

**IN THE HIGH COURT OF JUSTICE OF THE F.C.T.**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT APO, ABUJA**  
**ON THURSDAY, THE 5<sup>TH</sup> DAY OF MARCH, 2025**  
**BEFORE HIS LORDSHIP: HON. JUSTICE ABUBAKAR HUSSAINI MUSA**  
**JUDGE**

**SUIT**

**FCT/HC/CV/5126/2024**

**BETWEEN:**

**1. TELA NETWORK LTD**

**2. SUCCESS OKERE –DESMOND**

**CLAIMANT**

**AND**

**ALH BAMANGA TUKUR**

**DEFENDANT**

**RULING**

By the Writof Summons under the Undefended List Procedure Rules, the Claimant instituted this suit seeking among others;

- 1. An Order of this Honourable Court directing the Defendant to pay the claimants the sum of \$57,808.14 US Dollars as the total outstanding debt as at 19<sup>th</sup> November,2024.*
- 2. An order of this Honourable Court directing the Defendant to pay the Claimants accruing interest on the principal debt sum at*

*27.25% per annum on the sum from 20<sup>th</sup> November, 2024, until the judgement sum is fully liquidated.*

The Claimant attached a 10-paragraph affidavit to further buttress his claim against the Defendant.

The Defendant was served with the Writ of Summons, affidavit, demand notice and pre-action counselling certificate disclosing claimants' claims against him. Upon being served with court processes and other accompanying documents on the 16<sup>th</sup> of December, 2024 the Defendant filed his Notice of Intention to Defend dated 17<sup>th</sup> of December, 2024 but filed on 19<sup>th</sup> of December 2024. The Defendant filed alongside his Notice of Intention to Defend on the merit with 15-paragraph affidavit deposed by one Sadiku Abduljafaru Ozovehe who described himself as Personal Assistant to the Defendant. The deponent denied paragraph 2 of the Claimant's affidavit that the Defendant did not engage the Claimant or any other person or persons to implement any phone security program at any cost. The deponent swore that no agreement either written or oral was entered between the Claimant and the Defendant. The Defendant denied paragraphs 3, 4, 5, 6 and 7 of Claimant's affidavit in support of his Writ of Summons under the Undefended List Procedure.

On the 14<sup>th</sup> of January 2025 both parties were represented in court by their respective Counsel and adopted their processes for and

against the undefended list and the suit thereafter was adjourned to 5<sup>th</sup> day of March,2025 for court ruling/Judgement.

***“The pertinent question to ask is Whether the Notice of Intention to Defend and the supporting affidavit filed by the Defendant are not competent; and if the answer to the question posed is in the affirmative, whether the Defendants have not disclosed a defense on merit?”***

Before I go to the issue formulated herein, it is important to seek for guidance through the provision of Order 34 of the Federal Capital Territory High Court (Civil Procedure) Rules 2018. Rule 1(1) of the Order provides as follows

***“Where an application in form 1 as in the appendix is made to issue a writ of summons in respect of a claim to recover a debt or liquidated money demand, supported by an affidavit stating grounds on which the claim is based and stating that in the deponent’s belief there is no defense to it, the judge in chambers shall enter the suit for hearing in what shall be called the Undefended list”***

The Undefended List Procedure is meant for quick and speedy recovery of debt or liquidated money demand, especially in cases relating to simple, uncontested debt or liquidated money demand or monetary claims. In the case of ***NEMA SECURITIES AND FINANCE v. N.A.I.C (2015) LPELR-24833 (SC) 67-70 E-C, (2015) 16 NWLR (Pt 1484) 93 at page 140-141 paras B-C***, the Supreme Court held that and I quote:

***“...the undefended list procedure is a truncated form of the civil litigation process peculiar to the adversarial judicial***

***system. Under the said procedure, ordinary hearing is rendered unnecessary due, in the main, to the absence of an issue to be tried. U.B.A. & Anor v. Jargaba (2007) LPELR-3399 (SC), (2007) 11 NWLR (Pt. 1045) 247; Agwuneme v. Eze (1990) 3 NWLR (Pt. 137) 242. Essentially, therefore, it is designed to secure quick justice and to avoid the injustice likely to occur when there is no genuine defense on the merits to the plaintiff's case. International Bank for West Africa Limited v. Unakalamba (1998) 9 NWLR (Pt. 565) 245.***

***It is usually meant to shorten the hearing of a suit where the claim is for a liquidated sum. Cooperative and Commerce Bank (Nig.) Plc v. Samed Investment Co. Ltd. (2000) 4 NWLR (Pt. 651) 19.”***

A suit is said to be qualified for hearing under the Undefended List Procedure when the following conditions are fulfilled. First, the sum due and claimed must be a liquidated money demand, that is, it must be certain and definite sum and same must have accrued. Second, the Claimant must believe that the Defendant has no defence on the merit against the suit. The claim must not be subjective, but objective base on the facts of the claim as disclosed in the affidavit in support of the Writ of Summons for undefended list procedure. Where the aforesaid conditions are satisfied, the Court will mark the Writ of summons as “Undefended” and place it on the Undefended List.

Now that the defendant has disclosed defence on the merit as per his paragraphs 2,3,6, and 7of his affidavit disclosing defence on merit.

By virtue of Order 35 Rule 3 of the Rules of this Honorable Court, a Defendant who wishes to defend an action on the Undefended List shall

before five (5) days to the day fixed for hearing of the suit, file a Notice of Intention to Defend with an affidavit disclosing a defense on the merit. If the Court is satisfied with the defense on the merit disclosed in the affidavit in support of the Notice of Intention to Defend as in this case, it will order that the suit be transferred to the General Cause List. The affidavit in support of the Notice of Intention to Defend must disclose a triable issue or a defense on the merit. In the case of **AMEDE v. UBA (2008) 8 NWLR (Pt 1090) 623 at paras A-B**, Abba-Aji JCA (as he then was) held as follows and I quote:

***“A triable issue or defense on merit under the undefended list procedure is disclosed where a defendant’s affidavit in support of the notice of intention to defend is such that the plaintiff will be expected to explain some certain matters with regard to his claim or where the affidavit throws a doubt on the plaintiff’s claim.”***

More importantly the Claimant told the court on 14/1/2025 that the Defendant served him with Notice of Intention to Defend but was unable to respond. Let me conclude with the provision of section 131 subsection 1 of the evidence Act 2011 which says that:-

**“Whoever desires a court to give judgement as to any legal right or liability dependent on the existence of fact which he asserts shall prove that those facts exist.”**

In all I hereby resolved the issue formulated in favor of the Defendant against the Claimant. Consequent upon that, Suit No FCT/HC/CV/5126/2024 signed and stamped on 6<sup>th</sup> December 2024 as an Undefended List suit is hereby transferred to the General Cause List. I so order.

Both parties are hereby order to amend their processes in line with Order 35 rules 3 of High Court Civil Procedure Rules 2025.

This is the Ruling of this Court delivered today, the 5<sup>th</sup> day of March, 2025.

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**HON. JUSTICE A. H. MUSA**  
**JUDGE**  
**5/3/2025**