

**IN THE HIGH COURT OF JUSTICE OF THE F.C.T.**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT APO, ABUJA**  
**ON TUESDAY, THE 19<sup>TH</sup> DAY OF SEPTEMBER, 2024**  
**BEFORE HIS LORDSHIP: HON. JUSTICE ABUBAKAR HUSSAINI MUSA**  
**JUDGE**

**SUIT NO.: FCT/HC/CV/984/2022**

**BETWEEN:**

**MANDELA ONYIYECHUKWU BAMAS**

**CLAIMANT**

**AND**

**LINDA IKEJI**

**DEFENDANT**

**RULING/JUDGEMENT**

**RULING**

By a Writ of Summons dated 29<sup>th</sup> of December 2022, and filed same day, the Claimant claimed against the Defendant as follows:

1. *A Declaration that the publication titled “photos; Lady cries out for justice after her ex-boyfriend’s friend allegedly stabbed her in kwara”,made by the Defendant on the Defendant’s blog (<http://www.lindaikejisblog.com/2016/11/photos-lady-cries-out-for-justice-after.html>), on 16/11/2016 wherein the Defendant republished a Facebook post earlier made by one Edward Onoriode, is defamatory of the Claimant.*
2. *A Declaration that the publication titled “Nigerian lady calls out the police for allegedly letting her attacker walk free 3 years after he allegedly tried slitting her throat with a knife”made by the*

Defendant on the Defendant's blog (<http://www.lindaikojisblog.com/2019/11/nigerian-lady-calls-out-the-police-for-allegedly-letting-her-attacker-walk-free-3-years-after-he-allegedly-tried-slitting-her-attacker-walk-free-3-years-after-he-allegedly-tried-slitting-her-throat-with-knife-.html>), on the 19/11/2019 wherein the Defendant republished three Facebook posts earlier made by one Precious Amarachi Ugo, is defamatory of the Claimant.

3. An Order of this Honorable Court awarding the sum of Twenty Million Naira (~~₦~~20,000,000.00) as general damages against the Defendant in favor of the Claimant for defamatory publication made by the Defendant via the blog publication on the 16/11/2016.
4. An Order of this Honorable Court awarding the sum of Twenty Million Naira (~~₦~~20,000,000.00) as general damages against the Defendant in favor of the Claimant for the defamatory publication made by the Defendant via blog publication on 19/11/2016.
5. An Order of this Honorable Court directing the Defendant to delete the said defamatory publication made by the Defendant on 16/11/2016.
6. An Order of this Honorable Court directing the Defendant to delete the said defamatory publication made by the Defendant on 19/11/2019.

7. *An Order of this Honorable Court granting the Claimant post-judgment interest against the Defendant at 10% per annum on the judgment sum from the date when judgment is entered till the date the judgment debt is completely satisfied.*
8. *An Order of this Honorable Court directing the Defendant to issue a public apology to the Claimant via a post on the Defendant's blog for the defamatory republication made by the Defendant against the Claimant on the 16/11/2016.*
9. *An Order of this Honorable Court directing the Defendant to issue a public apology to the Claimant via a post on the Defendant's blog for the defamatory republication made by the Defendant against the Claimant on the 19/11/2019.*
10. *An Order of perpetual injunction restraining the Defendant from making any publication or republication that is defamatory of the Claimant.*
11. *And for such further Orders as this Honorable Court may deem fit to make in the circumstance.*

The Claimant on the 4<sup>th</sup> of April 2023 was granted leave to serve the Defendant *via* substituted means. There is proof that the Defendant was duly served. On the 25<sup>th</sup> of May 2023, a MrKaluAnyaelaEsq of Counsel appeared for the Defendant and pleaded with this Honorable Court to grant it a short adjournment to do the needful. The Court then adjourned

the matter to the 4<sup>th</sup> of October 2023. The Counsel to the Defendant did not appear on the next adjourned date or any date whatsoever and neither was there any other representation for the Defendant. However, several hearing notices were still served on the Defendant, and there was no representation and nothing by way of correspondence to explain the absences.

On the 18<sup>th</sup> of December 2023, the Claimant through his Counsel, came with an application *vide* a Motion on Notice, which was brought under Order 21 Rule 9 and Order 43 of the High Court of the Federal Capital Territory (Civil Procedure) Rules, 2018 and under the inherent jurisdiction of this Court, praying to the Court for the following reliefs:

- 1. An Order of this Honorable Court entering judgment in favor of the Claimant/Applicant as per the Writ of Summons, Statement of Claim and the Witness Statement on Oath of the Claimant filed in the instant suit, the Defendant/Respondent having failed/refused to file its Statement of Defense and other processes within the time prescribed by the Rules of this Honorable Court.*
- 2. And for such further Orders as this Honorable Court may deem fit to make in the circumstance.*

The grounds of the application are that: -

- i. The instant suit was commenced by the Claimant/Applicant on the 29<sup>th</sup> of December 2022 *via* a Writ of Summons pursuant to the Rules of this Honorable Court.
- ii. On the 19<sup>th</sup> of April 2023, the Defendant/Respondent was served with the Writ of Summons and other accompanying processes filed by the Claimant *via* substituted means in compliance with the Order of this Honorable Court.
- iii. By Order 15 Rule 2 of the Rules of this Honorable Court, the Defendant/Respondent is obligated to file a Statement of Defence not later than twenty-one (21) days after the 19<sup>th</sup> of April 2023.
- iv. On the 25<sup>th</sup> of May 2023, KaluChekwasAnyaeleEsq of Counsel to the Defendant/Respondent appeared on behalf of the Defendant and informed this Honorable Court that he needed a copy of the Writ of Summons with accompanying processes filed by the Claimant/Applicant.
- v. The Claimant/Applicant's Counsel obliged and provided a copy of the Writ of Summons with accompanying processes to Counsel for the Defendant/Respondent.
- vi. As at the time of filing this application, it has been two hundred and three (203) days since the Defendant/Respondent was served with the Writ of Summons with the accompanying processes and the

Defendant/Respondent has failed/refused to file her Statement of Defense. Therefore, the Defendant in the instant suit is in default of filing a defense.

- vii. By Order 21 Rule 9 of the Rules of this Honorable Court, where a Defendant is in default of filing a defense, the Claimant may apply to the Court for judgment and such judgment shall be given upon the statement of claim as the Court shall consider the Claimant to be entitled to.

The Claimant/Applicant's Counsel, relying on the Affidavit and the Written Address in support of this application, urged the Court to grant the reliefs as prayed. In the Claimant/Applicant's Written Address settled by Sa'idu Muhammad Lawal Esq, only one issue was formulated for determination, which is, ***"Whether or not the Claimant/Applicant has made out a case for grant of the relief sought on the face of the motion paper?"***. In his submissions in the brief, Counsel contended the Claimant/Applicant in this instant application was entitled to judgment in his favor as *per* the processes filed on his behalf in the instant suit. Counsel relied on Order 21 Rule 9 of the Rules of this Honorable Court.

In urging the Court to grant this application, Counsel also relied on the case of ***Ekejiubav. INEC & Anor (2016) LPELR-40926 (CA)***. Counsel to the Claimant further asserted that the Defendant/Respondent was served with the originating process of this suit on the 19<sup>th</sup> of April 2023 –

two hundred and three (203) days ago – and the Defendant was yet to file her Statement of Defense in compliance with the Rules of this Honorable Court. Counsel urged this Court to rely on its record for proof of service of the originating processes served on the Defendant. He further relied on the cases of *Suswan V FRN & Anor (2020) LPELR-49524 (CA)* and *GE International Operations (Nig.) Ltd v. Q Oil and Gas Services Ltd (2016) LPELR-47999 (SC)*, and *Order 21 Rule 9* in support of all his arguments.

After a brief recapitulation of the background and decision of the Supreme Court in the case of *GE International Operations (Nig.) Ltd v. Q Oil and Gas Services Ltd (2016) supra*, learned Counsel to the Claimant urged the Court to apply the decision in the case to the instant case and grant the reliefs as claimed by the Claimant in his Statement of Claim in the absence of any Statement of Defence from the Defendant challenging the averments in the pleadings of the Claimant.

Above is a concise narration of the case before this Honorable Court. In determining this application, this Court adopt the issue learned Counsel for the Claimant has formulated in his Written Address and reframe it thus: ***“Whether considering the circumstances of this particular and the failure, refusal or neglect of the Defendant to file her Statement of Defence within the time allowed by the Court the Claimant is not entitled to Judgment in default of pleadings.”***

I shall begin the resolution of this issue by referring to the Rules of this Honourable Court. Order 15 Rule 1 of the Rules of this Court provide for the filing of pleadings and the time within which they shall be filed. It states thus:-

***“(1) A statement of claim shall include the relief or remedy to which a claimant claims to be entitled.***

***(2) A defendant shall file his statement of defence, set-off or counterclaim, if any not later than 21 days after service on him of the originating process and accompanying documents. A counterclaim shall have the same effect as a cross action, so as to allow the court deliver a final judgment in the same proceedings. A set-off must be specifically pleaded.***

***(3) A claimant shall within 14 days of service of the statement of defence and counterclaim if any file his reply and defence if any to such defence or counterclaim.***

***Where a defendant sets up a counterclaim, if a claimant or any other person named as a party to such counterclaim contends that the claim raised ought not to be disposed of by way of counterclaim, but in a separate proceedings, the court may at any time make such order as it thinks fit.”***

Order 15 Rule 5 stipulates the nature of a denial that is considered a proper traverse of the averments in any pleading. It states that:-

***“(1) Every allegation of fact in any pleadings if not specifically denied in the pleadings of the opposing party shall be taken as admitted except as against a person under legal disability.”***

Order 17 of the Rules of this Court is specifically dedicated to statements of defence. Rule 1 thereof contains the specifics of a statement of defence. It states that:-

***“The statement of defence shall be a statement in summary form and shall be supported by copies of documentary evidence, list of witnesses and their written statements on oath.”***

The combined effect of the above provisions of the Rules of this Honourable Court is that a Defendant is required to deny the averments contained in the Statement of Claim of the Claimant by way of a Statement of Claim in order to avoid liability ensconced in the claims contained in the Statement of Claim. Such denial in the Statement of Defence where it is filed must be definite and must meet each allegation of fact in the Statement of Claim. As Rule 2 of Order 17 states, ***“When a party in any pleading denies an allegation of fact in the pleadings of***

***the opposing party, he shall not be evasive, but answer the point of substance.”***

The purpose and essence of a Statement of Defence was stated in ***Ifesinachukwu v. Ifesinachukwu (2019) 17 NWLR (Pt. 1700) 59 CA at 85, paras E-F*** where the Court explained that ***“The essence of a statement of defence is that by the statement of claim, the defendant is fully abreast of the details of the case against him and that by the statement of defence, material facts are set out to disproof any or all the assertions of the plaintiff.”*** See also ***Ostankino Shipping Co. Ltd. v. The Owners, The MT Bata (2022) 3 NWLR (Pt. 1817) 367 SC at 390, paras. E-H; 401-402, paras. H-C.***

Where a Defendant fails or refuses to file a Statement of Defence in answer to the claims of the Claimant, the law of pleadings, as dynamic as as other disciplines of the law, has evolved a solution to save the Claimant the stress and trouble of a wieldy trial. This is because a Defendant who has the opportunity of challenging the averments contained in the Statement of Claim but fails to do so is deemed to have admitted the averments contained therein. See ***Lagos State University & Anor v. TaiwoAdegboyegaGaniyu (2022) LPELR-56873(CA) at 24-26, paras. D-A per Obande Festus Ogbuinya, JCA (as he then was, now, JSC)***. This principle is accorded statutory recognition by virtue of section 123 of the Evidence Act, 2011 where it is stated that:-

***“No fact need be proved in any civil proceedings which the parties to the proceedings or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings: Provided that the court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions.”***

The rule of pleading in force in so far as this Court is concerned is the High Court of the Federal Territory, Abuja (Civil Procedure) Rules, 2018. Order 15 Rule 5(1) thereof provides thus:-

***“Every allegation of fact in any pleadings if not specifically denied in the pleadings of the opposing party shall be taken as admitted except as against a person under legal disability.”***

This is also the reason Judgment in default of pleadings is provided for in the Rules of this Court. Order 21 of the Rules of this Court provides for judgment in default of pleadings. Rules 1, 2, 3, 4, 5, 6, 7 and 8 deal with specific claims and the procedure to be adopted. The claims of the Claimant in this case do not fall within the provinces of any of the actions contemplated in the afore-stated Rules. Rule 9, however exists to cover

all forms of actions and classes of claims not covered in the preceding Rules of Order 21. The Rule provides that:-

***“In all actions other than those in the preceding rules of this Order, if the defendant makes default in filling a defence, the claimant may apply to the court for judgment, and such judgment shall be given upon the statement of claim as the court shall consider the claimant to be entitled to.”***

The Courts have pronounced on the nature of Judgments obtained in default of pleadings and the procedure to be adopted whenever there is need to apply for same. In ***Fointrades Ltd. & Anor v. Universal Association Co. Limited & 2 Others (2002) 8 NWLR (Pt. 770) 699at 720, paras. F-H***, the Court expounded on the nature of a judgment obtained in default of pleadings. It held thus:-

***“A default judgment is not a judgment on the merit, so also a judgment found on some technical rule of procedure. In as much as default by a defendant either to enter appearance or to file a defence may be regarded as an implied admission of plaintiff's case, it, however, cannot constitute the judgment obtained thereby into a judgment on the merit. There is therefore, a tight limit on***

***the extent to which a judgment obtained by a plaintiff in default of appearance by a defendant can go.”***

In ***Lambert Sunday Iwueke v. Imo Broadcasting Corporation (2005) 17 NWLR (Pt. 955) 447 SC at 472, paras F-G***, the Court held that ***“In the proceedings leading to the entry of judgment in default of pleadings, the defendant is deemed to have admitted the facts as pleaded in the statement of claim on the basis of which judgment in default of pleadings is always entered where appropriate.”*** As to what should be the primary and only preoccupation of the Court when it is faced with an application for Judgment in default of pleadings, the Court in ***Nigerian Agricultural Co-Operative Bank Ltd. v. John Bull Obadiah (2004) 4 NWLR (Pt.863) 326 CA at 337, paras C-D*** explained that

***“Where a party has applied to the trial court to enter judgment in default of pleadings in accordance with Order 27 Rules 4 and 11 of the High Court (Civil Procedure) Rules, 1989 of Akwalbom State or other similar rules of court, there is no other relevant consideration for entering judgment thereunder other than the failure to file pleadings. Any other consideration like default of appearance whether by a party or his counsel, or lack of***

***zeal to defend or prosecute the suit as was done in this case is irrelevant.”***

Because Judgment in default of pleadings is founded on implied admission of the facts contained in the Statement of Claim, the Court is saved the trouble of embarking on a drawn-out hearing of the matter and the concomitant taking and evaluation of evidence. What the Court is primarily concerned with at this stage is the question of whether the Defendant has filed a Statement of Defence. Once the Court, upon a perusal of its records is satisfied that the Defendant has failed, refused or neglected to file their Statement of Defence within the time allowed by the Rules of the Court, the Court, upon application by the Claimant, will proceed to enter Judgment on the terms of the claims of the Claimant as contained in the Statement of Claim. In other words, in Judgment obtained in default of pleadings, the taking of evidence and its evaluation thereof are obviated or circumvented. That is why a Judgment obtained in default of pleadings is not considered a Judgment on the merits. See ***Colvi Limited &Ors v. Bacab Properties Limited (2023) LPELR-61341(CA) at 25-28, paras. D-C*** took the liberty to expound on the distinction between default judgment and judgment on the merits. Senchi, JCA delivering the Judgment of the Court of Appeal held thus:-

***“Now, having said the above, it is important to reproduce relevant provisions of the law under contention. In the first***

*place, the Appellants contended that the Judgment of the Trial Court was purely a default judgment but the Trial Court in its ruling as reproduced above stated that the Judgment is on the merit. What then is the difference between judgment delivered on the merit and default judgment? Per ONU, J.S.C in MOHAMMED V. HUSSEINI (1998) LPELR-1896(SC) (Pp. 55 paras. A) distinguished “default judgment” from “judgment on the merits” as follows: “A judgment on the merits is one based on legal rights as distinguished from mere matters of procedure or jurisdiction. A judgment on the merits is thus a decision that was rendered on the basis of the evidence led by the parties in proof or disproof of the issues in controversy between them. Normally, a judgment based solely on some procedural error is not, as a general rule, considered as a judgment on the merits. A judgment on the merits is therefore one arrived at, after considering the merits of the case – the essential issues, the substantive rights presented by the action, as contradistinguished from mere questions of practice and procedure. See also Cardoso v. Daniel &Ors. (1986) 2 NWLR (Pt.20) 1.” Again, this Court, Per DONGBAN-MENSEM, J.C.A in OLAWUNMI V. UGWU &*

**ORS (2022) LPELR-59116(CA) (Pp. 13-14 paras. D) relying on a Supreme Court decision posits as follows: "...To answer these posers, it is pertinent to define and differentiate between a judgment on the merit and a default judgment. The Apex Court in the case of AKUNEZIRI V. OKENWA & ORS, (2000) LPELR - 393 (SC) defined a judgment on the merit thus; "A judgment on the merits is a decision that was rendered on the basis of the evidence and facts introduced. It must be a decision made after hearing argument and investigation and where it is determined which party is the right, as distinguished from a judgment rendered upon some preliminary or formal or merely technical or procedural point, or by default and without trial." Per MOHAMMED, J.S.C. Contrariwise, a default judgment was defined by the Apex Court in the case of MOHAMMED V. HUSSEINI (1998) LPELR -1896(SC) thus; "The words default judgment are defined in U. T. C (NIG.) LTD. K PAMOTEI (1989) 2 NWLR (PT.103) 244 at 282-283; (1989) 20 NSCC (Pt.1) 523 at 549 wherein this Court (per Karibi- Whyte, J.S.C.) said: "The word default which qualifies the noun judgment' as used in this appeal seems to me to mean a judgment obtained by a plaintiff in reliance**

*on some omission on the part of the defendant in respect of something which he is directed to do by the rules. The word is used very widely to signify situations where a person has omitted to do what he is required to do having regard to the law governing his actions to the relations he occupies. In ordinary parlance, it means not doing what is reasonable in the circumstances.” Per ONU, J.S.C. Default Judgment is also defined by Per MOHAMMED, J.S.C in BELLO V. INEC& ORS (2010) LPELR-767(SC) (Pp. 36 paras. A) as follows:- “A default judgment is one given in default of appearance or pleadings against a Defendant or a Plaintiff in a cross-action whose names appear as such Defendant or Plaintiff in the record of the trial Court... See ALAPA V. SANNI (1967) NMLR 397.”*

In this case before me, it therefore appears that the Defendant has waived her constitutional right to defend this action. In **Ozoemene v Ozoemene (2013) LPELR-20383 (CA) at pp 15-16 paras F-E**, the Court of Appeal per Mojeed Adekunle Owoade JCA, aptly stated that:

*“In the business of fair hearing, the duty of the Court is to provide the access, the opportunity and the environment, the Courts would not be blamed neither could the fair hearing provisions be successfully invoked if a litigant that*

***has been given due access and opportunity to be heard failed to utilize same. In the case of H.R.H. Eze Dr. Frank v. M. Godfrey Chizieze Ogbonda the Supreme Court had this to say at page 162. "The duty of a Court is to create the environment for fair hearing in an egalitarian manner for the benefit of the parties. A Court of law cannot force parties to take advantage of the principles, once the Court creates the environment, its duty stops and the parties are at liberty to take advantage of the environment created by the Court. If the parties fail to take advantage of the environment created by the Court, they cannot be heard on Appeal to complain that they were denied fair hearing. Such will be unfair to the judge who has placed the fair hearing principle at the door steps of the parties.***

Following the above facts, Learned Counsel to the Claimant/Applicant, MrSaidu Muhammed Esq has urged this Court to invoke the provisions of Order 21 Rule 9 of the 2018Rules of this Court. I have reproduced the provisions of this Rule earlier in this Judgment.Learned Counsel has also relied on quite a number of judicial authorities as seen above in urging this Court to grant the reliefs the Claimant seeks in this application.

I have therefore considered the provisions of Order 21 Rule 9 of the 2018 Rules of this court in favor of the Claimant/Applicant. But before I conclude, let me repeat myself by stating that no Statement of Defence and other supporting processes were filed by the Defendant in this instant case. The Court's record shows numerous instances where hearing notices were served on the Defendant without an answer from the Defendant.

In the circumstance, I have no difficulty in arriving at the unavoidable conclusions that the provisions of Order 21 Rule 9 of Rules of this Court, 2018. The Defendant must suffer the legal consequences of her failure, refusal or neglect to file her Statement of Defence in opposition to the Statement of Claim of the Claimant. Accordingly, this application for Judgment in default of pleadings is meritorious and hereby succeeds. The specific relief sought therein is hereby granted.

## **JUDGMENT**

I therefore enter Judgment in favor of the Claimant having regards to the facts and circumstances of this case as per the claims contained in the Statement of Claim as follows:-

- 1. THAT the publication titled “*photos; Lady cries out for justice after her ex-boyfriend’s friend allegedly stabbed her in*”**

*kwara*”, on the Defendant’s blog (<http://www.lindaikojisblog.com/2016/11/photos-lady-cries-out-for-justice-after.html>), on 16/11/2016 wherein the Defendant republished a Facebook post earlier made by one Edward Onoriode, is defamatory of the Claimant.

2. THAT the publication titled “*Nigerian lady calls out the police for allegedly letting her attacker walk free 3 years after he allegedly tried slitting her throat with a knife*” made by the Defendant on the Defendant’s blog (<http://www.lindaikojisblog.com/2019/11/nigerian-lady-calls-out-the-police-for-allegedly-letting-her-attacker-walk-free-3-years-after-he-allegedly-tried-slitting-her-attacker-walk-free-3-years-after-he-allegedly-tried-slitting-her-throat-with-knife.html>), on the 19/11/2019 wherein the Defendant republished three Facebook posts earlier made by one Precious Amarachi Ugo, is defamatory of the Claimant.

3. THAT AN ORDER of this Honorable Court is hereby made awarding the sum of Two Million Naira (~~₦~~2,000,000.00) as general damages against the Defendant in favor of the Claimant for defamatory publication made by the Defendant via her the blog publication on the 16/11/2016.

4. THAT AN ORDER of this Honorable Court is hereby made awarding the sum of Two Million Naira (~~₦~~2,000,000.00) as general damages against the Defendant in favor of the Claimant for the defamatory publication made by the Defendant *via* her blog publication on 19/11/2016.
5. THAT AN ORDER of this Honorable Court is hereby made directing the Defendant to delete the said defamatory publication made by the Defendant on 16/11/2016.
6. THAT AN ORDER of this Honorable Court is hereby made directing the Defendant to delete the said defamatory publication made by the Defendant on 19/11/2019.
7. THAT a post-judgment interest of 10% per annum is hereby imposed on the entire Judgment sum from the date when Judgment is entered till the date the Judgment debt is completely satisfied.
8. THAT AN ORDER of this Honorable Court is hereby made directing the Defendant to issue a public apology to the Claimant *via* a post on the Defendant's blog for the defamatory republication made by the Defendant against the Claimant on the 16/11/2016.
9. THAT AN ORDER of this Honorable Court is hereby made directing the Defendant to issue a public apology to the

Claimant *via* a post on the Defendant's blog for the defamatory republication made by the Defendant against the Claimant on the 19/11/2019.

10. THAT AN ORDER of perpetual injunction is hereby made restraining the Defendant from making any publication or republication that is defamatory of the Claimant.

This is the Judgment of this Honorable Court delivered today, the 19<sup>th</sup> of September, 2024.

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**HON. JUSTICE A. H. MUSA**  
**JUDGE**  
**19/09/2024**

**APPEARANCES:**

**FOR THE CLAIMANT:**

Saidu Muhammed Lawal Esq  
AbdulrazakAbdulganiyu Esq  
Abduljalil Musa Esq  
UwaisAbdulrahman Esq  
Muhammed Mujahid Esq  
Paul Adedapo Esq  
Progress Ailakhuaiye Esq  
Aminu Sani Yakasai Esq

**FOR THE DEFENDANT:**

No Appearance