

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

**BEFORE HIS LORDSHIP: HON. JUSTICE H. MU'AZU**

**SUIT NO: FCT/HC/CV/1346/2025  
MOTION NO. FCT/HC/M/9394/2025  
DELIVERED ON THE 02/12/2025**

**BETWEEN:**

- 1. EMEKA OKWUMA**
- 2. BENEDICTA OKWUMA**



**.....CLAIMANTS/RESPONDENTS**

**AND**

**AERO CONTRACTORS COMPANY OF NIGERIA LTD.....DEFENDANT/APPLICANT**

**RULING**

The Claimant alleges that on the 31/01/2023, the Claimant's son named Okwuma, Nonso Augustine booked a return air ticket for the Claimants to travel from Asaba, Delta State to Lagos State scheduled for **16:05pm** on the 05/02/2023 and to airlift them back to Asaba, Delta State by flight scheduled for **14:40pm** on the 06/02/2023 and this is to enable the Claimant to attend an interview slated for the 06/02/2023 at the United State of America Embassy, Lagos on arriving at the Airport in Asaba, the Claimants were informed by the Defendant that the flight has been cancelled, having made themselves available for boarding without any Notice or reason(s) as to the cancellation.

These necessitated the Claimant to hurriedly raise money to purchase another flight ticket for themselves from Air Peace Limited at premium cost in order to meet up with their interview appointment in Lagos.

The Claimant brought this action against the Defendant seeking for various reliefs as endorsed on the face of the writ. The Defendant upon

services, filed motion No. **M/9394/2025** seeking for an order dismissing this suit for being an abuse of Court process. And such further order or orders as this Hon. Court may deem fit to make in the circumstances.

The grounds upon which the application was brought are as follows:

- (1) The Claimant in this suit were the 6<sup>th</sup> and 7<sup>th</sup> Claimants in an earlier suit, suit No: FCT/HC/CV/863/2023, which was instituted by them and eight and other parties against the Defendant. That suit was founded on the same subject matter and arose from the same set of facts as the present proceedings.**
- (2) The Claimants in the present suit are represented by the same counsel who acted for all the Claimants in the earlier suit, CV/863/2024.**
- (3) The Claimants counsel by a notice of withdrawal dated 19/04/2024, withdraw suit CV/863/2024 and same was struck out by the Court Coram Hon. Justice S. B. Belgore on 23/04/2024.**
- (4) Following the withdrawal, and striking out of the earlier suit, the same Claimants Counsel filed two fresh suites against the Defendant on the same set of facts, suit No. CV/806/2025, filed on 28/2/2025 (presently before this Hon. Court, Coram Hon. Justice E. Okpe) and this present suit CV/1346/2025, filed on 03/04/2025.**
- (5) All three suits involve substantially the same parties and raise identical or near identical legal and factual issues, all centered on the alleged events involving the Defendant.**
- (6) The institution of multiple suit by the same legal practitioner, based on the same set of facts, is an abuse of Court process intended to harass the Defendant.**

The application is supported by a 4-paragraph affidavit deposed to by one John Oyeomoni a legal practitioner in the firm of the Counsel to the Defendant/Applicant.

It is the deposition of the Defendant that the Claimants, along with eight (8) others, instituted suit No. **CV/863/2024** dated the 11/01/2024 against the Defendant and the Defendant filed a notice of preliminary objection dated 12/04/2024 challenging the mode of commencement of the action and Notice of withdrawal dated 19/04/2024 was filed by the Claimant and same struck out.

That another suit was filed via suit No. **CV/806/2025** which is currently pending before **Hon. Justice Edward Okpe** and Counsel filed the present suit.

That this present suit is an abuse of Court process and therefore same be dismiss.

A written address was filed wherein the issue *whether the suit constitutes an abuse of Court process and ought to be dismissed in the circumstances* was formulated for determination.

Learned Counsel submitted that the present suit amount to an abuse of Court process and therefore same be dismissed.

Reacting to the application, the Claimant filed a counter affidavit of 8 paragraphs deposed to by one Princess Ajilore, a Legal Practitioner in the law firm of the Claimant/Respondent.

It is the deposition of the Claimant/Respondent that the Claimant/Respondent together with 8 other aggrieved parties at different times, on separate occasions on the activities of the Defendant filed suit No. **CV/863/2024** against the Defendant and the Defendant in response

filed a counter affidavit dated 12/04/2024 stating that all the Claimants did not book the same flight together and they were not checked in on the same flight and on the same day and that there are different operational reasons for flight cancellations. That the Claimants/Applicants aligned themselves with this position and notice of withdrawal dated the 19/04/2024 was filed and the suit was struck out.

That the suit earlier instituted on the **28/2/2025** with suit No. **CV/806/25** before **Hon Justice E. Okpe** with the following parties, Dr. Mrs. Chukwubiken Ebele & 2 Ors. Vs. Aero Contractors Company of Nig. Ltd, was founded upon facts, transactions and subject matter wholly distinct, different and divergent from those forming the basis of the present suit.

That it will be in the interest of justice to dismiss this application.

A written address was filed wherein, the issue *whether this suit constitute an abuse of Court process and ought to be dismissed in the circumstances* was adopted for determination.

Learned Counsel argued the above issue succinctly citing relevant case laws in urging the Court to dismiss this application in the interest of justice.

I have gone through the application under consideration and the reaction of the Claimant/Respondent against the said application, I shall be brief in addressing the issue under consideration.

It is the law that multiplicity of actions on the same subject matter between the same parties will constitute an abuse, where this happens, the Court has a duty to interfere to stop such an abuse of its process. The multiplicity of actions on the same matter between the same parties even

where there exists a right to bring the action is regarded as an abuse. The abuse lies in the multiplicity and manner of the exercise of the right rather than the exercise of the right per-se.

The abuse consists in the intention, purpose and aim of the person exercising the right, to harass, irritate and annoy the adversary and interfere with the administration of justice, such as instituting different actions between the same parties simultaneously in different Court, even though on different grounds. See **LOKPOBIRI VS. OGOLA & ORS. (2015) LPELR 40838 (SC)**.

It is the contention of the Defendant/Applicant that institution of this present suit No. **CV/1346/2025** while suit No. **CV/806/2025** is still pending falls squarely within the scope of conduct condemned by the Supreme Court as abuse of Court process.

I have seen the suit No. **CV/806/2025** pending before my learned brother Hon. Justice Edward Okpe, the parties in the said suit are as follows:

- (1) Dr. Mrs. Chukwubikem Ebele
- (2) Mr. Chukwubiken Benjamin
- (3) Chukwubikem Daniel/infant (Suing Through Next Friend) Vs. AERO Contractors Company of Nigeria Limited.

Whereas the suit before me, the parties are

- (1) Emeka Okwuma
- (2) Benedicta Okwuma Vs. Aero Contractors Company of Nigeria Ltd.

From the above, it is obvious that the parties in suit No. **CV/806/2025** and parties in **CV/1346/2025** are different. The Claimant in suit No. **CV/806/2025** purchased a flight return ticket on the 31/05/2023 for carriage on the 21/06/2023 and the 25/06/2023, whereas the return flight

of the Claimants/Respondent in this instant suit were scheduled to airlift them from Asaba to Lagos on the 05/02/2023 and Lagos to Asaba on the 06/02/2023.

It is clear that both scheduled flights of the Claimants/Respondent were cancelled on a day and a time distinct from the aforementioned Claimants in suit No. **CV/806/2025**; and the periods within which both flight were cancelled are materially different and occurred at different times.

I have also read through the reliefs sought in both suit, which are completely different. This suit is clearly distinguishable from the previously referenced suit in terms of parties, particulars of transaction, location, purpose, duration, timeline.

From the affidavit evidence before me, I cannot see how this suit constituted an abuse of Court process. On this layout, the motion filed by the Defendant /Applicant with No. **M/9394/2025** is lacking in merit and is hereby dismissed.

**SIGNED:**  
**HON.JUDGE**  
**02/12/2025**

**APPEARANCE:**

*Ayodele Samuel Adepitan, Esq, for the Claimants*

*Defendant is absent and not represented*