

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT COURT 20, GUDU-ABUJA**  
**ON WEDNESDAY THE 24<sup>TH</sup> DAY OF MAY 2023**  
**BEFORE HIS LORDSHIP: HON. JUSTICE MODUPE R. OSHO- ADEBIYI**  
**SUIT NO:CV1538/2019**

**BETWEEN:**

OMEIZA ZACCHAEUS, ESQ. =====CLAIMANT  
(Carrying on business under the name and style of  
NATHAN ASSOCIATES)

**AND**

SUNDAY JOSEPH OGUCHE=====DEFENDANT

**JUDGMENT**

This matter commencedenovo on the 10<sup>th</sup> day of May 2022 upon re-assignment of this case to this Court. The Claimant in this case by a Writ of Summons filed on the 4<sup>th</sup> day of April 2019 brought this suit against the Defendant praying the Court for the following reliefs: -

1. A DECLARATION that the defendant having chosen to forfeit his arrears of salaries in suit No: NICN/ABJ/214/2016-OGUCHE SUNDAY JOSEPH Vs. (1) FEDERAL CIVIL SERVICE COMMISSION & (2) OFFICE OF THE ACCOUNTANT-GENERAL OF THE FEDERATION against the claimant's professional advice breached the contract in the Compensation agreements between the Claimant and the Defendant.
2. A DECLARATION that the Claimant has rendered legal services to the defendant and earned his professional fees as demanded in the particulars of the bill of charges.
3. AN ORDER mandating the Defendant to pay the Claimant the sum of Two Million Naira (N2,000,000.00) only, being professional fees/bill of charges for legal representation of the defendant from year 2013 to year 2018.

4. AN ORDER mandating the Defendant to pay the sum of 10% interest on the Judgment sum and 15% interest from the date of judgment until payment of the judgment sum respectively.
5. AN ORDER directing the Defendant to pay the sum of Five Hundred Thousand Naira (N500,000.00) only being the cost of prosecuting this case.

The brief summary of the fact that led to this suit is that sometime in 2013, the Defendant sought legal services from the Claimant regarding Defendant's suspension from work. That the Claimant agreed to provide legal representation to the Defendant however, the Defendant not being able to cover the professional fees entered into an agreement to pay 10% which was subsequently increased to 15% of all arrears of salaries and entitlement upon success of the case.

That the Claimant initiated legal proceedings on behalf of the Defendant at the National Industrial Court in Abuja, which the Defendant's employers proposed a settlement outside of court. That the Claimant obtained settlement terms that were beneficial to the Defendant, which terms include the payment of the Defendant's outstanding salaries, the acceleration of the Defendant's promotions to match those of his peers, and the reinstatement of the Defendant to salary grade level 10, which is one level higher than the previous grade level he was when he was indefinitely suspended.

That the Defendant, despite receiving professional advice and multiple warnings from the Claimant, decided to forfeit his entitlements and arrears of salaries to his employer. That this was done by the Defendant in an attempt to circumvent and breach the contingency fee agreement that was previously executed with the Claimant, hence this suit.

Upon service of the Originating processes, the Defendant filed his statement of defence and accompanying documents. The Claimant upon

receipt of the Defendant's documents, filed a reply to the statement of defence and upon parties joining issues, the case proceeded to trial. The Claimant opened his case before this Court by calling a sole witness, the Claimant testifying as PW1 adopted his two witness statements on oath as his evidence in this case. In proof, PW1 tendered the following documents:

1. Letter of instruction dated 12/12/2013 agreed on success fees marked as **Exhibit A1 & A2**.
2. Letter addressed to Federal Civil Service Commission by National Associates received on 17/12/2013 titled RE: Eradication of Suspension of Mr. Joseph Ogucheas **Exhibit B1** and Memo from Federal Civil Service Commission discipline and appeal department dated 20/10/2005 **Exhibit B2** , also attached is internal memo from the Federal Civil Service Commission dated 28 February, 2008, 16<sup>th</sup> June, 2008, letter of Appeal dated 16 September, 2008, copy of Standard Trust Bank cheque for N600,000.00 and another First Bank Cheque (copy) dated 10/12/2004 for N1,200,000.00 all admitted in evidence and marked as **Exhibit B1-B7**.
3. Letter from Nathan Associates addressed to National Human Rights Commission dated 20/12/2013 as **Exhibit B8**.
4. Letter from Nathan Associates dated 9/1/2014 addressed to the Senate President as **Exhibit B9**.
5. Letter from Nathan Associates dated 9/1/2014 addressed to Senator representing Kogi East Senatorial District as **Exhibit B10**.
6. Letter From Nathan Associates dated 9/1/2014 addressed to Speaker House of Representative as **Exhibit B11**.
7. Letter from office of the Senate President dated 21/1/2014 as **Exhibit B12**.
8. A handwritten note titled "documents submitted to Barrister Omeiza attached is an internal memo from Federal Civil Service Commission

dated 19/3/2014 also attached is an internal memo from the Federal Civil Service Commission (discipline and appeals) dated 12/2/2015 as **Exhibit C1, C2, C3 and C4.**

9. Agreement between Sunday Oguche and Nathan associate dated 26/5/2016 as **Exhibit D1.**
10. Letter from Nathan Associates addressed to Federal Civil Service Commission dated 26/4/2016 as **Exhibit D2**, with attached letter from Nathan associates to Federal Civil Service Commission seeking for certificates of listed documents as **Exhibit D2 and D3.**
11. Letter from Nathan Associates dated 13/7/2016 addressed to Raw Materials Research and Development Council as **Exhibit D4**, with attached letter from Raw Materials Research and development council dated 1/8/2016 as Exhibit D5, also attached is an offer of appointment letter from the office of the Raw Materials Research and development Council as **Exhibit D6.**
12. Letter from Nathan Associates dated 13/7/2016 as **Exhibit D7.**
13. Letter from Nathan Associates dated 11/7/2016 addressed to the National Poverty Eradication Programme as **Exhibit D8.**
14. Letter addressed to National Poverty Eradication Programme dated 13/7/2016 as **Exhibit D9.**
15. Letter from National Poverty Eradication Programme dated 29/8/2016 as **Exhibit E1.** Attached with Internal Memo from NAPEP/AF/SSMC/063/1/T; tabulation of figures as regards Sunday Oguche as **Exhibit E1 - E4.**
16. Letter from Nathan Associates dated 5/9/2016 as **Exhibit E5**
17. Letter from office of Head of Service of the Federation dated 25/1/2017 as Exhibit F1, attached with letters from Nathan Associates dated 5/01/2017 as Exhibit F2, and letter from Nathan associates dated 26/1/2017 as **Exhibit F1-F3.**

- 18.** 7 pages document of arrears of Sunday Oguche as **Exhibit F4**.
- 19.** Letter From office of the Federal Civil Service to plaintiff dated 27/11/2017 attached with a memo from Federal Civil Service addressed to the office of the Accountant General of the Federation as **Exhibit G1 and G2**.
- 20.** Letter from office of Federal Civil Service Commission addressed to Plaintiff dated 31/1/2018 as **Exhibit G3**, attached with minutes of meeting as **Exhibit G4**.
- 21.** 11 pages of electronic correspondence, attached with letter from Nathan Associates dated 17/10/2018 addressed to Sunday Oguche, attached with certificate of compliance as **Exhibit H1-H3**.
- 22.** Letter from Nathan Associates dated 26/09/2018, attached with Memos on invitation to a meeting and a memo forwarding minutes of meeting, letter from Nathan Associates dated 5/10/2018 and another dated 5/10/2018 as **Exhibit J1 - J8**.
- 23.** Letter from Nathan Associates dated 17/10/2018 Exhibit K1, attached with Legal fees Exhibit K2; letter from Nathan Associates dated 4/12/2018, Exhibit K3 and Enrolment of Court Order **Exhibit K4 as (Exhibit K1-K4)**.
- 24.** Treasury Circular as **Exhibit L**.

Under cross-examination, PW1 maintained that parties agreed expressly in payment of professional fee as well as a contingency fee agreement, which was breached. That the Defendant in Exhibit K4 agreed to forfeit his entitlements and salary arrears against his professional advice.

The Claimant closed his case, and the matter was adjourned for defence.

The Defendant opened his defence by also calling a sole witness. The Defendant testifying as DW1, adopted his witness statement on oath as evidence and tendered two exhibits as follows: -

1. Letter from Civil Service Commission dated 16/10/2018 addressed to defendant titled lifting of suspension and re-call to duty as **Exhibit M1**.

2. Assumption /Resumption of duty certificate as **Exhibit M2**.

Under cross-examination, the Defendant admitted that it was due to the Claimant's representation of him both in and outside the Courtroom that led to the Defendant being re-instated to the Civil Service. That the Defendant was also given double promotion to make up for lost time out of service. Defendant however denied being warned by the Claimant about the implication of not heeding to his professional advice. Defendant maintained that both the professional and contingency fee was to come out of Defendant's total emoluments, but the Commission decided not to pay the Defendant his arrears which meeting the Claimant refused to attend. Defendant closed his case and the Court adjourned for adoption of final written address.

The Defendant from the written address filed, raised two issues for determination thus:

1. Whether or not from the body of evidence before the Court, the Claimant is entitled to his claims?
2. Whether or not by the Rules of Professional Conduct, the Claimant, who is a Legal Practitioner, is permitted to enter into a contingent fee agreement for a cause of this nature?

Arguing issue 1, Defendant's Counsel contended that the signing of the terms of settlement in Exhibit K4 invalidated Exhibit D1 (the contingency fee agreement), as all parties who were signatories to the document agreed that Defendant forfeit all his arrears, salaries, bonuses and entitlement and no judgement sum was awarded in favour of the Defendant in that case.

Submitted that Claimant had intentionally signed Exhibit K4 and could not protect his interest therefore should be estopped from turning round to

make claims where none currently exists. Submitted further that the Claimant grossly failed in his professional duty to protect the Defendant, as the very day the Claimant was invited by the Defendant's employers to decide issues concerning payment of his arrears of salaries and other entitlements, the Claimant failed to attend the meeting and the Claimant's claim that he warned the Defendant on the danger of the latter's resolve to agree to forfeit his entitlements and arrears of salaries was not sufficient as due diligence towards the protection of the Defendant's interests. Counsel urged the Court to resolve this issue in favour of the Defendant.

Arguing the second issue, Counsel submitted that Rule 51 of the Rules of Professional Conduct for Legal Practitioners, 2007 states that a lawyer shall not enter into an agreement to pay for, or bear the expenses of his client's litigation as this provision presupposes that a lawyer is prohibited from entering into an agreement of the nature as in, Exhibit D1, which the Claimant was heavily relying upon to push for claims before this Honourable Court. Submitted that The Defendant, who was most helpless in this whole situation, pleaded to give the sum of Five Hundred Thousand Naira (N500,000.00) only to the Claimant on terms to be agreed by the parties, but the Claimant rejected the offer and chose to seek his bogus claims. Counsel urged the Court to strike out the claim of the Claimant for lacking in merit and award substantial cost in favour of the Defendant.

Counsel relied on the cases of

1. WILSON v. OSHIN (1994) 9NWLR (PT. 366) P. 90 CA.
2. DENNIS NWOYE OKAFOR V. ANTHONY IGWITO & 2 ORS (1997) 11NWLR(P.T. 527) 36.
3. DALEK (NIG) LTD V. OMPADEC (2007) 7 NWLR (PT. 1033) 402 SC.

The Claimant's Counsel upon being served with the Defendant's address, filed their written address, and raised four issues as follows:

1. Whether on the preponderance of evidence, the defendant breached the contract in the contingency fee agreement being Exhibit D1.
2. Whether the fact of the Claimant endorsing the terms of settlement herein attached to exhibit K4 on the insistence of the defendant which was entered as consent judgment stops the claimant from making his claims given the circumstances of the case.
3. Whether on the preponderance of evidence and balance of probabilities, the Claimant is entitled to his fees as enumerated cumulatively in his bill of charges (Exhibits K1 to K3) pursuant to Section 16 of the Legal Practitioners 'Act, Cap LFN L. 11, 2004.
4. Whether the Claimant, a legal practitioner is permitted to make Exhibit D1 under the Rules of Professional Conduct for Legal Practitioners, 2007.

On issue 1, Claimant's Counsel submitted that the Claimant's claim is predicated on a contract breached by the Defendant, and it is the duty of the Court to interpret the contract. Submitted that the Contract in Exhibit D1 is contingent upon Defendant's entitlement and arrears of salary and Defendant fully frustrated the contract by forfeiting his entitlement and arrears of salary. Submitted that the Defendant not acceding to the professional advice and warnings of Claimant and forfeiting his arrears in order to circumvent the agreement in Exhibit D1 amount to a breach of contract and urged the Court to so hold.

Arguing issue two, Counsel to the Claimant submitted that the defence of estoppel does not avail the Defendant as the Claimant protest several times with the Defendant's choice to forfeit his arrears of salaries at the detriment of the Claimant. Submitted further that the Claimant neither voluntarily nor freely endorsed the terms of settlement as the endorsement was done in fulfilment of Claimant's professional duties carrying out instructions of a client having given the Defendant the option of paying

charges in lieu of Defendant's breach of Exhibit D1, as contained in the terms of settlement, hence the defence of estoppel and volenti non fit injuria cannot avail the Defendant and urged the Court to so hold.

Arguing issue three, Counsel submitted that from Exhibit K1 to K4, the Claimant has satisfied the requirements of Section 16 of the Legal Practitioner's Act and urged the Court to enter judgement in favour of the Claimant.

Arguing issue four, Counsel submitted that Rule 50 (1) of the Legal Practitioner's Act empowers a legal practitioner to enter into a contract on contingency basis with his client as captured by Exhibit D1 and prayed the Court to discountenance the Defendant's arguments and hold that Exhibit D1 is valid. Counsel finally urged the Court to enter judgment in favour of the Claimant.

Counsel relied on an array of authorities a few of which are as follows:

1. AFRICAN SONGS LTD & ORS V. KING SUNNY ADE (2018)LPELR 46184 (CA)
2. S.P.D.C.N. LTD. VS. NWANKA (2003) 6 NWLR Pt. 815 Pg. 184 at 208 Paras.
3. UNION BANK (NIG.) LTD. VS. OZIGI (1994) 3NWLR (Pt. 333) Pg. 385
4. IBRAHIM V. GARKI (2017) 9 NWLR (PT.1571) 377
5. MABAMIJE Vs. OTTO (2016) LPELR 26058 SC;
6. AFRAM CHEM LTD VS. OWODUENYI (2014) LPELR 23613 CA;
7. ASHIBUOGWU VS. A.G., BENDEL STATE &ANOR (1988) LPELR - (SC);
8. OYEKANMI Vs. NEPA (2000) LPELR 2873 (SC); ABURIME V. N.P.A (1978)LPELR-60 (SC);
9. REBOLD INDUSTRIES LTD V. MAGREOLA & ORS (2015) LPELR-2461 (SC).

Replying on points of law, the Defendant's Counsel submitted that the Claimant argued that he has the legal right to sue the Defendant for recovery of his professional charges as per Section 16 of the Legal Practitioners Act, however, the Claimant did not take the necessary steps

outlined in Section 16(3)(c) to protect his interest in the matter, as the Claimant did not take the necessary steps due to the fact that he was in agreement with the terms of settlement. Submitted that the authorities cited by the Claimant on the principle of *volenti non fit injuria* have strengthened the Defendant's case and urged the Court to discountenance the argument in the Claimant's address and resolve the case in favour of the Defendant.

I have considered the entirety of the claim before this court, the testimony of respective witnesses and submission of respective Counsel and the issue that calls for this court to determine is "**whether or not the Claimant has made out a case for this court to grant the reliefs sought in the statement of claim**".

The claimants in reliefs one and two is seeking for declarative reliefs and the law is very well settled that a party who seeks the grant of declaratory reliefs has a duty to establish his case by pleadings and evidence as declaratory reliefs are not granted as a matter of course. See the case of *TUMBIDO V. INEC & ORS (2023) LPELR-60004(SC)* where Per JAURO, J.S.C in (Pp. 28-29 paras. F) held thus;

*"It is settled beyond equivocation that a Plaintiff who seeks the grant of declaratory relief has a duty to succeed solely on the strength of his own case. He must establish his case by his pleadings and by the evidence led in support thereof on the preponderance of evidence. Declaratory reliefs are not grantable to a Plaintiff as a matter of course. The burden on such a Plaintiff is heavy because declaratory reliefs are not grantable even by admission on the part of the Defendant(s), hence the Plaintiff must establish his case and not rely on the weakness in the case of the Defendant(s). See AMOBI V. OGIDI UNION (NIG) & ORS (2021) LPELR - 57337 (SC); AGI*

*V. PDP (2017) 17 NWLR (PT. 1595) 386; EMENIKE V. PDP & ORS (2012) LPELR - 7802 (SC); A-G CROSS RIVER STATE V. A-G FEDERATION & ANOR (2012) LPELR - 9335 (SC); MOHAMMED V. WAMMAKO & ORS (2017) LPELR - 42667 (SC)."*

In this case, the Claimant in relief one is seeking for a declaratory order that the defendant having chosen to forfeit his arrears of salaries against the claimant's professional advice breached the contract in the compensation agreement between the Claimant and the Defendant. The Claimant to prove that the Defendant breached the contract in the compensation agreement between parties, gave evidence to the following facts: that the Defendants retained the services of the Claimant to seek redress for the Defendant against the Defendant's employers. That parties entered into a contingency agreement to pay 10% of all Defendant's backpay salaries and entitlements upon success of the Claimant. That another contingency agreement was entered to increase the percentage of the contingency fee to 15% captured in Exhibit D1. That Claimant in accordance with the Defendant's instructions amongst other action, filed a suit before the National Industrial Court against the Defendant's employer. That the matter was eventually settled out of Court with the Defendant agreeing to forfeit all entitlements. These above stated facts were neither uncontroverted nor challenged as it is the undisputed fact that the Claimant indeed discharged the mandate given to him by the Defendant. However, what is being disputed is that the Claimant having appended his signature on the terms of settlement in Exhibit K4, rendered the contingency agreement unenforceable and claimant is therefore estopped from relying on the said Exhibit D1. The Claimant's contention is that the act of the Defendant agreeing to forfeit the arrears of salaries and entitlements against his legal advice amount to the Defendant intentionally frustrating the contract between parties.

At this point it will be pertinent to look at the agreement in Exhibit D1 which is alleged to have been breached by the defendant. From Exhibit D1, the said Clause alleged to have been breached is hereunder reproduced,

**“The Client and the law firm further agree that upon its reinstatement and payment of back pay at any point in time subsequent to OmeizaZaccheaus' representation from the inception prior to this agreement or contemporaneous with this agreement (as the case may be) , the Client shall pay Fifteen (15) percent of the total Judgment sum and/or in the event of an-out-of-court settlement including but not limited to arrears of salaries, bonuses and entitlements.”**

Now it is not in doubt that the Claimant was successful in the case being handled for the Defendant before the National Industrial Court as the case was settled out of Court in favour of the Defendant. However, part of the terms of settlement was for the Defendant's forfeiture of salary arrears and entitlement, which Claimant is contending was agreed to against his legal advice. The Claimant tendered a bundle of print out of messages as in Exhibit H1 to H3 to prove that he advised the defendant against agreeing to forfeit his entitlement.

Two questions come to fore that begs to be answered at this point,

1. Can the act of the Defendant agreeing to forfeit his entitlement amount to a breach of contract?
2. Can the Claimant be estopped from claiming compensation having signed the terms of settlement?

With respect to the first poser, the Defendant is contending that it was agreed by all parties that the defendant forfeit and abandon all his arrears of salaries and entitlements, hence, no judgment sum was awarded to the

Defendant in the suit before the National Industrial Court. The Claimant on his part, tendered the minutes of the meeting held on 18/12/2017 where the resolution to reinstate the Defendant together with the payment of all his arrears was to be made to the Defendant. In the meeting of 18th of December 2017, the defendant was represented by the claimant, where all negotiations and resolutions were reached between the Defendant and his employers. However, from the facts before this court, subsequent meetings were held without the Claimant, one of which was when the Defendant agreed to forfeit his entitlements. In fact, from the contents of Exhibit H1 to H3, which is a letter written by the Claimant to the Defendant, the Claimant stated thus

*“... during the visit, I was informed that you have agreed to consent to the counter offer and alteration of the resolutions reached at the settlement meeting of 18th of December 2017 with the defendants to the effect that you are willing to forfeit your back pay and entitlements against my legal advice and against the understanding you had with the undersigned under contingency fee agreement which formed the basis of my legal representation of you all along.”*

Hence, the Claimant in this case was not present at the meeting where the Defendant agreed to forfeit the entitlements. The Claimant also tendered conversations wherein the Defendant was warned against proceeding to forfeit the entitlements prior to the terms of settlement as negotiations were still ongoing. The argument of the defence counsel that Exhibits K4 that is, the terms of settlement rendered Exhibit D1 unenforceable cannot stand, as it is my view that the actions of the Defendant proceeding to forfeit the entitlement against the advice of Counsel intentionally frustrated the contract in Exhibit D1 between the parties. It is the Defendant's contention that the Claimant failed in his professional duty to protect the

Defendant as the date the meeting was called to discuss the issue of payment of salaries and entitlement, the Claimant failed to attend the meeting. The law is that he who asserts must prove, and in this case, there is nothing before me to show that an invitation for another meeting was extended to the claimant as was done for the previous meeting as in Exhibit G1 and G2. From the face of Exhibits G1 and G2, the letter of invitation was from the federal Civil Service Commission addressed to the Claimant to come for a meeting with respect to the case between the Defendant and the Defendant's employers which aim of the meeting was for amicable settlement. From the contents of Exhibit H1 to H3 which is the WhatsApp conversation, confirmed that the only meeting attended by both parties where the resolution was reached was that of the 18th of December 2017 and that he was not at some of the meetings which decisions leading to the terms of settlements were made. It therefore goes to show that the Defendant circumvented Exhibit D1 by agreeing to forfeit his entitlement as the Defendant has failed to prove that the Claimant failed to protect the Defendants interest, instead, from the totality of the evidence before me, the contrary is the case as the Claimant from inception of the case between the Defendant and his employers had protected the interest of the Defendant at all times and dutifully carried out the instructions of the Defendant. It is therefore my view, that the act of the Defendant amount to a breach of Exhibit D1 as the defendant had deliberately brought about the supervening event that is, intentionally forfeiting his entitlement by his own choice. See the case of *AFOLABI v. GOV OF OYO STATE & ORS* (2016) LPELR-41945(CA), Per DONGBAN-MENSEM, J.C.A in (Pp. 16-17 paras. E) held thus

*"The principle guiding contract was clearly propounded in the case of Obajimi v. Adediji (2008) 3 NWLR pp 16-17 para N B. A breach of contract is committed when a*

*party to the contract without lawful excuse fails, neglects or refuses to perform an obligation he undertook in the contract or either performs the obligation defectively or incapacitates himself from performing the contract....."*

Going by the above, it is therefore my considered view that the action of the Defendant breached the contingency agreement between the parties, and I so hold.

With respect to the second poser, which is, can the Claimant be estopped from claiming from Exhibit D1, having signed the terms of settlement in Exhibit K4. The Defendant's Counsel is contending that the Claimant having intentionally signed Exhibit K4 is thereby estopped from making claims where none currently exist. I am surprised at this line of argument of defence counsel. What would have been expected of the Claimant, to abandon his client, when the Rules of Professional Conduct 2007 in Rule 14 (C), provides that a lawyer owes entire devotion, energy and expertise to the service of his client and subject to any rule of law, to act in a manner consistent with the best interest of the client? It is instructive to note that the main parties to terms of settlement are the parties to the suit. Indeed, the settlement reached were solely between the Defendant and his employer. In the case before the National Industrial Court, the Defendant had gone ahead to sign the terms of settlement, on his own, without consulting with the Claimant. From the content of Exhibits K4, the Defendant signed the terms of settlement for himself and the Claimant, also signed. The terms were not entered into by the Claimant on behalf of the Defendant, but Defendant signed for himself, and it is common practice that counsel, who had been trying the case append their signatures underneath those of the parties. The Court in DANA IMPEX LTD V. AWUKEEM (2006) 3 NWLR (PT.9680 544 at 556 defined consent judgment as a judgement, the

provision, and terms of which are settled and agreed to by the parties to the action. It is a kind of judgement with the dictates of the parties and the parties as stated in the Exhibit K4 is the Defendant (as Claimant before the National Industrial Court), and the Civil Service and Office of the Accountant General as Defendants.

The role of Counsel is countersigning in my view, and to show the voluntariness of respective parties agreeing to the terms stated during the settlement agreement and nothing more, hence, the Claimant signing the terms does not in any way amount to estoppel as contended by the defense Counsel and I so hold. Consequently, it is my view that the Claimant has successfully proved his entitlement to the first relief.

The Claimant in relief two is seeking for a declaration that the Claimant has rendered legal services to the Defendant and earned his professional fees as demanded in the particulars of the bill of charges. In this case, there is no need to flog issues as from the exhibits and the pleadings before this Court, the Claimant rendered legal services to the Defendant since 2013 up until the conclusion of the case in the National Industrial Court. The Defendant under cross examination admitted that it was due to the Claimant's representation of Defendant both in and outside the courtroom, the Defendant was reinstated into the civil service since the 16th of October 2018 and that he was accorded double promotion. By Rule 48 of the Rules of Professional Conduct for Legal Practitioners 2007, a lawyer is entitled to be paid adequate remuneration for his service to the client.

It will be pertinent at this point to comment on the argument of the defence Counsel where Counsel contended that by Rule 51 of the Rules of Professional Conduct 2007, a Claimant is not permitted to enter into Exhibit D1 that is, the contingency agreement. The submission of Counsel is grossly misconceived to say the least. I am shocked at this line of argument as the Exhibit D1 is clearly described as Contingency Fee/Compensation

Agreement and by Rule 50, a lawyer may enter into a contract with clients for contingency fee.

A legal practitioner has the right to be paid for their professional services rendered to their clients as it is common practice that a lawyer may either receive their payment in advance upon named fees or rely on an agreement such as that made between parties in Exhibit D1, regarding fees to be paid which agreement this court has held the defendant breached. A lawyer has the right to be properly compensated for his work, expertise, and time, which is a fundamental principle of the legal profession. Where a client, in this case, the Defendant has engaged the Claimant's professional services, there is a contractual agreement with an obligation to pay fees for the services provided. Moreover, the agreement in Exhibit D1 provided for same by the use of the word including but not limited to the entitlements and arrears of salaries. In my view the use of that phrase "including but not limited to" allows for a broader interpretation of how payment is to be made to the Claimant by covering other means not listed in the agreement. The Claimant in my view, having represented the Defendant since 2013 to his reinstatement in 2018, is entitled to submit his bill of charges to the Defendant and should be paid for services rendered and I so hold.

The Claimant in relief three is seeking for an order mandating the Defendant to pay the Claimant the sum of Two Million Naira (N2,000,000.00) only being professional fees/bill of charges for legal representation of the Defendant from year 2013 to year 2018. With respect to this issue, the Defendant's Counsel is contending that the Claimant failed to comply with Section 16 (3) (C) of the Legal Practitioner's Act and that the sum of N500,000.00 offered to the Claimant is fair compensation. Again, the argument of the Defendant's Counsel in his reply on points of law is entirely misapprehended and patently misread as the entirety of Section 16 serves as a guide of how the legal practitioner is to recover his charges by an

action in Court. Section 16 (3)(C) of the Legal Practitioners' Act is in relation to the period as stated in subsection 16 (2) B, as it deals with the time after the bill has been submitted to the client and not with respect to the act done prior to when the bill was issued. In my view, the claimant having satisfied the pertinent conditions of

- A. preparing a bill of charges which duly particularized the principal items of his claim.
- B. serve the Defendant with the bill, and
- C. allowed a period of one month to elapse from the date the bill was served.

The Claimant who has put in so much time, energy, expertise since 2013 till the success of the Claimant's case is therefore entitled to this relief and I so hold.

The Claimant is also claiming for 10% interest on the judgment sum and 15% from date of judgment till liquidation. As regards the 10% interest on judgment sum, before a party can claim prejudgment interest as of right, he has to plead not only his entitlement to such interests, but the basis of the entitlement and from the pleaded facts in the statement of claim before this Court, nowhere was it pleaded by the Claimant with specific facts his entitlement to the interest as claimed in this case. The Court in *AMS LOGISTICS LTD & ANOR v. INFINITY TYRES LTD (2022) LPELR-56846(CA)* Per MOHAMMED, J.C.A in (Pp. 17 paras. A) held thus *"It is settled law that except where parties have agreed on payment of interest, it is not right to award interest pre-dating the date of judgment....."*

Consequent from the above, this court will not award prejudgment interest on the judgment sum.

The Claimant is also claiming for 15% post judgment interest. With respect to post judgment interest, the Supreme court in *BRONWEN ENERGY*

TRADING LTD. V. OAN OVERSEAS AGENCY (NIG) LTD & ORS Per PETER-ODILI,J.S.C in (Pp. 36-38 paras. E) held

*"It is not a matter for endless discourse as it is well settled that after winning a judgment, payment may be delayed by the judgment debtor.*

*For this reason, the Courts are empowered to make such discretionary orders as to preserve the benefit of the judgment until such time as it is complied with. No doubt, one of such processes is the Post-judgment award of interest which serves to compensate the successful party for the loss of use of money from the period of the Court's judgment until the time the judgment is actually paid, including the period during which appeals are pending. Post-judgment interest compensates the successful party for the delay in receiving the judgment owed. This is clearly in exercise of its discretionary powers to order interest in respect of a judgment in favour of a party.....*

“

Going by the above, and by the FCT High Court Civil Procedure Rules 2018, which empowers this Court to grant post judgment interest of not less than 10% in Order 39 Rule 4, this relief therefore succeeds, and I so hold.

With respect to the issue of cost, the law remains that a successful litigant is ordinarily entitled as of right to the award of cost. Having succeeded in proving his case, the Claimant is hereby awarded cost.

On the whole, I therefore hold that the Claimant has successfully proved his case and judgment is hereby entered in favour of the Claimant as follows:

1. I hereby declare that the Defendant having chosen to forfeit his arrears of salaries in suit No.: NICN/ABJ/214/2016-OGUCHE SUNDAY JOSEPH Vs. (1) FEDERAL CIVIL SERVICE COMMISSION & (2)

OFFICE OF THE ACCOUNTANT-GENERAL OF THE FEDERATION  
against the Claimant's professional advice, breached the contract in  
the Compensation agreements between the Claimant and the  
Defendant.

2. I hereby declare that the Claimant has rendered legal services to the  
defendant and earned his professional fees as demanded in  
theparticulars of the bill of charges.
3. That theDefendant is hereby mandated to paytheClaimantthe  
sumofTwo Million Naira (N2,000,000.00) only being professional  
fees/bill ofcharges for legal representation of the defendant from  
year 2013 to year 2018.
4. That the Defendant shall pay 15% interest from the date of judgment  
untilfinal liquidation of the judgment sum.
5. That the Defendant shall pay the sum of Five HundredThousand  
Naira (N500,000.00) only being the cost of prosecuting this case.

**Parties:**Present

**Appearances:**OmeizaZaccheausEsq.appearing in person. O. C. Adama  
appearing for the Defendant.

**HON. JUSTICE MODUPE R. OSHO-ADEBIYI**  
**JUDGE**  
**24<sup>TH</sup>MAY 2023**