

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN IN ABUJA

BEFORE HIS LORDSHIP: HON. JUSTICE E. D. SUBILIM

DATE: 9TH JULY 2025

SUIT NO. NICN/ABJ/180/2024

BETWEEN:

MR. BLESSED NEHEMIAH

CLAIMANT

AND

SAVANNAH SUITES LTD

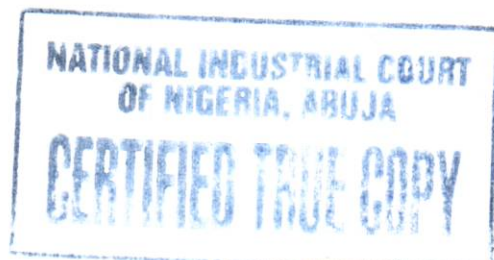
DEFENDANTS

REPRESENTATION:

T. R. Agbanyi Esq., with Hannatu Haruna Esq., for Claimant
O. S. Owezim Esq., with T. A. Salami Esq., for the Defendant

JUDGMENT

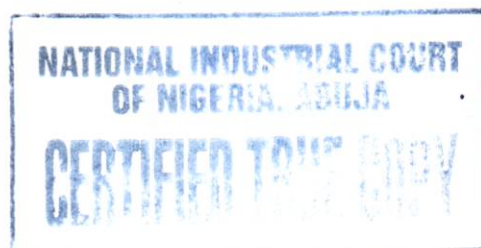
1. By a General Form of Complaint dated and filed on the 27th day of June, 2024 Claimant instituted this action against the defendants claiming the following;
 1. A DECLARATION that the purported indefinite suspension contained in the letter dated 29th of November, 2023 issued by the Defendant to the Claimant is unlawful, illegal and a violation of the fundamental rights of the Claimant who has been out of job since the date of the said suspension.
 2. A DECLARATION that the purported indefinite suspension of the Claimant by the Defendant in the letter dated the 29th of November, 2023 without payment of salary runs contrary to the letter of employment and staff Handbook of the Defendant.
 3. AN ORDER directing the Defendants to pay the Claimant the sum of N55,000.00 (fifty-Five Thousand Naira) only being the monthly salary of the Claimant from the month of December, 2023 till the date the Defendant lifts up the purported indefinite suspension against the Claimant.



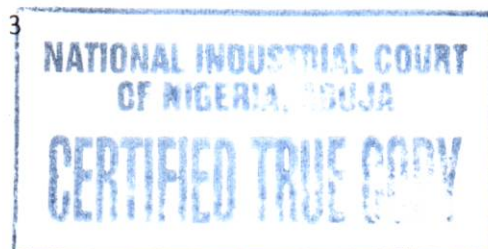
4. AN ORDER directing the Defendant to pay the Claimant damages in the sum of N10,000,000.00 (Ten Million Naira) for the pains, embarrassment and psychological trauma occasioned the Claimant as a result of the purported indefinite suspension.
5. AN ORDER directing the Defendant to pay the Claimant the sum of ₦1,000,000.00 being the professional fees of the claimant's counsel in the conduct of this suit.
6. AN ORDER directing the Defendant to recall the Claimant to work. And for such Order(s) this Honourable Court may deem fit to make in the circumstance of this suit.
2. **In reaction to the Complaint, the Defendant filed a Statement of Defence and other accompanying processes on the 14th day of October, 2024 following leave granted by this Court on the 16th of October, 2024. In response, the Claimant filed a Reply on the 16th of October, 2024.**

CLAIMANT'S CASE

3. It is the Claimant's case that he was employed by the Defendant as a security personnel and placed on a salary of N30,000.00 (Thirty Thousand Naira) per month and that the letter of employment expressly stated that the Claimant's employment would be confirmed after a period of 12 months. He went to averred that by a letter dated 30th November 2021, the Defendant promoted him to the rank of Supervisor in its Security Department without confirmation by the Defendant within the 12-month period as provided in the appointment letter vide a letter dated 14th July 2022. Also it is the averment of the Claimant that he was promoted again by the Defendant to the position of Acting Chief Security Officer vide letter dated 5th day of December 2022. Continuing, Claimant averred that while the Defendant had, at certain times been issuing queries to the Claimant but on each occasion satisfactory responses were made which put those queries to rest. That as he continued to discharge his duties diligently, on the 29th day of November 2023 he was served with a letter of indefinite suspension without salary. Consequently, it is more than one year after the suspension without salary, he was not recalled nor investigation into the allegations against him concluded. Hence the commencement of this suit seeking the reliefs contained in the Complaint.



4. The defendant in response entered appearance in this case and filed its Statement of Defence dated 14th day of October 2024, though belated, but regularized and averred that the Claimant was offered employment by the Defendant not as a security supervisor but security personnel as clearly stated on his employment letter he relied upon. It is also the averment of the Defendant that Claimant did not show the level of commitment and diligence alleged in his statement of fact that he was not issued query prior to the letter dated 29th day of November 2023 as the Claimant had been queried and reprimanded several times within the period in question. That the issues leading to the Claimant's suspension were germane and troubling one for which Claimant had been cautioned a number of times prior to his suspension. The Defendant went on to state that its officials made several attempts at reaching the Claimant in order to invite him for discussions with respect of the allegation leading to his suspension but he failed to yield to any of its invitation and also that the Claimant being aware that the officials of the Defendant are trying to make him appear before the Defendant placed a call to the Chairman who had retired and was far away in Delta State who then informed him that effort are being made by the Defendant's staff to reach him and that he should get in touch with the General Manager of the Defendant. That thereafter Claimant visited the Defendant's General Manager and equally had a word with the facility Manager though unscheduled and he later asked that Claimant return on a later date to enable him meet the investigative panel set up in respect of his suspension case which he never did and several attempts made to reach him were not successful. Continuing, the Defendant averred that sometime in the Month of March the General Manager left the Defendant's employment without notice and without handing over to the Defendant or any of the Defendant's staff as the Defendant later heard that he had an undisclosed health challenges that made him travel to his village. That after waiting for some time and having lodged his disappearance with the Nigerian Police, it initiated the process of recruiting another General Manager in replacement especially as the Chairman had retired for over two years. The Defendant secured the services of a new General Manager in May 2024 and her mandate was to revisit all segments of the Defendant's workings and operations including those in the category of the Claimant and shortly after resumption the new General Manager had notified some staff about in June to assist in fresh efforts at reaching the Claimant. the facility managers call to inform him that the management wanted to meet with him to which he responded that he was not available and thereafter all effort to reach him yielded no fruit because his phone will not connect, while effort to reach him was ongoing the Defendant received the Court process from the Court and

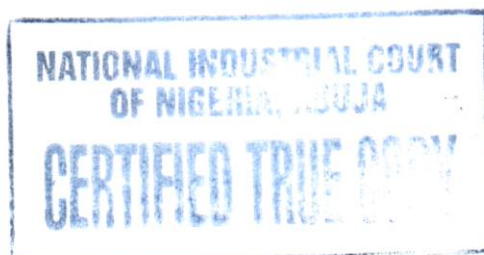


upon receipt and in order to show and establish the new Management's interest and sincerity in dealing with all issues left by the former General Manager, the New Management called their solicitors to immediately wade in to see how this matter could be resolved amicably without rigours of full blown trial. Subsequently, both counsel met wherein the Defendant agreed and acceded to part of the claims as contained in paragraphs 17 (3) and (6), pay his outstanding salaries in full within the same period and recalling the Claimant as contained in his claim but this was rejected by Claimant's counsel. The Defendant averred that it is still willing to have the Claimant back into her employment and pay him all salaries as accrued from the said suspension till the time of filing this case as claimed by the Claimant. That the Defendant shall contend that beyond the admission that Claimant's suit particularly paragraph 17 (3) and (6) of statement of fact amount to wild-goose chase frivolous, vexatious, gold-digging and lacks merit. He urge the Court to refuse the said reliefs and dismiss those aspect of the claims.

5. In response to the Defendant's statement of defence, Claimant filed a reply dated 16th day of October 2024. Claimant avers that no query was issued to him with respect of missing items in the Defendant and that he is not responsible for any missing items. He went on to aver that the queries served on him relates to removal of shoes at night, delivery of 25 litres of diesel to the house of the Chairman of the Defendant at the instance of the Defendant and surveillance of the premises of the Defendant by the Claimant and that all these queries had nothing to do with missing items in the Defendant. it is equally the averment of the Claimant that he reached out to the Chairman to appeal to him to lift off the indefinite suspension but the Chairman referred him to the General Manager and that when he visited the General Manager he told him that he had no instruction from the Chairman over the indefinite suspension. He stated further that the offer of professional fee by the Defendant is in bad faith and contradicts legal practitioners Remuneration (for business, Legal Services Representation) Order 2023 issued by the Nigerian Bar Association. That the claim of the Claimant is from the date of indefinite suspension to the date of lifting of the said suspension and that the Defendant has not communicated to him the suspension of the said indefinite suspension.

COMMENCEMENT OF HEARING

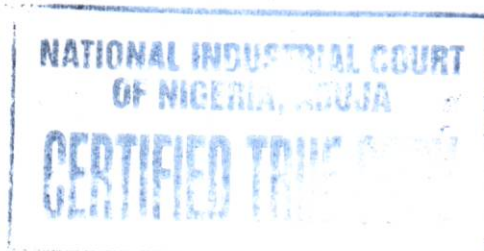
6. On the 4th day of December, 2024 Claimant opened his case, testified on oath as CW1 by adopting his written depositions as his oral evidence in this case. Exhibits Nehemiah 1-11 and Nehemiah A and B were tendered through him.



Defendant. On the 5th day of March, 2025 one Aleobua Idowu A testified as DW1 for the Defendant by adopting his witness statement on oath as his evidence. Exhibits Idowu A and B were tendered through him. DW1 was cross examined by learned Counsel on behalf of Claimant and subsequently discharged and the case of the defence was closed and the matter adjourned for adoption of Final Written Addresses.

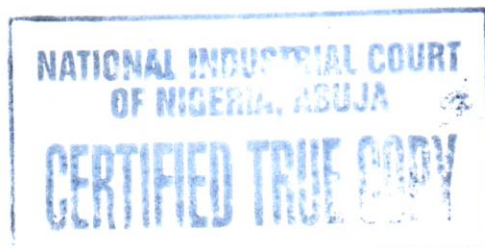
DEFENDANT'S WRITTEN SUBMISSION

7. On the 20th day of March 2025, learned Counsel for the Defendants filed his final written address wherein Counsel on behalf of the Defendants formulated three issues for the determination of this Court viz;
 1. Whether in civil cases, every case ought not to be considered on its own facts, merit and peculiarities, and whether the nature, attitude and character of the parties should not be taken into consideration in determining the liability of the Defendant (if any); in line with the circumstances of the case.
 2. Whether the Defendant acted mala fide in her relationship with the Claimant and whether Claimant ought not to have mitigated his position/losses (if any) instead of depending on the "phantom gold he dreamt to harvest through unrealistic claims" following the prosecution of this case against the Defendant.
 3. Whether upon a consideration of the totality of evidence led by the Claimant, the Claimant has proved his case upon a preponderance of evidence as required by law to entitle him to the judgment of this Honourable Court?
8. Taking issue one and two together, Counsel submitted that it is an elementary principle of law that it is the duty of a Claimant to prove his case. Counsel pointed out that in order to do justice in every case that comes before the Court the same set of facts, situations and circumstances meant for one case, are not squarely fitted into any other case but each case ought to be resolved in line with its special situations, peculiarities and circumstances. He referred to the case of *Prince Mobadenle Oyekan & 3 Ors. V. Adisa Waheed Aberu Agba & 6 Ors. [2024] All FWLR (Pt. 1233) 841 @ 866 Paras A-B* and urge the Court to consider, handle and treat this case using its own very special peculiarities. It is equally the submission of the Counsel that it is not in doubt



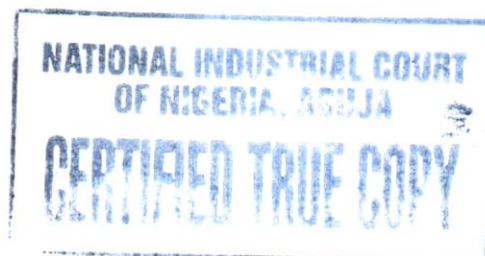
that Claimant was indeed suspended indefinitely by the Defendant but that the suspension was not done mala fide as the attitude of the Claimant of making himself unavailable to the Defendant's Investigation Panel as well as his behavior leading to this action were intervening circumstances that ought to be considered to inure in favour of the Defendant. According to counsel to defendant, the Claimant admitted the Defendant's position in Paragraph 10 of her Statement of Defence that the Facility Manager the DW1 who stated that he was a member of the Panel set up by the Defendant reached out on Phone to the Claimant but the Claimant responded that he was in Kaduna State at the time, but never reverted to the Defendant thus a fact admitted need no further proof. See the cases of *Engr. U. Aliyu & 2 Ors V. Chief David U. Itauma & Anor.* [2010] All FWLR (Pt.510) 70 at /84 Paras B-C, *Ali V. Albishir* [2009] 3 NWLR (Pt. 1073) 4,03 110, *Kotun V. Olasewere* [2010] 1 NWLR (Pt. 1175) 411 at 416 and *Igwe v. A.C.B. Ltd* (1999) 6 NWLR (Pt. 605) 1.

9. Furthermore, with respect to the Claimant in paragraph 17(3) of his Statement of Claim, Counsel argued that the Defendant admitted and accepted the said claim in part and that is to the extent that the Defendant agrees it would pay the Claimant's monthly salary of N55,000:00 from the month of December, 2023, till the date defendant lifts up the purported indefinite suspension. Counsel submitted that the Defendant reiterate that the said suspension only lasted for Seven (7) Months, as it was lifted the day the Defendant wrote to Claimant to be reinstated and to proceed to collect his seven (7) months salary (in the sum of N385,000:00) in good faith notwithstanding the fact that Claimant did not render any commensurate service to the Defendant within the period. Learned Counsel posited further that the Claim of Professional fees is not able and has not been proved by Claimant aside from citing the Legal Practitioners Remuneration (for Business, Legal Services and Representation) Order 2023 and relying on the Invoice purportedly served the Claimant. He urge this court to closely consider the purported Invoice and not to attach any weight to it. It is the submission of Counsel that considering the peculiarities of this case, "Defendant should not be punished beyond what is just and fair" in relation to Claimant's own claims before this Court and that is, the Defendant having at the earliest opportunity, offered to have the Claimant recalled (based on Claimant's own Claims) instead of waiting for this Court to so direct after the rigors of hearing the parties, as well as the Defendant requesting the Claimant to proceed to collect the said N385,000:00 (Claimant's salary of N55,000:00 for 7 Months) which position the defendant still accepts to abide by till date: the Defendant should be free, estopped and released from any further/additional burden thereof. Counsel contended that



parties are bound by their Claims hence Claimant cannot be awarded anything beyond his Claim reiterating that Claimant's Suspension had long been lifted vide Exhibit Idowu A. He admitted that although a party cannot be forced into an amicable settlement of a matter that is pending before a Court of law however, in special circumstance such as in this case, it is clear that the Claimant had other hidden motives beyond the mere disagreement with the Defendant, and this can be deducted from the cumulative acts of the Claimant refusing to turn up in the Defendant's office when invited by the instigation panel, refusal to issue Defendant letter of demand as well as Claimant's refusal to accept a settlement with the Defendant even though Defendant at the earliest opportunity offered to reinstate Claimant and pay up his Seven (7) months outstanding salaries amounting to N385,000:00 at N55, 000:00 per month as claimed. Counsel therefore urges this Court to answer the questions raised in issues one and two above in favour of the Defendant.

10. On issue three Counsel submitted that it is a trite principle of law that it is the duty of claimant to prove his case upon a preponderance of evidence. He placed reliance on Section 134 of Evidence Act, 2001 (as amended). Counsel equally submitted that the Claimant having failed to prove his case as required, is not entitled to the judgment of this Court Save for those areas of Claimant's claims accepted by the Defendant in order to meet the justice of his case. He urge this court to so hold. In conclusion counsel submit that upon a consideration of the totality of the claimant's case above, it is clear that the Claimant was suspended by the Defendant, but such act of suspension was done in good faith, in line with Defendant's operational guidelines and within the ambit of the law; having first issued warnings, cautions and queries to the claimant and in line with extant laws and practice, investigation panel was set up by the Defendant as required and even with Defendant's unforeseen internal challenges of the General Manager's unannounced exit which was never contradicted the Defendant still took its time of reaching out and inviting the Claimant in order to hear from Claimant but he failed, refused and/or neglected to attend and meet with Defendant's representatives. Also, the Claimant without any prior demand notice to the Defendant, rushed to Court to make claims. That the Claimant's attitude prior to and before this Court is like that of a litigant rejecting all avenues for peace, just because he was promised a wind-fall through the process of litigation. On the whole the Claimant has not proved his case before this Court thus, same should be dismissed in part save for the part accepted by the Defendant out of her usual sincerity and integrity, having to do with the recall/reinstatement of the



Claimant and collection of his salary of N385, 000:00 up till the point of Defendant lifting up the suspension as claimed by the Claimant.

CLAIMANT'S WRITTEN SUBMISSION

11. On the 24th day of March 2025, Learned Counsel to the Claimant filed his final written address on behalf of the Claimant wherein he formulated lone issue for the determination of the Court viz;

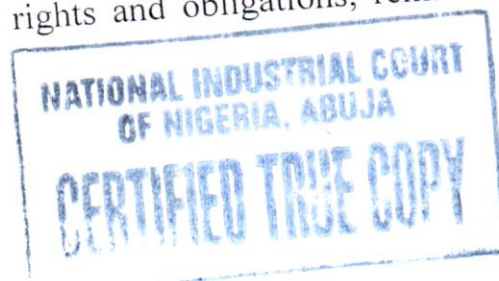
Whether from the evidence placed before the court, the Claimant has established his claim against the Defendant and therefore entitled to the reliefs sought?

12. The position of learned Counsel is that the Claimant owes the Court a duty to show that he was suspended indefinitely without salary from his job with the Defendant and that the Defendant failed in its duty to determine the allegation made against the Claimant by the Defendant and that the suspension is still hanging over the Claimant. The Claimant has not received any payments since his indefinite suspension. That the law is long settled that he who asserts must prove, hence in civil matters the burden of proof lies on the party who will lose if no evidence is led to establish the claims that he has brought before the Court. Counsel refer this Court to Section 136 of the Evidence Act, 2011 and the case of *Achor v. Adejoh* [2010] 6 NWLR (Part 1191) page 537 at page 577 paragraphs F-G. He went on to state that where a Claimant leads credible evidence to establish his claims against a Defendant, the onus then shifts to the Defendant who asserts the contrary. He cited in support of his assertion the case of *E.D. Tsokwa & Sons Co. Ltd v. U.B.N Ltd* [1996] 10 NWLR (Part 478) page 281 at page 299 ; *Nigerian Maritime Services Ltd. v. Afolabi* [1978] 2 SC 79 and *Adegoke v. Adibi* [1992] 5 NWLR (Pt. 242) 410 and *Gbinijie v. Odji* [2011] 4 NWLR (Pt. 1236) 103 at page 127 Paras B-F. with respect of the necessary ingredients of the proof of fact Counsel placed reliance on Section 121 of the evidence Act, 2011. It is the position of Counsel that the Claimant has clearly established that he was suspended indefinitely by the Defendant without just cause. This fact was expressly admitted by the Defendant, as evidenced by the testimony of DW1, who confirmed that the suspension remains unresolved, with no steps taken by the Defendant to determine the veracity of the allegations against the Claimant. It is a well-settled principle of law that suspension does not amount to termination of employment. Consequently, an employee under suspension remains entitled to remuneration and other contractual benefits until their

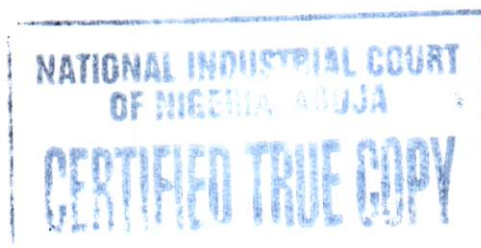


employment is lawfully terminated. The Defendant, while retaining the right to bring the contractual relationship to an end in accordance with due process, has not exercised this right. Until such lawful termination occurs, the Claimant remains an employee of the Defendant and is entitled to all benefits as originally agreed upon by both parties. The indefinite nature of the Claimant's suspension, without pay and without a concluded investigation, constitutes an unfair labour practice. It imposes undue hardship on the Claimant and violates the principle that an employer cannot unilaterally suspend an employee indefinitely without a resolution. The Defendant's inaction, therefore, not only breaches the implied duty of fairness but also contravenes the settled legal position that an employee's contractual rights remain enforceable until the employment relationship is lawfully conclude. He further submitted that the terms and conditions of service of the Defendant which is before this Court as Exhibit Nehemiah 2 does not make provision for the suspension of an employee or the consequences of suspension. He relied the case of *Globe Motors Holdings (Nig) Ltd. v. Oyewole [2022] LPELR-56856*.

13. Furthermore, Counsel submitted that a thorough examination of the terms and conditions governing the Claimant's employment reveals no provision for "suspension" or "indefinite suspension" of an employee. The binding document that regulates the relationship between the Claimant and the Defendant is the contract of employment, which expressly defines the rights, duties, and obligations of both parties. It is a fundamental principle of contract law that parties are bound by the terms of their agreement. Any action taken outside the scope of the agreed terms constitutes a violation of the contractual rights of the affected party and is therefore unlawful, null, and void. In the instant case, since the employment terms do not provide for suspension—let alone indefinite suspension—the Defendant's unilateral imposition of such a measure is legally baseless and ought to be set aside by this Court. Furthermore, the use of the term "indefinite suspension" by the Defendant is not only arbitrary but also unlawful. The absence of a defined timeframe or procedural safeguards renders the action oppressive and contrary to fair labor practices. He therefore urge the Court to hold that the Claimant's indefinite suspension, being outside the scope of the contractual terms, is illegal, unjust, and of no legal effect. As regards the issue of whether the Claimant is entitled to wages during the period of suspension, Counsel submitted that an employee generally retains the right to remuneration unless there is an express provision in the employment contract or staff handbook stating otherwise. In the absence of such a provision, the law presumes that the employment relationship, along with its inherent rights and obligations, remains intact

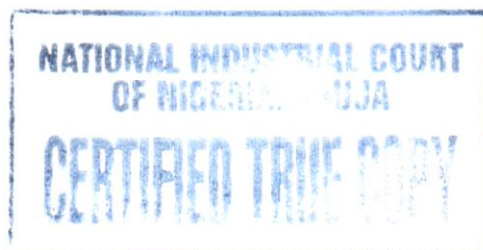


during the suspension period. In the present case, the Defendant has not demonstrated that the Claimant's employment contract contains any clause permitting the withholding of wages during suspension. Therefore, the unilateral decision to suspend the Claimant indefinitely without pay is not only unfair but also unlawful. Suspension does not amount to termination of employment, and as long as the employment relationship subsists, the Claimant remains entitled to his wages and other contractual benefits. Counsel urged this Court to so hold and to grant the Claimant all outstanding wages and entitlements for the duration of his unlawful suspension. This principle is rooted in the reality that a suspended employee is effectively placed in a state of uncertainty, living each day in anticipation of either being reinstated or dismissed. He cited in support of his assertion the case of *S.P.D.C. (Nig) Ltd. v. Emehuru* [2007] 5 NWLR (Pt 1027) Page 347, *Paras C-F W and Globe Motors Holdings (Nig) Ltd. v. Oyewole* [2022] LPELR-56856. Counsel submitted that in the event this Court agrees with the Claimant that the indefinite suspension of the Claimant is unlawful, the Claimant is clearly entitled to a remedy in damages. The general rule is that cost follows events and a litigant may be awarded damages for breach of his rights and also be compensated for the money and time spent litigating the issue. He placed reliance on the case of *First Bank v. Oronsaye* [2019] LPELR-478205 (CA); *FCMB V. Asas Ma'aji & Motorcycle (Nig) Ltd & Anor* (2021) LPELR-56525 (CA) and Section 19 (d) National Industrial Court Act 2006. Counsel submitted that the Claimant, having been suspended indefinitely for such an extended period, is entitled to damages for the emotional trauma inflicted upon him. The Defendant, by its reckless actions, suspended the Claimant on allegations of a crime yet failed to take any steps to investigate the matter. This prolonged and unjustified suspension has caused undue hardship and distress to the Claimant. We therefore urge this Court to award damages in the interest of justice and fairness. He relied on the case of *Bamisile v. National Judicial Council*. (2013) ALL FWLR (Pt. 678) page 608 at 942 paragraphs C-H. According to Claimant's Counsel Defendant, in paragraph 4.08 of its written address, contended that this Court should not attach any weight to the invoice sent by the Claimant's Counsel to the Claimant due to the fact that the suit was filed before the invoice was issued. Claimant's Counsel argued that the timing of the issuance of an invoice is immaterial and does not in any way diminish its validity. The decision of when to issue an invoice is strictly a matter between a legal practitioner and their client, and it is not within the Defendant's purview to dictate or question such internal arrangements. What is relevant is that legal services were rendered, and the invoice reflects the professional fees incurred. Secondly, the Defendant



contended that the date on the invoice was altered. Counsel submit that this is an allegation of crime, which, by law, must be proved beyond reasonable doubt and not based on mere speculation or assertions. It is trite law that any allegation of crime whether in criminal or civil matter must be specifically pleaded with particulars and concretely proved. In this case, the Defendant failed to raise this issue in its pleadings, thereby depriving the Claimant of the opportunity to respond appropriately. It is well established that parties are bound by their pleadings, and it is far too late in the day for the Defendant to introduce this argument. Accordingly, counsel urged this Court to disregard the Defendant's belated and unfounded contention. Thirdly, the Defendant contended that the fees charged by the Claimant's Counsel, as reflected in the invoice, are not "**with a human face.**" Counsel argued that this argument is entirely unfounded. Under the Legal Practitioners' Remuneration Order, 2023 the minimum scale of charges for a legal practitioner with over 10 years of post-call experience is **N700,000.00 (Seven Hundred Thousand Naira)**. In this case, the Claimant's Counsel charged **N1, 000,000.00 (One Million Naira only)**, which is well within the permissible range under the Remuneration Order, 2023. The Claimant's counsel is more than **15 years post-call**. Furthermore, Exhibit **Idowu B** was merely a subject of negotiation and was never sent to the Claimant. The Defendant's submission on this issue is, therefore, baseless and should be disregarded. Accordingly, Counsel urge this Court to discountenance the arguments of the Defendant's Counsel in this regard.

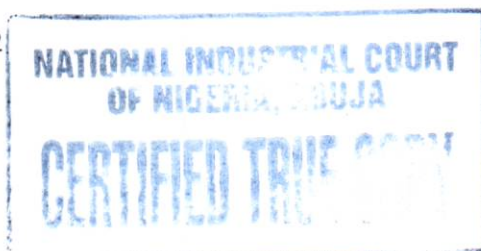
14. Again, the Defendant in its written address, labored in vain to argue that the Claimant's purported suspension had been lifted. Counsel submitted that this contention is entirely contrary to the clear evidence before this Court. It is well-settled law that the address of Counsel, no matter how brilliant, cannot take the place of evidence. In this case, the Defendant's own witness, under cross-examination, unequivocally admitted that the suspension of the Claimant remains in force pending the determination of this case. The Defendant's Counsel in the present cannot alter the clear and unambiguous testimony of DW1. Under cross-examination, DW1 expressly admitted that the Claimant's suspension has not been lifted. Furthermore, the letter from the Defendant's Counsel proposing an amicable resolution does not, in any way, amount to a formal lifting of the suspension. At best, it reflects an attempt at negotiation between the parties, which does not change the Claimant's status. In light of this clear and unchallenged testimony, Counsel submitted that Defendant's argument is baseless and should be disregarded by the Court. Continuing, Claimant's Counsel stated that the Defendant vide paragraph



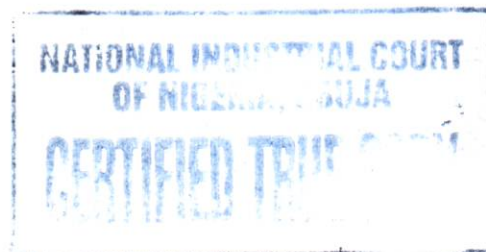
4.04(f), (g), and 4.11 of its written address, contended that the Claimant failed to serve a demand notice on it and, in the opinion of its Counsel, this suggests that the Claimant had a hidden motive. Counsel argued that the Claimant was under no obligation to serve a demand notice on the Defendant, as the Defendant is not a statutory body for which such service is a mandatory legal requirement. The absence of a Demand Notice does not in any way diminish the Claimant's entitlement to his claims. Furthermore, the Claimant made genuine efforts to engage with the Defendant's officials in an attempt to resolve the issue amicably, but these efforts proved unsuccessful. The Defendant cannot now rely on a purported lack of demand notice as a defense when it was given an opportunity to address the matter but failed to do so. Counsel submits with respect that the contention that the Claimant failed to honour the invitation by the Defendant was responsible for the failure of the panel set up by the Defendant to resolve this dispute is not in line with the evidence before the Court. Counsel argued that it is clear that the Defendant's decision to suspend the Claimant indefinitely was done *malafide*. The Defendant suspended the Claimant indefinitely, did nothing to investigate the allegation, took no decision on same and later dissolved the panel simply because its General Manager left its service. He argued also that the Defendant's Counsel vide at paragraphs 4.09 to 4.11 of its written address, curiously submitted that the Defendant should not be made to suffer beyond what is just and fair and that the Claimant is only entitled to seven months' salary. Counsel submitted that it is the Defendant who has acted unjustly in this matter, suspended the Claimant based on an allegation of a crime yet failed to take any steps to investigate the said allegation from the date of suspension to date, neither reported the Claimant to the police nor specified what was allegedly stolen, even up to the time of the hearing of this suit. If there is any party who has acted unfairly in this case, it is the Defendant. More so as earlier submitted, the Claimant's suspension has never been lifted. This fact was clearly admitted by DW1 who testified that the suspension remains pending and that the investigative panel was dissolved following the disengagement of its General Manager. Flowing from these facts, the Claimant is entitled to his salary from the date of his suspension up to the date of the judgment of this Court. He urge this Court to grant all the reliefs sought by the Claimant in this suit.

DEFENDANT'S REPLY ON POINT OF LAW

15. The defendant filed a reply on point of law on the 28th Day of March, 2025 in response to the Claimant's written submission and contended that in

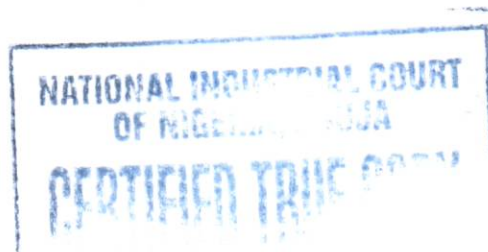


paragraphs 3.9 and 3.10 of Claimant's Address, the Claimant's Counsel submitted that the Terms and Conditions of Service (Exhibit Nehemiah 2) did not make provision for the suspension of an Employee or the consequences of suspension and cited the case of **Globe Motors Holdings (Nig.) Ltd v. Oyewole [2022] LPELR-56856** which authority did not in any way support the submission that there must first be express provision for suspension in the work place. He equally posited that the term suspension need not be specifically mentioned and provided for in an Employer's Code of Conduct Booklet/Terms and conditions of Service, as the issue of Suspension even if not copiously provided, is one of the Implied Terms in a of Service. In the Terms and Conditions of Service (Exhibit Nehemiah 2), Paragraphs 9 and 10 contain issues such as Summary Dismissal and Official Warnings (even with para. 9(1) providing for dismissal for 'sleeping on duty' - which Claimant admitted he did yet, Defendant did not activate that clause against him); and these usually go hand in hand with suspension. Suspension *simpliciter* is neither unlawful nor illegal unless it is shown that it was done mala fide; which is not the case here. Counsel placed reliance on the same cases of **Globe Motors Holdings (Nig.) Ltd v. Oyewole [2022] LPELR-56856** and **S.P.D.C. (Nig.) Ltd v. Emehuru [2007] 5 NWLR (Pt. 1027) 347**. It is the position of Counsel that in the above cases, the Courts did speak with the same voice, that "Suspension is a temporary cessation of employment either pending investigation for an alleged wrong or as a disciplinary procedure for misconduct by the employee" This remained the position of the Defendant but unfortunately, Claimant bluntly refused to attend to the invitations extended to him to appear before the Investigation Panel set up by Defendant. In addition to this understanding of the position of the law and the Courts of the land (as above) that Suspension is not termination, but a temporary cessation; the Defendant through Exhibit Idowu A (while respecting that position of the law) proceeded to request that Claimant returned to his Employment with the Defendant and proceed to collect his money at that time (which is in line with the principle of Set-Off as providing by the Rules of this Court) but still, the Defendant turned down the offer - this is in evidence. Consequently the call by Counsel to the Claimant for this Court to declare the Suspension as illegal, unjust, and of no legal effect; simply for the fact that the Condition of Service did not clearly define the term (Suspension) is neither tenable nor legally supportable; going by both direct and circumstantial evidence before the Court. Regarding Claimant's entitlement to damages where the Court finds that the Defendant acted unlawfully. Claimant Counsel proceeded to state that despite the allegation against the Claimant that Defendant failed to take any steps in attending to the case of the Claimant. According to Counsel this



unfortunately did not represent the true position as was found in evidence. Evidence showed that the Defendant did set up an Investigation Panel, invited the Claimant even to the extent of calling him on phone and the Claimant responding that he was in Kaduna and would reach the Defendant upon his return; which he never did. It is the submission of Counsel that the justice and fairness of this case with respect to damages' as is being canvassed by the Claimant, is such that the positions of the Claimant and his attitude all along, must be weighed against that of the Defendant. Again, in the cases of **Bamisile V. National Judicial Council [2013] All FWLR (Pt. 678) 608 at 942 and Boston Sea Fishing Co. V. Ansell (1886-90) All ER 65** cited and relied on by learned Counsel to the Claimant, his lordships repeated the position of the law in those cases, that: "*Suspension is not a demotion and does not entail diminution of the rights of the employee given to him under the law*" and *such a Suspension does not amount to dismissal*" - this has remained the position of the Defendant and particularly so, leading to Claimant's recall by the Defendant, which Claimant rejected. Responding to paragraphs 3.15-3.17 of the Claimant's final written address, Defendant's Counsel stated that the position of the Claimant's Counsel has been legally punctured where the said invoice is in issue such as present more so, the relationship between a legal practitioner and his client is contractual hence fees are agreed on first before proceeding to file processes in Court. In addition to the above, the attempt by Claimant's to turn his final written address into evidence is not allowed in law. He urge the Court to hold that no fees was agreed with the Claimant. That no party will be allowed to benefit from his own wrong. He relied on the case of **A.P Limited v. Owodunni [2003] 2 NLLC 679 @ 702 AD**.

16. It is the equally the contention Defendant's Counsel that contrary to the Claimant Counsel's understanding of facts the evidence of the DW1 vide paragraphs 3.18, 3.21 and 3.22 of Claimant's Address, it is not the position of DW1 that after the Defendant's General Manager left the Defendant's Employment without notice that the Investigation panel became dissolved. He relied on the evidence of the DW1. He reiterated that it was upon the directive of the New General Manager that the DW1 called the Claimant on phone hence whatever statement that was elicited during Cross-Examination but not pleaded, goes to no issue and also that oral evidence is inadmissible to contradict content of a document. He cited in support of his position the case of **Atiku Abubakar & Anor. v Independent National Electoral Commission & 2 Ors. [2019] All FWLR (PE. 1010) 179 at 417 paragraph A - C and Bello Ogundele & Anor, V. Shittu Agiri & Anor. [2010] All FWLR (Pt 507) 1 at 20 paras D-G**. Finally, as argued in paragraph 3.23 of the Claimant's Address



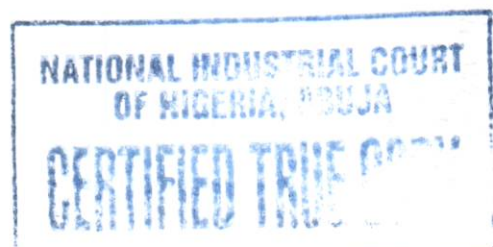
that the Claimant was never recalled by the Defendant due to the fact that DW1 said so upon Cross-Examination. It is the position of learned Counsel to the Defendant that whatsoever the DW1 stated orally cannot take away the position of a Document before the Court as in Exhibit Idowu A in this instance, which had clearly and unequivocally invited the Claimant to come out of his suspension and return/resume his position with the Defendant, which Claimant turned down and rejected. He placed reliance on the case of **Bello Ogundele & Anor. V. Shittu Agiri & Anor. (Supra)** and submitted that equity cannot help a party who is not willing and ready to be assisted. He urge the Court to discountenance the arguments of the Claimant and uphold that of the Defendant.

COURT'S DECISION

17. I have carefully gone through the processes filed by both parties in this suit and more importantly final written submissions of both Counsel in support of their cases and I am of the opinion that the issue that is germane for the determination of this suit is:

Whether Claimant on the preponderance of evidence has discharge the burden of proof on him to warrant this court entering judgment in his favour.

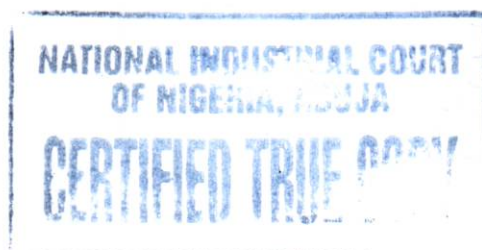
18. From the Claimant's Originating Processes, the principal claims of the Claimant are declaratory in nature and Claimant is seeking from this court orders to declare his indefinite suspension without salary as an infringement of his right and runs contrary to the letter of employment and staff Handbook of the Defendant. And going by plethora of judicial authorities, claims for declaratory reliefs must succeed on the strength of claimant's own case and not on the weakness of the defendant's case. In other words, the claimant would not be entitled to judgment even on admission by the Defendant. It is therefore the duty of the Claimant to first prove the existence or non-existence of what he asserts by relevant, admissible and credible evidence. Once the burden so placed on the Claimant is discharged, the onus then shifts to the Defendant. The exception to this general principle of law is that where part of the Defendant's case supports the Claimant's case, he is allowed to rely on part of the Defendant's case that supports his case. See **Salisu v. Mobolaji [2016] NWLR (Pt. 1535) 280-281, paras H-A** and **C.D.C (Nig) Ltd v. SCOA [2007] 6 NWLR (Pt. 587) 410, Ehinle v. Ikorodu Local Govt. [2021] 1 NWLR (Pt. 1757) 279 @ 316-317, paras G-C; paras A-B**. It follows therefore that the Claimant in this case must prove his entitlement based on the strength



and merit of his case as the court will not grant declaratory reliefs merely because the Defendant has a weak or even no defence at all. As is often said in legal parlance that declaratory reliefs are not granted on a platter of gold.

19. It is the law of common place that in the determination of employment rights, it is the employee who complains that his employment contract has been breached that has the burden to place before the Court the terms and conditions of his employment that provide for his rights and obligations. See *Oforishe v. Nigerian Gas Co Ltd* [2017] LPELR-42766 (SC), *Ibama v. SPDC (NIG) LTD* [2005] 17 NWLR (Pt. 954) 364, *WAEC v Oshionebo* [2006] 12 NWLR (Pt. 1994) 258, *Okoebor v Police Council* [2003] 12 NWLR (Pt. 834) 444, *Kablemetal Nig Ltd v. Ativie* [2002] 10 NWLR (Pt. 775) 250. And employments relationships usually fall into three categories namely: (a) Master and servant; (b) servant who holds office at pleasure of his employer, and (c) employment that is governed by statute. See *Morrison V. Diamond Bank Plc* [2018] LPELR - 46005 (CA); *Kwara State Judicial Service Commission & Ors v. Tolani* [2019] LPELR - 4739 (SC). In the instant case, it is in evidence that the Claimant is an employee of the Defendant in a master and servant relationship. And by Exhibit Nehemiah 1, Nehemiah 3 and Nehemiah 5 Claimant successfully placed before this Court his appointment letter and the conditions of service which governs his employment relationship with the Defendant. It is therefore established that Exhibit Nehemiah 1, Nehemiah 3 and Nehemiah 5 has conclusively proven that Claimant has been an employee of the defendant since August 5, 2019.

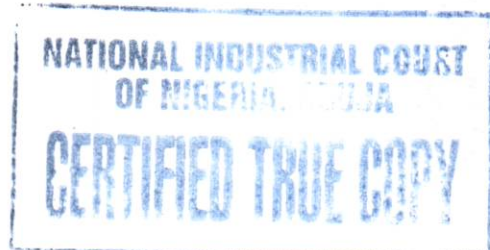
20. The case of the Claimant is that in the course of his employment, Defendant, on the 29/11/2023 served the Claimant with a letter of indefinite suspension without salary. The Claimant stated that as at the time of filing this suit being the 27/06/2024 the suspension has not been lifted nor investigations carried out for the claimant to know his fate. The Defendant on the other hand admitted vide paragraph 12 of its Statement of defence of placing Claimant on indefinite suspension but undertake to reinstate the Claimant and pay him his outstanding salaries. Defendant further explained that the investigation could not be concluded because the General Manager that was chairing the panel investigating the case had left the services of the Defendant. By Exhibit Idowu A, the Defendant agreed with Claimant's Counsel for Claimant to resume duty immediately and unconditionally with his outstanding salaries paid and an additional ₦150, 000.00 to defray the cost of this suit.



21. It is a settled principle of law that the right of the employer to discipline his employee in the interest of the business of the employer is sacrosanct. See *Imonikhe v. Unity Bank Plc* [2011] 12 NWLR (Pt. 1262) 624. *The court in Koomlong I. Miaphen v. UNIJOS Consultancy Limited* (2013) LPELR-21904 (CA) without mincing words held thus "...An employer has the right to suspend any of his or its staff if there exist reasonable grounds to do so". The court also expressed a similar sentiment in *Udemah v Nigerian Coal Corporation* (1991) 3 NWLR (PT.180) 477 where the Court held that "The right to suspend an employee is available to an employer to effect proper investigation of allegations and during the process of disciplinary action."

22. In the instant case, I have painstakingly gone through Exhibit Nehemiah 5 which contain the terms and conditions of the Claimant's employment. Surprisingly, no provision in the Code of Conduct for Staff of the defendant dealt with the issue of suspension and or indefinite suspension. This argument was raised by Counsel to the Claimant but Counsel to the Defendant contended that in as much as suspension is not unlawful, it need not be provided in the terms and conditions of service, as it can be implied in the contract of service. Counsel to the Defendant, however, did not refer me to any authority to serve as a guide and or substantiate his position. Usually, a contract of employment outlines the rights and obligations of both the employer and employee. These terms define the employment relationship and are often documented in a written contract, though they can also be agreed upon orally. The terms and conditions of a contract of employment covers various aspects of the job, including responsibilities, compensation, benefits, and termination procedures. Therefore, where an employer has a right to suspend an employee, the terms of such right must be followed in carrying out the suspension as to do otherwise the suspension becomes wrongful.

23. I need to restate that the underlying principle for the establishment of this Court is to take note of the countless labour related animosities which may hamper industrial relations if left to fester. Hence the need to strive in order to conform with the international best practices as obtainable in the field. I find the submission of Counsel to Claimant vide paragraph 3.10 particularly page 10 of his written address that in the context of this suit the use of the term "indefinite suspension" is not only arbitrary but also unlawful." If a disciplinary action can be taking by an employer against an employee and not within the terms and conditions of the contract, this to my mind will amount to nothing but an unfair labour practice. By Exhibit Nehemiah 6 (Letter of Indefinite Suspension Pending Investigation), the Claimant was suspended



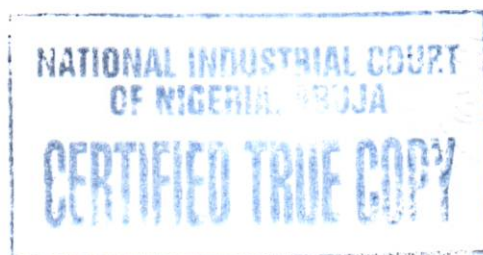
indefinitely on 29/11/2023 pending investigations. And according to DW1, the suspension was for aiding and abetting criminality in the system. According to the Defendant, a panel was set to investigate the reason for the suspension but the panel was later dissolved while claimant's suspension hangs and without salary.

24. I find the act of the Defendant in suspending the Claimant indefinitely without salary for well over 12 months as an unfair labour practice that should not be allowed to rankle. An employee generally retains the right to be paid during suspension unless the employment contract or specific statutory provisions state otherwise. This principle is rooted in the reality that a suspended employee is effectively placed in a state of uncertainty, living each day in anticipation of either being reinstated or dismissed. During this period, the employee is not at liberty to utilize their time elsewhere or as they see fit, except after the official close of business hours. In AfDBAT Judgment No. 72 (2004), the AfDB Administrative Tribunal ruled that the suspension of an employee without pay was unlawful where the employment contract did not expressly allow for such a measure. The Tribunal further held that unless there is clear evidence of gross misconduct justifying suspension without pay, the employee must continue to receive his salary.
25. And indefinite suspension without pay has been frowned upon by our Courts as it is against international best practices in labour practice. *In Mr. Emeka Onyema v. Diamond Bank Unreported Suit No. NICN/LA/326/2014* this Court (NICN) set aside the indefinite suspension of the Claimant without pay on the ground that it is against the international best practices in labour practice and same cannot be legitimized under any law.
26. I find that the Defendant's concession to allow Claimant to resume does not give an answer to the reliefs sought by the Claimant before this Court. In a nutshell, I hold that the indefinite suspension of Claimant is wrongful, unwarranted and amount to an unfair labour practice. The long and short of this is that reliefs 1 and 2 are hereby corporately granted. I so hold.
27. Having determine that the suspension of the Claimant is unlawful, it therefore flows that the Claimant is entitled to his salaries and benefits that would have been earned during the period of suspension. In *Shena Co. Ltd v. Afropak Nig. Ltd (2008)* the Court held that an employee wrongfully suspended is entitled to payment of his salaries as the employer cannot benefit from its unlawful act. In line with this conclusion, the Defendant is hereby ordered to



pay the claimant the sum of ₦55,000.00 being monthly salary from the month of December 2023 till when claimant is reinstated in the employment of the defendant with pay.

28. On relief 4, Claimant is claiming damages in the sum of ₦10, 000, 000.00 for pains, embarrassment and psychological trauma occasioned the Claimant. The Court in *Miaphen v Unijos Consultancy Ltd [supra]* had held that “the respondent is entitled to damages if his suspension was wrongful and unwarranted”. And Section 13 and 19 (e) of the National Industrial Court Act, 2006 also gives this Court the power to award compensation or damages in any circumstance contemplated under the law. On this basis I hereby award the sum of ₦2, 500, 000.00 as damages.
29. On relief 5 which has to do with a claim for solicitor’s fees of ₦1, 000, 000.00 paid to Claimant’s lawyer for prosecuting this suit. It is the general principle of law that solicitor’s fees are considered as contractual obligations between litigants and their lawyers. The Courts have historically been reluctant to award this except where it is specifically pleaded and proven as special damages. In the case of *Intercontinental Bank Ltd v. Britina Ltd [2012] Legalpedia (SC) 19273* the Supreme Court refused to award a claim for solicitor’s fees because it will not be fair to shift a contractual obligation to the opposing party except justified by law. However, this position was changed in *Union Bank Nig. Plc v. Mr. N.M. Okpara Chimaeze [2014-04] Legalpedia (SC) 56010* where the Supreme Court awarded solicitors fees as special damages to a successful party. The court recognize the fees as part of the costs incurred due to the Defendant’s wrongful actions. The conditions for the grant of this is that it must be pleaded as special damages with particulars. In fact, courts have refused to award solicitor’s fees for want of particularization. See *Nzube Anazodo v. Pazmeck Inertrade Nig. Ltd [2023] 33 E-WRN/03 (SC)*. In the case at hand the Claimant pleaded facts relating to solicitor’s fees and only tendered a letter of demand marked as Exhibit Nehemiah 7. From the content of the letter Claimant has not settled the fees but yet is claiming that the solicitors be paid to him. In this Court, the burden of proving special damages is on the Claimant to prove not only the entitlement to the sums, but how he came by the quantum of the sums and proof of entitlement by reference to an instrument or document that grants it. See *Mr. Mohammed Dungus v. ENL Consortium Ltd [2015] 60 NLLR (Pt. 208) 39*. I am of the view that Claimant has failed to bring evidence evidencing payment of the solicitor’s fees to warrant an award from this Court. I find no merit in this head of claim. I so hold. Accordingly, relief 5 fails.



30. On relief 6, having granted relief 1 and 2 it follows that relief 6 must be granted. Accordingly, relief 6 is hereby granted.

31. This being so, and for all the reasons given, on the whole the case of the claimant succeeds only to the extent:

1. That it is hereby declared that the purported indefinite suspension of the claimant by the defendant as contained in the letter dated 29/11/2023 is hereby declared wrongful, unlawful and illegal.
2. The Defendant is hereby ordered to pay to the Claimant all arrears of monthly salary that have accrued in the sum of ₦55, 000.00 from December 2023 to when Claimant is reinstated with pay.
3. An order is hereby granted awarding the sum of ₦2, 500, 000.00 as damages against the defendant.
4. An order is hereby granted reinstating Claimant back to his employment with the defendant.

32. Judgment is hereby entered. Cost of ₦350, 000.00 is hereby awarded.

DAHUWA .H. SALIHU
REGISTRAR I

SIGN:

DATE:

COMMISSIONER FOR OATHS

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Hon. Justice E. D. Subilim
JUDGE



TRC No: Z1274 81473
CFC Fee ₦200.00

