

**IN THE HIGH COURT OF JUSTICE OF THE F.C.T.**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT APO, ABUJA**  
**ON THURSDAY, THE 16<sup>TH</sup> DAY OF DECEMBER, 2021**  
**BEFORE HIS LORDSHIP: HON. JUSTICE ABUBAKAR HUSSAINI MUSA**  
**JUDGE**

**SUIT NO: FCT/HC/CV/1104/2021**

**BETWEEN:**

**ALHAJI USMAN HALILU**

**CLAIMANT/RESPONDENT**

**AND**

- 1. ALL PROGRESSIVES CONGRESS (APC)**
- 2. DAHIRU ADAMU YAHAYA**
- 3. INDEPENDENT NATIONAL ELECTORAL  
COMMISSION (INEC)**

**APPLICANT**

**DEFENDANTS**

**RULING**

This is a Ruling on the Notice of Preliminary Objection brought by the 1<sup>st</sup> Defendant challenging the suit of the Claimant.

The Claimant had commenced this suit by way of an Originating Summons seeking the determination of the following questions:-

- 1. Whether in view of section 87 of the Electoral Act, 2010 (as amended) and having regards to the provisions of Article 20 of the Constitution of the All Progressives Congress, the APC Guidelines for Nomination of Candidates for the Council Ward Election 2022 Direct Primaries relating to the conduct and result of the APC Primaries and the upholding and declaration at the venue of the election, it was lawful for the 1<sup>st</sup>*

*Defendant to have forwarded the name of the 2<sup>nd</sup> Defendant to the 3<sup>rd</sup> Defendant as the 1<sup>st</sup> Defendant's nominated candidate in respect of the Jiwa Ward Council.*

*2. Whether in view of section 87 of the Electoral Act, 2010 (as amended) and having regards to the provisions of Article 20 of the Constitution of the All Progressives Congress, the APC Guidelines for Nomination of Candidates for the Council Ward Election 2022 Direct Primaries relating to the conduct and result of the APC Primaries and the upholding and declaration at the venue of the election, it was lawful for the 1<sup>st</sup> Defendant to change the result of the primary election it conducted for Jiwa Ward in which the Claimant emerged winner and was so declared by the election committee of the 1<sup>st</sup> Defendant.*

*3. Whether in view of section 87 of the Electoral Act, 2010 (as amended) and having regards to the provisions of Article 20 of the Constitution of the All Progressives Congress, the APC Guidelines for Nomination of Candidates for the Council Ward Election 2022 Direct Primaries relating to the conduct and result of the APC Primaries and the upholding and declaration at the venue of the election, the 1<sup>st</sup> Defendant was not bound in law to forward the name of the Claimant to the 3<sup>rd</sup> Defendant as the 1<sup>st</sup> Defendant's nominated candidate in respect of Jiwa Ward in the 2022 Council Election.*

4. *Whether in view of section 87 of the Electoral Act, 2010 (as amended) and having regards to the provisions of Article 20 of the Constitution of the All Progressives Congress, the APC Guidelines for Nomination of Candidates for the Council Ward Election 2022 Direct Primaries relating to the conduct and result of the APC Primaries and the upholding and declaration at the venue of the election, the 3<sup>rd</sup> Defendant is not bound in law to remove the name of the 2<sup>nd</sup> Defendant as the nominated candidate of the 1<sup>st</sup> Defendant replacing same with the name of the Claimant as the 1<sup>st</sup> Defendant's nominated candidate in respect of the Jiwa Ward Council election in the 2022 election.*

5. *Whether in view of section 87 of the Electoral Act, 2010 (as amended) and having regards to the provisions of Article 20 of the Constitution of the All Progressives Congress, the APC Guidelines for Nomination of Candidates for the Council Ward Election 2022 Direct Primaries relating to the conduct and result of the APC Primaries and the upholding and declaration at the venue of the election, the forwarding of the name of the 2<sup>nd</sup> Defendant by the 1<sup>st</sup> Defendant to the 3<sup>rd</sup> Defendant as the 1<sup>st</sup> Defendant's nominated candidate in respect of Jiwa Ward Council in the 2022 Election is not illegal, null and void.*

Upon an affirmative determination of the questions, the Claimant seeks the following reliefs from this Court:-

1. *A Declaration that upon the interpretation of section 87(4)(c) (sic) of the Electoral Act, 2010 (as amended), Article 20(iii) (sic) of the Constitution of the 1<sup>st</sup> Defendant, the 1<sup>st</sup> Defendant's Guidelines for the Nomination of Candidates for the 2022 Ward Council Election 2022 Direct Primaries, the result of the 1<sup>st</sup> Defendant's primary election for the nomination of the 1<sup>st</sup> Defendant's candidate in respect of the Jiwa Ward Councillorship, it was unlawful for the 1<sup>st</sup> Defendant to have forwarded the name of the 2<sup>nd</sup> Defendant to the 3<sup>rd</sup> Defendant as the 1<sup>st</sup> Defendant's nominated candidate in respect of the Jiwa Ward Council in the 2022 Council Election.*
2. *A Declaration that upon the interpretation of section 87(4)(c) (sic) of the Electoral Act, 2010 (as amended), Article 20(iii) (sic) of the Constitution of the 1<sup>st</sup> Defendant, the 1<sup>st</sup> Defendant's Guidelines for the Nomination of Candidates for the 2022 Ward Council Election 2022 Direct Primaries, the result of the 1<sup>st</sup> Defendant's primary election for the nomination of the 1<sup>st</sup> Defendant's candidate in respect of the Jiwa Ward Councillorship, the 1<sup>st</sup> Defendant was bound in law to forward the name of the Claimant to the 3<sup>rd</sup> Defendant as the 1<sup>st</sup> Defendant's nominated candidate in respect of the Jiwa Ward Council in the 2022 Council Election.*
3. *A Declaration that upon the interpretation of section 87(4)(c) (sic) of the Electoral Act, 2010 (as amended), Article 20(iii) (sic) of the Constitution*

*of the 1<sup>st</sup> Defendant, the 1<sup>st</sup> Defendant's Guidelines for the Nomination of Candidates for the 2022 Ward Council Election 2022 Direct Primaries, the result of the 1<sup>st</sup> Defendant's primary election for the nomination of the 1<sup>st</sup> Defendant's candidate in respect of the Jiwa Ward Councillorship, the 3<sup>rd</sup> Defendant is bound in law to remove the name of the 2<sup>nd</sup> Defendant as the nominated candidate of the 1<sup>st</sup> Defendant and replacing same with the name of the Claimant as the 1<sup>st</sup> Defendant's nominated candidate in respect of the Jiwa Ward Council in the 2022 Council election.*

*4. A Declaration that upon the interpretation of section 87(4)(c) (sic) of the Electoral Act, 2010 (as amended), Article 20 (iii) (sic) of the Constitution of the 1<sup>st</sup> Defendant, the 1<sup>st</sup> Defendant's Guidelines for the Nomination of Candidates for the 2022 Council Election 2022 Direct Primaries, the result of the 1<sup>st</sup> Defendant's primary election for the nomination of the 1<sup>st</sup> Defendant's candidate in respect of the Jiwa Ward Councillorship, the forwarding of the name of the 2<sup>nd</sup> Defendant to the 3<sup>rd</sup> Defendant by the 1<sup>st</sup> Defendant as its nominated candidate in respect of Jiwa Ward in the 2022 Council Election is illegal, null and void.*

*5. A Declaration that upon the interpretation of section 87(4)(c) (sic) of the Electoral Act, 2020 (as amended), Article 20(iii) (sic) of the Constitution of the 1<sup>st</sup> Defendant, the 1<sup>st</sup> Defendant's Guidelines for the Nomination of Candidates for the 2022 Ward Council Election 2022 Direct*

*Primaries, the result of the 1<sup>st</sup> Defendant's primary election for the nomination of the 1<sup>st</sup> Defendant's candidate in respect of the Jiwa Ward Councillorship, the publication of the name of the 2<sup>nd</sup> Defendant as the candidate of the 1<sup>st</sup> Defendant in respect of Jiwa Ward in the 2022 Council election by the 3<sup>d</sup> Defendant is illegal, null and void.*

- 6. An Order of this Honourable Court directing the Defendants to forthwith recognize the Claimant as the duly nominated candidate of the 1<sup>st</sup> Defendant in respect of the Jiwa Ward in the 2022 Council election.*
- 7. An Order of this Honourable Court directing the 3<sup>rd</sup> Defendant to immediately replace and publish the name of the 2<sup>nd</sup> Defendant with the name of the Claimant as the 1<sup>st</sup> Defendant's duly nominated candidate in respect of Jiwa Ward in the 2022 Council election.*
- 8. An Order of injunction restraining the 2<sup>nd</sup> Defendant from parading himself as the candidate of the 1<sup>st</sup> Defendant for the Jiwa Ward at the 2022 Council election.*
- 9. The cost of this suit.*

Responding to the suit of the Claimant, the 1<sup>st</sup> Defendant, on the 24<sup>th</sup> of September, 2021, filed a Notice of Preliminary Objection challenging the jurisdiction of this Court and seeking the following reliefs:-

- 1. An Order of this Honourable Court striking out the name of All Progressives Congress (APC) sued as the 1<sup>st</sup> Defendant in this suit.*

2. *An Order of this Honourable Court striking out this suit since necessary party is not before this Honourable Court for the effective and effectual determination of this suit.*
3. *An Order of this Honourable Court striking out the Originating Summons as necessary documents sought for interpretation to wit, the entire Constitution and the Guidelines for Nomination of Candidates for the Council and Ward Election 2022 of the 1<sup>st</sup> Defendant is not placed before this Honourable Court by the Claimant.*
4. *An Order of this Honourable Court striking out this suit for want of jurisdiction of this Honourable Court as the subject matter of the suit entirely bordered on domestic affairs of the 1<sup>st</sup> Defendant and hence it is non-justiciable.*
5. *And for such further or other Orders as the Honourable Court may deem fit to make in the circumstances.*

The grounds upon which the 1<sup>st</sup> Defendant's objection was based are as follows:-

1. *That the 1<sup>st</sup> Defendant is a non-juristic person hence they lack the legal personality to sue and be sued.*
2. *That the 1<sup>st</sup> Defendant sued as All Progressives Congress (APC) is a non-juristic person and can neither sue nor be sued.*

3. *Upon the grant of prayers (i) and (ii) of the Notice of Preliminary Objection this suit becomes incompetent since there would not be necessary party for the effective and effectual determination of this suit.*
4. *By virtue of the provisions of section 285(14) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and the decision of the Supreme Court in the case of **APC v. Umar & 22 Ors (2019) 8 NWLR (Pt. 1675) 564** the cause of action in this suit is a pre-election matter hence this action ought to have been commenced within the period of fourteen days (14) from the day the cause of action arose in accordance with the provision of section 285(9) of the Constitution of the Federal Republic of Nigeria 1999 (as amended).*
5. *That the suit of the Claimant/Respondent is statute barred having being filed in breach of the provision of section 285(9) of the Constitution of the Federal Republic of Nigeria 1999 (as amended).*
6. *This suit seeks the interpretation of the Constitution and the Guidelines for Nomination of Candidates for the Council and Ward Election 2022 of the 1<sup>st</sup> Defendant and yet the entire Constitution of the 1<sup>st</sup> Defendant and the Guidelines for Nomination of Candidates for the Council and Ward Election 2022 of the 1<sup>st</sup> Defendant is not part of the document placed before this Honourable Court by the Claimant hence the Claimant is inviting this Honourable Court to descend into the arena of conflict and embark on a voyage of discovery.*



7. *That matters arising from internal affairs of political parties such as this are non-justiciable.*

There was no affidavit of facts in support of the 1<sup>st</sup> Defendant's Notice of Preliminary Objection; but, there is legal submissions in support of the Notice of Preliminary Objection embedded in the 1<sup>st</sup> Defendant's Written Address in opposition to the Originating Summons.

In his argument, Counsel for the 1<sup>st</sup> Defendant contended that the 1<sup>st</sup> Defendant was not a juristic person and so could neither sue nor be sued, since it was sued as "All Progressives Congress (APC)" and not in its official name of "All Progressives Congress". Citing a number of judicial authorities such as ***Gov. Kwara State v. Lawal (2007) 13 NWLR (Pt. 1051) 379; Iyke Medical Merchandise v. Pfizer Inc (2001) 10 NWLR (Pt. 722) 540; Agbonmagbe Bank Ltd v. General Manager G.B.O. Olivant Ltd & Anor; Trustees, P.A.W. v. Trustees, A.A.C.C. (2002) 15 NWLR (Pt. 790); Abakaliki Local Government Council v. Abakaliki Rice Mills Owners Enterprises of Nigeria (1990) 6 NWLR (Pt. 155) 182***, among others, he urged the Court to strike out the name of the 1<sup>st</sup> Defendant.

In his argument on the ground that the suit was a pre-election matter governed by the provisions of section 285(14) of the Constitution of the Federal Republic of Nigeria 1999 as amended, Counsel adopted the definition of "election" given by the Supreme Court in the case of ***APC v.***

***Umar & 22 Ors (2019) 8 NWLR (Pt. 1675) 564 at 575 para F – H, 576, paras B – D*** and submitted that the suit was a pre-election matter and that the Claimant ought to have commenced this action within fourteen (14) days from the 25<sup>th</sup> of May, 2021. He maintained that since the suit was commenced outside the 14-day window provided by the Constitution, the suit was statute-barred and liable to be struck out.

Arguing further, learned Counsel submitted that the Claimant did not exhibit the Constitution of the 1<sup>st</sup> Defendant. He did not also annex the 1<sup>st</sup> Defendant's Guidelines for Nomination of Candidates for the Council and Ward Elections for the 2022 elections. Citing the cases of ***Ikpeazu v. Otti (2016) 34 WRN 1 at 47*** and ***Wema Bank Plc v. A.R.F.A. (Nig) Ltd (2016) 4 WRN 51 at 173***, he added that this failure was fatal to the case of the Claimant. He also contended that the failure of the Claimant to exhibit the said documents also infringed the fundamental right of the 1<sup>st</sup> Defendant to fair hearing.

Learned Counsel also maintained that the suit was not justiciable since it was a dispute that arose from the internal affairs of the 1<sup>st</sup> Defendant which ought to be resolved administratively by the 1<sup>st</sup> Defendant itself. He cited the cases of ***PDP v. K.S.I.E.C. (2006) 3 NWLR (Pt. 968) 565 at 623; Bakam v. Abubakar (1991) 6 NWLR (Pt. 199) 564 at 573*** and ***Ufomba v. INEC (2017)***

**13 NWLR (Pt. 1582) 175 at 215 – 216** among other cases on this point. In conclusion, he urged the Court to uphold its objection.

In his Reply on Point of Law, the Claimant through his Counsel, formulated this sole issue for determination: *“Whether this Honourable Court has jurisdiction to entertain and determine this suit in view of the fact that the Claimant filed this suit after the expiration of 14 days after the conclusion of the 1<sup>st</sup> Defendant’s primary election contrary to section 285(9) of the Constitution of the Federal Republic of Nigeria 1999 (as amended).”*

In his argument on this sole issue, learned Counsel contended that the grouse of the Claimant was the wrongful substitution of his name with that of the 2<sup>nd</sup> Defendant on the 25<sup>th</sup> of May, 2021 as the Councillorship candidate of the 1<sup>st</sup> Defendant for Jiwa Ward in the 2022 Wards/Council election. He implored the Court to adopt the liberal rule in the interpretation of the Constitution. He cited the case of ***Chisco Int’l Ltd v. Prime Marketing Associates Ltd (2016) 1 NWLR (Pt. 1492)*** in support of his submission in this regard.

He further pointed out that the events which formed the gravamen of the present suit occurred during the subsistence of the JUSUN strike which lasted for over two months and that the Practice Direction issued by the Chief Judge of the High Court of Justice of the Federal Capital Territory, Abuja with

regards to exemption of computation of time during the pendency of the industrial action was relevant.

He also took a swipe at the submission of the 1<sup>st</sup> Defendant that it was not a juristic person, adding that section 87(9) of the Electoral Act 2010 as amended empowers a dissatisfied aspirant to approach the Federal High Court or the High Court of a State or of the Federal Capital Territory, Abuja for redress. Citing the case of *Lau v. PDP (2018) 4 NWLR (PT. 1608) 60*, learned Counsel emphasized that the case had put to rest the question of unlawful substitution of candidates after primary elections as an internal affair of the party. He urged the Court to discountenance the submissions of the learned Counsel for the 1<sup>st</sup> Defendant and dismiss the Notice of Preliminary Objection.

I have given serious thought to the grounds for this Notice of Preliminary Objection and it is my considered view that the entire grounds revolved round the competency of the suit of the Claimant. Accordingly, I have formulated the following issue to enable this Court resolve the bone of contention one way or the other. The issue is this: ***“Whether the suit of the Claimant as presently constituted is not competent for the purpose of vesting this Honourable Court with the requisite jurisdiction to hear and determine same?”***

The 1<sup>st</sup> Defendant has challenged the Claimant’s suit on the following grounds: that the 1<sup>st</sup> Defendant is not a juristic person and, therefore cannot

sue or be sued; that the suit ought to have been commenced within 14 days from the date of the act complained of and is therefore statute barred; that the Claimant did not exhibit the instruments the provisions of which he sought this Court to interpret and, lastly, that the dispute arose from the internal affairs of the 1<sup>st</sup> Defendant and is therefore not justiciable.

According to the 1<sup>st</sup> Defendant, the Claimant sued the “All Progressives Congress (APC)” which is a non-juristic person and not the “All Progressives Congress” which is a registered and lawfully recognized political entity. I find this ground of objection rather puerile. There is no question as to the identity of the person sued as the 1<sup>st</sup> Defendant. The name of the 1<sup>st</sup> Defendant is “All Progressives Congress”. The acronym with which it is known is the “APC” there is also no doubt as to the legal status of the 1<sup>st</sup> Defendant. The insertion of the initials “APC” immediately after the name of the 1<sup>st</sup> Defendant, in my view, does not in any way alter the legal personality of the entity sued as the 1<sup>st</sup> Defendant. It would have been a different thing, and this Court would have held differently, if the Claimant had sued the 1<sup>st</sup> Defendant as “APC” without more as the acronym could refer to a thousand and one things other than the “All Progressives Congress”.

The 1<sup>st</sup> Defendant is a juristic personality by virtue of the provisions of section 222 of the Constitution of the Federal Republic of Nigeria 1999 as amended. Thus, it can sue and be sued in its name. as I have pointed out earlier, the 1<sup>st</sup>

Defendant is also known by the acronym “APC”. What the Claimant has done in his designation of the parties to this suit is to insert the acronym in parenthesis. I do not see how this detract from the legal capacity of the 1<sup>st</sup> Defendant. In fact, it does not even come within the meaning of a misnomer. In ***Keystone Bank Ltd v. Okefe (2014) LPELR-22633 (CA) at pp. 23 – 24, paras D***, the Court of Appeal per Omoleye, JCA held that “***A misnomer occurs when the correct person is brought to Court under a wrong name...***”

In ***Maersk Line & Anor v. Addide Investments Ltd & Anor (2002) LPELR-1811 (SC) at pp. 61 – 62, paras F*** Ayoola JSC held that a “***misnomer in this sense means, simply, a wrong use of a name. if the entity intended to be sued exists but a wrong name is used to describe it, that, in my judgment, is a misnomer.***” See also ***Oyetunde & Ors v. Awotayo & Anor (2020) LPELR-50533(CA)***; ***Yohanna & Ors v. Gabriel & Ors (2020) LPELR-49948 (CA)***; and ***Didoga v. Karamu (2020) LPELR-51133 (CA)*** among other notable decisions of the Court in that regards. All the decisions cited by the 1<sup>st</sup> Defendant in support of this ground of its objection are, therefore, inapplicable. It is my considered view, and I so hold, that the 1<sup>st</sup> Defendant is a juristic person, capable of suing and being sued in its name and there is neither mistake nor confusion as to its identity arising from the nomenclature used to designate it in this suit.

The 1<sup>st</sup> Defendant has also contended that the suit of the Claimant was statute barred because it was brought more than 14 days after the cause of action had accrued. No doubt, section 285(9) of the Constitution of the Federal Republic of Nigeria, 1999 (Fourth Alteration, No. 21) Act, 2021 provides that “***Notwithstanding anything to the contrary in this Constitution, every pre-election matter shall be filed not later than 14 days from the date of the occurrence of the event, decision or action complained of in the suit.***”

The use of the mandatory word “shall” is not lost on this Court. However, this Court is impelled to note that the event complained of, *id est*, the substitution of the name of the Claimant with that of the 2<sup>nd</sup> Defendant and the submission of the 2<sup>nd</sup> Defendant’s name to the 3<sup>rd</sup> Defendant took place during the pendency of the industrial action embarked upon by Judiciary workers to press home their demand for financial autonomy of the Judiciary. **Exhibit G** attached to the affidavit in support of the Originating Summons was dated 25<sup>th</sup> of May, 2021 and received by the 3<sup>rd</sup> Defendant on the 29<sup>th</sup> of May, 2021. The industrial action embarked upon by the Judiciary Staff Union was called off on the 10<sup>th</sup> of June, 2021. The Courts were re-opened on the 14<sup>th</sup> of June, 2021. Yet, because of the public holiday declared by the Federal Government to commemorate Democracy Day which date, 12<sup>th</sup> of June, 2021 fell on a Saturday, the public holiday was moved to the next working day, which was Monday, 14<sup>th</sup> of June, 2021. The Courts, therefore, re-opened on the 15<sup>th</sup> of

June, 2021. The Claimant filed this suit on the 16<sup>th</sup> of June, 2021. To my mind, the Claimant filed this suit at the earliest opportunity he had to challenge the action of the 1<sup>st</sup> Defendant.

Moreover, section 259 of the Constitution of the Federal Republic of Nigeria 1999 empowers the Chief Judge of the High Court of the Federal Capital Territory, Abuja to “***make rules for regulating the practice and procedure of the High court of the Federal Capital Territory, Abuja.***” The Honourable the Chief Judge of the High Court of Justice of the Federal Capital Territory, Abuja, the Honourable Justice Salisu Garba, then the Chief Judge, in accordance with this constitutional mandate, issued a Practice Direction suspending the computation of time from the 6<sup>th</sup> of April, 2021 to the 14<sup>th</sup> of June, 2021, being the period the Judiciary workers were on strike. The Practice Direction, known as the High Court of the FCT, (Computation of Time and Exemption from Payment of Default Fees) Practice Direction No. 1 2021 stipulated that “***In reckoning time for filing of Court processes or performing any act including the payment of default fees under the High Court of the FCT (Civil Procedure) Rules 2018 or under any previous directions issued by this Court, the period commencing on 6<sup>th</sup> April, 2021 and ending on 14<sup>th</sup> June, 2021 being the period of the JUSUN strike is hereby exempted.***”



If I may ask, which Court was the 1<sup>st</sup> Defendant expecting the Claimant to file his suit challenging its conduct? I believe and I strongly hold, that this is one of those examples where the legal principle, *ubi jus ibi remedium*, is most apposite. See ***NBC Plc v. Ademeli (2015) LPELR-41851 (CA)***; ***Oscar Concord Finance and Securities Ltd v. Ogunleye (2007) LPELR-8719 (CA)***. In ***Arulogun v. C.O.P. Lagos & Ors (2016) LPELR-40190 (CA)***, the Court of Appeal per Iyizoba, JCA held at pp. 19 paras A that ***“It is a basic and elementary principle of the law that wherever there is a wrong there ought to be a remedy to redress the wrong, generally expressed in the Latin phrase ubi jus ibi remedium which we are all very familiar with.”*** In ***BFI Group Corporation v. B.P.E. (2012) LPELR-9339 (SC)***, the apex Court held per Fabiyi, JSC at pp. 33 paras A that ***“Literally, ubi jus ibi remedium means where there is a right, there is a remedy. It is said that the rule of primitive law was the reverse, where there is remedy there is a right. The Court is enjoined to provide a remedy where a legal right is established. The Court should look into the substance of the action rather than the form...”*** I therefore found this ground of the 1<sup>st</sup> Defendant’s objection as a gross misconception of the law and all the cases cited in support of this ground as inapplicable since none of them touched on the computation of time where there is a *force majeure* like the JUSUN strike which crippled judicial activities for over two months.

The 1<sup>st</sup> Defendant has also claimed that the Claimant did not exhibit the Constitution of the 1<sup>st</sup> Defendant and the Guidelines for Nomination of Candidates for the Council and Ward Election 2022 of the 1<sup>st</sup> Defendant. This ground is curious. This Court has scrutinized the Originating Summons and all the exhibits annexed thereto. The Constitution is attached thereto as **Exhibit B**. Though the Claimant stated in paragraph 7 of the affidavit in support of the Originating Summons that the 1<sup>st</sup> Defendant's Guidelines was attached to the affidavit as **Exhibit C**, this Court cannot find the said exhibit. This can only be negligent carelessness on the part of Counsel for the Claimant. Should the Court, therefore, punish the Claimant for the sins of his Counsel? This Court do not think so. Besides, the Constitution of the 1<sup>st</sup> Defendant was annexed to the Originating Summons and the Guidelines, which was not annexed, is subsidiary to the said Constitution.

In *Eze & Anor v. Ugwuanyi & Ors (2015) LPELR-40644 (CA) at pp. 33 paras A* per Oredola, JCA, the Court of Appeal held that “***Additionally, it is instructively significant to note that while it is a principle of law that a litigant cannot be allowed to suffer for the mistakes or sins of his Counsel, that principle of law cannot be extended to a situation where such a mistake or sin of Counsel affects, impinges or removes the jurisdiction of the Court. It cannot be used as a cloak to cover what has been exposed...***”

The Claimant's non-annexure of the 1<sup>st</sup> Defendant Guidelines for Nomination of Candidates for the Council Ward Election 2022 Direct Primaries even though he claimed to have exhibited it as **Exhibit C**, though a serious oversight, does not detract from the competency of the suit. This is, however, a clarion call on all counsel to be meticulous in the preparation of their processes before filing same; because this Court will not hesitate to defenestrate any incompetent process whose incompetency touches on the jurisdiction of this Court – whether the mistake is that of Counsel, Registry of this Court or the litigant!

Finally, on whether the cause of action that birthed this suit is an internal affair of the 1<sup>st</sup> Defendant and therefore not justiciable, reference must be had to the provisions of section 87(9) of the Electoral Act, 2010 as amended. The said section provides thus:

***“Notwithstanding the provisions of this Act or rules of a political party, an aspirant who complains that any of the provisions of this Act and the guidelines of a political party has not been complied with in the selection or nomination of a candidate of a political party for election, may apply to the Federal High Court or the High Court of a State or FCT, for redress.”***

The Courts have had reason to pronounce on this subject. In ***APC v. Okpo & Ors (2020) LPELR-49766 (CA)***, the Court of Appeal held *inter alia* that the only aspect of intra-party affairs that was non-justiciable was the part that dealt with any business of a political party other than the selection or nomination of a candidate of a political party for an election. Thus, where the complaint arose from the conduct of the selection or nomination of a person to stand as the candidate of the party in an election, that subject ceases to be an internal affair of the political party which is non-justiciable and becomes, to all intents and purposes, a subject where the Court is required to intervene to provide redress.

In ***Nwafor v. Enwerem (2020) LPELR-51087 (CA)***, the Court, in acknowledging the provisions of section 87(9) of the Electoral Act, 2010 as amended as an exception to the general rule that the Courts are not allowed to interfere in the domestic affairs of political parties, held that “***This provision provides both the Federal High Court and the State High Court with jurisdiction to entertain complaints regarding the selection or nomination of a candidate of a political party for election...***” I therefore hold that the present suit comes squarely within the jurisdictional competency of this Court as provided for by virtue of section 87(9) of the Electoral Act, 2010 as amended since the Claimant is challenging the substitution of his name as the candidate of the 1<sup>st</sup> Defendant for the Councillorship election in

respect of Jiwa Ward of the Federal Capital Territory, Abuja with that of the 2<sup>nd</sup> Defendant by the 1<sup>st</sup> Defendant.

For all the reasons stated above, this Court do not find merit in the Notice of Preliminary Objection filed by the 1<sup>st</sup> Defendant. The suit of the Claimant is competent, I so hold. The Notice of Preliminary Objection filed by the 1<sup>st</sup> Defendant on the 24 of September, 2021 is accordingly dismissed.

This is the Ruling of this Court delivered today, the 16<sup>th</sup> day of December, 2021.

**HON. JUSTICE A. H. MUSA**  
**JUDGE**  
**16/12/2021**