit and/or verification of votes (for the contested positions) should validate or invalidate the aforesaid purported result declared by the 3rd Defendant (the ECNBA) and all acts predicated thereon?*

Upon the determination of these questions, the Claimant sought the reliefs further set out as follows:

1. *A declaration that there are three stages of the Election process for the 2018 National officers election of the*

Nigerian Bar Association which include verification, accreditation/voting and post election audit and/or verification of votes.

2. A declaration that the 2018 NBA National Officers election (for the contested positions) remains inchoate and inconclusive until the votes cast in the election are verified and/or post election audit conducted.

3. A declaration that the unopposed or uncontested positions in the NBA 2018 National Officers election are not subject to verification of votes or post election audit before their results could be lawfully announced.

4. A declaration that the 1st, 2nd and 3rd Defendants were bound to have conducted a post election audit and/or verification of votes cast for the 2018 NBA National Officers Election (in respect of contested positions or offices) in accordance with exhibits A, B and C hereto

attached before the announcement of the purported result and all acts predicated thereon.

- 5. A declaration that the failure of the 3rd Defendant (the ECNBA) to conduct an all candidates participatory post election audit and/or verification of votes (for the contested positions) before the issuance of certificate of return to the 4th Defendant and all acts predicated thereon null, void and of no effect whatsoever.*
- 6. An Order of the Honourable court setting aside the announcement of the purported results, the issuance of Certificate of Return to the 4th Defendant and all acts predicated thereon as being null, void and of no effect whatsoever.*
- 7. An Order of the Honourable Court directing an independent participatory post election audit and/or*

verification of votes (for the contested positions) to be conducted to audit the election process culminating in the purported result announced by the 3rd Defendant (ECNBA).

8. An Order of the Honourable Court appointing either Price Waterhouse Coopers of Landmark House, Water Corporation Drive, Oniru, Lagos State or Akintola Williams & Deloitte of Ikorodu Road, Obanikoro, Lagos State being internationally acclaimed forensic audit firms respectively or any other audit firm of similar status to conduct a verification of votes and to audit the election process (for the contested positions) leading to the purported results announced by the 3rd Defendant (ECNBA).

9. An Order of the Honourable Court directing either the members of the National Officers returned unopposed i.e. 8th Defendant, 13th Defendant and 33rd Defendant or the present members of the Board of Trustees of the 1st

Defendant namely Abdullahi Ibrahim, SAN, OFR; Chief Wole Olanipekun, SAN; Thompson Joseph Onomigho Okpoko, SAN; Chief Mrs. Priscilla Kuye, Chief Anthony Mogbo, SAN; and Alhaji Murtala Aminu, OFR, to supervise and/or give effect to the outcome of the verification votes and/or post-election audit.

10. *An injunction restraining the 4th Defendant from acting, or continuing to act, or in any manner whatsoever holding himself out as duly elected President of the Nigerian Bar Association unless and until the outcome of the verification of votes and the post-election audit discloses him as the winner of the election for the office of the President of the Nigerian Bar Association.*

As borne by the records only the 4th, 6th, 24th – 30th; and 31st – 37th Defendants responded to the Claimant's action. Apart from the 24th – 30th Defendants, the other three sets

of Defendants filed motion/Notice of Preliminary Objection, as the case may be, seeking to interlocutorily terminate the action.

All these interlocutory applications together with the substantive suit were heard together on 28/10/2019.

Before proceeding, it should be placed on record that this Court, in the course of proceedings, enjoined and compelled parties, pursuant to the provisions of **Order 19** of the **Rules** of Court, to settle this suit amicably by exploring the alternative dispute resolution mechanism put in place by the Court. As a result, at the proceedings of 23/11/2018, the Court ordered parties to proceed to the Abuja Multidoor Court House (**AMDC**), to undertake the dispute resolution proceedings for a period of **sixty (60) days**; and subsequently extended for another period of **forty-five**

(45) days. It turned out that the settlement initiative was futile as parties failed to embrace reconciliation as encouraged by the Court. As a result the Court proceeded with the hearing of the suit.

ON 4TH DEFENDANT'S NOTICE OF PRELIMINARY OBJECTION

The 4th Defendant's Notice of Preliminary Objection was filed on 10/06/2019, by which he contended that the suit is incompetent, defective, academic in nature and constitutes an abuse of court process, thereby robbing the Court of jurisdiction to entertain the same. The 4th Defendant's objection to the suit is predicated on the principal grounds, distilled from the notice of objection, as follows:

1. That the Claimant, on Monday, 20/08/2018, through the head of his election team, **Mr. Olumuyiwa Olowokure**, communicated his withdrawal from the election to the 3rd Defendant; and therefore lacked *locus standi* to institute the action.
2. That the Claimant filed his Amended Originating Summons on 13/11/2018 without an accompanying affidavit as required by the **Rules** of Court.
3. That Originating Summons is not the proper mode of commencing the instant suit in which the Claimant had alleged electoral fraud.

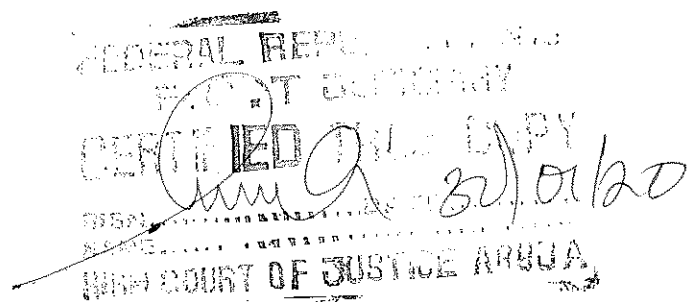
4. That the suit is premature in that the Claimant failed to explore the internal dispute resolution mechanism provided by the NBA, before filing the instant suit.

The Court has proceeded to carefully consider the totality of the affidavit evidence filed and exchanged by the 4th Defendant and the Claimant with respect to the instant objection. The Court has also carefully considered the totality of legal arguments canvassed by either side in the written addresses filed by their respective learned senior counsel alongside their affidavits.

With respect to ground one of the objection, the arguments of the Claimant's learned senior counsel represents the correct and trite legal position, which is that the facts the Court must consider in determining whether or not a party

has *locus standi* to institute an action are those pleaded in the Statement of Claim (in the instant case – the Affidavit in support of the Amended Originating Summons) and nowhere else.

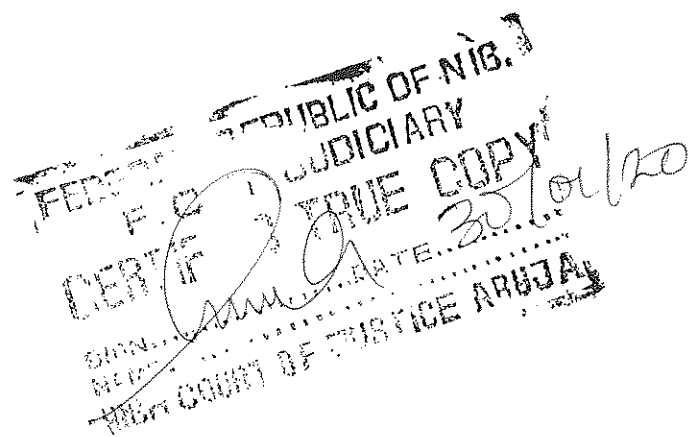
In the instant objection, it is noted that the document relied upon by the 4th Defendant to contend that the Claimant had withdrawn from the election is attached to the Affidavit filed to support the notice of objection. It is an electronic mail purportedly issued by one **O. O. Olowokure** on behalf of **Arthur Obi Okafor, SAN**, and sent to the **Chairman, ECNBA**, on Monday, August 20, 2018, wherein it is stated, *inter alia*, that “*having reviewed the events leading up to and during the election, Arthur Obi Okafor states categorically that he withdraws from this election and cannot accept the outcome of the result.*”



On the contrary however, this is not the case made out by the Claimant in the Affidavit filed to support his Amended Originating Summons. The Claimant, in paragraph 4 of the Affidavit filed to support his Amended Originating Summons, deposed as follows:

“4. I stood for the election with two other candidates namely: Prof. Ernest Ojukwu (SAN) and Paul Usoro (SAN).”

Nowhere in the entirety of the Claimant's claim did he contend that he withdrew from the election. The position of the law is further that a defendant who challenges *in limine* the *locus standi* of the claimant is deemed to accept as correct all the averments in the claimant's statement of claim (in this case – Affidavit in support of the Amended



Originating Summons). See Ajilowura Vs. Disu [2006] All FWLR (Pt. 333) 1613 @ 1638.

This being the case, the Court cannot, in the circumstances, countenance facts relied upon by the 4th Defendant to contend that the Claimant lacked *locus standi* to have instituted the action; in that he had purportedly withdrawn from the election; since the Claimant did not by himself make that case in this action.

Without any further ado, the Court must hold that the first ground of objection is without merit and it is accordingly overruled.

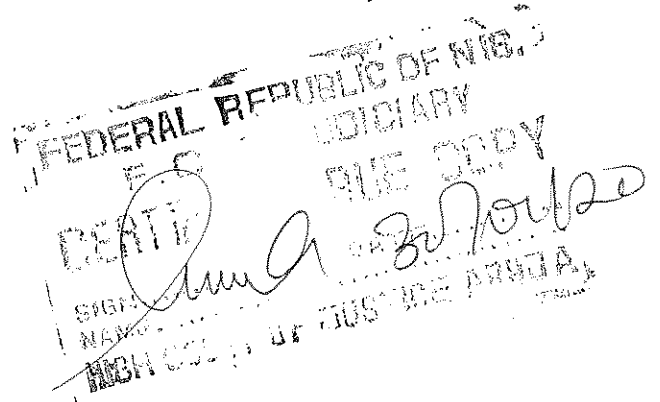
Ground two of the objection which challenges the competence of the Originating Summons in that the Amended Originating Summons filed by the Claimant was not accompanied by an Affidavit; apparently is overtaken

by events in that the issue had been adequately dealt with in the course of trial. Indeed the Claimant filed an Affidavit to support the Amended Originating Summons on 04/06/2019, subsequent to the date the Amended Originating Summons was filed. Nevertheless, the 4th Defendant had joined issues with the Claimant by filing a Counter Affidavit thereto on 10/06/2019, thereby waiving his right to challenge the irregularity. As such, the issue has become otiose and academic. That ground of objection is accordingly overruled.

With respect to ground three of the objection, the 4th Defendant contended, relying on the document attached as **Exhibit E** to the Affidavit in support of the Amended Originating Summons, that the Claimant had alleged fraud against the Defendants and yet commenced the suit by way

of Originating Summons contrary to the provisions of **Order 2 Rule 2(1)(b)** of the **Rules** of this Court which requires a party alleging fraud in an action to commence the action by way of Writ of Summons.

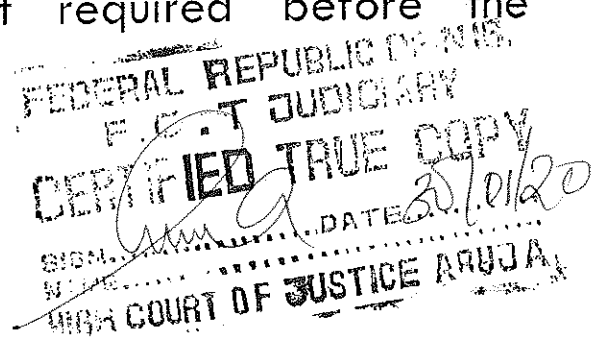
I had examined the questions sought to be determined by the instant Amended Originating Summons, the reliefs sought as well as the totality of the depositions in the Affidavit filed to support the action. Nowhere did the Claimant categorically allege electoral fraud against any of the Defendants. His case is very simple and straightforward. According to him, the 3rd Defendant missed out one of the crucial stages in the laid down processes with respect to the conduct of the elections and now requires order of Court to compel compliance with the third ambit of the process.



which, according to him, relates to verification/auditing of votes cast at the election.

I agree with the submissions of the Claimant's learned senior counsel that the said document, **Exhibit E**, attached to the Affidavit in support of the Amended Originating Summons, does not allege fraud and does not encapsulate the claim of the Claimant before the Court. According to learned senior counsel, the document is attached merely to support the Claimant's contention that he has a basis to file the instant action.

Again, examining the questions sought to be determined at trial, it is seen that **Exhibit E** is not part of the documents the Claimant made reference to or pinpointed in asking the Court to make a determination whether or not post election audit of the processes is not required before the



announcement of results of the election. None of the parties have denied the existence of the documents the Claimant had asked the Court to look at and interpret in relation to his claims, including the **NBA Constitution**. It is therefore seen that the case of the Claimant is not factually contentious, as it were.

Again, the view of the Court is that the Claimant shall succeed or fail on the basis of the facts he has presented to support his claim. It is therefore unnecessary to introduce into the suit, controversies or complications that do not exist or which are merely superficial or unsubstantial. The overall consideration, in the Court's view, is for the Court to ensure, within the confines of the case made out by the Claimant, that the Defendants are not denied the opportunity or constrained or restrained, as a result of the procedure the

Claimant has adopted to commence the action, to adequately defend the suit. In other words, once the Court comes to the conclusion that justice could be done to the parties on the basis of the facts presented before it in an action commenced by Originating Summons, it should not decline to hear the suit under that procedure, since, one of the attractions in commencing a suit by Originating Summons is that it makes for quicker and simpler adjudication.

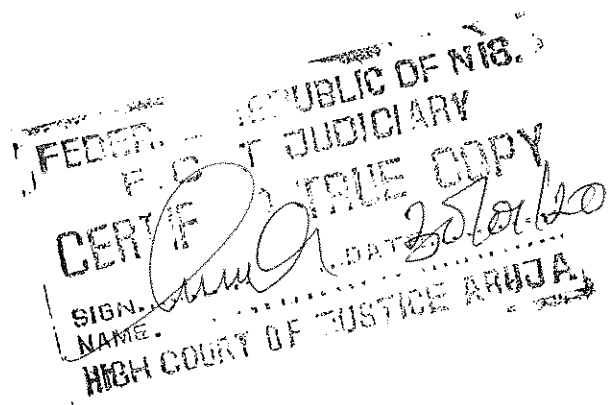
In Pam Vs. Mohammed [2008] 40 WRN 67 @ 147, the Supreme Court, per **Tobi, JSC** (of very blessed memory) elucidated on the issue at stake in the following pronouncement:

"It is not the law that once there is dispute on facts, the matter should be commenced by writ of summons. No!

That is not the law. The law is that the dispute on facts must be substantial, material, affecting the live issues in the matter. Where disputes are peripheral, not material to the live issues, an action can be sustained by originating summons. After all, there can hardly be a case without facts. Facts make a case and it is the dispute in the facts that give rise to litigation.”

Without any further ado, this Court holds that the present action was properly commenced by Originating Summons and is thus competent to be determined on that platform. Accordingly, the Court hereby overrules ground three of the objection.

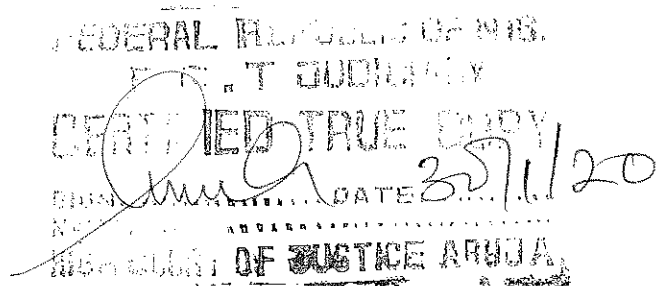
Ground four of the objections contends that the action is premature in that the Claimant failed to explore the internal dispute resolution mechanism put in place by the



provision of **section 16** of the **NBA Constitution, 2015**, before rushing to file the instant suit in Court.

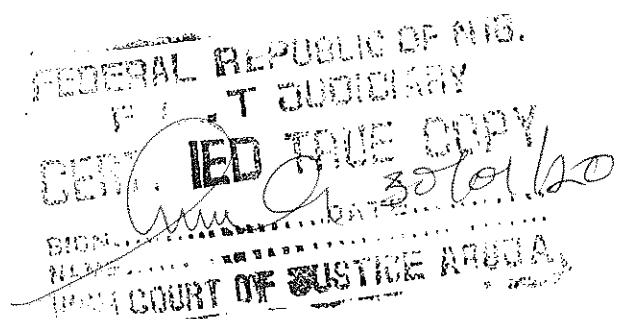
The 4th Defendant's learned senior counsel made reference to **section 16** of the **Constitution** of the **NBA** which provides that no aggrieved member shall resort to the Court unless his/her complaint must have been considered and disposed of by the **Dispute Resolution Committee** within **60 days** of such complaint.

It is further submitted by the 4th Defendant's learned senior counsel that the Claimant failed to place any materials before the Court to show that he explored or exhausted the internal dispute settlement mechanism of the Association before commencing the action; and he relied on a number of authorities to support the contention that a party who failed to exhaust the internal remedies available to him has



failed to satisfy the preconditions to the institution of the action. See Madukolu Vs. Nkemdilim [1962] 1 ALL NLR 587; Fagbemi Vs. Omonigbehin [2012] LPELR-15359(CA); Owoseni Vs. Faloye [2005] LPELR-2856(SC).

In response, the Claimant's learned senior counsel submitted that there was no **Dispute Resolution Committee** of the **NBA** in place throughout the tenure of the 2nd Defendant as the President of the Association; that the Claimant, desirous of having his grievances looked into by the **NBA**, communicated same to the 2nd Defendant vide document attached as **Exhibit G** to the Affidavit in support of the Amended Originating Summons; that the 2nd Defendant acknowledged receipt of the said communication vide **Exhibit G1**, wherein he agreed that the Claimant's demand for post-election audit was legitimate; but rather than



setting up a **Dispute Resolution Committee** to look into the Claimant's complaints; informed the Claimant that he would refer his complaints to the 3rd Defendant; and that nothing was done thereafter.

Even though it is to be pointed out that nowhere in the Affidavit in support of the Amended Originating Summons does the Claimant depose that there was no **Dispute Resolution Committee** of the **NBA** throughout the tenure of the 2nd Defendant as President of the Association, the Claimant's learned senior counsel is correct in noting that the issue raised herein was comprehensively dealt with by this Court in a similar suit filed in 2016 to challenge the outcome of the election of the National Officers of the NBA, where a similar ground of objection was raised; referring

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to suit No. FCT/HC/CV/2364/16 – Joe-Kyari Gadzama, SAN, OFR Vs. Alhaji Abdullahi Ibrahim, SAN, CON & Ors.

In that action, an objection was raised to the Claimant's suit on the similar ground as in the instant case that he failed to first explore the dispute resolution mechanism put in place pursuant to the provision of **section 16** of the **NBA Constitution** before heading to file the suit. In a considered Ruling delivered by this Court on 08/08/2017, the objection was dismissed. I permit myself to make reference to a portion of the Ruling of this Court in that case, as relevant to the issue at hand, where this Court held as follows:

“Lastly, on this point of objection, it is necessary to make the point, which was also properly made by the Plaintiff's learned senior counsel, that the Constitution of the NBA,

is not a statutory provision. As such, the pre-condition to access to Court in section 16 thereof cannot be viewed with the rigidity in which ouster provisions contained in body of statutes or the Constitution are construed. Furthermore, the position is that Courts guard their jurisdictions jealously by strictly and cautiously scrutinizing the language of the ouster provision and resolving any ambiguity in favour of the Plaintiff whose access to the Court is being ousted or curtailed. See Inakoju Vs. Adeleke [2007] 4 NWLR (Pt. 1025) 423, Ajayi Vs. Military Administrator, Ondo State [1997] 5 NWLR (Pt. 504) 237; N.E.C. Vs. Nzeribe [1991] 5 NWLR (Pt. 192) 458.

The provision of section 16 of the Constitution of the NBA in question states as follows:

“No aggrieved member shall resort to the Court unless his/her complaint must have been considered

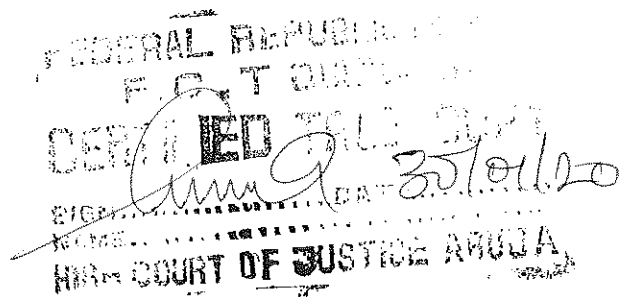
and disposed off by the Dispute Resolution Committee; provided that such complaint of member shall be decided by the Committee within sixty (60) days of receipt of complaint."

In my considered estimation, it could not have been contemplated that a provision of the NBA Constitution scanty worded or indeed the Dispute Resolution Committee expected to be set up pursuant thereto, can effectively deal with very sensitive and fundamental matters such as alleged violation of provisions of the Association's Constitution regarding the conduct of elections into the office of the President of the NBA. In my view, it will tantamount to asking an electoral body that conducted an election that is sought to be questioned, to now be the very body that will mediate disputes arising from the election.

In such a circumstance, it is my firm view that the right of an aggrieved person, such as a candidate that participated in an election of such magnitude cannot be fettered in ventilating his grievances in Court, by an ouster provision that does not specify the nature or extent of complaints to which the provision applies. ...

The Supreme Court, in Amadi Vs. N.N.P.C. [2000] 10 NWLR (Pt. 674) 76, held as follows:

"Regulations of the right to access to the court abound in the rules of procedure and are legitimate. It seems to be accepted that where an enactment regulates the right of access to the court in a manner to constitute an improper obstacle to access to court, such enactment could be appropriately regarded as an infringement of section 36(1) rather than an infringement of section 6 of the Constitution"



See also Global Excellence Comm. Ltd. Vs. Duke [2007]

16 NWLR (Pt. 1059) 22.

My view is that in the peculiar circumstances of the present case, the provision of section 16 of the NBA Constitution is an improper obstacle in the way of the Plaintiff in ventilating his grievances before this Court, as such this Court is bound to and hereby invokes its powers under the Constitution, vide section 6 (6) (b) thereof, in affirming the competence of the present suit and the jurisdiction of the Court to entertain the same."

I here again adopt the reasoning and views expressed by this Court in that case (which remains good law until upturned on appeal) in holding that non-compliance with the provision of a scantily drafted **section 16** of the **NBA Constitution, 2015**, by the Claimant, by no means

constitutes any barrier for him to proceed to institute the instant suit.

With the failure of ground four of the objection, the result is that the totality of the preliminary objection filed by the 4th Defendant against the instant suit fails and is accordingly dismissed.

ON THE 6TH DEFENDANT'S MOTION ON NOTICE TO STRIKE OUT HER NAME FROM THE SUIT

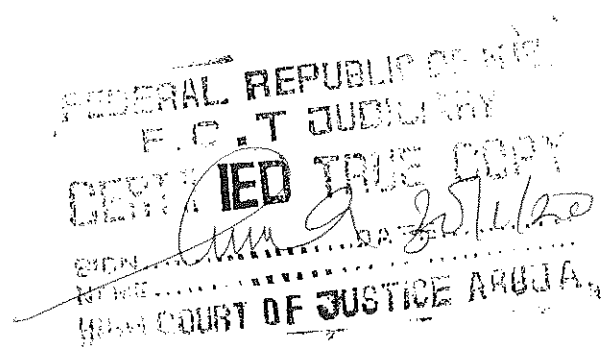
The 6th Defendant rightly filed the instant application on 01/07/2019, seeking order of Court to strike out her name from the instant suit on the ground that it discloses no cause of action against her.

At the hearing of the application, the Claimant's learned senior counsel conceded that indeed the Claimant made out

no cause of action against the 6th Defendant and on that ground did not oppose the application.

The Court has examined the totality of the questions for determination, the reliefs claimed and the depositions in the affidavit in support of the Amended Originating Summons. Nowhere in the entirety of these originating processes is the name of the 6th Defendant mentioned, apart from listing her as one of the defendants in the suit. One is therefore at a loss as to how her name crept into the action in the first instance.

Without any much ado, I hereby grant the 6th Defendant's application and her name is accordingly struck out as a party in the action. Consequently, the erstwhile 7th – 37th Defendants are hereby accordingly renumbered as the 6th – 36th Defendants.



31ST – 37TH DEFENDANTS' (30TH – 36TH DEFENDANTS)

MOTION ON NOTICE

The 30th – 36th Defendants have also challenged the Claimant's suit, by motion on notice filed on 01/07/2019, seeking to strike out their names from the action on the grounds, *inter alia*, that the Claimant made out no cause of action against them.

It is trite, in simple terms, that in order for a suit to disclose reasonable cause of action against a defendant, the claim must clearly set out the wrongful act of the defendant, founded in law, for which relief is sought against him.

In another sense, a contention that a claimant's suit discloses no cause of action postulates that there is nothing in the Statement of Claim (or Affidavit in support of Originating Summons as the case may be) that is fit for the adverse

party to respond to and for the Court to adjudicate upon.

See Henry Stephens Engineering Limited Vs. S. A. Yakubu Nigeria Limited [2009] 10 NWLR (Pt. 1149) 416.

Now in the present case it is deposed on behalf of the Applicants in paragraph 5 of the Affidavit in support of the present application as follows:

“5. That I know as a fact that the Claimant did not state in this suit that our clients (or any of them) wronged him in any way.”

In response, the Claimant, in paragraph 7 of his Counter Affidavit filed on 06/09/2019, deposed as follows:

“7. Paragraphs 3 and 5 of the affidavit are not denied.”

The simple implication of these depositions is that the Claimant has clearly conceded that he has no cause of

action against the 30th – 36th Defendants fit for this Court to adjudicate upon.

That aside, the Court has gone a step further to examine the questions set down for determination in this suit, the reliefs sought and the totality of the facts deposed in the Affidavit filed to support the Amended Originating Summons. Other than stating that the 30th – 36th Defendants contested for certain National offices of the NBA or returned unopposed as the case may be, at the questioned elections, the Claimant alleged no grievances against them whatsoever. In the circumstances, there is therefore no legal basis upon which the Applicants were joined as parties to this action.

Without any further ado, this ground of the application must succeed and consequently the erstwhile 31st – 37th

Defendants (now 30th – 36th Defendants) are struck out as defendants in the instant action.

Perhaps it is pertinent to restate in passing, the trite position of the law that no cause or matter shall be defeated by reasons of misjoinder/wrong joinder of parties and that the Court is entitled to deal with the matter in controversy so far as regards the right and interest of the parties actually before it. See Anyanwoko Vs. Okoye [2010] 5 NWLR (Pt. 1188) 497 at 515 – 516; Orkater Vs. Ekpo [2014] LPELR-23525(CA).

Since there are other Defendants on record whose rights are to be determined as against the Claimant, the jurisdiction of the Court is not thereby ousted in proceeding to entertain the suit. I so hold.

Having dealt with the substance of the varying objections to this suit, the coast is now clear for the Court to proceed to determine the substance of the Claimant's Amended Originating Summons.

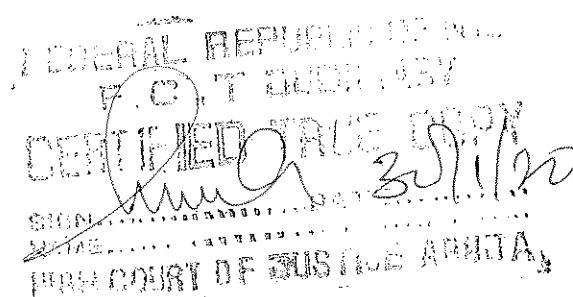
DETERMINATION OF THE SUBSTANTIVE CLAIM

As the situation stands, only the 4th Defendant has contested the claim of the Claimant. In this regard, his learned senior counsel formulated a sole issue for determination in this suit, namely:

"All the facts and circumstances of this suit considered, whether the 2018 NBA General Elections was not conducted in accordance with the enabling law and this suit is not therefore, unmeritorious?"

However, by my understanding of the Claimant's case, as circumscribed in the questions sought to be determined and the reliefs claimed in the Amended Originating Summons which have been clearly set out in the foregoing; the affidavit evidence adduced by both parties, two issues seem to me to have arisen for determination in this case. Without prejudice to the issue formulated by the 4th Defendant's learned senior counsel, the issues for determination in this suit are reframed as follows:

- 1. Whether or not the Claimant pinpointed anything in the documents attached as Exhibits A, B, C, D, F, G, G1 and H to the Affidavit filed to support the instant Amended Originating Summons that lawfully precludes the 3rd Defendant from declaring the 4th Defendant as the winner of the 2018 elections into the office of the President of the Nigerian Bar Association as was done on 20/08/2018. Or put in another*



sense, whether there is anything in the documents attached as Exhibits A, B, C, D, F, G, G1 and H to the Affidavit filed to support the instant Amended Originating Summons that lawfully requires or compels the 3rd Defendant to undertake a participatory post-election audit/verification of votes cast at the elections before the announcement of the results of the elections.

2. If issue one is resolved in the affirmative, whether or not this Court is entitled to compel the undertaking of the said post-election audit in order to ascertain the correct results of the election aforementioned.

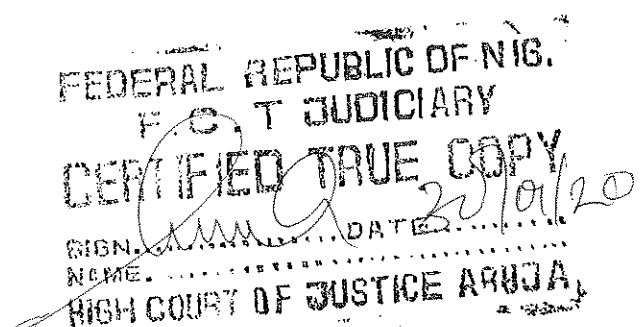
In determining these issues, the Court has undertaken a careful consideration of and taken due benefits of the entirety of the arguments canvassed by learned senior counsel on both sides in the written submissions they filed respectively to support their affidavits. I shall make specific

reference to learned senior counsel's arguments as I deem
needful in the course of this judgment.

DETERMINATION OF THE TWO ISSUES TOGETHER

In order to appreciate the case of the Claimant and put his
grievances in proper perspectives, I take liberty, at first, to
set out the relevant paragraphs 7, 24, 25, 26, 28, 31, 33,
34 and 35 of the Affidavit filed to support the Amended
Originating Summons, wherein the documents attached as
Exhibits A, B, C, D, F, G, G1 and H were referred to and
relied on as follows:

*"7. The said final report which was adopted at the pre-
conference NEC meeting held at the NBA Secretariat on
Sunday the 26th of August, 2018 is hereby exhibited and
Marked A.*



24. Before the election there were some hiccups which led to the issuance of a press statement by the Nigerian Bar Association dated the 21st July, 2018. The said statement is hereby attached and Marked as Exhibit B.

25. Vide Exhibit B the electoral process was disaggregated into three stages: a) pre-election process: process of compilation and verification/validation of list of voters; b) election: the deployment of the e-voting platform for NBA election, c) post-election: an audit of the electoral process.

26. In Exhibit A the final report of the electoral committee on the 2018 NBA National Officers election, one of the components of the electoral process, i.e. election audit was to be assigned to a different service provider to enhance the integrity of the entire election process.

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28. The certified true copy of the constitution of the Nigerian Bar Association (NBA) is hereby attached and Marked Exhibit C.

31. The two emails which were not addressed by the 3rd Defendant are hereby attached and Marked Exhibits D and D1.

33. After the election, on the 20th of August, 2018, I wrote to the 2nd Defendant calling for an election audit, the said letter dated the 20th August, 2018 is hereby attached and Marked Exhibit F.

34. I received no response from the 2nd defendant and I once again wrote the 2nd defendant an email calling for a post election audit. The President replied the said email by acknowledging that my request was legitimate. Both emails dated the 23rd August, 2018 and 24th August,

2018 respectively are hereby exhibited and Marked Exhibits G and G1.

35. I wrote another letter to the 2nd Defendant on the 23rd of August, 2018 calling for the audit to be carried out on or before the 26th August, 2018. I received no response from the 2nd Defendant. Herein attached and Marked as Exhibit H is my letter dated the 23rd of August, 2018."

(Underlined portions for emphasis)

It seems to me that the focal point of the Claimant's grievances and cause of action is the deposition in paragraphs 27 and 29 of the Affidavit in support of the Amended Originating Summons, where he deposed as follows:

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“27. Before the announcement of the result of the 2018 NBA National Officers elections by the 3rd Defendant there was no verification of votes and no post election audit was conducted even until the time of filing this action.

29. That before and during the elections my legal team complained of irregularities in the election which complaints were not addressed either (by) verification of votes or post election audit before the result of the election was announced.”

Now, in his submissions, learned senior counsel for the Claimant made reference to the provision of **Article 2.8** of the **2nd Schedule** to the **NBA Constitution, Exhibit C**, which provides that: *“The results of the elections shall be announced within twenty four (24) hours of conduct of elections upon collation and verification of the votes,”* and submitted that the 3rd

Defendant adopted a posture as though the casting of votes signalled the end of the election, whereas the provision of **Article 2.8** of the **2nd Schedule** to the **NBA Constitution** cited in the foregoing requires that collation and verification of votes have been made integral part of the election process; in that these are intermediate stages between the casting of votes and the announcement of results. Learned senior counsel thus submitted that it was unlawful for the 3rd Defendant to have leapfrogged the intermediate stage of verification of votes to announce the result of the election, which is the final stage in the election process. Learned senior counsel therefore submitted that in effect, as at the time the 3rd Defendant purportedly announced the result of the election, the election processes,

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with respect to contested positions had not been concluded, thereby rendering the election inchoate and inconclusive.

Learned senior counsel further submitted that the use of the word “*shall*” in **Article 2.8** of the **2nd Schedule** to the **NBA Constitution** removes elements of discretion and imports mandatory compliance, citing in aid the authorities of John Vs. Igbo-Etiti L.G.A. [2013] 7 NWLR (Pt. 1352) 1 @ 15; Oju L.G. Vs. INEC [2007] 14 NWLR (Pt. 1054) 242 @ 270-271.

Learned senior counsel further made reference to **Exhibit A**, the Final Report issued by the 3rd Defendant at the end of the election and submitted that, in consonance with the requirement for verification of votes cast at the election provided in **Article 2.8** of the **2nd Schedule** to the **NBA Constitution**, the 3rd Defendant and the candidates in the

election agreed to have a post-election audit of the votes cast at the election. Learned senior counsel made specific reference to paragraph 5 of page 7 of **Exhibit A** in that regard.

Learned senior counsel further argued that the law is trite in that once the law lays down a method of carrying out an act, only that method and no other shall be lawful, citing the authority of Inakoju Vs. Adeleke [2007] 4 NWLR (Pt. 1025) 423.

Learned senior counsel further submitted that the provision of **Article 2.8** of the **2nd Schedule** to the **NBA Constitution** which thus made it mandatory that a verification of votes must be carried out before the announcement of the results. Learned senior counsel further argued that the word “verification” means the same thing as the word “audit”.

Learned senior counsel further contended that the 3rd Defendant disregarded the mandatory provision of **Article 2.8** of the **2nd Schedule** to the **NBA Constitution**, by failing to carry out the post-election audit, the aim of which was to “enhance the integrity of the entire election process;” and in spite of the Claimant’s weighty complaints contained in **Exhibit D, D1** and **E**, all addressed to the 3rd Defendant; and proceeded to announce the purported results of the elections.

Learned senior counsel further made reference to **Exhibit B**, the Press Release issued on 21/07/2018, by the 2nd Defendant, wherein he reiterated the agreement of stakeholders to disaggregate the electoral process to three (3) stages, which again, according to the Claimant’s learned

senior counsel, drew strength from the **NBA Constitution**, as
aforementioned.

Learned senior counsel further made reference to the email
communication of the 2nd Defendant of 24/08/2018,
Exhibit G1, in response to the Claimant's mail of
23/08/2018, **Exhibit G**, wherein the 2nd Defendant
affirmed that the Claimant's request for post-election audit
was "**legitimate.**"

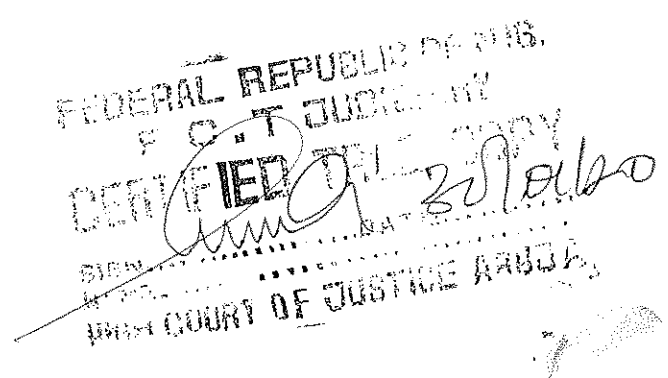
Learned senior counsel submitted therefore that the failure
of the **ECNBA**, led by the 3rd Defendant, to follow the **NBA**
Constitution, Exhibit C, the **NBA** President's Press Release,
Exhibit B and the election Guidelines issued by the 3rd
Defendant for the conduct of the elections calls for the
intervention of the Court to appoint any of the suggested
internationally acclaimed audit firms or any other audit

firms of similar status to conduct a verification of the votes and audit the electoral process for the contested positions at the said **NBA** General Elections of 2018. Learned senior counsel relied on the authority of Emenike Vs. PDP [2012] LPELR-7802(SC), for the submission that the declaration of results without conducting verification of votes and/or post-election audit, being an integral part of the electoral process, before issuance of certificate of returns to the 4th Defendant, is premature and as such urged the Court to void the announcement of result made in favour of the 4th Defendant as the winner of the said election and all other acts predicated thereon.

On a last note, learned senior counsel urged the Court to resolve the questions set down for determination in the

Amended Originating Summons in favour of the Claimant and grant his reliefs.

The 4th Defendant's learned senior counsel, in his arguments, submitted that the 2018 NBA elections of her National Officers were conducted in accordance with the **NBA Constitution**, contending that the Claimant did not dispute that the relevant provisions of **sections 8** and **9** thereof that prescribes universal suffrage and electronic voting were duly complied with. Learned senior counsel further submitted that the 3rd Defendant, charged by the 1st Defendant to oversee the conduct of the elections also duly complied with the prescriptions in **Articles 2.4** and **2.8** of the **2nd Schedule** to the **NBA Constitution** with regards to the requirements to be followed at different stages of the elections.



Learned senior counsel further contended that upon examining the questions set down for resolution by the Court in his Amended Originating Summons, it was apparent that the Claimant grossly misunderstood and misconceived the provisions of the **NBA Constitution** by supposing that the validity of the 2018 NBA elections were anchored on two requirements, namely – (i) verification of votes cast; and (ii) instituting a post-election audit of the processes leading to the said election. Learned senior counsel contended that whilst the first ambit, relating to verification of votes cast at the election were duly complied with as shown in the 3rd Defendant's Report, **Exhibit OEBO1** attached to the Counter Affidavit (same as **Exhibit A** attached to the Affidavit in support of the Amended Originating Summons); the purported second requirement of

“instituting a post-election audit of the electoral processes leading to the election,” was not and is not however a requirement of the **NBA Constitution** and that its absence cannot therefore be held to invalidate or nullify the said elections.

To further support the contention that the elections were conducted by due process of the **NBA Constitution**, learned senior counsel referred to the depositions in paragraph 5 of the 4th Defendant's Counter Affidavit to the Amended Originating Summons, which states, *inter alia*, as follows:

“5. I have been informed by Professor Auwalu Yadudu, the 3rd Defendant in our offices on 30 May, 2019 at about 2.00pm, in the course of preparing this Counter

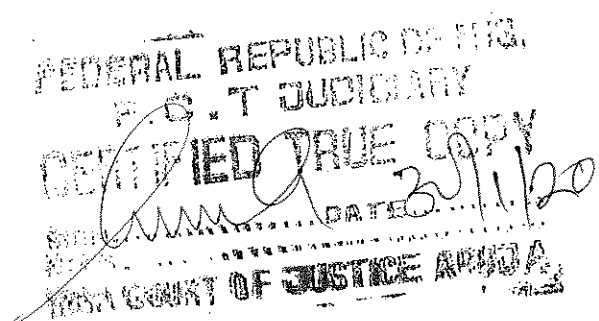
Affidavit and verily believe him to be true and correct as follows:

(a) He was the Chairman of the Electoral Committee in the concluded 2018 General Elections of the Nigerian Bar Association ("2018 NBA General Election").

(b) ...

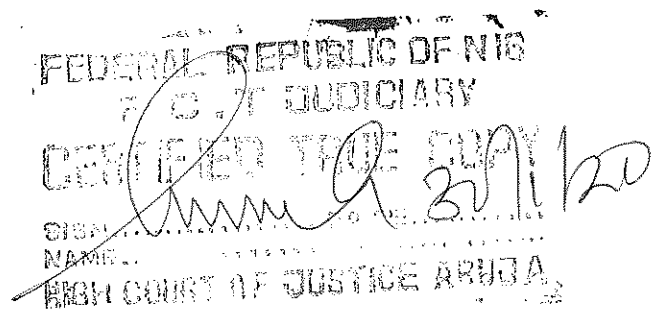
(c) ...

(d) The election process was carried out in three stages of (1) Pre-election: which included the compilation and verification of voters through universal suffrage; (2) Election: which included the deployment of the e-voting platform for NBA election; and (3) Post-election: which included the collation and verification of votes; announcement of the results within 24 (twenty-four) hours as provided by the NBA Constitution.



(e) The ECNBA observed all the three stages of the elections highlighted in (d) above. At the conclusion of the said elections, the ECNBA prepared a Final Report of the election and same was presented to and adopted by the pre-conference meeting of the NBA Executive Committee ("NEC") held on Sunday, 26 August, 2018 in Abuja ("the Report"). A copy of the Final Report of the Electoral Committee of the NBA on the 2018 NBA National Officers Elections is attached and marked "Exhibit OEBO1."

(f) The Report incorporated all the steps, activities and approaches adopted to ensure a free and fair election, together with the ECNBA's Observations and Recommendations based on its verification exercise, before, during and after the 2018 NBA General Election.



(g) The entire election process was open to viewing, participation and scrutiny both at the verification stages and polling stages by the candidates through their accredited representatives.

(h) All the critical stakeholders, including the Claimant, were carried along in the verification, accreditation and collation of results. The agents of the candidates, including the Claimant, were invited to witness the voting exercise in the situation room in addition to the technical consultants and agents of the Presidential Candidates who were invited to the back-end control room to witness in greater details the electoral process from the beginning to the end."

Learned senior counsel further contended that from the 3rd Defendant's Report, **Exhibit OEBO1**, there was collation and verification of votes prior to the announcement of

election results, all of which took place within twenty four (24) hours of termination of the voting exercise as provided in **Article 2.8** of the **2nd Schedule** to the **NBA Constitution**; that the said post-election verification undertaken by the 3rd Defendant revealed the information contained in the Final Report, **Exhibit OEBO1**- page 8 paragraph 8 thereof captioned "**COLLATION AND DECLARATION OF THE RESULT**"; and as also enumerated in the depositions in paragraph 5 (i), (j) and (k) of the 4th Defendant's Counter Affidavit.

Learned senior counsel further referred to pages 10, 11 and 12 of the Report which contained the 3rd Defendant's Observations and Recommendations from the electoral exercise and submitted that all the observations and recommendations of the **ECNBA** could only have been

possible after a verification of the voting exercise had been carried out as provided for by the **NBA Constitution**.

Learned senior counsel contended that it was practically impossible for the **ECNBA** to have invited an independent audit firm to audit the election process and still get the result of the election announced within twenty four (24) hours as required by the **NBA Constitution**, citing the maxim *lex non cogit ad impossibilia* meaning that *“the law would not command the doing of an impossibility.”*

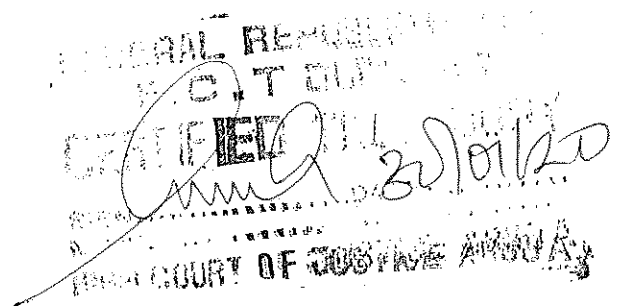
It is further argued by the 4th Defendant’s learned senior counsel that nowhere in the **NBA Constitution** is the word **“audit”** used; and that it was a misconception for the Claimant to have equated the meaning of **“verification”** with **“audit”**; and that since the **NBA Constitution** did not

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use the word "**audit**," it is needless to look for its meaning in the dictionary.

Learned senior counsel further referred to the 2nd Defendant's valedictory speech, attached as **Exhibit OEBO2** to the 4th Defendant's Counter Affidavit and submitted that the complaints raised by the Claimant in his write ups in **Exhibits D, D1, F, G and H**, were addressed in the said speech; and that the Claimant rushed to Court without allowing his complaints to be looked into as assured by the 2nd Defendant only because of his intent to discredit the electoral process just because he lost the election.

Learned senior counsel therefore submitted that there is indeed no real dispute between the Claimant and the Defendants in this suit for the Court to adjudicate on; and further referred to the depositions of the 4th Defendant in



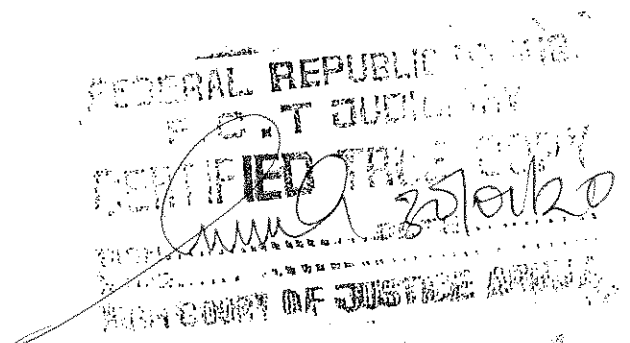
paragraphs 6(c) and (d) of his Counter Affidavit where it is stated that the person referred to by the Claimant as **Mr. Olumuyiwa Olowokure** in his Affidavit in support; and to whom the compilation in **Exhibit E** (being Preliminary release on irregularities identified in the just concluded NBA elections), attached to the Affidavit in support of the Amended Originating Summons, is ascribed, was neither an accredited agent nor the technical consultant to the Claimant or any of the candidates at the election; and that the said **Mr. Olowokure** was not present at the Situation Room, the Back-End Control Room or anywhere around the National Secretariat of the **NBA** where the election took place. Learned senior counsel therefore urged the Court to treat **Exhibit E** as documentary hearsay to which no

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probative value should be ascribed in the absence of the maker.

Learned senior counsel, in conclusion, urged the Court to resolve the issues for determination against the Claimant and dismiss the suit.

After a careful appraisal of the totality of the affidavit evidence on record and the arguments canvassed by the respective learned senior counsel both for the Claimant and the 4th Defendant, it seems to me clear that the resolution of the issues set down for determination devolves on the interpretation of the provision of **Article 2.8** of the **2nd Schedule** to the **NBA Constitution**, and a determination as to whether, in the light of the of the affidavit evidence on record, the Claimant satisfactorily established that the same



was not complied with by the 3rd Defendant in the conduct of the questioned election.

In assessing the affidavit evidence placed before the Court by the Claimant, the Court is mindful that the Claimant, having sought far-reaching declaratory reliefs in this action, has a bounden duty to discharge the burden of proof placed on him by the provision of **sections 131 and 132** of the **Evidence Act**, in order to establish his entitlement to the reliefs. As it is well known, declaratory reliefs sought in an action are granted principally on the evidence adduced by the claimant without necessarily relying on the evidence called by the defendant except such evidence supports the case of the claimant. The burden of proof on the claimant in establishing a declaratory relief to the satisfaction of the Court is somewhat heavy in the sense that such relief is not

granted even on the admission of the defendant, as the claimant must lead credible evidence in proof of the declaration of right he has invited the Court to make in his favour. In other words, even though it is an elementary rule of pleadings that what has been admitted requires no further proof, one exception to that rule is that a declaratory relief cannot be granted without evidence; and it is not granted based merely on default of defence or on admission by the adverse party. Declarations are granted upon proof by cogent and credible evidence. See Dumez Nigeria Ltd. Vs. Nwakhoba [2008] 18 NWLR (Pt. 1119) 361 @ 376 [also reported in [2009] All FWLR (Pt. 461) 842]; Omisore Vs Aregbesola [2015] 15 NWLR (Pt. 1482) 205.

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Therefore, the focus of the Court is directed more at the affidavit evidence adduced by the Claimant in support of his case; without much regard to the failure of most of the Defendants to defend the action.

Nevertheless, the Court must remark at this stage that it leaves more to be desired for the 3rd Defendant in particular; who is more or less in the centre of the controversy that resulted in the Claimant instituting the instant action, to have abdicated this suit and treated it with neglect and disregard.

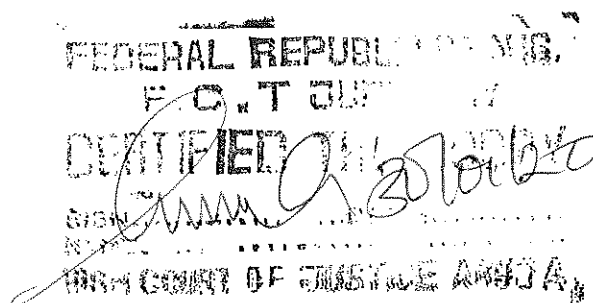
Having said that, I proceed further to note that both the Claimant and the 4th Defendant exhibited copies of the **NBA Constitution** to their respective Affidavits and it was copiously relied upon by their respective learned senior counsel in their addresses.

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The principal section of the **Constitution** that makes provisions for election into the national offices of the **NBA** is **section 9** thereof, referred to by the 4th Defendant's learned senior counsel in his arguments. The **ECNBA**, represented by the 3rd Defendant, derived its authority to conduct the questioned election from the provision of **section 9(1)** of the **NBA Constitution**, which provides as follows:

"9(1). There shall be established an Electoral Committee comprising of a minimum of three and maximum of five Electoral officers, one of whom shall preside, shall be appointed by the National Executive Committee at its meeting held in the first quarter of an election year, to conduct elections into National Offices."

The provision of **section 9(4)** of the **NBA Constitution** further provides that:



“9(4). Election into National Offices shall be by universal suffrage and electronic voting as set out in Second Schedule.”

Now, in the present case, the Claimant has no grouse as to compliance with these two principal provisions of the **NBA Constitution** with respect to the authority of the 3rd Defendant to conduct the questioned elections by universal suffrage and electronic voting in the manner set out in the **2nd Schedule**. The Claimant's grouse is as to whether the provision of **Article 2.8** of the **2nd Schedule**, particularly as relating to steps leading to the announcement of results of the elections was fully complied with.

Article 2.8 of the **2nd Schedule** provides as follows:

“2.8 RESULTS OF ELECTIONS

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The results of elections shall be announced within twenty four (24) hours of the conduct of the elections upon collation and verification of the votes."

Now, the Claimant had placed reliance the documents he attached as **Exhibits A, B, D, F, G** and **G1** to his Affidavit in support of the Amended Originating Summons to contend that the 3rd Defendant failed to comply with an integral part of the electoral process, as prescribed by the provision of **Article 2.8** of the **2nd Schedule** to the **NBA Constitution**, before announcing the results thereof.

The Claimant made reference to a portion of **Exhibit A**, the Final Report of the 3rd Defendant's Electoral Committee (**ECNBA**) where it is stated as follows:

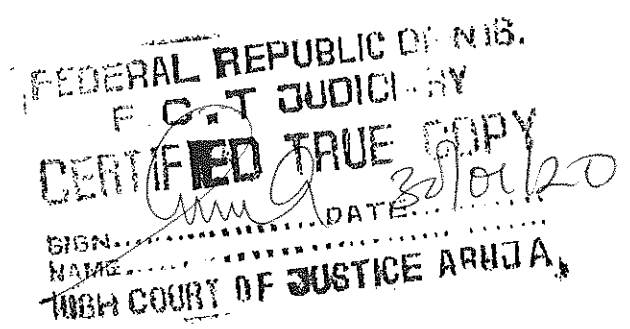
"Consequently, it was agreed that the entire Elections process be disaggregated into three (3) components of

pre-election verification, e-voting and post-election audit.

Each of these components is to be assigned to different service providers to enhance the integrity of the entire process.”

Again, the Claimant made reference to a portion of **Exhibit B**, Press Statement by the NBA on the 2018 National Officers Election, where the 2nd Defendant reiterated certain measures that the stakeholders resolved to take in order to *“reinforce confidence in the electoral process”* referred to by the 3rd Defendant in **Exhibit A**. According to **Exhibit B**, one of such measures, *inter alia*, that were resolved to be implemented, is that:

“1. The electoral processes shall be disaggregated into three (3) stages and each stage shall be handled by separate entities or service providers duly appointed by the ECNBA. The three stages are:



- (a) *Pre-election: process of compilation and verification/validation of list of voters;*
- (b) *Election: the deployment of the e-voting platform for NBA elections;*
- (c) *Post-election: an audit of the electoral process.*

It should be noted that the Press Statement, **Exhibit B**, was issued before the election, on 21/07/2018; whilst the 3rd Defendant's Final Report, **Exhibit A**, was issued post-election, on 26/08/2018.

By my understanding, the measure reproduced in the foregoing, as contained in **Exhibits B** and also reflected in **Exhibit A**, was not made pursuant to the provision of **Article 2.8 of Exhibit C, the NBA Constitution**. I so hold.

It seems to me that the Claimant clearly misconceived the intendment of the particular measure reproduced in the

foregoing, as agreed to by stakeholders, when he contended that the measure was in line with the provision of **Article 2.8** of the **2nd Schedule**. For one, there is no reference whatsoever in the said provision to “**post-election audit**.” As such, the Claimant cannot read into that **Article** what it did not provide for.

By my understanding, the “**post-audit**” or “**audit of the electoral process**” referred to in **Exhibits B** and **A** is a process expected to be undertaken after the conclusion of the entire election process. This is why it is further agreed or contemplated by the stakeholders that the process will be expected to be handled by separate entities or service providers duly appointed by the **ECNBA**.

To further draw understanding of the contemplation of the stakeholders with respect to the agreed “**post-election**

audit;" I make further reference to **item (4)** of the measures agreed to be implemented, as set out in **Exhibit B**, which states as follows:

"4. The ECNBA will develop a post-election audit framework and process and may engage an independent entity for that purpose."

From this measure, it becomes clearer that the audit of the electoral process contemplated by the stakeholders is not just an audit of votes cast at the election, but of the entire electoral process, which is a futuristic initiative put in place as a way to further **"reinforce confidence in the electoral process,"** as stated in **Exhibit A**. I so hold.

In the same token, I do not understand the provision of **Article 2.8** of the **2nd Schedule** to contemplate invitation of an external body to undertake the verification of the results

before same were announced. What that provision says, in simple terms, is that after the conduct of the election, the **ECNBA** shall collate, verify and announce the results within twenty four (24) hours thereafter. In other words, the process of collation, verification and announcement of the result shall be undertaken within twenty-four (24) hours of conclusion of balloting.

To give the provision of **Article 2.8** of the **2nd Schedule** the interpretation suggested by the Claimant's learned senior counsel or to equate "**verification of votes**" with "**post-election audit**" is, with due respects, absurd as this will clearly defeat the purpose of the provision and the intendment of the drafters. This is so because the audit contemplated by the stakeholders, as contained in **Exhibit B**, is not such that would be undertaken within twenty-four

(24) hours stipulated by **Article 2.8** of the **2nd Schedule** for votes to be collated, verified and results announced. I so hold.

The position of the law is that a statute should not be given an interpretation that will defeat its purpose. See Olalomi Ind. Ltd. Vs. N.I.D.B. Ltd. [2009] 16 NWLR (Pt. 1167) 266 SC. In this regard I also endorse the maxim cited by the 4th Defendant's learned senior counsel, applicable to the circumstances here, that the law would not command the doing the impossible.

I must further hold that the Claimant and his senior learned counsel seemed to have misconstrued the meaning of "**post-election**" and thereby erroneously contended that the "**post-election audit**" referred to in **Exhibits A** and **B** was to be carried out before the announcement of election

results. By my understanding, “**post-election**” means “*after the conclusion of the entire election processes, including announcement of results.*” This is why by **Exhibit B**, it is expected that the 3rd Defendant will develop an audit framework and process and may engage an independent entity for that purpose to undertake the post-election audit.

On the issue as to whether or not actual verification of votes took place before the announcement of results as required by **Article 2.8** of the **2nd Schedule** to the **NBA Constitution**, my finding is that the Claimant had not deposed to any concrete evidence that the said verification of votes did not take place after collation. Apparently, the Claimant had premised his allegation in this regard on the erroneous supposition that the verification required by **Article 2.8** of the **2nd Schedule** is the same as the post-election audit of

the electoral process agreed to by the stakeholders in **Exhibit B**; and thereby dissipating misplaced arguments in attempting to place on the **ECNBA** the obligation the **NBA Constitution** did not impose on it.

Indeed there is nothing magical about verification of result. With the background knowledge of the meaning of the word “**verify**,” my understanding of the process of verification as required by **Article 2.8** of the **2nd Schedule**, is simply for the **ECNBA** to “**confirm**” that the collation of ballots undertaken is correctly reflected in the results announced and no more. I so hold.

In this regard, I agree with the submissions of the 4th Defendant’s learned senior counsel that the process of collation and declaration of results highlighted by the 3rd Defendant in Item 8 of the Report, **Exhibit A**, included by

implication the process of verification; and that the Observations made by the 3rd Defendant in Item 9 of **Exhibit A** could only have been possible after a verification of the election results.

I have also examined the other exhibits referred to in the questions sought to be determined by the Claimant. None of those documents donate any lawful suggestion that the 3rd Defendant did not comply with the provision of **Article 2.8** of the **2nd Schedule** to the **NBA Constitution**. I so hold.

Perhaps I should note the arguments of the Claimant's learned senior counsel, in making reference to a portion of the email communication by the 2nd Defendant to the Claimant, **Exhibit G1**, where the 2nd Defendant agreed that it was legitimate for the Claimant to request for an audit of the election exercise. The Claimant seemed to have

erroneously interpreted this statement as an endorsement of his call for audit of votes cast at the election; whereas all that the 2nd Defendant stated was consistent with the agreement of stakeholders at contained in **Exhibits A and B**, that an audit of the entire election process, which is expected to be a holistic assessment of the whole process from the beginning to the end, was imperative; even though this process is not compelled by the **NBA Constitution**.

In this regard, I must also add that whatever agreement those who attended the meetings at which the measures enumerated in the Press Release, **Exhibit B** had cannot possibly give rise to an enforceable legal right on the part of the Claimant in so far as those measures were not backed by specific provisions of the **NBA Constitution**.

FEDERAL REPUBLIC OF NIG.
F. C. T. JUDICIARY
CERTIFIED TRUE COPY
SIGN.....DATE.....
NAME.....
HIGH COURT OF JUSTICE ABUJA

In the overall analysis, I must and I hereby reject the totality of the arguments canvassed by the Claimant's learned senior counsel in support of his claim in this action. Indeed, the Claimant has failed to show that the questions set down for determination are capable of donating any enforceable legal rights in his favour. As such, i must and i hereby resolve all the questions set forth by the Claimant for determination in his Amended Originating Summons in against him. He has also failed to depose to satisfactory affidavit evidence to establish or justify his entitlement to any of the declaratory or other reliefs claimed in this action. In short, this suit lacked in merit and in substance. It shall be and it is hereby accordingly dismissed. Parties shall bear their respective costs of the action.

FEDERAL REPUBLIC OF NIG.
F. C. T. JUDICIARY
CERTIFIED TRUE COPY
SIGN. *[Signature]* DATE *[Date]*
NAME *[Name]*
HIGH COURT OF JUSTICE ARUJA

Cholade
OLUKAYODE A. ADENIYI

(Presiding Judge)

28/01/2020

Legal representation:

Ikechukwu Ezechukwu, Esq., SAN (with – J. S. Okutepa, Esq., SAN; Ede Uko, Esq.; Sylvia E. Okopi (Ms.); Oliver Eya, Esq.; Levi E. Nwonye, Esq.; Dauda S. Abdulrahman, Esq.; H. J. Apeh, Esq.; Khadijah Ahmed Danfulani (Miss); Love Obiezu, Esq.; B. G. Suleiman, Esq.; O. F. Jedidah (Miss); Wilson Igwediabia, Esq.; Chisom L. Ikeudeoba (Miss) Mohammed Monguno) – for the Claimant

Dr. George O. A. Ogunyomi – (with Ifeanyi Ndumnago, Esq.) – for the 4th Defendant

Yewande A. Akinboro, Esq. – for the 6th Defendant

Eromosele Edache, Esq. – for the 24th – 30th Defendants

I. O. Nweze, Esq. – (with Watchman Oshekun, Esq.; U. Samson (Miss) & C. M. Amankwe, Esq.) – for the 31st – 37th Defendants

Other Defendants unrepresented by counsel