

IN THE HIGH COURT OF JUSTICE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT HIGH COURT MAITAMA –ABUJA

BEFORE: HIS LORDSHIP HON. S.U. BATURE

COURT CLERKS:	JAMILA OMEKE & ORS
COURT NUMBER:	HIGH COURT NO. 32
CASE NUMBER:	SUIT NO. FCT/HC/CV/353/2018
DATE:	23rd NOVEMBER, 2020

BETWEEN:

MOHAMMED KABIR YUSUFCLAIMANT

AND

MOHAMMED BELLO.....DEFENDANT

APPEARANCE

Moses .B. Bature Esq for the Claimant.

Chakpa Dauda Esq for the Defendant.

JUDGMENT

The Claimant filed this Suit against the Defendant via a Writ of Summons dated and filed 27th day of November 2018, seeking for the following reliefs:-

- i. A declaration that the words electronically published vide emails and Face book by the Defendant against the Claimant are libelous and have caused unquantifiable damage/harm to the Claimant’s reputation in the eyes of the general public, locally and internationally and have also as a result, brought the Claimant into public scandal, odium, ridicule and contempt.

- ii. An apology coupled with an unambiguous retraction by the Defendant vide email to all the Professors Emeritus and other staff of the Department of Sociology and Criminology at the University of Manitoba, Canada; an apology coupled with an unambiguous retraction by the Defendant vide his facebook account; an apology coupled with an unambiguous retraction by the Defendant in the Guardian, This Day, The Nation, Leadership, Daily Trust and Punch Newspapers.
- iii. An order of perpetual injunction restraining the Defendant, whether by himself, or through his servants, agents, privies however called, from publishing or causing to be published the said defamatory words or similar words defamatory of the Claimant.
- iv. The sum of One Billion Naira (₦1,000,000,000.00) only as general and aggravated damages for the libellous words falsely and maliciously written of and concerning the Claimant in the said emails and Facebook account.
- v. The sum of ₦1,000,000.00 (One Million Naira) as the Solicitor's fee for handling this action for the Claimant.

Upon being served with the processes in this suit, the Defendant filed his statement of Defence and Counter Claim dated 11th day of March 2019 and filed on the 12th day of March 2019 wherein the Defendant Counter-Claims against the Claimant as follows:-

- a) A Declaration that the said paper presentation titled "This is Our Creed: A Theoretical Analysis of the Ideological underpinnings of Boko Haram Flows from the Defendant/Counter Claimant's Ideas and Technical knowhow that he shared with the Claimant sometimes in March, 2018 and the subsequent betrayal of the Claimant.
- b) An Order of perpetual injunction restraining the Claimant from further publishing any work based on 'Hazihi' or anything connected or incidental thereto.
- c) The Sum of ₦2,000,000.00 (Two Billion Naira) only as compensation for the breach of Contract/Agreement between the parties.
- d) The Sum of ₦2,000,000,000.00 (Two Billion Naira) for general damages for the breach of agreement by the Claimant.

e) The cost of this action to be assessed by this Honourable Court.

At the commencement of trial, the Claimant testified for himself as Pw1, adopted his witness statement on Oath and tendered the following documents, which were admitted and marked as follows:-

- 1) A Document titled summary of email communication from Mohammed Bello marked Exhibit A.
- 2) A letter addressed to M. Kabir Yusuf from Department of Sociology and Criminology University of Manitoba and signed by one Prof. Frank Cormier, Head of Sociology and Criminology Department University of Manitoba, Marked Exhibit B.
- 3) A Document titled ‘Public presentation M. Kabir Yusuf, This is Our Creed’ A theoretical analysis of the underpinnings of Boko Haram”, marked Exhibit C.
- 4) A Book with Arabic Inscriptions marked Exhibit D.
- 5) A Document bearing the name of M. Kabir, PHD, (Abbreviated CV) marked Exhibit E.
- 6) A Document titled “Research proposal, local media framing of Afro-Religious Insurgency: the profiling of Nigeria’s Boko Haram Bombings, marked Exhibit F.
- 7) A Computer print-out of G-mails, containing emails Titled (Introducing Dr. M.K Yusuf) marked Exhibit G.
- 8) A Cash receipt issued by Recabite Solicitors to Mohammed Kabir Yusuf for the sum of One Million Naira only dated 3/11/2018, marked Exhibit H.
- 9) A Certificate of compliance pursuant to Section 84 of the Evidence Act, marked Exhibit I.

Pw1 was duly Cross-Examined and discharged. With the testimony of the Claimant as the sole witness who testified for himself, the Claimant closed his case.

On the other hand, the Defendant/Counter Claimant opened his defence by testifying for himself. He adopted his witness statement on Oath and he tendered the following documents in Evidence, which are marked as follows:-

- 1) Photocopy of a letter bearing the Logo of Embassy of the United States of America, Abuja Nigeria written and signed by Jason Bradley Nicholson, Colonel, U. S, Army, Senior Defence official, Defence Attache dated February 21, 2019 marked Exhibit J.
- 2) Three pages of emails, first page with subject 'Bello research; second page, Consultancy services agreement and 3rd page conditions governing the scheme admitted and marked Exhibits J1, J2, J3 respectively.
- 3) A certificate of compliance pursuant to Section 84 of the Evidence Act 2011, CAP E14, LFN, marked Exhibit J4.
- 4) A computer printed paper review comprising of five pages marked Exhibits J5, J6, J7, J8 and J9 respectively.

The Defendant was also duly Cross-Examined and discharged.

Thereafter, parties filed and exchanged their final written addresses.

The Defendant's final written address is dated 13th October 2020 but filed on the 15th of October 2020, while the Claimant's final written address is dated and filed 2nd of November 2020.

In the Defendant's final written address, three issues were formulated for the Court's determination namely:-

- "1. Whether from the totality of evidence adduced by the Claimant, it can be said that the case of defamation has been made out against the Defendant.**
- 2. Whether the Claimant is entitled to the reliefs sought?**
- 3. Whether the Defendant/Counter Claimant is entitled to the reliefs contained in the Counter Claim?"**

While in the Claimant's final written address, two issues for determination are formulated thus:-

- " (1) Whether the Defendant's written statements about the Claimant was published in the facebook account/wall of the Defendant and the**

emails sent to certain faculty and staff members of Department of Sociology and Criminology at the University of Manitoba Canada, are defamatory/libelous of the Claimant”.

(2) Whether the Claimant has satisfied the Court based on the preponderance of Evidence to be entitled to any or all the reliefs Claimed before the Court in respect of this case.

Addressing the Court on the 9th of November, 2020, Learned Counsel to the Defendant Chako Dauda Esq, adopted the Defendant’s final written address and urged the Court to discountenance the case of the Claimant by dismissing the instant suit in its entirety and also urged the Court to enter Judgment for the Defendant most especially on the Defendant’s Counter-Claims.

Claimant’s Counsel was not in Court to adopt his final written address. Therefore, this Court invoked the provision of order 33 Rule 4 of the F.C.T High Court (Civil Procedure) Rules 2018, and deemed the Claimant’s final written address as duly adopted.

In arguing the issues in the Defendant’s final written address, Chako Dauda Esq, Learned Defendant/Counter Claimant’s Counsel submitted on issue one that from the totality of Evidence placed before this Honourable Court, the Claimant has not in any way established his Claims on the balance of probability and therefore not entitled to any reliefs sought.

Counsel submitted, that it is a well settled principle of law that the Claimant must succeed on the strength of his case not the weakness of the Defendant. Reliance was placed on the case of OMOYOLA VS ENTERPRISES BANK LTD (2013) ALL FWLR PT (698) 911 @ paragraphs E-H as well as Section 131 of the Evidence Act 2011 and the case of SKYE BANK PLC & ANOR VS AKINPELU (2010) LPELR-3072 (SC). On the Fundamental Elements in an action of libel. Learned Counsel further submits that discerning and X-raying the Evidence before this Court, the Claimant has fatally failed to establish publication. That it is instructive that self-publication of materials injurious to one’s reputation is not defamation. But, that assuming without conceding that the words complained of are defamatory in their ordinary

meaning, the question that beckons for answer is, were they actually published by the defendant? To which counsel answered in the negative.

Learned Counsel then referred the Court to Exhibit A which is the Summary of email communication and Facebook chat from Mohammed Bello, and urged the Court to take a bird's eye view of the contents and carefully study same which according to Learned Counsel will reveal that the claimant embarked on a futile mission of self-publication if the contents thereof are truly defamatory and urged the Court to so hold that the Defendant never published those materials but was rather ventilating his grievances against the Claimant to the Claimant and the constituted authority which could possibly assist him protect his ideas.

Reliance was placed on the cases OF NTA VS A. I. C LTD (2018) LPELR-45320; ASAA VS OJAH (2015) LPELR- 24278; AJILEYE VS AWE (2019) LPELR-407094 (CA).

Learned Counsel submitted further that what amounts to defamation is an objective test not a subjective one, and that the words complained of by the Claimant must relate to what other right-thinking members of the society think and not what the Claimant thinks about himself. That the words in the instant case are in their ordinary meaning not offensive or defamatory but a complaint against the violation made or entered into by both parties, and urged the Court to so hold.

On issue two, Learned Counsel submitted that having successfully established that the Claimant has failed to prove his case, the second issue has no feet to stand on since it is an elementary knowledge of law that one cannot put something on nothing and expect it to stand. Learned Counsel cited the case of MCFOU VS U. A. C (no citation).

That the burden of proof shifts when the Claimant has successfully discharged the responsibility of proving their case. That the Claimant going by his writ of Summons before this Honourable Court placed heavy reliance on facebook chats and compliant sent to the University in proof of his Claims. But, according to the Learned Counsel, the Claimant did not adduce any convincing and satisfactory Evidence before the Court in proof of same.

Reliance was placed on the cases of AGNES IDOGHOR & 3 ORS VS MOSES IDOGHOR & ANOR (2014) ALL FWLR (PT. 746) page. 538; VIC LTD VS T. A. HAMMOND (1998)(PT.565) 340 @ 358.

Learned Counsel submitted further, that the Claimant failed in their bid to lead Evidence in support of pleaded facts and it is not the duty of this Honourable Court to speculate possibilities which are not supported by any Evidence and urged the Court to so hold.

Reliance was placed on the case of POPOOLA VS ADOBOR & ORS (2012) LPELR-42539 CCA).

That in the instant case, the Claimant failed to place on record named, identifiable and indentified persons to whom publication was made, hence the claim must collapse.

It is submitted, that it is equally important to state that the Claimant is duty bound to lead Evidence to prove the falsehood of the publication complained of and that the Claimant was also helpless to lead Evidence that the allegation made by the Defendant was false.

Reliance was placed on the case of AJILEFE VS AWE (Supra).

Learned Counsel further submitted that it is on record during Cross-Examination of Pw1, who is the sole witness and who admitted meeting with the Defendant to collect Exhibit D, and in fact Exhibit A on record clearly shows the approval of what the Defendant alleged. Counsel referred the Court to the chat before the Court between the Claimant and the Defendant and contended strongly that the Defendant stated the obvious and the facts as statements were not untrue assuming without conceding that there was publication.

Reliance was placed on the case of ACHU VS OKONWO (2016) LPELR-41015 (CA).

On issue three, Learned Counsel submitted that the law is clear that parties are bound by their agreement whether oral or documentary freely entered into by them. That this principle has received applause in a plethora of cases. On this

premise, Counsel cited the cases of AFRO TECHNICAL SERVICES NIG. LTD VS MIA SONS LIMITED (2000) 15 NWLR (PT. 692) 730; NIKA FISHING CO. LTD VS LAVINA CORPORATION (2008) ALL FWLR (PT. 43771).

Likewise, it is submitted that the Claimant and the Defendant had an oral agreement to translate Exhibit D, it was agreed by both parties that they will work together to pursue the vision. But that the Claimant single handedly accepted and executed the act that was meant to be done by both parties. The Court is urged to carefully examine Exhibit A.

It is further submitted on this premise, that the Claimant breached Fundamentally the agreement by both parties which would ordinarily have fetched funds for the Defendant and urged the Court to so hold, and also to award damages against the Claimant for the consequential breach.

Reliance was placed on the cases of AUGUSTINE IBAMA VS SHELL PETROLEUM DEV. CO. (NIG) LTD 2005, ALL FWLR (PT. 287) 832; JEGED VS MAYOR ENGINEERING CO. LTD (2013) LPELR-20284 (CA).

In conclusion, Counsel submitted that the Claimant has failed optimally to prove his case to be entitled to the reliefs sought, and also contended that the Claims of the Claimant are frivolous, vexatious, gold digging and an attempt to mislead this Honourable Court, and urged the court to dismiss the Claims with cost.

Finally Counsel submitted, that on the other hand the Defendant has proved his Counter Claim on the balance of probability as required by the Law and urged the Court to so hold and grant the reliefs sought by the Defendant/Counter Claimant.

On the other hand, it is submitted for the Claimant by Moses .B. Bature Esq, Learned Claimant's Counsel on the issues formulated in the written address, firstly on issue one, that the issue of defamation is not recondite to our legal system and referred the Court to the case of F. M. B. N VS ADESOKAN (2000) II NWLR (part 677) page 124, paragraphs E-F, per ONNOGHEN J.C. A (as he then was).

That the words used by the Defendant in the Facebook chats and various emails sent to certain faculty and staff members of the Department of Sociology and Criminology, University of Manitoba, Canada are defamatory and therefore libelous of the Claimant.

That the Defendant under Cross-Examination did admit to have said that the Claimant stole his idea and he also admitted to have sent mails to the University of Manitoba, Canada on the allegation that the topic on which the public presentation was to be made was his idea.

Reference was made to the Defendant's Evidence before the Court under Cross-Examination.

Learned Counsel submitted that the Court will discover from a cursory look at Exhibit A, which comprises of Facebook chats between the Claimant and the Defendant, between Defendant and some of his friends and emails correspondences exchanged between the Defendant and the Head of Department of Sociology and Criminology, Mr. Frank Cormier and Certain Faculty and staff members of the University of Manitoba, Canada, that the Defendant made very damning allegations which attracted a lot of lambasting from particularly, the friends of the Defendant on Facebook.

Reference was made to the summary of email communication from Mohammed Bello to senior scholars (i.e retired Professors) and support staff of the Department dated 12/08/2018 and another email written by the Defendant on 16/08/2018 to the scholars and support staff of the Department of Sociology and Criminology, University of Manitoba, Canada, an excerpt of Exhibit A.

Reference was also made to Defendant's chat with some of his friends on Facebook on 10/08/2018 with regard to the Claimant on the allegation of the Claimant stealing his work which Counsel submitted are contained in Exhibit A, paginated as 1/5, 2/5/3/5, 4/5 and 5/5 and Exhibit C.

On the ingredients a Claimant must prove to succeed in an action for Defamation of character, Counsel relied on the case of F. M. B. N VS ADESOKAN (Supra).

On what constitutes publication in an action for libel, Learned Counsel referred the Court to the case of YAHAYA VS MUNCHIKA (2000) 7 NWLR (PT. 664) 300 at page 314, paragraph. A.

Learned Counsel submitted that the Defendant never denied making those written statements in reference to the Claimant. That under Cross-Examination, the defendant confirmed he said that the Claimant stole his idea.

Learned Counsel contended that the words used by the Defendant are highly defamatory of the Claimant to say the least. That the Claimant is a Professor, Lecturer, researcher and a Scholar of international repute, and the allegation that the Claimant stole the idea of the Defendant is very damning, having lowered the Claimant in the Estimation of any right thinking member of the society and exposed him to hatred, ridicule and contempt.

That the flurry of statements or remarks made on the Facebook chats of the Defendant speaks volume of the unquantifiable damage, hatred, contempt and ridicule that the reputation of the Claimant has been drawn into as captured in paragraph 3.11 of the address.

It is further submitted, that the 3rd requirement as highlighted in F. M. B. N VS ADESOKAN (Supra) i.e publication to third parties, has also been proved in this case since other persons have equally read the said defamatory statements which were said to have been published on Facebook and emails.

That these facts have already been admitted by the Defendant and Exhibit A shows that.

Learned Counsel further submitted that the Defendant admitted to sending emails to several Faculty and staff members of the Department of Sociology and Criminology, University of Manitoba, Canada. Reference was made to Exhibit B and Exhibit A.

Learned Counsel further contended that the defamatory words used against the Claimant both on Facebook and via emails to the Faculty of and staff members of the Department of Sociology and Criminology, University of

Manitoba, Canada are false. That the Claimant never stole the Defendant's work (s) or Idea (s) as alleged by the Defendant in the Face Book and the emails.

Reference was made to the Defendant's Evidence during Cross-Examination.

It is submitted further that the Defendant during Cross-Examination admitted that he himself is not the author of Exhibit D, that he did not Co-author it, he is not the originator of the underpinnings of Boko Haram, and that he is not a Boko Haram member either, therefore he cannot claim originality of a Book or an idea from a Book he did not author or Co-author. That to Claim authorship of a Book one did not author or co-author is the highest form of intellectual theft.

Learned Counsel submitted that it is trite Law that facts which have been admitted need no further proof. That the Claimant has been doing personal research with respect to the subject of Boko Haram and has had some publications in respect therefore which the Defendant admitted under Cross-Examination to have helped the Claimant to even do a review of one of such research works. Again, reference was made to the Defendant's Evidence under Cross-Examination.

It is submitted moreso, that the Claimant by virtue of his profession in the academia could do research on any subject matter of interest to him and collect relevant materials which could aid his research which is what scholarship entails.

It is submitted therefore, that all the requirements as laid down by the Court in the case of F. M.B. N VS ADESOKAN (Supra) have been satisfied by the Claimant. The Court is urged to resolve this issue in the affirmative.

On issue two which is whether the Claimant has satisfied the Court based on the preponderance of evidence to be entitled to any or all of the reliefs Claimed before the Court, learned Counsel submitted that it is trite Law that he who alleges must prove in line with the provisions of Section 131 (1) of evidence Act 2011.

That the Claimant has presented overwhelming evidence in support of his Claims which the defendant has not controverted in any way. It is submitted therefore, that the Court is bound to accept and rely on any Evidence that was not controverted.

That since justification is a complete defence in an action for defamation as held in F. M. B. N VS ADESOKAN (Supra) it behoves the Defendant to place materials before the Court to justify the allegation that the Claimant stole his idea.

It is also argued that the Defendant has also failed to show the Court that the public presentation allegedly made by the Claimant was his own work or how that was his idea.

That the Defendant only stated that he had a discussion about translation of Exhibit D, which is written in Arabic, with the Claimant and not about a public presentation.

That Exhibit C, a flier which advertises the alleged public presentation, cannot by any right thinking person, be presumed, under any guise, to be a book or translation of a book in the true sense of the word.

Still on this, Learned Counsel submitted that the defendant admitted under Cross-Examination that Exhibit C is not a Book but the title there quotes a book, and that Exhibit C is a translation of the Book in part.

That under Cross-Examination the Defendant stated that the Caption of Exhibit D is translated in English as! ***"This is our Creed and our way of proselytizing."***

But that the caption of the public presentation in Exhibit C is! ***"This is Our Creed": A theoretical analysis of the ideological underpinnings of Boko Haram."***

Learned Counsel argued that the two captions are not the same.

It is submitted further by the Learned Counsel, that assuming without conceding that Exhibit C is a translation of Exhibit D, which the Defendant could

translate by himself, why then did the Defendant want to do the translation of the book with the Claimant and not all by himself? That the Defendant posted on Face book as contained in Exhibit A that the Claimant stole his idea, but that he did not paint the picture that they had a discussion to do a translation of the Book together and it was their joint idea. That the Defendant merely stated that it was his idea and that the Claimant stole it.

That since Exhibit C is not a translation of Exhibit D, the Defendant does not have any defence or hiding place before the Court to avoid liability for the damage caused to the reputation of the Claimant in the estimation of right-thinking persons.

On the principles guiding assessment of damages in libel, Counsel cited the case of YAHAYA VS MUNCHIKA (Supra) at page 316, paragraphs. B-E

Learned Counsel urged the Court to consider that the Claimant has conducted himself creditably well by not resorting to violence or attacking the Defendant in any way, but instead resorted to follow due process of law in seeking redress and from the beginning of the trial to this point, Claimant has peacefully waited for the Court to determine the case, and that he is a person of repute, a scholar of high standing, and a University Professor of international repute.

It is submitted that the alleged libelous imputations are very damning and/or damaging, to say the least, of the reputation of the Claimant who is a professor and currently the Head of Department Mass Communication, Nile University of Nigeria.

That to allege that a Professor of that standing steals someone's idea is very, very grave momentous, or weighty. That the Defendant has placed nothing before the Court as to any previous allegations involving the Claimant whereat his reputation is called to question.

That such allegations only portray the Claimant as a misfit and all that he has achieved in the academia and without, is greatly undermined.

It is the contention of the Learned Counsel that the alleged defamatory statements were given very wide circulation because of the social media, as same was a publication that could be termed as ***“made to the world”***.

It is submitted moreso, that anything put on the social media travels like wildfire since it was on the Face Book that the Claimant received all manner of lambasting from the Defendant’s friends as shown in Exhibit A. That the emails equally sent to the Faculty and support staff of the Department of Sociology and Criminology, University of Manitoba, Canada in another Country tells the extent the said publication has travelled.

Learned Counsel also urged the Court to consider the conduct of the Defendant herein, because the allegations made by the Defendant which borders on intellectual property by saying that the Claimant stole his idea, Defendant should have approached the Court or the copyright commission to seek redress instead of embarking on a campaign of calumny against the Claimant. And that the Defendant has not shown any remorse whatsoever let alone retracting his words and/or apologizing to the Claimant.

Counsel submitted that it is trite law that libel is actionable perse. That the Claimant need not prove any damage he has suffered particularly from the alleged defamation of his reputation or character before the Court could award damages.

Reliance was placed again on the case of F. B. M. N VS ADESOKAN (Supra) page 124, paragraphs E-F.

On the Claim for professional fees, it is submitted that the Claimant tendered Exhibit H a Recabite Solicitor’s cash receipt issued to the Claimant for handling the suit and that same like other claims already canvassed above, fall in the category of special damages.

Reliance was placed on the case of USANG & ORS VS OKON & ORS CITATION (2016) LPELR-41355 (CA).

On Claimant's response to the Defendant's final written address, it is submitted that Claimant's final written address has squarely addressed all the issues raised and the submissions of Counsel for the Defendant in the Defendant's final written address.

On the Defendant's counter Claim, it is submitted that the Claimant therein has not made out any case based on the preponderance of evidence to be entitled to any of the reliefs in the Counter Claim before the Honourable Court. That it is settled law that Plaintiff/Claimant ought to succeed on the strength of his case and not on the weakness of the defence. And that the Defendant Counter Claimant has not led a single evidence to support his pleadings in respect of the Counter Claim. It is submitted that the Law remains that pleadings to which evidence has not been led in support goes to no issue or is considered abandoned.

Finally, counsel urged the Court to hold that a wrong or tort of defamation in libel has been committed against the Claimant for which damages is awardable, to grant all the reliefs sought by the Claimant and to dismiss the Counter Claim in its entirety for lacking in merit.

Now, I have carefully gone through the writ of Summons, the Reliefs sought, the statement of Claim, Claimant's witness statement on Oath and additional witness statement on Oath and the Defendant's statement of defence and Counter Claim, and witness statement on Oath. I have equally considered the Claimant's reply to the Defendants statement of defence and Counter Claim. The entire evidence adduced by the parties at trial, including documentary evidence. In the same vein, I have studied extensively the respective final written addresses on both sides of the isle.

Therefore, having also considered the issues for determination formulated on both sides, it is my humbly view that the issues for determination can be summed up as follows:-

1. Whether the Claimant has established his claims for defamation against the defendant based on the preponderance of evidence to be entitled to the reliefs sought?
2. Whether the Defendant/Counter Claimant is entitled to the reliefs sought in the Counter Claim?

Let me begin by stating from the onset that he who asserts must prove in line with the provisions of Section 131 (1) of the Evidence Act 2011.

Now, the case of the Claimant as distilled from his statement of claim is that the Defendant is one of his acquaintances and a postgraduate M.SC student of strategic studies at the Nile University of Nigeria.

That on the 21st of August, 2018, Claimant was scheduled, as a visiting Professor, to make a paper presentation tagged.

“This is our Creed: A Theoretical Analysis of the Ideological underpinnings of Boko Haram” at the Department of Sociology and Criminology, at the University of Manitoba, in Canada.

Claimant further avers that he placed the notice of the paper presentation on his Face Book wall on the 12th of August, 2018, and the Defendant vide Facebook chats, alleged that the Claimant’s proposed paper presentation at the University of Manitoba was a breach or violation of their agreement.

Claimant avers that he was rather surprised, amazed and flabbergasted at what the Defendant was stating and instantly put the record straight with the Defendant pointing out that his proposed paper presentation was not and could not and never have been based on the Defendant’s idea! Even though the Defendant obliged the Claimant with an Arabic photocopy of a book titled “Hazihi Aqidatunawa Min Haji Da’awatu” therein referred to as “Hazihi” written by the late Leader and founder of Boko Haram, Mohammed Yusuf, Which they agreed to co-translate and nothing more. That claimant got an original copy of the said Book from other source which is better than the photocopy he received from the Defendant, which fact the Claimant also made very clear to the Defendant on their Facebook chat on the 12/08/2018.

That meanwhile, Claimant has been making research on Boko Haram since 2015 and has made several publications in that regard, so the Claims of the Defendant that because he obliged the Claimant with a Photocopy of the said Book amounts to intellectual theft is very erroneous, misconceived and insulting to say the least.

Claimant further avers that granted he discussed doing a collaborative translation of the said book with the Defendant because the Claimant could understand, speak, read and write Arabic language. However, the Claimant has not begun anything in that light on the translation of the Book apart from the Defendant.

The Claimant avers by denying the Defendant's allegation that he got the idea of the paper presentation from the Defendant simply because the Defendant gave the Claimant a photocopy of the said Book.

That he Claimant did not infringe on any intellectual property right owned by the Defendant and did not get the idea of the Boko Haram sect from the Defendant since the Boko Haram sect is already widely known both locally and internationally due to its violent mode of operation. It does not need any introduction.

The Claimant avers that after the chat he had on Facebook with the Defendant on the matter, the Defendant went public by way of sending damaging email messages to some Senior Scholars, Professor Emeritus, Department Administration, and support Staff of the Department of Sociology and Criminology of the University of Manitoba, Canada.

The Claimant also averred that the Defendant also went on the social media, via Facebook with a campaign of calumny against the Claimant and tagging the proposed paper presentation as his own idea and that he is the one that owns the said Book but the Claimant had taken the shine off it.

That many friends of the Defendant on Facebook made very damaging comments on the Claimant's reputation as a result of the Defendant's posts.

Claimant averred that the allegations of the Defendant impugned the intellectual reputation and credibility of the Claimant in the eye of the entire Academic and Non-Academic staff of the Department of Sociology and Criminology at the University of Manitoba, Canada and the general public at large. That the Defendant has succeeded in labeling the Claimant a fraud.

That the Claimant, told the Head of Department that the said allegations were spurious, false and unreliable, and Claimant requested that the Department write to him officially to that effect for his response.

I shall first of all consider the first issue which is whether the Claimant has proved the Allegation of Defamation against the Defendant.

Therefore, it is pertinent to begin by considering the meaning of "Defamation".

The Black's Law Dictionary (Abridged Ninth Edition) by Bryan A. Garner(Editor-in-chief) defines Defamation at page 377 as follows:-

"1. The act of harming the reputation of another by making a false statement to a third person....."

2. A false written or oral statement that damages another's reputation".

While libel in the same Dictionary is defined in page 783 as follows:-

"1. A defamatory statement expressed in a fixed medium, esp, writing but also a picture, sign, or electronic broadcast....."

2. the act of making such a statement; publication of defamatory matter by written or printed words, by its embodiment in physical form or by any other form of communication that has the potentially harmful qualities characteristic of written or printed words."

Defamation was judicially defined in the case of EDEM VS ORPHEO (NIG) LTD (2003) 13 NWLR (PT. 838) 537 at 558, paragraphs A-B, as follows:-

“.....Now, a defamatory imputation consists of the publication to a third person or persons of any words or matter which tend to lower the person defamed in the estimation of right thinking members of society generally or to cut him off from society or to expose him to hatred, contempt or ridicule or to injure his reputation in his office, trade or Profession or to injure his financial credit.”

While, in BEKEE & ORS VS BEKEE (*2012) LPELR- 21270 (CA) the Court held per UCHECHUKWU ONYEMONAN J. C. A (PAGE. 19, PARAS D-F) as follows:-

“Defamation also called calumny, vilification, traducement, slander (for transitory statements) and libel (for written, broadcast or otherwise published words) –is the communication of statement that makes a Claim, expressly stated or implied to be factual, that may give an individual, business, product, group, government or nation a negative or inferior image. As such, disparaging statement made about another, which is communicated or published, may well be defamatory statement capable of giving rise to an action in libel or slander.”

See also the cases of SKETCH PUBLISHING COMPANY LTD VS ALHAJI AZEEZ AJAGBEMOKEFERI (1989) 1 NWLR (PT. 100) 687 (SC); N. T. A VS EBENEZER BABATOPE (1996) 4 NWLR (PT. 440) 75 AT 88.

Moreso, it is trite law that for a Claimant to succeed in an action for defamation, he needs to prove by credible evidence the basic ingredients as enumerated in the case of F. M. B. N VS ADESOKAN (2000) 11 NWLR (PT. 677) at page 124-125, paragraphs H-A thus:-

- “1-Publication of the offending words;***
- 2- That the words complained of refer to the plaintiff;***
- 3- That the words are defamatory of the Plaintiff;***
- 4- Publication to third parties;***
- 5- falsity or lack of accuracy in the words used;***

6- That there are no justifiable legal grounds for the publication of the words.”

It was also held in the same case of F. M.B. N VS ADESOKAN (Supra) at page 122, paragraphs F-H per AMAIZU, J. C. A thus:-

“It is trite law that a person commits the tort of defamation when he or she publishes to a third party words containing an untrue imputation against the reputation of another.....”

See also the case of SUN PUBLISHING LTD & ORS VS DUMBA (2019) LPELR-46935 (CA).

Likewise, it is trite that in a case of libel, pleadings are of tremendous importance and so a Plaintiff who Claims that an article was libelous of him must reproduce the whole article verbatim or the passage he complains of in his pleadings; no matter how long the article is.

On this please see the cases of ALAWIYA VS OGUNSANYA (2004) 4 NWLR (PT. 864) 486; OLANIYE VS ELERO (2006) 5237 (CA) ONYENWE VS ANAEJIONU (2014) LPELR-22495.

In paragraphs 15 and 16 of the Claimant’s witness statement on Oath, the Claimant avers among other things that the Defendant sent damaging emails to some Senior Scholars Professors Emeritus, Department Administration and support staff of the Department of Sociology and Criminology of the University of Manitoba, Canada, as well as chats on social media, vide Facebook, on the Claimant’s proposed paper presentation tagging same as his own idea and that he is the one that owns the Book.

The series of email referred to are contained in Exhibit A.

The emails dated August 12/2018, from Mohammed Bello (the Defendant) to Senior Scholars reads thus:-

“Re: Public presentation.”

In light of the above subject matter for which your Department is sponsoring Muhammad Kabir Yusuf, I hereby challenge the Claim to the originality of the idea as proposed by the presenter. This is based on the fact that prior to getting a copy of the Book Hazihi Aqidatuna Wamin Haji Da'awatuna by Muhammad Yusuf, Slain leader of Boko Haram, from me, he had never possessed it.

After himself and I had a long discussion on Boko Haram during which I brought up the issue of the Book, he implored me to make the book available to him. I did on condition that we would work on its translation together, a reason I went to a great length to possess and keep the book in the first place.

After I gave the Book there was a hiatus in our meeting. The next thing I heard was that he was going to make a presentation which your department is sponsoring. I consider this an intellectual breach that should not be condoned by an institution of global standing as yours.

Based on this, I hereby humbly request that you step down the proposed presentation until you have ascertained the veracity of my Claim as proposed herein.

As I await your esteemed response, I hope you will take decisive action to ensure that the sanctity of intellectual proprietary and honesty are maintained in the interest of the wider global academic community.

“Muhammad Bello M.sc Student Nile University of Nigeria, Abuja.”

Again on August 16,2018, the Defendant as shown in Exhibit A, further sent another email to Senior Scholars and support Staff of the Department referred to which reads thus:-

“Hi, few days ago I wrote to you on the subject matter. I haven't got any feedback. This is why I am writing again, my submission is that if the Prof. had the book he Claims why was it or any of the others I borrowed him not reflected on a proposal he made on the subject matter, which he gave

me to review (as seen below) I also attach my chat with him on Facebook messenger after this issue started.

I think it will be a disservice to intellectual progress to allow such a douche to use your platform to rob me of my intellectual sweat on which we had agreed to work on together.

I will also send you some pictures of his proposal to which I refer above.

Thanks.

(Two documents were sent with this email message; they are attached)”

In his response to the above emails, Mr. Frank Cormier sent an email to the Defendant dated August 16, 2018 in which he asked the Defendant to stop sending messages to members of his Department, since the senior scholars were no longer Professors there having retired from the University. And that the support staff have no ability to assist the Defendant and further asked that the Defendant limits his communication to him i.e Mr. Frank Cormier, as head of Department.

In response to the above, the Defendant again sent the Following email dated August, 17, 2018 which is as follows:-

“I appreciate your response at this time. I cease henceforth, communicating with anyone except you. As to my complain, it is.

- 1) I had a copy of Hazihi Aqidatuna wa min Haji Da’awatuna by Muhammad Yusuf, the late Boko Haram leader; and I told Yusuf about it during a discussion.***
- 2) He wanted to have it but I told him I can only give him if he agrees that we translate it together. He agreed.***
- 3) We didn’t and under your sponsorship he’s going to analyze it.***
- 4) I consider this a breach of intellectual agreement and demand that you suspend his presentation until you have ascertained the veracity of my Claim.***
- 5) It is in order to make my case clearer that I sent the second email.***

6) As you consider your options on this matter, please reflect on the Sociological fact that intellectual honesty is an integral part of the kernel of scientific enterprise.”

Thanks.

Furthermore, in a series of chats with friends on Facebook, as shown in Exhibit A, the Defendant wrote on the said Claimant’s presentation as follows:-

“.....The guy stole my idea Danjuma”

Another chat reads thus:-

“Dr. I’m surprised as you are. He’s just simply an academic misfit.”

Now, publication is an essential element of proof of defamation. And from the above pieces of evidence reproduced above, it is quite clear that there was publication in this case.

On what Constitutes publication in a case of defamation, I wish to refer to the case of YAHAYA VS MUNCHIKA (2000) 7 NWLR (PT. 664) 300 at page 314, paragraph A, where the Court held thus:-

“.....In other to constitute publication, the defamatory matter must be published to a third party and not merely to the plaintiff himself.....”

On the importance of publication, I refer to the case of NAS VS ADESANYA (2003) 2 NWLR (PT. 803) 201, where the Court held as follows:-

“Publication is the life wire of an action in defamation indeed, a Plaintiff has prima facie established a cause of action in defamation as soon as he proved the publication of the defamatory words.....”

From the Evidence adduced in this case, it is clear that there is no dispute as to the fact that there was publication to third parties. Consequently, it is an elementary principle of law, that facts admitted need no further proof.

See the case of BAIPHOYS ENT. LTD VS N. D. I. C (2019) 8 NWLR (PT.1674) 235.

Having proved publication, the next hurdle the Claimant needs to cross is to prove that the words used are defamatory of the Claimant.

The Claimant herein has pleaded in paragraph 16 of his statement of Claim that the allegations of the Defendant impugned the intellectual reputation and credibility of the Claimant in the eye of the entire academic and Non-academic staff of the Department of Sociology and Criminology at the University of Manitoba, Canada and the General public at large. That the Defendant had succeeded in labeling the Claimant as a fraud. Same is also averred in paragraph 19 of the Claimant's witness statement on Oath.

During cross-examination, the Claimant as Pw1 (stated) that it was wrong of the Defendant to have sent the emails earlier referred to. I have taken my time and have gone through Exhibit A, which also contained not only the chats between the Claimant and the Defendant, but also the emails to the members of the Department in University of Manitoba but also the emails of Facebook chats between the Defendant and his friends.

The Defendant clearly stated therein that the Claimant has stole his idea and that he's an academic misfit.

In the emails to scholars dated 12 August 2018, the Defendant referred to the proposed presentation of the Claimant as ***"an intellectual breach"***

Again in the email of August 16, 2018 (as shown in Exhibit A), the Defendant states:-

"I think it will be a disservice to intellectual progress to allow such a douche to use your platform to rob me of my intellectual sweat on which we had agreed to work together on."

It is trite that for a statement to be defamatory, the imputation must tend to lower the Claimant in the estimation of right thinking members of the society generally.

In the case of *BENUE PRINTING AND PUBLISHING CORPORATION VS ALHAJI GWAGWADA* (1989) 4 NWLR (PT. 116) at 439, the Court held thus:-

“Now, defamation generally is any imputation which tends to lower a person in the estimation of right thinking men or cause him to be shunned or avoided or to expose him to hatred, contempt or ridicule or to convey an imputation on him disparaging or injurious to him in his office, Profession, calling, trade or business.....”

In the instant case, the Claimant averred particularly in paragraph 3 of his witness statement on Oath (which is pleaded in paragraph 1 of the statement of Claim) that he’s an Associate Professor of Mass Communication and media studies, the Head of Department of Mass Communication at the Nile University of Nigeria, Abuja.

Likewise, it is submitted for the Claimant in paragraph 4:11 of the Claimant’s final written address that the alleged libelous imputations are very damning and/or damaging to say the least, of the reputation of the Claimant who is a professor and currently the head of Department of Mass Communication, Nile University of Nigeria. That to allege that a professor of that standing steals someone’s idea is very, very grave, momentous or weighty.

Consequently having considered all the above, it is my strong opinion that the contents of Exhibit A, some of which were reproduced earlier, no doubt contained serious allegations which suggest that the Claimant herein is guilty of intellectual breach, or had stole an idea or is an intellectual misfit.

In the circumstances, therefore I find that the claimant has proved that the defamatory statements have lowered him in the estimation of right thinking members of the society. And since same was communicated to third parties in emails to scholars of University of Manitoba and to third parties in Facebook chats on social media, same has injured the claimant in his profession and reputation. I so hold. This is quite obvious when one considers the email chats on Facebook as contained in exhibit A.

The written statements by the Defendant led to the following chats on Facebook to wit:

“Aminu Aliyu Abdulmalik: have you tried to draw his attention to this intellectual theft? How did he get his hands on it?” page 1/5/Exhibit A.

“Ruth Tene: very sad.. Theft of intellectual property is a crime taken seriously by developed nations...Since he is being sponsored by a Department of University of Manitoba, u can write them and fight for ur right. But you must have proof.....Even if you have given him ur original manuscript, u should have the soft copy or the rough start where you began ur work” page 4/5 Exhibit A

“Ruth Tena: Muhammed Bello truth is he cannot have Hazihi written in ur same works.....Urs to him required translation.....So if he transcribed ur work.....then it will basically be the same with urs....”page 4/5 Exhibit A.

“Maryam Hali: Sue his publishers and you will get a better deal than if you sue him. Haka most people suke. That is why you need to guide your intellectual work jealously” page 4/5 Exhibit A.

“Bashir Yahuza Malumfashi: If this is the case, you can file a complaint through Nigeria Copyright Commission and the Canada Embassy. If indeed you can defend your allegation reasonably you may get justice. It’s indeed disheartening to se somebody’s work stolen. I could remember how Mallam Ibrahim Sheme suffered similar fate on late #Shehu-Musa- Yar-Adua’s biography project. It was Sheme that wrote more than 80% of the Book but at the end of the day, a certain director at #YarAdua-Centre hijack it and embedded her byline on it. Muhammed Bello, you have to fight against this injustice”-page 4/5 Exhibit A.

“Adamu Abba: It is unfortunate. It use to happen these days! But you should have published an article and copies of the book earlier. Would served as a proof that the idea is yours. Now he is the owner, sad”-page 5/5 Exhibit A.

“Tuni Tyessi Kai: I understand how you feel. He sees you as powerless and too small to have such intellectual prowrees. As long you have evidence in

terms communication via mail and others, please follow all legal means to fight your case”- page 5/5 Exhibit A.

“Suleiman Ayuba: Academic plagiarism is a big crime. I urge that you should sue him-page 5/5 Exhibit A.”

On this element of communication to third parties I refer to F.M.B.N V ADESOKAN (Supra).

Furthermore, the next element the claimant must prove is falsity or lack of accuracy in the words used. In this respect the claimant averred in paragraphs 11 to 14 of his statement of claim as follows;

“The claimant denies the defendant’s allegation that the claimant got the idea of the paper presentation from the defendant simply because the defendant gave the claimant a photocopy of the said book.”

The claimant is neither aware of any paper presentation delivered by the defendant on the topic of the Claimant’s paper presentation on the subject matter of Boko Haram , nor has written any articles or journal, whether locally or internationally which the Claimant is aware of.

The Claimant is not aware of any intellectual property rights owned by the Defendant and the Defendant is not the author and did not Co-author the book “Hazihi” with the former leader of Boko Haram sect.

The Claimant did not infringe on any intellectual property right owned by the Defendant and did not get the idea of the Boko Haram sect from the Defendant. The Boko Haram sect is already very widely known both locally and internationally due to its violent mode of operation. It does not need any introduction”

During Cross-Examination Pw1 (the Claimant) stated that he has made several publications on Boko Haram and that he also made same in 2017 and 2018. He however, denied that it was the Defendant that first obliged him with a copy of Exhibit D. he did admit, however, that the Defendant had given him a photocopy of ***“Hazihi”*** But, denied that he had Robbed the Defendant of co-

translating the book by going to Canada alone to make the presentation. He also stated that he is not interested in translating the book but he is interested in analyzing it. He also testified that the Book "Hazih" is available on line.

Likewise, it submitted in the Claimant's final written address particularly in paragraph 3:18 thereof that the defamatory words used against the Claimant both on Facebook and via emails to the faculty and staff members of the Department of Sociology and Criminology, University of Manitoba, Canada are false. That the Claimant never stole the Defendant's work (s) or idea (s) as alleged by the Defendant in Facebook and the emails. Reference was made to the evidence of the Defendant under Cross-Examination.

It is further submitted in paragraph 3:19 of the said address that from the words of the Defendant in his evidence under Cross-Examination that the Defendant himself said he is not the author of Exhibit. D he did not Co-author it, he is not the originator of the underpinnings of Boko Haram and that he is not a Boko Haram member either. That he cannot therefore Claim originality of a book or an idea from the book. That to Claim authorship of a book one did not author or co-author is the highest form of intellectual theft.

Meanwhile in the defendant's final written address, particularly paragraph 5:04-5:05, it is submitted among other things that the Claimant is duty bound to lead evidence to prove the falsehood of the publication complained of. That during Cross-Examination of Pw1 who is the sole witness, admitted meeting with the Defendant to collect Exhibit D and that Exhibit A clearly shows the approval of what the Defendant alleged.

Meanwhile, in the Defendant's statement of Defence and Counter Claim it is averred in paragraphs 5-6 thereof as follows:-

"The Defendant avers that he entered into an oral gentleman agreement with the Claimant sometimes in March 2019 to translate Hazih Aqidatuna WA Min Haju Da'awatuna" (herein referred to as Hazih) written by Muhammad Yusuf (late) the founder of Boko Haram, from Arabic to

English Language and the said agreement had a proviso for the Defendant to oblige the Claimant with a copy of Hazihi.”

The Defendant avers that they agreed with the Claimant that the translation of ‘Hazihi’ from Arabic to English will earn them \$3Million because it was to be published across the whole world.”

In paragraph 7, it is averred that there was a Facebook chat during which he drew the attention of the Claimant that the proposed paper presentation is part of the agreement and shall rely on same.

In paragraph 9 (iii) thereof, Defendant averred thus:-

“The Books supplied by the Defendant especially the Hazihi formed an integral part of the paper presentation as the meaning of Hazihi in full is: “This is Our Creed and way of Proselytizing, which is the title of the Claimant’s paper presentation.”

However, in the Claimant’s reply to Defendant’s statement of defence, it is averred in paragraph 5 thereof that the Claimant and Defendant had a discussion to translate the book **“Hazihi”**. That the said discussion had nothing to do with the Claimant’s public presentation.

In paragraph 9, it is averred among other things that in response to paragraph 12 of the Defendant’s’ statement of defence/Counter Claim, the Claimant states that he did not get the idea of the public presentation from the Defendant.

In paragraph 12, it is averred among other things that the Defendant’s allegations are false. I also refer to paragraphs 2-14 of the Claimant’s additional witness statement on Oath.

Well in addition, I have carefully looked at the statement of Defence/Counter Claim, and in particular in paragraph 9 Defendant averred among other things that contrary to their agreement to translate Hazihi, the Claimant has started the translation of the book independent of the Claimant as contained in the announcement for the Claimant’s paper presentation.

The Defendant has also pleaded and attached same to the statement of Defence/Counter Claim.

In response, the Claimant denies this assertion both in his evidence under Cross-Examination as well as in paragraph 2 of Claimant's reply, and in the additional witness statement on Oath.

I have carefully looked at the announcement referred to (which was also tendered and admitted in evidence through Pw1 and marked Exhibit C), and I have not seen any reference to translating the book "**Hazihi**" on the contrary, the second paragraph of Exhibit C reads as follows:-

"Using his soft skill of deep understanding of Classical Arabic language, Yusuf is currently writing a book that traces the ideological justifications of the Boko Haram movement using the only but rarely known constitution of Boko Haram authored by its founder in 2009, the year in which he was assassinated. In his public presentation, Yusuf will provide an overview of his personal experience living and working in regions of Nigeria that are at the center of the Boko Haram Crisis, and the research he is undertaking to reconstruct the geo-political and ideological context of the Boko Haram movement which is largely missing in the media coverage of the crisis"

Again, the Claimant has tendered Exhibits E and F to show that he has made previous presentations on the subject of Boko Haram prior to the presentation in question.

On his part, the Defendant has also pleaded in paragraph 13 of his statement of Defence/Counter Claim among other things that he is a North-East Nigeria counter insurgency expert and consultant for the office of the Defence and military Attache United States Embassy, Abuja and has also made consultations on subject of Boko Haram at National and Global level since 2011.

In support of the averments in paragraph 13 thereof, the Defendant also tendered in evidence Exhibits J, J1-J3 & J5.

Now, while the Defendant clearly alleges that the Claimant stole his idea particularly as averred in paragraph 12 of his statement of Defence/Counter Claim and evidence under Cross-Examination, in his evidence under Cross-Examination DW1 Defendant did admit that he is not the author of the Book Hazihi. He does not have copy rights over the Book Exhibit D, does not have any relationship with the author of the Book i.e Exhibit D, and that he is not the originator of the underpinnings of the Boko Haram and is not a Boko Haram member.

Moreso, it is submitted in the Claimant's final written address in paragraph 4:04 thereof that the Defendant has failed to show the Court that the Public presentation allegedly made by the Claimant was his work or how that was his idea.

Likewise, I've noted that in his evidence during Cross-Examination the Defendant (DW1) stated that Exhibit C is not a Book. But the title there quotes a Book.

Well if the Defendant has admitted that Exhibit C is not a Book then it cannot be a translation of a Book in this case "**Hazihi**" i.e Exhibit D.

It is also noteworthy to point out that in the instant case the main grouse of the Defendant is that the Claimant made a presentation contrary to their agreement to translate "**Hazihi**", and thereby Robbed him or stole his idea.

It must be borne in mind that in this case, the Book "**HAZIHI**" AQUIDATUNA **WA MIN HAJI DA'AWATU**" referred to as "**Hazihi**" translated as "**This is our Creed and way of Proleytizing**" was written neither by the Claimant nor the Defendant. In other words, it was neither authored nor co-authored by either Claimant or the Defendant. The Book is the work of a dead author the late leader of Boko Haram, Muhammad Yusuf.

Therefore, neither Claimant nor the Defendant can Claim any intellectual property rights to the Book, since it is the work of Muhammad Yusuf.

In this respect "**work**" can clearly be distinguished from an "idea" in the sense that the word "**work**" implies one exerting his effort to perform either

physically or mentally, while **“idea”** implies a thought, plan or suggestion as to a possible cause of action.

Please see Black’s Law Dictionary abridged 9th Edition (Supra) at page 1378; (for the definition of **“work”**) and oxford learners dictionary for the meaning of idea.

I have also observed that in the email dated August 17, 2018, the Defendant clearly used the word “analyze” and not **“translate”** I refer to item No. 3 in the said email (Supra).

Moreso, the Claimant did state under Cross-Examination that he is not interested in translating but analyzing Exhibit D.

Now, although I have observed that the title of the paper presentation i.e Exhibit C is quite similar to the title of Exhibit D **“Hazihl”**, since the Defendant admits that Exhibit C and Exhibit D are not the same, I’ve considered the fact that the Claimant has placed sufficient evidence to prove that Exhibit C is not a translation of Exhibit D, and that he did not steal the idea of the Defendant as alleged in the statement of Defence/Counter Claim. I also refer to paragraphs 8, 9, 10, & 11 of the Claimant’s reply to Defendants statement of Defence/Counter Claim.

It follows therefore that from the totality of evidence adduced by the Claimant in this case, Claimant has sufficiently proved that the defamatory words published by the Defendant are inaccurate. I so hold.

On the Defence available to the Defendant, the Court held in the case of BEKEE & ORS VS BEKEE (Supra) per UCHECHUKWU ONYEMENAM J. C. A (PAGE 20, paragraphs D-G) as follows:-

“Beyond what I have stated above, libel and slander share common defenses. Accordingly, anyone who is sued for defamation can raise any of the following defenses:-

That the alleged wrongdoer was not the publisher of the statement:- That the statement did not refer to the alleged victim:- That the statement's meaning was not defamatory:- That the statement was true:-

That the statement was fair comment on a matter of public interest:- That the statement was made in the heat of argument."

I have thoroughly considered the defence of the Defendant in the instant case, particularly the averments in paragraphs 15, 17, and 18 of the statement of Defence/Counter Claim in which the Defendant states among other things that his emails to the Head of Department and other Faculty members of the Department of Sociology and Criminology of the University of Manitoba, Canada was for the purpose of peaceful resolution through their intervention.

That the said words used in the complaint, Facebook message and indeed all forms of communication between the Claimant and the defendant are not defamatory.

That the Claimant has not suffered any loss or damages as a result of defamation or breach of agreement on the translation of "**Hazihi**".

Indeed, I have observed that the email chats between the Claimant and the Defendant as contained in Exhibit A, showed an acquaintance who was clearly aggrieved. However, the emails sent to the University inform of a complaint did not stop there, but also progressed into defamatory chats with third parties on Facebook, social media having wide and Global coverage. This no doubt has injured the Claimant's reputation and profession. I so hold.

In addition, the defendant, in my view, has not shown any justifiable legal grounds for publication of the defamatory words.

In light of the above, the Claimant is therefore entitled to damages.

On this premise I refer to the case of F. M. B. N VS ADESOKAN (Supra) page 124, paragraphs E-F, where the Court held:-

“.....In the case of libel and slander actionable per se, the publication of the matter containing defamatory imputation is actionable without proof of damage. The law will presume that damage flows from such publication. GRAOMA VS ALI (1999)2 NWLR (PT. 590) 317 referred to.”

On what the Court will consider when assessing damages, I refer to the case of N. T. A VS A. I. C LTD (2018) LPELR 45320 (CA) at page 36-37, paragraphs D-E where it was held as follows:-

“....In case of defamation, the assessment of damages to be awarded does not depend on any legal rules but rather, is governed by the peculiar facts and circumstances of a particular case, on the authority of ATOYEBI V ODUDU (SUPRA). Consequently, the Court are to consider all the relevant and material as disclosed in the evidence for the purpose of assessing the quantum of damages a successful party would be entitled to. However, an award of damages must be adequate to assuage for the injury to the Claimant’s reputation and atone the character and pride which were assaulted by the defamation.”

Therefore, in assessing damages in this suit, I’ve considered the fact that despite the defamatory publication sent to the scholars and support staff of the Department of Sociology and Criminology, University of Manitoba, Canada, by the Defendant, the Claimant was still allowed to continue with his presentation. This fact is clearly captured in Exhibit B and also in the Evidence of PW 1 the Claimant during Cross-Examination.

Exhibit B is a letter written by Prof. Frank Cormier, Head of Department of Sociology and Criminology, University of Manitoba Canada addressed to the Claimant Mohammed Kabir Yusuf. The first paragraph provides thus:-

“I am writing to wish you the best as you return to your home University to attend to your teaching duties. On behalf of the Department. I want you to know that we have appreciated having you with us thus far

(particularly) for the thought-provoking presentation you made last week), and that we look forward to your return later on in the year.)”

Likewise in support of relief No. v on the face of the writ of Summons, the Claimant has tendered Exhibit H (Receipt for professional fees). On the Claim for legal fees, the Court of Appeal per AKOMOLAFE WILSON, J.C.A at page 24-28, paragraph A: has held in the case of NAUDE & ORS VS SIMON (2013) LPELR- 20491 (CA) as follows:-

“The principle of law is that a successful party is entitled to be indemnified for costs of litigation which includes charges incurred by the parties in the prosecution of their cases. It is akin to Claim for special damages. Once the Solicitor’s fee is pleaded and the amount is not unreasonable and it is provable, usually by receipts, such Claim can be maintainable in favour of the Claimant.”

See also the case of AJIBOLA VS ANISERE & ANOR (2019) LPELR-48204, per MAHMOOD J.C.A at page 29-30, paragraph C. the Claimant has pleaded Claim for professional fees in paragraph 12 of his reply to the Defendant’s statement of Defence/Counter Claim in addition to tendering Exhibit H, as well as claimant’s deposition in the additional witness statement on Oath particularly paragraph 14 thereof.

Therefore, this no doubt clearly falls within the category of special damages contemplated by law. I so hold. In view of this, the first issue for determination is hereby resolved in favour of the Claimant against the Defendant. I so hold.

Now, before I conclude let me state that I’ve carefully considered the Defendant/Counter Claimant’s Counter Claim, I equally find that the Defendant has not placed materials before the Court to support his Counter-Claim, as such his counter claim fails and is accordingly dismissed. The second issue for determination is also resolved against the Defendant in favour of the Claimant. I so hold.

Consequently, the Claimant having prove his case on the preponderance of evidence, Judgment is hereby entered in favour of the Claimant against the defendant.

Therefore it is declared as follows:-

- i. The words electronically published vide emails and Facebook by the Defendant against the Claimant are libelous and have caused damage/harm to the Claimant's reputation in the eyes of the General Public locally and internationally and have also as a result brought the Claimant into odium, ridicule and contempt.
- ii. The Defendant is hereby ordered to issue an apology and unambiguous retraction vide email to all the Professors Emeritus and other staff of the Department of Sociology and Criminology at the University of Manitoba, Canada, an apology coupled with an unambiguous retraction by the Defendant vide his Facebook account, an apology coupled with an unambiguous retraction by the Defendant in the Guardian, This Day, The Nation, Leadership, Daily Trust and Punch Newspapers.
- iii. An order of perpetual injunction is hereby made restraining the Defendant, whether by himself, or through his servants, agents, privies, however called from Publishing or causing to be published the said defamatory words or similar words defamatory of the Claimant.
- iv. The sum of **₦5,000,000.00 (Five Million Naira)** only is hereby awarded as general and aggravated damages for the libelous words inaccurately written concerning the Claimant in the said Publications.
- v. On Relief No. V **₦1,000,000.00** is hereby awarded as special damages for professional fees in this action.

Signed

HON. JUSTICE SAMIRAH UMAR BATURE.

3/12/ 2020

