

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT MAITAMA

BEFORE HIS LORDSHIP : HON. JUSTICE Y. HALILU
COURT CLERKS : JANET O. ODAH & ORS
COURT NUMBER : HIGH COURT NO. 13
CASE NUMBER : SUIT NO: CV/1770/2022
DATE: : TUESDAY 18TH FEBRUARY, 2025

BETWEEN:

EZEA FERDINAND APPLICANT

AND

1. REGISTERED TRUSTEES OF NBA
2. MR. OLUWASEUN ABIMBOLA (SAN)
3. DR. BABATUNDE AJIBADE (SAN)
4. DR. MONDAY UBANI
5. LEGAL PRACTITIONER DISCIPLINARY
COMMITTEE

RESPONDENTS

JUDGMENT

In the Matter of an Application of Ezea Ferdinand and for an Order for the Enforcement of a Fundamental Right.

The Applicant is praying the Court for the following Reliefs;

1. A Declaration that the Investigative Report of the 2nd to the 4th Respondents Panel set up by the 1st Respondent to investigate conflicting Judgments on some political cases which indicated the Applicant of professional misconduct and led to the filling of Petition No. **BB/LPDC/8010/2022** by the 1st Respondent against the Applicant before the 5th Respondent which was widely published and circulated in different media platform without affording the Applicant the opportunity of being heard throughout the period of the purported investigation by the 2nd to the 4th Respondents Panel is a breach of the Applicant's right to fair hearing as provided under Section 36(2) of 1999 Constitution of Federal Republic of Nigeria (as amended) and Articles 7 and 9 of the African Charter on the Human and Peoples Rights (Ratification and Enforcement) Act Cap A9, Laws of the Federation of Nigeria 2004 and against the cardinal principle of natural justice: Audi Alterem Partem.

2. A Declaration that the failure of the 2nd to the 4th Respondents Panel to invite the Applicant during the purported investigation of conflicting Judgment renders the Investigative Report and the subsequent Petition against the Applicant to the 5th Respondent based on the said Investigative Report null, void and of no effect whatsoever.
3. A Declaration that the 2nd to the 4th Respondents panel cannot legally and validly indict the Applicant upon an investigation conducted without giving the Applicant the opportunity to be heard in line with the cardinal principle of natural justice: Audi Alterem Partem.
4. A Declaration that the 5th Respondent cannot act or give effect to the petition against the Applicant by the 1st Respondent based on an Investigative Report which indicted the Applicant without giving the Applicant the opportunity to be heard or defend himself against the allegation before arriving at the Investigative Report that led to the filling of Petition **BB/LPDC/8010/2022**.
5. A Declaration that it is a breach of the Fundamental Right of the Applicant for the 1st Respondent to set up a committee to investigate an allegation of professional misconduct

against its member in this case the Applicant and the committee after the purported investigation indicted the Applicant and recommended that a petition be filed against the Applicant to the 5th Respondent without giving the Applicant the opportunity to be heard.

6. An Order of the Honourable Court declaring and/or quashing the proceeding of the Investigative Panel of the 2nd to the 4th Respondents together with the purported Investigative Report that led to the filing of the Petition against the Applicant to the 5th Respondent for being null and void and of no effect whatsoever.
7. An Order of this Honourable Court restraining the 5th Respondent from proceeding with and/or giving effect to the Petition against the Applicant which anchored on an Investigative Report that was in clear breach of the Fundamental Right of the Applicant.
8. An Order of the Court directing the 1st to 4th Respondents to pay the Applicant the sum of N300,000,000.00 (Three Hundred Million Naira) damages and public apology in two national dailies for emotional trauma suffered by the Applicant as a result of the act of the 1st to 4th Respondents.

The Grounds upon which the application is brought, are one and the same with facts in the affidavit.

In support of the application is a 24 paragraph affidavit deposed to by Ezea Ferdinand, the Applicant in this suit. It is the deposition of the Applicant, that on the 26th March, 2022, the Applicant while working in his office received several calls from relations, family members, friends, colleagues and clients asking him what happened that led the 1st Respondent, the Nigeria Bar Association to file a petition against him to the Legal Practitioners Disciplinary Committee.

That on hearing, he became shocked and surprised, because he was never invited by the 2nd to 4th or any other person on this issue of professional misconduct or any other issue whatsoever.

That on further inquiry, his attention was drawn to a media platforms and online news where news titled "CONFLICTING COURT ORDERS: NBA DRAGS SENIOR ADVOCATE, 7 OTHER LAWYERS TO THE DISCIPLINARY COMMITTEE (FULL LIST)" credited to 1st Respondent was published.

That on reading the full story as published on the news above, the Applicant discovered that the Chairman of the NBA set up a three man committee to investigate lawyers that purportedly

played roles on the conflicting judgment in political cases and the members of the Investigative Panel comprised the 2nd to the 4th Respondents.

That the said Investigative Panel set up by the Nigeria Bar Association never for once invited the Applicant throughout the investigation of the said allegation against the Applicant that led to an Investigative Report that purportedly indicted the Applicant.

That the Applicant only read on online media platform that he has been investigated and indicted for Professional Misconduct by Investigative Panel set up by the Association 1st Respondent.

That Nigeria Bar Association and the Investigative Panel breached the Applicant Fundamental Right to fair hearing when they concluded investigation on allegation against the Applicant and indicted him of professional misconduct without giving him the benefit of doubt by inviting him to hear from him before arriving at the conclusion that prima facie case of professional misconduct is made out against him.

That his non-invitation by the Investigative Panel during the investigative proceeding wherein he was indicted is a breach of his fundamental human right to fair hearing.

That the Action of the 1st to 4th Respondents in publishing the name of the Applicant in online media platforms for professional misconduct amount to media trial and an embarrassment to the person of the Applicant and same has caused Applicant both physical, emotional and psychological trauma as well as ridicule before members of the public.

That the Nigeria Bar Association as an august body of the whole lawyers in Nigeria which has its moto as “promoting the rule of law” should not be seen breaching the rule of law by acting in the manner they acted against its member the Applicant as shown in this case.

That the Applicant is entitled to damages and public apology in two National dailies for breaching the fundamental right of the Applicant in the manner shown in this case.

That it will be unjust to allow the Investigative Report of the 2nd to 4th Respondents led committee to be unjustly used as foundation to prosecute, conduct hearing or use in any other manner whatsoever against the Applicant in a manner not reasonable justifiable in a democratic society like Nigeria.

That the interest of justice will be best served if the court quash the Investigative Report for being a nullity, null and void, and

restrain the 5th Respondent from further carrying out any hearing, proceeding emanating from the illegal and unconstitutional Report of the Panel led by the 2nd Respondent.

That it will be in the interest of justice for this Honourable Court to allow the Reliefs sought in order to safeguard the applicant's inalienable and constitutional rights to fair hearing, and stop the imminent and dangerous unconstitutional interference with applicant's inalienable rights.

That time is of the immense essence in the Suit as the Respondents have evinced intention to further undermine applicant's fundamental rights through the exercise of their powers unjustly as recently done by publishing applicant's names in all social media platform to embarrass and intimidate him and cause disaffection among his clients, family, friends and relations.

That allowing the reliefs will prevent reckless abuse of power and anachronistic breach of his fundamental/inalienable right as in this case.

In line with procedure, written address was filed wherein sole issue was formulated for determination to-wit;

"Whether the Applicant has made out a case of breach of his fundamental right to warrant the grant of reliefs sought in this application?"

It is the submission of learned counsel, that the failure of the Investigative Panel to invite the Applicant before arriving at the decision that is detrimental to the Applicant is very fundamental and renders all the proceeding and the report indicting the Applicant null and void.

It is a cardinal principle of natural justice expresses in latin maxim audi alterem partem that a person must be given opportunity to be heard before decision affecting him can be taken. The Courts over the years have been consistent that any proceeding conducted and/or decision taken affecting a person without giving the person the opportunity to be heard will be definitely set aside by the Court.

Learned counsel contends, that the act of the 1st to 4th Respondent against the Applicant is to say the least unbecoming of a body of lawyers which has the responsibility to observe all tenet of rule of law and principle of natural justice. They ought to know better than an over reaching decision cannot be taken against its member without affording such a member an

opportunity to be heard or to put up a defence. Such a practice ought not to be found anywhere around such noble men and august association of lawyers.

Learned counsel argued, that failure to observe fairness in the conduct of any proceeding being trial or investigation amount to a nullity. This was the position of the Court of Appeal in the case of ***REGISTERED TRUSTEES OF PEOPLES CLUB OF NIG. VS. REGISTERED TRUSTEES OF ANSAR-U-DEEN OF NIF & ORS (2012) LPELR 7979(CA).***

Learned counsel further submits, that the Applicant is not only entitled to the reliefs sought but also entitle to damages in terms of compensation as a result of an infringement of his fundamental right and resultant effect on the Applicant as a result of the breach.

Learned counsel also submits, that the Applicant has deposed to the fact how he received calls from all part of the country from friends, clients, colleagues, family members and associate on the alleged verdict of professional misconduct pass on the Applicant by the Investigative Panel of NBA and adopted by the NEC of NBA without affording the Applicant the opportunity of being heard. The Applicant equally deposed to the fact that the action of the

1st to 4th Respondent as narrated in the supporting affidavit has exposed him to ridicule, emotional, physical and psychological trauma.

Learned counsel concludes, that the Applicant has proved his case and this Honourable Court to uphold their submission and grant their prayers.

On their part, 1st – 4th Respondents filed a 22 paragraph counter affidavit to the application for Enforcement of Fundamental Human Right, duly deposed to by one John Aikokpo-Martins, the 1st Vice President of the Nigeria Bar Association.

It is the deposition of the 1st - 4th Defendants, that the depositions contained in paragraphs 5, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 of the Applicant's Affidavit are not correct.

That the 2nd - 4th Respondents carried out an investigation on the news reports making the rounds about certain Lawyers that had engaged in acts of forum shopping and multiplicity of cases in different courts in a manner calculated to abuse and misuse the due process of law and to ridicule and tarnish the image of the legal profession, and indeed the entire institution of administration of Justice.

That sometime in the year 2021, both electronic and print media were awash with reports of different lawsuits instituted in some controversial political cases by lawyers on behalf of their clients in different courts of coordinate jurisdiction around the country thereby leading to different courts giving conflicting judgments and/or orders from various jurisdictions in the country.

That there were several stringent calls on the legal profession, that is the Judiciary and the Nigerian Bar Association to investigate the circumstances leading to such blatant acts that have culminated into conflicting court orders on the same cause of action and issues.

That pursuant to all these calls, the 1st Respondent, acting through the President of the Nigerian Bar Association, Mr. Olumide Akpata, set up a three-man Panel chaired by the 3rd Respondent with the 2nd and 4th Respondents as members of the Panel on 25th October, 2021 to look into the incidents of conflicting Court Orders made by various Courts in relation to political matters and to make a report.

That the National Judicial Council (NJC) initiated investigations pursuant to its inherent disciplinary powers under the Constitution to unravel the circumstances that led to the spate of Exparte

Orders granted by Courts of coordinate jurisdiction over matters bearing same parties and subject matters.

That the internal investigations of the NJC led to sanctions against the erring Justices. he has seen the online report from Premium Times News, titled "Conflicting Court Orders: NJC bars erring judges from promotion" published on December 16, 2021 and accessible at <https://www.premiumtimesng.com/news/headlines/501165-conflicting-court-orders-njc-bars-erring-judges-from-promotion.html> A copy of the computer printout of the news item was herein attached to this Affidavit as Exhibit "NBA 2".

That upon the conclusion of its assignment, the panel set up by the 1st Respondent found breaches of the provisions of the Rules of Professional Conduct for Legal Practitioners, 2007 ("RPC") against six legal practitioners, including the Applicant herein.

That the proceedings before the 5th Respondent is statutorily bound by the Legal Practitioners Disciplinary Committee Rules, 2020. A copy of the Rules was herein attached to this Counter Affidavit and marked as Exhibit "NBA 3".

That there is no mandate on the 1st to 4th Respondents to invite the Applicant neither was there any indictment made by the 1st to 4th Respondents against the Applicant.

That the 1st - 4th Respondents never made, shared or authorized the publication of the report of the Panel to any social media outlets, mainstream media or any person or group whatsoever.

That complaints about the Applicant had already been filed before the 5th Respondent on the 25th day of March, 2022. The 5th Respondent had become seized of the facts placed before this Honourable Court by the Applicant.

That the 1st - 4th Respondents did not at any time whatsoever publish or cause to be published the name of the Applicant in the social media platforms or on any other platform for professional misconduct.

That the Nigerian Bar Association has never breached any rule of law or the fundamental human rights of the Applicant in the investigation and establishment of a prima facie case against the Applicant, and is not liable to the Applicant for any damage alleged to have been inflicted on the Applicant.

That the Panel/Committee comprised of the 2nd - 4th Respondents is not statutorily empowered to punish or sanction the Applicant.

In line with law and procedure, 1st – 4th Respondents filed their written address wherein sole issue was formulated for determination to-wit;

"Whether going by the totality of the materials placed before this Honourable Court, the Applicant's Fundamental Right to Fair Hearing can be said to have been breached by the 1st - 4th Respondents?"

It is the submission of learned counsel, that the grouse of the Applicant in this case is still caught at the preliminary investigation to determine if there are any facts that will lead to a formal Originating Application to be made as specified in Rule 4 reproduced above. There cannot therefore be any breach of any fundamental right, when the statutory process has not even started to consider the Applicant's culpability or otherwise.

Learned counsel further submits, that the entire process of the investigation did not affect the rights and obligations of the Applicant as such an exercise was only exploratory and the committee was not under any obligation to allow the Applicant exercise such right as to be notified of the investigation being

carried out by the Committee. The Court of Appeal, Calabar Judicial Division in the case of ***AKPAN V. UNIVERSITY OF CALABAR (2016) LPELR-41242 (CA)***, in a similar circumstance held that the right of fair hearing of a University Lecturer was not breached, when the University set up an investigative panel to review the Claimant's publications and thereafter sent their findings to the disciplinary committee. In agreeing with the trial Court that the conclusions of the investigative committee without calling upon the Claimant did not constitute a breach of the Claimant's fundamental right.

Learned counsel also submits, that the Applicant who knows or had every reason to know that the allegations against him cannot be placed or argued or contended before an advisory. Ad-hoc committee of the 1st Respondent, ought not to have brought this application in the first case. The filing of this application as against the clearly settled principles in the case laws cited above is a desperate attempt by the Applicant to apply the cases willy nilly, when the facts and circumstances of the cases sought to be relied upon by the Applicant are different from the facts of the instant case before this Honourable court. This is against the Apex court's admonition in ***OKAFOR V. NNAIFE (1987) 4 NWLR (Pt.64) 129 at 137.***

Learned counsel further contended, that a careful perusal of paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 of the depositions are purely legal arguments and conclusions, Paragraph 13 of the Affidavit for instance states that "that Nigeria Bar Association and the Investigative panel breached his fundamental right to fair hearing when they.....". Counsel submits most respectfully that this deposition has already given a conclusive closure to the breach of fair hearing, leaving nothing for the Court to consider anymore. Counsel submits, that it is only the duty and powers of this Honourable Court to make such conclusions.

Learned counsel further submits, that in paragraph 14 of the affidavit, the Applicant deposed as follows: "That his non invitation by the Investigative Panel during the investigative proceeding wherein he was indicted is a breach of his fundamental right to fair hearing". Counsel submits most respectfully that this is also conclusive and argumentative as to whether the Applicant's right had been breached or otherwise. This trend flows through paragraphs 15, 16, 17, 18, 19, 20, 21 and 22 of the Affidavit in support of the Application. Learned counsel therefore prays this Honourable Court to strike out the offensive paragraphs.

Learned counsel also submits, that the attempt of the Applicant to establish a breach of right to fair hearing fails outrightly since the Panel constituted by the 1st Respondent did not act and was not acting in any judicial or quasi-judicial function. The implication, is that the principles of natural justice are inapplicable in the given scenario, and counsel humbly urge this Honourable Court to hold so.

Learned counsel concludes by urging this Court to dismiss this suit in its entirety for lacking substance and merit with substantial cost.

On their part, Applicant filed 20 paragraph Further Affidavit in opposition to the counter affidavit of the 1st to 4th Respondents deposed to by Ezea Ferdinand...Applicant in this suit.

It is the deposition of Applicant, that he was not involved in any matter investigated by NJC over grant of conflicting Exparte orders or any order whatsoever.

That the matter he was involved in was litigated upon and judgment was delivered by the High Court of Federal Capital Territory, sitting at Kubwa.

That he was not involved in the conflicting exparte application or any application that led to the sanction of the judges in Exhibit "NBA 2".

That the 1st to 4th Respondents have the legal mandate to invite or give him the opportunity to make representation to the allegation against him before arriving at the prima facie case of professional misconduct against me.

That neither the 1st Respondent nor any of the Respondents has issued a disclaimer to the publication since 26th day of March, 2022 denying authorization of the publication. A copy of the said publication and certificate of compliance was herein annexed and marked Exhibits "Ezea 1" and "2".

That it is clear from the investigation report, of the panel duly signed by the 2nd, 3rd and 4th Respondents, that the panel started and concluded the investigation and arrived at prima facie case without giving me the opportunity to defend myself. The investigation report duly signed by the 2nd, 3rd and 4th Respondents was herein attached and marked Exhibit "Ezea3".

That contrary to paragraph 16 of the counter affidavit of the 1st to 4th Respondents, the 1st to 4th Respondents breach his right to fair hearing when they investigated an allegation against him without giving him the opportunity of making representation.

That contrary to paragraph 16, he state that the publication of his name on the social media platforms and all other online media affected me economically, psychological and emotionally.

That the present action bothers on the legality or otherwise of the action of the Respondents vis-à-vis the constitution of the Federal Republic of Nigeria which guaranteed his right to fair hearing.

That the 5th Respondent is subject to the judicial authority of this court with respect to protection of his constitutional right to fair hearing.

That the Respondent is a juristic person and have the constitutional obligation to observe the tenets of fair hearing in the conduct of their affairs and where same is violated this Honourable Court has a duty to intervene.

That the 1st to 4th Respondents allegedly investigated the accusation of professional misconduct against him and found a prima facie case of professional misconduct against him that led

to filling of petition to the 5th Respondent and the subsequent publication on the social media platform.

That he admit paragraph 17 and 18 of the counter affidavits of the 1st to 4th Respondents to the extent that he read about the investigation and filling of the petition against him in social media platforms as he was not served with any copy of either the allegation against him before the 1st Respondent or with the outcome of the investigation by the 1st Respondent for his response before arriving at the prima facie case and the subsequent petition against him.

That it is not only the 5th Respondent that is required to afford him fair hearing but also the 1st to 4th Respondents.

That the 1st to 4th Respondents before filling the petition to the 5th Respondent arrived at a conclusion of a prima facie case of professional misconduct against him without giving him the opportunity to make any representation.

In line with procedure, reply on points of law was filed.

It is the submission of learned counsel, that the 1st to 4th Respondents in paragraph 4.8 to 4.15 of their written address is to the effect that the 2nd to 4th Respondents being an

investigative panel do not need to accord the Applicant any fair hearing. In other words, the 1st to 4th Respondents at the stage of carrying out its mandate of investigation need not observe the cardinal principle of Natural Justice which requires that you must hear from a person before taking a decision that will affect him as according to them, the observance of fair hearing is only during the proceedings of the 5th Respondent.

Learned counsel submits, that the procedure for lodging complaint against legal Practitioners vis-à-vis Rule 3 and 4 of the Legal Practitioners Disciplinary Committee Rules has received judicial interpretation in the cases of ***GENOBA VS. LPDC (2022) ALL FWLR PAGE 60 - 61 PARAS E-A;***

GBENOBA VS. LPDC & ANOR (2021) LPELR- 53064(SC) (PP. 9-13 PARAS. E)

Learned counsel further submits, that the action of the 1st Respondent is not a mere recommendation but a full implementation of the recommendation of the panel by filing a case against a member of the Association without hearing from him. The NBA motto is Upholding the Rule of Law and it is painful to see the 1st Respondent a body of all Lawyers in Nigeria treat the whole essence of its existence which is observance of Rule of

Law with contempt as it has done in this case and brandish it with pride by arguing as done in this case that the Association owes no duty of fair hearing to members of the association before arriving at a conclusion of prima facie case against them.

The case of ***AKAN V. UNIVESITY OF CALABA (2016) LPELR-41242*** cited by the Senior Counsel for the 1st to 4th Respondents is not helpful to the case of the 1st to 4th Respondents rather support the case of the Applicant. The Apex court in the above case of Akpan held on the different between recommendation and acting on the recommendation.

Learned counsel contends, that the investigative panel in this instant case recommended that a petition be filed against the Applicant and the 1st Respondent carry out the recommendation by implementing same without hearing from its member who was alleged to have committed professional misconduct. Filing a petition against Applicant without observing the cardinal principle of Natural Justice is a fundamental defect which this Honourable Court is called upon to intervene.

In conclusion, learned counsel urged this court to discountenance the argument of the 1st to 4th Respondents' counsel for lacking in

merit and substance and grant the relief sought by the Application.

1st - 4th Respondents filed further counter affidavit in response to Applicant's further affidavit dated and filed 25th October 2022.

The 6 paragraph further counter affidavit is deposed to by Halimat Yetunde Yusuph, Legal Officer in the Legal Regulatory and Compliance Department of the 1st Respondent. It is the deposition of 1st - 4th Respondents, that paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 of the further-affidavit of Ezea Ferdinand do not contain truthful facts. The true facts, as he knows them are;

The NBA Constitution guides the affairs of the NBA and the Applicant. It is not true that the NBA Constitution conflicts with the Nigerian Constitution.

The complaints which the 1st Respondent made against the Applicant is in respect of the cases of conflicting judgment in which the Applicant was involved. The complaint is presently before the 5th Respondent which has the statutory powers and jurisdiction to consider the complaint of the 1st Respondent and the duty to hear the parties to the complaint including the Applicant.

That there is no mandate, requirement or duty on the 1st to 4th Respondents or any Complainant making a complaint against a Legal Practitioner on professional misconduct to arrive at a “prima facie” case of professional misconduct before forwarding a complaint to the 5th Respondent under the 2020 Rules. The requirement of finding a prima facie was an express statutory provision under the 2006 Rules which Rule has since been repealed.

The 1st to 4th Respondents were not obligated to issue any disclaimer to any publication alleged by the Applicant. The Respondents did not make any publication and did not authorize any publication as alleged by the Applicant. The Respondents are not responsible for nor are they aware of any of the alleged publications on social media which the Applicant is complaining about in this case.

None of the 1st to 4th Respondents breached any rights of the Applicant in the course of investigation of facts leading to the complaint made by the 1st Respondent to the 5th Respondent under the 2020 Rules.

The 1st to 4th Respondents made no publication about the Applicant on account of this matter or any other matter connected with the complaint on social media, as alleged or at all.

That the Proceedings of the 5th Respondent are not subject to the jurisdiction or supervision of the High Court. Appeals from the 5th Respondent's Directions go straight to the Supreme Court of Nigeria.

That he knows that the 5th Respondent under its Rules guarantees fair hearing to parties before it. The Complaints of the 1st Respondent against the Applicant is presently before the 5th Respondent and the Applicant was aware of the fact before filing this action.

On their part, 5th Respondent filed 6 paragraph counter affidavit deposed to by Zanti Tamar Kolais, employee of counsel to the 5th Respondent.

It is the deposition of the 5th Respondent/Applicant, that the facts deposed to in paragraph 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 22 are not correct.

That there is a pending complaint against the Applicant before the 5th Respondent in respect of allegations bordering on the

rules of professional misconduct in discharging his professional duties.

That the 5th Respondent is not a party to the Investigative Panel set up by the 1st to 4th Respondents to investigate the allegation of professional misconduct against the Applicant.

That the 5th Respondent is an independent arbiter saddled with the responsibility to hear and determine complaints filed against the legal Practitioners in Nigeria.

That having established a prima facie case against the Applicant, it is exclusively within the powers of the 1st – 4th Respondent to file a complaint before the 5th Respondent.

That the High Court lacks supervisory jurisdiction over the proceedings of the 5th Respondents. Appeals lie from the 5th Respondent to the Supreme Court and not the High Court or the Federal High Court.

That the 5th Respondent have not breached the Applicant's right to fair hearing. Furthermore, 5th Respondent is not a necessary party to the instant suit.

That the interest of justice will be best served if the instant suit is dismissed in its entirety as lacking in merit.

On their part, Applicant filed a 9 paragraph further affidavit in opposition to the Counter Affidavit of the 5th Respondent, deposed to by Ezea Ferdinand, the Applicant in this suit. Applicant averred;

That the 5th Respondent/Applicant is a proper and desirable party to his suit being the regulatory body in charge of carrying out the illegality of the 1st to 4th Respondent which is being challenged by the instant suit.

That the decision of this Honourable Court will one way or the other affects the 5th Respondent.

That the present action bothers on the legality or otherwise of the action of the 1st to 4th Respondents which led to the petition pending before the 5th Respondent against him vis-à-vis the constitution of the Federal Republic of Nigeria which guarantee his right to fair hearing.

That the 5th Respondent is subject to judicial authority of this Court with respect to the protection of his constitutional right to fair hearing.

That joining the 5th Respondent in the instant suit will help to avoid multiplicity of suit in respect of same subject matter and

also save the time of the 5th Respondent and all the parties from furthering the illegality being challenged in this Honourable Court.

That the instant suit is challenging the fundamental flaw of illegality in the action of the 1st to the 4th Respondents which the 5th Respondent is call upon to act upon.

That the Honourable Court is neither exercising a supervisory jurisdiction over the 5th Respondent nor sitting as appeal Court over the decision of the 5th Respondent but rather exercising its Constitutional Right under Section 46 of the Constitution of the Federal Republic of Nigeria 1999 as amended.

1st - 4th Respondents/Applicants filed Notice of Preliminary Objection challenging the competence of this suit and the jurisdiction of this Honourable Court to entertain same, praying this Honourable Court to strike out and/or dismiss the suit on any or a combination of the following grounds of objection.

1. The grouse of the Applicant/Respondent is within the domestic affairs of the Nigerian Bar Association and the Applicant/Respondent ought to have exhausted the internal remedies provided in the Constitution of the Nigerian Bar Association.

2. The Applicant/Respondent's case is premature, inchoate and liable to be dismissed or struck-out.
3. The Applicant/Respondent's case is an attempt to prevent the 5th Respondent from carrying out its statutory duties, thereby rendering the Applicant/Respondent's action an abuse of Court Process.
4. The case is liable to dismissal.

In support of their application, 1st – 4th Respondents/Applicants filed a 13 paragraph affidavit, duly deposed to by John Aikokpo-Martins, the 1st Vice President of the 1st Respondent/Applicant. It is the deposition of the 1st – 4th Respondents/Applicant; that sometime in the year 2021, both electronic and print media were awash with reports of different lawsuits instituted in some controversial political cases by lawyers on behalf of their clients in different courts of coordinate jurisdiction around the country thereby leading to different Courts giving conflicting Judgments and/or orders from various jurisdiction in the country.

That there were several stringent calls on the legal profession, that is, the judiciary and the NBA to investigate the circumstances leading to such blatant acts and orders that have culminated into conflicting Court Orders on the same cause of action and issues.

That pursuant to all these calls, the 1st Respondent, acting through the President of the Nigeria Bar Association, Mr. Olumide Akpata, set up a three-man Panel chaired by the 3rd Respondent with the 2nd and 4th Respondents as members of the Panel on the 25th October, 2021 to look into the incidents of conflicting orders made by various Courts in relation to political matters and to make a report.

That the National Judicial Council (NJC) initiated investigations pursuant to its inherent disciplinary powers under the Constitution to unravel the circumstances that led to the spate of Expart Order granted by the Court of coordinate jurisdiction over matters bearing same parties and subject matters.

That the internal investigations of the NJC led to the sanctions against the erring justice. I have seen the online report from Premium Times News, title "conflicting Court Order: NJC bars erring judge from promotion" published on December 16, 2021 and accessible at <https://www.premiumtimesng.com/news/headlines/501165-conflicting-court-orders-njc-bars-erring-judges-from-promotion.html>. A copy of the computer printout of the news item was herein attached to this affidavit as Exhibit "NBA2".

That upon the conclusion of its assignment, the panel set up by the 1st Respondent found breach of the provisions of the Rules of Professional Conduct for Legal Practitioner, 2007 ("RPC") against six legal practitioners, including the Applicant/Respondent herein.

That the proceedings before the 5th Respondent is statutorily bound by the Legal Practitioners Disciplinary Committee Rules, 2020. A copy of the Rules was herein attached to this affidavit and marked as Exhibit "NBA 3".

That the 1st Respondent, acting through the President of the Nigeria Bar Association, is empowered by the provisions of Order 4(1)(e) of Exhibit "NBA 3" to present an Originating Application before the 5th Respondent and that the said Applicant was duly filed against the Applicant.

In line with law and procedure, written address was filed wherein sole issue was formulated for determination to-wit;

"Whether the Applicant/Respondent's case is not liable to be struck out or dismissed for lack of competence and want of jurisdiction by the Honourable Court on any or a combination of the grounds of objection subscribed on the Notice of Preliminary Objection."

It is the submission of learned counsel, that even where the Applicant/Respondent's contentions are valid in law, approaching this Honourable Court is not the appropriate step to take in the circumstances, since his grouse is against the Respondents/Applicants. Put differently, the Applicant/Respondent's grouse is rooted within the domestic affairs of the Nigerian Bar Association and the Applicant/Respondent ought to have exhausted the remedies available before approaching this Honourable Court for redress.

Learned counsel submits, that they most humbly refer to the Nigerian Bar Association Constitution, 2015 (as amended in 2021), which is the Constitution binding the Applicant/Respondent within the 1st Respondent/Applicant's association. Specifically, they refer to Section 21 of the said amended Constitution which provides as follows:

21. DISPUTE RESOLUTION

(1) "In the event of any dispute or conflict or grievances between or amongst members, or any dispute between a member and the association, in relation to the operation and coordination of the affairs of the Association or as it relates to the rights

and obligations of individual members of the Association, such dispute, or conflict or grievance shall first be submitted to the Dispute Resolution Committee for Resolution.

(2) Any aggrieved member shall lodge a complaint with the Dispute Resolution Committee not later than 14 days of the occurrence of such dispute.

(3) The Dispute Resolution Committee shall entertain and determine any such complaints lodged by any member and deliver its decision thereon within 60 days of receipt of such complaint.

(4) The decision of the Dispute Resolution Committee shall be final and binding on the parties.

Learned counsel further submits, that clearly discernible from the above provision of the NBA Constitution which is binding on the Applicant/Respondent is a duty to refer grievances or complaints to the Dispute Resolution Committee. It is their humble submission that the provision of Section 21 of the NBA Constitution is very lucid, clear and unambiguous, such that it obviates the necessity to have recourse to any of the interpretative aids by the Honourable Court. In other words, the

provisions of Section 21 of the NBA Constitution are clear and unambiguous. It, therefore, must be interpreted and construed literally. Counsel referred to the case of ***NWANEZI VS. IDRIS & ANOR (1993)3 NWLR (Pt. 279)1 at 14 Paragraph F.*** where the Supreme Court per Karibi-Whyte, JSC, held that where the words in a statute are clear and unambiguous, they should be given their ordinary meaning and be construed without any glosses and interpolations. ***OLUWADARE VS. UNIVERSITY OF ILORIN (2015) ALL FWLR (Pt. 794) 70;***

AMASIKE VS. REGISTRAR GENERAL, CAC (2010) ALL FWLR (Pt. 541) 1406 were cited.

From the depositions contained in the Affidavit in support of the Applicant/Respondent's application, the Applicant/Respondent has made it clear that his grouse is within the working of the 1st Respondent/Applicant. Learned counsel further submits, that having voluntarily subscribed to the membership of the Nigerian Bar Association, the entirety of the provision of its Constitution, including Section 21 which relates to his grouse, the Applicant must observe same.

MBANEFO VS. MOLOKWU (2014) 6 NWLR (Pt. 1403) 387 at 409 Paragraphs B – D was cited.

The point ought to be made and strengthened too that the provision of Section 21 of the NBA Constitution (as amended) is not a complete ouster, but rather a precondition, such that nothing precluded the Applicant/Respondent from tabling his grievances before the committee for consideration and later proceed to Court to challenge the decision or perceived breach of human right. Having deliberately and flagrantly violated the provision of Section 21 of the NBA Constitution, the law will not allow him to benefit from his own wrongdoing. The settled position of the law is that a man will not be allowed to benefit from his own wrong.

It is further the submission of learned counsel, that the failure of the Applicant/Respondent to follow the dictates of section 21 of the NBA Constitution cannot work to his benefit. It is accordingly submitted that reference to the Dispute Resolution Committee is a condition precedent before the Applicant/Respondent could institute his action before the Court. Such a domestic forum must perforce, be explored and exhausted before there could be value recourse to litigation. The position of the law on this matter has fully crystallized.

EGUAMWENSE VS. AMAGHIZEMWEN (1993) 9 NWLR (Pt. 315)1 at 23 A – B. Was cited.

Learned counsel submits, that the sole body with exclusive powers for punishing erring legal practitioners is the Legal Practitioners Disciplinary Committee (herein referred to as the "LPDC"). The LPDC was created under Section 11 of the Legal Practitioner Act. Pursuant to Section 10(7) of the Legal Practitioners Act, the Legal Practitioners' Disciplinary Committee Rules 2020 was issued by the Chief Justice of Nigeria and has laid down the procedure for the commencement of disciplinary actions against such erring legal practitioners. By the said provision, it provides as follows:

"The disciplinary powers conferred on the Body of Benchers under subsection (I) of this section shall be exercised in such manner as may be prescribed by rules made by the Chief Justice of Nigeria in that behalf."

It is the submission of learned counsel, that even with in the wordings of Order 5 of the Legal Practitioners' Disciplinary Committee Rules 2020, there are multi-layered Investigative processes to be carried out, before the concerned legal

practitioner accused of a breach is called upon to provide a response. Order 5 of the LPDC Rules provides as follows:

"5-(1) An Application made in accordance with Rule 4 shall Initially be considered by a member of the Committee ("the initial committee member") on the directive of the Chairman for consideration of the question of whether there is a case to answer In respect of the allegations made in the Originating Application.

(2) If the initial committee member considers that there is a case to answer in respect of any or all the allegations made and is not of the opinion that the question is one of doubt or difficulty then the initial committee member must certify that there is a case to answer.

(3) If the initial committee member is minded not to certify that there is a case to answer in respect of all or some of the allegations made or is of the opinion that the question is one of doubt or difficulty, the question must be considered by a panel of three members of the Disciplinary Committee. The Initial

committee member may be a member of the panel. If the panel considers that there is a case to answer in respect of any of the allegations made, then it must certify that there is a case to answer in respect of those allegations.

(4) If the panel decides that there is no case to answer In respect of any of the allegations made, it may refuse or dismiss the Originating Application, or part of it, without requiring the Respondent to answer the allegations and without hearing the Applicant. The Applicant must be provided with written reasons explaining the decision.

(5) If a panel or committee member certifies that a case to answer is established in respect of all or any of the allegations made, the Secretary must serve a copy of each of the documents referred to in rule (4), (5) or (6), as the case may be, on each Respondent."

It is the contention of learned counsel, that the present suit has given rise to circumstances highlighted in the above-cited authorities, and therefore, qualifies as abuse of judicial process. We further humbly submit that having set out the relevant

provisions of the Legal Practitioners Disciplinary Committee Rules, 2020 above, particularly Order 5 Rules 1-5 thereto, the present attempt by the Applicant/Respondent will do nothing but truncate the statutory process of the 5th Respondent. The Applicant/Respondent's case as presently constituted seeks to carve out a long legal battle in court, designed to frustrate the 5th Respondent from carrying out its duties, while the Applicant/Respondent could have merely waited till he is called upon to respond to the allegations. The 5th Respondent has not even made clear any intentions prosecute the Applicant/Respondent, but the Applicant/Respondent is already in court seeking to stop the process. This is not only absurd, but also constitutes a gross abuse of the process of this Honourable Court.

In conclusion, learned counsel prayed this Honourable Court to strike out/dismiss this suit in its entirety because:

- a. The provision of Section 21 of the NBA Constitution is clear and unambiguous which the Applicant/Respondent herein cannot resile from being bound by same.
- b. The Nigerian Bar Association which the Applicant/Respondent belongs to has its own internal rules and

regulations governing its activities and this Honourable Court will loathe to interfere in same.

- c. This present action is premature, inchoate and is in its embryonic stage as the Applicant/Respondent's case has not reached a stage where his hearing would be required. Thus, no breach of any fundamental right has occurred.
- d. The Applicant seeks to prevent the 5th Respondent from carrying out its legislative duties as enshrined under the provisions of the Legal Practitioners Act.
- e. The Applicant's action therefore constitutes a gross abuse of the process of this Honourable Court and same is liable to dismissal.

On their part, Applicant filed a 15 paragraph counter affidavit in opposition to the Notice of Preliminary Objection of the 1st – 4th Respondents/Applicants, duly deposed to by one Ezea Ferdinand, the Applicant/Respondent in this suit.

It is the deposition of Applicant, that the constitution of the Federal Republic of Nigeria 1999 (as amended) and Fundamental Right Enforcement Rules (2009) are superior to the Exhibit "NBA 1".

That no limitation law in Nigeria including the constitution of the 1st Respondent/Applicant is not applicable to enforcement of fundamental right of Nigeria citizens.

That from the facts deposed in the affidavit by 1st - 4th Respondents/Applicants that the 1st - 4th Respondents/ Applicants are his accusers, investigators and judges in the case against him.

That no ex-parte application, whether conflicting or not was granted in the matter he was involved.

That the matter he was involved in was litigated upon and final judgment was delivered in the by the High court of Federal Capital Territory, sitting in Kubwa.

That he is not involved in the conflicting exparte application that led to the sanction of the judges in Exhibits "NBA A" and "NBA 2A" or any ex-parte application whatsoever.

That contrary to paragraphs 11, 12 and 13 of the supporting affidavit of the 1st - 4th Respondents/Applicants, the rules of Professional conduct for legal practitioners 2007 mandates the 1st Respondent to afford him the opportunity to defend myself against any allegation leveled against.

That he filed this suit to enforce his fundamental right and not to annoy the 1st Respondent/Applicant.

That the action is to enforce his Fundamental Human Right to fair hearing.

That his suit is not challenging the decision of the 5th Respondent but challenging inordinate decision of the 1st Respondent that led to breach of his fundamental human right to fair hearing.

That he got to know about the pendency of the application against me before the 5th Respondent through social media platform.

In line with law, written address was filed wherein sole issue was formulated for determination to-wit;

"Whether the 1st- 4th Respondents/Applicants have made out a good case to warrant the grant of this application."

It is the submission of learned counsel, that assuming without conceding that the said provision of Section 21 of NBA constitution as it relates to dispute resolution of a conflict between members and the 1st Applicant is applicable to Fundamental Human Rights cases, we state that such section

cannot apply in the instant case since there is no more conflict available to be resolved by the Dispute Resolution Committee since the 1st Applicant who was the accuser and the investigator has concluded its investigation, indicted the Applicant and filed a petition against him without hearing from him. The question to be asked is whether the Applicant who has been indicted without being heard by the 1st Applicant can get any justice from a committee set up by the same 1st Respondent? The answer is undoubtedly in the negative. What the Applicant is doing with this objection is to say that the Applicant must come back to the 1st Applicant's committee on Dispute Resolution before raising any defence to the petition against him.

Learned counsel further submits, that the Applicants who are aware of the provision of the constitution of the NBA as it relates to dispute resolution of matters between the Association and its members failed to utilize same before indicting the Applicant can now turn around to challenge the constitutional right of the Applicant to enforce his fundamental right to fair hearing. It is clear from the affidavit of the Applicants, that the 1st Applicant is the Complainant against the Applicant and also the investigator of the complaint against the Applicant without affording the Applicant the opportunity of being heard.

Learned counsel also submits, that all the authorities cited by the learned Senior Advocate of Nigeria for the Applicant is not relevant and applicable in the instant case, this is so because action founded on the enforcement of fundamental right are sui generis and not affected by any limitation law or rules due to the urgency of its nature.

On their part, 1st - 4th Respondents/Applicants filed 5 paragraph further affidavit deposed to by Halimat Yetunde Yusuph, a Legal Officer of the 1st Respondent/Applicant... in response to the Applicant/Respondent's Counter Affidavit.

It is the deposition of the 1st - 4th Respondents/Applicants, that paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14 of the Applicant/Respondent's Counter Affidavit do not contain any truth.

That the 1st - 4th Respondents'/Applicants' preliminary objection did not raise the issue of limitation but rather a condition precedent which must be fulfilled before initiating the instant suit, failure of which, will rob this Honourable Court of jurisdiction to hear matter.

That the complaints which the NBA made against the Respondent is in respect of the cases of conflicting judgments in which the

Respondent was involved. The complaint is presently before the 5th Respondent which has the statutory powers and jurisdiction to consider the complaint of the NBA and the duty to hear the parties to the complaint including the Applicant.

1st – 4th Respondents/Applicants filed Reply on points of law.

Learned counsel submits, that because fundamental right matters are sui generis, such matters are not affected by limitation law or rules due to the urgency of its nature. Again, the Respondent misconceived the submissions of the Applicants. No one has contested in this case that fundamental right matters are not sui generis. The point underscored in this reply is that cases which are sui generis are not exempted from fulfilment of conditions precedent prior to the initiation of the matters. For example, election matters and fundamental right matters are both sui generis; however, it has been held in several judicial pronouncements that members of a political party are bound by the Constitution of their political party. Where conflict arises and the party's constitution provides for internal remedies, such should be explored first, prior to filing a suit in court.

Learned counsel further submits, that the Respondent's claims before this Honourable Court are deeply rooted in the activities of the Nigerian Bar Association.

Learned counsel also submits, that even where the Respondents' contentions are valid in law, approaching this Honourable Court is not the appropriate step to take in the circumstance, since his grouse is against the Applicants. Put differently, the Respondent's grouse is rooted within the domestic affairs of the Nigerian Bar Association and the Respondent ought to have exhausted the remedies available before approaching this Honourable Court for redress.

Counsel submits, that reference to the Nigerian Bar Association Constitution, 2015 (as amended in 2021), Exhibit "NBA1" which is the constitution binding the Applicant/Respondent within the Applicants' Association, has a binding provision in Section 21 of the said amended Constitution which provides as follows:

"21. DISPUTE RESOLUTION

(1). In the event of any dispute or conflict or grievances between or amongst members, or any

dispute between a member and the Association, in relation to the operation and coordination of the affairs of the Association or as it relates to the rights and obligations of individual members of the Association, such dispute, or conflict or grievance shall first be submitted to the Dispute Resolution Committee for resolution.

(2). Any aggrieved member shall lodge a complaint with the Dispute Resolution Committee not later than 14 days of the occurrence of such dispute.

(3). The Dispute Resolution Committee shall entertain and determine any such complaints lodged by any member and deliver its decision thereon within 60 days of receipt of such complaint.

(4). The decision of the Dispute Resolution Committee shall be final and binding on the parties."

Learned counsel submits, that the binding provision of the NBA constitution the Respondent was in duty bound to refer his grievances or complaints to the Dispute Resolution Committee. It is the submission of learned counsel, that the provision of Section 21 of the NBA Constitution is very lucid, clear and unambiguous,

such that it obviates the necessity to have recourse to any of the interpretative aids by the Honourable Court. In other words, the provisions of Section 21 of the NBA Constitution are clear and unambiguous. It, therefore, must be interpreted and construed literally. Counsel refer to the case of **NWANEZI VS. IDRIS & ANOR (1993) 3 NWLR (Pt. 279) 1 at 14 PARA. F** where the Supreme Court per Karibi-Whyte, JSC, held that where the words in a statute are clear and unambiguous, they should be given their ordinary meaning and be construed without any glosses and interpolations.

OLUWADARE VS. UNIVERSITY OF ILORIN (2015) ALL FWLR (Pt. 794) 70;

AMASIKE VS. REGISTRAR GENERAL, CAC (2010) ALL FWLR (Pt. 541) 1406 were cited.

Learned counsel argued, that in paragraphs 4.00 to 4.04 at pages 12 to 17 of his address, it is submitted that they are based on patent misconception of the relevant law. Rules 3 and 4 of the Legal Practitioners Disciplinary Committee Rules, 2006 relied upon by Respondent and on which the **GBENOBA VS. LPDC** case was decided are nowhere contained in the extant Legal Practitioners Disciplinary Committee Rules of 2020, Exhibit "NBA3" which

repealed the 2006 Rules. In the 2020 Rules there is no requirement and it is repeated with humility, there is no requirement that the Applicant must establish a prima facie case before approaching the 5th Respondent with the complaint made against the Applicant/ Respondent. Therefore, to argue in this case as the Respondent has suggested that he was not heard before finding a prima facie case against him and his fundamental rights was breached, are completely baseless and unavailing. The NBA like any other person or client making a complaint against a legal Practitioner under the 2020 Rules has no duty to make prima facie finding before proceeding to LPDC as provided in Rules 4, (1), (2), (3), (4) and (5) of the LPDC Rules, 2020.

Learned counsel concludes, by urging this Honourable Court to discountenance the Respondent's papers and the submissions made therein, as same are most frivolous and calculated to mislead this court on settled principles of law.

5th Respondent/Applicant filed Notice of Preliminary Objection dated the 15th August, 2023 and filed 18th August, 2022, challenging the competence of this suit and the jurisdiction of the Honourable Court to entertain it. The Preliminary Objection seeks the following Orders;-

1. An Order of this Honourable Court dismissing this instant suit against the 5th Defendant for disclosing no reasonable cause of action.
2. And for such further Orders as the Honourable Court may deem fit to make in the circumstance

The grounds upon which this Preliminary Objection is being made are as follows:

1. That after a careful study of the Applicant/Respondent's Notice of Application for an Order Enforcing a Fundamental Right filed on the 26th of May, 2022 facts and indeed the reliefs sought disclosed no reasonable cause of action against the 5th Respondent/Applicant.
2. That having established the sole ground for this instant suit as the violation of the Applicant/Respondent's right to fair hearing when the 1st Respondent via the 2nd to 4th Respondents Panel conduct an investigation on conflicting judgments on some political cases which indicted the Applicant/Respondent of professional misconduct without inviting him and led to the filing of Petition No. BB/LPDC/8010/2022 by the 1st Respondent against the Applicant/Respondent before the 5th Respondent/Applicant,

it is evident that nothing directly or indirectly connects the 5th Respondent/Applicant to the alleged violation.

3. That the 5th Respondent/Applicant is one of the regulatory bodies in the legal profession established by the Legal Practitioner's Act, 2004 whose key function is to consider and determine allegation of misconduct brought against legal Practitioners.
4. That by virtue of the above stated function, there exists a pending suit before the 5th Respondent/Applicant with regards to the Applicant/Respondent which followed the normal precedents required for the discipline of legal practitioners in Nigeria as prescribed by the Act regulating same.

WHEREOF, the 5th Respondent/Applicant shall pray this Honourable Court to be struck-out as a party in this suit for lack of reasonable cause of action disclose against same.

In support of their application is a 4 paragraph affidavit duly deposed to by Zanti Tamar Kolais, a Legal Practitioner in the law firm of counsel representing 5th Defendant.

It is the deposition of the 5th Defendant, that there exists a pending suit before the 5th Respondent/Applicant challenging the conduct of the Applicant in discharging his professional duties.

That the 5th Respondent/Applicant is only exercising its duty as an independent arbiter between the Applicant/Respondent and the 1st Respondent which the Applicant/Respondent seeks to preclude by joining the 5th Respondent/Applicant as a Defendant in this suit without disclosing any reasonable cause of action against same.

That the Applicant has not demonstrated how the 5th Respondent breached his fundamental right to fair hearing. That appeals lie directly from the decision of the 5th Respondent to the Supreme Court.

That the Honourable Chief Justice of Nigeria on the 25th of November 2019 issued a notice to the Chief Judge of the Federal High Court and the High Court of the States on the need to desist from exercising supervisory jurisdiction on the proceedings of the 5th Respondent. A copy of the said notice from the Chief Justice of Nigeria dated the 25th of November 2019 was annexed herein and marked as Exhibit "A".

That this Honorable Court lacks supervisory jurisdiction on the proceedings before the 5th Respondent.

That the interest of justice will be best served if the instant application is granted by this Honorable Court.

In line with law and procedure, written address was filed wherein sole issue was formulated for determination to-wit;

"Whether the Applicant/Respondent has disclosed reasonable cause of action against the a 5th Respondent/Applicant as to confer requisite jurisdiction on this Honorable Court?"

It is the submission of learned counsel, that it is crystal clear that there was no record of the 5th Respondent being privy to the alleged violation nor events transpiring before the production of the Investigation Report which forms the subject of this application. It is trite that before a matter is instituted there should be certain things in place. A reasonable cause of action, amongst other things form the condition precedents a Claimant ought to fully establish to show that a prima facie case has been made against the Defendants.

Learned Counsel further submits, that due to the weight of damages allegedly caused by the 1st to 4th Respondents, it is however unnecessary joining the 5th Respondent to this instant action when same has no link to the Panel set up by the 1st Respondent up to the production of the Investigative Report which forms the entirety of the Applicant/Respondent's case therefore disclosing no reasonable cause of action against the 5th Respondent/Applicant. Furthermore, it would be unjust for the 5th Respondent/Applicant to be liable to any form of damages that is non est factum. It is the responsibility of the 1st Respondent to, upon the receipt of a complaint, set up a panel and investigate the complaint after which if its of the opinion that a prima facie case has been made against the legal practitioner, forward a report to the 5th Respondent together with all documents considered by the former and a copy of the complaint. See Rules 3 and 4 of the Legal Practitioner Disciplinary Committee Rules, 2020.

Learned counsel contended, that it is undoubtedly within the purview of the 5th Respondent/Applicant to hear and determine any petition brought in by the 1st Respondent believing it has gone through the usual process and if no case is made out after due consideration of the evidence submitted, it would terminate

the compliant or otherwise punish the legal practitioner accordingly in accordance with the Legal Practitioners Act, 2004 and the Legal Practitioner Disciplinary Committee Rules, 2020. Joining the 5th Respondent/Applicant to this suit is simply a ploy by the Applicant/Respondent to frustrate the 5th Respondent/Applicant from executing its adjudicatory duty as set out in the Legal Practitioners Act, 2004 as an independent arbiter to hear and determine the petition.

Learned counsel submits, that considering the provisions of ***OBIAJULU NWALUTU V NBA (2019) 8 NWLR (Pt. 1673) 174 (SC)***, appeals from decisions of the 5th Respondent/Applicant lies directly to the Supreme Court and not to the High Court. Consequently, this Honourable Court lacks supervisory jurisdiction over the proceedings before the 5th Respondent. It is respectfully submitted that what the Applicant is seeking to do in the circumstance is merely to hide under the guise of enforcement of fundamental human right to confer jurisdiction on this Honourable Court. On this score, we urge your lordship to resolve the sole issue in favour of the 5th Respondent and against the Applicant.

In conclusion, learned counsel urge this Honorable Court to uphold this Notice of Preliminary Objection and strike out the 5th Respondent/Applicant as a party in this suit for lack of reasonable cause of action disclosed against same.

On their part, Applicant/Respondent filed a 10 paragraph counter affidavit in response to the 5th Respondent/ Applicant's affidavit in support of their Notice of Preliminary Objection filed on 18th August, 2022, deposed to by Ezea Ferdinand, Applicant/ Respondent in this suit.

It is the deposition of Applicant/Respondent, that the 5th Respondent/Applicant is a proper and desirable party to his suit being the regulatory body in charge of carrying out the illegality of the 1st to 4th Respondents which is being challenged by the instant suit.

That the decision of this Honourable Court will one way or the other affects the 5th Respondent/Applicant. That the present action bothers on the legality or otherwise of the action of the 1st to 4th Respondents which led to the petition pending before the 5th Respondent against him vis-à-vis the constitution of the Federal Republic of Nigeria which guarantee his right to fair hearing.

That the 5th Respondent/Respondent is subject to judicial authority of this court with respect to the protection of his constitutional right to fair hearing.

That joining the 5th Respondent/Applicant in the instant suit will help to avoid multiplicity of suit in respect of same subject matter and also save the time of the 5th Respondent/Respondent and all the parties from furthering the illegality being challenged in this Honourable Court.

That the instant suit is challenging the fundamental flaw of illegality in the action of the 1st to the 4th Respondents which the 5th Respondent/Applicant is call upon to act on.

That contrary to paragraph 3vii of the supporting affidavit of the 5th Respondent/Applicant, the Honourable Court is neither exercising a supervisory jurisdiction over the 5th Respondent/Applicant nor sitting as appeal court over the decision of the 5th Respondent/Applicant but rather exercising its constitutional right under section 46 of the Constitution of the Federal Republic of Nigeria 1999 as altered.

In line with procedure, written address was filed wherein sole issue was formulated for determination to-wit;

"Whether the 5th Respondent/Applicant has made out a good case to warrant the grant of this application."

It is the submission of learned counsel, that the Applicant in the instant application has not made out a good case capable of granting the application in its favour. The applicant from the facts and circumstances of this case is a desirable and proper party to the instant suit. This is so because the foundation of the case of the 1st to 4th Respondents before the 5th Respondent is being challenged to be illegal and has no business to be before the 5th Respondent. If the action of the Applicant succeeds, the foundation of the case before the 5th Respondent is crumpled and the 5th Respondent has to be bound by the outcome of this Honourable Court which is the only Court clothed with the jurisdiction as a court of first instance in fundamental matters in Nigeria. The court of Appeal defined a desirable party in the case of ***AKUBO VS. EFCC & ANOR (2019) LPELR-47821(CA) (PP. 56-57 PARAS. B).***

Learned counsel further submits, that though the 5th Respondent did not play any role in the infringement of the fundamental right of the Applicant as illustrated by the supporting affidavit of the

Applicant but it is a proper party because the petition before it was a product of illegality and as such setting aside the report that led to the petition will definitely affect the petition before the 5th Respondent. The Legal Practitioners Rule imposes a duty of investigation on the 1st Respondent of a complaint against any legal practitioner before it to know whether there is a prima facie case or not capable of being tried by the 5th Respondent.

Learned counsel contends, that the 5th Respondent argued at paragraph 11 of the written address that 5th Respondent hears and determines any petition brought by the 1st Respondent believing it has gone through the usual process. This instant application of the Applicant/Respondent in this case is to save the time and resources of the 5th Respondent and other parties including the Applicant in the course of hearing the petition which overtly did not meet the minimum requirement of the law. It is the usual believe of the 5th Respondent that every petition from the 1st Respondent has passed through the usual procedural requirement including fair hearing to the parties before bring the petition which is not the case in the case of the Applicant/Respondent. Therefore the instant action want to put a rebuttal to the believe of the 5th Respondent by joining the 5th

Respondent who is an interest party in the subject matter of this case.

Learned counsel also submits, that the counsel to the 5th Respondent that appeal from the 5th Respondent lies to the Supreme court, that the instant suit is not appeal against the decision of the 5th Respondent but rather a challenge of the legality or otherwise of the action of the 1st to 4th Respondents in filling the petition against the Applicant without affording him the opportunity to be heard throughout the purported investigation that led to prima facie case, a procedure the Supreme court has in several decisions condemned as being against the natural justice of audi alterem partem.

In conclusion, learned counsel submits by urging this Honourable Court to dismiss this notice of preliminary objection for lacking in merit and grant the reliefs sought the Applicant/Respondent's application.

COURT:-

This consolidated Ruling is made at the instance of 1st - 4th Defendant/Applicant who filed Notice of Preliminary Objection dated 22nd August, 2022 and filed 23rd August, 2022; and 5th Defendant/Applicant who filed Notice of Preliminary Objection

dated 15th August, 2022 and filed on 18th August, 2022.....and Applicant/Respondent in that order.

Both applications challenging the competency of this suit and the jurisdiction of this Honourable Court to entertain it.

Indeed, Jurisdiction is the life wire of the court as a legal institution established for the determination of the rights of parties.

Whether a court has jurisdiction or not does not lie in the speculative or conjectural mind of the court or parties either.

The determination of jurisdiction is not a game of chess where there is always the chance element. Since it is not opened to guess, it is not one of the aspects of our law whether the court should use the objective or subjective test.

On the contrary, it is a matter of raw and hard law which is either donated by the constitution or by the enabling statute or both. See ***AFISI VS LAWAL (1992) 1 NWLR (pt. 217 at page 366, paragraphs D – H.***

A court is generally competent to adjudicate over a matter only when the conditions precedent for its having jurisdiction are fulfilled. A court will be competent when:-

- (i) It is properly constituted as regards numbers and qualifications of the members of the bench, and no member is disqualified for one reason or the other;
- (ii) The subject matter of the case is within its jurisdiction and here is no feature in the case which prevents the court from exercising its jurisdiction;
- (iii) The case comes before the court initiated by due process of law and upon fulfilment of any condition precedent to the exercise of jurisdiction.

Any defect in competence is fatal, for the proceedings are nullity, however well conducted and decided. Above was stated in the case of ***MINISTER OF WORKS & HOUSING VS. SHITTA (2008) ALL FWLR (pt. 401) 847 at 863 – 864 paragraph G – C.***

Having reviewed the preliminary objection raised by the 1st - 4th Respondents/Applicants, and the Counter affidavit of the Applicant/Respondent in the preceding part of this judgment...the following issue has been formulated for determination.

"Whether the 1st - 4th Respondents/Applicants have made out a good case in urging this court to grant their application."

For ease of determining the above issue, I shall reproduce the grounds upon which the instant application is brought.

1st - 4th Respondents/Applicants stated before this court, that *"The grouse of the Applicant/Respondent is within the domestic affairs of the Nigerian Bar Association and the Applicant/Respondent ought to have exhausted the internal remedies provided in the Constitution of the Nigerian Bar Association."*

The Applicant/Respondent's case is premature, inchoate and liable to be dismissed or struck-out.

The Applicant/Respondent's case is an attempt to prevent the 5th Respondent from carrying out its statutory duties, thereby rendering the Applicant/Respondent's action an abuse of Court Process."

I shall attempt to address each issue separately, and judiciously.

It is instructive to state here, that there are many judicial pronouncements that have laid this issue to rest. I rely on Order

11 of the Fundamental Right Enforcement Procedure Rules, 2009 cited by the Applicant/Respondent.

Order 11 provides, that “***An application for the enforcement of Fundamental Right shall not be affected by any limitation statute whatsoever***”.

It ensures that cases concerning the enforcement of fundamental rights are dealt with promptly and that the court takes immediate steps to provide relief. It reinforces the idea that the judicial system must prioritize the protection of individual rights, reflecting the constitutional guarantee of access to justice for individuals whose fundamental rights have been infringed upon.

The above provision has received several judicial interpretations from both the Court of Appeal and the Apex Court to the effect that the provision of the Rules derived its power and validity from section 46(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) is not subject to any provision of any enactment or limitation law made by parliament. See ***F.U.T MINNA VS OLUTAYO (2018) 7 NWLR (Pt. 1617)***

The above decision of the Apex court of the land which all other Courts throughout the Federal Republic of Nigeria are bound to follow.

It will be most dismissive to hold that Order 11 Rule 1 of the Fundamental Right Enforcement Procedure Rules, 2009 is to the effect that the 1st - 4th Respondents/Applicants will not by section 21 of the NBA Constitution halt the enforcement of the Applicant's fundamental right to fair hearing merely because he did not exhaust the internal remedies provided in the Constitution of the Nigerian Bar Association. This is because, the right sought to be enforced by the Applicant stands above the ordinary laws of the land, including Section 21 of the NBA Constitution.

No litigant can invoke any law to strip a court of law of jurisdiction when cause of action or matter in controversy involves fundamental right of an aggrieved person as in the instant case. The action founded on the fundamental right is sui generis, and not affected by any limitation law or Rules having regards to its urgent nature. ***EL-RUFAI VS SENATE OF THE NATIONAL ASSEMBLY (2016) 1 NWLR (Pt. 1494) at 535 PARAS A-C*** is most instructive on this.

On the second ground of objection afore-produced, Supreme Court in the case of ***GBENOBA VS LPDC (2022) ALL FWLR PAGE 60-61 PARAS F-A*** has laid the matter to rest.

The wordings of the Apex court on the above mentioned case is to the effect that 1st Applicant/Respondent (NBA) is not only duty bound to communicate the complaint against the Legal Practitioner to him but also to allow him a reasonable time to react to the complaint, and the report of the NBA investigation on which charge was recommended to the LPDC served on the Legal Practitioner Per OGUNWUMIJU JSC.

Consequently, I am of the firm view that the view of the superior Court of record, is most instructive.

On the third ground of objection already stated in the preceding part of this judgment; it is pertinent to note, that the provision of section 46 of the 1999 Constitution (as amended) gave this Court the power to hear and determine matters pertaining to enforcement of fundamental right of any person alleged to have been breached within the FCT.

See ***EFCC VS WOLFGANG REIN (2020) LPELR 49387 SC.***

Certainly speaking, this court has not seen where Applicant/ Respondent in the instant case did any wrong in approaching a court of competent jurisdiction for an alleged breach of his fundamental right to convince this court to declare his action an abuse of court process.

The important consideration to be made is to see whether the principal relief being sought bothers on the enforcement of fundamental right and this has been the principal relief of the Applicant/Respondent in this matter.

See ***TUKUR VS GOVERNOR OF GONGOLA STATE (1989) 4 NWLR (Pt. 11) 517***

At this juncture, I need to state that the 1st - 4th Respondents/Applicants breached the rules of natural justice for their failure to communicate the complaint to the Applicant/Respondent and give him reasonable time to react to same. Accordingly, the 1st - 4th Respondents/Applicants Notice of Preliminary Objection is hereby dismissed for lacking in merit.

I shall now proceed to delve into the Preliminary Objection raised by the 5th Respondent praying for an order of this court dismissing this instant suit against the 5th Defendant for disclosing no reasonable cause of action.

Having reviewed the 5th Defendant/Applicant's preliminary objection and the Counter to the application filed by the Applicant/ Respondent, this court shall adopt the sole issue formulated by the 5th Applicant/Respondent to determine this application.

"Whether the 5th Respondent/Applicant has made out a good case to warrant the grant of this application."

It is pertinent to note, that the Superior Court of records in various decisions held that a party might not be a necessary party to a suit but a desirable party who may be affected by the result. Proper parties are those who though not actually interested in the claim but are joined as parties for some good reasons.

See ***GREEN VS GREEN (1987) LPELR 1338 SC;***

AKUBO VS EFCC & ANOR. (2019) PER OPUTA JSC LPELR 47821 CA.

A perusal of the Applicant's processes shows that the said processes have not disclosed a cause of action against the 5th Respondent/Applicant but the NBA report which form part of the bone of contention which the judgment or order of this court must affect one way or the other is in custody of the 5th Respondent. The said report is the only or one of the major documents the 5th Respondent (LPDC) will rely upon in performing its duty pursuant to the LPDC Rules 2020. This makes the 5th Respondent/Applicant a proper and desirable party to this

suit as the 5th Respondent/ Applicant may be affected with the outcome of this matter.

This Court is neither exercising supervisory jurisdiction over the 5th Respondent, nor is it sitting in an appellate capacity over the decision of the 5th Respondent, as advised by the then CJN in Exhibit "A" of the 5th Respondent's Notice of Preliminary Objection but exercising Constitutional right under section 46 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) as the Court of first instance with original jurisdiction to hear and determine a matter for the enforcement of the Applicant's fundamental human right.

Thus, the 5th Respondent/Applicant's Notice of Preliminary Objection is lacking in merit. Accordingly, same is hereby dismissed.

Consequently, having dismissed the Preliminary Objections which constituted a challenge to the jurisdiction of this Court, i shall now freely delve into the substantive suit.

I have read carefully the affidavit and grounds in support of the application of the Applicant for the enforcement of his Fundamental Rights, under the Fundamental Human Rights

Enforcement Rules 2009, as amended. I have also read the Counter Affidavits of all the Respondents.

Reliefs 1, 2, 3, 4 and 5 claimed by the Applicant are declaratory in nature thereby by predicating the success of the other reliefs on their success.

I shall pause at this juncture to establish the position of the law on declaratory reliefs.

It is well settled that Declaratory Reliefs are not granted as a matter of course but on evidence that is grounded.

It is similarly not granted upon admission or lack of evidence on the part of the adversary.

See ***MODIBBO VS. YARO & ORS (2019) LPELR – 47790 (CA)***.

Indeed judicial pronouncements are ad-idem that declaratory reliefs are never granted based on admission or on default of filing defence.

MOTUNWASE VS SORUNGBE (1988) NWLR (Pt. 92) 90.

Where the court is called upon to make declaration of a right, it is incumbent on the party claiming to be entitled to the said

declaration to satisfy the court by evidence and not the admission in pleadings that he is entitled.

The imperativeness of this arises from the fact that the court has discretion to grant or refuse to grant such declaration.

SAMESI VS. IGBE & ORS (2011) LPELR 4412.

The forgone authority remains good law and binds this court as well.

As stated in the preceding part of this judgment, Applicant's application is for an order for the enforcement of his fundamental right.

Permit me to dwell a bit on the history of Human Rights.

Fundamental Rights have been said to be premodial.. some say it is natural or God given Rights.. Text books writers like the renowned Professor Ben Nwabueze (SAN) have opined that these rights are already possessed and enjoyed by individuals and that the "Bills of Rights" as we know them today "created no right de-novo but declared and preserved already existing rights, which they extended against the legislature".

It is instructive to note that Magna Carta 1215 otherwise called "Great charter" came to being as a result of the conflict between the king and the barons, and petition of rights 1628 which is said to embody sir Edward Coke's concept of "due process of law" was also a product of similar conflicts and dissensions between the king and parliament.. nor was the Bill of Rights 1689 handed down on a "platter of Gold".. that bill drawn by a young barrister John Somers in the form of declaration of right, and assented to by king Williams secured inter-alia for the English People, freedom of religion, and for judges, their independence.

England has no written constitution with or without entrenched human Rights provisions however, the three bills of rights alluded to earlier, formed the bed rock of the freedom and democratic values with which that country has to this day been associated...

Above underscores the significance of Human Rights, generally.

Nigeria did not have to fight war to gain independence from the British... it was proclaimed that our independence was given to us on a "platter of gold."

What the minority groups demanded was the right to self – determination which they believed could offer them an escape

route from the “tyranny” of the majority ethnic groups in the regions.

The commission that investigated their fears went out of its way to recommend the entrenchment of Fundamental Human Right in the Constitution as a palliative, as a safeguard and as a check against alleged “oppressive conduct” by majority ethnic groups.

Where the main claim is not the enforcement or securing the enforcement of a Fundamental Right, the jurisdiction of the court would not be properly exercised.

Having already reviewed all the processes filed by all parties in the preceding part of this judgment, I shall go straight to the point without necessarily reproducing all material facts in the review.

Thus, I shall go on to determine whether the Applicant’s fundamental rights as enshrined in Chapter IV of section 36 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) has been infringed upon by the Respondents in the circumstances of this case to warrant this Court grant the reliefs sought by the Applicant.

The Applicant on the 26th day of March, 2022, received calls from friends, relations, colleagues and clients that there is a publication on the online platforms and all other social media platforms that a petition was filed against him by the Nigeria Bar Association for professional misconduct. The Applicant's attention was drawn to some social media platform where the news was published alongside the names of other legal practitioners.

That the Applicant in the course of going through the news learnt that the 1st Respondent set up a three man Investigative Panel to investigate members of the Nigeria Bar Association that allegedly played role in the conflicting judgment delivered by different courts in the country and the Investigative panel comprising the 2nd to the 4th Respondent have concluded their investigation and submitted their report indicting the applicant of professional misconduct and recommended that petition be filed against the Applicant to the 5th Respondent.

The Applicant was never at any time during the purported investigation by the Investigate Panel, invited or given opportunity to offer a defence to whatever allegation levelled against him before the submission of the Investigative Report.

It is the alleged obvious breach of the fundamental right of the Applicant that led to institution of the suit against the Respondent for enforcement of his fundamental right.

The 2nd - 4th Respondents are duty bound to avail the Applicant with the copy of the complaint brought against him, and he should be given reasonable time to react to the complaint. Applicant is also entitled to be availed with a copy of the report of the investigation on which the charges are recommended to the LPDC.

The actions of the 1st - 4th Respondents clearly contravened the Rules of natural justice, which is an infringement on the Constitutional right of the Applicant pursuant to section 36 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

See ***GBENOBA VS. LPDC (2022) ALL FWLR PG 60-61 PARA E-A.***

The 1st - 4th Respondents in their Counter Affidavit contended, that there is no mandate on the 1st to 4th Respondents to invite the Applicant neither was there any indictment made by the 1st to 4th Respondents against the Applicant.

That the 1st - 4th Respondents never made, shared or authorized the publication of the report of the Panel to any social media outlets, mainstream media or any person or group whatsoever.

That complaints about the Applicant had already been filed before the 5th Respondent on the 25th day of March, 2022. The 5th Respondent had become seized of the facts placed before this Honourable Court by the Applicant.

That the 1st - 4th Respondents did not at any time whatsoever publish or cause to be published the name of the Applicant in the social media platforms or on any other platform for professional misconduct.

That the Nigerian Bar Association has never breached any rule of law or the fundamental human rights of the Applicant in the investigation and establishment of a prima facie case against the Applicant, and is not liable to the Applicant for any damage alleged to have been inflicted on the Applicant.

In a bid to resolve this issue, I have once again perused all the documents before this court. I have especially looked at the Exhibit that Applicant deposed in paragraph 9 of his Further Affidavit in opposition to the Counter Affidavit of the 1st - 4th Respondents, referred to as Exhibits "EZE 1 & 2" a copy of the

said publication and certificate of compliance... in which the name of the Applicant among other names are displayed on media platform for that caused him physical, psychological and emotional trauma subjecting him to ridicule in the eyes of the public.

In view of the above, i hold that the Applicant has placed sufficient evidence before this court to enable this court the report of the 1st - 4th Respondents which was clearly obtained in breach of the Applicant's right to fair hearing was also published or caused to be published by the 1st - 4th Respondents which then caused the Applicant emotional and psychological trauma, and eventually exposing him to ridicule from the general public.

It is no doubt that the NBA is saddled with the responsibility of investigating its members upon complaint(s) made against them and channel to the NBA, the 5th Respondents (LPDC), is a statutory body empowered to investigate a Legal Practitioner based on a report or originating application filed to it by the 1st Respondent. No court can stop either the 1st Respondent nor the 5th Respondent from performing their statutory duty and responsibility, but when done in contravention of the requisite laid down rules, the High Court situate in a place where the alleged

infraction arose or took place will have the original jurisdiction to hear and determine the matter. See Section 46(1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and Order 2 Rule 1 of the Fundamental Rights Enforcement Procedure Rules, 2009.

The procedure adopted by the 1st - 4th Respondents having failed to adhere to the principle of natural justice for failing to afford the Applicant fair hearing, has rendered their action null and void.

On whether the 5th Respondent is not a proper party as no cause of action is disclosed to him, I need to state at this juncture, that the present action bothers on the legality or otherwise of the 1st - 4th Respondents' action against the Applicant, and the decision of this court will one way or the other affect the 5th Respondent. The 5th Respondent is therefore a proper party in this suit.

5th Respondent is a juristic person who can sue and be sued. I need to re-iterate, that this court is neither exercising a supervisory jurisdiction over the 5th Respondent nor sitting in appellate capacity, but exercising its constitutional right under section 46 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and Order 2 Rule 1 of the Fundamental Rights Enforcement Procedure Rules, 2009.

Accordingly, I hereby enter Judgment for the Applicant against the Respondents as follows:

1. A Declaration that the Investigative Report of the 2nd to the 4th Respondents Panel set up by the 1st Respondent to investigate conflicting Judgments on some political cases which indicted the Applicant of professional misconduct and led to the filing of Petition No. BB/LPDC/8010/2022 by the 1st Respondent against the Applicant before the 5th Respondent which was widely published and circulated in different media platform without affording the Applicant the opportunity of being heard throughout the period of the purported investigation by the 2nd to the 4th Respondents Panel is a breach of the Applicant's right to fair hearing as provided under Section 36(2) of 1999 Constitution of Federal Republic of Nigeria (as amended) and Articles 7 and 9 of the African Charter on the Human and Peoples Rights (Ratification and Enforcement) Act Cap A9, Laws of the Federation of Nigeria 2004 and against the cardinal principle of natural justice: Audi Alterem Partem **is hereby granted.**
2. A Declaration that the failure of the 2nd to the 4th Respondents Panel to invite the Applicant during the

purported investigation of conflicting Judgment renders the Investigative Report and the subsequent Petition against the Applicant to the 5th Respondent based on the said Investigative Report null, void and of no effect whatsoever **is hereby granted.**

3. A Declaration that the 2nd to the 4th Respondents panel cannot legally and validly indict the Applicant upon an investigation conducted without giving the Applicant the opportunity to be heard in line with the cardinal principle of natural justice: Audi Alterem Partem **is hereby granted.**
4. A Declaration that the 5th Respondent cannot act or give effect to the petition against the Applicant by the 1st Respondent based on an Investigative Report which indicted the Applicant without giving the Applicant the opportunity to be heard or defend himself against the allegation before arriving at the Investigative Report that led to the filling of Petition BB/LPDC/8010/2022 **is hereby granted.**
5. A Declaration that it is a breach of the Fundamental Right of the Applicant for the 1st Respondent to set up a committee to investigate an allegation of professional misconduct against its member in this case the Applicant and the

committee after the purported investigation indicted the Applicant and recommended that a petition be filed against the Applicant to the 5th Respondent without giving the Applicant the opportunity to be heard **is hereby granted.**

6. An Order of the Honourable Court declaring and/or quashing the proceeding of the Investigative Panel of the 2nd to the 4th Respondents together with the purported Investigative Report that led to the filing of the Petition against the Applicant to the 5th Respondent for being null and void and of no effect whatsoever **is hereby granted.**
7. An Order of this Honourable Court restraining the 5th Respondent from proceeding with and/or giving effect to the Petition against the Applicant which anchored on an Investigative Report that was in clear breach of the Fundamental Right of the Applicant **is hereby granted.**

Relief 8 is for damages.

General damages are those damages which the law implies in every breach and in every violation of a legal right.

It is the loss which flows naturally from the Defendant's act and its quantum need not be pleaded or proved as it is generally

presumed by law. General damages can be assessed from the opinion and judgment of a reasonable person from the circumstances of the case.

See ***ACME BUILDERS LTD. VS. KADUNA STATE WATER BOARD & ANOR (1999) LPELR – 65 SC.***

To paraphrase the legendary ***DENNING, M.R IN PACKER VS. PACKER (1954) Page 15 at Page 22,*** who stated as follows:-

"What is the argument on the other side? Only this that no case has been found in which it had been done before. That argument does not appeal to me in the least. If we never do anything, which has never been done before, we shall never get anywhere. The law will not stand still whilst the rest of the world goes on and that will be bad for both. The law is an equal dispenser of justice, and leaves none without a remedy for his right. It is a basic and elementary principle of common law that wherever there is a wrong, legal or injuria that is, there ought to be a remedy to redress that wrong. Ubi jus ibi remedium is the common law principle."

Flowing from the above legendary pronouncement by Lord Denning, M.R, (blessed memory), and the facts before the Court, it is the considered view of the Court that Applicant who has indeed been mentally and psychologically affected by the said published investigative report is entitled to be assuaged in damages and public apology to be published in any two (2) National dailies.

Accordingly, I hereby award the sum of **N5,000,000.00 (Five Million Naira)** as General Damages.

***Justice Y. Halilu
Hon. Judge
18th February, 2025***

APPEARANCES

F.U. Jarigo, Esq. with I.I.I Fakunle, Esq. – for the 1st – 4th Respondents.

Adanna Ibe, Esq. – for the 5th Respondent.