

IN THE HIGH COURT OF LAGOS STATE  
IN THE LAGOS JUDICIAL DIVISION  
HOLDEN AT COURT 56 GENERAL CIVIL  
BEFORE HON. JUSTICE OLALEKAN A. ORESANYA (MR)  
TODAY TUESDAY THE 13TH DAY OF JANUARY, 2026

SUIT NO.: LD/17783MFHR/2025

BETWEEN

MR FEMI FALANA, SAN

APPLICANT/RESPONDENT

AND

META PLATFORMS

RESPONDENT/OBJECTOR

**JUDGMENT**

This Judgment is in respect of an Originating Motion dated the 3rd day of February, 2025 and a Notice of Preliminary Objection dated 20th June, 2025, filed by the Respondent.

In the Preliminary Objection, the Respondent/Objector is praying the Court for the following:

- A) AN ORDER striking out this suit for lack of jurisdiction against the Respondent.
- B) AND FOR SUCH FURTHER OR OTHER ORDERS as this Honorable Court may deem fit to make in the circumstances.

In support of the Preliminary Objection is a 6 paragraph Affidavit, deposed to by Nsikan Udo, filed along with the Preliminary Objection is a written address, where the Learned Counsel raised a sole issue for determination as follows;

*"Whether this Court has jurisdiction over this suit?"*

The Learned Counsel for the Respondent/Objector submits that it is a well settled principle of law that any proceedings undertaken by a Court without

the requisite jurisdiction must be considered a nullity; he cited the case of **APC & ORS v ENUGU STATE INDEPENDENT ELECTORAL COMMISSION & ORS.** Learned Counsel submits that the Sheriffs and Civil Process Act ("SCPA") governs whether an originating process issued for service outside the Court's jurisdiction is valid. Section 97 of the SCPA provides that every writ of summons for service outside of Nigeria must contain the necessary endorsement. Counsel submits further that Section 95 of the SCPA clarifies that this rule applies to originating processes, such as those filed by the Applicant.

The Respondent/Objector submits that a plain review of the Originating Motion reveals that the Applicant is well aware that the Respondent is located in the United States of America, which is outside Lagos State or even the Federal Capital Territory and therefore Section 97 of the SCPA applies and further submits that the Originating Motion includes the mandatory endorsement that Section 97 of the SCPA requires.

Counsel Submits that the Originating Motion is therefore defective on its face and in its entirety and the entire action must be struck out for lack of Jurisdiction, he cited the case of **THE MV 'KOTA MANIS" & ORS v GEEPEE INDUSTRIES (NIG) LTD & ANOR.**

Counsel submits that the Law is settled that Applicant's failure to comply with the provisions of Section 97 of the SCPA in relation to the Originating Motion vitiates the entire process, and the Court needs not go any further to consider the claims stated therein.

The Contention of the Respondent in their Affidavit is that the Applicant did not comply with the endorsement required under Section 97 of the Sheriffs and Civil Process Act (SCPA) for service of an originating summons outside the Court's Jurisdiction.

Learned Counsel for the Respondent submits that the Court cannot assume Jurisdiction where the Originating Motion is defective on its face. Counsel argues that the Respondent is located outside Nigeria that it is a foreign company and as such it is located outside of the High Court of Lagos State's

jurisdiction and the Applicant as the Party seeking to invoke this Court's Jurisdiction must ensure that all conditions precedent for the Honourable Court to assume Jurisdiction over the Respondent have been met. Counsel submits that it is well settled principle of law that any proceedings taken by a Court without the requisite jurisdiction must be considered null, Counsel refers the Court to the case of **APC & ORS v ENUGU STATE INDEPENDENT ELECTORAL COMMISSION & ORS; MADKOLU & ORS V NKEMDILIM**

Learned Counsel for the Respondent in their written address submits that, it is an established principle of law that where an affidavit contains falsehoods, the affidavit is liable to be struck out, he cited the case of **MOKWE v EZEUKO**. Learned Counsel submits that the Respondent is an intermediary service provider which did not create or post the video at issue and in fact, the Respondent removed the video at issue on 25th April 2025, upon being made aware of it, before the service of the Originating process on the Respondent and argues that the allegations that the Respondent posted the video at issue or that the video at issue remains available on facebook are false.

Counsel submits that the Applicant's allegations makes it clear, that he is in fact bringing a tort claim against the Respondent and therefore contends that the Applicant's claim should be dismissed at the outset as it is improperly framed as a fundamental rights action under Section 37 of the Constitution, he relied on the case of **OBINWA v C.O.P (2007) 11 NWLR Pt.1045, 411**. Counsel contends that the Applicant's own case demonstrates that he is in fact asserting a tort claim, he cited the case of **LEVERTON v CURTIS PUBLISHING CO**. It is the argument of the Counsel that to establish a claim for breach of fundamental rights, the Applicant must demonstrate with sufficient evidence that a fundamental right was breached and that the Respondent is responsible for the alleged breach of privacy rights.

Counsel submits that, pursuant to Nigerian Case Law, an intermediary hosting provider (like the Respondent) cannot be held liable for content

published on its platform by a third party unless the intermediary platform provider is properly notified of unlawful content published on its Platform and thereafter fails to take action against it, he relied on the case of **NICHOLAS OKOYE v LADUN LIADI, GOOGLE INC & GOOGLE NIGERIA.**

In opposition to the Preliminary Objection, the Applicant/Respondent filed a written address dated the 23rd day of June 2025, learned Counsel for the Applicant/Respondent raised an issue for determination as follows;

"Whether or not the Originating Motion filed in this suit is incompetent for non-compliance with Section 97 of the Sheriffs and Civil Process Act?"

In response the Respondent/Objector filed a reply on points of Law dated the 13th day of October, 2025. In arguing the issue, learned Counsel to the Applicant/Respondent argued that the provisions of the law cited by the Counsel to the Objector is not helpful to the Respondent's objection on three grounds:

- a. Section 97 of the SCPA is not applicable to fundamental rights enforcement as in this case.
- b. Section 97 of the SCPA is not applicable to Originating Motion as filed in this case.
- c. Section 97 of the SCPA is not applicable to service outside Nigeria.

Learned Counsel for the Applicant argues that none of the cases cited by the Respondent's Counsel concerns fundamental rights enforcement and they are therefore inapplicable, he cited the case of **A.M.A.C v PLANNED SHELTER LTD (2021) 11 NWLR (Pt.1788) 538**, he contends that Supreme Court has repeatedly admonished Counsels to cite authority.es for what they decided. Counsel submits that the Respondent's Counsel's argument does not represent the position of our laws as restated by the Superior Courts, he cited the case of **ECOBANK V MADUFORO & Ors (2021) LPELR -52716 CA 47-59**. Learned Counsel also argued that the suit was not commenced by writ of Summons and the Supreme Court has held that the provision of Section 97 of the SCPA is limited to Writ of

Summons, he cited the case of **P.D.P v UCHE (2023) 9 NWLR (PT.1890) 523,586**. Counsel contend that Section 97 of the Sheriffs and Civil Process Act refer to service of Court processes within the Federation of Nigeria but that the only Respondent in this matter is outside the Federation, therefore the Provision is not applicable, he cited the case of **ALLI v OKOLOKO (2023) LPELR 60700 CA. IBRAHIM v BALOGUN (1999) 7 NWLR (Pt.610) 254 at 273**

The Applicant in his Originating Motion, claims, against the Respondent as follows;

1. **A DECLARATION** that the Respondent's continued publication of the Applicant's name, still and Motion images and purported voice on a page and video captioned "AfriCare Health Centre" on their platform ([www.facebook.com](http://www.facebook.com)) to the effect that the Applicant suffered from a disease known as "prostatitis" constitute an invasion of the Applicants privacy guaranteed by Section 37 of the Constitution of the Federal Republic of Nigeria,1999.
2. **A DECLARATION** that the Respondents' continued retention of the video captioned." AfriCare Health Centre" on their platform. ([www.facebook.com](http://www.facebook.com)) is false, inaccurate, misleading and unfair to the Applicant and thereby violates the provision of Section 24 (1) (a) and (e) of the Nigeria Data Protection Act 2023.
3. **AN ORDER** mandating the Respondents to forthwith remove/erase/delete the video captioned "AfriCare Health Centre" on their platform ([www.facebook.com](http://www.facebook.com))
4. General Damages in the sum of \$ 5,000,000.00 (Five Million US Dollars).
5. **CONSEQUENTIAL ORDER(S)** that this Honourable Court may deem fit to grant in the circumstance.

Filed along is the Statement of the Applicant, the Application is predicated on 4 grounds.

In support of the Application is a 22-paragraph Affidavit deposed to by Mr Femi Falana, SAN, the Applicant in the instant suit wherein the Applicant

averred that on the 16th day of January, 2025, he discovered that a video of him was posted on the Respondent's Platform under the page named "AfriCare Health Centre" on Respondent's platform ([www.facebook.com](http://www.facebook.com)), in the Video he is reported to have introduced himself by his name and that he has been battling Prostatitis for over 16 years and that at the age of 50, he was diagnosed with the condition and that every day he faced pain, discomfort and constant fatigue, that he had trouble urinating lower back pain and other symptoms that it difficult to live a full life, the Applicant states that he has been greatly prejudiced by the video on the Respondent on the following ground-

- a. My health is part of my private life and i have never suffered any disease known as Prostatitis in my life'
- b. I have never had any dealing with the Respondent or its page on issues with my health life.
- c. The video and its contents are false, inaccurate, misleading and unfair to me.
- d. The video paints me in a false light and as such an invasion of my privacy.

Attached are 2 documents marked as Exhibit 1 & 2, filed along is a written address wherein Learned Counsel for the Applicant formulated 2 issues for determination as follows:

- i. "Whether or not as opposed to libel, the Respondent's continued publication of the Applicant's name, still and motion images and purported voice on a page and video captioned "AfriCare Health Centre" on their platform ([www.facebook.com](http://www.facebook.com)) to the effect that the Applicant suffered from a disease known as 'Prostatitis' constitutes an invasion of the Applicant's privacy and thereby infringes his right to privacy guaranteed by Section 37 of the Constitution of the Federal Republic of Nigeria, 1999?"
- ii. "Whether or not the Respondent's continued retention of the video captioned- "captioned" AfriCare Health Centre" on their platform ([www.facebook.com](http://www.facebook.com)) is unfair, false, inaccurate and thereby violates the

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provision of Section 24 (1) (a) and (e) of the Nigeria Data Protection Act 2023?"

Applicant states that he does not find the stories libelous but because they are false and fabricated against him, he finds them offensive, reckless, insensitive. He states that at the time of deposing to this Affidavit, the video had been published to the entire world on the internet and has remained there, for their failure to verify the page and video before publishing, he states that the Respondent's publishing of his name and image in a false light was done carelessly and recklessly to draw traffic to the Respondent's platform to boost its advertisement revenues.

In arguing the 1st issue the Counsel submits that the Applicant in this matter is a revered Senior Advocate of Nigeria and has not alleged libel rather an invasion of privacy and violation of certain provisions of the Nigerian Data Protection Act 2023, Counsel argues that the right to privacy is the most under litigated Fundamental Right in Nigeria, hence many aspects of the right have neither been litigated nor pronounced upon by the Court, he cited the case of **PAUL OJOMA v STATE (2014) LPELR-2294 CA; DIGITAL RIGHTS LAWYERS INITIATIVE v NATIONAL IDENTITY MANAGEMENT COMMISSION (2021) LPELR-55623 CA.** For the definition of the Right to Privacy, he cited the case of **MEDICAL DENTAL PRACTITIONERS' DISCIPLINARY TRIBUNAL v DR EMEWULU OKONKWO (2001) 7 NWLR Pt.711)206**

Learned Counsel for the Applicant contend that the Respondent claims that the Respondent intruded into his privacy by making false claims about his health status- a component of his private life. Counsel submit that false light has some element of defamation, but that both causes of action must not be conflated or confused and emphatically argue that the Applicants claim is not for defamation.

In arguing issue two, Learned Counsel argues that personal data is used fairly when it is not used to prejudice the data subject in any manner and that in this case the Applicant deposed that his name and images were used in a prejudicial and unfair manner, hence he finds the use offensive.

Counsel submits that publishing the Applicant's name and images and falsely attributing a strange illness to him is unfair especially since such allegation has been vehemently denied. Counsel referred the Court to the book Annotated Nigeria Data Protection Act, 2023, page 52.

Counsel Submits that "fairness" is a principle of Data Protection which dictates that personal data must not be processed in an insensitive manner. It is the submission of the Counsel that the Respondent's publication of the Applicant's name and picture in this manner is highly insensitive of the Applicant's feelings.

Counsel submits that Section 24 of NDPA requires personal data to be accurate, but the Applicant has given evidence that the video is false, fabricated and inaccurate.

The Learned Counsel for the Applicant contend that the Applicant's Lawyer wrote a letter to the Respondent demanding a removal of the video but they refused and thereby violated the Applicant's right to removal, Counsel further submits that the Nigeria Data Protection Act 2023 (NDPA) guarantees some rights in favour of data subjects. One of these rights is the right to erasure which is also known as the right to be forgotten and cited Section 34 (1) (d) of the NDPA.

In response, the Respondent Counsel filed a Counter-Affidavit dated the 24th day of July, 2025 and deposed to by Adeniran Haastrup, an Associate General Counsel EMEA disputes, attached to the Counter-Affidavit are 4 documents Marked as Exhibit Meta 1-4, filed along with the Counter-Affidavit is a written address of 31 pages.

Learned Counsel for the Respondent formulated three issues for determination as follows;

- i. "Whether or not as opposed to libel, the Respondent's continued publication of the Applicant's name, still and motion images and purported voice on a page and video captioned "AfriCare Health Centre" on their platform ([www.facebook.com](http://www.facebook.com)) to the effect that the Applicant suffered from a disease known as 'Prostatitis' constitutes an invasion of the

Applicant's privacy and thereby infringes his right to privacy guaranteed by Section 37 of the Constitution of the Federal Republic of Nigeria, 1999?"

ii. "Whether or not the Respondent's continued retention of the video captioned- "captioned" AfriCare Health Centre" on their platform- www.facebook.com is unfair, false, inaccurate and thereby violates the provision of Section 24(1) (a) and (e) of the Nigeria Data Protection Act 2023?"

iii. "Is the Applicant entitled to the reliefs sought in this suit?"

In response to the written address of the Respondent, the Learned Counsel for the Applicant, filed a Reply on Points of Law, dated the 26th day of September, 2025.

The Contention of the Respondent in their Affidavit is that the Applicant did not comply with the endorsement required under Section 97 of the Sheriffs and Civil Process Act (SCPA) for service of an originating summons outside the Court's Jurisdiction.

The Respondent raised an issue for determination in the written address:

Learned Counsel for the Respondent submits that the Court cannot assume Jurisdiction where the Originating Motion is defective on its face. Counsel argues that the Respondent is located outside Nigeria, that it is a foreign company and as such it is located outside of the High Court of Lagos State's jurisdiction and the Applicant as the Party seeking to invoke this Court's Jurisdiction must ensure that all conditions precedent for the Honourable Court to assume Jurisdiction over the Respondent have been met. Counsel submits that it is well settled principle of law that any proceedings taken by a Court without the requisite jurisdiction must be considered null, Counsel refers the Court to the case of **APC & ORS v ENUGU STATE INDEPENDENT ELECTORALCOMMISSION & ORS; MADKOLU & ORS v NKEMDILIM**

Learned Counsel for the Respondent in their written address submits that, it is an established principle of law that where an affidavit contains

falsehoods, the Affidavit is liable to be struck out, he cited the case of **MOKWE v EZEUKO**. Learned Counsel submits that the Respondent is an intermediary service provider which did not create or post the video at issue and in fact, the Respondent removed the video at issue on 25th April 2025, upon being made aware of it, before the service of the Originating process on the Respondent and argues that the allegations that the Respondent posted the video at issue or that the video at issue remains available on facebook are false.

Counsel submits that the Applicant's allegations make clear, that he is in fact bringing a tort claim against the Respondent and therefore contend that the Applicant's claim should be dismissed at the outset as it is improperly framed as a fundamental rights action under Section 37 of the Constitution, he relied on the case of **OBINWA v C.O.P (2007) 11 NWLR Pt.1045, 411**. Counsel contend that the Applicant's own cases demonstrate that he is in fact asserting a tort claim, he cited the case of **LEVERTON v CURTIS PUBLISHING CO**. It is the argument of the Counsel that to establish a claim for breach of fundamental rights, the Applicant must demonstrate with sufficient evidence that a fundamental right was breached and that the Respondent is responsible for the alleged breach of privacy rights.

Counsel submits that, pursuant to Nigerian Case Law, an intermediary hosting provider (like the Respondent) cannot be held liable for content published on its platform by a third party unless the intermediary platform provider is properly notified of unlawful content published on its Platform and thereafter fails to take action against it, he relied on the case of **NICHOLAS OKOYE v LADUN LIADI, GOOGLE INC & GOOGLE NIGERIA**.

The Learned Counsel for the Respondent in his Reply submits that Section 97 SCPA applies to the Originating Motion in this case and that the Applicant's argument should be rejected.

I have examined carefully the affidavit evidence placed before this Court by the parties and the documents attached as exhibits thereto. I have also

given a calm and thorough consideration to the submissions of the Learned Counsels to the parties all of which already form part of the records of this Court Honourable Court and properly incorporated to this Judgment.

The Court will determine first the preliminary objection filed by the Respondents challenging the Jurisdiction of this Honourable Court to entertain the instant suit on the ground of non-compliance by the Applicant with the provision of the Sheriffs and Civil Processes Act governing service of originating processes outside jurisdiction, Section 97 of the SPCA provides as follows: "Every writ of summons for service under this part out the state or the Capital Territory in which it was issued, shall, in addition to any other endorsement or notice required by the Law of such State or the Capital Territory have a specific endorsement stating it is for service out of the State and the other State." Applying the literal and purposive rules of interpretation to the above stated provision of Section 97, this Court is of a well considered view that the provision of Section 97 is not applicable to Origination Motion in a Fundamental Right Enforcement action. Where the words of a Statute are clear and unambiguous, it must be given their plain ordinary meaning in order to give effect to intention of the makers of the Law. "There is no manifest absurdity or injustice created by a plain and ordinary meaning accorded the provision of Section 97. Section 97 specifically refers to writ of summons and if any other originating summons were to be included, it would have been mentioned. Express mention or specific mention of one thing excludes other things mentioned.

Fundamental Rights Enforcement action is *sui generis* and the enforcement procedure is specifically stated in the Constitution and provisions overrides any other Law enactment or Statute.

I must also add that the mere fact that an issue of Jurisdiction is raised, does not mean that an interlocutory application based on it must as matter of fact succeeds. Jurisdiction does not have such a saintly immunised character so as to diffuse the entire judicial process, merely because it is raised does not mean "heavens must fall". I have no difficulty in holding

that the Preliminary objection raised by the Respondent is lacking in merit and substance and liable to be dismissed and it is accordingly dismissed.

In determining the Substantive Originating Motion, this Court will adopt the issues formulated for determination by the Respondent.

## ISSUE 1

"Whether or not as opposed to libel, the Respondent's continued publication of the Applicant's name, still and motion images and purported voice on a page and video captioned "AFRICARE HEALTH CENTRE" on their platform ([www.facebook.com](http://www.facebook.com)) to the effect that the Applicant suffered from a disease known as "PROSTATITIS" constitutes an invasion of the Applicant's privacy and thereby infringes his right to privacy guaranteed by section 37 of the Constitution of the Federal Republic of Nigeria, 1999?"

It is the contention of the Respondent the Applicant's claim is improperly framed as a Fundamental Rights action under section 37 of the Constitution when it is in fact as action in tort. The Law is well settled that a single transaction or event can give rise to multiple causes of action. It could amount to a breach of contract, infringement of Fundamental Rights, commission of a tort and it could also amount to a crime or an offence under a written law / enactment as the case may be. It is always within the right of an aggrieved or injured party to elect and pursue and or all of the causes of action open to him once a reasonable cause of action is disclosed notwithstanding that the cause of action is weak or unlikely to succeed. It is not for an alleged party in breach to suggest or impose a cause of action that an aggrieved party should pursue. The relevant consideration is whether a reasonable cause of action bordering on the alleged violation of the fundamental right to privacy under section 37 of the Constitution of the Federal Republic of Nigeria, 1999 is disclosed. In determining whether a reasonable cause of action is disclosed, the Court will necessarily restrict itself to the averment in the Claimant's pleadings and in this case, the affidavit evidence of the Applicant in support of the Originating Summons - **THOMAS v OLUFOSOYE (1986)**.

Upon a careful evaluation of the Affidavit in support of the Applicant's Originating Summons, this Court is of a firm and well considered view that the Applicant's case is properly constituted as a fundamental right enforcement action as guaranteed by section 37 of the 1999 Constitution. I must state from the beginning that the question of violation of fundamental rights is largely one of fact which does not really depend on the dexterous submissions of Counsel on the La, although, this Court commends the submissions of Learned Counsels to the parties on the points of Law raised in respect of this suit. It is the facts as stated in the affidavit of the parties that is actually examined, evaluated and analysed in Order to determine whether the fundamental rights of an individual has been breached or dealt with in a manner which contrary or inconsistent with the provision of the Constitution and other relevant enactments on the fundamental rights of individuals. Therefore, this Court will determine whether based on the totality of facts and materials placed before this Court by the parties, the Applicant is entitled to the reliefs sought in his Originating motion.

From the facts placed before this Court as contained in the affidavit evidence of the parties, the Applicant is alleging a violation of his fundamental right to privacy vide a publication of the Applicant's name, still and motion images and purported voice on a page and video captioned "AFRICARE HEALTH CENTRE" on the Respondent's platform- [www.facebook.com](http://www.facebook.com) to the effect that the Applicant suffered from disease known as "PROSTATITIS". It is not in dispute that the said publication was made on the Respondent's platform and the Respondent admitted in the Counter affidavit that the video was posted on the platform by a third party. In January, 2025 although it denied liability as an intermediary hosting provider who is not in a position to determine what is libelous against the Applicant and that the Applicant's Statement that the Respondent's page has given the Respondent a publicity that paints him in a false light is fake as the Respondent does not administer the page and did not publish any content on the page including the video. The inaccuracy in the dates of publication mentioned by Applicant does not constitute a

material contradiction capable of affecting the veracity of the claim/case of the Applicant that such publication in fact took place, the argument of the Respondent that the Applicant's averments contained in his affidavit should be discountenanced is misplaced and is of no moment.

The critical question for the Court to determine is whether the publication of the video stating that the Applicant suffers from prostatitis violates the Applicant's right to privacy. Section 37 of the Constitution of the Federal Republic of Nigeria 1999 guarantees the fundamental right to privacy, protecting citizens' homes, correspondence, telephone calls and telegraphic communications from unlawful intrusion, forming the basis for data privacy rights and serves as a Constitutional bedrock for data protection and protects against invasive surveillance of private life and communications. It is my well considered view that a Statement or publication in a video made without the consent of the party concerned irrespective of whether the statement be true or false which contains an imputation that the person has a terminal or contagious disease has the tendency to put that person in a false light and amounts to a violation of the right to privacy of that person and is actionable *per se* i.e even without proof of actual damage or injury and also created a potential case of strict liability on the part of the person who made the statement or publication.

The Respondent as intermediary hosting provider who claimed that the publication was made by a third party who is unknown or named by the Respondent is presumed to be acting on behalf of an unnamed or undisclosed principal. It is a settled principle of agency that the act of an agent binds the principal and vice versa. It is always within the right of an aggrieved party to choose whether to proceed against the agent or the undisclosed principal and where an agent contracts on behalf of a non-existent principal as it is in the instant case where the identity of the third party who posted the video in contention has not been revealed by the Respondent, the Respondent is liable to be sued by the Applicant for the said publication posted on the Respondent's website.

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I reckon that the Respondent who is holstering the information of the third party on its platform for a Valuable consideration owes a correlative obligation to ensure that, that publication posted on its platform by undisclosed third parties are not incompatible with the rights to privacy of others guaranteed by the constitution. If the argument of the Respondent that it has no absolute control on the publication posted on its platform is to be accepted, it then follows that an aggrieved party cannot seek remedy against the Respondent for infringement of the right to privacy especially where the third party is unknown to the aggrieved party, to my mind, this cannot be a just, fair and reasonable interpretation of the Law as a tool of balancing the competing and often conflicting interests of members of civilised society.

I must state that the defence of innocent dissemination and Jus tertii (act of a third party) will not avail the Respondent. The Applicant is not a party to the Terms of service and community standard between the Respondents and third parties who made use of the Respondent's platform who has both actual and constructive knowledge of the publications sent to its platform.

The Respondent is vicariously liable for the publication placed on its platform by third parties and reserves the right to pursue a claim against the third party with who it has privity of contract. I must add that the fact that the Applicant is a public figure does not mean that he has no right to his privacy. The relevant Constitutional provision on privacy (Section 37, 1999 Constitution) did not make a distinction between a public figure and a private person, the right to privacy is available to all persons irrespective of their status ethnicity, origin, sex, nationality, race or colour and so on. It is my well considered view in the absence of credible evidence and proof on the part of the Respondent that the video publication was published by a third party on its platform who has not been named or joined as a party to this suit, liability should be placed where it seemingly lies and in this case on the Respondent who is deemed to be a joint controller of the data and information alleged to have been published in violation of the right to privacy of the Applicant, the Applicant is in breach of the provision of

Section 24 (1) (a) and (e) of the Nigerian Data Protection Act 2023 which enjoins controller of data to administer same in a lawful, fair just and reasonable manner. The Respondent is clearly in breach of the duty of care in ensuring the accuracy and the integrity of the publication posted on its platform by third parties with whom it had a contractual relationship irrespective whether it had actual or constructive knowledge of the publication.

The risk of inaccuracy and potential liability for violation of right to privacy of others are foreseeable and the Respondent a global commercial technology company ought to have provided adequate safeguards against such risk.

The argument of the Respondent that since the claims in the video are alleged to be false, it follows that no violation of the right to privacy of the Applicant could have occurred is misconceived and seriously misplaced. The fact that the alleged claims in the video is false makes it more aggravating and alarming and amounts to a gross violation of the right to privacy of the Applicant and i so hold.

Based on the reasons adumbrated, i have no difficulty in resolving this issue in favour of the Applicant.

## ISSUE 2

*"Whether the Applicant is entitled to the reliefs sought in this suit"?*

The Applicant is seeking a declaration that the Respondent's continued publication of the Applicant's name, Mr. Femi Falana, and motion images and purported voice on a page and video captioned "Africare Health Centre" on their platform, [www.facebook.com](http://www.facebook.com) to the effect that the Applicant suffered from a disease known as Prostatitis, constitutes an invasion of the Applicant's privacy guaranteed by Section 37 of the Constitution of the Federal Republic of Nigeria 1999 and that the publication on the Respondent's website is false, inaccurate, misleading and unfair to the Applicant and thereby violates the provision of Section 24 (1) (a) and (e) of the Nigeria Data Protection Act 2023.

An Order of Mandating the Respondents to forthwith remove/erase/delete the video captioned "Africare Health Centre" on their platform- ([www.facebook.com](http://www.facebook.com)) and general damages in the sum of sum of \$5, 000, 000 (Five Million US Dollars).

This Court having held that the Respondent is in breach of the Applicant's right to privacy, it stands to reason that the Applicant is entitled to the remedies sought. The Law is well settled that whenever there is a right there must be a remedy (Ubi Jus Ibi Remedium). The contention and argument of the Respondent that damages is only recoverable where the violation involve breach of a person's right to liberty under Section 35(6) of the constitution and compulsory acquisition of property by Government under Section 44(1) (a) is misconceived and seriously misplaced. The Court has power to award damages in deserving cases whether the matter relates to fundamental rights enforcement or any other civil claim.

The Applicant is claiming general damages in the sum of \$5, 000, 000 (Five Million US Dollars) for the alleged emotional and psychological distress he suffered as a result of the publication and dissemination of video. General damages is awarded by the Court in the circumstances of a case in the absence of any yardstick with which assess the award except by the expectation of a reasonable man. They are presumed by Law to be the direct natural probable consequence of the act complained of and generally incapable of substantially exact calculation. **A.N.T.S v ATOLOYE (1993) 6 NWLR.**

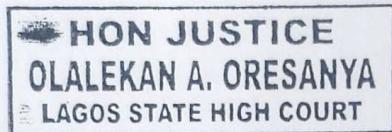
The Applicant's case is within the threshold of the principles for the award of damages. Unlike special damages which must be pleaded specifically and proved strictly, the award of general damages need not be pleaded and it is determined by what is reasonable in the circumstances of the case - **ENEH v OZOR (2016) 16 NWLR Part 153 Page 219 at 238 Para G-H; UNION BANK PLC v CHIMAEZE (2014) 9 NWLR Part 1411, Page 166 at 192-193, Para H-A.**

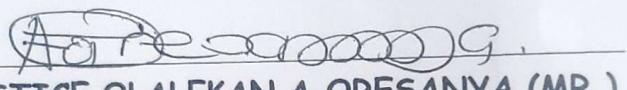
On the whole and in the final analysis, i find merit in the Applicant's case. Reliefs 1 and 2 of the Applicant's claim are accordingly granted.

Relief 3 is struck out in view of the removal of the video publication by the Respondent.

General Damages in the sum of \$25, 000, 000 (Twenty-Five Million Us Dollars) in favour of the Applicant for breach of the Applicant's right to privacy and breach of the Data Protection right of the Applicant by the Respondent.

THIS IS THE JUDGMENT OF THE COURT.



  
HON. JUSTICE OLALEKAN A. ORESANYA (MR.)

13<sup>TH</sup> JANUARY, 2026

Appearance:

Olumide Babalola with Moheeb Owodunni for the Applicant.

Lukwagh Mgbanyi holding the brief of Paul Mgbeoma for the Respondent.

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