

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE LOKOJA JUDICIAL DIVISION
HOLDEN AT LOKOJA



ON FRIDAY THE 26TH DAY OF JUNE, 2026
BEFORE HON. JUSTICE ISA H. DASHEN
(PRESIDING JUDGE)

SUIT NO.: FHC/LKJ/CS/49/2025

BETWEEN:

1. **BARR. TAKORI MOHAMMED SANI**
(Protem National Secretary, NDC)
2. **BARR. IKENNA MORGAN ENKWEIZU**
(Protem National Organizing Secretary, NDC)
3. **HON. ABDULMUMIN OHIARE ABDULSALAMI**
(State Chairman, NDC, Kogi State)
4. **PIUS UGBOJA**
(State Secretary, NDC, Kogi State Chapter)
Suing for themselves and as representatives
of the Nigeria Democratic Congress (NDC))

**PLAINTIFFS/
RESPONDENTS**

AND

INDEPENDENT NATIONAL ELECTORAL COMMISSION (INEC) **DEFENDANT/
RESPONDENTS**

AND

BARRISTER EMMANUEL UZOWURU **APPLICANT/
AFFECTED PARTY**
(Protem National Legal Adviser of Peace
Movement Party, PMP) For herself and as
Representative of the Peace Movement
Party, PMP)



RULING

This is a Ruling on a Motion on Notice dated 4th May, 2026 and filed on 5th May, 2026 by the Affected Party/Applicant (Barrister Emmanuel Uzowuru (Protem National Legal Adviser of Peace Movement Party,

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PMP for himself and as representative of the Peace Movement Party, PMP). The application is brought pursuant to Order 26 Rules (1)) and 8 and 56 of the Federal High Court (Civil Procedure) Rules 2019, and under the inherent jurisdiction of this Honourable Court.

By the said Motion, the Affected Party/Applicant seeks the following reliefs:

1. *An Order of this Honourable Court extending the time within which the party Affected/Applicant may apply to set aside the judgment of this Court delivered on the 10th day of December, 2025 in SUIT NO: FHC/LKJ/CS/49/2025 BETWEEN BARR. TAKORI MOHAMMED SANI (Protem National Secretary, NDC) & 3 Ors vs. INDEPENDENT NATIONAL ELECTORAL COMMISSION.*
2. *An Order of this Honourable Court setting aside the judgment of this Court delivered on 10th day of December, 2025 in SUIT NO: FHC/LKJ/CS/49/2025 BETWEEN BARR. TAKORI MOHAMMED SANI (Protem National Secretary, NDC) & 3 Ors vs. INDEPENDENT NATIONAL ELECTORAL COMMISSION.*

The grounds upon which this application is brought are set out on the face of the Motion.

The Motion is supported by a 41 paragraphs affidavit deposed to by Emmanuel Uzowuru, Esq, the Protem National Legal Adviser of the Affected Party/Applicant, together with the following Exhibits: A, B, C, D, E, F and G respectively. And in support a written address was filed by the Party Affected/Applicant wherein learned counsel canvassed arguments in support of the application.

In opposition, the Plaintiffs/Respondents filed a 54 paragraph Counter-Affidavit to the Party Affected/Applicant Motion on Notice which was sworn to by one KAREEM HENRY, together with Exhibits: NDC 'A',

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NDC 'B', NDC 'C' and NDC 'D' thereto and a written address in support, urging the Court to dismiss the application.

The Plaintiffs/Respondents also filed a 29 paragraphs Reply Affidavit in Opposition to the Defendant/Respondent Affidavit of facts filed on the 26th May, 2026 together with Exhibits: NDC 1, NDC 2 and NDC 3 with a Written Address.

The Plaintiffs/Respondents also filed an 11 paragraphs Further Counter Affidavit in opposition to the Defendant's Affidavit of facts filed on 4th May, 2026.

On the part of the Defendant/Respondent, a 22 paragraphs Affidavit of Facts in response to the Party Affected/Applicant's Motion on notice was sworn to by one YABAGI IBRAHIM BASHIRU on 26th May, 2026, a Higher Executive Officer in the Headquarters of the Defendant/Respondent without a Written Address in support.

The above represented the various processes filed by parties for the determination of this Motion on Notice.

On the 26th June, 2026 when the matter came up for hearing Learned Counsel for the Party Affected/Applicant C.S. EKEOCHA ESQ, REUBEN EGWUABA ESQ with H.O. YUSUF ESQ for the Plaintiffs/Respondents and F.A. KOTSO ESQ for the Defendant/Respondent adopted their processes, adumbrated on same and urged the court to resolve the dispute in the Application in favour of the respective parties that they represent.

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BACKGROUND FACTS:

The present proceedings arose from an application filed by the Party Affected/Applicant, Peace Movement Party (PMP), seeking, amongst other reliefs, an order setting aside the judgment delivered by this Court on 10th December 2025 in Suit No. FHC/LKJ/CS/49/2025 between Barr. Takori Mohammed Sani & 3 Ors. (for themselves and on behalf of the Nigeria Democratic Congress (NDC)) and the Independent National Electoral Commission (INEC).

The record of this Court reveals that the substantive suit was commenced by way of Originating Summons wherein the Plaintiffs challenged the decision of the Independent National Electoral Commission (INEC) refusing to register the Nigeria Democratic Congress (NDC) as a political party. The Plaintiffs contended that they had fulfilled all constitutional and statutory requirements prescribed under Section 222 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and the Electoral Act, 2022, and that INEC acted unlawfully in discontinuing the registration process.

The Defendant, INEC, opposed the suit and justified its decision on grounds which included issues relating to the proposed logo and symbol submitted by the Plaintiffs as part of their registration documents. Upon a consideration of the affidavit evidence and submissions of counsel, this Court delivered judgment on 10th December 2025 in favour of the Plaintiffs and ordered, amongst other things, that NDC be registered as a political party.

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Subsequent to the delivery and implementation of the said judgment, the present Applicant, Peace Movement Party (PMP), who was not a party to the substantive proceedings, approached the Court complaining that the judgment was obtained without disclosure of material facts touching directly on its own application for registration as a political party and its prior interest in the disputed two-finger victory logo.

The Applicant's case is that long before the institution of the substantive suit, it had commenced the process of registration as a political party and had submitted the same two-finger victory logo to INEC as part of its registration documents. The Applicant contends that this fact was known to INEC and that the logo in question had already become associated with its registration process before NDC presented the same logo for registration.

According to the Applicant, the Court was never informed during the hearing of the substantive suit that another political association had previously submitted the same logo and that a competing claim to the symbol already existed. The Applicant maintains that had these facts been disclosed to the Court, the Court would have had the benefit of considering the effect of such prior claim and the consequential impact of any order touching upon the registration of NDC with the disputed logo.

The Applicant therefore alleges that the judgment was entered upon incomplete and materially deficient facts and that its proprietary and registration interests were directly affected by orders made in

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proceedings to which it was neither joined nor afforded an opportunity of being heard. It is on this basis that the Applicant invokes the inherent jurisdiction of the Court to revisit and set aside the judgment in the interest of justice.

In response, the Plaintiffs/Respondents contend that the substantive suit was concerned solely with the legality of INEC's refusal to register NDC and not with the determination of ownership of any logo or symbol. The Plaintiffs/Respondents deny suppressing any material fact and maintain that the Applicant was not a necessary party to the proceedings. They further contend that the judgment was validly entered and that the Applicant has failed to establish any legally recognised ground upon which a final judgment of a competent Court may be set aside.

The Defendant/Respondent, INEC, also filed processes in response to the application. Significantly, portions of the Defendant/Respondent's affidavit evidence acknowledge that both the Applicant and NDC submitted the disputed two-finger victory logo and further disclose that the Applicant had submitted the logo before NDC. The parties thereafter exchanged affidavits and written addresses and urged the Court to resolve the application in their respective favour.

It is against this factual background that the Court is called upon to determine whether the circumstances disclosed by the affidavit evidence, particularly the alleged non-disclosure of the Applicant's prior interest in the disputed logo and registration process, constitute

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sufficient grounds to warrant the setting aside of the judgment delivered by this Court on 10th December 2025.

COUNSELS' SUBMISSIONS:

In support of the application, learned counsel for the Party Affected/Applicant formulated two issues for determination, namely:

1. *Whether the Party Affected/Applicant is, by the facts disclosed in the instant motion, entitled to apply to this Honourable Court to set aside the judgment delivered on 10th December 2025 in Suit No. FHC/LKJ/CS/49/2025 between Barr. Takori Mohammed Sani & 3 Ors. v. Independent National Electoral Commission.*
2. *Whether in the light of the facts allegedly misrepresented and concealed by the Claimants/Respondents in their depositions and supporting affidavits, and their appropriation of the symbol/logo of the Applicant, the judgment delivered on 10th December 2025 ought not to be set aside.*

Learned counsel submitted that the Applicant had satisfactorily explained the delay in bringing the instant application. Counsel referred the Court to several paragraphs of the affidavit in support and argued that the Applicant only became aware of the existence of the substantive suit and the judgment on 27th April 2026. Counsel submitted that once sufficient explanation is offered for delay, the Court possesses the discretionary power to enlarge time in the interest of justice. Reliance was placed on *UMOREN v. NDI* (2010) 6 NWLR (Pt.1190) 364 and *F. DAVIES v. GUILDPRIME LTD* (2004) 5 NWLR (Pt.865) 131. Counsel therefore urged the Court to grant the application for extension of time.

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Learned counsel submitted that the judgment delivered on 10th December 2025 was procured through material concealment and misrepresentation of facts. Counsel referred extensively to the affidavit evidence of the Applicant and argued that prior to the institution of the substantive suit, the Defendant/Respondent had knowledge that the Applicant had previously submitted the disputed two-finger victory logo as part of its registration process. Counsel further argued that paragraphs 14 and 15 of the Defendant/Respondent's Affidavit of Facts support the Applicant's position that the Applicant was the first political association to submit the disputed logo and that the registration process of NDC was discontinued on account of the similarity between the logos.

Learned counsel submitted that these facts were material to the issues determined by the Court and ought to have been fully disclosed during the substantive proceedings. Counsel contended that the failure to place such facts before the Court resulted in a judgment founded upon incomplete information. Counsel therefore argued that the judgment was liable to be set aside on grounds of concealment, misrepresentation and in order to prevent a miscarriage of justice.

In support of this contention, counsel relied on OLOYEDE v. STATE (2018) 8 NWLR (Pt.1621) 311; ABACHA v. BENKAY NIG. LTD (1993) 1 NWLR (Pt.269) 351; MICHAEL v. BON (2015) 12 NWLR (Pt.1473) 370; UGBA v. SUSWAM (2014) 14 NWLR (Pt.1427) 264; ABBA v. HARUNA (2023) 10 NWLR (Pt.1892) 351; R. BENKAY (NIG.) LTD v. CADBURY (NIG.) PLC (2012) 9 NWLR (Pt.1306) 596; EKE v. OWO (2005) 5

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NWLR (Pt.865) 54; OJIAKO v. OGUEZE (1962) 1 ALL NLR 58; F.H.A. v. KALEJAIYE (2020) 18 NWLR (Pt.1753) 358 and OLUFUNMISE v. FALANA (1990) 3 NWLR (Pt.136) 1. Counsel also invoked the principle of debito justitiae and relied on P.P.A. v. INEC (2012) 13 NWLR (Pt.1317) 215, JIKANTORO v. DANTORO, TABANSI-OKOYE v. CHUBA-IKPEAZU and UNEGBU v. ORS., urging the Court to set aside the judgment and reopen the proceedings.

In opposition, learned counsel for the Plaintiffs/Respondents formulated a sole issue for determination, namely:

Whether the Applicant has placed sufficient material before this Honourable Court to warrant the setting aside of the judgment delivered on 10th December 2025 in favour of the Plaintiffs/Respondents.

Learned counsel submitted that the application is fundamentally misconceived and constitutes an invitation to this Court to sit on appeal over its own final judgment. Counsel argued that the Court became functus officio immediately upon delivery of the judgment and therefore lacks jurisdiction to revisit the merits of the decision except in recognised exceptional circumstances.

For this proposition counsel relied on A.G. KWARA STATE v. LAWAL (2018) 3 NWLR (Pt.1606) 266; AKPAN v. A.G. AKWA IBOM STATE (2008) 18 NWLR (Pt.1118) 115; THYNNE v. THYNNE (1955) 3 All E.R. 129; ISHERI OKEI v. D.S. (1973) 12 SC 137 and MBE OKE v. OKPON UBA (1976) 9-10 SC 123.



Counsel submitted that even if the Applicant was the first political association to submit the disputed logo, as suggested by portions of the Defendant/Respondent's affidavit, such fact does not automatically establish fraud, deceit, suppression of material facts or any other recognised ground for setting aside a final judgment. Counsel argued that the Applicant failed to place before the Court any evidence showing that the Plaintiffs/Respondents deliberately misled the Court, knowingly suppressed material facts or procured the judgment by fraudulent means.

Learned counsel further contended that the substantive suit was not a contest over ownership of a logo but a challenge to the legality of INEC's refusal to register NDC as a political party. According to counsel, the Court neither adjudicated upon ownership of the disputed logo nor conferred any proprietary right over the logo upon NDC. Counsel therefore maintained that the Applicant's complaint does not affect the validity of the judgment itself.

Reliance was also placed on OBASI v. RSWDC (2007) 17 NWLR (Pt.1062) 249; NBA v. UDEAGHA (2006) 12 NWLR (Pt.994) 438 and INTEGRATION (NIG.) LTD v. ZUMAFON (NIG.) LTD (2014) 4 NWLR (Pt.1398) 479. Counsel urged the Court to dismiss the application and preserve the finality of the judgment.

The Defendant/Respondent did not file a Written Address but filed an Affidavit of Facts in opposition to the application. The position of the Defendant/Respondent, as discernible from the affidavit evidence, is that while both the Applicant and NDC submitted the disputed logo

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and the Applicant may have submitted same earlier, the judgment of this Court has since been implemented, NDC has been registered as a political party and a Certificate of Registration has already been issued.

These, in summary, are the respective positions of the parties. I shall now proceed to consider the affidavit evidence, the applicable principles of law and the authorities relied upon in resolving the issue arising for determination.

COURT'S DETERMINATION AND REASONING:

I have given a most careful consideration to the Motion on Notice filed by the Party Affected/Applicant, the affidavits and documentary exhibits placed before the Court, the Counter-Affidavits and Further Counter-Affidavit of the Plaintiffs/Respondents, the Affidavit of Facts filed by the Defendant/Respondent, the submissions of learned counsel and the authorities cited.

The Applicant's complaint is that the judgment delivered by this Court on 10th December 2025 was obtained and entered in proceedings conducted without the participation of a party whose legal and recognizable interests were directly affected by the reliefs sought and granted therein, and that material facts relating to the Applicant's prior claim and interest in the disputed two-finger victory logo were not disclosed to the Court before judgment was entered.

The law is settled beyond controversy that a Court, after delivering a final judgment, ordinarily becomes functus officio and lacks jurisdiction to revisit the merits of its decision. See A.G. KWARA STATE v. LAWAL

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(2018) 3 NWLR (Pt.1606) 266; JOHN ANDY SONS & CO. LTD. v. MIFON (2007) 10 NWLR (Pt.1043) 498. However, equally settled is the principle that where a judgment is shown to be a nullity, was obtained by fraud, suppression of material facts, or entered in violation of the constitutional right to fair hearing, the Court retains inherent jurisdiction to set aside such judgment ex debito justitiae. See ALAO v. A.C.B. LTD. (2000) 9 NWLR (Pt.672) 264; IGWE v. KALU (2002) 14 NWLR (Pt.787) 435; OLUFUNMISE v. FALANA (1990) 3 NWLR (Pt.136) 1.

The threshold question therefore is whether the Applicant has demonstrated the existence of circumstances capable of bringing this case within the recognized exceptions to the doctrine of functus officio.

I have painstakingly examined the affidavit evidence before the Court. Of particular significance are paragraphs 14 and 15 of the Defendant/Respondent's Affidavit of Facts wherein the Defendant expressly acknowledged that both the Applicant and the Plaintiffs/Respondents submitted the disputed two-finger victory logo as part of their respective applications for registration as political parties and, more importantly, that the Applicant submitted the said logo before the Plaintiffs/Respondents.

The same affidavit evidence further reveals that the existence of the Applicant's prior submission of the logo formed part of the considerations that informed the administrative decision of the Defendant/Respondent to discontinue or decline the registration process of the Plaintiffs/Respondents.

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This finding is crucial.

The substantive suit which culminated in the judgment of 10th December 2025 was instituted to challenge the legality of the Defendant's refusal to register the Nigeria Democratic Congress (NDC) as a political party. The Defendant's justification for that refusal necessarily formed part of the factual matrix upon which the Court was invited to adjudicate.

Where a material fact constituting part of the factual basis of the impugned administrative decision concerns the pre-existing and competing interest of an identifiable third party, the Court cannot properly and effectually determine the dispute without hearing such party.

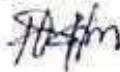
The contention of the Plaintiffs/Respondents that the substantive suit did not involve ownership of the disputed logo and therefore did not require the participation of the Applicant is, with profound respect, misconceived.

The issue is not whether the Court was called upon to determine proprietary ownership of the logo. The issue is whether the Court was invited to make orders whose direct legal consequence would affect the competing and pre-existing interest of a person who was not before the Court.

In my respectful view, once the affidavit evidence disclosed that the Applicant had previously submitted the disputed logo and that such

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prior submission constituted part of the reason advanced by INEC for refusing registration of the Plaintiffs/Respondents, the Applicant ceased to be a mere interested observer and became a person whose legal and recognizable interest was directly implicated in the proceedings.

The law is settled that a necessary party is one whose presence before the Court is indispensable for the effectual and complete determination of the issues in controversy and whose legal interests are likely to be affected by the outcome of the proceedings. See PEENOK INVESTMENTS LTD. v. HOTEL PRESIDENTIAL LTD. (1982) 12 SC 1; UKU v. OKUMAGBA (1974) 3 SC 35.

Applying the foregoing principles to the facts before me, I have no hesitation in holding that the Applicant was a necessary and indispensable party to the proceedings which culminated in the judgment of 10th December 2025. The Court could not effectually and completely determine the legality of the Defendant's decision in relation to the disputed logo without affording an opportunity of hearing to the very party whose prior claim to the logo formed part of the factual basis of that decision.

The consequence of such non-joinder raises a more fundamental constitutional issue.

Before proceeding further, I consider it necessary to address the contention of learned counsel for the Plaintiffs/Respondents that the

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present application constitutes an invitation to this Court to sit on appeal over its own judgment. I am unable to agree.

It is beyond dispute that upon the delivery of a final judgment, a Court becomes functus officio and lacks jurisdiction to review, vary or reconsider the correctness of its findings on the merits. However, the present application is not predicated upon any allegation that the Court wrongly evaluated the evidence or misapplied the law in arriving at its decision. The Applicant does not seek a rehearing of the substantive dispute on the ground that the judgment was erroneous.

Rather, the complaint before the Court is that the proceedings which culminated in the judgment were constitutionally defective because a person whose legal and recognizable interest stood to be directly affected by the outcome of the proceedings was neither joined nor afforded an opportunity of being heard.

The distinction is fundamental. A Court invited to reconsider the correctness of its judgment would undoubtedly be acting as an appellate Court over its own decision. Conversely, where it is alleged that the proceedings themselves were conducted in breach of the constitutional guarantee of fair hearing, the Court is not reviewing the merits of its judgment but examining the validity of the process by which that judgment was obtained.

The law is settled that where a judgment is shown to have been entered in proceedings tainted by a denial of fair hearing, such judgment is rendered a nullity and may be set aside ex debito justitiae

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by the Court which delivered it. See GREEN v. GREEN (1987) 3 NWLR (Pt.61) 480; ADIGUN v. ATTORNEY-GENERAL OF OYO STATE (1987) 1 NWLR (Pt.53) 678; ALAO v. A.C.B. LTD. (2000) 9 NWLR (Pt.672) 264.

The issue therefore is not whether this Court possesses jurisdiction to entertain a complaint founded on an alleged denial of fair hearing, for the authorities clearly recognize such jurisdiction in appropriate circumstances. The real question is whether the facts disclosed in the present application establish a breach of fair hearing of such nature and gravity as to affect the validity of the proceedings which culminated in the judgment sought to be set aside.

Section 36(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), guarantees to every person whose civil rights and obligations may be affected by a judicial determination the right to be heard before such determination is made.

The Supreme Court has repeatedly held that where a person's legal rights or interests are affected by a decision reached in proceedings conducted without affording him an opportunity of hearing, the decision cannot stand. See GREEN v. GREEN (1987) 3 NWLR (Pt.61) 480; ADIGUN v. ATTORNEY-GENERAL OF OYO STATE (1987) 1 NWLR (Pt.53) 678.

In GREEN v. GREEN (supra), the Supreme Court emphatically stated that any order made against a person in breach of the audi alteram partem rule is liable to be set aside ex debito justitiae.

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Having considered the affidavit evidence before me, I am satisfied that the Applicant's interests were not remote, speculative or peripheral. They were direct, substantial and legally recognizable. I am further satisfied that the Court was not afforded the full factual circumstances relating to the Applicant's prior submission of the disputed logo and its role in the administrative decision challenged by the Plaintiffs/Respondents.

The failure to join and hear the Applicant before making orders whose implementation was capable of affecting those interests occasioned a denial of fair hearing and rendered the proceedings constitutionally defective.

I must emphasize that the present application does not invite this Court to review the correctness or otherwise of the conclusions reached in the judgment on the merits. Rather, it challenges the constitutional validity of the proceedings that produced the judgment.

Once a breach of fair hearing is established, the resultant proceedings are rendered a nullity irrespective of the apparent correctness of the decision reached therein. See ADIGUN v. ATTORNEY-GENERAL OF OYO STATE (*supra*); PAM v. MOHAMMED (2008) 16 NWLR (Pt.1112) 1.

Accordingly, I hold that the Applicant has established exceptional circumstances recognized by law warranting the exercise of this Court's inherent jurisdiction. I further hold that the judgment delivered on 10th December 2025 was entered in proceedings conducted without the participation of a necessary party whose legal interests were

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directly affected and in circumstances amounting to a denial of the constitutional right to fair hearing.

The said judgment is therefore liable to be set aside ex debito justitiae in order to preserve the integrity of the judicial process and prevent a miscarriage of justice.

COURT'S ORDER:

Having carefully considered the Motion on Notice filed by the Party Affected/Applicant, the affidavits and exhibits before the Court, the submissions of learned counsel, the applicable constitutional provisions and the relevant authorities, I am satisfied that the Applicant has established that it possesses a direct and legally recognizable interest in the subject matter of the proceedings which culminated in the judgment delivered by this Court on 10th December 2025.

I am further satisfied that the Applicant was not afforded an opportunity to participate in proceedings whose outcome was capable of affecting its asserted interest and that, in the peculiar circumstances of this case, the requirements of fair hearing demand that the dispute be determined after all affected parties have been heard.

Accordingly, and pursuant to the inherent jurisdiction of this Court exercisable ex debito justitiae, it is hereby ordered as follows:

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