

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

SUIT NO: FCT/HC/CV/ 5372/2024

BETWEEN:

KEHINDE OGUNWUMIJU O.F.R., S.A.N. CLAIMANT/APPLICANT

AND

DELE FAROTIMI DEFENDANT/RESPONDENT

MOTION ON NOTICE

BROUGHT PURSUANT TO ORDER 43 RULE 1 OF THE HIGH COURT OF THE
FEDERAL CAPITAL TERRITORY (CIVIL PROCEDURE) RULES, 2018 AND THE
INHERENT JURISDICTION OF THIS COURT

TAKE NOTICE that this Honourable Court will be moved on the _____ day of _____, 2024 at the hour of 9:00 o'clock in the forenoon or so soon thereafter as Counsel may be heard on behalf of the Claimant/Applicant praying the Court for the following orders:

1. AN ORDER OF INTERLOCUTORY INJUNCTION restraining the Defendant/Respondent, whether acting by himself, his staff, employees, servants, privies, representatives, agents, publishers, distributors, sellers, re-publishers, re-sellers, or any other person howsoever described including Amazon Online Bookstore, Rovingheights Bookstore, Booksellers Bookstore, Jazzhole Lagos Bookstore, Glendora Bookshop, Quintessence Lagos Bookstore and Patabah Books Limited from further publishing, selling, circulating, advertising, or distributing the physical/hard/digital/soft copies of the book authored by the Defendant/Respondent titled: "*Nigeria and Its Criminal Justice System*", online, electronically, physically or by any other means including social media, pending the hearing and determination of the substantive suit.
2. AN ORDER OF INTERLOCUTORY INJUNCTION directing the seizure of all physical copies of the book authored by the Defendant/Respondent titled: "*Nigeria and Its Criminal Justice System*", wherever they may be found including at

Rovingheights Bookstore, Booksellers Bookstore, Jazzhole Lagos Bookstore, Glendora Bookshop, Quintessence Lagos Bookstore and Patabah Books Limited worldwide by the Nigerian Police Force, State Security Service, Nigeria Security and Civil Defence Corp and all other security agencies pending the hearing and determination of the substantive suit.

3. **AN ORDER OF INTERLOCUTORY INJUNCTION** directing the deletion of all electronic copies of the book authored by the Defendant/Respondent titled: *"Nigeria and Its Criminal Justice System"*, anywhere it may have been published by anyone,, howsoever described, including Amazon Online Bookstore, Rovingheights Bookstore, Booksellers Bookstore, Jazzhole Lagos Bookstore, Glendora Bookshop, Quintessence Lagos Bookstore and Patabah Books Limited pending the hearing and determination of the substantive suit.

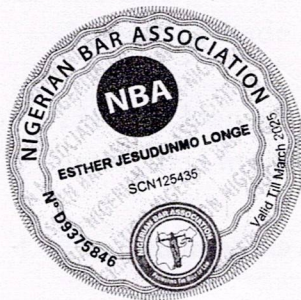
AND FOR SUCH OTHER OR FURTHER ORDERS this Honourable Court may deem fit to make in the circumstances of this case.

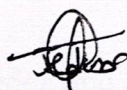
AND TAKE FURTHER NOTICE that the grounds upon which this application is brought are:

1. The Defendant/Respondent authored a book titled *"Nigeria and Its Criminal Justice System"* ("The Book").
2. The Defendant/Respondent authored defamatory and false statements about the Claimant/ Applicant's firm, Afe Babalola & Co. and the Claimant/ Applicant in the book.
3. The Claimant/ Applicant is the Managing Partner of the firm of Afe Babalola & Co.
4. The Claimant/ Applicant has brought this suit to protect his reputation, which has been damaged by the Defendant/ Respondent in the opinion of the right-thinking members of the society.
5. The book was published, has been circulated and continues to be circulated abroad, across Nigeria and within the jurisdiction of this Honourable Court.
6. The book is currently sold and available for purchase online.

7. It is also available in various bookstores across the country.
8. The statements contained in the book are highly damaging to the reputation of the Claimant/ Applicant and his law firm.
9. If this application is not granted, the Defendant/Respondent will continue to damage the Claimant/ Applicant's reputation unbridled and gain financially from same.
10. Considering the extensive damage already done to his reputation, the loss of goodwill and the financial losses the Claimant/ Applicant has started to and continues to suffer, if this Honourable Court does not grant this application, the Defendant/Respondent would have done irreparable damage to the Claimant/ Applicant's reputation before the hearing and determination of the substantive suit.
11. It is, therefore, necessary that this Honourable Court grants this application to restrain the Defendant/Respondent from further publishing, distributing, circulating, sharing, advertising and selling copies of the said book, pending the hearing and determination of this suit.
12. Granting this application is in the best interest of justice.

Dated this 6TH day of December, 2024.




ADEMOLA ABIMBOLA S.A.N.,
VALENTINE OSUNLETI, ESQ.,
✓ ESTHER JESUDUNMO LONGE.,
CHINATU AUDREY AZUBOGU.,
AFE BABALOLA & CO
(CLAIMANT'S COUNSEL)
EMMANUEL HOUSE,
24 MADEIRA STREET, IMANI ESTATE, MAITAMA, ABUJA.
afeabuja@afebabalola.com; 08132336264

FOR SERVICE ON:
THE DEFENDANT
DELE FAROTIMI ESQ
No. 15A OGBUNIKE STREET,
OFF WOLE OLATEJU CRESCENT, LEKKI PHASE 1, LAGOS, NIGERIA.

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
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SUIT NO: FCT/HC/CV/_____/2024

BETWEEN:

KEHINDE OGUNWUMIJU O.F.R., S.A.N. CLAIMANT/APPLICANT

AND

DELE FAROTIMI DEFENDANT/RESPONDENT

AFFIDAVIT IN SUPPORT OF MOTION ON NOTICE

I, Kehinde Ogunwumiju, O.F.R, S.A.N., FCI Arb (UK), Adult, Male, Christian, Nigerian, legal Practitioner of 24 Madeira Street, Maitama, Federal Capital Territory, Abuja, do hereby make oath and state as follows that:

INTRODUCTION/ PARTIES:

1. I am the Claimant/ Applicant in this suit by reason of which I am conversant with the facts deposed herein.
2. The facts herein deposed are within my personal knowledge and sourced from documents made available to me by virtue of my afore-stated position.
3. I am the Managing Partner of Afe Babalola & Co., a law firm of great reputation established in 1965.
4. The Defendant is a legal Practitioner and Author.

MY PROFESSIONAL CAREER AND REPUTATION

5. I have dedicated my life to diligent legal practice. I began my legal education at the University of Ibadan, where I earned my LL. B with honours. I continued my studies at the Nigerian Law School, obtaining my B.L. in 2005. I subsequently

pursued an LLM in International Commercial Law at the University of Northumbria at Newcastle-Upon-Tyne, England, in 2007. After my admission to the Nigerian Bar, I joined Afe Babalola & Co. in 2005. I eventually advanced from Associate to Partner in 2012.

6. With a nearly two-decade career and a track record of successful dispute resolution practice and advisory roles in Afe Babalola & Co., I have led high-stakes litigation and advisory projects, positioning myself as a trusted legal practitioner in the Nigerian legal community.
7. I have acted as counsel in numerous ad hoc and institutional arbitrations both domestically and internationally. I have also successfully assisted numerous clients, contributing significantly to the resolution of disputes.
8. My career has been marked by significant achievements, including my elevation to the prestigious rank of Senior Advocate of Nigeria (S.A.N.) (the Nigerian equivalent of a Queen's Counsel) in 2017 and the attainment of my fellowship at the Chartered Institute of Arbitrators (U.K.) in 2018.
9. In 2023, I was honoured with the Officer of the Order of the Federal Republic (O.F.R.) for my outstanding contributions to law, society and national development by the then President of the Federal Republic of Nigeria. Major-General Muhammadu Buhari.
10. I am currently based in Abuja and primarily operate from the Abuja Office of the law firm situate at No 24 Madeira Street, Maitama, Abuja.

PUBLICATION BY THE DEFENDANT

11. On 2nd July 2024, the Defendant/Respondent published a book titled "*Nigeria and Its Criminal Justice System*". ("The book")
12. On 2nd November 2024, one of our lawyers, while travelling through Murtala Muhammed Airport, purchased the book authored by the Defendant/Respondent published by Dele Farotimi Publishers.

13. After reading the book, he promptly brought it to my attention and that of the other Partners of the firm. Additionally, several of our other lawyers also purchased and read the book. I read the book, and I know that it contains defamatory statements about my law firm that have affected me; some of the defamatory statements are as follows:

- i. "That Aare Afe Babalola, Olu Daramola, Olu Faro and the law offices of Afe Babalola & Co, (Emmanuel Chambers) compromised the Supreme Court and the remaining semblance of integrity it might have had when they went back to the Supreme Court and got the Court to swim in the sewer of corruption and shameful self-Abnegation". Page X.
- ii. "While all this was going on, we had a meeting in the law office of Afe Babalola in Magodo, where Olu Daramola SAN made himself unavailable, and had us meet with Olu Faro, a younger counsel... ..but Olu Faro Esq was remarkably insolent and assured that we were made aware of just how powerful the law office he worked for believed itself to be and how much above the law and the practice of law they believed themselves to be". Page 52
- iii. We quickly realized that the law office of Afe Babalola & Co, Emmanuel Chambers had outsourced the judgement execution to another law office, the firm of S.B Joseph & Co. The firm had fraudulently and deliberately concealed the judgement of AKA'AHS and had underlined the words of Justice Rhodes Vivour to deceive and perhaps mislead Atilade or as is more likely, Atilade was always a part of the original fraud". Page 56.
- iv. "But even as Atilade J. played the contrition game, she was already part of the game plan being staged together by the grandmaster of judicial corruption in Nigeria, Afe Babalola. I have come to the conclusion that the required form of the application and her ruling were all part of the insidious plans of Afe Babalola, his band of crooked lawyers and coterie of crooked/incompetent justices of the Supreme Court". Page 59.

v. *"The battle to quash the warrant opened my eyes to the extent of the rot in the court system and I came to the knowledge of the sickening realities of the systemic putrefaction. The Supreme Court's Judgment was doctored by the confederation of lawyers in Afe Babalola chambers and the law offices of S.B Joseph & Co and the end desired by the confederacy was sought with the active connivance of the head judge of the Lagos Division, Atilade J." Page 60.*

vi. *"It was around this time we began to hear rumours of a return to the Supreme Court by Afe Babalola and his magical elves and the rumours became real when I got a call from Tokunbo Williams SAN, who informed me of the receipt of a motion on notice before the Supreme Court, seeking to correct an error in the judgment reproduced below". Page 64.*

14. The book, 'Nigeria and its Criminal Justice System', is hereby attached as Exhibit A.

15. I know that the above-quoted statements are false and incorrect.

16. I know that the name Afe Babalola is beyond a reference to the person of the Founding Partner of the Firm. It is also a brand.

17. Exhibit A has been circulated all over the country, including Abuja, massively distributed online, and has reached many persons globally.

18. I know that the statements will likely set the legal profession and society at large ablaze.

19. These statements were made to discredit my law firm, ridicule me within the legal profession and injure my hard-earned reputation and financial credit.

20. The book has been and is being widely read and distributed physically and online throughout Nigeria and abroad.

21. I know that physical copies of the book are available for sale in Abuja, within the jurisdiction of this Honourable Court.

22. I know that the book is being distributed and circulated online and is available for purchase online. I also know that the book is available on the Defendant/Respondent's website, <https://www.delefarotimi.com/>. *A print-out of the book displayed on the Defendant/Respondent's website is attached as Exhibit B.*

23. I know that there is the option to purchase the book's Kindle edition (a digital version of the book that can be read on any device- computer, iPad, tablet and especially Kindle devices) over the internet or via Bluetooth or any other digital sharing mechanism.

24. I know that persons resident in Abuja and across the world can buy the book by approaching stores like H-Medix, Prince Ebeano Supermarket, and Kindle Shops within the jurisdiction of this Honourable Court or by placing an order online.

25. I know that the availability of the book for purchase carries far-reaching implications.

26. I know that on Amazon, part of the book description reads:

"Dele's latest work exposes the rotten, seedy underbelly of Nigeria's justice system; unmasking persons and authorities complicit in the crimes of corruption, unfettered greed and gross violation of the basic principles of equity that have conspired to ruin it. Brilliant, racy and poignant. A compelling read."
Folashade Oshun

A print-out of the page with this description and the availability of Kindle and paperback copies of the book is hereby attached and marked as Exhibit C.

27. I know that a major feature of every material placed on the Internet is universal accessibility with minimal protocols anywhere and everywhere there is access to the Internet. The links to the book can be found at:

- i. https://www.amazon.com/NIGERIA-ITS-CRIMINAL-JUSTICE-SYSTEM-ebook/dp/B0D8L8KSJ8?ref=ast_author_mpb

- ii. <https://www.contimod.com/amazonstatistics/#:~:text=There%20are%20currently%20an%20estimated,monthly%20visitors%2C%20according%20to%20SimilarWeb>
- iii. https://www.amazon.com/stores/Dele-Farotimi/author/B09777SWJ5?ref=ap_rdr&isDramIntegrated=true&shoppingPortalEnabled=true
- iv. <https://www.delefarotimi.com/>.

28. I know that publishing, selling and distributing through the internet or making a publication online implies a desire to make the material so published available globally.

ESCALATING REPUTATIONAL DAMAGE AND URGENT NEED TO GRANT THIS APPLICATION

29. I know that as the Managing Partner of Afe Babalola & Co., my career as a legal practitioner is inseparably tied to the law firm.
30. On several occasions, I have publicly referred to Aare Afe Babalola, CON, O.F.R., S.A.N., as my mentor. I have described myself as his protégé.
31. I was the chair of the organizing committee for the 60th year anniversary of Aare Afe Babalola S.A.N.
32. My face is on the website of the firm, and the firm is indivisible from my professional branding. *A copy of the pages on the website where I am featured are hereby jointly attached and marked as "Exhibit D".*
33. I have publicly referred to myself as a minister in the temple of Justice. The book stands to contradict that.
34. I was recently invited as the Speaker at the commencement ceremony of my alma mater event, where several students described me as a shining inspiration to not just lawyers but any responsible young person across the globe.
35. However, after the event, I was accosted, and a barrage of questions were hurled at me regarding the Defendant/Respondent's book. It was such an embarrassing experience for me.

36. I have also received numerous calls from professional colleagues, friends and family members who had watched a Channels TV program where the Respondent was interviewed about the book. During the interview, the Defendant/Respondent continued making false and unsubstantiated attacks against the legal profession, the Supreme Court of Nigeria, the Chief Justice of Nigeria, Justices of the Supreme Court, Judges of the High Court of Lagos State, Judicial Officers, Aare Afe Babalola S.A.N., Olu Daramola S.A.N., and lawyers of Afe Babalola & Co.
37. I subsequently filed the substantive suit seeking declarations that the above-quoted excerpts from the book, as published and distributed by the Defendant/Respondent, are offensive, defamatory, and derogatory and have brought me into ridicule, odium, disrespect, disrepute, and scorn in the eyes of the right-thinking members of the society and that the said excerpts contained in the book as published and distributed by the Defendant/Respondent, have injured my character, prestige, pedigree, and reputation as an honest, law-abiding, competent, dutiful, reliable, diligent and trustworthy legal practitioner. I have also sought damages, an unreserved apology and a perpetual injunction.
38. I know that the Amazon websites have several visitors daily. *A copy of the print-out of statistics regarding the traffic of Amazon visitors is hereby attached and marked as Exhibit E.*
39. Pending the hearing and determination of this suit, I need this Honourable Court to intervene to protect me and my reputation from further damage.
40. I know that there is real urgency in this case.
41. The current wave the book is generating cannot wait for the hearing and determination of this suit.
42. If this application is not granted, my reputation will be ruined far beyond redemption.
43. I know that it is necessary that this Honourable Court grants this application to restrain the Defendant/Respondent from further publishing, selling, advertising, or distributing the book authored by the Defendant/Respondent titled: "Nigeria and Its Criminal Justice System", pending the hearing and determination of this substantive suit.

LEGAL RIGHT OF THE CLAIMANT

44. As a law-abiding citizen and senior advocate of Nigeria, I know I have the right to protect my reputation from being unlawfully decimated via the tool of the Defendant/Respondent's book.
45. I have a legal right to protect my reputation pending the hearing and determination of the substantive suit.

SERIOUS ISSUES TO BE TRIED DURING TRIAL

46. The substantive suit has presented serious issues of law and facts for the determination of this Honourable Court.
47. This Honourable Court has been called upon to determine a case of defamation which the Defendant/Respondent has in his book stated that he is ready for.

BALANCE OF CONVENIENCE TILTS IN MY FAVOUR

48. The balance of convenience tilts in my favour as I have everything to lose.
49. I have more to lose than the Defendant/Respondent.
50. The career to which I have dedicated my life and the success I have toiled for years are getting soiled minute by minute.
51. With each day, the number of persons exposed to the book increases.
52. Currently, on the Amazon website, where the book can be bought, the book is ranked as the most popular book of the Defendant/Respondent. *A copy of the print out of the Amazon website for the sales of the book is hereby attached and marked as Exhibit F.*
53. I wake up to daily text messages and calls about the book and the libellous contents of the said book.
54. Some of my clients have cancelled appointments and requested the withdrawal of their files from the firm.

55. The Defendant/Respondent is profiting off my reputational damage while I continue to suffer losses.

56. Many members of staff, particularly those in the Abuja office, depend on the firm's income for survival.

57. I know that the grant of the reliefs in this application has become a desperate need for me.

UNDERTAKING AS TO DAMAGES

58. I undertake to indemnify the Defendant/Respondent as to damages should this application be found to be frivolous.

INSUFFICIENCY OF DAMAGES AS A REMEDY

59. I know that damages will not be a sufficient remedy to me if the Defendant/Respondent is allowed to continue the publication, sale, distribution, advertisement or circulation of the book via any means.

60. By my training as a legal practitioner, I know that there is a reasonable cause of action against the Defendant/Respondent.

61. Granting this application is in the best interest of justice.

COMPLIANCE

62. Concerning the documents in the preceding paragraphs, I certify that:

a. On 5th December 2024, I downloaded the following documents from the following websites:

i. Exhibit B:

<https://www.delefarotimi.com/>.

ii. Exhibit C:

https://www.amazon.com/NIGERIA-ITS-CRIMINAL-JUSTICE-SYSTEM-ebook/dp/B0D8L8KSJ8?ref=ast_author_mpb

iii. Exhibit D:

<https://afebabalola.com/people/> and <https://afebabalola.com/kehinde-olamide-ogunwumiju-o-f-r-s-a-n-fciarb-u-k/>

iv. Exhibit E:

<https://www.contimod.com/amazonstatistics/#:~:text=There%20are%20currently%20an%20estimated,monthly%20visitors%2C%20according%20to%20SimilarWeb.>

v. Exhibit F:

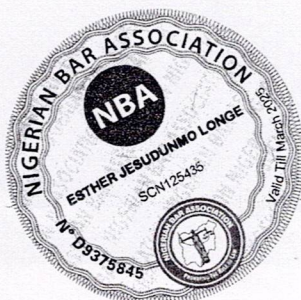
https://www.amazon.com/stores/Dele-Farotimi/author/B09777SWJ5?ref=ap_rdr&isDramIntegrated=true&shoppingPortalEnabled=true

- b. I also used my Hewlett-Packard (HP) Elite One and Sharp Printer (MX-264N) to respectively receive, save, download and print out the documents in paragraph 62 (a) above.
- c. I further certify that the said documents mentioned in paragraph 62 (a) were received, downloaded, saved and printed with the above personal computer gadgets, which I have used regularly to browse and surf internet contents, save, process, download and print data from the internet and the gadgets were operating and functioning properly at those relevant times.
- d. I also certify that the said documents mentioned in paragraph 62 (a) were printed from my sharp printer and were the true state of the information supplied from the desktop computer in the ordinary course of conducting the activities it is meant for.
- e. I confirm that the information supplied by the desktop computer and sharp printer under reference in this certificate are true and accurate to the best of my knowledge and belief.

63. I depose to this affidavit of fact in good faith, believing its content to be true, correct, and in accordance with the Oaths Act.


DEPONENT

Sworn to at the registry of the High Court of the Federal Capital Territory, Abuja
this 5th day of December, 2024.



BEFORE ME


COMMISSIONER FOR OATHS