

**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. 14**

**CASE NUMBER : SUIT NO: CV3489/2021**

**DATE: : FRIDAY 23<sup>RD</sup> FEBRUARY, 2024**

**BETWEEN:**

**1. ABUBAKAR NUHU MUHAMMAD**

(Trading under the name and  
Style Best 4 You Global Concept)

**2. ALHAJI UMARU KAKUMI**

(Trading under the name and  
Style Dorayi Global Solution)

**CLAIMANTS**

**AND**

**1. FIDELITY BANK PLC.**

**2. FIRST CITY MONUMENT BANK PLC. (FCMB)**

**3. ZENITH BANK PLC.**

**4. ACCESS BANK PLC.**

**5. GUARANTY TRUST BANK PLC. (GTB)**

**6. UNITED BANK OF AFRICA PLC (UBA)**

**7. PROVIDUS BANK PLC.**

**RESPONDENTS**

# **JUDGMENT**

The Claimants commenced this action vide Originating Summons dated 16<sup>th</sup> December, 2021, and filed on same day, wherein the Claimants claims the following:

1. A Declaration that the Respondents lacks the powers to restrict, freeze and or place a post no debit on the Claimants Bank Accounts which has prevented them from transactions with their bank accounts without an Order(s) from the Court.
2. A Declaration that the restricting/freezing or enabling a post no debit on the bank accounts of the 1<sup>st</sup> and 2<sup>nd</sup> Claimants by the Respondents without any Court Order(s) is wrong and contravenes the provision of the law.
3. An Order of this Honourable Court directing and compelling Respondents to forthwith lift the restriction/unfreeze accounts of the 1<sup>st</sup> and 2<sup>nd</sup> Claimants.
4. An Order of this Honourable Court Awarding the sum of N100,000,000.00 (One Hundred Million Naira) Only in favor of the Claimants against the Defendants Jointly and Severally as General Damages.

5. An Order of this Honourable Court mandating the Respondents to forthwith pay the Awarded sum of money as General Damages,
6. Such further or other Orders as this Honourable Court may deem fit to make in the circumstances of this case.

The application is supported by a 57 paragraph affidavit deposed to Abubakar Nuhu Muhammad, the 1<sup>st</sup> Claimant in this suit.

It is the deposition of the 1<sup>st</sup> Claimant, that; he is a Businessman trading under the name and style BEST 4 YOU GLOBAL CONCEPT, that the 2<sup>nd</sup> Claimant is also a Businessman Trading under the name and style Dorayi Global Solution.

That the 1<sup>st</sup> to 7<sup>th</sup> Respondents are Commercial Banks, carrying out banking business in Nigeria, where he and the 2<sup>nd</sup> Claimant have accounts.

That himself and the 2<sup>nd</sup> Claimant are carrying out the business of exchanging foreign currency into Nigerian Naira and vice versa.

That he maintain two Bank Accounts with the 1<sup>st</sup> Respondent having same Account name as BEST 4 YOU GLOBAL CONCEPT and with the following two (2) Account Numbers:

**i. A/C No. 6060426931 and**

**ii. A/C No. 5620116873.**

That he also have Bank Account with the 3<sup>rd</sup> to 7<sup>th</sup> Respondents in his personal name Abubakar Nuhu Muhammad, with the following Account Numbers;-

**1. Bank: Zenith Bank**

A/C No: 2083519110

**ii. Bank: ACCESS BANK**

A/C No: 0805512562

**iii. Bank: GURANTY TRUST BANK (GTB)**

A/C No: 0119843588

**iv. Bank: UNITED BANK OF AFRICA (UBA)**

A/C No. 2075115821

**v. Bank: Providus Bank**

A/C No: 6500375138

That the 2<sup>nd</sup> Claimant has his Account with the 2<sup>nd</sup> Respondent in the name **DORAYI GLOBAL SOLUTION** and **6563408034** as Account Number.

That on the 26<sup>th</sup> of November, 2020 while he was in his office situated at Suite A Ground Floor Plot 2249, Constaine Street Addis Abba Crescent, Zone 4 Plaza, Zone 4 Wuse, Abuja, when someone came in and demanded to exchange Nigerian Naira Notes into American Dollar Notes. The man who came into his

ABUBAKAR NUHU MUHAMMAD (Trading Under the name and Style BEST 4 YOU GLOBAL CONCEPT) & 1 OR AND FIDELITY BANK PLC. & 6 ORS

office later identified himself to be Abiodun David Adeyemo, from the bank transfer he made.

That at the moment he (Abiodun David Adeyemo) came he did not have enough American Dollar Notes to meet his demand, therefore he had to inform the 2<sup>nd</sup> Claimant and collected additional American Dollar Notes from him so as to complete the transaction with Abiodun David Adeyemo with the promise of paying him (2<sup>nd</sup> Claimant) Naira equivalent of the Dollar Notes collected as soon as payment for the exchange transaction was done.

That 1<sup>st</sup> Claimant added the entire American Dollar Notes collected from the 2<sup>nd</sup> Claimant and the American Dollar Notes with him which makes a total sum of \$9,755 (Nine Thousand, Seven Hundred and Fifty Five Dollars) equivalent to the sum of N4,800,000.00 (Four Million, Eight Hundred Thousand Naira) only.

That having calculated the money, 1<sup>st</sup> Claimant demanded, the said Abiodun David Adeyemo to bring out his Naira Equivalent so as to collect the Dollars notes from him, but he requested for Fidelity Bank Account if he have any, so as to make bank transfer, which he gave him his Fidelity Bank Account with the

Name, BEST 4 YOU GLOBAL CONCEPT and Account Number, 6060426931.

That the said Abiodun David Adeyemo left his office and returned after certain period of time to find out if he have seen alert and he told him yes, he have seen deposit alert, at about 01:53pm on the said 26<sup>th</sup> of November, 2020 of the sum of N4,800,000.00 (Four Million, Eight Hundred Thousand Naira) which is the agreed Naira Equivalent of \$9,755 (Nine Thousand, Seven Hundred and Fifty Five Dollars) he demanded for.

That a copy of the printed deposit alert is herein annexed and marked Exhibit "A1". That soon after confirming deposit alert of the sum of N4,800,000.00 (Four Million, Eight Hundred Thousand Naira), he immediately gave him (Abiadun David Adeyemo) the sum of \$9,755 (Nine Thousand, Seven Hundred and Fifty Five Dollars) and a receipt of N4,800,000.00 (Four Million, Eight Hundred Thousand Naira) as cash collected from him, was issued to him.

That a copy of the receipt showing payment of N4,800,000.00 (Four Million, Eight Hundred Thousand Naira) issued to Abiodun David Adeyemo is herein annexed and marked Exhibit "B1".

That after collecting Dollar equivalent of the sum of N4,800,000.00 (Four Million, Eight Hundred Thousand Naira) and a receipt of the sum collected from him, the said Abiodun David Adeyema left his office and he decided immediately to make transfer of Naira equivalent of the Dollars he collected from the 2<sup>nd</sup> Claimant to his First City Monument Bank (FCMB) Account with Account Name DORAYI GLOBAL SOLUTION and Account Number, 6563408034.

That a Closed-Circuit Television (CCTV) installed in his office, captured the entire transaction between him and the said Abiodun David Adeyemo from his entering his office to the time he finally left.

That photographs made from the CCTV are herein annexed and marked Exhibits "C1", "C2", "C3", "C4", "C5" and "C6".

That the money he transferred into the Bank Account of DORAYI GLOBAL SOLUTION through Online Banking on his phone is the sum of N4,454,503,00 (Four Million, Four Hundred and Fifty Four Thousand, Five Hundred and Three Naira). That shortly after he made the transfer into the Bank Account of DORAYI GLOBAL SOLUTION, a debit alert was sent to him deducting the sum of N4,454,503.75 (Four Million, Four Hundred and Fifty Four

Thousand, Five Hundred and Three Naira, Seventy Five Kobo) from his account. That a copy of the printed debit alert is herein annexed and marked Exhibit "D1"

That he further made transfer of the sum of N340,053.00 (Three Hundred and Forty Thousand, Fifty Three Naira) into his personal Account in Zenith Bank, with Account Name, Abubakar Nuhu Muhammad and Account Number, 2083519110.

That in the morning of the following day, which was on a Friday, the 27<sup>th</sup> of November, 2020, the 2<sup>nd</sup> Claimant called him on phone and informed him that there is restriction placed on his FCMB Account, where he transferred the sum of N4,454,503.00 (Four Million, Four Hundred and Fifty Four Thousand. Five Hundred and Three Naira) from his Fidelity account, which is equivalent to the Dollar he collected from him.

That the 2<sup>nd</sup> Claimant made enquiry as to why the 2<sup>nd</sup> Respondent placed restrictions on his Bank Account and was informed it was linked with transfer of the sum of N4,454,503.00 (Four Million, Four Hundred and Fifty Four Thousand, Five Hundred and Three Naira) made from his Fidelity Bank Account into his Account.

That soon after he was informed by the 2<sup>nd</sup> Claimant, he tried making banking transaction with his Fidelity Bank Account and discovered restrictions were placed on his own Fidelity Bank Account.

That he went immediately to the Customer Care of his Banker (Fidelity Bank PLC) Near Ceddi Plaza Branch CBD, Abuja to lodge his complaint and enquire on what the problem was, but the Customer Care Officer on seat that morning after keeping him waiting for a long time said he should go and return on Monday, they will resolve the problem by Monday.

That he tried making monetary transaction from his Bank Accounts with the 3<sup>rd</sup> to 7<sup>th</sup> Respondents and discovered Restrictions are placed on all his accounts. That his Bank Accounts which are freeze and Restricted as follows:

- i. **Name: MUHAMMAD NUHU ABUBAKAR**  
Bank: ACCESS BANK  
A/C No: 0805512562
- ii. **Name: ABUBAKAR NUHU MUHAMMAD**  
Bank: GURANTY TRUST BANK (GTB)  
A/C No: 0119843588
- iii. **Name: ABUBAKAR NUHU MUHAMMAD**  
Bank: Zenith Bank  
A/C No: 2083519110
- iv. **Name: NUHU MUHAMMAD ABUBAKAR**  
Bank: Providus Bank  
A/C No: 6500375138

- v. **ABUBAKAR NUHU MUHAMMAD**  
Bank: UNITED BANK OF AFRICA (UBA)  
A/C No. 2075115821
- vi. **Name: BEST 4 YOU GLOBAL CONCEPT**  
Bank: FIDELITY BANK  
A/C No: 6060426931
- vii. **Name BEST 4 YOU GLOBAL CONCEPT**  
Bank: FIDELITY BANK  
A/C No: 5620116873

That he made enquiry is as to why Restrictions are placed on all his Accounts with other Banks but was informed that it has connection with the transaction of 26<sup>th</sup> of November, 2020 when Abiodun David Adeyemo transferred money into his Fidelity Bank Account.

That he tried to question why the 3<sup>rd</sup> to 7<sup>th</sup> Respondents should place restrictions on his Account, without any wrong done by him but there was no useful explanations from any of them. That he applied for his statement of Account from Fidelity Bank Plc. to show his transaction from 20<sup>th</sup> of November, 2020 to see what went wrong, and it was issued to him. That a copy of his statement of account mentioned above is herein annexed and marked Exhibit "E1"

That the Bank Account of the 2<sup>nd</sup> Claimant, DORAYI GLOBAL SOLUTION into which he transferred the sum of N4,454,503.00

(Four Million, Four Hundred and Fifty Four Thousand, Five Hundred and Three Naira) was also restricted.

That the Bank Account of the 2<sup>nd</sup> Claimant which was freeze and Restricted has the following details;-

- i. Name: **DORAYI GLOBAL SOLUTION**  
Bank FIRST CITY MONUMENT BANK (FCMB)  
A/C No: 6563408034

That he kept going to his Bank (Fidelity Bank PLC) Near Ceddi Plaza Branch CBD, Abuja, week after week until he went there about 7 times before his account officer directed him to one Charles in the bank, whom he said is in charge of the issue.

That when he met the said Charles, he gave him a police officer's phone number and directed him to Abuja Police Command, to meet the Police Officer whom he said is in charge of the issue, that his BVN is placed on post no debit due to fraudulent monetary transfer to his account.

That when he went to Abuja Police Command and met the said police officer, he told him that, there is no case with him, but that the Bank (Fidelity Bank PLC) only brought a petition against him which they made mistake on the address and they were told to

go and correct the address but since they left, they never returned.

That the said Police Officer emphatically told him that the police are not aware of freezing his account and does not have a hand in it.

That he returned to Charles in Fidelity Bank and informed him what the Police Officer told him but he said he should give them little time they will rectify the issue and get back to him.

That he waited for about three (3) months with his account placed on post no debit and no reasonable explanation was given by the Bank for their action.

That his entire business was stalled as all his Bank Accounts were placed on a post no debit and he transact in currency therefore, he need functional Bank Account, which made him lodged a complaint to the police and when they invited the said Charles, from Fidelity Bank, the Bank (Fidelity Bank) immediately went and rectified their petition and he was invited by the Abuja Police Command, where they took his statement and released him on bail asking him to come monthly and sign at the Police Command.

That the Bank abandoned the case and the police did not also do anything aside asking him to come and sign monthly.

That it has been difficult for him to pay his children school fees and take care of his responsibilities as a family man resulting from Freezing of his Bank accounts by the Respondent. That he consulted his Lawyer and we went to court.

That the Respondents do not have the right and capacity to freeze any of his accounts and that of the 2<sup>nd</sup> Claimant without obtaining Order of the court to so act.

That the time frame within which the Respondent freeze his account, which is less than 24 hours is too short to obtain an Order of Court

That even if the Respondent got an Order Ex-parte to freeze his account, the Order should not have lasted this long (for over a year) without putting him on Notice of the said Order

That the Respondents action is extra-judicial and cannot be tolerated or accommodated in the Court of law.

That himself and the 2<sup>nd</sup> Claimant have a legal and constitutional right to be protected by allowing them access to their funds without hindrance.

That freezing of his accounts and that of the 2<sup>nd</sup> Claimant by the Respondents without Court Order is illegal, wrongful and unconstitutional. That it is in the interest of justice to grant the relief sought by Claimants in the Originating Summon.

In compliance with law and procedure, Claimants filed their final written address and formulated two (2) issues for determination.

- 1. Whether or not the Respondents have the right and capacity to freeze accounts of the claimants without any order from court.***
  
- 2. Whether in view of the questions raised for determination by the Claimants in the Originating Summons, they are accordingly entitled to the reliefs sought from this Court.***

On issue 1, learned counsel submits, that the Respondents do not have any right or capacity whatsoever to freeze or place a post no debit on Bank Accounts of the Claimants without first obtaining an order(s) from the court of law. As the law provides

that before an account of any individual or legal personality can be freeze or restricted by any bank in Nigeria, such bank must obtain an order from the court to so do. This has been provided in plethora of cases among which is the case of ***DIAMOND BANK V UNAKA & ORS (2019) LPELR-56350 (CA)*** was cited.

It is the submission of learned counsel, that the Respondents never bothered to make proper findings and failed to follow appropriate procedure of approaching the court for an Order to freeze the Claimants Bank Account before doing so. The Respondents unilaterally decided to put the Claimants into such financial difficulty and stressful struggle to survive for over one year without an Iota of wrong done by the Claimants, while the law has clearly stated that No Bank can Unilaterally without consent and authority of the Account owner deal with his account unless there is a Judicial Intervention.

Learned counsel contended, that the Respondents action of denying the Claimants access to conduct any transaction with their Bank account, for over a year now and without Justification, not minding the fact that the entire life of the Claimants are dependent on a free and open Bank Account constitutes a prima

facie act of negligence and failure in the duty of care it owes the Claimants and counsel most humbly urge this Court to so hold.

Learned counsel further contended, that it is worthy to state at this point, that such action of the Respondents having known that it owes the Claimants Contractual amounts to an outright breach of such duty as can be seen in holding of the Court in the case of ***GTB VS. REGISTERED TRUSTEES OF NEPWHAN (2021)'LPELR-54609 (CA)*** was cited.

Learned counsel finally concludes, that the Respondents owes the Claimants certain duty of care as stated in the case of ***NWOSU VS. ZENITH BANK PLC (2015) 9 NWLR (PT 1464) PAGE 314***, was cited where the Court stated thus, Bankers owe their customers duties to;

- "
- a. Receive money, cheques and other instruments,***
  - b. To pay cheques and other withdrawal authorities properly drawn by the customer during banking hours at the branch where the account is kept or elsewhere as agreed.***
  - c. To maintain secrecy concerning the customer's account and other affairs.***

- d. To give reasonable notice to a customer before closing his account.***
- e. To pay agreed interest on deposits; and***
- f. To render statements of account to the customer periodically or upon request."***

This act of the Respondents amounts to a total disregard and violation of the duty of care it owes the innocent Claimants in Arrogant display of power and counsel urge this Honourable court to grant all the reliefs sought by the Claimants as the entire suit is decided in their favor.

Upon service of the Originating Summons on the 1<sup>st</sup> Defendant, a counter affidavit of 14 paragraphs was filed wherein 1<sup>st</sup> Defendant annexed various documents as exhibits and a written address in compliance with law.

It is averment of the 1<sup>st</sup> Defendant that; the 1<sup>st</sup> Clamant maintain two separate Accounts No. 6060426931 and Account No. 5620116873 respectively with the Account Name Best 4 You Global Concept.

That the 2<sup>nd</sup> Claimant does not maintain any account with the 1<sup>st</sup> Defendant.

That the 1<sup>st</sup> Defendant denied all the depositions as contained in paragraphs 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56 and 57 of the Claimants affidavit in the Originating Summons.

That the 1<sup>st</sup> Defendant is not privy to the relationships between the 1<sup>st</sup> and 2<sup>nd</sup> Claimants leading to the dispositions contained in paragraphs, 4 - 57 of the affidavit in support of this supplication.

That the 1<sup>st</sup> Defendant is a law abiding financial institution and by law establishing the 1<sup>st</sup> Defendant, the 1<sup>st</sup> Defendant is under legal obligation to take instructions and directives from the Central Bank of Nigeria being the body empowered by law to carryout supervisory role on the activities of the 1<sup>st</sup> Defendant in its financial operation.

That the 1<sup>st</sup> Defendant by written directive from the Central Bank of Nigeria dated 11<sup>th</sup> June 2015, being the body that carryout supervisory roles on all Deposit Money Banks, switch and payment service providers including the 1<sup>st</sup> Defendant to establish

Industry Fraud Desk to Combat fraud in the banking industry which includes the 1<sup>st</sup> Defendant. The letter from the Central Bank directing the 1<sup>st</sup> Defendant to establish Industry Fraud Desks in her establishment dated June 11<sup>th</sup>, 2015 is hereby annexed as Exhibit "A"

That the 1<sup>st</sup> Defendant in furtherance to the Directive from the Central Bank of Nigeria dated 11<sup>th</sup> September, 2015 established Industry Fraud Desks in her bank.

That the 1<sup>st</sup> Defendant upon establishment of Fraud Desks and in the course of its banking operations received fraud alerts on 1<sup>st</sup> Defendant electronic payment system.

That the 1<sup>st</sup> Defendant upon receipt of this Fraud Alert which is also known as fraud complain in respect of any account in its electronic payment system promptly block the account and or place no Debit restriction in the account.

That upon placing and or blocking the account and placing no Debit restriction on the account the 1<sup>st</sup> Defendant is expected to log all customers fraud alert and escalate the fraud alert in line with internally predefined escalation paths in the Banking Industry as directed by the Central Bank of Nigeria Directive.

That the 1<sup>st</sup> Defendant in line with the above stated directive from the Central Bank of Nigeria on the 26<sup>th</sup> day of November, 2020 received fraud alerts in its electronic payment system in respect of Account No. 6060426931 with Account name Best 4 You Global Concept of the sum of N4,800,000.00 (Four Million, Eight Hundred Thousand Naira) deposited by one Abiodun David Adeyemo, which account was latter known in the course of investigation to belong to the 1<sup>st</sup> Claimant.

That in furtherance to the Directive of the Central Bank of Nigeria, the 1<sup>st</sup> Defendant upon receipts of the fraud alert in its electronic payment system in respect of the Deposit of the sum of N4,800,000.00 (Four Million, Eight Hundred Thousand Naira) in the 1<sup>st</sup> Claimant Account with the 1<sup>st</sup> Defendant with the Account Name Best 4 You Global Concept with account No. 6060426931, the 1<sup>st</sup> Defendant promptly placed no Debit restrictions on the account and promptly escalated the fraud alerts through its internally predefined escalation path to other money banks and financial institutions to forestall any further fraud as directed by central bank directive.

That the action of the 1<sup>st</sup> Defendant is to give room for investigation on the account and to checkmate fraud in the Banking Industry.

That 1<sup>st</sup> Defendant has since removed the No Debit placed on the account after conclusion of its investigation.

That the action of the 1<sup>st</sup> Defendant is as a result of the obligation placed on the 1<sup>st</sup> Defendant by the law guiding its establishment and operations.

That the 1<sup>st</sup> Defendant known as a fact that the Central Bank of Nigeria is empowered by law to give directives to financial institutions including the 1<sup>st</sup> Defendant in the course of its operations.

That contrary in the 1<sup>st</sup> and 2<sup>nd</sup> Defendant averments in paragraphs 7 to 57 of the Claimants averments the 1<sup>st</sup> Defendant is entitled to presume that Exhibit "A" to presume was properly and lawfully issued and in compliance with all the requirement of the law establishing the Central Bank of Nigeria and the 1<sup>st</sup> Defendant.

That the 1<sup>st</sup> Defendant acted lawfully in complying with the directives from the Central Bank as contained in Exhibit "A"

That the 1<sup>st</sup> Defendant as a law abiding corporate citizen of Nigeria is obliged to obey the Directive of the Central Bank of Nigeria in carrying out 1<sup>st</sup> Defendant statutory duties and that the 1<sup>st</sup> Defendant or any of its officers may be held liable for sometimes by the Central Bank of Nigeria for failure to comply with Directives issued by the Central Bank of Nigeria.

That the 1<sup>st</sup> Defendant acted lawfully in complying with the Directive of the Central Bank by placing no debit restrictions in the 1<sup>st</sup> Claimant account upon receipt of the fraud alerts on its electronic payment system and escalating same to other money banks to foresail any fraud in the banking system.

Counsel filed written address in support of the case of the 1<sup>st</sup> Defendant.

Upon service of the Originating Summons on the 2<sup>nd</sup> Respondent, a counter affidavit of 13 paragraphs was filed wherein 2<sup>nd</sup> Respondent annexed various documents as exhibits and a written address in compliance with law.

It is averment of the 2<sup>nd</sup> Respondent that, the 1<sup>st</sup> Claimant is not known to the 2<sup>nd</sup> Respondent neither is she aware of the consent

of 2<sup>nd</sup> Claimant was actually sought and obtained before instituting this matter by the 1<sup>st</sup> Claimant.

That the 2<sup>nd</sup> Respondent, a commercial bank carrying out banking business in Nigeria, does not know whether the 1<sup>st</sup> Claimant operate any type of business nor been aware of her banking relationships with any bank in Nigeria.

That the 2<sup>nd</sup> Respondent is not privy to all the purported transactions that occurred on 26<sup>th</sup> November, 2020 or any other date between the 1<sup>st</sup> Claimant and one Abiodun David Adeyemo or any other person(s)

That upon opening of an account with the 2<sup>nd</sup> Respondent, the 2<sup>nd</sup> Claimant were given cheque books and ATM card for ease of transaction. Electronic transfers were also readily made available to the 2<sup>nd</sup> Claimant by the 2<sup>nd</sup> Respondent.

That there was never a time, in which the cheque of 2<sup>nd</sup> Claimant was dishonored, ATM card withdrawal turned down nor electronic transfers declined.

That the 2<sup>nd</sup> Respondent has never breached any of the banking agreement between her and the 2<sup>nd</sup> Respondent.

That the 2<sup>nd</sup> Respondent's staff were well trained and cultured, who attends to her numerous customers courteously and politely. At no time did the 2<sup>nd</sup> Claimant visit any of her branches to complain of the account being placed on Post No Debit (PND).

That the staff of the 2<sup>nd</sup> Respondent were well educated trained and cautioned that even if governmental agencies write to her to place a customer account on Post No Debit (PND), it must be accompanied by Court Order.

That the account of 2<sup>nd</sup> Claimants with the 2<sup>nd</sup> Respondent was never frozen, therefore the need for immediate unfreezing of the account does not arise at all.

That the 2<sup>nd</sup> Claimant has been operating his account with 2<sup>nd</sup> Respondent seamlessly. A copy of their bank statement of account is attached and marked as Exhibit "A".

That 2<sup>nd</sup> Respondent never froze the account of 2<sup>nd</sup> Claimant, and all purported loss, denial of fundamental right and others inconveniences were not connected to the 2<sup>nd</sup> Respondent.

The 2<sup>nd</sup> Respondent is not aware of any Petition or meetings between the 1<sup>st</sup> Claimant, Fidelity Bank Plc. and one Mr. Charles. 2<sup>nd</sup> Respondent is not privy to any discussion with Nigeria Police

Command, Abuja nor aware of any issue pertaining to bail of the 1<sup>st</sup> Claimant.

Counsel filed written address in support of the 2<sup>nd</sup> Defendant's case.

On the part of the 3<sup>rd</sup> Defendant, affidavit of 16 paragraphs deposited to by One Chika Chukwu, an employee of the 3<sup>rd</sup> Respondent in this suit was filed.

It is the deposition of the 3<sup>rd</sup> Respondent, that they are not privy to and is not in a position to admit or deny the depositions contained in paragraphs 3, 4, 5, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 35, 36, 37, 38, 39, 42, 43, 44, 45, 46, 49 of the Claimants' affidavit, hence the Claimants are hereby challenged to strictly prove the said deposition.

That paragraphs 31, 32 (iii), 33 and 34 of the Claimants' Affidavit, as they pertain to the 3<sup>rd</sup> Respondent, are false. The 3<sup>rd</sup> Respondent did not restrict the account of the 1<sup>st</sup> Claimant. The 3<sup>rd</sup> Respondent denies the depositions in Paragraph 47 of the Claimants' Affidavit.

That paragraphs 50, 51, 53, 54, 55, 56 and 57 of the Claimants' affidavit are spurious and misconceived.

That the 1<sup>st</sup> Claimant's Zenith Bank Account Number 2083519110 is active and does not have any history of restriction whatsoever. Indeed, the 1<sup>st</sup> Claimant has been having transactions on the account as evidenced by his Statement of Account which is exhibited herein as Exhibit "Zenith 1A". The 3<sup>rd</sup> Respondent's Certificate of Identification in respect of the said Statement of Account is also exhibited herein as Exhibit "Zenith 1B".

That the 3<sup>rd</sup> Respondent received a request from Olatunji Olaiya of the Fraud Desk of Fidelity Bank Plc. (1<sup>st</sup> Respondent) on 26<sup>th</sup> November, 2020 by 19:41pm stating that their customer's instruction was forged and funds fraudulently moved to various accounts out of which the sum of N340,000.00 (Three Hundred and Forty Thousand Naira) was paid into the 1<sup>st</sup> Claimant's said account. The 3<sup>rd</sup> Respondent was therefore requested to restrict the 1<sup>st</sup> Claimant's said account to enable the 1<sup>st</sup> Respondent and its customer recoup the said amount. The 1<sup>st</sup> Respondent's said communication/request via email is exhibited herein as Exhibit "Zenith 2A". Certificate given pursuant to Section 84 of the

Evidence Act, 2011 (as amended) is also exhibited herein as Exhibit "Zenith 2B".

That the 3<sup>rd</sup> Respondent was constrained to comply with the 1<sup>st</sup> Respondent's request as same is backed up by the Central Bank of Nigeria (CBN) Regulation which is meant to enhance interbank cooperation among all deposit banks in Nigeria and to avoid being sanctioned by the Central Bank of Nigeria (CBN).

That apart from the lien placed on the salvaged sum of N339,900.00 (Three Hundred and Thirty-Nine Thousand, Nine Hundred Naira) there is no restriction whatsoever on the 1<sup>st</sup> Claimant's account as he has been operating same seamlessly. The Claimants' suit and claims against the 3<sup>rd</sup> Respondent are unwarranted and undue.

That the 3<sup>rd</sup> Respondent vehemently denies in their entirety all the claims by the Claimants as set out in their Originating Summons and humbly urges this Honourable Court to dismiss same, being unreasonable, undue, unwarranted, unsubstantiated, unmeritorious and gold-digging.

Counsel filed written address in support of the case of the 3<sup>rd</sup> Defendant.

Upon service of the Originating Summons on the 4<sup>th</sup> Respondent, a counter affidavit of 25 paragraphs was filed wherein 4<sup>th</sup> Respondent annexed various documents as exhibits and a written address in compliance with law.

It is averment of the 4<sup>th</sup> Respondent that, the 4<sup>th</sup> Respondent Bank (Access Bank Plc.) is a financial institution carrying on commercial banking business in Nigeria, particularly within the jurisdiction of this Honourable Court.

That the 4<sup>th</sup> Respondent as a bank/financial institution carrying on commercial banking business in Nigeria is subject to the control, supervision, rules, regulations laws, guidelines and directives of the Central Bank of Nigeria, to the knowledge of the claimants

That the 1<sup>st</sup> Claimant (Abubakar Nuhu Muhammad) only, is known to the 4<sup>th</sup> Respondent bank as its customer who maintains and operates a personal/individual savings account No. 0805512562 in his personal/individual name, but not a business or corporate account in any business or corporate name to wit, Best 4 You Global Concept.

That the 1<sup>st</sup> Claimant in opening his above said personal/individual savings account No: 0805512562 completed

and signed the account opening package i.e forms/documents wherein he duly agreed to the terms and conditions contained therein Copy of the completed/signed account opening package i.e forms/documents is attached as Exhibit "ABP 1"

That the 1<sup>st</sup> Claimant in his completed and signed account opening package (forms/documents) wherein contains the terms and conditions for the opening, operation and maintenance of his said personal/individual savings account, agreed to the terms and conditions to wit: to comply and be bound by the Bank's rules for the conduct of a savings account; under no circumstances shall access bank be liable to the customer for any indirect, incidental, consequential, special or exemplary damages in connection with the Account or services, Access Bank shall not be liable for any loss or damage whatsoever suffered or incurred by the customer howsoever caused and whether such loss or damage is attributable (directly or indirectly) to any dispute or any other matter or circumstances whatsoever; the customer shall solely be responsible for ensuring full compliance with all the applicable laws and regulations in any relevant jurisdiction in connection with establishment of his/her account with Access Bank, amongst other relevant terms and conditions.

That from the foregoing paragraph, the 1<sup>st</sup> claimant by the various terms and conditions agreed for the opening, operation and maintenance of his said savings account, already absolved the 4<sup>th</sup> Respondent Bank (Access Bank Plc.) of any damages and/or liabilities whatsoever and howsoever as regards his said savings account or the Bank's services and/or actions

That the 2<sup>nd</sup> Claimant, Alhaji Umani Kaklumi (trading under the Dorayi Global Solution) is not known to the 4<sup>th</sup> Respondent Bank, neither does he have any personal/individual or business/corporate account or any account at all with the 4<sup>th</sup> Respondent Bank, thus not a customer of the 4<sup>th</sup> Respondent Bank.

That the 1<sup>st</sup> Respondent Bank (Fidelity Bank Pic) is also a financial institution carrying on commercial banking business in Nigeria, particularly within the jurisdiction of this honourable court

That the 1<sup>st</sup> Respondent as a bank/financial institution carrying on commercial banking business in Nigeria is also subject to the control, supervision, rules, regulations, laws, guidelines and directives of the Central Bank of Nigeria, to the knowledge of the Claimants.

That the Central Bank of Nigeria as the regulatory and supervisory Bank/body of all banks/financial institutions, banking transactions, operations, clearing system, accounts held maintained by financial institutions and commercial banks (the 1<sup>st</sup> and 4<sup>th</sup> Respondent Banks inclusive), in furtherance of its mandate to develop and enhance the security of the electronic payments system in Nigeria, issued and released the Regulatory Framework for Bank Verification Number (BVN) Operations and Watch-list for the Nigerian Financial System, and also the Establishment of Banking Industry Fraud Desks. Copies of the Regulatory Framework for BVN and the Establishment of Industry Fraud Desks regulations and directives are attached as Exhibits "ABP 2" and "ABP3" respectively.

That the 4<sup>th</sup> Respondent as a bank/financial institution carrying on business as a commercial bank in Nigeria that is subject to the supervision, regulations, rules, laws, guidelines and directives of the Central Bank of Nigeria, is bound by the said Central Bank of Nigeria Regulatory Framework for Bank Verification Number (BVN) Operations and Watch-list for the Nigerian Financial System, as well as the Establishment of Industry Fraud Desks directives, guidelines and regulations.

That sometime in November 2020 being the material time, the 1<sup>st</sup> Claimant's Bank Verification Number (BVN) was reported to the Nigeria Inter-Bank Settlement System (NIBSS) by the 1<sup>st</sup> Respondent Bank (Fidelity Bank Plc.) for update on the BVN watch-list data base due to a fraud alert on the account of one of its customers, David Adeyemo, to the tune of N4,800,000.00 (Four Million Eight Hundred Thousand Naira).

That upon the update of the 1<sup>st</sup> Claimant's Bank Verification Number (BVN) on the Nigeria Inter Bank Settlement System (NIBSS) watch-list database by the 1<sup>st</sup> Respondent Bank (Fidelity Bank Plc.), the 1<sup>st</sup> Claimant's said account No:

0805112562 automatically restricted in line with the Central Bank of Nigeria Establishment of Fraud Desk and the Regulatory Framework for Bank Verification Number (BVN) Operations and Watch-list for the Nigerian Financial System regulations, directives, rules and guidelines.

That the Nigeria Inter-Bank Settlement System (NIBSS) maintains and administers the Bank Verification Number (BVN) watch-list database, and the 4<sup>th</sup> Respondent Bank in the circumstance, was under an obligation and duty to comply with the appropriate regulations, guidelines, rules, directives/steps in enforcing the

sanctions as stipulated by the Central Bank of Nigeria (CBN) in the Regulatory Framework for Bank Verification Number (BVN) Operations and Watch-list for the Nigerian Financial System and the Establishment of Fraud Desk.

That the 1<sup>st</sup> Claimant in the agreed terms and conditions for the opening, operating and maintaining of his said savings account, already agreed and consented to comply and be bound by the 4<sup>th</sup> Respondent bank's rules for the conduct of his savings account; to free the Bank from any responsibility for any loss or damage to funds deposited with the Bank due to all causes beyond the Bank's control; that under no circumstances shall Access Bank be liable to him for any indirect, incidental, consequential, special or exemplary damages in connection with his account or the Bank's services; and that he shall solely be responsible for ensuring full compliance with all the applicable laws and regulations in any relevant Jurisdiction in connection with establishment of his account with Access Bank, amongst other terms and conditions agreed.

That the alleged restriction on the 1<sup>st</sup> Claimant's said savings account No: 0805512562 domiciled with the 4<sup>th</sup> Respondent Bank did not emanate from nor initiated by the 4<sup>th</sup> Respondent Bank,

but occurred as a result of the placement of the 1<sup>st</sup> Claimant's Bank Verification Number (BVN) on the watch-list database of Nigeria Inter-Bank Settlement System (NIBSS) following the 1<sup>st</sup> Respondent bank's (Fidelity Bank Plc.) initiation, broadcast and alert emails on fraud linked with the 1<sup>st</sup> Claimant's account and Bank Verification Number. Copies of the email bundle is attached as Exhibit "ABP4"

That the 4<sup>th</sup> Respondent Bank does not know the 2<sup>nd</sup> Claimant and Abiodun David Adeyemo, neither was the 4<sup>th</sup> Respondent Bank a party to or privy to the transaction and/or any transaction between the Claimants or between the Claimants and Abiodun David Adeyemo.

That no action of the 4<sup>th</sup> Respondent Bank stalled any business of the Claimants or has caused any hardship or inconvenience or wrong or difficulty to the Claimants as alleged.

That the 4<sup>th</sup> Respondent Bank does not control, maintain or manage Bank Verification Numbers of banks customers, including that of the Claimants, as Bank Verification Numbers linked to banks customers accounts, including that of the Claimants, are under the control and management of Nigeria Inter-Bank

Settlement System (NIBSS), by Central Bank of Nigeria (CBN) regulations.

That by the Central Bank of Nigeria's (CBN) rules, regulations, guidelines and directives as contained and expressed in the said Regulatory Framework for Bank Verification Number (BVN) Operations and Watch-list for the Nigerian Financial System and the Establishment of Banking Industry Fraud Desks, once a customer's Bank Verification Number (BVN) is placed or updated on the Nigeria Inter Bank Settlement System (NIBSS) watch-list, the customer's account(s) linked with such Bank Verification Number (BVN) automatically become(s) inaccessible and restricted independent of and outside of the control of the customer's bank, the 4<sup>th</sup> Respondent Bank in this instance.

Counsel filed written address in support of the case of the 4<sup>th</sup> Defendant.

Upon service, the 5<sup>th</sup> Respondent filed a counter affidavit of 8 paragraph deposed to by One Ogbonnah Margaret Ezekiel, a Legal Practitioner in the Law Firm of Messrs Ojile, Ojile & Associates, Counsel to the 5<sup>th</sup> Respondent.

It is the averment of 5<sup>th</sup> Respondent, that they are not privy to the transaction and facts deposed to in paragraphs 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17,18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55 and 56 of the Affidavit in support of the Originating Summons and put the Claimants to the strictest proofs of same.

That contrary to paragraph 32 of the supporting affidavit to the Claimants' Originating summons, the 5<sup>th</sup> Respondent did not at any time limit the 1<sup>st</sup> Claimant's account by either freezing or posting a Post No Debit (PND), The Claimants are put to the strictest proof of same.

That contrary to paragraph 33 of the supporting affidavit to the Claimants' Originating summons, the 5<sup>th</sup> Respondent was never privy to any discussion/dollar transaction between the Claimants and one Abiodun David Adeyemo or any other person on the 26<sup>th</sup> of November, 2020 or on any other date, The Claimants are put to the strictest proof of same.

That contrary to paragraph 34 of the supporting affidavit to the Claimant's Originating summons, the Claimants did not at any time approach the 5<sup>th</sup> Respondent or visit any of its offices to

make any complaint or inquiry, The Claimants are put to the strictest proof of same.

That the 5<sup>th</sup> Defendant did not at any time write any petition to the Nigerian police or any other Law Enforcement Agency against any of the Claimants.

That contrary to paragraphs 53 and 54 of the supporting affidavit to the Claimants' Originating summons, the 5<sup>th</sup> Respondent has not acted in any extra-judicial manner so as to breach the legal and constitutional rights of any of the Claimants, The Claimants are put to the strictest proofs of same.

That the Claimants do not have a reasonable cause of action against the 5<sup>th</sup> Respondent to make out a claim for the reliefs against the 5<sup>th</sup> Respondent.

That the 5<sup>th</sup> Defendant has not acted in any manner so as to put the Defendants under untold hardship.

That it will be in the interest of justice to dismiss the Claimants' Application as it is an abuse of Court's process. That it will also be in the interest of justice to strike out and/ or dismiss the Claimants' entire suit with heavy cost against the 5<sup>th</sup> Respondent as it is frivolous, vexatious and unmerited.

Counsel filed written address in support of the 5<sup>th</sup> Defendant's case.

Upon service of the Originating Summons on the 6<sup>th</sup> Respondent, a counter affidavit of 22 paragraphs was filed wherein 6<sup>th</sup> Respondent annexed various documents as exhibits and a written address in compliance with the law.

It is the averment of the 6<sup>th</sup> Respondent that they denied paragraphs 4, 5 and 6 of the Claimants' affidavit in support of the Motion on Notice and puts the Claimants to the strictest proof of same.

That the 6<sup>th</sup> Respondent is not in a position to deny or admit the Claimants' depositions in paragraphs 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27, of their affidavit in support of the motion on notice as the said depositions are facts within the exclusive knowledge of the Claimants and/or persons named therein as the 6<sup>th</sup> Respondent was neither a party to events contained in the depositions nor privy to them.

That the 6<sup>th</sup> Respondent denies the averments contained in paragraphs 28 and 29 of the Claimants' affidavit and in reply states that the said 1<sup>st</sup> Claimant's account number 2075115821

domiciled with the 6<sup>th</sup> Respondent was not frozen and/or restricted as alleged by the Claimants.

That the 6<sup>th</sup> Respondent denies paragraphs 30 and 31 of the Claimants' affidavit and states that the 6<sup>th</sup> Respondent did not inform the 1<sup>st</sup> Claimant of any restriction placed on his account as there was no need for such.

That furthermore, the 1<sup>st</sup> Claimant did not issue any complaint regarding the alleged restriction on his account to the 6<sup>th</sup> Respondent before the institution of this suit and has not shown any proof of any such complaint.

That the 6<sup>th</sup> Respondent denies the depositions in paragraphs 32, 33, 34, 35, 36, 37 and 38 of the Claimants affidavit and states that they are facts within the exclusive knowledge and preserve of the Claimants.

That the 6<sup>th</sup> Respondent denies the depositions in paragraphs 39, 40, 41, 42, 43, 44, and 45 of the Claimants' affidavit and in response states that the 1<sup>st</sup> Claimant has never approached it concerning the alleged restriction on his account neither did the 1<sup>st</sup> Claimant inform it of funds belonging to any person other than the 1<sup>st</sup> Claimant domiciled in the said account.

That the 6<sup>th</sup> Respondent denies the depositions in paragraphs 47, 48, 49, 50, 51, 52 and 53 of the Claimants' affidavit and states that the 1<sup>st</sup> Claimant does not need an order of injunction to operate his account with the 6<sup>th</sup> Respondent since the account is not under a restriction.

That it neither placed a restriction on 1<sup>st</sup> Claimant's account number 2075115821 domiciled with it nor prevented him from operating it, and that at no time was the 1<sup>st</sup> Claimant or any of the Claimants informed by the 6<sup>th</sup> Respondent that his account was under any restriction or lien.

That the 1<sup>st</sup> Claimant never reported to any branch of the 6<sup>th</sup> Respondent that his account was restricted or that he could not access funds in his account or went to any branch of the 6<sup>th</sup> Respondent to lodge any complaint about a particular failed transaction.

That the 6<sup>th</sup> Respondent has not received any document and the Claimants' have not supplied any to show that the 1<sup>st</sup> Claimant actually tried to do a banking transaction which failed.

That it will be in the interest of justice to dismiss the Claimants' application for interlocutory injunction against the 6<sup>th</sup> Respondent.

That the Claimants' will not be prejudiced by the dismissal of this application.

Counsel filed written address in support of the case of the 6<sup>th</sup> Defendant.

Upon service of the Originating Summons on the 7<sup>th</sup> Respondent, a counter affidavit of 5 paragraphs was filed wherein 7<sup>th</sup> Respondent annexed various documents as exhibits and a written address in compliance with law.

It is averment of the 7<sup>th</sup> Respondent that, the facts contained in paragraphs 2, 3, 4, 5, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55 and 56 of the Claimant's affidavit are exclusively within the Claimant's personal knowledge, as the 7<sup>th</sup> Respondent is not privy to the facts. The Claimants are put to the strictest proof of same.

That the 7<sup>th</sup> Respondent expressly denies paragraphs 31 and 32 of the affidavit and put the Claimants to the strictest proof of same.

That the Claimants have failed to demonstrate any untold hardship done to it by the 7<sup>th</sup> Respondent.

That no reasonable cause of action has been disclosed against the 7<sup>th</sup> Respondent.

That the Claimant's case should be dismissed with substantial cost as same is frivolous and vexatious and intended to mislead this Honourable Court.

Counsel filed written address in support of the 7<sup>th</sup> Defendant's case.

Upon service of the respective counter affidavits on the Claimants, a further separate affidavit was filed with regards to the counter affidavit of the 1<sup>st</sup> Defendant by way of reply and a joint reply was filed with respect to the counter affidavit of the 2<sup>nd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> Defendants.

It is further the averment of the Claimants that contrary to paragraph 6(e) and (f) of the counter affidavit of the 1<sup>st</sup> Defendant, that the freezing of the said account was never done in any compliance with Central Bank of Nigeria (CBN) directives, and that the identity of the alleged person or institution who raised the fraud alert was not mentioned nor exhibit any document to that effect.

It is further the reply of Claimants that the fraud alert raised by the 1<sup>st</sup> Defendant wrongly raised and thereby illegally placing his account on Post No Debit (PND) and that even when an Upper Area Court Mararaba Gurku in Nasarawa State made an Order lifting the Post No Debit and the said Order served on the 1<sup>st</sup> Defendant, 1<sup>st</sup> Defendant appealed against the said order to the Court of Appeal.

1<sup>st</sup> Claimant also stated that 1<sup>st</sup> Defendant reported him to the police and abandoned the case once they had nothing against him and that 1<sup>st</sup> Defendant did not conduct any independent investigation before placing his account on Post No Debit (PND).

It also the averment of the 1<sup>st</sup> Claimant by way of reply to the 1<sup>st</sup> Defendant's counter affidavit that the CBN directed Banks to fulfill certain customer service obligations before enforcing the regulatory Framework for Bank Verification Number (BVN) operations and watch list for the Nigerian Financial System and Establishment of Fraud Desk which is notifying customers and making them sign.

Indemnity by updating account opening package, and that the 1<sup>st</sup> Defendant failed to comply with this Central Bank of Nigeria (CBN) directives as it has to do with him.

It is his averment that Exhibit "BEST 005" i.e Central Bank of Nigeria (CBN) Regulation Framework for Bank Verification Number (BVN) Operation and Watch-list for the Nigerian Banking industry did not authorize the Defendant to place a Post No Debit on his account without investigation.

It is 1<sup>st</sup> Claimant's further reply to 1<sup>st</sup> Defendant's counter affidavit that he was never invited for investigating or questioning, and that the money was transferred into his account on the 26<sup>th</sup> November, 2020 and his account was frozen on the 28<sup>th</sup> November, 2020 contrary to the Central Bank of Nigeria (CBN) guidelines which provides for one month window period for investigation and that there was no Court Order sought and obtained before a Post No Debit (PND) was placed on his account. Court was used to grant all the reliefs sought.

Reply address was also filed.

Reacting to the counter affidavits of the 2<sup>nd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> Defendants/Claimants filed a joint further affidavit in reply wherein Claimants exhibited printed deposit alert, copy of receipt showing payment of N4,800,000.00 issued to Abiodun David Adeyemo, photographs made from Close Circuit Television (CCTV)

showing the transaction between him and Abiodun David Adeyemo which are exhibited.

Claimants annexed as exhibits a copy of the debit alert sent to his deducting the sum of N4,454,503.75 (Four Million, Four Hundred and Fifty-Four Thousand, Five Hundred and Three Naira, Seventy Five Kobo), statement of account from Fidelity Bank in that order.

Claimants further stated in their joint further affidavit and reply that 2<sup>nd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> Defendants filed their counter affidavit to the originating summons.

That the 2<sup>nd</sup> Respondent stated a lot of facts in its counter affidavit among which are the following:-

- a. That the 2<sup>nd</sup> Respondent admitted the fact that the 2<sup>nd</sup> Claimant has an account with them but denied placing the account on Post No Debit (PND).
- b. That the 2<sup>nd</sup> Respondent placed a post no debit on the 2<sup>nd</sup> Claimant's account but opened the account shortly after it was served with our Originating Summons.
- c. That proof of the 2<sup>nd</sup> Respondent placing the 2<sup>nd</sup> Claimant's account on Post No Debit (PND) is an email raised showing

my account and account of the 2<sup>nd</sup> Claimant, which is herein annexed and marked Exhibit "EF1".

That the 4<sup>th</sup> Respondent stated a lot of facts in its counter affidavit which does not justify the reason why a Post No Debit (PND) should be placed on my account.

That the facts stated by the 4<sup>th</sup> Respondent in its counter affidavit, is responded to in the following ways;

- a. That by paragraph 7 of its counter affidavit, the 4<sup>th</sup> Respondent attached Exhibit "ABP 1" which is account opening package, i.e forms/documents signed by me.
- b. That by paragraph 2 of Exhibit "ABP1" it is agreed between me and the 4<sup>th</sup> Respondent that it will honour all orders which may be drawn on my account provided such orders are signed by me, but the 4<sup>th</sup> Respondent placed a Post No Debit (PND) on my account thereby refusing to honour orders signed by me as a result of the Post No Debit (PND).
- c. That I am not complaining of consequential, special or exemplary damages in connection with my account or services of the 4<sup>th</sup> Respondent but I am complaining on enabling a Post No Debit (PND) on my account without prior

Order of any Court and without any fault of mine thereby refusing me access to my account.

- d. That the 4<sup>th</sup> Respondent cannot enable a Post No Debit (PND) on my account and claim to be relying on the Central Bank of Nigeria (CBN) Establishment of Banking Industry Fraud Desks as Justification for its actions.
- e. That by Paragraph 2(e) of Exhibit "ABP1" attached by the 4<sup>th</sup> Respondent in its counter affidavit, it is stated that I will be bound by any change in conditions governing my account, only if notifications, notices or letters to that effect are sent to my last known address.
- f. That at no time did the 4<sup>th</sup> Respondent sent any notifications, notices or letters to me or my address notifying me of the Central Bank of Nigeria (CBN) establishment of Banking Industry Fraud Desk and what it is meant to regulate.
- g. That Exhibit "ABP2" attached by the 4<sup>th</sup> Respondent to its Counter Affidavit includes the Central Bank of Nigeria Regulatory Framework for Bank Verification Number (BVN) Operations and Watch-list for the Nigerian Banking Industry

- h. That on pages 3, 4 and 7 among other pages of Exhibit "ABP 2" of the 4<sup>th</sup> Respondent's Counter affidavit, where it talks about taking actions on fraudulent activities it stated that **"bank customers identified by their BVNs, who have been involved in Confirmed Fraudulent activities."**
- i. That the 4<sup>th</sup> Respondent has failed to disclose which Court or Committee has confirmed me to be involved in fraudulent activities to warrant enabling a Post No Debit (PND) on my account.
- j. That the 4<sup>th</sup> Respondent did not conduct any investigation before enabling a Post No Debit (PND) on my account.
- k. That on page 7 of Exhibit "ABP 2" the Central Bank of Nigeria (CBN) instructed all Banks to update the terms and conditions of account opening package with a disclaimer for new account and to communicate the update to existing customers.
- l. That the disclaimer all the Respondents were instructed by the Central Bank of Nigeria (CBN) to include in their account opening package is **"If a fraudulent activity is associated with the operation of your account, you**

***agree that we have the right to apply restrictions to your account and report to appropriate law enforcement agencies"***

- m. That the said disclaimer as mentioned above is not included in my account opening package and is never communicated to me at any time by the 4<sup>th</sup> Respondent prior to enabling a Post No Debit on my account and till date.
- n. That the 4<sup>th</sup> Respondent has not reported to law enforcement agency at any time of fraudulent activities connected to my account till date.
- o. That the 4<sup>th</sup> Respondent cannot be under an obligation and duty to comply with Central Ban of Nigeria (CBN) directives/steps in enabling a Post No Debit (PND) on my account.
- p. That the Central Bank of Nigeria (CBN) directed the banks to fulfill certain customer service obligations before enforcing the regulatory framework for Bank Verification Number (BVN) Operations and Watch-list for the Nigerian Financial System and the Establishment of Fraud Desk which is

notifying customers and making them sign indemnity by updating account opening package.

- q. That the 4<sup>th</sup> Respondent and all other Respondents did not comply with the Central Bank of Nigeria (CBN) directives of Notifying me and or updating the account opening package to include the indemnity clause for me to sign prior to enabling a Post No Debit (PND) on my account.
- r. That the 4<sup>th</sup> Respondent cannot claim not to have control of enabling a Post No Debit (PND) on my account when the 2<sup>nd</sup> Respondent have lifted the Post No Debit (PND) placed on the 2<sup>nd</sup> Claimant's account shortly after they were served with the Court Process in this suit.
- s. That the Central Bank Guidelines annexed by the 4<sup>th</sup> Respondent did not authorize the Respondents to Place a Post No Debit (PND) on my account without investigation.
- t. That on paragraph 1.4.13 at pages 6 and 7 of the Central Bank of Nigeria Regulatory Framework for Bank Verification Number (BVN) Operations and Watch-list for the Nigerian Banking Industry Attached as Exhibit "ABP 2" by the 4<sup>th</sup>

Respondent to its counter affidavit, provided on page 7 at (vii) and (x) as follows:-

- i. The Chief Audit Executive of the customer's bank shall be notified, where a bank needs to watch-list a customer of another bank, with a copy to CBN;
- ii. The Chief Audit Executive of the customer's bank, upon notification, shall investigate within one (1) month and after confirmation of the fraudulent activity, watch-list the customer within two (2) business days.

That none of Respondents investigated as he was not invited by any of the Respondents for any form of investigation or questioning as the Respondents never waited despite one (1) month is required for investigation by the Central Bank of Nigeria (CBN) guideline.

That the money was transferred into his account on the 26<sup>th</sup> of November, 2020 and his account was freeze on the 27<sup>th</sup> of November, 2020, which shows no time was taken for investigation.

That the 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> Respondents stated a lot of facts in their Counter affidavit which was served on his counsel I.H. Nalaraba, Esq.

That the 5<sup>th</sup> Respondent filed its Counter Affidavit on the 24<sup>th</sup> of February, 2020, while the 6<sup>th</sup> Respondent filed its Counter affidavit on the 14<sup>th</sup> of March, 2022 and the 7<sup>th</sup> Respondent filed its own Counter Affidavit on the 6<sup>th</sup> of May, 2022, which were earlier than the 4<sup>th</sup> Respondent, who filed its own Counter Affidavit on the 30<sup>th</sup> of September, 2022.

That the facts deposed to in the 5<sup>th</sup> Respondent's Counter Affidavit is responded to in the following sequence.

That in paragraph 4(e) of the 5<sup>th</sup> Respondent's Counter Affidavit, the Respondent denied freezing his account with the Bank, having account number 0119843588.

That immediately after the 5<sup>th</sup> Respondent was served with the processes of this Honourable Court in this suit is lifted the Post No Debit (PND) placed on his account shortly before filing its Counter Affidavit.

That the 5<sup>th</sup> Respondent, filed its Counter Affidavit, on the 24<sup>th</sup> of February, 2022 and deny ever freezing or enabling a Post No

Debit (PND) on his account because it unfreeze or lifted the Post No Debit (PND).

That shortly after the 5<sup>th</sup> Respondent was served with Counter Affidavit of the 4<sup>th</sup> Respondent, which was filed on the 30<sup>th</sup> of September, 2022, wherein the 4<sup>th</sup> Respondent admitted freezing his account as a result of Central Bank of Nigeria (CBN) regulatory framework for Bank Verification Number (BVN) Operations and Watch-list for the Nigerian Financial System and Establishment of Fraud Desk, the 5<sup>th</sup> Respondent again freeze his account or place Post No Debit on his account and till date have not unfreeze it.

That herein annexed are copies of printout transactions made by his which shows his account has restriction, it is annexed and marked Exhibits "F1" and "F2".

That the 6<sup>th</sup> Respondent filed its Counter Affidavit on the 14<sup>th</sup> of March, 2022, while the 4<sup>th</sup> Respondent, filed its own Counter Affidavit on the 30<sup>th</sup> of September, 2022.

That the facts deposed to in the 6<sup>th</sup> Respondent's Counter Affidavit is responded to in the following sequence.

That in paragraph 11 of the 6<sup>th</sup> Respondent's Counter Affidavit, the Respondent stated that his account with Account Number 2075115821 domiciled with them was not frozen and/or restricted as alleged.

That shortly after the 6<sup>th</sup> Respondent was served with the processes of this Honourable Court in this suit it lifted the Post No Debit (PND) placed on his account before filing its Counter Affidavit.

That the 6<sup>th</sup> Respondent, filed its counter affidavit, on the 14<sup>th</sup> of March, 2022 and denied ever freezing or posting a Post No Debit (PND) on his account because it unfreeze or lifted the Post No Debit (PND) placed on his account.

That shortly after the 6<sup>th</sup> Respondent was served with counter affidavit of the 4<sup>th</sup> Respondent, which was filed on the 30<sup>th</sup> of September, 2022, wherein the 4<sup>th</sup> Respondent admitted freezing his account as a result of Central Bank of Nigeria (CBN) regulatory framework for Bank Verification Number (BVN) Operations and Watch-list for the Nigerian Financial System and the Establishment of Fraud Desk, the 6<sup>th</sup> Respondent again freeze his account or place Post No Debit (PND) on his account and till date have not unfreeze it.

That the 7<sup>th</sup> Respondent filed its counter affidavit on the 6<sup>th</sup> of May, 2022 and served him through his counsel on the 9<sup>th</sup> of May, 2022.

That the facts deposed to in the 7<sup>th</sup> Respondent's counter affidavit is responded to in the following sequence.

- a. That in paragraph 4(e) of the 7<sup>th</sup> Respondent's counter affidavit, the Respondent stated that it did not at any time freeze or place any form of restriction on his account.
- b. That shortly after the 7<sup>th</sup> Respondent was served with the processes of this Honourable Court in this Suit it lifted the Post No Debit (PND) placed on his account before filing its counter affidavit.
- c. That the 7<sup>th</sup> Respondent, filed its counter affidavit, on the 6<sup>th</sup> of May, 2022 and denied placing any form of restriction on his account because it unfreeze or lifted the Post No Debit (PND) placed on his account.
- d. That shortly after the 7<sup>th</sup> Respondent was served with counter affidavit of the 4<sup>th</sup> Respondent, which was filed on the 30<sup>th</sup> of September, 2022, wherein the 4<sup>th</sup> Respondent admitted freezing his account as a result of Central Bank of

Nigeria (CBN) regulatory framework for Bank Verification Number (BVN) Operations and Watch-list for the Nigerian Financial System and the Establishment of Fraud Desk, the 7<sup>th</sup> Respondent again freeze his account or place Post No Debit on his account and till date have not unfreeze it.

That the Respondents cannot deny freezing and or enabling a Post No Debit (PND) on his account with the Central Bank of Nigeria (CBN) regulatory framework for Bank Verification Number (BVN) Operations and Watch-list for the Nigerian Financial System and the Establishment of Fraud Desk.

That the email sent around, which resulted into freezing his account and that of the 2<sup>nd</sup> Claimant by the Respondents without investigation is annexed and marked Exhibit "EF1".

That the Respondents erroneously failed in carrying out their responsibility of investigating before placing his account on Post No Debit (PND), and they did so without Order of any Court of competent jurisdiction.

That the interest of justice will best be served if all the prayers on his Originating Summons are granted.

That the Respondents will not be prejudiced if the Originating Summons is granted.

Learned counsel for the Claimants in their reply address relied again on the authority of ***DIAMOND BANK VS. UNAKA & ORS (2019) LPELR 56356 (CA)*** in urging the Court to grant their reliefs as sought.

It is expedient to mention that all the Defendants as indicated in the body of this Judgment, filed their written addresses in support of the averments contained in the respective counter affidavits in opposition to the affidavit in support of the Claims of the Claimants.

I now proceed to run through the said written addresses of the Defendants for the purposes of clarity and understanding.

1<sup>st</sup> Defendant filed its written address and formulated a lone issue, to-wit;-

***Whether the 1<sup>st</sup> Defendant is under obligation under the law to obey a lawful directive from Central Bank of Nigeria being a body established by law to supervise the operation of the 1<sup>st</sup> Defendant as a financial institution.***

It is the submission of learned counsel that, the 1<sup>st</sup> Defendant consistently and categorically denied being liable to the Claimants for carrying out a seemingly lawful and usual direction from the Central Bank as contained in the Central Bank of Nigeria (CBN) Directive dated 11<sup>th</sup> June, 2015.

Learned counsel submits, that the court can take judicial Notice of the fact that the first Respondent is empowered by law to issue directive to any financial institution including the 1<sup>st</sup> Respondent and that the 1<sup>st</sup> Respondent is legally obliged to fully cooperate with the Central Bank of Nigeria (CBN) or risk Penal Sanctions. As clearly shown in Exhibit "A".

Counsel therefore urge the court to dismiss the Claimants' application for being frivolous and lacken in merit.

2<sup>nd</sup> Defendant equally filed its written address and formulated sole issue, to-wit;

**"Considering the circumstances of this case especially Exhibit "A", attached to the 2<sup>nd</sup> Respondent Counter Affidavit, can the 2<sup>nd</sup> Claimant secure judgment against the 2<sup>nd</sup> Respondent? if the**

**answer is in the negative, shouldn't this application be dismissed?"**

It is the submission of learned counsel, that there is no basis upon which the claims of the 2<sup>nd</sup> Claimant could stand, counsel therefore submits respectively, that the Claims against the 2<sup>nd</sup> Respondent should be dismissed out rightly.

Learned counsel submits, that there is no doubt that the 2<sup>nd</sup> Claimant operates an account with 2<sup>nd</sup> Respondent. However, there is nothing to show or proof, that the 2<sup>nd</sup> Claimant authorizes the 1<sup>st</sup> Claimant to institute this action against the 2<sup>nd</sup> Respondent. No letter of authority, resolution passed by the trading company or Power of Attorney to that effect, 1<sup>st</sup> Claimant is a mere interloper. The 2<sup>nd</sup> Claimant is therefore not proper before this Honourable Court and the case is not to be considered at all.

In a nutshell, the 1<sup>st</sup> Claimant does not possess the locus to stand for the 2<sup>nd</sup> Claimant.

It is submission of learned counsel that, the burden of proof lies squarely on the Applicants, even where no evidence is called by the Defendant, not until same is proven before it can shift on the

other side. The statutes and judicial authorities in respect of this were well encapsulated by the Supreme Court. ***UNION BANK PLC. VS. RAVITH ABDUL & CO. LTD (2018) LPELR-46333 (SC)*** was cited.

Learned counsel contended that, the community reading of the judicial and statutory provisions provides legal hurdles that the 2<sup>nd</sup> Claimant must succumb before she can be entitled to reliefs sought before this Honourable Court. Most of the averments contained in the facts deposed to in the Affidavit in Support of the Originating Summons does not have bearing of facts or transactions between the 2<sup>nd</sup> Claimants and the 2<sup>nd</sup> Respondents.

It is further the submission of learned counsel, that there was nothing on record to show that 2<sup>nd</sup> Claimant made any attempt or declined the ATM transactions. Nothing to show that 2<sup>nd</sup> Claimant made any report, oral or written of any denial or declining of 2<sup>nd</sup> Respondent various banking facilities to make withdrawals.

Learned counsel also submits, that the conjections of the 1<sup>st</sup> Claimant on behalf of the 2<sup>nd</sup> Claimant must not be allowed to stand. It must crumble, ***"as we cannot put something upon nothing and expect it to stand"***

Learned counsel further submits, that the Claimants reliefs 1 and 2 are the main claims upon which other ancillary reliefs fate depends, once the main reliefs fails, other ancillary reliefs must also fail. This is the holding of the Court of Appeal in **NWAGWU VS. OSEMANAM (2007) All FWLR (Pt. 376) Page 779 at 793 Paragraph B, where Buka Chalawa JCA held that:**

***"In any case, the substantive claim before the lower court was that of negligence against the appellants. The claim against the 3<sup>rd</sup> Defendant/2<sup>nd</sup> Respondent is ancillary to the substantive claim and cannot succeed unless and until the substantive claim is proved against the Appellant."***

Counsel submits that, the community reading of the authorities cited and bringing same to bear with this case, shows that the Applicants have failed woefully to prove their case against the 2<sup>nd</sup> Respondent.

It is also the submission of counsel, that the plethora of authorities cited by the 1<sup>st</sup> Claimant does not have bearing with this case. In the cited authorities relied upon by the Claimants, the accounts of the customers were freezed. This is not same

situation here, as the account of the 2<sup>nd</sup> Claimant with the 2<sup>nd</sup> Respondent was never frozen.

Learned Counsel respectfully urge this Honourable Court to refuse all the reliefs sought by the Applicants. It will be in the interest of justice to dismiss this application with heavy cost.

3<sup>rd</sup> Defendant also filed its written address and formulated three (3) issues for determination to-wit;

- 1. Whether the Claimants have any reasonable cause of action against the 3<sup>rd</sup> Respondent and whether the suit, as it concerns the 3<sup>rd</sup> Respondent, ought to be dismissed.***
  
- 2. Assuming, without conceding, that the Claimants have a reasonable cause of action against the 3<sup>rd</sup> Respondent, whether the lien placed by the 3<sup>rd</sup> Respondent on the sum N339,900.00 (Three Hundred and Thirty-Nine Thousand, Nine Hundred Naira) contained in the 1<sup>st</sup> Claimant's Zenith Bank Account Number 2083519110 to enhance investigation of fraud is lawful.***

***3. Whether the suit and the claims therein ought to be dismissed.***

**On issue 1,** learned counsel submits, that the Claimants do not have any reasonable cause of action against the 3<sup>rd</sup> Respondent. The 1<sup>st</sup> Applicant alleged that his Zenith Bank Plc. Account Number 2083519110 was restricted by the 3<sup>rd</sup> Respondent as deposed in paragraphs 31, 32 (iii), 33, 45, 47, 50, 51, 52, 53, 54 and 55 of the Claimants' affidavit. The Claimants' suit and claims therein are anchored on the depositions and allegations in the said paragraphs of their Affidavit.

Learned counsel contends, that in the Claimants' Affidavit, there is no indication that the 2<sup>nd</sup> Claimant has any account domiciled with the 3<sup>rd</sup> Respondent hence he also does not have any cause of action whatsoever against the 3<sup>rd</sup> Respondent. His claims against the 3<sup>rd</sup> Respondent in this suit can be aptly described as phantom claims and we humbly urge this Honourable Court to so hold.

**On issue 2,** learned counsel submits, that the lien placed by the 3<sup>rd</sup> Respondent on the sum N339,900.00 (Three Hundred and Thirty-Nine Thousand, Nine Hundred Naira) contained in the 1<sup>st</sup>

Claimant's Zenith Bank Account Number 2083519110 is not only lawful, it is also constitutional.

Learned counsel further argued, that in Paragraph 9 of the 3<sup>rd</sup> Respondent's Counter Affidavit that it received a request from Olatunji Olaiya of the Fraud Desk of Fidelity Bank Plc. (1<sup>st</sup> Respondent) on 26<sup>th</sup> November, 2020 by 19:41pm stating that their customer's instruction was forged and funds fraudulently moved to various accounts out of which the sum of N340,000.00 (Three Hundred and Forty Thousand Naira) was paid into the 1<sup>st</sup> Claimant's Zenith Bank account. The email request is exhibited in the said Paragraph 9 as Exhibit "Zenith 2A".

**On issue 3,** learned counsel submits, that having regard to the foregoing analysis, the suit and claims therein are unsubstantiated, baseless, unwarranted, undue and unmeritorious and ought to be dismissed.

Learned counsel finally conclude by urging this Honourable Court to dismiss the case and the claims therein as they pertain to the 3<sup>rd</sup> Respondent.

4<sup>th</sup> Defendant filed its written address and formulated two (2) issues for determination to-wit;-

1. **Whether the Claimants Originating Summons is competent to invoke the jurisdiction of this Honourable court in this suit?**
2. **Whether the Honourable Court ought to grant the Claimants reliefs/claims against the 4<sup>th</sup> Respondent Bank, considering the peculiar facts and circumstances of this case.**

Learned counsel submits, that for the jurisdiction of this Honourable Court to be invoked by the Claimants Originating Summons in this case, it must be competent by compliance with the relevant provisions of the law. An Originating process that is not in compliance with the relevant provisions of the law is incompetent and cannot invoke the jurisdiction of the court.

Learned counsel contended, that Originating Summons to be competent before the court, thus invoke the jurisdiction of the court, the Originating Summons must have been prepared by the Applicant or his legal practitioner whose name, signature and seal shall appear on the process as the legal practitioner who has taken out (i.e prepared) the Origination Summons. ***Order 6 Rules 1, 2(3) and Order 2 Rules 3(4), 9 of the High Court***

***of the Federal Capital Territory, Abuja (Civil Procedure) Rules, 2018.***

It is the submission of learned counsel, that the Claimants Originating Summons having not been signed and or sealed by T.B Akinwusi Esq., the alleged legal practitioner who purportedly prepared and took out same, is incompetent in this case. Thus, the said Originating Summons having not fulfilled the conditions precedent cannot invoke the jurisdiction of the Honourable Court in this suit. Consequently, counsel submit that this Honourable Court lacks jurisdiction to entertain this suit, and we urge the court to so hold and to strike out the suit for want of jurisdiction.

Learned counsel submits, that there is no disputing that the 4<sup>th</sup> Respondent is a bank carrying on banking business as a commercial bank in Nigeria. ***SOCIETE BANCAIRE (NIG) LTD. VS. DELLUCH (2005) ALL FWLR (Pt. 242) Page 419 Ratio 3 and 4.***

It is also the submission of counsel that the 4<sup>th</sup> Respondent Bank being a commercial bank carrying on the business of banking within the financial system in Nigeria is subject to the control, supervision, regulations, laws, guidelines and directives of the Central Bank of Nigeria (CBN). Section 42 CBN Act which states.

Learned counsel submits, that (i) it is within the statutory powers of the Central Bank of Nigeria to have issued and released the Regulatory Framework for Bank Verification Number (BVN) Operations and Watch-list for the Nigerian Financial System; and the Establishment of Banking Industry Fraud Desk i.e Exhibits "ABP2" and "ABP3" respectively. See paragraph 13 of our counter affidavit. And (ii) that the provisions, guidelines, directives and instructions of the said Central Bank of Nigeria Regulatory Framework for Bank Verification Number (BVN) Operations and Watch-list for the Nigeria Financial System, as well as that of Establishment of Banking Industry Fraud Desks as directed by the Central Bank of Nigeria, are statutorily binding on the 4<sup>th</sup> Respondent bank for its compliance and implementation.

Counsel further submits, that from a careful reading and consideration of the preamble; Clauses 1.4.1; 1.4.1.1 (vi), (x); 1.4.1.2(iv),(iii); 1.4.1.3 (iv), (xiii), (xiv); 1.4.1.4 (i); 1.10; 2.3.2(ii),(iv); of the Central Bank of Nigeria Regulatory Framework for Bank Verification Number (BVN) Operations and Watch-list for the Nigerian Banking Industry (Exhibit "ABP2"); and of page 1 item "3". Block and/or place No Debit restrictions on accounts upon receipt of fraud complaint; page 2 items 7. "Honour "hold" instructions from NIBSS with respect of fraud

matters and grant NIBSS permissions to view details on logged transactions; item "5". Issue "hold" instructions to any bank with regards to fraud matters and have the account frozen accordingly.", and page 3 last paragraph "The provisions of this circular shall take effect from July 1<sup>st</sup>, 2015 and failure to comply shall attract appropriate sanctions."; of Central Bank of Nigeria Establishment of Industry Fraud Desks (Exhibit "ABP 3"), It will become crystal clear that from the peculiar facts and circumstances of this case, even as narrated by the Claimants themselves, that the 4<sup>th</sup> Respondent bank, being a commercial bank subject to the statutory control, regulation, supervision, administrative directives, rules, guidelines and laws of the Central Bank of Nigeria, has not done anything wrong against the Claimants, particularly the 1<sup>st</sup> Claimant who is its customer; nor operated, functioned or acted outside of the law, nor breached/contravened any provision of the law, to warrant the grant of the Claimants reliefs/claims against the 4<sup>th</sup> Respondent bank. In fact, all the 4<sup>th</sup> Respondent bank did was in compliance with the statutory regulations, guidelines, directives, rules and laws, which did not require any court order, and which cannot by any stretch of imagination be wrong, unlawful, actionable or constitute a

cause of action against the 4<sup>th</sup> Respondent bank. Counsel urge the court to so hold.

Counsel also submits, that it is settled law that a banker – customer relationship is one that is founded on contract. It is also settled law that a court does not make a contract for parties. Where parties have contracted on agreed terms and conditions, parties are so bound and the only duty of the court is to enforce the terms and conditions freely entered into by the parties.

***ADETOUN OLADEJI (NIG.) LTD. VS. NIGERIAN BREWERIES PLC. (2007) ALL FWLR (Pt. 357) Page 837 at 851 Paragraph F*** was cited.

Learned counsel contended, that the procedure for the resolution of a matter of this nature has been adequately provided for in Clause 1:10 of the Central Bank of Nigeria Regulatory Framework for Bank Verification Number (BVN) Operations and Watch-list for the Nigerian Financial System. Counsel submit that the Claimants have not exhausted the laid down procedure for the resolution of this matter before proceeding to file this suit. Counsel submit that this suit becomes premature, the Claimants having not escalated their complaint(s) to the Central Bank of Nigeria (CBN) for resolution. Counsel urge the court to so hold. ***OLAGBOYEGA VS.***

***ANIBIRE (2013) ALL FWLR (Pt. 684) Page 193 Ratio 3*** was cited.

Learned counsel also submits, that the Claimants relief/claim 5 for "An Order of this Honourable Court mandating the Respondents to forthwith pay the awarded sum of money as general damages. (Underlining mine), is also premature and vague in that no general damages has been awarded and no amount has been awarded as general damages. Counsel also submit that the said relief/claims 5 is speculative and presumptuous. Counsel urge the court to so hold and to dismiss same.

It is the final submission of counsel that the court should dismiss the Claimants reliefs/claims against the 4<sup>th</sup> Respondent bank in view of our submissions and arguments.

5<sup>th</sup> Defendant equally filed its written address and formulated two (2) issues for determination to-wit;-

- 1. Whether in the circumstance of this case, the Claimants have proved their case as required of them by law.***
- 2. Whether the Claimants have established any cause of action whatsoever against the Respondents,***

***particularly the 5<sup>th</sup> Respondent in persuading this Honourable Court to exercise its discretion in their favour.***

**On issue 1**, learned counsel submits, that whoever desires any Court to give Judgment as to any legal right or liability dependent on the existence of facts which he asserts shall prove that those facts exist. Section 131 of the Evidence Act, 2011. This burden of proof lies with whoever is alleging the existence of a fact and is never discharged until he proves it. The case of ***ARGUNGU VS. ANOR VS. ARGUNGU & ORS (2008) LPELR – 4275 (CA)*** was cited.

It is the submission of learned counsel, that not a single, direct and cogent evidence was adduced by the Claimants in buttressing their allegations against the Respondents, particularly the 5<sup>th</sup> Respondent.

Learned counsel further submits, that the law does not give room to this Honourable Court to speculate on evidence not before it. This position of law was just recently upheld by the Supreme Court in ***GABA VS. TSOIDA (2020) 5 NWLR (Pt. 1716) at Page 7*** was cited.

**On issue 2**, learned counsel submits, that the law is trite that whenever issue of reasonable cause of action is raised, it is the statement of claim, or as in the instant case, the affidavit in support of the Originating Summons that ought to be considered. So long as the Statement of claim/affidavit evidence discloses some cause of action, or raises some question which can be decided by a Judge, there is reasonable cause of action. ***YUSUF & ORS VS. AKINDIPE & ORS (2000) 8 NWLR (Pt. 669) 376*** was cited.

Learned counsel further submits, that the Claimants again failed to prove before this Honourable Court that the 5<sup>th</sup> Respondent played any role that was detrimental to his interest, acted in an extra-judicial manner or infringed on his legal right neither was the 5<sup>th</sup> Respondent party to any petition written against the Claimants.

Learned counsel submits, that this Court is urged to resolve this issue two (2) in favour of the 5<sup>th</sup> Respondent by striking out and dismissing the Claimants' action with heavy cost for non-disclosure of any reasonable cause of action against the 5<sup>th</sup> Respondent.

Counsel finally conclude by urging this Court to dismiss the Claimants' Originating Summons against the 5<sup>th</sup> Respondent.

6<sup>th</sup> Defendant also filed its written address and formulated a lone issue, to-wit;-

***"Whether having regard to the peculiar facts and circumstances of this case, this application ought to be granted."***

It is the submission of learned counsel, that the answer to the sole issue nominated for determination is in the negative. It is further submitted that having regard to the peculiar facts and circumstances of this case the Claimants' application ought not to be granted.

Learned counsel contends, that the 6<sup>th</sup> Respondent has repeatedly maintained that it did not freeze or restrict the 1<sup>st</sup> Claimant from operating his account number 2075115821 domiciled with the 6<sup>th</sup> Respondent. Neither the 1<sup>st</sup> Claimant nor 2<sup>nd</sup> Claimant has placed anything before the court to suggest that his account was actually frozen/restricted by the 6<sup>th</sup> Respondent. Surely, there is nothing to unfreeze. Accordingly, granting the

instant application will amount to the court making an order in vain.

Significantly, the relief sought by the Claimants in this application is in the nature of restorative/mandatory injunction. It is trite that mandatory injunction is an Order of a Court requiring a party to do a specific act or action.

Learned counsel argued, that a mandatory or restoration injunction is sometimes classified as an interlocutory Order of injunction; it is a different type of injunction, with its own features, and requiring a consideration of its own distinct principles.

Learned counsel further contended, that aside from the 1<sup>st</sup> Claimant alleging that he 'made inquiry' and that he 'was informed that his account with the 6<sup>th</sup> Respondent was frozen/restricted on the basis of an alleged transaction, he did not provide any proof in support of the allegation of a restriction on his account. He did not produce any document to show he tried carrying out a transaction on the said account which failed. He did not show proof of any complaint made to the 6<sup>th</sup> Respondent alleging that his account was frozen. He did not state the branch, if any, of the 6<sup>th</sup> Respondent he visited for the purpose of making

any complaint. In other words, he provided No Evidence or Proof Whatsoever to support his allegation.

Learned counsel also submits, that courts are not permitted to decide any matter or case on mere conjecture or speculation. Courts of laws are courts of facts and law. They must at all given times avoid speculation. The Supreme Court in ***ADEGBITE VS. STATE (2017) LPELR-42585 (SC)*** was cited.

In conclusion, learned counsel submits, that in this instant application, the relief sought is the same as reliefs No. 3 sought by the Applicants in the Originating Summons. Surely, granting this instant application is tantamount to delving into determination of the substantive suit at interlocutory stage. Counsel therefore urge this Court to so hold and dismiss this application as it affects the 6<sup>th</sup> Respondent.

7<sup>th</sup> Defendant also filed its written address and formulated a lone issue, to-wit;-

**"Whether the Claimants have established their claims to be entitled to the reliefs sought"**

**On issue 1**, learned counsel submits, that by Sections 131 – 134 of the Evidence Act, 2011, the Claimants have the legal burden of

establishing their claims. The onus squarely rests on the Claimants as they are the party that will fail if no evidence is led at all. It is only after the Claimants have adduced sufficient credible evidence that the burden of proof will shift to the 7<sup>th</sup> Respondent. In other words, the burden of proof rests squarely on one who alleges, and not on him who denies. **ARASE VS. ARASE (1981) 5 SC 33 at 145** was cited.

Learned counsel contended, that the Claimants filed this suit vide Originating Summons which is basically founded on affidavit evidence. The question then is: ***have the Claimants in their affidavit established a case against the 7<sup>th</sup> Respondent?***

Learned counsel also submits, that the Claimants have failed woefully to establish a case against the 7<sup>th</sup> Respondent. To drive home our submission, counsel refer this Honourable Court to the Claimant's affidavit and the 7<sup>th</sup> Respondent's counter affidavit.

It is further the submission of counsel that, the Claimants have alleged specifically from paragraphs 31 and 32 of the affidavit that the 7<sup>th</sup> Respondent without a valid Court Order proceeded to freeze/place a restriction on the 1<sup>st</sup> Claimant's account, which has cause an untold hardship to the 1<sup>st</sup> Claimant's business.

Counsel also submits, that the above erroneous deposition was countered by the 7<sup>th</sup> Respondent in paragraphs 4(a-h) of the Counter affidavit, wherein the 7<sup>th</sup> Respondent denied ever placing any form of restriction of the 1<sup>st</sup> Claimant's account.

Learned counsel urge this Honourable Court to dismiss the Claimants' case in its entirety, as the Claimants have woefully failed to establish a case against the 7<sup>th</sup> Respondent and there is no reasonable cause of action disclosed by the Claimants against the 7<sup>th</sup> Respondent.

### **COURT:-**

I have read the affidavit and further affidavit in support of the Claims of the Claimants and the accompanying written address, on the one hand, and the counter affidavits and written addresses of the respective Defendants, on the other hand.

Upon consideration of the legal arguments submitted by Counsel for the parties, I have found the two (2) issues formulated by the

5<sup>th</sup> Defendant as one that has covered the issues formulated by the other Defendants for determination.

It is for above reason that I have decided to adopt them as those of Court for determination, the issues are as follows:-

- 1. Whether in the circumstance of this case, the Claimants have proved their case as required of them by law.***
- 2. Whether the Claimants have established any cause of action whatsoever against the Respondents, particularly the 5<sup>th</sup> Respondent in persuading this Honourable Court to exercise its discretion in their favour.***

For the records, it is necessary to state the following,

1. 1<sup>st</sup> Claimant is known to 4<sup>th</sup> Defendant and that they restricted the account of the 1<sup>st</sup> Claimant.
2. 5<sup>th</sup> Defendant admits that 1<sup>st</sup> Claimant maintain account with them but denied Post No Debit (PND) on the account, by Exhibits "F1" and "F2" of the Claimant, the account of 1<sup>st</sup> Claimant was put on restriction by the 5<sup>th</sup> Defendant.

3. 6<sup>th</sup> Defendant admits that 1<sup>st</sup> Claimant maintains account with them but that they never placed same or any restriction, but 1<sup>st</sup> Claimant stated in his further and better affidavit that 6<sup>th</sup> Defendant who restricted his account earlier but removed same, placed same on restriction upon receipt of the counter affidavit of 4<sup>th</sup> Defendant.
4. 7<sup>th</sup> Defendant admits that 1<sup>st</sup> Claimant is her customer but that they never placed his account on restriction. 1<sup>st</sup> Claimant in his further affidavit averred that 7<sup>th</sup> Defendant did place his account on restriction but removed same upon being served Court Process but that when the counter affidavit of the 4<sup>th</sup> Defendant was served on the 7<sup>th</sup> Defendant wherein 4<sup>th</sup> Defendant admitted freezing the said account, 7<sup>th</sup> Defendant again placed the 1<sup>st</sup> Claimant's account on restriction.
5. The 1<sup>st</sup> Defendant admits that 1<sup>st</sup> Claimant maintain account with them and that they placed same on Post No Debit (PND) when fraud alert was received.
6. 2<sup>nd</sup> Defendant admits the fact that 2<sup>nd</sup> Claimant operates account with them and that the said account was never placed on any form of restriction and annexed the statement

of account of the 2<sup>nd</sup> Claimant to show that the account was being operated by 2<sup>nd</sup> Claimant.

7. 3<sup>rd</sup> Defendant admitted the fact that 1<sup>st</sup> Claimant maintain account with them and that there was no restriction ever placed on the 1<sup>st</sup> Claimant's account. The statement of account of the 1<sup>st</sup> Claimant was exhibited to show transaction, but that in their further affidavit and reply, 2<sup>nd</sup> Claimant exhibited document marked Exhibit "EF1" showing both Claimants account restricted.

It is also important to state that fraud alert was raised by the Fraud Desk of the 1<sup>st</sup> Defendant (Fidelity Bank Plc.) consequent upon which it placed a lien on the alleged fraudulent transaction of N339,900.00 (Three Hundred and Thirty-Nine Thousand, Nine Hundred Naira) but did not restrict transaction in the account.

In a global view of the nature of the relationship, the customer of the Bank neither has the authority nor the control of monies standing in his credit in an account with the Bank. What the customer has is a contractual right to demand repayment of such monies. ***WEMA BANK PLC. VS. OSILARU (2007) L.P.E.L.R 8960 (CA)*** is an instructive authority here.

Clearly, in the ordinary course of banker and customer, their relationship depends either entirely or mainly upon an implied contract but governed by an obligation.

It is instructive to state at this juncture that the relationship between bankers and their customers is founded on simple contract. Needless to say therefore, that for there to exist a valid and enforceable contract, there shall be the element of offer, acceptance, invitation to create a legal relationship and capacity to contract. See ***OMEGA BANK VS. O.B.C. LTD. (2005) 8 NWLR (Pt. 928) 547*** was cited.

From the averments contained in the respective counter affidavits and further affidavits, all the Defendants have admitted the fact that restriction was placed on the accounts of the 1<sup>st</sup> Claimant whereas 2<sup>nd</sup> Defendant placed restriction in the account of the 2<sup>nd</sup> Claimant.

Defendants have however contended, that the Nigeria Inter-Bank Settlement System (NIBSS) maintains and administer the Bank Verification Number (BVN) watch-list database, and that they are under an obligation and duty to comply with the appropriate regulations, guidelines, rules, directives/steps in enforcing the sanction as stipulated by the Central Bank of Nigeria (CBN) in the

Regulatory Framework for Bank Verification Number (BVN) Operation and Watch-list for the Nigerian Financial System and the establishment of Fraud Desk.

The Defendants have further stated and argued that Claimants who completed the account opening package have agreed and consented to comply and be bound by the rules and conduct; to also free the Bank from any responsibility for any loss or damage to the funds of the Claimants due to circumstances beyond the control of the Banks.

Permit me to be frontal at this juncture on the relationship between a Banker and Customer. The relationship is that of Debtor and Creditor in respect of the money deposited with the Banker by the Customer.

This position becomes clearer when a Customer asks for his money. The Bank undertakes to pay the cheques of the Customer drawn on his current account; thus the Bank becomes the Debtor for the amount, which must be paid on demand. If the amount is not paid, the Customer can sue the Bank. The action will lie against the Bank. See the case of ***AKINWOLE & ORS VS. THE QUEEN (1963) LPELR – 15460 (SC)***.

The same Supreme Court of Nigeria reiterated above position in the case of ***BANK OF THE NORTH LTD. VS. YAU (2001) LPELR 746 (SC).***

The vexed question now is, ***whether the Defendants obtained a valid Order before placing the accounts of the Claimants on restriction!***

Without any hesitation, I answer above poser in the negative in view of the fact that no such Order of Court was exhibited in their respective Counter affidavits to show legality of their actions.

The Courts have condemned the unilateral action of freezing Customer's account without a Court Order.

See ***GTB VS. ADEMOLA & ORS (2019) LPELR – 47310 (CA).***

Where the Court of Appeal stated categorically that the Economic and Financial Crimes Commission (EFCC) under Section 34 of the Economic and Financial Crimes Commission (EFCC) Act has no powers to instruct a Bank to freeze a Customer's account without a Court Order.

See also the case of ***MR. HENRY O. AROGUNDADE VS. SKYE BANK PLC. (2020) LPELR – 52304 (CA).***

I have read the argument of the 3<sup>rd</sup> Defendant on the fact that the account of the 1<sup>st</sup> Defendant was not restricted but that a lien was placed on the said amount of N339,900.00 (Three Hundred and Thirty-Nine Thousand, Nine Hundred Naira).

The question still remains;

**"Was there an Order of Court to the 3<sup>rd</sup> Defendant to place the said lien on the amount"?**

The gamut of the Claimants' argument is anchored on the fact that Defendants unilaterally restricted their accounts without an Order of Court.

On the other hand, Defendants are relying on the Central Bank of Nigeria (CBN) Regulatory Framework, 2017 as their authority for placing the said account on restriction.

This line of argument has been punctured by the plethora of judicial decision on the need to obtain a Court Order before placing an account on restriction.

I am further minded to state that the 2017 Central Bank of Nigeria (CBN) Regulatory Framework has been revised in 2021.

For the avoidance of doubt, Section 2.2 of the Revised Central Bank of Nigeria (CBN) Regulatory framework for Bank Verification Number (BVN) Operations and watch – list for Nigerian banking Industry 2021 is hereby reproduced;

***“Once a breach is established, in the process of investigation/fair hearing, a customer’s account shall be placed on Post No Debit (PND), the customer shall be notified through verifiable means within five (5) business days.***

- i. At a minimum, the notification shall clearly state the breach and the consequences which include watch-listing.***
- ii. The customer(s) shall be given the opportunity to present documentary evidence that may affect the decision within three (3) business days; and***
- iii. Where decision to watch – list the BVN is reached, the customer shall be notified through verifiable means.”***

It is instructive to state here that assuming the Central Bank of Nigeria (CBN) Regulatory framework for Bank Verification Number (BVN) Operations and watch – list for Nigerian Banking Industry was successfully activated, the provision of Section 2.2 Revised Central Bank of Nigeria (CBN) Regulatory frame work for Bank Verification Number (BVN) Operations and watch – list for Nigerian banking Industry 2021 must be complied with as required.

However, in the instant case, and from the evidence adduced before me, nothing shows that the opportunity to be heard was given to the Claimants by the Defendants. Even the letters written to the Defendants by the Claimants and Claimants' counsel were not properly attended to.

The rule of law is a constitutional doctrine which emphasizes on the supremacy of the law.. Defendants clearly failed to uphold the fundamental principles of law and justice in this instance.

It is to be reminded that Bank statutorily have company secretaries, the provision which is mandatory in view of its statutory nature, such company secretaries are lawyers of over 10 years post call. It is therefore expected that before a Post No Debit (PND) or any form of restraint is placed on a customer's

account, such unit of bank shall consult widely with legal Department to avert from this form of catastrophe befalling the bank in view of the fiduciary nature of the relationship between the bank and customer.

It is to be noted that the Defendants (Banks) are not an authority unto themselves and could not therefore be justified to have placed the Claimants' accounts on restriction without an Order of Court.

I have therefore no doubt in my mind that Defendants have by their averments contained in the affidavit in support of their Originating Summons, been able to establish that their accounts were restricted without an Order of Court, and that alone, constitutes a cause of action which has given them the right of action in this case.

The questions therefore, raised by the Claimants in their Originating Summons for answer which has been captured in the preceding part of this Judgment, are hereby answered in their favour.

Consequently, I hereby grant Reliefs 1, 2 and 3 as sought for by the Claimants, as follows;

1. A Declaration that the Respondents lacks the powers to restrict, freeze and or place a post no debit on the Claimants Bank Accounts which has prevented them from transactions with their bank accounts without an Order(s) from the Court is **hereby granted.**
2. A Declaration that the restricting/freezing or enabling a post no debit on the bank accounts of the 1<sup>st</sup> and 2<sup>nd</sup> Claimants by the Respondents without any Court Order(s) is wrong and contravenes the provision of the law is **hereby granted.**
3. An Order of this Honourable Court directing and compelling Respondents to forthwith lift the restriction/unfreeze accounts of the 1<sup>st</sup> and 2<sup>nd</sup> Claimants is **hereby granted.**

The next Relief claimed is that of **₦100,000,000.00 (Hundred Million Naira)** as General Damages.

General Damages are said to be damages that the law presumes to flow from the type of wrong complained about by the victim.

They are, thus, Compensatory Damages for that harm caused.

It must be specifically claimed.

Put in a simpler way, General Damages are thus losses that flow naturally from the adversary and it is generally presumed by law as it need not be pleaded or proved.

The following cases are instructive, ***UKAM VS. TRANSCORP METROPOLITAN HOTEL & CONFERENCE & ANOR (2021) LPELR – 54149 (CA);***

***CAMEROON AIRLINES VS. OTUTUIZU (2011)4 NWLR (Pt. 1238).***

Claimants have stated in their affidavits in support of their claims as contained in the Originating Summons that they are Businessmen and that indeed their accounts with the Defendants have been restricted without an Order of Court.

The hardship, embarrassment and other inconveniences that they have been put through by the illegal and unconstitutional conduct of the Defendants can only be imagined.

Having found the conduct of the Defendants to be in frontal violation of the law, Claimants in law are entitled to be assuaged in damages.

This position was stated by **Lord DENNING, M.R in PACKER VS. PACKER (1954) Page 522**, when the learned jurist had this to say;-

***"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 ius ibi remedium is the common law principle".***

Accordingly, I hereby award damages in the amounts of **₦35,000,000.00 (Thirty Five Million Naira)** to be paid as follows:-

1. **₦5,000,000.00 (Five Million Naira)** to be paid by each of the Defendants.

2. 1<sup>st</sup> Claimant to be paid the said **₦5,000,000.00 (Five Million Naira)** each by the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> Defendants.
3. 2<sup>nd</sup> Claimant to be paid the sum of **₦5,000,000.00 (Five Million Naira)** only, by the 2<sup>nd</sup> Defendant.

It is my hope and belief that Banks will learn from this Judgment that unilateral and arbitrary decisions which ultimately will affect their Customers must be legally backed-up by an Order of Court.

***Justice Y. Halilu***  
***Hon. Judge***  
***23<sup>rd</sup> February, 2024***

### **APPEARANCES**

H.I. Nalaraba, Esq. – for the Claimants.

Olelewe Felix, Esq. – for the 1<sup>st</sup> Defendant.

I. Ighorhiohwunu, Esq. – for 2<sup>nd</sup> Defendant.

Lovina Elijah, Esq. – for the 4<sup>th</sup> Defendant.

Obinna Mbata, Esq. – for the 6<sup>th</sup> Defendant.

3<sup>rd</sup>, 5<sup>th</sup> and 7<sup>th</sup> Defendants not represented.