

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN IN ABUJA

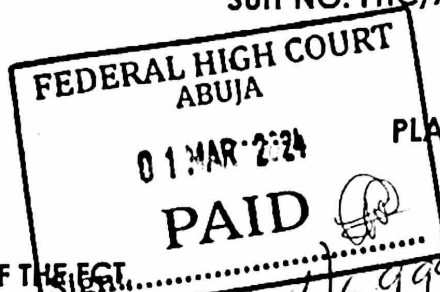
SUIT NO: FHC/ABJ/CS/205/2024

BETWEEN

AZUBUIKE NICHOLAS OKO

AND

1. THE HON. CHIEF JUDGE OF THE FCT
JUSTICE HUSSEINI BABA-YUSUF
2. NATIONAL JUDICIAL COUNCIL
3. FEDERAL JUDICIAL SERVICE COMMISSION
4. THE CHIEF JUSTICE OF NIGERIA
5. PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA
6. ATTORNEY GENERAL OF THE FEDERATION



PLAINTIFF

DEFENDANTS

1st, 2nd & 4th DEFENDANTS' COUNTER-AFFIDAVIT TO THE ORIGINATING
SUMMONS

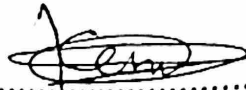
I, **KEMI ESENE**, female, Nigerian, of 11 Lake Alau Close, Maitama, Abuja, Federal Capital Territory, Nigeria, hereby make oath and state as follows

1. I am the Litigation Secretary in the Law Firm of Kehinde & Partners LP, counsel to the 1st 2nd and 4th Defendants.
2. I have the consent of my employers and the 1st, 2nd and 4th Defendants to depose to this affidavit.
3. Except otherwise stated, the facts to which I shall depose to in this affidavit are facts within my personal knowledge or obtained by me in the course of my work as a Litigation Secretary in the law firm of Kehinde & Partners LP.
4. Wherever I have stated facts outside my personal knowledge, I have given an accurate account of how the facts came to my knowledge.

5. Paragraphs 3(e), (f), (g), (m), (n), (s), (u), (v), (w), (x), (y), (z), (aa), (bb), (cc) and (ee) of the affidavit in support of the originating summons are false.
6. In response to paragraph 3(e), the 1st Defendant does not compile the names of lawyers for nomination as judges of the FCT High Court. Rather, it is the Judicial Service Committee of the Federal Capital Territory that recommends suitable persons for nomination for appointment as judges of the FCT High Court to the National Judicial Council.
7. In response to paragraph 3(f), the National Judicial Council does not have the power to appoint judicial officers. Its powers are limited to recommending persons for judicial appointment to the President from the list of persons submitted to it by the Federal Judicial Service Commission and the Judicial Service Committee of the Federal Capital Territory.
8. In response to paragraph 3(g), the Federal Judicial Service Commission is not responsible for recommending persons to be appointed as Judges of the High Court of the FCT to the National Judicial Council. Rather, it is the Judicial Service Committee of the Federal Capital Territory that is empowered under Part III of the 3rd Schedule of the 1999 Constitution (as amended) to recommend suitable persons for nomination for appointment to the office of a Judge of the High Court of the Federal Capital Territory.
- ~~9.~~ In response to paragraph 3(m), Oyo and Kogi states do not have two serving Judges in the High Court of the FCT.
- ~~10.~~ In response to paragraph 3(n), the recommendation of persons to the National Judicial Council for appointment as Judges of the High Court of FCT is carried out by the Judicial Service Committee of the Federal Capital Territory, not the 1st Defendant.
11. In response to paragraph 3(s), on 22nd November 2021, **22 out of the 33 persons recommended to the President for appointment** as Judges of the High Court of the FCT were sworn in by the Chief Justice of Nigeria.
12. The federal character principle under the 1999 Constitution (as amended) was complied with by the President and the National Judicial Council as all the geo-political zones of the Federation were represented in the appointment of the Judges.

13. In response to paragraphs 3(w), (x) and (y), no geo-political region of the Federation has been marginalised or discriminated against in the appointment of Judges of the High Court of the FCT.
14. Every geo-political zone is equitably represented on the bench of the High Court of the FCT.
15. Currently, there are several Judges from the south-east geo-political zone on the bench of the High Court of the FCT. These Judges include:
 - i. Hon. Justice Agashieze Cyprian Odinaka
 - ii. Hon. Justice Nwabulu Ngozika Chineze
 - iii. Hon. Justice Chizoba Oji
16. In the vacancies referred to in paragraphs 3(j) and 3(l) of the Plaintiff's affidavit in support of the originating summons, two out of the twelve slots have been reserved for the south-east geo-political zone.
17. The recruitment of Judges of the High Court of the FCT has always complied with sections 14(3) and 42 of the 1999 Constitution (as amended), and Rule 3(6)(iv) of the NJC Guidelines and Procedural Rules.
18. There is no provision of the 1999 Constitution (as amended) that mandates the Defendants to nominate persons from each state of the Federation during every recruitment process.
19. The appointment of Judges of the High Court of the FCT is a continuous and regular process.
20. If a state is not represented during a certain recruitment process, such a state would be considered later on.
21. The National Judicial Council is not mandated to recommend every person whose name is recommended to it by the Judicial Service Committee of the FCT for appointment as a Judge of the High Court of the FCT to the President.
22. Similarly, the President is not mandated to appoint every person that has been recommended to him by the National Judicial Council for appointment as a Judge of the High Court of the FCT.

23. I depose to this witness statement on oath in good faith, believing its contents to be true and in accordance with the Oaths Act.


.....

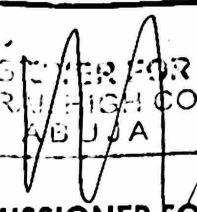
DEPONENT

SWORN TO AT THE REGISTRY OF THE FEDERAL HIGH COURT, ABUJA

THIS ...1st... DAY OF ...March....., 2024.

BEFORE ME

COMMISSIONER FOR OATHS
FEDERAL HIGH COURT
ABUJA


COMMISSIONER FOR OATHS.