

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT COURT NO. 4, MAITAMA ON THE**

**20<sup>TH</sup> DAY OF FEBRUARY, 2023**

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

**SUIT NO. FCT/HC/CV/2957/2017**  
**MOTION NO. M/601/2021**

COURT CLERKS: *JOSEPH ISHAKU BALAMI & ORS.*

**BETWEEN:**

**DR. LAWSON ALOZIE AKPULONU** } ..... CLAIMANT/APPLICANT  
(Trading under the name and style of }  
BRIGHT STAR ACADEMY)

**AND**

**1. CHETACHI ONWUATUOGU** }  
**2. MRS. MAMA ANGEL CHINEDU** } DEFENDANTS/RESPONDENTS  
**3. MRS. JUSTINA FRANCIS** }

**RULING**

The Claimant's application is dated and filed 25/01/2021. It prays for an Order setting aside its Order striking out this suit on 18/01/2021 and relisting same on the Cause List in the interest of justice.

The application is supported by a 4-paragraph Affidavit. The Applicant's deposition via Catherine Ene Ameh, Litigation Secretary of Claimant's Counsel is that the principal Counsel fell sick since December 2020 and could not attend Court.

That on 19/12/2020, he could not get up of bed. That early January, he was in the Federal Medical Centre for more treatment and observation.

That on 18/01/2021, he wrote this Court. That he is the person personally in charge.

The Defendants' Counsel relied on his Counter Affidavit deposed to by Chetachi Onwuatuogu. He said there are other lawyers in chambers that would have attended to the case. That the Claimant is not interested in pursuing his case.

By Order 32 (5) (3) of the Rules of Court, a party who fails to file an application to relist a case struck out or to

apply to set aside a Judgment within six (6) days after the Order or Judgment was delivered or such longer period as the Court may allow shall at the time of filing the application pay a fee of ₦200.00 for each day of the default.

The Order striking out this suit was made on 18/01/2021. This application is dated and filed on 25/01/2021. The application was not filed within 6 days as envisaged by the Rules of Court.

The Claimant was out of time for a day. He did not pay for the default. The application therefore is not competent. It is accordingly struck out.

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**HON. JUSTICE U. P. KEKEMEKE**  
(HON. JUDGE)  
20/02/2023

1<sup>st</sup> Defendant present.

2<sup>nd</sup> and 3<sup>rd</sup> Defendants absent.

Claimant absent.

Usman Yuzoma, Esq. for the Claimant/Applicant.

E. O. Oka, Esq. with W. Okpara, Esq. for the  
Defendants/Respondents.

**COURT:** Ruling delivered.

(Signed)  
**HON. JUDGE**  
20/02/2023