

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT COURT NO. 4, MAITAMA ON THE
5TH DAY OF JULY, 2022

BEFORE HIS LORDSHIP: HON. JUSTICE U. P. KEKEMEKE

SUIT NO. FCT/HC/CV/2537/2019

COURT CLERKS: *JOSEPH ISHAKU BALAMI & ORS.*

BETWEEN:

MESSAGE WISE LIMITED CLAIMANT

AND

- | | | |
|---|---|-------------------|
| 1. THE SECRETARY TO THE GOVERNMENT
OF THE FEDERATION | } | DEFENDANTS |
| 2. MOHAMMED BUKAR | | |

RULING

The Motion by the Party seeking to be joined is dated 28/07/2021 but filed on the 29th July 2021. It prays for an Order joining *Senator Anyim Pius Anyim* (GCON) as a Defendant in this suit.

- (2) An Order of Court transferring the matter to the General Cause List for hearing.

The grounds for the application as relied on by the Counsel to the Party to be joined are that the Applicant was the Secretary to the Government of the Federation at the relevant time when Claimant was engaged for event production of the grand finale celebration of the Nigeria Centenary Celebration.

That the Party sought to be joined personally ensured by his office that the Claimant was paid, as full and final payment of the sum of ~~N~~325 Million sometime in March to July 2015 upon an undertaking by the Claimant through its Executive Vice Chairman vide letter dated 18/03/2015.

That the entire facts and circumstances of this case are within the peculiar knowledge of the Party sought to be joined who superintended the engagement of the Claimant and the execution of the contract.

That the joinder sought is necessary for the final and effectual determination of the issues in this matter.

That the entire Centenary Celebration was funded by the private sector at zero cost to government. That the Party sought to be joined is a necessary party.

I have read the 5-paragraph Affidavit. I have also read Exhibits 1 and 2 attached to the Affidavit filed in support. The Claimant filed a Counter Affidavit of 6 paragraphs, which he relied upon in opposition to the Motion sworn to by Danjuma John.

He deposes that the totality of the terms and liability in relation to the Centenary Celebration is embodied in an agreement signed by parties. That it is dated 21/10/2013 but signed on 29/01/2014.

That it did not deal with the Party sought to be joined. That the outcome of this case does not affect the Party seeking to be joined. That none of the reliefs is against the Party seeking to be joined.

In the Further Affidavit, the Party seeking to be joined deposed that at all material times, the Claimant dealt with him in both personal and official capacities.

That the outcome of the case will affect his interest and reputation as the then Secretary to the Federal Government and an elder statesman.

That the facts upon which this action is brought are facts which happened when he was in office as Secretary to the Federal Government.

I have considered the Written Addresses of Counsel. By Order 13 Rule 4 of the Rules of Court, any person may be joined as a Defendant against whom the right to any relief is alleged to exist whether jointly, severally or in the alternative, judgment may be given against one or more of the Defendants as may be found to be liable according to their respective liabilities without any amendment.

The law is that a party interested or an interested party in the subject matter of a suit can seek to be joined either at

the trial or in the appellate Court. In either case, he has to show an interest in the result of the litigation.

See **OKOLI vs. OJIAKOR (1997) 1 NWLR (PT. 479) 48.**

OGONA II vs. AWULOR (1997) 9 NWLR (PT. 522) 668.

For a person to be joined as a party in an action, it must be shown that the person is entitled to some share/interest in the subject matter or lays claim to such share/interest in the subject matter or is likely to be affected by the result of the action or is a necessary party and or it is just and convenient to join him.

See **YAKUBU vs. GOVT., KOGI STATE (1995) 8 NWLR (PT. 414) 386 SC.**

The facts deposed to by the Party sought to be joined are very clear. He was the Secretary to the Government at the time the Claimant was engaged for the event in issue.

That he personally ensured that the Claimant was paid in full. That the facts are within his peculiar knowledge. That the entire Centenary Celebration was funded by the private

sector at zero cost to the government. That his interest and reputation is at stake. That it is necessary to join him so as to enable the Court know the true facts.

The purpose of joinder of parties in an action is to enable the Court to effectually and completely adjudicate upon and settle all questions involved in the matter or cause.

The overriding considerations are whether the issues that call for determination cannot be effectually and completely settled unless the Party sought to be joined is made a party or that his interest will be irreparably prejudiced if he is not made a party.

See **OGUNBULE vs. ADEBANJO (2006) 2 NWLR (PT. 964) 319.**

In the circumstance of this case, the Party sought to be joined was the Secretary to the Federal Government at the relevant time. He has full, peculiar knowledge of the facts than the present Secretary to the Federal Government.

That his interest and reputation may be irreparably prejudiced if not made a party. He is therefore an interested party in the subject matter of this suit.

In respect of the second prayer, this matter is on the Undefended List procedure. It is governed by Order 35 of the Rules of Court. At the appropriate time, Applicant can file the necessary processes to enable the Court transfer the matter to the General Cause List. The prayer therefore fails.

The Claimant also filed a Notice of Discontinuance dated 31/03/2022 but filed on 5/04/2022 seeking to discontinue the suit against the 2nd Defendant. The name of the 2nd Defendant is therefore struck out.

In totality, the Party seeking to be joined is hereby joined as the 2nd Defendant in this suit.

The Claimant shall amend its processes to reflect the Orders herein made.

HON. JUSTICE U. P. KEKEMEKE
(HON. JUDGE)
05/07/2022

Parties absent.

Emmanuel Esedo, Esq. for the Claimant.

O. A. Halliday, Esq. holding brief for W. C. Okoh, Esq. for
the 1st Defendant.

O. E. Asiegbu, Esq. holding brief for Nkemakolam Okoro,
Esq. for the Party sought to be Joined.

COURT: Ruling delivered.

(Signed)

HON. JUDGE

05/07/2022