



IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
ON WEDNESDAY, 8TH JUNE, 2023
BEFORE HON.JUSTICE NJIDEKA K. NWOSU-IHEME

SUIT NO: CV/2161/2023

BETWEEN

SIR IFEANYI EJIOFOR

CLAIMANT

AND

MR. EMEKA UGWUONYE

DEFENDANT

JUDGEMENT

The claimant commenced this action vide a writ of summons filed on 21/2/22. The pleadings in this case are: [i] the statement of claim filed on 21/2/22; the claimant claims the following reliefs against the defendant:

1. A DECLARATION that the publications variously made by the defendant concerning the claimant, on the 5th, 6th, 7th, 8th, 9th, 10th and 12th of February, 2022, the particulars of which are contained in the Statement of Claim are defamatory of the claimant.
2. AN ORDER of the Honourable court directing the defendant to FORTHWITH publish a full retraction of the utterly libelous publications and an unqualified apology to the claimant in at least three national newspapers with nationwide circulation, including Punch, Daily Times and Premium Times.
3. AN ORDER of the Honourable court directing the defendant to FORTHWITH publish a written undertaking not to publish any similar or further libel of and concerning the claimant.

4. A PERPETUAL ORDER OF INJUNCTION restraining the defendant, his agents, associates, privies and/or proxies howsoever called, from publishing any similar or further libel of and concerning the claimant.
5. The sum of (Five Billion Naira Only) as general and exemplary damages.
6. The sum of (N100,000,000.00) (Hundred Million Naira Only) being the cost of this action.

The defendant did not appear in court throughout trial but had filed a motion on Notice to extend time to file a memorandum of conditional appearance, preliminary objection and other processes out of time on 29th November, 2022.

In law, a motion not moved is deemed abandoned the defendants lawyer Samuel Momoh was in court on 3rd November, 2022 and this court granted an adjournment to enable the party put his house in order. Assuming but not conceding I am wrong let me lean backwards to look at the preliminary objection. I have gone through the application in line with law and facts before the court. The basis of the objection is that;

1. The address for service as shown on the process is illusory, fictitious or misleading
2. The writ of summons or originating process was not issued and signed by a person known to law
3. This court lacks the requisite jurisdiction to hear and determine the instant suit as presently constituted

The claimant opposed the application by filing a 26 Paragraph counter affidavit on 18/11/2022.

I have considered the basis for the objection which is that the writ of summons was addressed as **GUDU, ABUJA** and the law requires that a proper address for service be put on the originating process relying on **Order 4 rule 8 of the High Court of the Federal Capital Territory Civil Procedure Rules, 2018 (the Rules)**.

I have considered the rules but I have also considered paragraph 5 of the affidavit in support of the objection wherein the defendant deposed thus;

“That I recall earlier in 2022, while I was attending a trial at FCT High court, Gudu, a man approached me and showed me a document purporting to be an originating process of the court. But on the first page of that document, I observed that NO ADDRESS was stated for the defendant, and I did not bother to read the bulky document to try to confirm that it was my

own EmekaUgwuonye that was intended. I simply told the man that the document was INCOMPETENT as an originating process and that they should correct it."

The above reproduced paragraph captures one of the basis for this objection.

However, I cannot but agree with the claimant counsel who relied on the case of **STIRLING CIVIL ENGINEERING V NWOSU (2007) LPELR-8162(CA)** that failure to put the address does not render the process a nullity; it is an irregularity that does not go to the root of the case. The court of appeal in the aforementioned case Per BULKACHUWA, J.C.A in (Pp. 32-35 paras. C) Held;

"Failure to give a defendant's address in a writ of summons cannot in all cases render the writ void where there is evidence that the defendant was served at an address within the Court's jurisdiction. In such an instance the Court will be competent to adjudicate over the matter and the failure to insert the defendant's address in the writ will be regarded as an irregularity which does not have the effect of rendering the writ a nullity"

I find that the objection on this leg lacks merit and is dismissed.

On the 2nd leg of the objection, counsel argued that it is evidently clear that the counsel who issued and signed the originating process is different from the counsel who issued and signed the said process is different from the counsel whose stamp and seal is affixed. The name **CHINWE UMECHE ESQ** was used in filing the writ of summons as opposed to **CHINWENDU CORDELIA UMECHE** as seen on the writ of summons which means the process was filed by a person who issued and signed the originating process is not on the roll as required by section 2(1) of the Legal Practitioners Act (LPA) and not a legal practitioner making the process defective and a nullity.

Counsel to the claimant argued that the law allows for shortening or abbreviation of names and CHINWE UMECHE Esq is the same person who endorsed the originating process and whose full name appeared on the seal as CHINWENDU CORDELIA UMECHE.

In the apex decision of **DANKWAMBO v. ABUBAKAR & ORS (2015) LPELR-25716(SC) (Pp. 18-22 paras. D)** The court held that it would be stretching the interpretation of section 2(1) and 24 of the legal Practitioners Act to require that processes signed in the abbreviated name and proceedings conducted with such abbreviated name are invalid. The requirement of the law is that only a person whose name is on the roll is entitled to practice as a barrister and solicitor before the courts

in Nigeria. The law thus allows shortening of abbreviation of names and the person who filed the process is the same as the person on the seal and I so hold.

I find that the objection in its entirety lacks merit and is dismissed.

At the trial, Chief OkennaAgueche, Managing Director/CEO of FOTRESS PROJECTS LTD, testified as PW1. He adopted his statement on oath filed on 21/2/2022. PW1 tendered Exhibit P1.

Maxwell Okpara a legal practitioner and member of Bwari Branch of the Nigerian Bar Association gave evidence as PW2. He adopted his statement on oath filed on 21/2/2022.

Chief Sir Ifeanyi Ejiofor the claimant in this suit testified as PW3. He adopted his statement on oath filed on 21/2/2022. PW3 tendered Exhibits P2, P3, P4, P5 & P6.

Evidence of PW1 –CHIEF OKENNA AGUNECHE:

PW1 stated that he is a friend to the claimant and the claimant is his personal/company lawyer and they both belong to the Men's Fellowship of the church. The claimant has handled several matters for his company and he executed his brief professionally and creditably. That between the 5th and 9th days of February, 2022, on the various whatsapp platforms they both belong to, some highly defamatory publications were made by the defendant against the claimant.

That he has known and related with the claimant for several years as an upright and forthright man and was rudely shocked by the defendant's accusations against him. That following the said publications by the defendant which were widely circulated over the internet and across the globe, he received several calls from relatives, friends and well-wishers who had also read the publications, and who know the relationship that exists between the claimant and himself. They expressed their concerns and reservations in light of the allegations contained in the defendant's publications, particularly as it affects his interests since the claimant is also his lawyer.

The malicious publications falsely depicted the claimant as a deceptive, fraudulent, dishonest and treacherous legal practitioner and human being, not fit to be trusted or related with and the defendant's malicious and baseless defamatory publications have exposed the claimant to hatred, humiliation, contempt, opprobrium, ridicule, odium, obloquy and trauma, as the claimant is now perceived by the public, including some of their friends, associates, and church members, as untrustworthy, corrupt and unscrupulous. The publications made by the defendant have made some of their mutual friends and associates to wittingly or unwittingly become wary of and

circumspect in their dealings with the claimant.

PW1 tendered the following document:

1. Screenshots Printouts of the publications admitted as Exhibit P1.

Defendant did not appear in court for cross-examination of PW1 neither was he represented despite proof of service of hearing notice on him, thus defendant was foreclosed from cross-examination of PW1 on 8/12/2022.

Evidence of PW2 – MAXWELL OKPARA:

The evidence of PW2 is that he is one of the Counsel to MaziNnamdiKanu and the Indigenous People of Biafra (IPOB) and the claimant is a well-known Legal Practitioner of international repute and the Lead Counsel to MaziNnamdiKanu and the Indigenous People of Biafra(IPOB). The claimant is also his friend of many years.He knows the defendant in this suit because sometime in 2017, he made attempts to join MaziNnamdiKanu's legal team, which attempts were rebuffed by the latter.

That on the 6th day of February, 2022, he received calls and messages from both professional colleagues, clients, friends and associates, who were privy to his relationship with the claimant calling his attention to various defamatory and libelous publications made of and concerning the claimant by the defendant. The said defamatory publications which originated from the defendant were widely shared over the internet, as he saw and read same on various social media platforms.

The publications took him aback because he knows the claimant as a man of great integrity and character. He is aware that the claimant wrote to the defendant demanding an immediate retraction of the false and defamatory publications, rather than comply with the demand, the defendant persevered in his obvious mischief that the publications variously made by the defendant of and concerning the claimant on the 5th, 6th, 7th, 8th, 9th, 10th and 12th February, 2022, portrayed claimant as a deceptive, fraudulent, dishonest and treacherous legal practitioner, which is antithetical to everything he knows about the claimant.

The defendant's malicious and baseless defamatory publications have exposed the claimant to hatred, humiliation, contempt, opprobrium, ridicule, odium, obloquy and psychological trauma, as the claimant is now perceived by the public, including some of their colleagues, friends and associates, and some members of the Indigenous People of Biafra, whom they represent, as an untrustworthy, corrupt and unscrupulous lawyer.

Defendant did not appear in court for cross-examination of PW2 neither was he represented despite proof of service of hearing notice on him, thus defendant was foreclosed from cross-examination of PW2 on 14/2/2023.

Evidence of PW3 – CHIEF SIR IFEANYI EJIOFOR ESQ:

PW3 testified that he is a successful legal practitioner with over 18 years post-call experience and a member of the Abuja Branch of the Nigerian Bar Association and is in active practice. He is the Lead Counsel to MaziNnamdiKanu- the Leader of the Indigenous People of Biafra (IPOB) and the Lead Counsel to the Indigenous People of Biafra (IPOB).

PW3 knew about the defendant sometime in 2017 when the latter visited MaziNnamdiKanu at Kuje Correctional Facility and offered to join his legal team. PW3 was instructed to conduct due diligence on the defendant which raised some fraudulent claims against the defendant thus they came to conclusion that he was not suitable to join the legal team. That the defendant, however, subsequently appeared in court in solidarity with NnamdiKanu, alongside several other Igbo lawyers, on the 25th day of April, 2017, when MaziNnamdiKanu was granted bail and after MaziNnamdiKanu was granted bail, the defendant made various publications wherein he claimed that he was instrumental to the release of MaziNnamdiKanu. Based on MaziNnamdiKanu's resolve in 2017 that defendant would not be part of his legal team, the latter commenced a sustained campaign of injurious calumny against MaziNnamdiKanu and PW3.

That his path crossed again with the defendant in December, 2018, when his services were retained by one Mr. David Aiyedogbon, to act as a consultant in the criminal case involving the gruesome murder of his wife, Charity Aiyedogbon, in 2016, the Police investigation revealed that the defendant was in active communication with the primary suspect in the alleged crime and actively aided him to escape the shores of the country. That consequent upon the arrest of the fleeing suspect in 2018, the defendant, with two other suspects, were charged before the High Court of the Federal Capital Territory in Charge No. CR/20/18, for the offences of conspiracy to commit murder and murder, the charges aforesaid are still pending.

That the defendant has, since 2017 when MaziNnamdiKanu declined his offer to join his legal team, held a grudge against the claimant because he believed that he was the one that blocked his chances of joining the team and being engaged by Mr. David Aiyedogbon to act as his consultant in the criminal trial against the defendant.

That from 2017 till date, the defendant has consistently made various false, malicious

and libelous publications against him.

That on the 6th day of February, 2022, he received several calls and messages from friends, family members, colleagues, clients and supporters, home and abroad, due to some false and defamatory publications made of and concerning him by the defendant, and the publications were being widely circulated via the internet and social media, and across the globe. The defamatory materials were widely published and circulated to third parties on the internet space on the 5th day of February, 2022, and continued till the 8th February, 2022. The false and defamatory publications were also shared on various social media platforms he belongs to, including whatsapp.

The publications by the defendant are false in every material respect, malicious and subversive in content, and highly defamatory of his person. By the publications, the defendant clearly had the objective of falsely exposing him to third parties as deceptive, fraudulent, dishonest and treacherous lawyer, and to set the stage for an immediate, direct and frontal collision with his client, MaziNnamdiKanu, and other members of IPOB. By the publications, the defendant not only intended to destroy his legal career, personality and esteem but expose him as an unfit lawyer to be trusted in the defence of his client. Further, the defamatory words complained of in the publications pleaded above have the tendency of lowering his person in the estimation of right thinking members of the public, exposing him to odium and public contempt, and causing the said right thinking members of the public to shun and avoid him.

That on the 8th day of February, 2022, claimant's solicitors wrote to the defendant demanding an immediate retraction of the libelous publications, amongst other demands contained in the said letter but rather than retract the defamatory publications complained of, the defendant proceeded and persevered in publishing more defamatory and injurious materials.

The defamatory publications are utterly and inherently false in every material particular and the defendant knows or ought to know them to be so. However, the defendant deliberately, mischievously and maliciously contrived and masterminded the publication of the libelous materials, in an attempt to besmirch, denigrate, ridicule, and defame him and expose him to hatred, contempt and opprobrium.

PW3 tendered the following documents:

1. Certified True Copy of the Direction of the Legal Practitioners Disciplinary Committee, delivered on Monday, the 22nd day of May, 2017 admitted as Exhibit P2.
2. Reply from the Supreme Court of Nigeria, dated the 14th of May, 2019 admitted as Exhibit P3.

3. Printouts of the defamatory publications, which were published by the defendant on the 5th, 6th, 7th, 8th, 9th, 10th and 12th February, 2022 admitted as Exhibit P4.
4. Solicitor's letter to the defendant dated 8th day of February, 2022 admitted as Exhibit P5.

Defendant did not appear in court for cross-examination of PW3 neither was he represented despite proof of service of hearing notice on him, thus defendant was foreclosed from cross-examination of PW3 on 14/3/2023.

Issue for Determination:

At the end of trial, ChinweUmeche Esq. filed the final address of the claimant on 17/3/2023. On 3/4/2023, the learned counsel for the claimant adopted the final address.

The sole issue for determination as formulated by the claimant counsel is;

"Whether the Claimant has proved his case against the Defendant to be entitled to the reliefs sought".

Based on the evidence adduced by the claimant and the submission of the learned counsel, the Court is of the considered opinion that the sole issue determination in this matter is the issue as formulated by the claimant counsel.

Submissions of Learned Counsel for the claimant:

Counsel stated that the claimant's main claim against the defendant is the defamatory publications made by the defendant. The said defamatory publications by the defendant were totally false, calculated to hold the claimant in hatred, contempt, and ridicule and tending to lower the claimant in the estimation of right-thinking members of the society generally. The claimant pleaded the defamatory publications in paragraphs 23(i), (ii), (iii), (iv) & (v) and 26 of the Statement of Claim.

In proving the defamatory publications, PW1 tendered Whatsapp Screenshots of the shared publications, which was admitted in evidence as Exhibit P1. PW3 on his part tendered in evidence the defamatory publications of 5th, 6th, 7th, 8th, 9th, 10th and 12th of the defendant through his facebook accounts/pages Exhibits P3 and P4.

It is the evidence of the claimant that he wrote letter (Exhibit P5) dated 8/2/2022 to the defendant to retract the defamatory publications but the defendant rather than retract the posts, intensified the publications.

Counsel argued that the law is that publication is the foundation of an action in defamation. To found an action in defamation, there must be publication to person(s) other than the person defamed. Relying on **ILOABACHIE V PHILLIPS (2000)14 NWLR (PT. 686)199.**

Counsel submitted that the publications made by the defendant are contained in Exhibits P3 & P4 and not only did the defendant make the defamatory publications against the claimant as shown in Exhibits P3 and P4, and the said publications are also false in every material respect, which explains the reason the defendant could not file any defence to same relying on **EKONG V. OTOP & ORS (2014) LPELR-23022(SC) Per RHODES-VIVOUR, J.S.C (Pp. 33-34 paras. F).** If the statement or publication is found to be false, malice is automatically inferred, damages follow, and the hearing of the case comes to an end relying on **OLOGE & ORS V. NEW AFRICA HOLDINGS LTD (2013) LPELR-20181(SC) Per NGWUTA, J.S.C (Pp. 19 paras. A)**Counsel listed the ingredients of defamation and submitted that the claimant has proved the 6 ingredients of defamation against the defendant. There are defamatory publications, the publications were made against the claimant by the defendant, and the publications were made to the entire world; the publications are untrue and there are no justifiable grounds whatsoever for the offending publications.

Counsel submitted that failure of the defendant to cross-examine the 3 witnesses of the claimant amounts to acceptance of the evidence of the claimant's witnesses referring to **IWUNZE v. F.R.N. (2013)1 NWLR (PT. 1334)119 at 170, paras. C-G.**

Umeche Esq. submitted that failure on the part of the defendant to cross examine the claimant's witnesses and to file a Statement of Defence to challenge the averments in the Statement of Claim is deemed to have admitted the assertion and the court may enter judgment against the defendant. Referring to **EMODI v. EMODI (2015)2 NWLR (PT. 1443)323, at 327-328, para 2.**Counsel referred the court to the case of **F.B.N. PLC V. ABOKO (2007)1 NWLR (PT. 1014)129, at 150, paras. D-E** in assessing damages in Defamation cases.

In conclusion, court was urged to act upon the unbroken thread of judicial authorities that a Court is bound to believe and act upon evidence not contradicted or controverted referring to **UNITED BANK FOR AFRICA PLC v. MRS LABAKE LAWAL & ANO R (2021) LPELR-56286(CA).**

Decision of the Court:

In **AYENI V. ADESINA (2007) LPELR-4932(CA) (PP. 15 PARAS. D);** "the word

defamation is defined as "a statement which if published of and concerning a person, is calculated to lower him 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."

The tort of defamation is either libel or slander, the difference being that the former is written while the latter is spoken. See **GUARDIAN NEWSPAPERS LTD & ANOR V. AJEH (2011) LPELR-1343(SC) (P. 5, para. C).**

The claimant's case sounds in the tort of libel. Libel is defined "... as a method of defamation expressed by print, writing, pictures or signs; any publication that is injurious to the reputation of another, a false and unprivileged publication in writing of a defamatory material; a malicious written or printed publication which tends to blacken a person's reputation or to expose him to public hatred or ridicule, contempt or to injure him in his business or profession - **Corabi v. Curtis Publication Co. 441 pa. 432, 273 A. 2d 899, 904. See: Black's Law Dictionary Sixth Edition page 915.**" Per **FABIYI GUARDIAN NEWSPAPERS LTD & ANOR V. AJEH (supra) (Pp. 37-38 paras. F)**

Let me reproduce the said offensive publications upon which this action is founded;

The claimant pleaded in paragraphs 23(i), (ii), (iii), (iv) & (v) and 26 of the Statement of Claim of the said defamatory publications as follows;

23. The Claimant states that the false, malicious and defamatory publications referred to in paragraphs 20 and 21 hereof are as follows, namely,

- i. **On the 5th February, 2022 in a statement titled "WHY THE BIGGEST PROBLEM NNAMDI KANU AND IPOB HAVE HAD WAS THE LAWYER THEY USED the Defendant stated as follows:**

"The evidence is damning. And without intending to preempt the outcome, there is 90% chance that Ejiofor would be convicted. With this case and the evidence the state has, Barrister Ejiofor has all along been a tool in the hand of the Nigerian Government. He has been at the mercy of the government. He would do anything to stay out of prison. And he has been doing his best to please the government, but his clients were not aware."

Normally, when a lawyer is facing serious criminal trial and he knows there is strong evidence against him, he must inform his clients and give them the opportunity to evaluate whether they would use him despite his

pending criminal trial. But Ejiofor did not explain his legal jeopardy to NnamdiKanu. He did not let him know that he was at the mercy of the government. And the government also kept quiet about it because they liked to use Ejiofor as a tool.

Now that NnamdiKanu and his family have been able to side-track Ejiofor, the Government knows that Ejiofor has no further value in helping them deal with NnamdiKanu. Hence the case is going forward with trial. Ejiofor was in court for his trial on Thursday 3rd February. Trial will continue on 30th March 2022. Ejiofor has been desperately asking for a plea bargain. He wants to plead to a lesser offense that will avoid long jail time for him."

"Now, do you understand the implication: that all along, the lawyer NnamdiKanu has used was one that was at the mercy of the Government of Nigeria? Despite all the statements Ejiofor was making in the press the fact was that he was at the mercy of the Government and could be working for them. You don't have to be a lawyer to know that Barrister Ejiofor was not to have remained NnamdiKanu's lawyer when he was begging the Nigerian Government for a plea bargain."

- ii. On the 6th February 2022 in a statement titled: CHARGES AGAINST IFEANYI EJIOFOR HAVE NOTHING TO DO WITH HIS BEING NNAMDI KANU'S LAWYER the Defendant stated as follows:**

"In fact, Ejiofor was already charged for these offenses before NnamdiKanu ever thought of forming IPOB."

"What Ejiofor has been doing since 2016 was to try to use NnamdiKanu and IPOB to save his own neck. The case of NnamdiKanu gave him something he could offer the Nigerian Government as an exchange for the EFCC to drop the case against him. In the morning Ejiofor would be talking tough to the press to impress Umuchineke, but in the evening, he will be kneeling down and begging the EFCC and Malami for them not to put him, Ejiofor, in prison. All along, Malami was laughing because he knew he had NnamdiKanu's lawyer in his pocket. What a joke! When your own Biafran lawyer is in a position to betray you and sell you to the enemy, what kind of Biafra do you expect to have?"

"Did you notice how Ejiofor walked out on the court during Nnamdi's trial? What do you think he was doing? He knew that walking out on the court would delay the trial or 90 days before the next hearing. That was on purpose. Ejiofor was just pleasing Malami. That was what they told him to

do that day. This case against Ejiofor will help you understand how poor and inconsequential Ejiofor was before NnamdiKanu and IPOB case made him rich. He was so poor and miserable that the cheque he tried to use to refund his client bounced. It was after the cheque bounced and the client had no means of recovering his money that he had to go to the EFCC. After all, Ejiofor has been good to the Government. He cooperated with them and they have NnamdiKanu. So, in a way, Ejiofor has done his part."

iii. On the same 6th February, 2022, in a statement titled: ONLY ATTORNEY GENERAL MALAMI CAN SAVE IFEANYI EJIOFOR the Defendant stated as follows:

"The evidence against Ifeanyi Ejiofor is very strong, actually water tight. The EFCC carried out an excellent investigation. His conviction is almost a foregone conclusion. The land documents Ejiofor allegedly forged are there for you to see. The power of Attorney, the Deed of Assignment, and other documents he allegedly forged are all there. He couldn't deny them. In fact, Ejiofor, in his statement to the EFCC, admitted all that.

"The offense Ejiofor is accused of committing is that he stole the land of a Yoruba man and sold it to an Igbo man and collected ₦5.6 million from the Onyeigbo (his fellow Biafran). He then started forging documents and giving them to the onyeigbo. He believed the onyeigbo was only a trader who would not read the documents he gave him. The onyeigbo took the documents to the land authorities trying to apply for C of O. That was when they told him that all the documents Ejiofor gave him were forged.

The Onyeigbo went back to Ejiofor. After initially denying, Ejiofor inally(sic) admitted that all those documents were forged. The Onyigbo said: okay, give me back my money and let me return to the land of rising sun, and I will not make trouble for you. Ejiofor signed a cheque for the man. The man went to the bank to cash the cheque, bank told him that there was no money in Ejiofors(sic) account, the Onyeigbo went back to Ejiofor begging him to give him back his money. Ejiofor started playing the man, The man got tired and went to the EFCC, Ejiofor went on his knees and began to cry and beg for mercy and forgiveness. "

iv. On the 7th February. 2022, in a statement titled: BARRISTER IFEANYI EJIOFOR'S FALSE DENIAL OF HIS FRAUD CASE MERELY SHOWS THE REAL PREDICAMENT HE FACES the Defendant stated as follows:

"if this case had settled why did he go to court on 3rd February and stood in

the dock? Why will he be standing in the dock again on 30th March, 2022? What surprised Ejiofor was that the Government did not drop these charges. That was his hope. He had hoped that if he helped the Government with NnamdiKanu, the Government would drop the charges as his reward. He was very surprised when the Government did not drop the case and did not offer him the plea bargain he had expected. He was shocked that the case was still on."

In Ejiofor's case, the story has to do with what he did with an Igbo businessman in 2008, how he forged land documents and issued bounced cheques and refused to refund the man his money.

"Ejiofor's prayer and hope is that the Government would drop the case as he was promised, and the case would go away. But what Ejiofor does not know is that it is too late. He goes about telling his friends that the case has been settled. How could a criminal case be settled in such a manner? If the case is dropped in the future, people will want to know why it was dropped. Was it dropped as a result of his deal with the government? What deal? What did he do for the government that caused them to drop the case."

- v. On the 8th February, 2022, in a statement titled: BARRISTER IFEANYI EJIOFOR IS UNFIT TO REMAIN A LAWYER TO NNAMDI KANU: HE MUST WITHDRAW IMMEDIATELY OR BE FIRED, you stated as follows:**

'As of 2016 when NnamdiKanu engaged Barrister Ifeanyi Ejiofor as his lawyer Ejiofor was facing serious investigation for fraud and forgery by the EFCC, it was a serious investigation because the EFCC had two copies of document Ejiofor presumably admitted that he forged. That meant that during investigation. Ejiofor knew that he would most likely be convicted and prosecuted.

(2) Also in the same 2016. the EFCC indicted Ejiofor on 5 counts of fraud, issuance of dud cheque tendering of forged documents. Ejiofor understood that with the nature of evidence at the disposal of the EFCC he was not in a position to challenge Nigerian Government in a thing unless it is a planned game. Hence he could not take on the work of a defense counsel in a case as political and as sensitive as one involving treason and terrorism charges. He should have declined to represent NnamdiKanu when asked to do so. Instead he went and offered his services to NnamdiKanu despite the obvious limitations he had.

(3) By virtue of the multiple-charge criminal indictment Ejiofor faced conflict of interest: His duty to fight and save NnamdiKanu was in direct conflict with his desire to placate and appease Nigerian Government in order to avoid going to prison or to get a favorable plea bargain deal.

(4) At the very least, Ejiofor ought to have disclosed his legal jeopardy to NnamdiKanu and to fully advise him on the implications of using him Ejiofor for his defense. But Ejiofor did not inform Kanu and did not advise him. Indeed, Ejiofor actively concealed this important fact from Kanu.

(5) Once Ejiofor chose to conceal the truth from Kanu, he also had to do several Other things to maintain that concealment. For instance, Ejiofor had to try to block any competent lawyer whom he feared was in a position to help NnamdiKanu. Ejiofor turned the case into a turf war and as an instrument of aggrandizement and power show. And with the power he thought he acquired from being the lawyer for NnamdiKanu, he chose to engage in needless and counterproductive conflicts that tended to hurt his client. For instance, he engaged in personal conflict with Chief EmekaOffor, his towns man. Second he assisted the Abuja police command in framing Barrister EmekaUgwuonye for murder and armed robbery because he feared that EmekaUgwuonye might accept to assist NnamdiKanu in his case. Recently, he needlessly attacked Senator Orji UzorKalu simply because he (Ejiofor) felt offended because the Senator did not wait for him (Ejiofor) to arrive at prescheduled meeting with NnamdiKanu before proceeding with the meeting. (He was late for the meeting, but he assumed that Senator Kalu would wait for him to arrive before proceeding to meet with NnamdiKanu. The Senator had a tight schedule and was not prepared to wait two hours for Ejiofor to drive for a meeting that was schedule ahead. In each case Ejiofor forgot who his client was he assume that he was representing himself.

(6) Given the nature of the details of the indictment against Ejiofor it is highly detrimental to NnamdiKanu and his cause for Ejiofor to remain is lawyer, According to the facts of the indictment Ejifor is alleged to have fraudulently attempted to sell the land of a Yoruba man to an igbo man and ended up defrauding the Igbo man (his own Biafran brother). That is: he forged the signature of a Yoruba man and deceived an Igbo man with it. The aggrieved Igbo man cannot support NnamdiKanu and his cause as long as Ejiofor remained NnamdiKanu's lawyer.

(7) The involvement of Ejiofor in Nnamdi's defense subjects NnamdiKanu and his Biafran cause to public ridicule. People who knew about the fact that Eiiiofor has been facing fraud charges have been referring to NnamdiKanu and IPOB as "Biafraud". Why? Obviously because when a person is represented by a lawyer facing serious fraud charges, such a person can be assumed to have willingly associated himself with a fraudulent person.

(8) It is now logical to assume that Ejiofor either has been working with the Nigerian Government against NnamdiKanu's interest in order to save his (Ejiofor's neck) and to avoid going to prison. Any mistake made by Ejiofor in the handling of Kanu's case can now be assumed to be a deliberate move to help the Government against Kanu. That makes it unsafe and unwise for Ejiofor to remain in the case.

(9) When you have a team of lawyers working together on the same case, it is expected that these lawyers will have respect and trust for one another.

However, with a situation where Ejiofor is answering and answerable to the Nigerian Government in a criminal trial, other lawyers in the NnamdiKanu's defense team cannot be comfortable with him, and they will not trust that their strategies and confidences will be safe.

(10) Finally, at a time when the whole world has been wondering how the Nigerian security forces managed to track NnamdiKanu to Kenya and successfully rendition him to Nigeria, it is very unsettling to realize that NnamdiKanu's lawyer has been someone that could have been under the control of the Nigerian authorities. It is inevitable that people may now wonder if Ejiofor had a hand in the renditioning of NnamdiKanu. After all, it would have been impossible for the Nigerian security forces to achieve that feat without the help of a knowledgeable insider.

For the above reasons and more Ejiofor should immediately withdraw from representation of NnamdiKanu. If not he should be fired immediately. It is now up to NnamdiKanu and IPOB to go further and ask Ejiofor to refund every money they paid him for legal representation. I am using this opportunity to call on Igbo lawyers to advise Ejiofor to withdraw from representation in this case. "

The constitutive elements or ingredients for establishing a claim in the tort of libel as in this case are as follows:

1. Publication of the offending words.
2. The words complained of refer to the claimant
3. The words are defamatory of the claimant
4. The words were published to a third party or third parties
5. The words are false or lack accuracy
6. There are no justifiable legal grounds for the publication of the words.

See SKETCH V AJAGBEMOKEFERI (1989) LPELR 3207 SC and CONCORD PRESS NIGERIA LTD & 2 ORS V PROFESSOR ADEREMI OLUTOLA 1999 9NWLR PART 620 PAGE 578 @ PAGES 597-598 PARAS G-A.

There is no argument from the evidence adduced that the **offending words were**

published and **the words complained of refer to the claimant.** Exhibit P1 tendered by PW1 shows that the offending words were published on whatsapp, while Exhibits P4 and P5 show that they were published on facebook. It is crystal clear that it refers to the claimant.

Exhibit P1;

“ONLY ATTORNEY GENERAL MALAMI CAN SAVE IFEANYI EJIOFOR”

Exhibit P4;

On the 5th February, 2022 in a statement titled "WHY THE BIGGEST PROBLEM NNAMDI KANU AND IPOB HAVE HAD WAS THE LAWYER THEY USED”

On the 6th February 2022 in a statement titled: CHARGES AGAINST IFEANYI EJIOFOR HAVE NOTHING TO DO WITH HIS BEING NNAMDI KANU'S LAWYER

On the same 6th February, 2022, in a statement titled: ONLY ATTORNEY GENERAL MALAMI CAN SAVE IFEANYI EJIOFOR

On the 7th February 2022, in a statement titled: BARRISTER IFEANYI EJIOFOR'S FALSE DENIAL OF HIS FRAUD CASE MERELY SHOWS THE REAL PREDICAMENT HE FACES

On the 8th February, 2022, in a statement titled: BARRISTER IFEANYI EJIOFOR IS UNFIT TO REMAIN A LAWYER TO NNAMDI KANU: HE MUST WITHDRAW IMMEDIATELY OR BE FIRED

I have earlier on in this judgement reproduced the content of each write up. PW1, PW2 AND PW3 gave evidence corroborating the above two ingredients and the exhibit P5 shows that defendant made the offensive publication himself. He published on his facebook page the following;

BARRISTER IFEANYI EJIOFOR IS REALLY SHAMELESS: MY RESPONSE TO HIS LETTER DEMANDING RETRACTION (By Emeka Ugwuonye, Esquire)

This evening, my staff called me to inform me that one Chinwe Omeche, the lady suspected to be Ejiofor's girlfriend, sent me a letter demanding retraction of my recent publications. I was expecting that the letter would point out anything that I wrote that was not the truth. Normally when you

demand retraction in such a circumstance, you will point out specific statement that I made that was not true. But unfortunately, the letter basically repeated my posts in their entirety and asked me to retract hem. What a blunder and incompetence! Well, I am not going to teach Omeche and Ejiofor the law. I will leave them to wallow in their blinding dumbness.

The above shows that the defendant did not deny making the publications. The claimant has to set forth in his pleading and rely on parts of the article or text of the publication complained of as being defamatory of him and it is left for the court to determine, if indeed they were out of context and whether or not they convey defamatory meanings.

In GANIYU V. OSHOAKPEMHE & ORS (2021) LPELR-53222(CA) (Pp. 121-128 paras. F)

"My lords, when in action a Claimant or a Counter - Claimant, as in the instant appeal, claims damages for Defamation, be it libel or slander, the law requires him to plead in his pleadings and prove by credible and cogent evidence the essential elements of the tort of Defamation, namely: That the words complained of are defamatory; That the words complained of referred to the Claimant; That the words complained of were published by the Defendant, and the resultant damages in case of slander except where it is actionable per se without proof of damages.

The law is trite that in defamation or libel cases **the reaction of a third party to the publication complained of**; it is not necessarily what he claimant holds himself to be but what a third party thinks of claimant as regards his reputation. See **STANDARD CHARTERED BANK NIG LTD V AMEH (PART 1852) 559 @ 598 & 603.**

The burden of proof lies on the claimant by virtue of **Section 133 of the Evidence Act, 2011** that is preponderance of evidence or balance of probability through a third party, not only himself. This case is unique because the publications were made on whatsapp and facebook P1, P4 & P5 circulated on-line to the whole world via the world wide web (www) when statements are published on-line, they become instantly or immediately available or accessible barring hitches, to the reading public online beyond borders, to the whole world.**Per BA'ABA,J.C.A in GTB PLC v. FADLALLAH (2009) LPELR-8355(CA) (Pp. 27 paras.B)**

"However, it is not necessary in all cases to prove that the libelous matter was actually brought to the notice of some 3rd party. If it is made a matter of reasonable inference that such was the fact, a prima facie case of publication would be

established. This is particularly so where book; magazine or Newspaper containing a libel is sold by the defendant. A libel in any of such documents is therefore prima facie evidence of publication by the Proprietor, Editor, Printer and Publisher, and any person who sells or distributes it."

PW1 and PW2 are also third parties who accessed the publication, based on the foregoing reasoning, conclusion and judicial authorities, it is my respectful view that the claimant does not have to necessarily prove that the words were published to third parties given the facts of this case, even so, as PW1 and PW2 are within the category of such third parties.

The next ingredient is **whether the words are defamatory of the claimant**.

I have read and reproduced the pleading of the offensive words and innuendo complained of and the meaning ascribed to it by the claimant as well as the view of the defendant from exhibit P5 that the publication was the truth.

The question of whether or not the words complained of are defamatory is a question of fact within the domain and sole prerogative of the judge to interpret. In doing so the judge or the court only ascribes the fair and natural meaning that would be given to the word by reasonable persons of ordinary intelligence. It is not necessary to go beyond the words themselves relied on by the claimant in this exercise. I have considered paragraphs 8, 10, 11 of the witness statement on oath of PW1 and paragraphs 5,6,7,8 of the witness statement on oath of PW2 and they constitute the adverse effect of the offending words in Exhibit P1 on them.

On whether the words are false or lack accuracy, the publication of 5th February informs the public that due to the criminal matter against claimant at the high court, the evidence is damning and claimant has 90 % chance of being convicted. Thus, Claimant is at the mercy of the government and will do anything to stay out of prison and is doing his best to please the government and his clients are not aware. The publication of 6th February is captured below;

"What Ejiofor has been doing since 2016 was to try to use NnamdiKanu and IPOB to save his own neck. The case of NnamdiKanu gave him something he could offer the Nigerian Government as an exchange for the EFCC to drop the case against him. In the morning Ejiofor would be talking tough to the press to impress Umuchineke, but in the evening, he will be kneeling down and begging the EFCC and Malami for them not to put him, Ejiofor, in prison. All along, Malami was laughing because he knew he had NnamdiKanu's lawyer in his pocket. What a joke! When your own Biafran lawyer is in a position to betray you and sell you to the enemy, what kind of

Biafra do you expect to have?"

"Did you notice how Ejiofor walked out on the court during Nnamdi's trial? What do you think he was doing? He knew that walking out on the court would delay the trial or 90 days before the next hearing. That was on purpose. Ejiofor was just pleasing Malami. That was what they told him to do that day. This case against Ejiofor will help you understand how poor and inconsequential Ejiofor was before Nnamdi Kanu and IPOB case made him rich. He was so poor and miserable that the cheque he tried to use to refund his client bounced. It was after the cheque bounced and the client had no means of recovering his money that he had to go to the EFCC. After all, Ejiofor has been good to the Government. He cooperated with them and they have Nnamdi Kanu. So, in a way, Ejiofor has done his part."

There is no evidence from all the publications reproduced that the claimant was not acting in the best interest of his client Nnamdi Kanu and IPOB in defence of their case and that claimant was acting in cohorts with the prosecution because he has a criminal case and hopes the government will drop same if he truncates Nnamdi Kanu's case and the IPOB. There is also no justifiable legal ground for the publication of the words as it appears to be placed in malice aimed at destroying the credibility of the claimant.

The words published in this case will be held to be defamatory in law if the statement or words tends or will have the effect of:

- (1) Lowering the claimant in the estimation of right thinking members of society generally or
- (2) To expose him to hatred, contempt or ridicule or
- (3) To cause other persons to shun or avoid him or
- (4) To discredit him in his office, trade or profession or
- (5) To injure his financial credit

See **PROFESSOR KINGLSEY OWONIYI OLOGE V NEW AFRICAN HOLDINGS LTD (2013) 17 NWLR (PART 1384) P. 149.**

The disjunctive requirement of the law is a common thread running through decided cases of the court of appeal and Supreme Court. It is my view that the words in all the publications are defamatory in nature and the defendant intended to defame the claimant by lowering him in the estimation of right-thinking members of society, exposing him to hatred, contempt or ridicule, discrediting him in his office, trade or profession. The words intended to portray the claimant as an untrustworthy, corrupt and unscrupulous man.

Now what is the quantum of damages to be awarded the claimant by this court?

Per KEKERE-EKUN, J.C.A (as she then was) in **FAYAN V. UBA (2013) LPELR-20540(CA) (PP. 16-17 PARAS. E)** Held thus;

"As correctly submitted by learned counsel for the appellant libel is actionable per se. It has been held that every libel is of itself a wrong in regard to which the law imputes general damages. Once a claimant proves that a libel was published of him without legal justification, his cause of action is complete and he need not prove that he has suffered any resulting actual damage or injury to his reputation. Such damage is presumed. See: Oduwole v. West (2010) 10 NWLR (1203) (598) @ 614 C - D 15; (1990) 7 SCNJ 187"

An award of general damages must be adequate to assuage for the injury to the plaintiff's reputation. It must atone for the assault on the plaintiff's character and pride which were unjustifiably invaded."Per **FABIYI ,J.S.C in GUARDIAN NEWSPAPERS LTD & ANOR v. AJEH (supra) (Pp. 41 paras. A)**

An order for damages for defamation is at the discretion of the court and there is no legal requirement for it to be specifically pleaded and proved like damage. The factors the court will consider in exercising that discretion are;

- (a) The standing of the plaintiff in society
- (b) The nature of the Libel
- (c) The mode and extent of the publication
- (d) The refusal to retract or render an apology to the plaintiff
- (e) The value of the local currency.

See **GUARDIAN NEWSPAPERS V AJEH (SUPRA) (P.18, PARAS. A-D)**

In **BSS ENGINEERING SERVICES LTD & ORS V. FIDELITY BANK (2021) LPELR-53458(CA) (PP. 41 PARAS. E)** The court held;

"Publication is the main anchor of defamation. There must be clear evidence of publication of the offensive publication to ground the tort of defamation. Thus, publication is the bedrock/foundation in the pyramid of ingredients of defamations."

When the details of this libel are considered with the above 7 guidelines I come to the following reasoning and conclusion;

The Claimant is a legal practitioner and lawyer to Nnamdi Kanu as well as the IPOB,

the libel is in a permanent form. The dissemination and publication is wide to the whole world and is accessible to the general public in an instant as it was posted online.

The Claimant had urged court to award exemplary damages the law is trite that exemplary damages must be claimed and proved before they can be awarded. Where pleaded and proved, exemplary damages are recoverable if the plaintiff is the victim of the punishable behavior of the defendant. See **IGWE V AMATU & ANOR. (2014) LPLER- 24204 CA PP 41-44 PARAS B**

It is interesting to note that the case of the claimant was not controverted by the defendant.

Counsel relied on EMODI v. EMODI (2015)2 NWLR (PT. 1443)323, at 327-328, paras;2, had this to say;

"Where a plaintiff files his statement of claim raising an allegation of facts against the defendants or one of them, such defendant(s) who does/do not admit the truth of the allegation must file a defence to contradict, controvert, challenge or deny the allegation. Where no defence is filed, the defendant is deemed to have admitted the assertion and the court may peremptorily enter judgment against the defendant. In the instant case, failure of the respondent to file a defence to controvert or deny the averment in paragraph 2 of the statement of claim constituted an admission of that averment'

In **NNPC PENSION LTD VS. VITA CONSTRUCTION LTD (2016) LPELR-41259 (CA).**

It was held: It is beyond speculation that the courts are fully entitled to take as admitted all facts in an affidavit which have remained uncontradicted and unchallenged.

The implication of this is that the court will deem the evidence of claimant as true and correct and act on it. See the case of **CBN VS IGWILO (2007) 14 NWLR (PT. 1054) 393 @ 406**

In the appellate decision of **JACOB V. COMMISSIONER, MINISTRY OF ENVIRONMENT AND MINERAL RESOURCES, AKWA IBOM STATE & ANOR (2018) LPELR-45182(CA) (PP. 3-4 PARAS. E)** it was held;

"The respondents despite being served with processes of the Court did not appear nor file processes to contest the application. The repercussion of

this type of attitude of the respondents is very clear. An unchallenged and/or uncontroverted fact in Affidavit is deemed admitted. Although this deemed admitted fact must be of such that has the strength or viscosity to establish or sustain the claim of the Plaintiff or Claimant. In the case of INEGBEDION V. SELO-OJEMEN & ANOR. (2013) 8 NWLR (PT. 1356) 211, The Supreme Court held per Ariwoola, JSC that: "It is trite law that any unchallenged and uncontradicted fact in an affidavit remains undisputed and is deemed admitted by the adversary and the Court will so hold. However, it is also law that any such unchallenged and uncontradicted facts which are deemed admitted in the affidavit must be capable of proving and supporting the applicant relying on such facts. In other words, it has been held that the affidavit evidence which is said to be unchallenged must necessarily be cogent and strong enough to sustain the case of the applicant...."

Therefore, the case of the claimant is deemed admitted. It is injurious to the claimants reputation, office, profession or calling and when the request to render an apology came in exhibit P6, the defendant refused to do so, rather he maintained his stand see Exhibit P the publication was maliciously made and aimed at achieving a purpose. The value of our naira is low in our degenerating economy. The claimant claims the sum of N5, 000,000,000 and a public apology and order of injunction.

Even though this court has wide discretion in awarding damages, the court is limited by the usual caution of prudence and the concept of remoteness of damage. But the false and unjustifiable attack on the reputation of the claimant may last for a lifetime if no remedial action is taken.

Despite the gravity of the offensive article, damages should not be awarded as to operate to render the defendant penniless. It should not be excessive but proportionate; public apology should be enough to assuage the claimant. Money cannot actually bring back a reputation; but public apology supplemented by a modest sum of damages; can do so.

I hereby enter judgment in favour of the claimant as against the defendant and order as follows;

- 1. That the publications variously made by the defendant of and concerning the claimant, on the 5th, 6th 7th 8th, 9th, 10th and 12th of February, 2022, the particulars of which are contained in the Statement of Claim, are defamatory of the claimant.**

2. The defendant to FORTHWITH publish a full retraction of the utterly libelous publications and an unqualified apology to the claimant in at least three national newspapers with nationwide circulation, including Punch, Daily Times and Premium Times.
3. The defendant to FORTHWITH publish a written undertaking not to publish any similar or further libel of and concerning the claimant.
4. PERPETUAL INJUNCTION restraining the defendant, his agents, associates, privies and/or proxies howsoever called, from publishing any similar or further libel of and concerning the claimant.
5. The sum of Five million Naira only as general and exemplary damages.
6. The sum of (₦500, 000.00) being cost of this action.

HON. JUSTICE NJIDEKA K. NWOSU-IHEME
[JUDGE]

Appearance of Counsel:

1. ChinweUmechefor Claimant
2. Defendant absent

