

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT NO. 4, MAITAMA ON THE

11TH DAY OF DECEMBER, 2023

BEFORE HIS LORDSHIP: HON. JUSTICE U. P. KEKEMEKE

SUIT NO. FCT/HC/CV/3459/2020

MOTION NO. M/6763/2023

COURT CLERKS: JOSEPH ISHAKU BALAMI & ORS.

BETWEEN:

1. LAWAL M. AHMED
2. PASSA ALI
3. ALABI LAWRENCE
4. HASSAN UMARU
5. NATHS KOLO
6. DORATHY DUFIA
7. SUNDAY AUDU
8. KELVIN GARUBA
9. HASSAN DANJUMA
10. SULEIMAN A. GARBA
11. KETURAH ENTERPRISES
12. JOHNSON MANKO
13. GANIYU USMAN
14. MODU SHEHURI
15. BABANGIDA USMAN
16. DR. GALADIMA
17. ANTHONY UDOJI OKECHUKWU
18. HYGINUS ONWUKA
19. YUSUF RAMP
20. UBA TIJANI
21. BABA MAIGARI
22. CALLISTUS EMEKA UMEH
23. JONAS ISA

.... CLAIMANTS

24. ABDULAH MU
25. NUHU YUSUF
26. ADEBAYO AKUJI
27. IBRAHIM ABUBAKAR
28. M. I. UMARU
29. SHEHU ABUBAKAR
30. HENRY YUSUF
31. B. A. MOHAMMED
32. EMMANUEL NWUFOR
33. NDUKA UGWU
34. HYCINTH NZEDIGWE
35. UCHENNA NGBABOR
36. EMMANUEL NKWOR
37. IJEBUONWU AZUBUIKE
38. ANTHONY AKPA
39. FESTUS METTALL
40. MUSA BAKO
41. DAUDA IYA
42. DONAM NIG. LTD
43. KINGSLEY UMEH
44. SUNDAY EZEIHUAKU
45. TONY NWANKWO
46. EMEKA ONWUASOANYA
47. NDUKA UGU
48. SUNDAY IGBOKWE
49. AYAJI SAMUEL
50. EZE PASCAL
51. JUSTINE UKOH
52. SUNDAY OHAERI
53. UGOCHUKWU UDEONWU
54. NNAMDI MORAH
55. OKWUDILI OZO
56. MARTIN NLENCHUKWU
57. ALOYSIUS ONYEKA
58. CHRISTOPHA UKEBOR
59. NAEMEKA IGWE
60. DEFENCE EZEMAONYE
61. CHIADIKOABI OZOEMENE

..... CLAIMANTS

62. CHIJOKE OZEMENE
63. GODWIN EZE
64. NWACHIE REMIGUS
65. LIVINUS AKPA
66. MATTHEW AKPA
67. EDWARD ANEKE
68. EMMANUEL C. OKPALA
69. FRANCES OKONKWO
70. PETER ANDREW
71. NDUBISI EKWE
72. EKEKE OKEKE
73. GODWIN ASIEGBU
74. OKECHUKWU ANTHONY
75. GODWIN UFUANYA
76. SUNDAY UDEMBA
77. EMMANUEL OKONKWO
78. D. C. OKONKWO
79. AMACHI CHIKE
80. E. V. OKONKWO
81. JOHN CHUKWUNERE
82. CHRISTIAN NWACHUKWU
83. JUDE C. UGU
84. JAMES NNAMANI
85. ODINIKPO G. ANIKPEH
86. EZEKO JOSEPH
87. EKOWA FRANCES
88. CHRISTOPHER OKOLI
89. BASIL OKOYE
90. PRINCE IYKE DIMGBA
91. KINGSLEY OMUGBO
92. CHIBUIKE NWEKE
93. ELIAS ONWUKWE
94. INNOCENT MADU
95. PETER EZEUDU
96. JOSEPH EZEOKÉ
97. EDWARD A. ANEKE
98. IFEANYI NDUKA
99. FELIX CHIOKE

..... CLAIMANTS

100. NNA BIG
101. MRS. JUDITH CHIKEME
102. FRANKLIN EBEH
103. NWABUGO AGBURUOZO
104. REV. JOHN
105. ALOYSIUS IKEDIABI
106. NATHAN JOB
107. ISAAC UGOCHUKWU
108. EMMANUEL OFOMATA
109. BASIL OTUBELU
110. ORJI CHRISTOPHER
111. POLITIUS EKPEDE
112. IKECHUKWU OFOR
113. PATRICK EZEANYIKA
114. ELISHA NWAKIFE
115. ISAAC ANYA
116. NOBERT OKOLI
117. OMEKAGWU EJIKE
118. KENETH OKOLIE
119. EMEKA EGWUEKWE
120. CHRISTOPHER C. NWAGWU
121. SAMUEL DICKSON
122. IKENNA EZEMA
123. AMECHI ONYIA
124. EDITH CHIKEME
125. IKE EZE
126. IKENNA ERESIMMA
127. UCHENNA AGU
128. ATU FIDELIS
129. I. A. OKPALA
130. IFEKA IKECHUKWU
131. EUGENE OKEIYI
132. NICODEMUS EGWUGWU
133. CHRISTIAN OKOFOR
134. HENRY ASIEGBU
135. GODWIN OMEJE
136. UGOCHUKWU AGWUNA
137. CHIMEZIE AGBURUOZO

..... CLAIMANTS

138. EMEKA UJA
139. OBIORA NEBO
140. JUSTINE ANI
141. JAMES ANEKE
142. UCHENNA OKONKWO
143. OSY FRANCE OKEKE
144. EDWIN CHINWUBA
145. CHRIS OBADI
146. UCHENNA THOMUS
147. FRANK O. INYA
148. MARCEL EBEH
149. CHUKWUDI OBIWURU
150. CHIKA MARTIN IHEKA
151. C. Q. C. ONYEKA
152. OKORIE OBIORAH
153. MATTHEW UZOR
154. OLIVER C. UKATA
155. KELECHI OKWUEGO
156. ODILICHUKWU OKAFOR
157. MICHAEL UHEBOR
158. ANTHONY IGBOKWE
159. LARRY ODUMODU
160. CHIDIEBERE OKEKE
161. VINCENT AMENE
162. LAWRENCE ONWUZU
163. LIVINUS ISHIWI
164. SUNDAY IDOKO
165. EMEKA NWUFO
166. MICHAEL EKWUGHA
167. CHRISTIAN NWODOH
168. LAZARUS NWABUFO
169. SALAS IBEH
170. MICHAEL CHIME
171. PIUS M. C. MARTINS
172. ALIS NKWOCHA
173. FABIAN OKAFOR
174. MRS. MAGDALINE
175. MICHAEL EZEAGWU

..... CLAIMANTS

176. FRANKLIN ABEH
177. GODWIN EMMANUEL
178. GEORGE NNZE
179. EBERE ANTHONY
180. CHRIS ANAEROBI
181. LAWRENCE ANAEROBI
182. OBIORA OJUKWU
183. CHIBUEZE AMAH
184. EMMANUEL ENEH
185. VALENTINE NWOSU
186. CHRISTIAN METTAH
187. AUGUSTINE IFEOMA
188. SAMUEL CHUKWUMA
189. CHUKWUMA OKEKE
190. REMIGIUS NWAEHIE
191. GEORGE UME
192. CHIMEZIE AHUCHOGU
193. LAZARUS ANIEKWE
194. HILARY OKOLI
195. ISAAC ANYO
196. DICKSON UCHE
197. ABDUL FATAI
198. FRANCIS ODIMEDUN
199. A. E. DIBOR
200. NNAMUCHI EZEIHUKU
201. OKORIE OBIOHA
202. HENRY OKOYE
203. MICHAEL NWOKEDI
204. CRESCENT C. ENEH
205. CHRISTOPHER ANENE
206. JAMES MMADUKASI
207. OKECHUKWU NNAMANI
208. DONATUS ASOGWA
209. SILAS IBEH
210. STANLEY OFOMATA
211. ALH. IBRAHIM DUROJAIYE
212. ALH. S. A. SALAMI
213. MRS. ASUMOWU MOH'D

..... CLAIMANTS

..... CLAIMANTS

214. RITA J.
215. JAMES GARNVAWA
216. HAJ. A. T. IBRAHIM
217. ALH. HARUNA SHEHU
218. ASHENO ILIYA
219. TITUS DANJUMA
220. AGNES JOHN
221. MUSA SULE
222. ESTHER JONAH
223. MATHAIS SABO
224. ALHAJI BALA ALI
225. PETER NEGE
226. J-TEK TELECOMMUNICATIONS LTD
227. KOMOLAFE SHERIFAT
228. MRS. S. A. ROTIMI
229. EDGE ENVI. SERV. CO-OPERATIVE
230. AL-PAPA AMAZ (NIG.) LTD
231. MR. MOH'D ALWAL MOH'D
232. ERIC OROLI
233. PRINCE EMEKA
234. JAMES JATOS
235. PASTOR ADEBISI PAUL
236. JOEL JUBRILLA
237. MRS. R. M. DANIEL
238. CHIDI KELECHI
239. GODWIN AGBO
240. ALFA MOHAMMED
241. PRINCE MBACHU
242. CHINWEIKE OPAH
243. I. K. UMOGA
244. OBINNA ONYIA
245. UCHECHUKWU EDOGA
246. ALH. MUSA HASSAN
247. MOSES UZOEGBO
248. IFEANYI OKORO
249. EMEKA K. ONUIGBO
250. BASIL ARINZE
251. NWALIBE NNAMDI

..... CLAIMANTS

252. MUH'D IBA-YUSUFU
253. ISAAC EZENWUBA
254. ZAYLIB INVESTMENTS LTD
255. GECHEWYILO BABA
256. CHRISTIAN OZOEMENE
257. TONY CHRISTIAN
258. EDWIN MADU
259. ABDULRAZAK ABDULRAHIM
260. BOLA AKIN
261. ARUNA ABDUL GANIYU
262. KADIRI FALILAT
263. ALIYU WASIU
264. AKINOLA ADENIKE
265. FADEJU FRANCIS
266. SODIYA OLAYINKA

..... CLAIMANTS

AND

1. MESOTHO GROUP LIMITED
2. ABUJA INVESTMENT COMPANY LIMITED
3. ALL PERSONS UNKNOWN

..... DEFENDANTS

RULING

The 2nd Defendant's application dated 27/03/2023 is brought pursuant to Order 2 Rule 9, 5 Rules 2 & 6 of the Rules of Court. It is dated 27/03/2023 but filed on the 28th.

It prays the Court for an Order striking out the Claimant's Amended Writ of Summons and Statement of Claim as being incompetent.

And for such Order or other Orders as the Court may deem fit to make in the circumstance.

The grounds for the application are:

- (1) No stamp or seal of the NBA Seal or signature of Claimant's Counsel.
- (2) The claim was not signed by a person whose name is on the roll of Legal Practitioners.
- (3) That the claim was amended to add more names contrary to Order of Court.

The Claimant thereafter filed a Motion dated and filed on the 2/05/2023 brought pursuant to Order 1 Rule 2, Order 5 Rules 1, 2 & 3 and Order 43 (1), (2) etc.

It prays the Court for:

- (1) An Order of Court to further amend the Writ of Summons, Statement of Claim, Witness Statement on Oath and all other processes in the suit to add back Claimants that were erroneously omitted as co-

Claimants in line with the Order of Court made on the 11/05/2022.

- (2) Leave of Court to add new Claimants.
- (3) Leave of Court to strike out the names that appeared twice both in the originating process filed on the 17/12/2020 and the Amended Writ of summons pursuant to Order of Court on the 11/05/2022.
- (5) Deeming Order.

The grounds for this application are:

- (1) That Claimants' attention was drawn through 2nd Defendant's application dated 27/03/2023 about a genuine and regrettable inadvertent mistake and error made in the Claimant's Amended Writ of Summons dated and filed on 26/09/2022.
- (2) That Claimants further discovered that some Claimants' names were omitted without the leave of Court.
- (3) That the mistake was not deliberate.

Learned Counsel relies on the 11-paragraph Affidavit filed in support.

The Claimants' Motion seeks to correct an alleged error and or omission. It seeks to rescue the suit while the 2nd Defendant's Motion seeks to strike out the Amended Writ of Summons and other processes for the errors which the Claimants seek to correct.

I am therefore inclined to consider the Claimants' application first.

I have read the Affidavit and considered the Written Address of Counsel. The Defendants/Respondents did not file a Counter Affidavit.

By Order 13 (1) of the Rules of Court, all persons may be joined in one action as Claimants in whom a right to relief is alleged to exist whether jointly or severally and judgment may be given for such Claimants as may be found to be entitled to without any amendment.

The Affidavit evidence is uncontroverted. This Court will not shut out a Claimant because of mistakes made by him or Counsel. Substantial justice will not be sacrificed on the altar of technicality.

The application therefore succeeds. Orders are granted as prayed.

In the circumstance of this case, the Claimants have amended the errors complained of in the 2nd Defendant's Motion.

It is therefore unnecessary to consider the said Motion. It does not serve any useful purpose.

The 2nd Defendant's Motion dated 27/03/2023 but filed on the 28/03/2023 is hereby struck out.

HON. JUSTICE U. P. KEKEMEKE
(HON. JUDGE)
11/12/2023

Parties absent.

A. O. Ugochukwu, Esq. for the Claimant.

Martin Luther Okere, Esq. for the 1st Defendant.

COURT: Ruling delivered.

(Signed)
HON. JUDGE
11/12/2023