



IN THE COURT OF APPEAL
ABUJA JUDICIAL DIVISION

HOLDEN AT ABUJA

ON WEDNESDAY THE 3RD DAY OF JUNE, 2026

BEFORE THEIR LORDSHIPS

BILKISU BELLO ALIYU

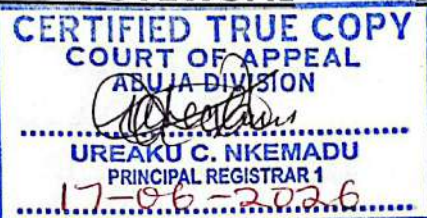
DONATUS UWAEZUOKE OKOROWO

OYEJOJU OYEBIOLA OYEWUMI

JUSTICE, COURT OF APPEAL

JUSTICE, COURT OF APPEAL

JUSTICE, COURT OF APPEAL



CA/ABJ/CV/1020/2025

BETWEEN

MR. TOBENNA EROJIKWE===== APPELLANT

AND

1. INCORPORATED TRUSTEES OF THE NIGERIAN BAR ASSOCIATION
2. MR. OLUSEUN ABIMBOLA, SAN
3. ELECTION BUDDY INC.

RESPONDENTS

JUDGMENT

(DELIVERED BY OYEJOJU OYEBIOLA OYEWUMI, JCA)

SUMMARY OF FACTS:

1. This Appeal arises from the Judgment of the High Court of the Federal Capital Territory, Abuja Judicial Division, delivered by Hon. Justice C. O. Agashieze on 27th March 2025 in Suit No.

June 3, 2026

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JUDGMENT DELIVERED BY HON. JUSTICE O. O. OYEWUMI, JCA CA/ABJ/CV/1020/2025

C.T.C = N100



FCT/HC/CV/3493/2024 between Mr. Tobenna Erojikwe and Incorporated Trustees of the Nigerian Bar Association & Ors (hereinafter referred to as "the Judgment").

2. The action before the Lower Court was commenced by an Originating Summons filed on 6th August 2024. By the said Originating Summons, the Appellant sought the interpretation and application of Paragraphs 8(c), 8(e), and 8(f) of Part II of the Second Schedule to the Constitution of the Nigerian Bar Association 2015 (as amended in 2021), as well as Sections 25(b)(ii), (iv), (v) and 30(1)(d) of the Nigeria Data Protection Act 2023, in relation to the Appellant's request for access to critical information, documents, and databases utilized in the conduct of the Nigerian Bar Association National Elections held on 20th July 2024.
3. The Appellant further questioned whether the refusal of the 1st–3rd Respondents to release the requested information, as communicated through the letter dated 25th July 2024 issued by the Electoral Committee of the Nigerian Bar Association and co-signed by the 2nd Respondent, constituted a breach of the NBA Constitution and the provisions of the Nigeria Data Protection Act 2023. The Appellant also contended that the refusal undermined his constitutional right to challenge the election results and seek appropriate remedies, particularly in view of the alleged prima facie evidence of malpractice surrounding the said NBA National Elections. Consequently, the Appellant urged the Lower Court to compel the Respondents to disclose the requested election information and databases.
4. In opposition to the Originating Summons, the Respondents filed several Preliminary Objections and counter processes. On 29th August 2024, the 2nd Respondent filed a Notice of Preliminary Objection challenging the competence of the suit

on grounds of alleged non-compliance with Section 98 of the Sheriffs and Civil Process Act. The 2nd Respondent subsequently filed a Counter-Affidavit and Written Address on 6th September 2024.

5. Similarly, the 3rd Respondent filed a separate Notice of Preliminary Objection on 6th September 2024 contending that the suit constituted an abuse of Court process. The 1st Respondent also filed its own Notice of Preliminary Objection on the same date; raising substantially similar objections founded on abuse of process, and thereafter filed a Counter-Affidavit and Written Address on 10th September 2024.
6. The Lower Court heard arguments on the various Preliminary Objections together with the substantive Originating Summons on 12th September 2024. In its Judgment delivered on 27th March 2025, the Lower Court dismissed the Appellant's Originating Summons in its entirety. Dissatisfied with the said Judgment, the Appellant filed a Notice of Appeal on 12th May 2025.

APPELLANT'S SUBMISSION:

7. The Appellant through his Counsel Okechukwu Umemuo distilled the following issues for determination viz:
 1. ***Whether the Lower Court was right to strike out the Originating Summons served on the 3rd Respondent on the ground of non-compliance with sections 97, 98 and 99 of the Sheriffs and Civil Process Act, considering the steps taken by the 3rd Respondent after service, the period allowed between service and hearing, and the fact that the objection was raised by the***

2nd Respondent in respect of service on the 3rd Respondent?(Grounds 1,2,3,4,5 and 6).

2. Whether the Lower Court was right to hold that the Appellant's entitlement to electoral materials was conditional on obtaining the consent of all voters, having regard to the provisions of the Constitution of the 1st Respondent, the Nigeria Data Protection Act 2023, the classification of the information requested, and the lawful bases for processing personal data under the Act?(Grounds 7,8,9,10,11,12,13,14 and 15).

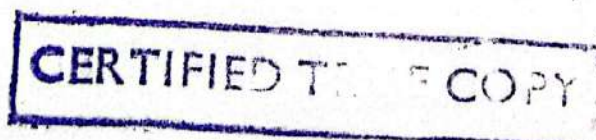
8. On issue one, the Appellant submitted that the Lower Court erred in law when it held that the Originating Summons served on the 3rd Respondent was incompetent for alleged non-compliance with Sections 97, 98 and 99 of the Sheriffs and Civil Process Act, despite the active participation of the 3rd Respondent in the proceedings. It was argued that the 3rd Respondent, after service, filed several processes challenging jurisdiction and the competence of the action, thereby taking fresh steps which amounted to waiver of any irregularity relating to service.
9. Relying on ***Ezomo v. Oyakhire (1985) 1 NWLR (Pt. 2) 195***, ***Skenconsult v. Ukey (1981) 13 SC 6***, and ***Odu'a Investment Co. Ltd v. Talabi (1997) 10 NWLR (Pt. 523) 1***, the Appellant contended that non-compliance with Sections 97–99 of the Sheriffs and Civil Process Act affects only the procedural aspect of service and renders the process merely voidable, not void. It was further submitted that once

a Defendant enters appearance and participates in proceedings, any defect in service is deemed waived.

10. The Appellant argued that the Lower Court wrongly relied on the case of ***Comet Shipping Agencies Nigeria Ltd v. Enemaku [2023] LPELR-60768(CA)***; despite the binding authority of the Supreme Court in ***Talabi's case***. According to the Appellant, the facts of *Comet Shipping* were distinguishable because the Defendant in that case did not take fresh steps after the alleged defective service, unlike the 3rd Respondent in the present appeal who fully participated in the proceedings.
11. The Appellant further relied on ***Udeze & Ors v. Governor of Imo State & Ors (2024) LPELR-62829(CA)*** to argue that defects relating to procedural jurisdiction may be waived where a party submits to the jurisdiction of the Court by participating in proceedings.
12. On the issue of the statutory thirty-day period under Section 99 of the Sheriffs and Civil Process Act, the Appellant submitted that the Lower Court wrongly blamed the Appellant for the return date fixed by the Court itself. It was contended that scheduling and assignment of hearing dates remain the responsibility of the Court and not the litigant. The Appellant further argued that no miscarriage of justice occurred because the matter was subsequently adjourned at the instance of counsel thereby affording the 3rd Respondent more than the statutory thirty days contemplated by Section 99 before any substantive hearing took place.
13. The Appellant also contended that the Lower Court had earlier acknowledged the 3rd Respondent's entitlement to thirty days within which to respond to the process and was therefore wrong to subsequently hold otherwise. Relying on the case of ***Ukaegbu & Ors v. Ugoji & Ors (1991) LPELR-3338(SC)***,

the Appellant submitted that rules of procedure are meant to serve the cause of justice and should not be elevated above substantial justice.

14. On the issue of service, the Appellant argued that the affidavit of service before the Court clearly stated that what was served on the 3rd Respondent was a Concurrent Originating Summons, and that no counter-affidavit was filed disputing that fact. It was submitted that the Lower Court speculated without evidence when it concluded that the process served was not marked "concurrent."
15. The Appellant further argued that the Lower Court contradicted its earlier finding that leave had been granted for service of the concurrent Originating Summons outside jurisdiction. Reliance was placed on ***Yakuzak v. Xela Nig. Ltd & Ors (2019) LPELR-48728(CA)*** and ***Broad Bank Nig. Ltd v. Olayiwola & Sons Ltd (2005) 1 SC (Pt. II) 1***, where it was held that failure to mark a process as "concurrent" does not invalidate the originating process but constitutes a mere irregularity.
16. Finally, the Appellant submitted that the Lower Court erred in entertaining the objection raised by the 2nd Respondent in respect of service effected on the 3rd Respondent. It was argued that the 2nd and 3rd Respondents were distinct legal entities with separate interests, and that the 2nd Respondent, having suffered no injury from the service on the 3rd Respondent, lacked the locus standi to challenge it. Reliance was placed on ***Emezi v. Osuagwu & Ors (2005) 12 NWLR (Pt. 939) 340***. The Appellant therefore urged the Court to resolve the issue in favour of the Appellant and set aside the decision of the Lower Court.
17. Respecting issue two, it was submitted for the Appellant that the Lower Court erred in law when it imposed a requirement



of universal consent before the Appellant could access electoral materials relating to the Nigerian Bar Association election. It was argued that having recognized the Appellant as an interested party, the Lower Court acted inconsistently by subsequently imposing a condition that effectively defeated the constitutional right to inspect, audit, and verify election materials for the purpose of ensuring transparency, accountability, and fairness in the electoral process.

18. The Appellant contended that the Constitution of the Nigerian Bar Association, as the governing instrument of a voluntary association, binds all members and must be interpreted according to its express provisions. Relying on ***Nyako (Rtd) v. Ardo & Ors (2013) LPELR-20848(CA)*** and ***Mbanefo v. Molokwu & Ors (2014) LPELR-22257(SC)***, it was submitted that Courts are not permitted to impose conditions or restrictions outside the Constitution of the association. The Appellant argued that there is no provision in the NBA Constitution requiring a candidate or interested party to obtain the consent of all voters before accessing electoral materials, and that the Lower Court therefore introduced an extraneous condition unknown to the Constitution.
19. It was further argued that the Lower Court misapplied Article 3 of the NBA Constitution by construing it as requiring universal consent. According to the Appellant, Article 3, which promotes the rule of law and protection of rights, was intended to facilitate transparency and accountability rather than frustrate the exercise of rights through impracticable conditions. It was submitted that the Lower Court's interpretation rendered the constitutional entitlement to electoral scrutiny illusory.
20. He equally argued that requiring consent from thousands of members of a large voluntary association such as the Nigerian



Bar Association was practically impossible and contrary to the legal maxim *lex non cogit ad impossibilia*. Reliance was placed on ***Masu v. Aminu & Ors [2023] LPELR-60064(CA)***; where the Court reiterated that the law does not compel the performance of impossibilities. It was stressed that by imposing an impossible condition, the Lower Court effectively extinguished the constitutional right of an interested party to verify and challenge election outcomes.

21. On the interpretation of the Nigeria Data Protection Act 2023, the Appellant submitted that the Lower Court fundamentally misapplied Sections 25 and 30 of the Act by treating consent as the exclusive lawful basis for processing personal data. It was argued that Section 25 of the NDPA expressly recognizes several lawful bases for processing personal data, including legitimate interest, compliance with legal obligation, performance of public interest tasks, and consent. The Appellant contended that his request for access to electoral materials was founded on legitimate interest and the legal obligations imposed on the Respondents under Paragraphs 8(c), 8(e), and 8(f) of Part II of the Second Schedule to the NBA Constitution. It was submitted that, as the first runner-up in the election, the Appellant possessed a legitimate and legally recognisable interest in verifying the integrity of the election process and ensuring accountability.
22. It was further argued that the Lower Court failed to appreciate the disjunctive nature of Section 25 of the NDPA, particularly the use of the word "or," which demonstrates that consent is merely one of several alternative lawful bases for processing personal data. Reliance was placed on Section 18(3) of the Interpretation Act, which provides that the word "or" must ordinarily be construed disjunctively. The Appellant therefore submitted that the Lower Court wrongly elevated consent into

a mandatory and universal requirement contrary to the clear language and purpose of the NDPA.

23. Counsel placed reliance on Article 17(2) of the General Application and Implementation Directive 2025 made pursuant to the NDPA, arguing that where insistence on consent would defeat the rule of law, alternative lawful bases may properly be relied upon. It was submitted that requiring the Appellant to obtain the consent of thousands of voters before accessing electoral materials would effectively nullify his right to audit or challenge the election and would therefore frustrate the rule of law itself. On Section 30 of the NDPA, the Appellant argued that the Lower Court wrongly conflated Section 30(1)(a), which relates to consent-based processing, with Section 30(1)(d), which independently permits processing of sensitive personal data by associations and non-profit entities in the course of their legitimate activities. It was submitted that Section 30(1)(d) expressly recognises the realities of voluntary associations and permits internal processing relating to members without requiring universal consent.
24. It was contended that the use of the word "or" within Section 30 equally demonstrates that the various lawful bases for processing are alternative and not cumulative. Accordingly, the Lower Court erred in collapsing the disjunctive framework of Section 30 into a single mandatory requirement of consent. It was equally submitted that the Lower Court made a factual misdirection when it held that some of the requested electoral materials had already been provided to the Appellant. It was argued that the affidavit evidence before the Court clearly established that the Appellant was denied access to voter lists, ballots, and other electoral materials. According to the Appellant, this erroneous finding obscured the real legal issue

concerning whether access could lawfully be granted under the NDPA on the basis of legitimate interest and legal obligation. The Appellant thus emphasis that the Lower Court misapplied both the NBA Constitution and the NDPA by imposing an artificial and legally unjustifiable consent requirement, thereby frustrating the objectives of transparency, accountability, fairness, and the rule of law. The Court was accordingly urged to set aside the decision of the Lower Court and resolve the issue in favour of the Appellant.

THE 1st RESPONDENT'S SUBMISSION:

25. The 1st Respondent adopted the issues formulated by the Appellant and commenced his Argument with 2nd issue. It is the position of the 1st Respondent on issue two that the Appeal revolves around the balance between the Appellant's desire to access electoral information and the statutory duty imposed by the Nigeria Data Protection Act 2023 to safeguard the personal and sensitive data of members of the Nigerian Bar Association. According to the 1st Respondent, the Appellant's allegations of electoral malpractice were speculative and unsupported by credible evidence. It was stressed that the depositions contained in paragraph 6 of the affidavit in support of the Originating Summons were fundamentally defective and offended the provisions of Sections 115(3) and 115(4) of the Evidence Act 2011. It was contended that the allegation of "almost exact geometric progression" was unsupported by any evidence from the alleged cyber analyst, while other depositions were attributed to unnamed persons without particulars. The Respondents further argued that some of the averments merely contained inferences and conclusions unsupported by facts. Reliance was placed on ***Ahmed & Ors v. CBN (2013) LPELR-***

20744(SC) where the Supreme Court held that affidavit depositions which offend the provisions of the Evidence Act are incompetent and go to no issue.

26. The 1st Respondents submitted that the refusal to release the requested electoral materials was based on the need to comply with the provisions of the Nigeria Data Protection Act 2023. According to the Respondents, the information requested by the Appellant constituted personal and sensitive personal data protected under the NDPA, and the Respondents, as custodians of the data, were under a legal obligation not to disclose such information without the consent of the data subjects.
27. It was contended that the 1st Respondent did not refuse outright to provide information to the Appellant, but merely requested compliance with the requirements of the NDPA. It was argued that the Appellant's position effectively invited the Court to hold that the NBA Constitution overrides the laws of the Federal Republic of Nigeria, particularly the NDPA, a proposition which the Respondents described as legally untenable. The Respondents further submitted that the NBA Constitution cannot operate independently of the laws of the Federal Republic of Nigeria. According to the Respondents, the Appellant himself acknowledged this position by relying not only on the NBA Constitution but also on Sections 25 and 30 of the NDPA as the legal basis for his claim. The Respondents therefore argued that the Lower Court was right in holding that any entitlement to electoral materials remained subject to compliance with the requirements of the NDPA. Relying on the interpretation adopted by the Lower Court, the Respondents argued that Sections 25 and 30 of the NDPA repeatedly emphasis the requirement of consent from the data subject before personal or sensitive personal data can

lawfully be processed. It was contended that the recurring reference to consent within the statutory provisions demonstrates the centrality of consent under the NDPA framework.

28. The Respondents further submitted that the opening words of Sections 25 and 30, namely "Without prejudice to the principles set out in this Act," reinforce the overriding objective of the NDPA to safeguard the rights, freedoms, privacy, and interests of data subjects. Reliance was placed on ***Umeji v. A.-G., Ondo State (1994) 4 NWLR (Pt. 391) 552*** and ***Olatunbosun v. N.I.S.E.R. Council (1988) 3 NWLR (Pt. 80) 25*** on the interpretation of the phrase "without prejudice." The Respondents also referred to the long title and objectives of the NDPA, particularly the statutory objectives relating to the protection of personal data, the safeguarding of privacy rights, and the obligation imposed on data controllers and processors to ensure lawful and accountable processing of data.
29. According to the 1st Respondents, the Appellant's argument that there is no requirement for universal consent under the NBA Constitution was misconceived because the NBA, as a voluntary association, remains subject to the laws of the Federal Republic of Nigeria, including the NDPA. It was submitted that the Lower Court was therefore correct in insisting on compliance with the data protection regime established by statute.
30. The Respondents rejected the Appellant's contention that the requirement of consent constituted an impossible or impracticable condition. It was argued that the duty of the Court is to interpret and apply the law as enacted and not to speculate on whether statutory provisions are difficult to comply with. Reliance was placed on ***BOT & Ors v. Jos***

Electricity Distribution Plc [2021] LPELR-55327, Olafisoye v. FRN (2004) 4 NWLR (Pt. 864) 580, and Egbue v. Araka (1996) 2 NWLR (Pt. 433) 688, to the effect that Courts must give effect to the clear and unambiguous provisions of statutes. It was further argued that the Appellant wrongly relied on Article 17(2) of the General Application and Implementation Directive 2025 to suggest that consent may be dispensed with where obtaining consent is impracticable. According to the Respondents, Article 18(1)(b) of the same Directive expressly preserves the requirement of consent in relation to the processing of sensitive personal data. The 1st Respondent maintained that the Appellant failed to place any evidence before the Court showing that any attempt whatsoever had been made to obtain the consent of even a single voter before concluding that consent was impossible or impracticable to obtain. The Respondents therefore maintained that the Appellant's purported right to access the requested electoral materials remained subject to compliance with the NDPA and other applicable laws of the Federal Republic of Nigeria. Consequently, the Respondents urged the Court to uphold the Judgment of the Lower Court and dismiss the Appeal in its entirety.

31. Now back to issue one, the 1st Respondents argued that the Appellant's allegations of electoral malpractice were speculative, unsupported by credible evidence, and founded on defective affidavit depositions contrary to Sections 115(3) and 115(4) of the Evidence Act, 2011. It was contended that the allegations were based on unnamed sources, inferences, and unsubstantiated suspicions which go to no issue in law. Reliance was placed on ***Ahmed & Ors v. CBN (2013) LPELR-20744 (SC)***.

32. The 1st Respondent continued that the electoral materials sought by the Appellant constitute sensitive personal data protected under the Nigerian Data Protection Act, 2023 ("NDPA"), and could not lawfully be disclosed without the consent of the data subjects. They argued that the NBA Constitution does not override extant Nigerian laws and that the Appellant himself relied on Sections 25 and 30 of the NDPA, thereby acknowledging the applicability of the statute. According to the Respondents, both Sections 25 and 30 emphasize consent as central to lawful processing of personal data. Reliance was placed on ***Umeji v. A-G, Ondo State (1994) 4 NWLR (Pt. 391) 552*** and ***Olatunbosun v. N.I.S.E.R. Council (1988) 3 NWLR (Pt. 80) 25***. It was further argued that the Lower Court rightly held that the Appellant failed to satisfy the consent requirement under the NDPA before seeking access to the requested data. They maintained that the Court cannot ignore clear statutory provisions on grounds of impracticality, as its duty is limited to interpreting and applying the law. Reliance was placed on ***BOT & Ors v. Jos Electricity Distribution PLC [2021] LPELR-55327***, ***Olafisoye v. FRN (2004) 4 NWLR (Pt. 864) 580***, and ***Egbue v. Araka (1996) 2 NWLR (Pt. 433) 688***. On the Appellant's reliance on Article 17(2) of the General Application and Implementation Directive 2025 ("GAID"), the Respondents contended that the provision does not dispense with the mandatory requirement of consent for processing sensitive personal data. Rather, Article 18(1)(b) of the GAID reinforces the necessity of consent. It was further argued that the Appellant failed to show any attempt to obtain consent from the voters before alleging that compliance was impossible. It was stressed that service of originating processes is fundamental to jurisdiction. Reliance was placed

- on ***Labour Party & Ors v. Oko & Anor (2022) LPELR-58649 (CA)*** and ***Okeke v. Lawal (2018) 12 NWLR (Pt. 1634) 393***. It was argued that the 3rd Respondent, being resident outside jurisdiction, was entitled under Sections 98 and 99 of the Sheriffs and Civil Processes Act to not less than 30 days within which to enter appearance. Since the 3rd Respondent was served on 21 August 2024 and proceedings were fixed for 29 August 2024, the statutory period was abridged, rendering the Originating Summons incompetent.
33. The Respondents further contended that the defect was not waived because the 3rd Respondent entered a conditional appearance solely to challenge jurisdiction. Reliance was placed on ***Mako v. Umor (2010) 8 NWLR (Pt. 1195) 82***, ***Peoples Democratic Party v. INEC & Ors (2018) LPELR-44373 (SC)***, ***CGG (NIG.) Ltd v. Aminu (2015) LPELR-25636 (SC)***, and ***Izeze v. INEC & Ors (2018) 11 NWLR (Pt. 1629) 110***. The Respondents also supported the Lower Court's finding that the Originating Summons failed to comply with Sections 97, 98, and 99 of the Sheriffs and Civil Processes Act, particularly regarding endorsement and concurrent service. Reliance was placed on ***Comet Shipping Agencies Nigeria Ltd V. Enemaku (2023) LPELR-60768 (CA)*** and ***Fayemi V. Oni (2020) 8 NWLR (Pt. 1726) 222***.
34. In conclusion, the Respondents submitted that the Appellant failed to establish entitlement to the declaratory reliefs sought and that no perversity had been shown in the judgment of the Lower Court. Reliance was placed on ***Oyovbiare V. Omamurhому (1999) 10 NWLR (Pt. 621) 23***, ***Agbi V. Ogbеh (2006) 11 NWLR (Pt. 990) 65 (SC)***, ***Alhaji Otaru & Sons Ltd V. Idris (1999) 6 NWLR (Pt. 606) 330 (SC)***, ***Atane V. Amu (1970) 10 SC 237***, and ***Imam V. Sheriff***

(2005) 5 NWLR (Pt. 914) 80. in urging the Court to dismiss the Appeal.

2ND RESPONDENT'S SUBMISSION:

35. The 2nd Respondent via his brief of argument deemed properly filed on the 24th February 2026 formulate the following issues for determination, to wit:
- 1. Whether the Lower Court was right to strike out the Originating Summons served on the Respondent on the ground of non-compliance with Sections 97,98 and 99 of the Sheriffs and Civil Process Act.***
 - 2. Whether the Learned trial Judge was right when His Lordship held in SUIT NO:FCT/HC/CV/3493/2024 BETWEEN MR. TOBENNA EROJIKWE V. INCORPORATED TRUSTEES OF THENIGERIAN BAR ASSOCIATION&ORS that the Claimant has not been able to establish that he is entitled to the reliefs sought.***
36. The gravamen of the 2nd Respondent's argument is that the trial Court was right to strike out the Originating Summons for failure to comply with Sections 97, 98 and 99 of the Sheriffs and Civil Process Act. Relying on the celebrated decision in ***MADUKOLU V. NKEMDILIM (1962) NSCC Vol. 2 374***, the Respondent contended that compliance with statutory conditions precedent is fundamental to the competence and jurisdiction of the Court, and any defect in that regard renders proceedings a nullity.

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JUDGMENT DELIVERED BY HON. JUSTICE O. O. OYEWUMI, JCA CA/ABJ/CV/1020/2025

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37. It was submitted that the 3rd Respondent resides in Canada, outside the jurisdiction of the trial Court, and that the Originating Summons served on it was not endorsed as a concurrent writ as required under Section 98 of the Sheriffs and Civil Process Act, nor did it specify the mandatory minimum period of thirty days within which the 3rd Respondent was to enter appearance as required under Section 99 of the Act. It was further argued that these provisions are mandatory, the word "shall" admitting no discretion, relying on **OGIDI V. STATE (2005) 5 NWLR (Pt. 918) 286** and **ONICHIE V. ODOGWU (2006) 6 NWLR (Pt. 975) 65**; Counsel argued that non-compliance with Sections 97–99 of the Act is not a mere procedural irregularity capable of waiver, but a fundamental defect which robs the Court of jurisdiction. Reliance was also placed on **OWNERS OF MV "ARABELLA" V. NAIC (2008) 11 NWLR (Pt. 1097) 182**, **D.E.N.R. LTD V. TRANS INTERNATIONAL BANK LTD (2009) All FWLR (Pt. 456) 1823**, **NWABUEZE V. OBI-OKOYE (1988) 4 NWLR (Pt. 91) 664**, **SKENCONSULT (NIG.) LTD V. UKEY (1981) 1 SC 6**, and **PDP V. INEC (2018) 12 NWLR (Pt. 1634) 533**, where the Supreme Court consistently held that failure to comply with the provisions governing service outside jurisdiction renders the originating process incompetent and deprives the Court of jurisdiction.
38. Further contended was that the 3rd Respondent did not waive its right to challenge the defective service merely because it participated in the proceedings, having first entered a conditional appearance and promptly challenged the competence of the suit. Reliance was placed on **IZEZE V. INEC (2018) 11 NWLR (Pt. 1629) 110**, where the

- Supreme Court held that conditional appearance is entered under protest for the purpose of challenging jurisdiction.
39. It was additionally argued that the objection to jurisdiction was properly raised by the 2nd Respondent notwithstanding that the defect principally affected the 3rd Respondent, because jurisdictional issues may be raised by any party or even suo motu by the Court. On this point, reliance was placed on ***OLOBA V. AKEREJA* (1988) 3 NWLR (Pt. 84) 508, *OLUTOLA V. UNIVERSITY OF ILORIN* (2004) LPELR-2632(SC) and *AKERE V. GOVERNOR OF OYO STATE* (2012) LPELR-7806(SC).**
40. The 2nd Respondent also maintained that the Appellant's argument that the hearing date was fixed by the trial Judge does not cure the defect in the Originating Summons, since the statutory requirement under Section 99 of the Act was not complied with on the face of the process itself. According to the Respondent, the defect goes to the root of jurisdiction and cannot be salvaged by subsequent proceedings. Finally, reliance was placed on ***COMET SHIPPING AGENCIES NIG. LTD V. ENEMAKU* (2023) LPELR-60768(CA), *PETROLEUM PRODUCTS MARKETING CO. LTD V. SANUSI WADA MUSA* (2024) LPELR-62083(CA) and *GEEPEE INDUSTRIES NIG. LTD V. MV "KOTA MANIS"* (2025) LPELR-81075(SC),** where the appellate Courts reaffirmed that non-compliance with Sections 97, 98 and 99 of the Sheriffs and Civil Process Act is fatal, renders the originating process incompetent, and divests the Court of jurisdiction.
41. On the whole, the Respondent urged the Court to hold that the trial Court rightly declined jurisdiction and struck out the Originating Summons against the 3rd Respondent for non-

compliance with the mandatory provisions of the Sheriffs and Civil Process Act.

42. Respecting issue two, the 2nd Respondent submits that the law on burden of proof in civil proceedings is well settled and admits of no ambiguity. In civil litigation, the burden of proof rests squarely on the Claimant who seeks judicial intervention, and such burden is discharged on the preponderance of evidence or balance of probabilities. It is only where the Claimant has successfully established a *prima facie* entitlement to the reliefs sought that the evidential burden may shift. Conversely, where the Claimant fails to discharge this primary burden, the Defendant is under no obligation to prove any fact in rebuttal and is entitled to rely on the deficiencies in the Claimant's case where appropriate. This principle applies with particular force in declaratory actions, where the Court cannot act on speculation or inference but must be satisfied by credible and cogent evidence. See ***AGBI v. OGBEH* (2006) 11 NWLR (Pt. 990) 65 (SC); *ALHAJI OTARU & SONS LTD v. IDRIS* (1999) 6 NWLR (Pt. 606) 330 at 342 paras. A–B (SC); *ATANE v. AMU* (1970) 10 SC 237 at 243–244 (SC); *IMAM v. SHERIFF* (2005) 5 NWLR (Pt. 914) 80 at 186–187 paras. H–B, 215 paras. E–F (SC).**
43. It is further submitted that in declaratory reliefs, the position of the law is even more stringent. A Claimant seeking a declaration of right must rely solely on the strength of his own case and not on any perceived weakness in the defence or on any admission, whether express or implied. The Court is not a rubber stamp for claims presented before it, and declaratory reliefs are not granted as a matter of course. Rather, the Court must be satisfied that the Claimant has placed before it sufficient, credible, and admissible evidence establishing an

existing legal right. In this regard, even where a Defendant fails to file a defence or joins issues inadequately, the burden on the Claimant remains undiminished. The Supreme Court in **MAJA v. SAMOURIS (2002) 7 NWLR (Pt. 765) 78 at 100-101 para. H-A (SC)** made it clear that declaratory reliefs depend entirely on the strength of the Claimant's case and not on the weakness of the defence. In **NKWOGHA v. OFURUM (2002) 5 NWLR (Pt. 761) 506 at 524-525 (CA)**, the Court of Appeal reiterated that a party seeking declaratory relief must succeed on the strength of his own case. Similarly, in **MOTUNWASE v. SORUNGBE (1988) 4 NWLR (Pt. 92) 90 (SC)**, the Supreme Court emphasized that Courts do not grant declarations on admissions or default of defence without evidence. The principle was further reinforced in **SALAU & ORS v. PARAKOYI (2001) 1 NWLR (Pt. 695) 446 at 456 (CA)**; **BELLO v. EWEKA (1981) 1 SC 107 (SC)**; and **AGF v. AJAYI (2000) 12 NWLR (Pt. 682) 509 (CA)**, all of which collectively affirm that the burden remains firmly on the Claimant in declaratory proceedings.

44. These authorities according to the 2nd Respondent, are directly opposite to the instant appeal. The 2nd Respondent submits that the Appellant, having approached the Court for declaratory and consequential reliefs, was under a strict duty to establish his entitlement by credible evidence. Any attempt to rely on perceived gaps in the case of the 2nd Respondent or on technical inferences cannot suffice in law to discharge that burden. The trial Court was therefore right in insisting on strict proof before granting the reliefs sought.
45. Flowing from the foregoing, it was submitted that the sole onus probandi in this matter rests on the Claimant/Appellant throughout, and such burden is only discharged upon the

presentation of cogent and credible evidence establishing entitlement to the reliefs sought. The Appellant cannot rely on the weakness of the 2nd Respondent's case, nor can he succeed on mere assertions devoid of sufficient proof. Accordingly, the lower Court was right in its evaluation of the evidence and in resolving the issue against the Appellant.

REPLY SUBMISSION:

46. The Appellant, in his reply brief, challenges the 1st Respondent's contention that he failed to prove electoral malpractice and that the Lower Court was right to strike out the suit against the 3rd Respondent on the basis of the 2nd Respondent's objection. On the first issue, the Appellant maintains that his action was not instituted to prove electoral malpractice, nullify the election, or seek to be declared a winner, but solely to enforce his constitutional entitlement as a candidate to access critical electoral materials and databases used in the conduct of the election. He relies on **Second Schedule, Part II, Paragraph 8(b), (c), (d) and (e) of the Constitution of the 1st Respondent**, which imposes a duty of openness and transparency on the electoral body, including the obligation to provide explanations for decisions, grant access to electoral information and databases, and disclose deficiencies in electoral administration. He argues that these provisions create a self-executing right to transparency that is not conditioned on proof of wrongdoing. He further submits that the Respondent's attempt to require prior proof of irregularities is an improper importation of extraneous conditions into the Constitution. In support of the principle of literal interpretation, he relies on **TUKUR V MUSTAPHA & ORS (2023) LPELR-60465(SC)** per Okoro JSC, where the

Supreme Court held that clear statutory words must be given their ordinary meaning, and that Courts must not read into statutes what is not provided. He therefore contends that the Constitution must be applied in its plain terms, which guarantee access to electoral materials to candidates without preconditions.

47. On the second issue, the Appellant contends that the Lower Court erred in relying on the 2nd Respondent's objection to strike out the suit against the 3rd Respondent on grounds of alleged improper service. He argues that the law is settled that issues of improper service are procedural and personal to the party affected, and cannot be raised by a stranger to the proceedings. The Appellant maintains that only the party allegedly not properly served has the locus to complain, and such a party may waive the irregularity by participating in the proceedings. He relies on ***OGUEJIOFOR V OGUJIOFOR & ANOR (2016) LPELR-41567(CA)***, where the Court of Appeal held that a party who has been served and has responded cannot later complain of insufficient notice, emphasizing that service is intended to ensure fair hearing and prevent surprise. The Appellant further submits that the 2nd Respondent lacked competence to raise any objection relating to service on the 3rd Respondent, as such complaint is exclusive to the affected party.
48. He argues that although improper service may, in appropriate cases, affect jurisdiction, it does not automatically render proceedings void, as it remains a procedural irregularity that can be waived by the party affected. He further relies on ***ZAKIRAI V MUHAMMAD & ORS (2017) LPELR-42349(SC)*** per **Augie JSC**, where the Supreme Court held that an appeal is confined to the decision appealed against and that Courts cannot determine issues not considered by

the lower Court. The Appellant therefore submits that since the Lower Court's decision striking out the claim against the 3rd Respondent was founded solely on the 2nd Respondent's objection, it was made per incuriam and outside the proper bounds of law. He accordingly urges that the decision be set aside as it was not grounded on a valid objection from the proper party and was inconsistent with settled principles governing service and appellate jurisdiction.

RESOLUTION OF THE APPEAL:

49. After a careful and an indepth consideration of all the issues in this Appeal, I will formulate the following issues-
- i. Whether the Lower Court was right in striking out the Originating Summons served on the 3rd Respondent on the basis of alleged non-compliance with Sections 97, 98 and 99 of the Sheriffs and Civil Process Act, despite the fact that the 3rd Respondent had taken steps in the proceedings after service, sufficient time existed between service and hearing, and the objection to the service was raised not by the 3rd Respondent but by the 2nd Respondent?*
 - ii. Whether the Lower Court was right in holding that the Appellant's constitutional right to access electoral materials and databases used in the conduct of the election was dependent on obtaining the consent of all voters, having regard to the relevant provisions of the Constitution of the 1st Respondent, the Nigeria Data Protection Act 2023, the nature of the information sought, and the lawful bases for*

processing personal data recognised under the Act?

51. Service of Originating processes outside jurisdiction is Regulated by the Sheriffs and Civil Processes Act especially Sections 97, 98 and 99 of the Act provides thus-

97. Every writ of summons for service under this Part out of 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 endorsed thereon a notice to the following effect (that is to say)- [L.N. 47 of 1955.] "This summons (or as the case may be) is to be served out of the..... State (or as the case may be)..... and in the.....State (or as the case may be)."

98. A writ of summons for service out of the State or the Capital Territory in which it was issued may be issued as a concurrent writ with one for service within such State or the Capital Territory and shall in that case be marked as concurrent.

99. The period specified in a writ of summons for service under this Part as the period within which a defendant is required to answer before the Court to the writ of summons shall be not less than thirty days after service of the writ has been effected, or if a longer period is prescribed by the rules of the Court within which the writ of summons is issued, not less than that longer period.

50. This Court, in interpreting the Sections elaborately held in the case of ***Yea (Nig) Ltd & Anor v. Ynsyght &***

Cynthesys (Nig) Ltd [2025] LPELR-81788(CA) (Pp. 55-61 paras. C-C) thus:

The Courts have generally applied the literal rule of interpretation when interpreting the provisions of Section 99 of the Sheriff and Civil Processes Act, Laws of the Federation, 2004, particularly when such breach is tied to the breach of Section 97 of the same statute. See Izeze vs. INEC & Ors (2018) LPELR-44284 (SC) @ 17-23 paras. B. However, in its obiter, the Apex Court in Adegoke Motors Ltd vs. Adesanya & Anor (supra) in differentiating Nwabueze vs. Obi Okoye (supra) stated that-

In Nwabueze's case (as in this case) the Writ was issued in one jurisdiction for service in another jurisdiction. In Nwabueze's case supra, when the Writ was served on the defendants, they promptly applied to the High Court that issued the Writ for:- (i) An order setting aside the Writ of Summons, (ii) An order setting aside the order of substituted service (the defendants were served by substituted means), (iii) An order setting aside the purported issue and service of the Writ of Summons on each of the defendants. It thus became clear and apparent, from the word go, that the defendants questioned both the validity of the Writ as well as the validity of the service of the selfsame Writ. These then became Issues, in the case, calling for a decision. These Issues, framed as they were from and by the facts and the steps promptly taken by the defendants, formed the basis of this Court's pronouncements and decision in Nwabueze's case supra. To rely on any pronouncements or on the decision in Nwabueze's case supra in a subsequent case, it is incumbent on counsel so relying to show that the facts of his case are similar to those of Nwabueze's case and (this is very important) that he took promptly the necessary steps to question the validity of the Writ or the validity of its service or both as was done in Nwabueze v. Okoye

(supra), If he does not succeed in doing this, he will be citing those pronouncements out of their proper context and he will thus be asking the Court to misapply them, In this case the appellants did not do what was done in Nwabueze's case supra.

Flowing from the above, it can easily be deduced that the Supreme Court has brought into consideration the issue of the promptness of an objection with regards to the non-compliance with the provisions of Section 99 of the Sheriffs and Civil Processes Act. The Appellants herein were served with the Respondent's Writ of Summons on the 10th day of August, 2016. On the said Writ was endorsed 5 days for entering appearance as against the statutory 30 days required by the law. The Appellants, upon receipt of service, did not enter their appearance until the 6th day of October, 2016 wherein they filed their processes and entered appearance on the 7th day of October, 2016 which is calculated as 59 days inclusive of the date of service or 58 days excluding the date of service. Upon entering unconditional appearance, the Appellants did not file any objection to the issuance or service of the Writ of Summons but rather proceeded to file their Notice of Intention to Defend, and also a Motion on Notice challenging the jurisdiction of the lower Court to try the matter under the Undefended List procedure and nothing more. That it was only after the lower Court had delivered its judgment on the 1st of February, 2017, having entertained the entire suit, since it found that it had jurisdiction to entertain the suit under the undefended list procedure, that the Appellants made an application to the lower Court asking it to set aside its decision and strike out the suit for lack of competence and fulfillment of a statutory condition precedent.

This application was filed on the 9th day of May, 2017, the Appellants in their affidavit in support of the application

through their counsel stated that it was only on the 28th day of April, 2017 that their principal came across the file and discovered the fundamental breach, thus their application. Upon receiving the application, the lower Court in a considered ruling refused to set aside its decision and advised the Appellants to appeal against the said decision. The Appellants in their wisdom thought against the advice of the lower Court and proceeded to appeal against the ruling of the lower Court refusing to set aside its judgment. This appeal is against that decision. I am constrained by the principle of law to consider each case based on their facts. Now the lower Court in entertaining this issue agreed that the provisions of Section 99 of the Sheriffs and Civil Processes Act, Laws of the Federation, 2004, by using the word 'shall' imports the elements of mandatoriness but also constrained itself to the decision of the Supreme Court in Adegoke Motors Ltd vs. Adesanya (Supra) and Odua Investment Company Limited vs. Talabi (Supra).

The lower Court then proceeded to raise a question having considered that all through the trial, the Defendants never challenged the issuance and service of the writ of summons on them to wit - All this period, the Defendants never challenged the issuance and service of the writ of summons on them. Have they not therefore waived their right to challenge the issuance and service of this writ? In answering this question, the lower Court relied on Ariori vs. Elemo (1983) 1 SCNLR 1, to hold that the Appellants were the sole beneficiaries of the right requiring 30 days within which to enter appearance, as opposed to the five days endorsed on the Writ, that the right was not public and as such the Appellants, being sui generis to the matter, their act of waiver will not be injurious to its jurisdiction. The lower Court also held that its decision is predicated on the fact that the Appellants had waived their rights by allowing grass to grow under their feet when they defended the suit

on its merit without objecting to the form and content of the Writ of Summons served on them until after judgment.

This, in my opinion, is an impeccable decision which requires no disturbance from this Court, not even when the Appellants claim otherwise. I do not wish to depart from the decision of the lower Court after taking into consideration the decisions of the Apex Court above and as relied upon by the lower Court. I refuse the argument of the Appellants that the lower Court did not consider Section 99 of the Sheriffs and Civil Processes Act, Laws of the Federation, 2004 in its decision, I also refuse their arguments that they had not waived their rights to the statutory 30 days. Also, it should be noted that even though the breach of Section 99 of the Sheriffs and Civil Processes Act affects jurisdiction, it is an issue of procedural jurisdiction in the instant case and not substantive jurisdiction. Also, it is my considered view that the Appellants, relying on authorities such as Owners of the MV Arabella vs. N.A.I.C (Supra) and Nwabueze vs. Obi Okoye (Supra), should have also demonstrated that the Writ was promptly challenged in limine, not rely on them whilst still admitting the grave delay in their process. Having held thus, this leg of issue 1 is resolved in favour of the Respondent and against the Appellants.

- 51.** In the instant Appeal, the 3rd Respondent entered a conditional appearance in protest against the service of the originating processes outside jurisdiction for failing to comply with the relevant Sections of the Sheriffs and Civil Process Act. The law is settled that a conditional appearance is a clear indication that the party so appearing is challenging the jurisdiction of the Court or the competence of the processes served on it. We take solace in **PDP v. INEC & ORS (2018) LPELR-44373(SC) (Pp. 6 paras. C) Per Rhodes-Vivour, J.S.C**

A conditional appearance is an appearance under protest and usually means an appearance to object to the Court's jurisdiction.

- 52.** See also *Izeze v. INEC & ors (2018) LPELR-44284(SC) (Pp. 5 paras. D)*; the Supreme Court reasoned thus-

Let me say straightaway that when a defendant files a conditional appearance, that is an appearance under protest and usually means an appearance to object to the Courts jurisdiction.

- 53.** Ordinarily, where a party enters a conditional appearance, such party is expected to follow same with an objection challenging the jurisdiction of the Court or the validity of the service effected. I refer to *CBN V. Akingbola & anor (2019) LPELR-48807(SC) (Pp. 8-9 paras. C)*

After the 1st Respondent filed his Originating Motion in the Court of 1st instance, the Appellant did not file a counter-affidavit. Rather he entered conditional appearance and filed a Preliminary objection against the hearing of the Originating Motion. The Appellant filed a Preliminary Objection asking the trial Court to decline jurisdiction and dismiss or strike out the action on the grounds of lack of particulars of bad faith, not meeting condition for assumption of jurisdiction, locus standi, cause of action and no right of action in this matter. I must state

that conditional appearance is an appearance under protest and usually means an appearance to object to the Court jurisdiction. Learned counsel for the appellant was right to enter conditional appearance and file a Preliminary objection since he had an objection to the Court's jurisdiction to hear the suit.

- 54.** In the present case, the 3rd Respondent duly complied with this requirement by filing a Notice of Preliminary Objection challenging the competence of the originating summons for non-compliance with Sections 97, 98 and 99 of the Sheriffs and Civil Process Act.
- 55.** The trial Court, upon consideration of the objection, upheld same and consequently struck out the originating summons. The decision of the lower Court is unassailable. The provisions of Sections 97, 98 and 99 of the Sheriffs and Civil Process Act are couched in mandatory terms, particularly by the use of the word "shall." The law is firmly settled that where the word "shall" is used in a statute, it denotes a mandatory obligation which must be strictly complied with. See the position of the Supreme Court in ***Aliyu v. Namadi & Ors (2023) LPELR-59742(SC) (Pp. 52 paras. A)***, where it was held that-

It is a correct statement of the law that generally, when the word "shall" is used in a statute, it is interpreted to be mandatory. However, whether it is used in a mandatory or directory sense depends on the context in which it is used

56. Failure to comply with such statutory provisions renders the process incompetent. Accordingly, the Appellant's complaint on this issue is misconceived. The 3rd Respondent not only entered a conditional appearance but diligently pursued its objection by filing a preliminary objection which was properly considered and upheld by the trial Court. Having successfully challenged the competence of the originating processes, there remains no basis for disturbing the decision of the lower Court on appeal. The Appellant further made some contentions which are unsupported by the record of appeal and the applicable law. The Appellant contended that the learned trial Court erred in law by upholding the objection allegedly raised by the 2nd Respondent on behalf of the 3rd Respondent. This contention is plainly misconceived and contrary to the record. The 3rd Respondent independently entered a conditional appearance and equally filed its own Notice of Preliminary Objection, challenging the competence of the originating processes served on it outside jurisdiction. The objection of the 3rd Respondent was duly considered by the trial Court and was partly upheld. Consequently, it is incorrect for the Appellant to suggest that the objection was raised solely by the 2nd Respondent on behalf of the 3rd Respondent.
57. Furthermore, the issue before the lower Court was not limited merely to the question of concurrent originating summons. The objection also related substantially to the mandatory requirement under Section 99 of the Sheriffs and Civil Process Act regarding the period prescribed by law between service of the process and the date fixed for appearance. The Appellant failed to comply with this mandatory requirement, and such non-compliance was fatal to the competence of the action before the trial Court.

58. The learned trial Court was therefore right in its interpretation and application of Sections 97, 98 and 99 of the Sheriffs and Civil Process Act. Equally untenable is the Appellant's argument on waiver. A party who intends to waive his right cannot, in the same breath, enter a conditional appearance and proceed to file a Notice of Preliminary Objection challenging the competence of the suit and the jurisdiction of the Court. The conduct of the 3rd Respondent clearly demonstrated a consistent and unequivocal protest against the defective service of the originating processes.
59. In the circumstance, the Appellant's Contention on this issue is devoid of merit and liable to be dismissed. The decision of the learned trial Court remains sound both in law and on the facts placed before it.
60. Next is issue two, to properly appreciate this issue, it is necessary to begin with the relevant provisions of the Constitution of the 1st Respondent which confer on the Appellant the right to access critical electoral materials and information used in the conduct of the election. The determination of this issue revolves substantially around the interpretation of those constitutional provisions and whether the Appellant's entitlement thereto is subject to any condition precedent, including the procurement of consent from voters.
61. The paragraph 8C, 8E, and 8F of part 2 of the second schedule to the Constitution of the Nigerian Bar Association 2015, as amended in 2021, held thus.

The Electoral Committee of the Nigerian Bar Association has a responsibility to-

Provides essential information, document, and data used in the election to interested parties.

Make available, free and in timely manner, the information on which the decision are based.

Ensure effective and reasonable access to relevant document and information within the constitutional framework.

- 62.** From the provisions of the NBA Constitution reproduced above, it can be clearly deduced that the Electoral Committee of the Nigerian Bar Association has a duty and responsibility to provide necessary information and electoral materials to interested parties and to ensure effective and reasonable access to relevant document and information within the constitutional framework. In the instant case, the Appellant undoubtedly qualifies as an interested party, being not only the first runner-up in the election but also a member of the Nigerian Bar Association.
- 63.** Be that as it may, the provisions of the NBA Constitution cannot be read in isolation. The same Constitution of the NBA, under Part I, clearly sets out the aims and objectives of the Association. Article 3 thereof provides, amongst others, that the aims and objectives of the Association shall include the promotion and protection of the principles of the rule of law, as well as respect for fundamental rights, human rights, and peoples' rights. Flowing from the foregoing, the provisions of Paragraphs 8(c), 8(e), and 8(f) of Part II of the Second Schedule to the Constitution of the NBA cannot be interpreted in isolation from the broader objectives of the Association itself. The duty imposed on the Electoral Committee of the NBA to provide access to electoral materials and relevant information must therefore be exercised reasonably within the constitutional framework of the Association and in compliance

with extant laws regulating the protection of personal data and privacy rights.

64. In the instant case, while the Appellant, being both a member of the Association and the first runner-up in the election, undoubtedly qualifies as an interested party, his entitlement to access electoral materials cannot be construed as absolute or unregulated. The provisions of the NBA Constitution must be interpreted holistically and in harmony with other relevant laws, particularly the provisions of the Nigeria Data Protection Act, 2023, which imposes obligations on data controllers to protect sensitive personal information belonging to voters and members of the Association.

65. The documents sought by the Appellant from the Respondent were:

- 1. A copy of the voter's list used for the Election together with all relevant details.**
- 2. A copy of the accompanying data;**
- 3. A copy of the final result sheet relied upon by the ECNBA in announcing a winner for the election;**
- 4. A detailed explanation for displaying the Election result on a platform different from that on which the votes were cast;**
- 5. Full access to server and application log files used during the election.**
- 6. Network traffic logs during the Election and all incident response documentation;**
- 7. Copies of all data backups taken. Before, during and after the Election.**

8. *Data on system performance throughout the Election, including server response times and load statistics;*
9. *Complete database records, including voter information and voting transactions;*
10. *Detailed logs of all voter authentic attempt (whether successful or not);*
11. *A complete record of voting time stamps for all cast ballots.*
12. *Information and documents relating to any changes or updates made to the voting system/platform during or immediately after the Election;*
13. *Detailed logs of any system errors, including timeouts and database update freezes;*
14. *Detailed logs of all Portable Graphics Image uploads to the ECNBA portal during the Election, including timestamps, file sizes, and the account or process responsible for these uploads;*
15. *Documentation on the process and protocols used to transfer data from the primary election platform (electionbuddy.com) to the display portal (go.ecnba.org);*
16. *All third-party sendee logs and reports from these sendees;*
17. *All formal records of voter complaints or reported issues during the Election;*
18. *Information on the security measures and protocols implemented for the Election;*

- 19. Records of all individuals who had administrative access to the voting system/platform during the Election;**
- 20. Any other information or document used for the Election and which may be relevant in carrying out the audit.**
- 21. All data that the 3rd Defendant share or submitted to the ECNBA at the conclusion of the Election;**
- 22. All data submitted by ECNBA to the 3rd Defendant for the conduct of the Election;**
- 23. A Copy of the final Result Sheet at the 3rd defendant's backend servers showing the winners of the Election;**
- 24. The spool of the votes tallies;**
- 25. The meta data showing the IP and MAC addresses of the devices used in voting.**

66. From the demands made by the Appellant as listed above, it becomes abundantly clear why the Respondents exercised caution before granting some of the requests sought. The Respondents did not outrightly refuse all the requests made by the Appellant. Rather, they released those materials and information which they considered grantable within the bounds and ambit of the law, while withholding only those requests that touched directly on the personal data and private information of members of the Nigerian Bar Association.

67. Indeed, the Record clearly shows that the Respondents provided explanations for the refusal to disclose certain categories of information and expressly stated that compliance with the Nigeria Data Protection Act, 2023 was

necessary before such information could lawfully be released. Such as information relating to voters' personal details, voting patterns, and choice of candidates are clearly matters protected by law and fall within the category of sensitive personal data deserving statutory protection.

68. The Nigeria Data Protection Act, 2023 (hereafter called the Data Act), recognizes the privacy rights of individuals and places an obligation on data controllers and processors to ensure that personal data is not disclosed unlawfully or without the consent of the data subjects, except in circumstances expressly permitted by law. Thus, where the requests of the Appellant extended to information capable of revealing the identity, voting preferences, or private details of voters, the Respondents were under a legal duty to ensure compliance with the provisions of the law before granting access to such information.
69. ***Section 25 (b)(ii)(iv) and (v) of the Nigerian Data protection Act*** are the anchor statutes of the Appellant which provides thus:

Section 25 (1). Without prejudice to the principles set out in this Act, data processing shall be lawful, where –the data subject has given and not withdrawn consent for the specific purpose or purposes for which personal data is to be processed; or

(b) the processing is necessary –

- (i) for the performance of a contract to which the data subject is a party or to take steps at the request of the data subject prior to entering into a contract,***

- (ii) *for compliance with a legal obligation to which the data controller or data processor is subject,*
- (iii) *to protect the vital interest of the data subject or another person,*
- (iv) *for the performance of a task carried out in the public interest or in the exercise of official authority vested in the data controller or data processor, or*
- (v) *for the purposes of the legitimate interests pursued by the data controller or data processor, or by a third party to whom the data is disclosed.*

70. Section 30 (a) of this same Act provide as follows:

1) Without prejudice to the principles set out in this Act, a data controller or data processor shall not process, or permit a data processor to process on its behalf, sensitive personal data, unless the –

(a) data subject has given and not withdrawn consent to the processing for the specific purpose or purposes for which it will be processed;

71. Upon a careful and well-considered examination of Sections 25(b) and 30(a) of the Data Act, it becomes evident that the Respondents were correct in insisting that the Appellant comply with the requirements of the law before sensitive personal data could be released to him. The Respondents' position that disclosure of voters' personal information and

voting details without the requisite lawful basis or consent would amount to a violation of the Data Act is firmly grounded in law as stated earlier in this Judgment and cannot be faulted.

72. The contention of the Appellant that the conditions imposed by the Respondents were impossible or impracticable to satisfy is untenable. Courts are bound to give effect to the clear provisions of a statute once the words used therein are plain and unambiguous. ***See Ajayi & Anor v. Adelami & ORS [2025] LPELR-81039(SC); (Pp. 21-22 paras. D-D);*** it was held by the Apex Court thusly-

The law is settled beyond cavil that when the words used in a provision are clear and unambiguous, the Court must accord them their ordinary and natural meanings without any external aid or embellishment. In COTECNA INT'L LTD. V. IVORY MERCHANT BANK LTD (2006) LPELR -896 (SC) at p. 13, paras. B - D, Niki Tobi, JSC brilliantly stated the position of the law thus: As the role of the legislature is that of making the law, or law making, the role of the Judiciary is that of interpretation of the law. Therefore where the language of a statute is clear, unambiguous, not subject to alternative interpretation, the Courts must give the words their ordinary meaning. This accords with what this Court said in Ojokolobo that words of a statute speak the intention of the legislature. Where the language of a statute is clear and unambiguous, Courts have no jurisdiction to introduce interpretation or construction not borne out from the clear and

unambiguous language. That will be interfering with the exclusive domain of the legislature as the law-maker.

73. Where the law imposes certain requirements before personal data may be disclosed, that becomes the condition precedent the fulfillment of which parties must fulfill and Courts alike are bound to give credence to such provisions irrespective of any perceived inconvenience. If the Appellant considers the provisions burdensome or impracticable, the proper body to address such concerns is the legislature, being the maker of the law, and not the Respondents whose duty is merely to comply with the law as enacted.
74. Furthermore, the provisions of Section 30(e) of the Data Act, clearly provide an exception or lawful basis upon which personal data may be processed thus:

(e). processing is necessary for the establishment, exercise, or defense of a legal claim, obtaining legal advice, or conduct of a legal proceeding;

75. The above provision created a lawful pathway available to the Appellant where he genuinely required the information sought for the purpose of ventilating or establishing his claims before the Court. However, the Appellant failed to properly invoke or utilize the lawful pathway provided under the law. Rather than bringing himself strictly within the exception contemplated under Section 30(e), the Appellant sought unrestricted access to sensitive electoral data without satisfying the conditions precedent imposed by the statute. The notorious and evergreen position of the law as it was, it is and has always being is that every case must be initiated by due process of

law, and upon fulfillment of any condition precedent to the exercise of jurisdiction. Failing which the competence of the Court to entertain the grievance of the party affected would be robbed. Thus, says, the Supreme Court in ***Madukolu v. Nkemdilim (1962) LPELR-2423(SC)***. Having failed to take advantage of the lawful mechanism provided under the Act, the Appellant cannot now turn around to fault the Respondents for insisting on compliance with the provisions of the law. Infact, as stated supra, the non compliance with the law will equally impugn on the competence of the Court to adjudicate on his case.

76. A careful consideration of Section 30(d) of the Data Act, further strengthens the position taken by the Respondents in refusing to disclose sensitive voter information without compliance with the requirements of the law. The Section expressly provides that processing of sensitive personal data may only be carried out by an association or non-profit organization, such as the Nigerian Bar Association, where appropriate safeguards are maintained and such data is not disclosed outside the entity without the explicit consent of the data subject which is the individual member of the Association. So either way the consent of each member must be explicitly sought and obtained before his personal data can be released to a third party. The provision states thus:

30(d).processing is carried out in the course of its legitimate activities, with appropriate safeguards, by a foundation, association, or such other non-profit organisation with charitable, educational, literary, artistic, philosophical, religious, or trade union purposes, and the;

- (i) *processing relates solely to the members or former members of the entity, or to persons who have regular contact with it in connection with its purposes; and;*
- (ii). *sensitive personal data is not disclosed outside of the entity without the explicit consent of the data subject.*

77. From the foregoing provision, it is clear that the Nigerian Bar Association, being an association within the contemplation of the Act, is under a statutory obligation to ensure that sensitive personal data belonging to its members is strictly protected from unlawful disclosure. The law places a duty on the Respondents to maintain appropriate safeguards and specifically prohibits the disclosure of such sensitive information without the explicit consent of the data subjects concerned. Therefore, the insistence of the Respondents that the Appellant comply with the requirements of the law before access could be granted to information relating to voters' identities, voting patterns, and other private data was not arbitrary. Rather, it was a direct compliance with the express provisions of the Data Act.
78. In the circumstance, the Respondents cannot be accused of withholding information unlawfully when the very statute regulating the handling of sensitive personal data expressly prohibits disclosure without consent. The Lower Court was therefore right in giving effect to the provisions of the Act and in holding that the Appellant's entitlement to electoral materials could not override the statutory privacy rights guaranteed to members of the Association.
79. From the foregoing analysis, there is no basis upon which the reasoning and conclusions of the learned trial Judge can be

faulted. The findings of the trial Court are firmly supported by both the facts placed before it and the applicable law, and no substantial reason has been shown to warrant interference by this Court.

80. Accordingly, this Appeal is devoid of merit and is consequently dismissed. The Judgment of the FCT High Court delivered on 27th March, 2025 is hereby affirmed.
81. There shall be no order as to costs.

CROSS APPEAL:

82. The Cross-Appellant challenges part of the Judgment of the High Court of the Federal Capital Territory delivered on 27th March 2025, specifically the dismissal of its Notice of Preliminary Objection, which it maintains raised fundamental jurisdictional issues. The dispute arises from the Nigerian Bar Association presidential election held on 20th July 2024, where the 1st Cross Respondent emerged as first runner-up and subsequently challenged the result in Court without fully exhausting the internal dispute resolution mechanism provided under Clause 14(2)(i) of the NBA Constitution.
83. The Cross-Appellant, together with the 2nd and 3rd Respondents, had objected to the competence of the suit on the ground that the action was premature and that the Court lacked jurisdiction, but the trial Court dismissed the objection in its Judgment. Dissatisfied, the Cross-Appellant filed a Notice of Cross-Appeal contending that the suit was incompetent for failure to exhaust internal remedies and that this defect touches on the jurisdiction of the Court. It therefore urges this Court to set aside the decision of the trial Court and hold that the action was not properly before the Court

SUBMISSION OF THE CROSS APPELLANT:

84. The Cross Appellant formulates the following issues for determination:

1. Whether the Trial Court was right to have found that a member of the Cross Appellant does not have to exhaust internal dispute mechanism of the Appellant before approaching National Court for settlement of its grievance (Distilled from Ground 2 of the Notice of Cross Appeal);

2. Whether the Trial Court was right to have found that the Appellant/Cross Respondent's case disclosed a reasonable cause of action in spite of the admission of the absence of any evidence of infraction in the conduct of the Elections of the Cross Appellant (Distilled from Ground 3 of the Notice of Cross Appeal);

3. Whether the Learned Trial Court was right to have found that the Cross Respondent could pursue both the complaint before the Cross Respondent and the suit in Court.

85. The Cross-Appellant, in relation to issue One, challenges the trial Court's finding that a member of the NBA was not required to exhaust the Association's internal dispute resolution mechanism before approaching the Court. It submits that by long-established legal principles, voluntary associations are governed by their constitutions and members are bound by them, including internal dispute resolution

provisions. Relying on the doctrine in *Foss v. Harbottle* (1843) 2 Hare 461, as applied in *Abubakri v. Smith* (1973) 6 SC 31, *Elufioye v. Halilu* (1993) 6 NWLR (Pt. 301) 570, and *A.P.C v. Moses* [2021] 14 NWLR (Pt. 1796) 278, the Cross-Appellant argues that Courts will not interfere in the internal affairs of associations where members are bound to resolve disputes internally by majority decision or prescribed mechanisms.

86. It contends that Clause 14(1) of the NBA Constitution establishes the National Officers Election Appeal Committee as the body mandated to receive and resolve electoral complaints, thereby making recourse to it a mandatory condition precedent to litigation. The Cross-Appellant argues that the 1st Cross Respondent, having initiated a petition before the committee, was obligated to await its determination before approaching the Court, and that his failure to do so rendered the action premature and incompetent.
87. The Cross-Appellant submits that the trial Court erred in holding that the internal dispute resolution provision was not mandatory arguing that the use of the word "shall" in Clause 14(1) is imperative and not permissive. It relies on *Gusau v. Lawal & Ors* [2023] LPELR-60152(SC); where the Supreme Court held that where a constitution or guideline provides for internal dispute resolution, compliance with such procedure is a condition precedent to instituting an action in Court, and failure to do so renders the suit incompetent. It further cites the case of *Obe v. MTN Nig. Comm. Ltd* [2021] 18 NWLR (Pt. 1809) 415; *Orakul Resources Ltd v. NCC* [2022] 6 NWLR (Pt. 1827) 539, *A.G. Kwara State v. Adeyemo* (2016) LPELR-41147(SC), and *Kayili v. Yilbuk* (2015) 7 NWLR (Pt. 1457) 26, to reinforce the

principle that statutory or constitutional dispute resolution mechanisms must first be exhausted and this does not amount to ousting jurisdiction but merely imposes a procedural condition precedent.

88. It also cites ***Ogogologo & Ors v. Uche & Ors (2005) LPELR-2312(SC)***, where it was held that Courts will not intervene where a designated body has not first exercised its decision-making authority, and ***Aliyu v. APC (2023) 6 NWLR (Pt. 1879) 151***, where the Supreme Court reiterated that exhaustion of party internal mechanisms is mandatory before litigation can be properly instituted. It was emphasized that membership of an association implies consent to be bound by its constitution, including dispute resolution procedures.
89. The Cross-Appellant therefore concludes that the trial Court was wrong in holding that the internal dispute resolution mechanism of the NBA was not a mandatory precondition. It maintains that the 1st Cross Respondent's failure to allow the National Officers Election Appeal Committee to conclude its process rendered the suit premature, incompetent, and liable to be struck out for want of jurisdiction.
90. Respecting issue Two, the Cross-Appellant challenges the trial Court's finding that the 1st Cross Respondent's case disclosed a reasonable cause of action, contending that the originating summons was founded entirely on speculation, belief, and unsubstantiated allegations of electoral irregularities. It argues that paragraph 6 of the supporting affidavit, which forms the crux of the claim, merely expresses "informed belief" that the election was marred by breaches such as alleged vote manipulation, irregular vote tallies, and technological inconsistencies, without any verifiable evidence. The Cross-Appellant maintains that these averments amount

- to conjecture and suspicion, unsupported by proof, and therefore incapable of sustaining a valid cause of action. Relying on the case of ***State v. Azeez & Ors (2008) LPELR-3215(SC)***, the Cross-Appellant submits that Courts do not engage in academic or speculative inquiries but only adjudicate on live issues supported by evidence. Whilst placing reliance on ***Irene Thomas v. Olufosoye (1986) 1 NWLR (Pt. 18) 669, RINCO CONSTRUCTION CO. LTD V. VEEPEE INDUSTRIES LTD & ANOR (2005) LPELR-2949(SC), Pricewaterhouse v. John Momoh [2020] LPELR-51426(CA)***, argued that a reasonable cause of action exists only where material facts disclose a legal right infringed by the defendant with a realistic prospect of success.
91. It was further submitted that the pleadings and affidavit evidence fail this threshold, as they do not establish any concrete act of electoral infraction attributable to the Cross-Appellant or any of the Respondents. Instead, the allegations are described as speculative interpretations of voting patterns and technical processes, including alleged "geometric progression" of votes and perceived inconsistencies in electronic voting data, none of which were substantiated with credible evidence.
92. It was contended that the Appellant's admission that the action was initiated to facilitate an audit of election data underscores the absence of a completed cause of action, as Courts do not grant reliefs for investigative purposes or academic exercises. Accordingly, the Cross-Appellant argues that the trial Court erred in holding that a reasonable cause of action was disclosed, and submits that the proper order ought to have been a dismissal of the suit for want of a reasonable cause of action, as the claim is speculative, hypothetical, and legally unsustainable.

93. Finally, on issue three, the Cross-Appellant contends that the trial Court erred in holding that the 1st Cross Respondent was entitled to simultaneously pursue a complaint before the NBA's National Officers Election Appeal Committee and an action before the High Court. It argues that the 1st Cross Respondent first lodged a petition before the internal Election Appeal Committee on 22nd July 2024, but while that process was still pending, he instituted an Originating Summons at the High Court on 6th August 2024, thereby engaging in multiplicity of proceedings over the same subject matter.

94. Relying on the principle against abuse of Court process, the Cross-Appellant submits that such parallel proceedings constitute improper use of judicial process. It cites ***Ajaokuta Steel Co. Ltd v. G.I.S Ltd (2019) 8 NWLR (Pt. 1674) 213*** and ***I.T.B v. Okoye [2021] 11 NWLR (Pt. 1786) 163***, ***Saraki v. Kotoye (1992) 9 NWLR (Pt. 264) 156***, where the Supreme Court held that abuse of Court process arises where there are multiple actions between the same parties, which emphasized that abuse lies not in the mere existence of a right of action, but in its improper and multiplicative use. Further reliance is placed on ***Ali v. Albishir (2008) 3 NWLR (Pt. 1073) 94***, where the Court held that filing parallel proceedings on the same subject matter, even with differently worded reliefs, constitutes abuse of Court process. It was maintained that since the internal Election Appeal Committee was already seized of the dispute, the institution of a parallel suit before the High Court amounted to a clear abuse of Court process, as both proceedings concerned the same election dispute and parties. It further argues that the trial Court's reasoning that abuse was not established because the proceedings were at different forums is erroneous, as abuse of process does not require completion

of both actions before it can be found; rather, the existence of concurrent proceedings is sufficient.

95. The Cross-Appellant therefore submits that the trial Court's decision is inconsistent with settled authorities and urges this Court to hold that the 1st Cross Respondent's action before the lower Court, having been instituted while internal remedies were still pending, constitutes an abuse of Court process and ought to be struck out.

CROSS RESPONDENT'S SUBMISSION

96. The 1st Cross Respondent formulates the following issues for determination;

1. Whether the Trial Court was right to find that Clause 14(2) (L) of the Cross-Appellant's Constitution did not make it mandatory for the Appellant to first exhaust internal remedy before approaching the Lower Court;

2. Whether the Trial Court was right to have found that the Appellant's case disclosed a reasonable cause of action. Appeal).

3. Whether the Trial Court was right to have found that the 1st Cross-Respondent's action at the Lower Court was not an abuse of Court process. (Ground 1 of the Cross Appeal).

97. On Issue One, the Respondent submits that the trial Court was correct in holding that Clause 14(2)(L) of the NBA Constitution does not impose a mandatory obligation on members to exhaust internal dispute resolution mechanisms before approaching the Court. It argues that the provision

establishing the National Officers Election Appeal Committee merely defines its functions as a standing committee empowered to receive and resolve electoral complaints, but does not expressly oust or restrict the constitutional right of members to seek judicial redress under sections 1(1), 6(6)(b), and 36(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). The Respondent therefore maintains that the trial Court properly upheld the primacy of the right of access to Court and correctly refused to interpret the NBA Constitution as imposing a condition precedent to litigation.

98. The Respondent further contends that the reliance placed by the Cross-Appellant on authorities such as ***Abubakri v. Smith (1973) 6 SC 31*** and ***Foss v. Harbottle supra***, is misplaced, as those cases do not establish an absolute bar to Court access by members of voluntary associations. Rather, the rule in *Foss v Harbottle* is concerned with corporate governance and majority rule, and cannot be stretched to oust constitutional jurisdiction or deny members of professional associations like the Nigerian Bar Association their right to judicial relief, particularly where no express provision mandates exhaustion of internal remedies.
99. It is further submitted that the trial Court rightly distinguished the authorities relied upon by the Cross-Appellant, particularly ***Gusau v. Lawal & Ors [2023] LPELR-60152(SC)***, on the basis that unlike in that case, the 1st Cross Respondent had in fact already activated the internal dispute resolution mechanism by filing a petition before the National Officers Election Appeal Committee. The Respondent points out that even the Cross-Appellant's own evidence, particularly Exhibit 1, revealed that the Appeals Committee declined jurisdiction on the ground that the matter was sub judice due to the

pending Court proceedings, thereby demonstrating that the internal mechanism had already been engaged and effectively concluded.

100. The Respondent further argues that the Cross-Appellant cannot approbate and reprobate by simultaneously insisting on exhaustion of internal remedies while also treating the same proceedings as terminated. It maintains that, in any event, the reliefs sought before the trial Court were distinct, being aimed at compelling disclosure of electoral materials to enable the prosecution of the petition before the Appeals Committee. The Respondent submits that the trial Court properly appreciated this distinction and correctly held that Clause 14(2)(L) does not operate as a jurisdictional ouster or a mandatory bar to Court access. Accordingly, the Respondent urges that the decision of the trial Court dismissing the Preliminary Objection was sound in law, consistent with constitutional guarantees of access to Court, and supported by the facts and evidence on record, and should therefore be affirmed.
101. With regards to issue two, the Respondent supports the trial Court's finding that the 1st Cross-Respondent's case disclosed a reasonable cause of action. It argues that the lower Court correctly held that a pleading discloses no cause of action only where it is so deficient that the Court cannot understand the claim being made. In this case, the claim was clear, intelligible, and properly understood by all parties, including the Cross-Appellant, as evidenced by the extensive counter-affidavits and legal arguments filed in response. It stressed that the 1st Cross-Respondent's case was not predicated on proving electoral malpractice or nullifying the election, but on enforcing a constitutional right to access electoral materials under **Paragraph 8(b), (c), (d), and (e) of the Second**

Schedule of the NBA Constitution. These provisions, it argues, impose a duty of openness and transparency on the electoral body and confer an enforceable right on candidates, without requiring proof of irregularities as a precondition. The Respondent maintains that the facts necessary to ground the claim were properly deposed to in the supporting affidavit, including participation in the election, emergence as first runner-up, request for access to electoral materials, and refusal of same by the Cross-Appellant. Cited in support is the case of ***Tukur v. Mustapha & Ors [2023] LPELR-60465(SC)***, and stated further that constitutional and statutory provisions must be interpreted in their plain and ordinary meaning, and that Courts must not read into them conditions not expressed by the draftsman. It therefore argues that the Cross-Appellant's attempt to impose a requirement of proof of electoral irregularities before accessing electoral materials is unsupported by the clear wording of the NBA Constitution.

102. It was further contended that the Cross-Appellant fundamentally misconceived the nature of the claim, as the action was not aimed at establishing electoral fraud or altering the result of the election, but at compelling compliance with transparency obligations under the NBA Constitution. It submits that the relevant constitutional provisions were designed to ensure transparency in electronic voting systems by granting candidates access to electoral data and processes, and that denial of such access constitutes a breach of those provisions.
103. Accordingly, the Respondent maintains that the trial Court was correct in holding that the case disclosed a reasonable cause of action, as the pleadings and affidavit evidence established a clear legal right, a corresponding duty on the

- part of the Cross-Appellant, and an alleged breach of that duty. It therefore urges that Issue Two be resolved in favour of the 1st Cross-Respondent and against the Cross-Appellant.
104. On Issue Three, the Respondent supports the trial Court's finding that the 1st Cross-Respondent's action did not constitute an abuse of Court process. He submits that the trial Court correctly applied the settled tests for abuse of Court process by considering whether there were concurrent suits before Courts of competent jurisdiction involving the same parties, same subject matter, and same reliefs. The Court found that these conditions were not satisfied, as the petition before the Nigerian Bar Association Election Appeals Committee and the suit before the High Court were not identical in parties, reliefs, or subject matter.
105. The Respondent argues that the Cross-Appellant failed to discharge the burden of proving abuse of process, particularly by not exhibiting the petition allegedly filed before the Appeals Committee alongside the originating processes before the Court. It contends that such failure made it impossible for the Court to properly compare proceedings, and the allegation of multiplicity was therefore speculative. It maintains that abuse of Court process cannot be established on conjecture but must be clearly demonstrated by placing the relevant processes before the Court. Relying on ***Oguejiofor v. Oguejiofor (2006) 1 SC (Pt. I) 157***, the Respondent submits that abuse of Court process arises only where a party improperly deploys multiple judicial processes involving the same subject matter, parties, and issues, in a manner that irritates or overreaches the judicial system. It further argues that in the present case, the petition before the internal NBA committee is not equivalent to a Court action, and therefore

- cannot ground a finding of multiplicity of suits before Courts of competent jurisdiction.
106. The Respondent maintains that the reliefs sought in the High Court action were distinct, being limited to access to electoral materials and databases under Paragraph 8(b)–(e) of the NBA Constitution, and not a challenge to the election itself. It therefore submits that the trial Court was right to hold that no abuse of Court process was established, as the essential legal requirements were not met. In conclusion, the Respondent urges this Court to affirm the decision of the trial Court, resolve issue three against the Cross-Appellant, and hold that the action before the lower Court did not constitute an abuse of Court process.

CROSS APPELLANT'S REPLY:

107. The Cross-Appellant submits that the 1st Cross-Respondent's brief does not present a fully accurate account of the facts on record. At page 1286 of the Record, it is evident that the Cross-Appellant did not merely refuse access to election materials. Rather, it responded to the request by providing available information and explanations where appropriate, while declining disclosure of voters' sensitive data on the ground that such disclosure would infringe voter privacy and contravene applicable data protection laws, unless the consent of the affected voters was first obtained. This factual context is material to a proper appreciation of the dispute.
108. On issue one, the Cross-Appellant maintains that the trial Court erred in its interpretation of Clause 14(2)(L) of the NBA Constitution. The said provision establishes the National Officers Election Appeal Committee and provides that it "shall receive and resolve electoral complaints and disputes arising from the election of National Officers and the election of

representatives of the Association." The Cross-Appellant maintains that the wording is mandatory and creates a binding internal dispute resolution mechanism which members are obliged to exhaust before approaching the Court. It was further submitted that the law recognises the right of voluntary associations to regulate their internal affairs through binding constitutions, which members are expected to comply with. ***Abubakar v. Smith (1973) 6 S.C. 31***, which affirm that Courts will generally respect internal governance structures of associations. Where such a constitution prescribes a dispute resolution process, compliance with it operates as a condition precedent to the competence of any Court action. The arguments in the Cross Appellant's brief was rehashed and stated that although the 1st Cross-Respondent initiated a petition before the Appeals Committee, he proceeded to institute an action at the High Court without awaiting the outcome of that process. The Cross-Appellant therefore submits that mere initiation of the process does not amount to exhaustion, and failure to complete it renders the action premature and incompetent.

109. On issue two, the Cross-Appellant contends that the 1st Cross-Respondent's case at the trial Court did not disclose a reasonable cause of action. That in the present case, the affidavit evidence relied upon by the 1st Cross-Respondent is largely speculative, being founded on beliefs and suspicions rather than concrete facts capable of sustaining judicial relief. It is trite that Courts do not adjudicate on conjecture, speculation, or academic disputes.
110. On issue three, the Cross-Appellant submits that the institution of parallel proceedings before the NBA Appeals Committee and the High Court constitutes an abuse of Court process. That in the instant case, the petition before the

internal Appeals Committee and the suit before the High Court arise from the same electoral process and substantially concern the same grievance, notwithstanding attempts to frame the reliefs differently. The law remains that it is the substance of the claims, rather than their form, that determines whether abuse of process has occurred. Accordingly, the Cross-Appellant submits that the concurrent pursuit of both processes, without allowing the internal mechanism to run its full course, constitutes a clear abuse of Court process.

111. In conclusion, the Cross-Appellant respectfully urges this Court to allow the Cross-Appeal, set aside the Judgment of the trial Court delivered on 27th March 2025, and hold that the 1st Cross-Respondent failed to exhaust internal remedies, failed to disclose a reasonable cause of action, and improperly abused the process of Court.

RESOLUTION OF THE CROSS APPEAL:

112. After a careful consideration of the Grounds of Cross-Appeal and the arguments canvassed by learned counsel for the parties, this Court is of the considered view that the following issues aptly arise for determination in the Cross-Appeal, viz:
1. ***Whether the 1st Cross-Respondent was required to exhaust the internal dispute resolution mechanism provided under the Constitution of the Cross-Appellant before approaching the Court to ventilate his grievances.***
 2. ***Whether the case of the 1st Cross-Respondent disclosed a reasonable cause of action before the Lower Court.***

3. ***Whether the action instituted by the 1st Cross-Respondent before the Lower Court constituted an abuse of the process of Court.***

113. There is no doubt that the NBA, like every other voluntary association, is governed by its Constitution which regulates its affairs, and its members are bound by the provisions thereof. The law is equally settled that where the constitution of an association, institution, or any extant law provides a mechanism for the resolution of disputes as a condition precedent to the institution of an action in Court, such internal dispute resolution mechanism must first be exhausted before a party can validly approach the Court. However, for such internal mechanism to operate as a bar to the jurisdiction of the Court, the provision creating it must be clear, unequivocal, and mandatory in its terms. Put differently, the constitution or law in question must expressly state strict compliance of same before an aggrieved party can seek redress in a Court of law. Courts cannot infer or imply an ouster of the constitutional right of access to Court where the words of the provision do not clearly and directly impose such a condition precedent. Accordingly, while members of an association are ordinarily bound by the provisions of its Constitution, any clause alleged to restrict or postpone access to Court must be construed strictly and must clearly demonstrate an intention that recourse to the internal dispute mechanism is mandatory before the institution of any action in Court.

114. In the instant case, the relevant provision of Clause 14(2)(1) of the Constitution of the Cross-Appellant provides thus:

The National Officers Election Appeal Committee shall receive and resolve electoral

complaints and disputes arising from the election of National Officers and the election of the representatives of the Association in the General Council of the Bar.

115. A careful reading of the above provision reveals that it merely donates powers and functions to the National Officers Election Appeal Committee with respect to electoral complaints and disputes arising from the elections of the Association. The provision merely states what the Committee is empowered to do. It is not in dispute that the 1st Cross-Respondent had in fact approached the National Officers Election Appeal Committee of the Cross-Appellant by lodging his complaint before the Committee. However, while the complaint was still pending before the said Committee, the 1st Cross-Respondent proceeded to institute the instant action before the Lower Court. The pertinent question therefore is whether an aggrieved member must wait for the resolution of a dispute before he can approach the Court. And thus a condition precedent to the institution of an action before a Court of law. In the considered view of this Court, the answer must be in the negative.

116. The law is indeed settled as stated earlier that where a statute, constitution, or other enabling instrument prescribes the fulfillment of a condition precedent before the institution of an action, failure to comply with such condition may affect the competence of the suit and, by extension, the jurisdiction of the Court. However, for such consequence to arise, the provision creating the condition precedent must be clear, mandatory, and unequivocal. Courts do not readily infer an intention to restrict or postpone a citizen's constitutional right of access to Court unless such intention is expressly stated.

17. In the instant case, a close examination of Clause 14(2)(I) of the Constitution of the Cross-Appellant merely shows that the National Officers Election Appeal Committee is empowered to receive and resolve electoral complaints and disputes arising from the election of National Officers and representatives of the Association. The provision merely establishes the functions of the Committee. It does not expressly prohibit an aggrieved member from instituting an action in Court pending the resolution of the Committee, nor does it provide that recourse to the Committee shall operate as a mandatory condition precedent to the institution of an action in Court. On record is the fact that the 1st Cross Appellant approached the committee and ventilated his grievance that in my respectful view has fulfilled the condition precedent. Accordingly, while it is generally desirable and commendable for members of an association to first exhaust available internal dispute resolution mechanisms before resorting to litigation, particularly because such mechanisms may facilitate faster and more amicable resolution of disputes and reduce unnecessary congestion in Courts, the absence of an express mandatory provision in the Constitution of the Cross-Appellant is fatal to the argument canvassed by the Cross-Appellant. It is noteworthy and germane to state here that an appeal to a body constituted internally to handle grievances of a member cannot and does not stay the hand of an aggrieved member from exercising his constitutional right to approaching the Court. This is akin to the position of highest Court in the land in **Lofpobiri v. APC [2021] 3 NWLR (PT. 1764) 538 @ 545.**

118. In the circumstance, this Court is unable to hold that the provisions of Clause 14(2)(I) of the Constitution of the Cross-

Appellant barred the 1st Cross-Respondent from exercising his constitutional right of access to Court.

- 119.** This Court is also in agreement with the reasoning of the learned trial Judge at page 1273 of the Record of Appeal where His Lordship held that ***"the relief sought in this case is clearly stated to be to enable the Claimant effectively pursue his case before the National Election Appeal Panel."*** The implication of this finding is that the reliefs sought before the Lower Court were not reliefs that could ordinarily be granted by the National Officers Election Appeal Committee itself. A careful examination of the claims before the Lower Court reveals that the gravamen of the action was the request for the release of electoral materials, documents, databases, and other information allegedly used in the conduct of the election. Such reliefs, by their very nature, required the exercise of judicial authority and coercive powers which only a Court of law is constitutionally vested with. The Election Appeal Committee, being merely an internal organ of the Association, lacks the judicial competence and coercive authority to compel the release of such documents where the request is disputed or resisted. Accordingly, the 1st Cross-Respondent could not reasonably be expected to obtain the said reliefs solely from the internal committee of the Cross-Appellant. The intervention of the Court therefore became necessary, not for the purpose of bypassing the Committee, but to enable the 1st Cross-Respondent effectively ventilate and prosecute his complaint before the said Committee.
- 120.** In the circumstance, this Court is unable to accept the argument of the Cross-Appellant that the institution of the action before the lower Court amounted to a violation of the internal dispute resolution mechanism of the Association.

Rather, the action before the Court was the exercise of his constitutional right. The learned trial Judge was therefore perfectly right in so holding. This issue is resolved in favour of the 1st Cross Respondent.

- 121. *On issue two posed above,*** A cause of action may be described as the aggregate or combination of facts or legal grounds which, when examined together, confer upon a plaintiff the right to institute an action in a Court of law against a defendant and seek judicial relief. It consists of every material fact which the plaintiff must prove, if traversed, in order to entitle him to judgment. Put differently, a cause of action arises where the facts disclose the existence of a civil right in favour of the plaintiff, coupled with the alleged infringement of that right by the defendant, thereby necessitating judicial intervention. It is the factual situation arising from the wrongful act or omission of the defendant which allegedly infringes upon the legal right of the plaintiff and thereby furnishes a basis for approaching the Court for redress. This definition was approved by this Court in ***Chief (Dr.) Irene Thomas Ors. v. The Most Reverend Timothy Omotayo Olufosoye, supra; Fred Egbe v. Hon. J. A. Adefarasin (1987) N.W.L.R (pt. 47) 1 at 20***
- 122.** For a cause of action to be said to exist, there must be a set of facts or a series of facts which disclose an alleged infringement of a legal right and are sufficiently pleaded to enable the Court to inquire into them and render a decision in favour of either party. It does not, however, necessarily imply that the claimant is right or that the defendant is wrong on the merits; rather, it simply establishes the existence of a justiciable dispute capable of judicial determination. The Supreme in its recent decision on this held thus in ***Niger***

Construction Co. Ltd V. Atavwoda & Ors (2026) LPELR-83382(SC) (Pp. 18 paras. B)

It is settled law that a cause of action is the fact or combination of facts which gives rise to a right to sue or to institute an action in a Court of law or Tribunal. It includes all things which are necessary to give a right of action and every material fact which is to be proved to entitle the plaintiff to succeed. See Barbus & Co. (Nig) Ltd. & Anor. V Okafor-Udeji (2018) LPELR-44501(SC); Society BIC S.A. & Ors. V Charzin Ind. Ltd. (2014) 4 NWLR (Pt.1398) 497; Uwazuruonye v. Governor of Imo State & Ors (2012) LPELR-20604(SC); Elabanjo V Dawodu (2006) 15 NWLR (Pt.1001) 70, 152; Egbe V Adefarasin (1987) 7 NWLR (Pt. 47) 1.

123. To dismiss a case on the ground that it discloses no cause of action is, in effect, to hold that the action is academic or incompetent because even if all the facts pleaded are admitted, the Court would still have no legally recognizable basis upon which to grant the reliefs sought. In such circumstances, there is nothing for the Court to adjudicate upon in a manner that would yield any enforceable order in favour of the claimant.
124. However, that is not the situation in the instant case. The entire claim of the 1st Cross-Respondent before the trial Court centers on a request for an order compelling the Cross-Appellant and other Respondents to release critical electoral materials and data used in the conduct of the election, for the purpose of enabling him to scrutinize, assess, and audit the

declared results. If the 1st Cross-Respondent successfully established his case, the natural and inevitable consequence would be an order of Court directing the Cross-Appellant to make available the relevant electoral materials sought. Such an order is clearly judicially enforceable and far from academic in nature.

125. It cannot be said that the claim is speculative, abstract, or incapable of resulting in any meaningful relief. Rather, it discloses a live dispute in respect of which the Court is properly called upon to exercise its adjudicatory powers. This issue is accordingly resolved in favour of the Cross Respondent.

126. Finally on issue three, to determine whether or not a suit before a Court constitutes an abuse of Court process is not a difficult exercise. The law is firmly settled on what amounts to an abuse of Court process as well as the essential ingredients required to establish same. Abuse of Court process generally arises where a party improperly employs the judicial process in a manner that is oppressive, vexatious, or aimed at irritating the opposing party, particularly through the multiplicity of actions involving the same parties, subject matter, and issues. Thus, in the case of **Mohammed v. Kuchita & Ors [2026] LPELR-83242(SC) (Pp. 16 paras. A)**; the Apex Court held thus:

The issue of abuse of the process of Court is a judicial doctrine aimed at preserving the integrity, efficiency and fairness of the adjudicatory procedure. This concept denotes the improper, vexatious or oppressive use of the machinery of the Court in a manner that is in consistent with the due

administration of justice. It is well settled in our law that an abuse of Court process occurs where a party engages in the institution or maintenance of multiple or parallel proceedings between the same parties in respect of the same subject matter already decided which leads to estoppel. The issue of abuse is an issue of law which can be raised by the defendants or the Court at any stage of the proceedings.

127. Similarly, in defining what amounts to an abuse of Court process, the Supreme Court in ***A.C.B. Plc v. Nwaigwe & Ors. [2011] LPELR-208(SC)*** at pages 7–8, paragraphs B–D, per Onnoghen, JSC, held thus:

Abuse of Court processes has been variously defined by this Court over the years and includes a situation where a party improperly uses judicial process to the irritation, harassment and annoyance of his opponent and to interfere with the administration of justice. Where two or more similar processes are issued by a party against the same party/parties in respect of the exercise of the same right and same subject matter or where the process of the Court has not been used bona fide and properly... It is not the existence or pendency of a previous suit that causes the problem but the institution of a fresh action between the same parties and on the same subject matter when the previous

suit has not been disposed of that constitutes abuse of process of Court.

128. See also ***Saraki v. Kotoye, supra; Okorodudu v. Okoromadu (1977) 3 SC 21; Okafor v. Attorney-General, Anambra State (1991) 6 NWLR (Pt. 200) 659; Nnana v. Nwanebe (1991) 2 NWLR (Pt. 172) 181; C.O.P. v. Fasehun (1997) 9 NWLR (Pt. 507) 171; Olutinrin v. Agaka (1998) 6 NWLR (Pt. 554) 366; and Adesokan v. Adegorolu (1997) 3 NWLR (Pt. 493) 297.*** The Supreme Court recently reaffirmed this principle in ***Nwankwo v. Kay-Kay Construction Ltd [2026] LPELR-83060(SC)*** at pages 30–32, paragraphs E, per Sankey, JSC, where the Court held that a suit instituted during the pendency of another action between the same parties and on the same subject matter constitutes an abuse of Court process. The essential ingredients of abuse of Court process include the following:

1. Multiplicity of actions or processes instituted by the same party;
2. The actions must involve the same parties or parties representing the same interest;
3. The actions must arise from the same subject matter;
4. The reliefs sought or issues for determination in the different actions must be substantially the same;
5. The subsequent action must have been instituted while the earlier action is still pending and undecided;
6. The judicial process must have been used improperly, mala fide, or in a manner intended to

irritate, harass, annoy, or overreach the opposing party; and

7. The institution of the multiple actions must be capable of interfering with the proper administration of justice.

129. The gravamen of the Cross-Appellant's contention on this issue is that the action instituted by the 1st Cross-Respondent before the National Officers Election Appeal Committee of the NBA and the subsequent suit commenced before the trial Court are substantially the same in nature, involve similar complaints and reliefs, and therefore constitute an abuse of Court process.

130. A careful and holistic examination of the law governing abuse of Court process, together with the peculiar facts of this case, clearly reveals that the contention of the Cross-Appellant is misconceived. The law is firmly settled that abuse of Court process arises where a party improperly uses judicial process by instituting multiple actions between the same parties, on the same subject matter, and before Courts of competent jurisdiction simultaneously, with the tendency of irritating, harassing, or overreaching the adverse party. See ***A.C.B. Plc v. Nwaigwe & Ors.* [2011] LPELR-208(SC)**; ***Saraki v. Kotoye* (1992) 9 NWLR (Pt. 264) 156**; and ***Nwankwo v. Kay-Kay Construction Ltd.* [2026] LPELR-83060(SC)**.

131. In the instant case, the proceedings before the National Officers Election Appeal Committee cannot, by any stretch of legal reasoning, be equated with proceedings before a Court of law. The said Committee is merely an internal domestic mechanism established under the Constitution of the NBA for the resolution of electoral grievances within the Association. It is not vested with the constitutional status, powers, or

judicial authority of a Court established under the Constitution of the Federal Republic of Nigeria. Consequently, a complaint lodged before such a Committee cannot amount to a "suit" for the purpose of determining whether there exists multiplicity of actions capable of constituting an abuse of Court process.

132. Furthermore, the reliefs sought before the trial Court were clearly distinguishable from the complaints ventilated before the Election Appeal Committee. The substance of the action before the lower Court was principally to compel the release of electoral materials and relevant data allegedly required by the 1st Cross-Respondent to effectively pursue his electoral grievance. Such reliefs, particularly those requiring coercive judicial orders against the Cross-Appellant and other Respondents, were matters which only a Court of competent jurisdiction could competently grant. The Election Appeal Committee lacked the coercive powers and constitutional authority to make such binding judicial pronouncements.
133. Accordingly, the mere fact that the 1st Cross-Respondent initially lodged a complaint before the internal Election Appeal Committee and subsequently instituted an action before the trial Court does not, without more, amount to an abuse of Court process. For such abuse to arise, the parallel proceedings complained of must be pending before two Courts of coordinate or competent jurisdiction. That is clearly not the situation in the present case.
134. It is upon this premise that this Court agrees entirely with the reasoning and conclusion of the learned trial Judge that the proceedings before the Election Appeal Committee and the suit before the lower Court did not constitute an abuse of Court process. The finding of the lower Court on this issue is therefore unimpeachable and is hereby affirmed.

135. This issue is also resolved in favour of the 1st Cross-Respondent against the Cross-Appellant.
136. Consequently, the Cross-Appeal, is lacking in merit, is accordingly dismissed. No order as to costs.
137. In the final analysis, it is plain from all the foregoing that the Main Appeal fails and the Cross Appeal equally fails.
138. Parties are to bear their costs.


OYEJOJU OYEBIOLA OYEWUMI
Justice, Court of Appeal.



APPEARANCES:

OKECHUKWU UMEMUO with **MANA PHAR.** for the Appellant

ABDUL MOHAMMED, SAN with **ABUSUFYANU ABUBAKAR, ISAAC O. AKWU** for 1st Respondent/Cross Appellant.

C. O. OGBU, ESQ. with **G. O. ONWUCHUKWA** for the 2nd Respondent.



CA/ABJ/CV/1020/2025

(BALKISU BELLO ALIYU, JCA)

I read the draft of the illuminating judgment of my lord O. O. Oyewumi, JCA and having myself read the judgment of the trial Court appealed against, the record of appeal and all the respective briefs of argument of the parties; I find that the lead judgment accords with my view of the appeal and the cross appeal. I therefore agree with the well-articulated reasoning and conclusion reached in the lead judgment and adopt it in toto as mine. I too find no merit in both the appeal and the cross appeal, and I dismiss each of them. I affirm the judgment of the trial High Court of the FCT. I abide by the consequential orders made in the lead judgment.



B. Aliyu

BALKISU BELLO ALIYU,
JUSTICE, COURT OF APPEAL.

APPEAL NO:CA/ABJ/CV/1020/2025

DONATUS UWAERZUOKE OKOROWO, JCA.

I had the privilege of reading in advance the draft Judgment just delivered by My Learned Brother **OYEJOJU OYEBIOLA OYEWUMI, JCA** and I agree with the reasoning and conclusions in both the main appeal and the Cross-Appeal.

THE MAIN APPEAL

The gravamen of the main appeal is whether the learned trial Judge was right in holding that the Appellant was not entitled to the electoral information and databases sought by reason of the provisions of the Nigeria Data Protection Act, 2023. Put succinctly, whether the Appellant was entitled to the requested election data as of course.

The Appellant contends that Section 25 NDPA employs the word "or", thereby making consent merely one of several alternative lawful bases for processing personal data. He argues that his request was justified under legitimate interest, legal obligation and public interest grounds. There is considerable force in the submission that the word "or" appearing in Section 25(1) is ordinarily disjunctive. See: **ABUBAKAR V. INEC (2020) 12 NWLR (PT. 1737) 37; A.G. FEDERATION V. ABUBAKAR (2007) 10 NWLR (PT. 1041) 1; NDPHC V. LUTIN INVESTMENTS LTD (2021) 8 NWLR (PT. 1779)1**. However, statutory interpretation is not a mechanical exercise.

Words derive colour from context. The duty of the Court is to ascertain legislative intention from the statute read as a whole. See: **MOBIL OIL (NIG.) LTD V. FBIR (1977) 3 SC 97; A.G. BENDEL STATE V. A.G.**

FEDERATION (1981) 10 SC 1; SARAHI V. FRN (2016) 3 NWLR (PT. 1500) 531.

The NDPA is a rights-protective statute enacted to safeguard privacy, informational autonomy and the integrity of personal data. This being the reason for the enactment, the Court must therefore adopt a purposive construction which advances those objectives. To discover the intention of the legislature and guide itself with the essence of a provision to give meaning to its words. See **ABDUL v. SHEKWOLO & ORS (2022) LPELR-56682(CA)** and **CBN v. APRIMPEX ENTERPRISES LTD & ORS (2021) LPELR-55546(CA)**

The Appellant sought access to categories of information which, either individually or collectively, could reveal sensitive personal information concerning members of the Nigerian Bar Association. Voter identities would directly disclose the persons who participated in the election. Voting activity records could reveal whether, when and how particular individuals exercised voting rights. Voter verification records could expose personal identifiers utilized during authentication and accreditation. Electoral databases may contain personal particulars of eligible voters, including names, contact details and membership information. Transaction logs and audit trails could permit reconstruction of voting patterns and, in certain circumstances, facilitate identification of individual voting behaviour. When viewed cumulatively, these categories of information create a substantial risk of exposing the electoral choices of identifiable persons. The Respondents maintained that disclosure would expose the private voting choices of members and compromise ballot secrecy. I find merit in that position. The secrecy of the ballot is one of the foundational principles of democratic elections. Whether in public elections or elections

conducted within professional associations, confidence in the electoral process depends substantially upon the assurance that individual voting choices will not be exposed to public scrutiny. The NDPA cannot be interpreted in a manner that destroys the very privacy interests it was enacted to protect. The Appellant's argument overlooks a critical feature of Section 30 NDPA. Section 30 specifically regulates sensitive personal data and imposes additional safeguards. Of particular significance is Section 30(1)(d)(ii), which expressly provides that sensitive personal data shall not be disclosed outside the entity without the explicit consent of the data subject.

While legitimate interest may constitute a lawful basis under Section 25, it does not automatically override the safeguards prescribed under Section 30. The statute must be read holistically. See: **NAFIU RABIU V. KANO STATE (1980) 8-11 SC 130; SKYE BANK PLC V. IWU (2017) 16 NWLR (PT. 1590) 24.**

In my view, where disclosure sought would reveal or facilitate identification of individual voting behaviour, lawful basis alone is insufficient. The applicant must additionally satisfy the Court that: disclosure is strictly necessary; the objective cannot be achieved through less intrusive means; adequate safeguards exist; and the privacy rights of affected persons are protected.

The Appellant failed to establish these requirements.

Indeed, the request was framed in terms broad enough to expose identifiable voter information. The Court cannot sanction such disclosure merely because an election candidate wishes to audit an election. The

proper balance lies in disclosure of anonymised or aggregated information where appropriate, not disclosure of voter-identifiable databases.

It is true that Section 25 employs the disjunctive word "or" in listing lawful bases for processing personal data. Ordinarily, the use of the word "or" denotes alternatives. However, it is equally settled that where a literal interpretation would defeat the manifest purpose of legislation, the Court is entitled to construe apparently disjunctive provisions in a manner that gives effect to legislative intention. See *A.G. Bendel State v. A.G. Federation* (1981) 10 SC 1; *Nafiu Rabi v. State* (1980) 8-11 SC 130.

The Nigeria Data Protection Act is remedial and rights-protective legislation. Its dominant purpose is not to facilitate unrestricted access to personal data but to safeguard privacy while permitting lawful processing under carefully regulated circumstances. In that context, the lawful bases listed in Section 25 cannot be viewed in isolation from the additional safeguards imposed elsewhere in the Act, particularly where the information sought is capable of exposing sensitive personal data or private voting behaviour.

Accordingly, although the lawful bases enumerated under Section 25 are framed disjunctively, their application in circumstances involving highly sensitive personal information must be read together with the requirements of necessity, proportionality, accountability, data minimisation and appropriate safeguards embedded throughout the Act. A party relying on legitimate interest or legal obligation cannot simply invoke those expressions as talismanic phrases to override the privacy rights of data subjects.

Beyond the statutory protection afforded by the NDPA, there is the broader democratic principle of ballot secrecy. The secret ballot exists to protect voters from intimidation, coercion, retaliation, ostracisation and other forms of undue influence. The disclosure of voter-identifiable records after an election may encourage witch-hunting, factional reprisals and institutional division. Courts must therefore exercise exceptional caution before compelling disclosure of information capable of revealing individual voting choices. The preservation of confidence in electoral processes requires that voters remain assured that their choices will not subsequently become the subject of public scrutiny.

I therefore hold that, although the learned trial Judge may have overstated the role of consent by treating it as invariably mandatory under Section 25, the ultimate decision to refuse disclosure was correct. The decision of a Court will not be disturbed merely because the reasons are imperfect if the conclusion itself is correct. See: **NDAYAKO V. DANTORO (2004) 13 NWLR (PT. 889) 187; OREDOYIN V. AROWOLO (1989) 4 NWLR (PT. 114) 172.**

I therefore agree with my learned brother that the substantive claims of the Appellant fail as the Appellant did not establish a legal entitlement to the voter-identifiable electoral databases and information sought under Sections 25 and 30 of the Nigeria Data Protection Act, 2023. The refusal of disclosure by the Respondents was justified having regard to the privacy rights of data subjects, the secrecy of the ballot and the safeguards established under the NDPA. I therefore affirm the dismissal of the substantive suit by the lower Court.

THE CROSS-APPEAL

A major issue in the Cross Appeal is whether the action was premature for failure to exhaust internal remedies under the NBA Constitution. On this, the Cross-Appellants contended that the Appellant commenced this action without first exhausting the NBA's internal dispute resolution procedure. The record, however, shows that he had approached the NBA Election Appeal Committee before instituting the action and that the Committee ultimately deferred to the jurisdiction of the High Court. More importantly, no provision of the NBA Constitution has been brought to the Court's attention making the exhaustion of internal remedies a condition precedent to judicial intervention. Conditions precedent are not to be implied; they must be expressly stated. See: **EGUAMWENSE V. AMAGHIZEMWEN (1993) 9 NWLR (PT. 315) 1; NIGERCARE DEV. CO. LTD V. ADAMAWA STATE WATER BOARD (2008) 9 NWLR (PT. 1093) 498.** I therefore reject that contention.

I agree with My Learned Brother on the remaining issues in the cross-appeal and hold that it lacks merit. I accordingly dismiss it in its entirety.

I abide by order as to cost in the Lead Judgment.



DONATUS UWAEZUOKE OKROWO

JUSTICE, COURT OF APPEAL.

