

IN THE FEDERAL HIGH COURT OF NIGERIA

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ABUJA

ON MONDAY THE 28TH DAY OF SEPTEMBER, 2026

BEFORE HIS LORDSHIP HON. JUSTICE OBIORA ATUEGWU EGWUATU

JUDGE

SUIT NO: FHC/ABJ/CS/1954/2026

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW
AND

IN THE MATTER OF SECTIONS 6(6)(B), 36 (1), 36(2), 251 (1) (R) AND
287 OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA
1999 (AS AMENDED)

AND

IN THE MATTER OF THE DIRECTION OF THE LEGAL PRACTITIONERS
DISCIPLINARY COMMITTEE DELIVERED ON THE 29TH JULY 2026 IN
COMPLAINT NO. BB/LPDC/1314/2024.

BETWEEN:

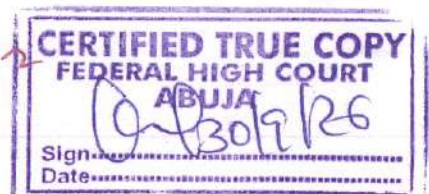
JOE KYARI GADZAMA, SAN.....APPLICANT

AND

1. THE BODY OF BENCHERS
2. LEGAL PRACTITIONERS DISCIPLINARY COMMITTEE
3. CHIEF REGISTRAR OF THE SUPREME COURT
4. CHRIS ALASHI, ESQ
5. OCHA P. ULEGEDE, ESQ.....RESPONDENTS



Page 1 of 50



*Hearings
Omarachi Hoo*

JUDGMENT

This suit was initiated vide a *Motion Ex parte* dated 18th but filed on the 19th of August, 2026 seeking leave to apply for judicial review and seek an order of Certiorari removing into this Court and quashing the *Direction* of the 2nd Respondent in *Complaint No. BB/LPDC/1314/2024* delivered on the 29th of July, 2026.

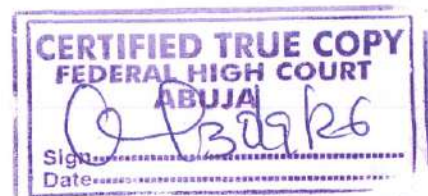
Pursuant to the leave granted on the 20th day of August, 2026, the Applicant filed an *Originating Summons (Application for Judicial Review)* dated and filed on the 21st of August, 2026.

In the *Originating Summons*, three questions were posited for determination while five (5) principal reliefs and one omnibus relief were sought should the questions be resolved in favour of the Applicant as follows:

Questions:

'Question One:

Whether the Direction of the Legal Practitioners Disciplinary Committee dated 29 July 2026 is liable to judicial review and liable to be quashed by an order of certiorari in the circumstances of this case.



Question Two:

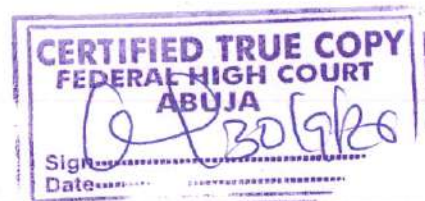
Whether implementation or enforcement of the Direction, in circumstances where the Applicant alleges that no effective appellate mechanism presently exists, is compatible with sections 36 (1), 36 (2) and 6 (6) (b) of the Constitution.

Question Three:

Whether this Honourable Court, in exercise of its supervisory jurisdiction, ought to grant certiorari together with such declaratory and consequential reliefs as are necessary to prevent unconstitutional implementation of the impugned Direction.

Reliefs Sought:

1. **'A declaration** that the implementation or enforcement of the Direction, as it affects the Applicant, in the absence of an effective appellate mechanism is inconsistent with Section 36 (1), 36(2) and 6(6)(b) of the Constitution and is therefore unconstitutional, unlawful and liable to judicial review.
2. **An order of Certiorari** removing into this Honourable Court and quashing the Direction of the Legal Practitioners Disciplinary Committee delivered on 29 July 2026 in Complaint No. BB/LPDC/1314/2024 (Chris Alashi, Esq. v Ocha P. Ulegede, Esq. & Anor), as it affects the Applicant, for violation of the principle of

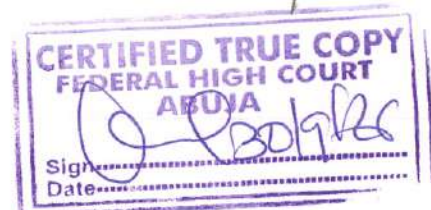


natural justice and contravention of section 36(2)(b) of the 1999 Constitution of the Federal Republic of Nigeria.

3. **An order** restraining the Respondents, whether by themselves, their servants, agents, privies or otherwise howsoever, from implementing, publishing, transmitting, enforcing or otherwise giving effect to the Legal Practitioners Disciplinary Committee Direction dated 29 July 2026, as it affects the Applicant.
4. **An Order** restraining the 3rd Respondent from making or causing to be made any disciplinary notation against the Applicant pursuant to the Legal Practitioners Disciplinary Committee Direction.
5. **An Order** restraining the publication or dissemination of the Legal Practitioners Disciplinary Committee Direction as a final disciplinary determination, as it affects the Applicant.
6. **AND SUCH FURTHER OR OTHER ORDERS** as this Honourable Court may deem fit to make in the circumstances.'

The Application is supported by an affidavit of 45 paragraphs deposed to by the Applicant attached with documents marked as exhibits **JKG-OS1-JKG-OS5**, an affidavit of non-multiplicity of suit and a written address in compliance with the Rules of this Court.

In opposition to the suit, the 1st and 2nd Respondents filed a joint counter affidavit of 16 paragraphs deposed to by Abiodun Shogbola on the 28th of August, 2026 attached with a written address. The 1st and



2nd Respondents followed it up with a *notice of preliminary objection* attached with a written address also filed on the 28th of August, 2026. The 4th Respondent on her part, filed a counter affidavit of 13 paragraphs deposed to by Silas Dega on the 2nd of September, 2026 attached with a document marked as **exhibit A** and a written address. For the 5th Respondent, a counter affidavit of 4 paragraphs deposed to by Peace Inori Obarike was filed on the 26th of August, 2026 attached with five documents marked as **exhibits OPU A, OPU B, OPU C, OPU C1 and OPU D** respectively and a written address. A reply on points of law was also filed by the 5th Respondent in reaction to the preliminary objection of the 1st and 2nd Respondents.

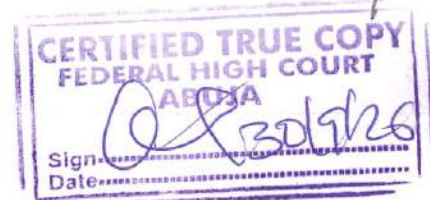
In reaction to the processes filed by the Respondents, the Applicant filed further affidavits.

To the processes of the 1st and 2nd Respondents, the Applicant filed a further affidavit of 17 paragraphs deposed to by the Applicant on the 1st of September, 2026 attached with a reply on points of law. In respect of the preliminary objection, the Applicant filed a reply on points of law also on the 1st of September, 2026.

The 3rd Respondents did not file any process in opposition to the suit.

Applicant's Case:

The case of the Applicant, a legal practitioner called to the Bar in 1986 and a Senior Advocate of Nigeria, (SAN), is that complaint No.



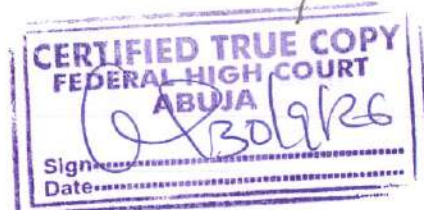
BB/LPDC/1314/2024 was commenced against him before the Legal Practitioner's Disciplinary Committee (LPDC, the 2nd Respondent). He defended the complaint throughout the proceedings. He filed necessary processes, called witnesses and addressed the Committee through his legal team. On the 29th of July, 2026 the 2nd Defendant delivered its *Direction*. The Committee directed amongst other things, that the Applicant be suspended from legal practice for a period of three years and that consequential administrative steps be taken in furtherance of the *Direction*.

Immediately upon delivery of the *Direction*, Applicant instructed his counsel to take steps to challenge it. However, following the decision of the Supreme Court in *Ben Mene-Ejegi v. NBA & Anor* delivered on the 26th of June, 2026, section 12 (7) of the *Legal Practitioners Act* (as amended) (LPA) was struck down thereby leaving no provision for appeals in the LPA to the Supreme Court. Following this development, there is no appellate mechanism through which the Applicant may challenge the *Direction*, the *Appeal Committee* of the Body of Benchers having ceased to have appellate jurisdiction and the basis for a direct appeal to the Supreme Court having been held unavailable. To eliminate any iota of doubt regarding the present dilemma, Applicant's counsel formally addressed a letter (exhibit JKG-OS4) to the 1st Respondent on the 4th of August, 2026 requesting for the constitution or operationalization of



the *Appeal Committee* of the *Body of Benchers* to facilitate Applicant's appeal to the *Appeal Committee* of the 1st Respondent. By a letter date 13th of August, 2026 (exhibit JKG-OS5), the 1st Respondent provided a response expressly stating that, under the present statutory framework, there is no statutory provision establishing an *Appeal Committee*, and that the 1st Respondent is presently unable to constitute one with appellate jurisdiction, also expressly relying on the Supreme Court decision in *Ben Mene-Ejegi's* case.

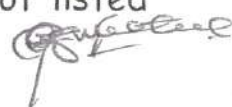
It is the further case of the Applicant that the unless this Court intervenes, the *Direction* may become operative and enforceable notwithstanding the absence of an effective appellate remedy as constitutional complaint raised in these proceedings concerns the legality of implementing the *Direction* in the circumstances where the statutory appellate mechanism is alleged not to be presently capable of practical operation. Further, that the Applicant is not asking this Court to substitute its own assessment of the evidence or factual findings of the *Legal Practitioners Disciplinary Committee*, but his complaint is directed to the legality of the decision-making process, including the alleged application of erroneous legal standards, failure to take material considerations into account, jurisdictional excess, procedural impropriety and irrationality, as well as the constitutional validity of the continued implementation and enforcement of the *Direction* in the



circumstances now existing. That unless this Honourable Court exercises its supervisory jurisdiction, the implementation of the *Direction* may substantially impair the practical efficacy of the statutory appellate process before it can be effectively invoked.

Finally, that this application is not an appeal against the *Direction* of the *Legal Practitioners Disciplinary Committee* and does not invite this Honourable Court to re-evaluate the evidence or substitute its own findings of fact for those of the Committee.

The 1st and 2nd Respondents, while admitting the facts leading to the institution of this suit, their case is that the position taken by the 1st Respondent in its letter of 13th of August, 2026 (exhibit JKG-OS5/EP5) is the reality of the current legal framework and latest judicial decision and that the 1st and 2nd Respondents did not cause the situation. The proceedings before the LPDC and its *Direction* (subject of Applicant's suit) bother on complaint of professional misconduct/misbehavior against the Applicant and another which the 2nd Respondent is statutorily empowered to consider and determine. It is their further case that the Applicant's suit has not alleged lack of jurisdiction, breach of rules of natural justice or fraud against the 2nd Respondent in making its *Direction* delivered on 29th of July, 2026. That matters bothering on professional misconduct by/against legal practitioners are not listed



under section 251 of the *Constitution of the Federal Republic of Nigeria, 1999 (As amended)* governing the jurisdiction of this Court. The discipline of legal practitioners is not connected to the jurisdiction of this Court and that this Court does not exercise supervisory power/role over the LPDC, its proceedings or *Direction*.

Finally, contrary to the depositions of the Applicant, judicial review is not the appropriate procedure to challenge the *Legal Practitioners Act (LPA)* on any alleged contravention of section 36 (2) of the Constitution in the light of the Supreme Court's recent decision striking down section 12 (7) of the LPA over direct appeal to the Supreme Court from the LPDC.

The 4th Defendant, the complainant in Complaint No: BB/LPDC/1314/2024 which gave rise to the subject *Direction* in this suit, his case is that the Applicant having admitted that he fully participated in the proceedings leading to the *Direction*, there is nothing to review by this Court by way of judicial review. The application for judicial review is only available where an administrative body or quasi-judicial body exceeds its jurisdiction or breached the rules of natural justice and failure to follow the mandatory rules. The jurisdiction of this Court over application for judicial review is limited and circumscribed to reviewing the decision of an inferior tribunal and no more and that the



constitutional and public law reliefs sought by the Applicant in paragraph 25 of the affidavit in support are not grantable in an application for judicial review as the sole aim of an application for judicial review is the quashing/setting aside of the entire direction/decision for non-compliance and not the granting of some reliefs.

Finally, that this application constitutes an abuse of court process as the Applicant has also filed a notice of appeal to the Supreme Court and that this Court is without jurisdiction to entertain/grant the reliefs sought by the Applicant and the reliefs exceeded the supervisory jurisdiction of this Court.

The 5th Respondent, who was the 1st Respondent in the subject *Direction*, allied himself with the facts of the case as espoused by the Applicant and supports the case of the Applicant. In addition, the 5th Respondent deposed that the 1st Respondent despite being aware of the absence of *Appeal Committee* of the Body of Benchers, continued to encourage the 2nd Respondent to operate and issue *Directions* affecting the constitutional rights, professional interest, livelihoods of legal practitioners over the years with no outlet for the affected legal practitioners to exercise their constitutional rights of appeal. Also being aware of the decision in *Ben Mene-Ejegi's* case, the 2nd Respondent proceeded to hear and determine the petition No. BB/LPDC/1314/2024



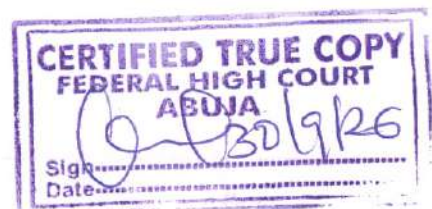
on the 29th of July, 2026 and issued the subject *Direction* suspending the Applicant and the 5th Respondent. That Nigeria is a signatory to *African Charter on Human and Peoples' Rights* which has been domesticated in Nigeria and that the Respondents are bound by article 7 (1) (a) of the Charter.

The Applicant filed further affidavit in reaction to the 1st and 2nd Respondents' counter affidavit. I have read the said further affidavit and noted the depositions contained therein.

The above represent the positions of the parties.

In the written address filed by the Applicant and adopted in Court by Applicant's senior counsel, two issues were distilled for determination, namely;

1. *'Whether this Honourable Court possesses jurisdiction under the Constitution and Order 34 of the Federal High Court (Civil Procedure) Rules to exercise judicial review over the exercise and implementation of statutory disciplinary powers by the 2nd Respondent.'*
2. *Whether, in the circumstances of this case, the Applicant is entitled to the declaratory, preservatory and consequential reliefs sought.'*



The 1st and 2nd Respondents on their part nominated a single issue for determination;

Whether the reliefs sought by the applicant can be granted in the circumstances of this suit/application.

The 4th Respondent's two issues are;

- 1. Whether the Honourable Court is possessed of the requisite jurisdiction to grant the reliefs sought by the applicant.*
- 2. Whether this application does not constitute an abuse of court process.*

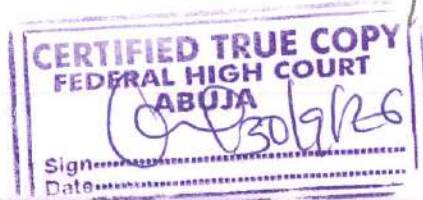
The 5th Respondent adopted the Applicant's issues for determination.

As noted earlier, the 1st and 2nd Respondents filed a notice of preliminary objection challenging the jurisdiction of this Court to entertain this suit.

The Applicant's issue No. 1, the 1st and 2nd Respondents' notice of preliminary objection and the 4th Respondents' two issues all dwelt on the jurisdiction of this Court.

It is trite that jurisdiction is a threshold issue. It is the life wire of any matter. See *Golit v. I. G. P. (2020) 7 NWLR (Pt. 1722) Pg. 40.*

As a matter of law and practice, Courts are always enjoined to determine issue of Jurisdiction first when raised by any of the parties before it, before considering or determining the case on the merit. See *Persons*



Names Unknown v. Sahris International Ltd (2019) LPELR-49006(SC).

In deference to the above settled position of the law, I shall resolve the issues of jurisdiction first before delving into the merit of the case should there be need.

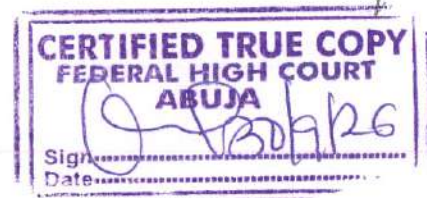
I shall deal with the jurisdictional issues raised by the parties together.

The 1st and 2nd Respondents in their notice of preliminary objection sought 'an order of this Honourable Court dismissing or striking out the Applicant/Respondent's suit No. FHC/ABJ/CS/1954/2026 for want of jurisdiction.'

The sole issue nominated by the 1st and 2nd Respondents' counsel and upon which their objection shall be resolve is;

Whether this Honourable Court has the jurisdiction to entertain the Applicant's suit/application?

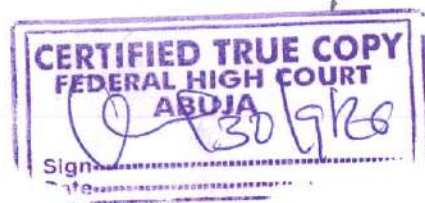
The 1st and 2nd Respondents' counsel answered the above question in the negative. Counsel contended that whereas, it is trite that this Court only exercises its supervisory powers enabled under section 14 of the Federal High Court Act and Order 34 of the Federal High Court (Civil Procedure) Rules on matters related or connected to its substantive jurisdiction under Section 251 of the Constitution, this Court's supervisory power



cannot be exercised at large. Counsel relied on the cases of *Darlington v. Polaris Bank & Ors* (2020) LPELR-51406(CA) (Pp. 43-46 paras. D); *Bilau v. DPP Lagos State & Ors* (2026) LPELR-83697(CA) and *Danladi & Anor. v. Bitrus & Anor.* (2024) LPELR-80105(CA) on this court's supervisory power not being at large.

Counsel pointed out that the subject matter over which the Applicant brought his suit/application for an order of *certiorari* bothers on the Direction of the LPDC having to do with complaint of professional misconduct/misbehavior against the Applicant and another and that such is not one of the items enumerated under Section 251 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

Further, that even the exercise of this Honourable Court's jurisdiction under Section 251 (1) (r) of the Constitution touching on "any action or proceeding for a declaration or injunction affecting the validity of any executive or administrative action or decision by the Federal Government or any of its agencies" has been held to relate to the effectuation of the plans or policies of the Federal Government or any of its agencies. Counsel argued that this does not in any way cover disciplinary measures taken by the LPDC and the Applicant cannot therefore seek to invoke the jurisdiction of this Honourable Court on the Direction of the LPDC in the manner he has done in this case, calling in aid the cases of *Adekanola & Ors v. Associated Property Dev. Co.*



Ltd & Ors (2025) LPELR-83136(SC) (Pp. 53-54 paras. F-F); Adetayo & Ors v. Ademola & Ors (2010) LPELR-155(SC) (Pp. 17 paras. A).

Counsel contended, relying on the above cases, that it is clear that this Honourable Court cannot exercise jurisdiction over this case under Section 251 (1) (r) of the Constitution as the subject matter upon which the Applicant has invited the Court to make pronouncement bothers on the *Direction* of the LPDC which is not mentioned in the substantive jurisdiction of the Honourable Court, as the LPDC's *Direction* is not a policy of the Federal government or any of its agencies. Thus, there is no legal basis for considering the invocation of the Section 251 (1) (r) of the Constitution in this case.

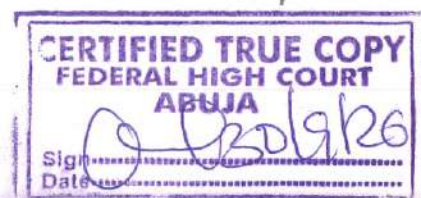
Counsel argued further that this Court is not at liberty to expand its jurisdiction to matters it is not constitutionally and or statutorily empowered on. The Court itself is a creation of the Constitution and cannot act beyond what it is legally statutorily empowered to do, relying on the case of *Govt of Ebonyi State & Anor v. Andrew Bishopton Ltd & Ors (2023) LPELR-60943(CA) (Pp. 29-30 paras. C).*

On the declaratory reliefs sought by the Applicant, Counsel submitted the Applicant has a duty to establish his case with cogent and credible evidence as the law is that declaratory reliefs are not granted as a matter of course or on a platter of gold. They are granted when credible evidence has been led by the party seeking the declaratory reliefs.



According to Counsel, it is the law that the Plaintiff must plead and prove his claim for declaratory relief without relying on the evidence called by the defendant as such declaratory relief is not granted even on admission by the defendant, relying on the case of ***Incorporated Trustees of United Methodist Church of Nigeria & Ors v. Maiyaki & Anor (2019) LPELR-47565(CA) (Pp. 20-21 para. D).***

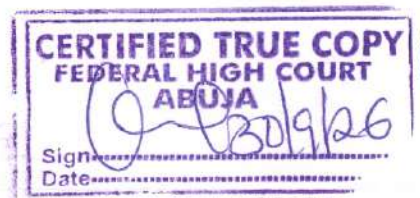
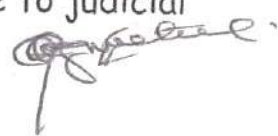
Counsel further contended that however, the Applicant herein has failed to prove his case in accordance with the requisite standard and the grains of the law. He failed to prove lack of jurisdiction, excess of jurisdiction, abuse of rules of natural justice or fraud against the LPDC. On the decision of the Supreme Court in the case of ***Ben Mene-Ejegi, Esq. v. Nigerian Bar Association and Anor. SC/481/2018*** delivered on 26th June, 2026, counsel submitted that the argument of the Applicant is a veiled challenge to the legality/propriety of the *Legal Practitioners Act* that established the LPDC and that without doubt, a challenge to the provisions of a statute cannot be validly made by way of judicial review. The Applicant's suit is palpably an abuse of process. Judicial review is essentially to complain about lack of jurisdiction, excess of jurisdiction, breach of rules of natural justice or fraud against an inferior tribunal, relying on the case of ***Nsude & Ors v. Nichodemus & Ors (2024) LPELR-62986(SC).*** Counsel argued that this is not the case here. More so, there is no legal basis empowering this Court, to



exercise supervisory power/role whatsoever on the 1st and 2nd Respondents. Hence, on all fronts, this Honourable Court lacks the jurisdiction to entertain the case of the Applicant, urging the Court to so hold.

In contending that this Court has jurisdiction, Applicant's Senior Counsel, arguing his issue No. 1, submitted that there is presently no appellate remedy because the *Appeal Committee* of the Body of Benchers was abolished by the 1994 Decree and replaced with direct appeals to the Supreme Court. However, on 26 June 2026, the Supreme Court struck down Section 12(7) of the LPA, which allowed direct appeals to the Supreme Court, thereby leaving no statutory route for appeal. Thus, the implementation of the *Direction* of the LPDC in circumstances where no effective statutory appellate mechanism is presently available to the Applicant, contrary to the provision of section 36 (2) (b) of the Constitution, raises a serious question of constitutional fair hearing and the legality of the disciplinary process.

Counsel thus contended that, insofar as the present statutory framework leaves the *Direction* of the LPDC without an effective appellate avenue, the continued implementation and enforcement of the *Direction* raise a constitutional defect rendering it amenable to judicial review and *certiorari*.



While admitting that this suit is not meant to relitigate the disciplinary complaint or to challenge the correctness of the findings of fact made by the LPDC, but to seek constitutional and public law reliefs directed at preserving the effectiveness of the statutory appellate process and ensuring compliance with the Constitution, submitted that the law is now settled that the remedy of *certiorari* is available to supervise and quash the decisions of inferior tribunals where such decisions are tainted by jurisdictional error, breach of natural justice, fraud, or manifest error of law. Relying on the case of *Nsude & Ors v. Nichodemus & Ors (2024) LPELR-62986(SC)*, counsel submitted that the present application falls squarely within these recognised categories.

According to counsel, the gravamen of this application is therefore one of legality, constitutional compliance and jurisdiction, not factual correctness. It is precisely for such circumstances that the supervisory remedy of *certiorari* exists. Accordingly, this Honourable Court is vested with the jurisdiction to inquire into the legality of the impugned *Direction* and, where appropriate, to remove it into this Court for the purpose of quashing it.

Further, that where a statutory tribunal applies an erroneous legal test, takes into account matters which are legally irrelevant, fails to take material considerations into account, acts in excess of its jurisdiction or reaches a conclusion which is internally inconsistent or legally irrational,

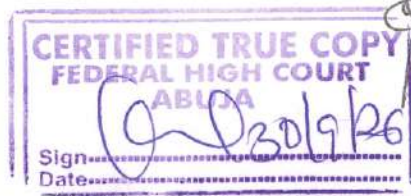


the complaint is properly one of supervisory review and not an appeal on the merits.

Counsel submitted that the constitutional guarantee of fair hearing extends beyond the conduct of the disciplinary proceedings themselves. It necessarily encompasses the practical and effective enjoyment of every right of appeal conferred by law. A right of appeal that cannot be meaningfully exercised before a disciplinary sanction is implemented is liable to become illusory, thereby undermining both the statutory scheme enacted by the National Assembly and the constitutional protection afforded by section 36(2) of the Constitution.

Arguing further, counsel submitted that the jurisdiction of this Honourable Court is invoked pursuant to sections 6(6)(b), 36, 251 (1) (r) and 287 of the *Constitution of the Federal Republic of Nigeria 1999 (as amended)*, the *Federal High Court Act*, the *Legal Practitioners Act* and Order 34 of the *Federal High Court (Civil Procedure) Rules*.

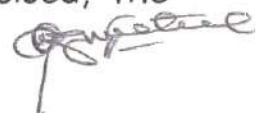
On the Supreme Court decision in *Ben Mene-Ejegi v Nigerian Bar Association & Anor. (SC/481/2018)* [delivered on 26 June 2026], counsel argued that the significance of the decision for present purposes is that the Supreme Court has expressly held that it lacks jurisdiction to entertain a direct appeal from a decision of the LPDC. The Applicant's case is therefore not premised on any assumption that

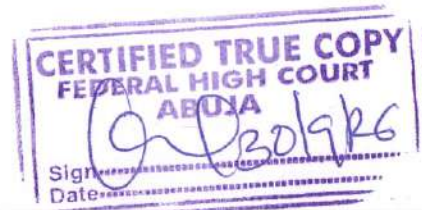


a direct appeal lies to the Supreme Court, (a position confirmed by the 1st Respondent in her letter dated 13/8//2026 (Exhibit JKG-OS5)), but on the presently prevailing statutory and constitutional position concerning the availability of an effective appellate route from the *Direction*. The consequence is that the Applicant presently has no effective statutory appellate mechanism through which the *Direction* may be challenged on appeal. It is against this backdrop that the constitutional question raised by the Applicant under section 36(2)(b) of the Constitution arises.

Finally, counsel submitted that these proceedings fall squarely within the supervisory jurisdiction of this Honourable Court.

I have also read the reply on points of law filed by the Applicant in response to the 1st and 2nd Respondents' preliminary objection and noted the submissions made therein which is principally that the 1st and 2nd Respondents' counsel's submissions proceeded from a fundamental misapprehension of the nature of Applicant's case. Counsel reiterated the fact that the Applicant does not invite the Court to sit as an appellate tribunal over the LPDC but rather invokes the Court's supervisory jurisdiction to examine the legality of the decision-making process, the legal standards applied, the jurisdiction exercised, the

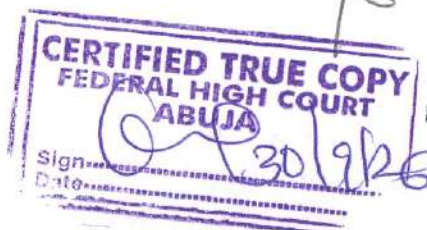




observance of natural justice and the legal validity of the resulting *Direction*.

I have also noted the oral submissions made in Court by Applicant's senior counsel

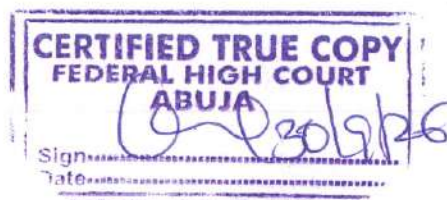
The 4th Respondent arguing her issue No. 1, contended that the Applicant's application is not what it pretended to convey-removing into this Court and quashing the *Direction* of the LPDC. After setting out the instances when a certiorari may lie, relying on the cases of *Nsude & Ors v. Nicodemus & Ors (2024) LPELR-62986(SC); Judicial Service Commission, Cross River State v. Young (2013) 11 NWLR (Pt. 1364) Pg. 1*, counsel submitted that looking at the Applicant's supporting affidavit, there is no deposition tending to show that the LPDC's *Direction* in any way exceeded its jurisdiction or breached the rules of natural justice and failed to follow the mandatory procedural rules. The Applicant having admitted that it defended the complaint throughout the proceedings, he has failed to put before the Court material showing that the 1st Respondent failed to observe the rules of natural justice. Counsel thus contended that this application christened 'an order of certiorari', in reality is not but merely a smokescreen intended to clothe this Court with jurisdiction to review a decision that is neither tainted



with the virus of fair hearing nor a direction/decision which was given without jurisdiction and did not breach any procedural rules.

After stating the purport of Applicant's application, counsel submitted that Applicant's application is not necessary for an order seeking the quashing of the LPDC's *Direction* of July 29, 2026 but for the exercise of this Court's supervisory jurisdiction by intervening to preserve the efficacy of statutory appellate process, and as such this Court lacks jurisdiction both in what the Constitution provides in section 251 (1) (a-s) on jurisdiction as well as its supervisory jurisdiction to entertain and determine the Applicant's application. Counsel argued that looking at the reliefs sought by the Applicant and juxtaposing same with the jurisdiction of this Court as set out in section 251 (1) of the Constitution, it is obviously clear that none of the reliefs can be pigeonholed into this Court's jurisdiction, thus this court lacks the jurisdiction to grant the reliefs.

It was further argued by counsel that the supervisory jurisdiction of this Court can only be exercised over federal administrative agencies, bodies, and quasi-judicial tribunals strictly within the scope of the exclusive federal matters assigned to it by section 251 of the Constitution and does not possess general or blanket supervisory authority over all inferior tribunals in the country unlike the State High

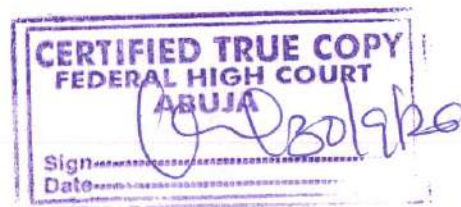


Court which generally exercise broad supervisory and judicial review powers via prerogative orders like *mandamus*, *certiorari*, or *prohibition* over traditional inferior courts and general state-based tribunals.

As such this Court is without jurisdiction to review by way of *certiorari* the *Direction* dished out by the LPDC. Or even if it is conceded that it has jurisdiction, it does not have the jurisdiction to grant the relief asking the court to exercise its supervisory jurisdiction by intervening to preserve the efficacy of the statutory appellate process as requested by the Applicant.

It was also argued that there is inconsistency in the case of the Applicant. Referring to question 1 and paragraph 26 of the affidavit in support, counsel contended that in one breath the Applicant is asking the court for an order of *certiorari* by removing into this Court and quashing the *Direction* of the LPDC and in another breath stated that he approaches this Court to seek a supervisory review of the legality of the LPDC's decision making process and in particular whether the *Direction* was reached and its being implemented in accordance with the applicable law and constitutional safeguards. According to counsel, this is a somersault and it is against the principle of consistency.

Counsel thus urged the Court to resolve this issue against the Applicant.

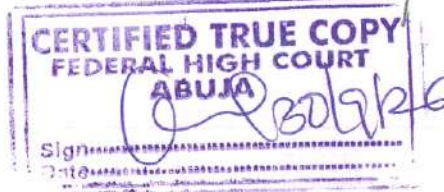


On the 4th Respondent's issue No. 2, Counsel argued that this suit is an abuse of court process, the Applicant having filed an appeal before the Supreme Court (exhibit A attached to 4th Respondent's counter affidavit) challenging the subject *Direction* seeking the same reliefs as in this case. The cases of *Counsel of Legal Education v. Dange (2024) 13 NWLR (Pt. 1955) Pg. 307*; *I.T.B. Plc v. Okoye (2021) 13 NWLR (Pt. 1786) Pg. 163* on what amount to abuse of Court process, were relied upon by Counsel. Counsel contended that the simultaneous pursuit of the appeal to the Supreme Court and the Application before this Court amount to a gross abuse of process. The Court was urged to strike out/or dismiss this Application for want of jurisdiction.

Orally replying to the 4th Respondent's submissions, Applicant's counsel submitted that the purported Notice of Appeal is not before the Supreme Court as the Appeal has not been entered, that an appeal is deemed filed when it is entered more so when the appeal was filed in error, Supreme Court having held that appeals from the LPDC does not lie straight to the Supreme Court.

Counsel thus urged the Court to discountenance the 4th Respondent's arguments.

The 5th Respondent in his address adopted the entire arguments put forward by the Applicant. I need not therefore repeat the arguments



here. I have however noted the points made in paragraphs 3.4 to 3.10 of his address.

Resolution:

It is not contested that this Court, pursuant to section 14 of the *Federal High Court Act* and Order 34 (1) of the *Federal High Court (Civil Procedure) Rules, 2019* (the Rules of Court), is statutorily empowered to issue prerogative writs such *mandamus*, *certiorari* and *prohibition*.

Section 14 (1)-(3) of the *Federal High Court Act* provide as follows;

'14 (1) The Court shall have the power to make an order of *mandamus* requiring any act to be done or an order of *prohibition* prohibiting any proceedings, cause or matter, or matter into the Court for any purpose.

(2) The power conferred by this section to make an order of *mandamus*, *prohibition* or *certiorari* may be exercised notwithstanding that the order is made against an Officer or authority of the Federation as such.

(3) subject to the foregoing provision of this section, the references in any written law to any writ of *mandamus*, *prohibition* or *certiorari* shall be construed as reference to an order corresponding thereto

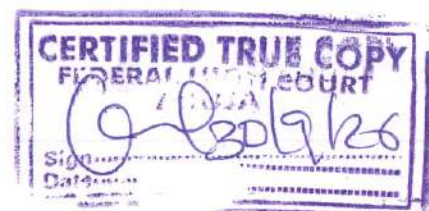


and the reference to the issue or award of any such order shall in like manner be so construed.'

By Order 34 rule 2 (a) of the Rules of Court, an application for a declaration or an injunction not being an injunction in sub-rule (1) (b) of this Rule may be made by way of an application for judicial review, and the Court may grant the application if it deems it just and convenient having regard to-(a) the nature of the matter in respect of which relief may be granted by way of an order of mandamus, prohibition or certiorari;...'

The writ of *certiorari* is a prerogative writ for the enforcement of a remedy against the acts of inferior courts or tribunals that acted without jurisdiction or in breach of the rules of natural justice. The main function of the writ is to ensure that any inferior court or any person or authority entrusted with judicial powers or functions keep within the limit of the jurisdiction conferred upon them by their enabling statutes. The writ is issued by a superior court of record and directed at an inferior court, tribunal or any person or authority exercising judicial or quasi-judicial powers or functions, asking that the record of that inferior court in a particular matter be transmitted to the superior court for inspection and if irregularities are disclosed, to quash them.

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See *Onyekwuluje & Anor v. Benue State Govt. & Ors.* (2015) LPELR - 24780 (SC); (2015) 16 NWLR (Pt. 1484) 40, *Judicial Service Commission of Cross-River State & Anor v. Young* (2013) LPELR - 20592 (SC); (2013) 11 NWLR (Pt.1364) 1; *Nwaoboshi & Ors v. Military Gov. of Delta State & Ors*(2003) LPELR-2113 (SC); (2003) 11 NWLR (Pt. 831) 305, *Head of F.M.G., P.S.C. of Mid-West State & Anor v. In Re Kubeinje* (1974) LPELR-1360 (SC); *Head of the Federal Military Government v. Governor Mid-Western State & Anor* (1973) LPELR - 1269 (SC).

A writ of *certiorari* can only lie in respect of judicial or quasi-judicial acts, but not in respect of purely executive, legislative or administrative acts.

The LPDC is a quasi-judicial body and it performs adjudicatory functions when they receive and determine allegations of professional misconduct against legal practitioners and are thereby bound to observe the rules of natural justice in their proceedings. See *Ben Mene-Ejegi v. Nigeria Bar Association & Anor* (*supra*).

The Supreme Court in *Nsude v. Nichodemus* (2025) 4 NWLR (Pt. 1982) Pg. 253 (SC), held that 'certiorari may lie in any of the following instances: (a) where the decision or determination impugned or challenged has been reached by the subordinate authority without



jurisdiction or in excess of jurisdiction; or (b) where the decision or determination was reached in breach of the rules of natural justice; or (c) where the decision or determination was procured by fraud or perjury; or (d) where the decision or determination contains some error of law which is manifest on the face of the record.'

Though Applicant's senior counsel contended that the present application falls squarely with the above recognized categories, I do not entirely agree with him.

The narrow prism upon which the Applicant anchored this Application is *'the continued implementation and enforcement of the impugned Direction in the circumstances where there exists no effective statutory appellate mechanism'* which *'raises a fundamental question as to the legal competence of the Direction to attain finality and operative effect.'* In effect, without an appeal route for the Applicant to challenge the Direction, there is a breach of the rules of natural justice.

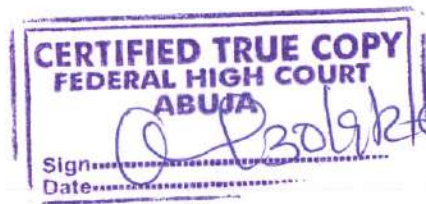
The Respondents, save for the 3rd and 5th Respondents, do not agree with the Applicant that under this circumstance, this Court has jurisdiction, the ground not being one of the recognized grounds pursuant to which a writ of *certiorari* is to issue.

The parties are agreed that by section 12 (7) of the *Legal Practitioners Act*, Appeal from the Direction of the LPDC lies direct to the Supreme



Court but that the Supreme Court in the case of *Ben Mene-Ejegi v. NBA & Ors* (supra), struck down section 12 (7) of the *Legal Practitioners Act* to the extent that it purports to confer a direct right of appeal from the LPDC to the Supreme Court, being inconsistent with sections 233 and 240 of the Constitution.

Under the *Legal Practitioners Act, Cap. L11, LFN, 2004 (As Revised)* (LPA), there is presently no statutory provision establishing an *Appeal Committee* of the *Body of Benchers* with jurisdiction to entertain appeals from the *Decisions or Directions* of the LPDC. In deed the Revised Act, does not provide for an *Appeal Committee*. The Parties are *ad idem* on this state of the law. See exhibit JKG-EP5 (though referred to in paragraph 18 of Applicant's affidavit in support as exhibit JKG-OS5) wherein the 1st Respondent in response to the Applicant's letter on the 'constitution or operationalization' of the *Appeal Committee* of the 1st Respondent, clarified that 'under the *Legal Practitioners Act, Cap. L11, Laws of the Federation of Nigeria, 2004 (As revised)*, there is presently no statutory provision establishing an *Appeal Committee* of the *Body of Benchers* with jurisdiction to entertain appeals from the *Decisions or Directions* of the *Legal Practitioners Disciplinary Committee*. In deed the Revised Act does not provide for an *Appeal Committee*.'

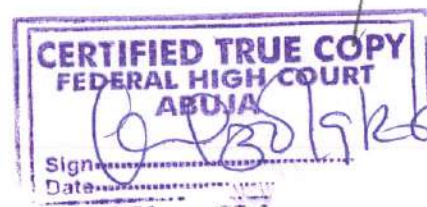


In effect, this statutory state of affairs has the effect of making the subject LPDC's *Direction* final contrary to the provision section 36 (2) (b) of the Constitution and deny the Applicant any right of appeal he may wish to exercise. Applicant's counsel contended that the Applicant presently has no effective statutory appellate mechanism through which the subject *Direction* may be challenged on appeal (which according to him is a denial of fair hearing) and thus thrusting upon the Court the jurisdiction to entertain this suit.

The 1st, 2nd and 4th Respondents contends otherwise insisting that the subject matter over which this application is brought bothers on the *Direction* of the LPDC having to do with complaint of professional misconduct/misbehavior against the Applicant which is not one of the substantive jurisdiction of this Court enumerated in section 251 (1) (a-s) of the Constitution and that the Applicant cannot rely on section 251 (1) (r) of the Constitution to ventilate his complaint. Thus, the Court lacks jurisdiction.

No doubt, '*professional discipline*' does not appear as a lone item under section 251 (1) of the Constitution.

Section 251 (1) (r) of the Constitution provides that this Court shall have exclusive jurisdiction in relation to 'any action or proceeding for a declaration or injunction affecting the validity of any executive or

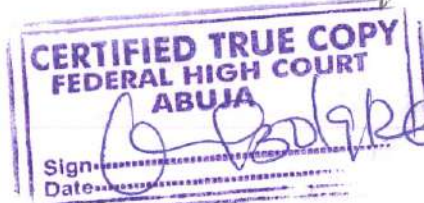


administrative action or decision by the Federal Government or any of its agencies.'

Does the complaint of the Applicant fall under the above provision so as to clothe this Court with jurisdiction? The Applicant's case seeks amongst other reliefs declarations directed at the constitutional and legal validity of the implementation or enforcement of the *Direction* and an order of *certiorari* quashing the *Direction*. The basis being that the *Direction* was arrived at without any remedy of an appeal contrary to section 36 (2) of the Constitution.

Now, the *Legal Practitioners Act* (supra) is a federal legislation. The 1st and 2nd Respondents are statutory bodies created under the LPA with statutory duties to be performed under the Act. The 1st Respondent is a body corporate with perpetual succession and a common seal. The 2nd Respondent is a *Committee* of the 1st Respondent which shall be charged with the duty of considering and determining any case where it is alleged that a person who is a member of the legal profession has misbehaved in his capacity as such or should for any other reason be the subject of proceedings under this Act. It is pursuant to the above statutory duties that the 2nd Respondent issue the subject '*Direction*.'

It is not being contended by the Applicant that the 1st Respondent is subject to the day-to-day administrative control of the Federal



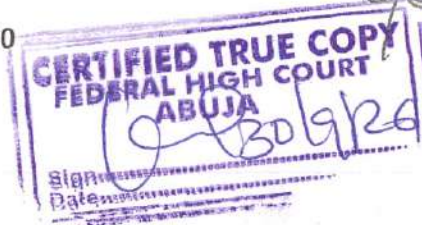
Government. Rather, it is the statutory and institutional character of the 1st Respondent and the nature of the public power exercised under the LPA that is in issue for consideration.

The 1st Respondent through the 2nd Respondent exercised an administrative and or quasi-judicial function arriving at a decision (*Direction*). I agree with the Applicant that this proceeding therefore is not merely an action complaining about professional discipline. It is a proceeding challenging the validity of an administrative and quasi-judicial decision made pursuant to a Federal Legislation (the LPA).

It is not contested that a statutory disciplinary *Direction* is a 'decision'. Does the 'decision' constitute an administrative decision of a Federal Government agency within the contemplation of section 251 (1) (r)?

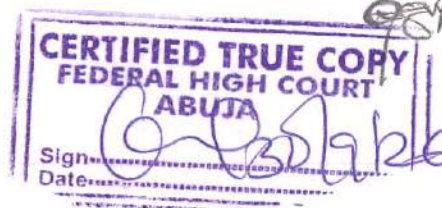
The 2nd Respondent's *Direction* (decision) was made in the course of administering the statutory disciplinary regime established by the LPA- a federal legislation. The *Direction* was not a private contractual or professional association decision. It was the exercise of the statutory power affecting the Applicant's legal status and professional rights.

In his bid to convince this Court that the 1st and 2nd Respondents are agencies of the Federal Government, Applicant's senior counsel submitted that the jurisdiction of this Court arises from the constitutional character of the 1st and 2nd Respondents, the nature of



the statutory powers exercised and the nature of the reliefs sought. Counsel argued that the 1st Respondent is not merely a private professional association, but a statutory body corporate established under the *Legal Practitioners Act*. That in deed, in describing its own institutional status, the Body of Benchers stated on its official website that, being a body created by an enabling law, its status under the LPA is that ***of an agency of the Federal Government under the Judiciary***. That this institutional characterization is not unsupported by the wider governmental record. Counsel pointed out that the Auditor-General's Report for 2013 identifies the Body of Benchers, Abuja within the Law & Justice sector alongside the National Judicial Council, the Supreme Court, the Court of Appeal, the Federal High Court, the National Industrial Court, the National Judicial Institute and other recognized judicial institutions. That the same report records the Body of Benchers as an expenditure item under Ministries, Departments and Agencies. Further, that the institutional relationship with the Judiciary is further reflected in the Body's own record. According to counsel, in the 2024/2025 Valedictory Address, the then Chairman of the Body of Benchers stated that the Body enjoys appropriation and release of funds from the National Judicial Council.

The 1st and 2nd Respondents and in deed the 3rd Respondent failed to join issues with the Applicant on these assertive submissions. The telling



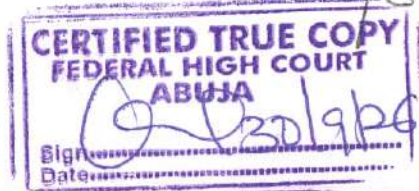
effect of this failure to answer to the Applicant's counsel's submissions is that the Respondents are deemed to have admitted them. See **Nwankwo v. Yar'Adua (2010) 12 NWLR (Pt. 1209) 518 at 586** where the Supreme Court held as follows;

'It is clear from the issues formulated and argued by learned senior counsel for the 1st and 2nd respondents in their brief of argument do not include argument on appellant's said issue No. 8. It is settled law that where an opponent fails or neglects to counter any argument or issue validly raised in the brief of argument or during oral presentation, the issue not so contested is deemed conceded by the defaulting party. I therefore, in the circumstance, hold that the 1st and 2nd respondents by not reacting to the issue in question, have conceded the issue as formulated and argued by the learned counsel for the appellant.'

In similar circumstances, the Court of Appeal in **Alhaji M. K. Gujba v. First Bank of Nigeria Plc & Anor (2011) LPELR-8971(CA)**, held;

'It follows that the respondents played into the hands of the appellant, on this issue, when they failed to join issues with the arguments of the appellant therein. This omission, whether intention or inadvertent, makes the appellant hold an ace on this issue.'

Be that as it may, I am aware that in law where an issue raised by one party is not countered by the other party, it does not automatically



follow that such arguments, though conceded, are to be taken hook, line and sinker by the Court. Thus, the failure of one party to counter the arguments of the other party alone does not *ipso facto* without more confer merit on the arguments of the party as the Court is still under a duty to consider the arguments on their own merit.

See APC v. Maggaji & Ors (2022) LPELR-5924(CA); Fulani M. v. The State (2018) LPELR - 45195 (SC). Adah v. NYSC (2004) 13 NWLR (Pt. 891) 639. See also Tanko V. UBA Plc. (2010) 7 NWLR (Pt. 1221) 80, Obiweubi v. CBN (2011) 17 NWLR (Pt. 1247) 80, Stowe v. Benstowe (2012) 17 NWLR (Pt. 1306) 450, Elelu Habeeb v. AG. Fed (2012) 13 NWLR (Pt. 1318) 423, Agi v. Access Bank Plc (2014) 9 NWLR (Pt. 1411) 121.

In this instance I have checked the website of the 1st Respondent.

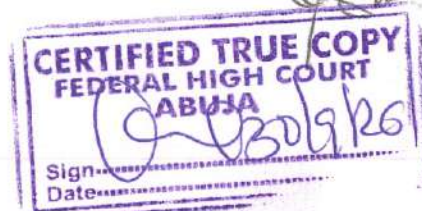
It is clearly stated therein as follows;

'The Body of Benchers is a body corporate with perpetual succession and a common seal. This is provided for pursuant to section 3 (2) of the Act. This means the Body can sue and be sued in its own corporate name.

Being a Body created by an enabling law, the status of the Body as provided under the Legal Practitioners Act is that of an Agency of the Federal Government under the Judiciary.'

Emphasis is mine.

It is also correct that the Body of Benchers appears as an expenditure item under Ministries, Departments and Agencies of the Federal

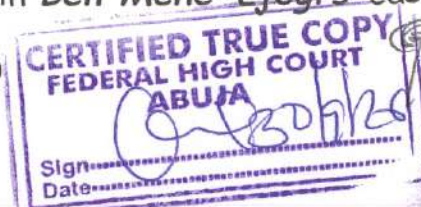


Government and also enjoys appropriation and release of funds from the National Judicial Council.

It could not therefore be argued as was done by the 1st and 2nd Respondents' counsel that the 1st Respondent is not an agency of the Federal Government.

In the circumstances of this case, the facts considered, the 1st Respondent being an Agency of the Federal Government, the High Court of the States or of the FCT will not have jurisdiction. The LPA is a federal legislation applicable throughout the Federation; the 1st and 2nd Respondents are statutory creations under the LPA. Of note is the statutory and institutional character of the 1st Respondent and the nature of the public power exercised under the LPA.

In *Ndukwe v. LPDC & Anor (2007) LPELR-1978(SC)*, the Supreme Court agreed with the parties therein that the LPDC is an Administrative Tribunal or body exercising quasi-judicial functions or jurisdiction. Similarly, in *LPDC v. Fawehinmi (1985) 2 NWLR (Pt. 7) Pg. 300*, the Supreme Court also treated the LPDC as a tribunal whose exercise of disciplinary authority is subject to the requirements of natural justice and fair hearing. In *Ben Mene-Ejegi v. Nigeria Bar Association & Anor (supra)*, the Supreme Court also reiterated the fact that the LPDC is a quasi-adjudicatory body and it performs adjudicatory functions. The Supreme Court also held in *Ben Mene-Ejegi's* case that

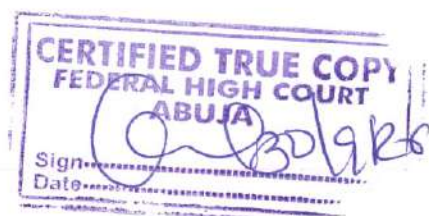


LPDC's proceedings and *Decisions/Directions* should be subject to judicial review by a High Court. If the LPDC's proceedings and *Decisions/Directions* are subject to judicial review by a High Court, then obviously, it is the Federal High Court that has such jurisdiction and not the High Court of a State or of the FCT since the LPA is a Federal Enactment, the Body of Benchers and the LPDC are statutory bodies established under the LPA. In addition, the Body of Benchers is an Agency of the Federal Government under the Judiciary.

I must add that the 2nd Respondent is not a private disciplinary panel. It is an administrative tribunal or body exercising quasi-judicial functions and jurisdiction under a federal legislation. See *Ndukwe v. LPDC & Anor (2007) LPELR-1978(SC)*; *Ben Mene-Jegi v. NBA & Anor (supra)*.

It follows therefore that if the LPDC is considered as a body performing a quasi-judicial function, its *Direction* cannot be treated as merely a private professional association decision for purposes of section 251 (1) (r). I agree with the Applicant that the provision must be read as a whole and it contains no express exclusion based upon the subject matter of the executive or administrative action or decision.

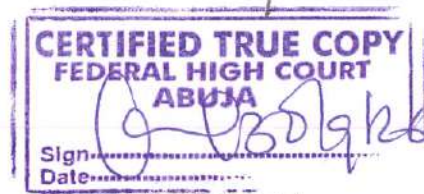
This Court, therefore, is clothed with supervisory jurisdiction over the *Direction* of the 2nd Respondent under section 252 (1) (r) of the Constitution. And I so hold.



Another point argued by the 4th Respondent is that this suit is an abuse of court process. The basis for this contention is that the Applicant filed an appeal against the *Direction* of the 2nd Respondent to the Supreme Court seeking the same reliefs as being sought here. Exhibit A attached to the affidavit in support is the notice of appeal to the Supreme Court.

The Applicant's counsel argued that the said notice of appeal is of no consequence as same was filed in error as the Supreme Court in the *Ben Mene-Ejegis's* case struck down section 12 (7) of the LPA which provided for direct appeal to the Supreme Court from the *Directions* of the LPDC and held that appeal from the *Direction* of the LPDC does not lie direct to the Supreme Court. In any case, the said appeal has not been entered and that it is only where an appeal has been entered that it can be said that there is a pending appeal.

I have examined exhibit A (the notice of appeal). Exhibit A was filed before the 2nd Respondent. The appeal is deemed to have been brought/filed. However, it has not been entered before the Supreme Court. In *Ezomo v. A.G, Bendel State (1986) LPELR-1215(SC)*, it was held by the Supreme Court that an appeal is "brought" when the notice has been properly filed in the Court below, and is only entered when the Appeal Court has received the Record of Appeal. See also *Ogunremi v.*



Dada (1962) 1 All NLR 663; Adewoyin & Ors. v. Adeyeye (1962) 2 All NLR. 108.

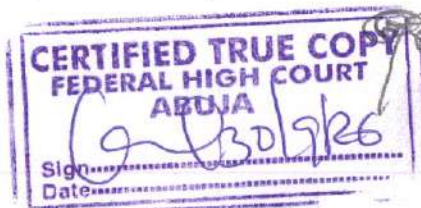
The LPDC is the 'Court below' in this instance.

The record of appeal has not been transmitted to the Supreme Court and the appeal has also not been entered in the Supreme Court.

Since the Supreme Court in *Ben Mene-Ejegis's* case held appeals does not lie direct to the Supreme Court from the *Direction* of the LPDC, it cannot be said that there is an appeal before the Supreme Court, more so when no such appeal has been entered. At best, the notice of appeal can be said to have been filed in error and thus invalid and void. There is therefore no proceeding pending before the Supreme Court seeking the same reliefs as in this instant Application.

The fact that the Applicant granted an interview to several media organizations that he has instructed his lawyers to appeal against the *Direction* of the LPDC, as contended by the 4th Respondent's counsel, does not amount to the filing and entering of an appeal by the Applicant. Since there is no valid or competent appeal before the Supreme Court, there is therefore, no abuse of Court process in this instance.

Abuse of Court process is a term generally applied to a proceeding that is wanting in *bona fide* and is frivolous, vexatious or oppressive or has been instituted with the intention of interfering with the due



administration of justice, or where the process is intended to annoy or frustrate the adverse party. See *Unifam Industries Ltd v. Ecobank (Nig.) Ltd* (2019) 1 NWLR (Pt. 1653) Pg. 187. One of its main features is the multiplicity of suits between the same parties and on the same issues.

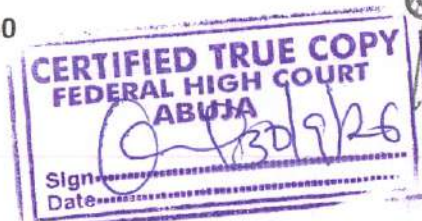
I hold therefore that this suit is not an abuse of court process.

It is on the basis of the above that I hold that this Court has jurisdiction to entertain this suit. The sole issue is resolved against the 1st, 2nd and 4th Respondents.

On the merit of the Application, I shall adopt Applicant's 2nd Issue in the resolution of the Application.

Whether, in the circumstances of this case, the Applicant is entitled to the declaratory, preservatory and consequential reliefs sought?

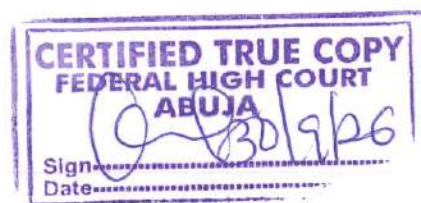
Arguing the above issue, Applicant's counsel submitted that the grant of judicial review remedies is discretionary, the Court does not merely ask whether a legal complaint has been established but also considers whether, in the particular circumstances of the case, the intervention of the Court is necessary in order to uphold the rule of law, preserve statutory rights and prevent injustice. Counsel contended that this is a proper case in which that discretion should be exercised in his favour.



Counsel submitted that the Applicant has not attempted to circumvent the statutory disciplinary framework established under the *Legal Practitioners Act*. On the contrary, immediately after the *Direction* of the LPDC was delivered, the Applicant attempted to exercise his right of appeal vide **Exhibit JKG-OS4**. Thus, he has accordingly approached this Honourable Court with clean hands and in good faith.

Counsel contended that the reliefs sought are not directed solely to the Applicant's private interests. The legal profession is regulated by a statutory disciplinary regime established to protect both the profession and the public. Further, that public confidence in that regime depends not only upon the effective discipline of erring practitioners but also upon the assurance that disciplinary powers are exercised consistently with constitutional safeguards and that appellate remedies created by Parliament remain meaningful.

Accordingly, restraining the Respondents, whether by themselves, their servants, agents, privies or otherwise howsoever, from implementing, publishing, transmitting, enforcing or otherwise giving effect to the LPDC *Direction* dated 29 July 2026 serves a broader public interest than the immediate interests of the parties before the Court, relying on the case of *Kotoye v CBN (1989) 1 NWLR (Pt. 98) 419*.



Counsel submitted that the declaratory and supervisory reliefs sought are appropriate. That the Court should preserve the subject matter of this proceeding as same is not merely the LPDC Direction. It is the continued effectiveness of the statutory disciplinary process established by the *Legal Practitioners Act* in the absence of a legitimate and proper appellate structure. Further, that the intervention of this Court is sought only to ensure that the statutory process remains lawful, effective and constitutionally compliant.

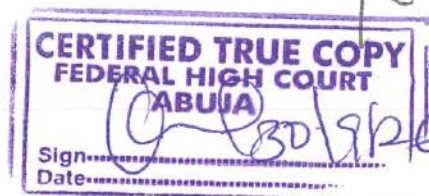
The 1st and 2nd Respondents' counsel address is a repetition of the submissions made in their address in their preliminary objection.

For the 4th Respondent, his argument is that this Court does not possess the requisite jurisdiction to grant the reliefs. The arguments are all hinged on the lack of jurisdiction by this Court.

The summary of the submissions is that the Applicant failed to show that the 2nd Respondent exceeded its jurisdiction or breached the rules of natural justice and failed to follow the mandatory procedural rules thereby necessitating an application by the Applicant calling for a decapitation of the *Direction* rendered on the 29th of July, 2026.

The 5th Respondent aligned with the Applicant and adopted the Applicant's submissions.

I have carefully read the entirety of the submissions of the parties.

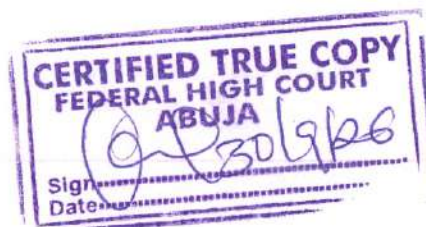
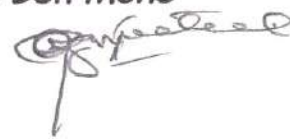


It is not contested that by section 12 (7) of the LPA, a person to whom *Direction* has been issued against may at any time within 28 days from the date of service on him of *Notice of the Direction*, appeal against the direction to the Supreme Court.

A *Direction* was issue against the Applicant on the 29th of July, 2026 pursuant to *Complaint No. BB/LPDC/1314/2024*. Being dissatisfied with the *Direction* and in exercise of his right of appeal, the Applicant caused a letter dated August 4, 2026 to be written to the 1st Respondent requesting for the constitution or operationalization of the *Appeal Committee of the Body of Benchers* and facilitation of Applicant's notice of appeal. A copy of the Applicant's notice of appeal was attached to the letter.

By her letter dated August 13, 2026, the 1st Respondent informed the Applicant, relying on the case of *Ben Mene-Ejegi, Esq v. Nigerian Bar Association & Legal Practitioners Disciplinary Committee*, that there is presently no statutory provision establishing an *Appeal Committee of the Body of Benchers* with jurisdiction to entertain appeals from the *Decision or Directions* of the LPDC. And that indeed the Revised Act does not provide for an *Appeal Committee*.

The 2nd Respondent herein was also the 2nd Respondent in the *Ben Mene-Ejegi's* case.



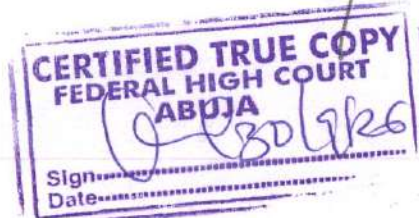
Judgment in **Ben Mene-Ejegi's** case was delivered on the 26th of June, 2026.

Meanwhile, on the 1st of July, 2026, the 2nd Respondent, despite the Supreme Court decision in **Ben Mene-Ejegi's** case, sat and heard the case against the Applicant and delivered her *Direction* on the 29th of July, 2026. At the time of the delivery of the *Direction*, the 2nd Respondent was fully aware of the Supreme Court decision in **Ben Mene-Ejegi's** case wherein the Supreme Court struck down section 12(7) of the LPA thus effectively removing a direct appeal to the Supreme Court from the *Direction* of the LPDC and the 1st Respondent knew that the Body of Benchers had no Appeal Committee in place.

As it stands now, there is no appellate remedy for the Applicant because the *Appeal Committee* of the 1st Respondent was abolished by the 1994 Decree and replaced with the direct appeals to the Supreme Court vide section 12 (7) of the LPA which the Supreme Court in her decision in **Ben Mene-Ejegi's** case struck down, thus leaving no statutory route for appeal.

Section 36 (2) (b) of the Constitution provides thus;

'Without prejudice to the foregoing provisions of this section, a law shall not be invalidated by reason only that it confers on any government or authority power to determine questions arising in



the administration of a law that affects or may affect the civil rights and obligations of any person if such law -

(a)...; and (b) contains no provision making the determination of the administering authority final and conclusive.

The above provision is a constitutional protection against the *Direction* of an Administering authority being *final and conclusive*. In other words, a *Direction* or decision of an Administering Authority cannot be final but admits of an appeal to a higher body. In the circumstances where the *Direction* of the 2nd Respondent becomes final, it is against or contrary to the provision of section 36 (2) (b) of the Constitution.

In the circumstances of this case, will it be justice to allow the *Direction* to be implemented? What happens if eventually an Appeal Committee of the Body of Benchers is put in place and the Applicant succeeds in his appeal and by which time, the Applicant would have served the punishment contained in the *Direction*? Wherein lies his remedy?

The law has always been that where there is a right there is a remedy. This doctrine is expressed in the Latin Maxim *ubi jus, ibi remedium*. This maxim is one of the oldest principles of law and the fulcrum of justice that states that where there is a right, there is a remedy. See *Baba-Yusuf v. Stanbic IBTC Bank Plc (2025) LPELR-80393(CA)*.

In *Lau v. PDP & Ors (2017) LPELR-42800(SC)*, the Supreme Court held thus;



'This brings to mind the Latin maxim - 'Ubi jus, ibi remedium' where there is a right, there is a remedy. The law ensures that if the Plaintiff has a right he must have the means to vindicate that right, and a remedy, if he is injured in the enjoyment or exercise of it - See *Bello V. A-G Oyo State* (1986) 5 NWLR (pt. 45) 828 SC.'

In this instance, the Applicant who is dissatisfied with the *Direction* issued by the 2nd Respondent has a right of appeal. He cannot exercise this right as a result of the decision of the Supreme Court in *Ben Mene-Ejegi's* case. The Applicant's right of appeal cannot be expropriated from him or denied him in the circumstances not created by him and which could have been avoided by the 1st and 2nd Respondents had they taken a clue from the decision of the Supreme Court in *Ben Mene-Ejegi's* case delivered on the 26th of June, 2026 before the 2nd Respondent sat and issued her *Direction* on the 29th of July, 2026.

Taking Applicant's right of appeal from him and proceeding to implementing the 2nd Respondent's *Direction* even before the Applicant exercises his constitutional right of appeal will be akin to beating a child and asking him not to cry. That will not be justice. That will injustice.

In *Bello v. A.G. Oyo State* (1986) LPELR (764) 1 at 70, the Supreme Court per Karibi-Whyte, JSC on the doctrine of *ubi jus ibi remedium* intoned thus:



'I think it is erroneous to assume that the maxim ubi jus ibi remedium is only an English Common Law principle. It is a principle of justice of universal validity couched in Latin and available to all legal systems involved in the impartial administration of justice. It enjoins the Courts to provide a remedy whenever the Plaintiff has established a right. The Court obviously cannot do otherwise.'

See also *INEC v. APC & Ors* (2023) LPELR-59769(CA); *Orianzi v. A. G. Rivers State* (2017) LPELR (41737) 1 at 65-66, *BFI Group Corporation v. v. BPE* (2012) LPELR (9339) 1 at 33 and *Eze v. Gov of Abia State* (2014) LPELR (23276) 1 at 29.

In my view, this Latin Maxim calls for its application in the circumstances of this case.

I agree with the Applicant, that the implementation of the *Direction* issued by the 2nd Respondent in the circumstances where no effective statutory appellate mechanism is available to the Applicant raises a serious question of constitutional fair hearing and the legality of the disciplinary process.

However, I note that the Applicant did not approach this Court to relitigate the disciplinary complaint or to challenge the correctness of the findings of fact made by the 2nd Respondent or as an appeal against the *Direction* of the 2nd Respondent. In fact, the Applicant admitted that he fully participated in the proceedings giving rise to the *Direction*. His case is anchored on the apparent and effective denial of the right of appeal because there exists no effective avenue for an appeal.

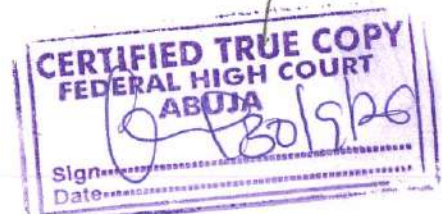


It will work injustice on the Applicant in the circumstances of this case to allow the implementation of the *Direction* against the Applicant while denying him his constitutionally guaranteed right of appeal against the *Direction* issued by the 2nd Respondent due to no fault of the Applicant. It is on the basis of the above that I find some merit in this Application. Accordingly, I hold that;

1. The *Direction* of the Legal Practitioners *Disciplinary Committee* dated 29 July 2026 is liable to judicial review.
2. The implementation or enforcement of the *Direction*, in circumstances where there is no effective appellate mechanism presently exists, is not compatible with sections 36(1), 36(2) and 6(6)(b) of the Constitution.
3. This Court in exercise of its supervisory jurisdiction, ought to grant *certiorari* together with such declaratory and consequential reliefs as are necessary to prevent unconstitutional implementation of the *Direction*.

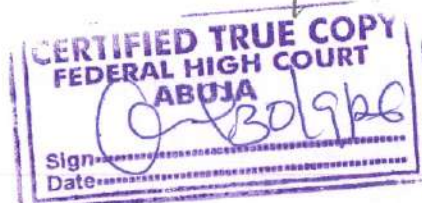
In the circumstances, I make the following orders;

1. A declaration is made that the implementation or enforcement of the *Direction*, as it affects the Applicant, in the absence of an effective appellate mechanism is inconsistent with Section 36(1), 36(2) and



6(6)(b) of the Constitution and is therefore unconstitutional, unlawful and liable to judicial review.

2. An order is made restraining the Respondents, whether by themselves, their servants, agents, privies or otherwise howsoever, from implementing, publishing, transmitting, enforcing or otherwise giving effect to the *Legal Practitioners Disciplinary Committee's Direction* dated 29 July 2026, as it affects the Applicant until such a time that the Appeal Committee of the 1st Respondent is put in place or such other avenue for appeal is set up to enable the Applicant exercise his constitutional right of appeal.
3. An Order is made restraining the 3rd Respondent from making or causing to be made any disciplinary notation against the Applicant pursuant to the *Legal Practitioners Disciplinary Committee's Direction* until such a time that Applicant has been provided an avenue to exercise his constitutional right of appeal guaranteed by the Constitution within the time allowed for such an appeal.
4. An Order is made restraining the publication or dissemination of the *Legal Practitioners Disciplinary Committee's Direction* as a final disciplinary determination, as it affects the Applicant until such a time that Applicant has been provided an avenue to exercise his constitutional right of appeal guaranteed by the Constitution within the time allowed for such an appeal.



5. The other reliefs are refused.

6. I make no order as to cost.



Hon. Justice Obiora Atuegwu Egwuatu

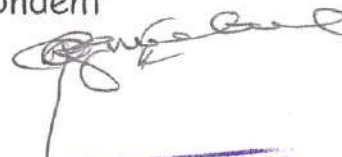
Judge

September 28, 2026

APPEARANCES:

Parties: Applicant and the 5th Respondent are present. Others are absent

1. Prof. Maxwell Gidado, SAN, Prof Paul Idornigie, SAN, Fredick E. Itula, SAN, Clement Onwuenwunor, SAN, Johnny Agim, SAN, Uche Njoku, SAN, with Mohammed Monguno, Emmanuel S. Oluwabiya, Gabriel Tsenyen, Oluniyi Adediji, Ezenwa Ibegbunam, Chidera Mgbe, Darlington Onyekwere, Mark Agbo, Kingdom Okeke, Jerry Mbugadu, Madu Joe-Kyari Gadzama, Sarah Jeta Atunga, Onyekachi Eluwa, Gideon Ohiani Agbedo, Hajara Mohammed Sorondinki, Lois Belema Bamson, Mercy Alabi, Idara Umoh, Isabel- Crystal Bologi, Jiro Ominimini, Safiya Auwal, A. A. Owurung and F. E. Iwok for the Applicant
2. Dr. A. Amin with A. A. Shogbola, F. O. Eje and O. A. Ogiemudia for the 1st and 2nd Respondents
3. K. A. Daodu with B. S. Tabji and M. Shuaibu for the 3rd Respondent
4. I. J. Mbatsavdue with Onyechi Egwuonwu and M. P. Anaukyaa for the 4th Respondent
5. O. D. Ulegede with S. A. Odiba for the 5th Respondent



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