

**IN THE HIGH COURT OF JUSTICE OF THE F.C.T**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT APO, ABUJA**  
**ON THURSDAY, THE 5<sup>TH</sup> DAY OF JULY 2022**  
**BEFORE HIS LORDSHIP: HON. JUSTICE ABUBAKAR HUSSAINI MUSA**  
**JUDGE**

**SUIT NO:FCT/HC/CV/1042/2021**

**BETWEEN:**

**MR ABIMBOLA OMONIWA**

**APPLICANT**

**AND**

**MR IKEMEFUNA MOJUME MICHAEL**

**RESPONDENT**

**JUDGMENT**

This Judgment is in respect of an application for the enforcement of the fundamental rights of the Applicant. By way of an Originating Motion on Notice dated the 31<sup>st</sup> day of March 2021, and filed on the 1<sup>st</sup> of April 2021, brought pursuant to Order 2 of the Fundamental Rights (Enforcement Procedure) Rules, 2009, Sections 33, 34 and 35 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and Articles 4, 5 & 6 of the African Charter On Human and Peoples' Rights (Ratification and Enforcement) Act and under the inherent Jurisdiction of this Honourable Court, the Applicant seeks the following reliefs:

- 1. A Declaration that the incessant and indiscriminate threat to life both physically, through calls and text messages of the Applicant by the Respondent is illegal, unconstitutional and a violation of the*

*Applicant's fundamental right to life and dignity of person as provided in Sections 33 and 34 of the 1999 Constitution of the Federal Republic of Nigeria as amended.*

- 2. A Declaration that the continuous harassment, embarrassment, intimidation and disturbance of the Applicant by the Respondent is illegal and unconstitutional and a violation of the Applicant's fundamental right to life and dignity of his person as provided in Sections 33 and 34 of 1999 Constitution of the Federal Republic of Nigeria (as amended).*
- 3. A Declaration that the harassment and threat to life of the Applicant by the Respondent is unlawful and in violation of his right to life as enshrined under Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and under the Fundamental Right Enforcement Principle 2009 (sic).*
- 4. A Declaration that the obstruction of the Applicant's movement and liberty by the Respondent is unlawful and runs foul and contrary to section 35 and other sections prevalent in Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria as amended.*
- 5. An Order of Perpetual Injunction restraining the Respondent, their agents, servants, howsoever described from any further form of threat of life, embarrassments, intimidation harassment or obstruction of the Applicant in connection with the subject matter of this application.*
- 6. Any further Order or Orders which this Honorable Court may deem fit to make in the circumstance.*

The motion was supported by a statement as required under the Rules, a 21-paragraph Affidavit in support of the application and a Written Address.

Hearing of this suit commenced on the 13<sup>th</sup> of January, 2021. On the 11<sup>th</sup> of November, 2021, learned Counsel for the Applicant moved an application for substituted service of the originating processes and other processes in this suit on the Respondent, owing to the difficulties the Applicant encountered in serving the Respondent with the processes. The Court granted the application and subsequently adjourned the suit to the 26<sup>th</sup> of January, 2022 for hearing. It was, however, on the 27<sup>th</sup> of April, 2022 that the substantive application was heard and the case thereafter adjourned for Judgment.

The records in this case file show that the originating processes as well as the enrolled Court Order for substituted service and hearing notice were served on the Respondent on the 25<sup>th</sup> of January, 2022. The Respondent did not file any process and neither the Respondent nor his legal representative was in court on each hearing date despite being served with hearing notices.

Briefly, the facts contained in the affidavit in support of the originating process before me are that the Applicant who is the Managing Director of Templecom Capital & Investments Ltd, with whom the Respondent entered an investment agreement to invest the sum of ₦30,000,000.00 (Thirty Million Naira) and subsequently invested same on the 1<sup>st</sup> of March 2018. According to the investment agreement, part of the interest associated with the sum invested would be payable at the end of the month while the rest would consequently become payable on the last day of the investment. The Respondent was then being paid his interest as stipulated in the agreement after the plan was perfected. The Respondent then renewed the investment agreement after the transaction, on the 1<sup>st</sup> of July 2019 and invested the sum of ₦39,000,000.00 (Thirty-Nine Million Naira).

The total sum which is due to the Respondent as both the principal sum and interest sum is ₦109,098,000.00 (One Hundred and Nine Million, Ninety-Eight Thousand Naira Only), in which the company has paid the sum of ₦97,477,300.42K (Ninety-Seven Million, Four Hundred and Seventy-Seven Thousand, Three Hundred Naira and Forty-Two Kobo) to the Respondent. After this payment, Templecom Capital & Investment Ltd encountered financial crisis and could not pay the Respondent his remaining money. The financial crisis persisted and the company still could not discharge its obligations to the Respondent. Mails were sent out to all investors including but not limited to the Respondent, updating the Respondent and other investors of the present situation and happenings of the company and craving their indulgence with the company for a little while to enable the company bounce back and refund the outstanding sums owed to the Respondent and other investors.

Despite the continued communication by the company to the Respondent of its financial issues, where the company pleaded for time to settle the outstanding sum, the Respondent, sometime this year, started harassing, intimidating, embarrassing, obstructing, and threatening the Applicant's life physically, through calls and text messages. Because of the vulnerability of the Applicant to such stress-inducing circumstances as a result of the sickle cell disease which he suffers from, the Applicant drew the attention of his lawyers to this development and they advised the Respondent to do the right thing instead of taking the law into his own hands; hence, this application.

In the Written Address in support of the application, learned Counsel for the Applicant formulated this sole issue for the determination of this Honorable Court, to wit:

***“Whether from the facts and evidence before the court, the Applicant’s rights which are guaranteed under the Constitution have been infringed?”***

In his arguments, learned Counsel for the Applicant answered the sole issue formulated in the affirmative by stating that the continuous intimidation, threat to life, harassment and obstruction of the Applicant without an Order of a Court of competent jurisdiction amounts to infringement of the Applicant’s fundamental right to life and right to dignity of the human person, right to personal liberty and right to movement in view of sections 33, 34, and 35 of the 1999 Constitution of the Federal Republic of Nigeria as amended. Learned counsel relied on the cases of ***Odogu v. A.G. Fed. (1996) 6 NWLR (Pt 456) 508 at 522 paras E-F, Oshae v. COP (2005) 2 NWLR (Pt 937) p 499, pp 524-525, Ndubuisi v. State (2018) LPELR-44908 (SC), Mr. Nicholas Igbokwe v. Christian Edom & Ors (2015) LPELR-25576 (CA), Okeihe v. State (2019) LPELR-48961 (CA), Olga Tellis v. Bombay Municipal Corporation (1986) AIRSUP CT 180(APP7), Omoyinmi v. Ogunsiji (2008) 3 NWLR (Pt. 471) at 474, A.G. Fed. v. Abule (2005) II NWLR (Pt. 936) p389, paras B-D, Onogoruwa v. IGP (1999) 5 NWLR (Pt. 195) 593 and 649 paras G-H.***

In conclusion, learned counsel urged the Court to grant all reliefs sought by the Applicant as, by so doing, the Court would be sending a strong message of discontinuance to perpetrators of similar acts and/or actions against the clear provisions of the Constitution and, furthermore, justice would be seen done as the rights of the Applicant as guaranteed by the law shall be duly protected.

Above is the case of the Applicant before me. I have considered the issue formulated by the learned Counsel of the Applicant in his Written Address. But, before I go further, it should be noted that the Applicant's evidence in this case has been unchallenged and uncontroverted by the Respondent who neither appeared nor filed any Counter-Affidavit throughout the proceedings despite opportunities granted to him to do so. It must also be noted that, while it is the duty of litigants and their Counsel to ensure that processes of Court are served on their adversaries, and the duty of the Court to ensure that this duty is dutifully carried out to the letter, it is not the responsibility of the Court to compel an unwilling litigant to appear in Court or to respond to the claim against them. See the cases of: ***Mekwunye v. Imoukhuede (2019) 13 NWLR (Pt. 1690) 439 SC at 496, paras D-F per Abba Aji, JSC; Ukwuyok v. Ogbula (2019) 15 NWLR (Pt. 1695) 308 SC at 324 – 326, paras H-A, 326, paras C-D, 327, paras B-C SC per Okoro, JSC; Segun Akinsuwa v. The State (2019) 13 NWLR (Pt. 1688) 161 at 195-196, paras H-D.***

Once a party to an action in Court has been served with the Court processes and is aware of the days the matter has been fixed but chooses not to file any process in response or to appear in Court to tell their own side of the story, the action of the Applicant and the evidence relating thereto will be treated as unchallenged and uncontroverted. It is a settled principle of law that averments in an affidavit that are neither controverted nor unchallenged are deemed admitted. The Court must, therefore, take act on same as long as it is reasonable, credible, cogent and compelling. That is to say, as far as the affidavit evidence does not appear to be notoriously and patently wrong, the Court is duty-bound to accept same. See the case of ***Mr Sylvester Chuks Ujoma v. Mr***

**Francis Sonola Olafimihan & 1 Ors (2021) 10 NWLR (Pt. 1784) CA,** where the Court of Appeal held that:

***“The law requires the court to treat unchallenged and uncontroverted dispositions of facts in an affidavit as duty established and proved where proof, as a matter of law, is required. Where a respondent does not file a counter affidavit to challenge and controvert the depositions in an applicant’s affidavit, he is expressly and by presumption of the law deemed to have admitted to be true and correct all the contents of the depositions of fact contained in the applicant’s affidavit in support of the motion.”***

Similarly, in the case of ***Dike v. State (2018) 13 NWLR (Pt. 1635) 35,*** where it was held by the Court that:

***“Where an affidavit filed in support of an application was not denied or countered by way of counter-affidavit, the averments deposed to in such affidavit are deemed admitted and the court is duty-bound to act on them once the facts deposed therein were put before the court...”***

See, also, ***NB Plc v. Akperashi, (2019) LPELR-47267 (CA),*** where the Court of Appeal at pages **33 – 35 paras A – F** per Otisi, JCA held that,

***“It is trite law that any fact in an affidavit which is neither challenged nor contradicted is undisputed and is deemed admitted by the adversary and the Court will so***

***hold and act thereon... See also Jim Jaja v. Cop Rivers State & Ors (supra), (2012) LPELR-20621(SC)."***

In the case of ***The Honda Place Limited v. Globe Motor Holdings Nigeria Limited (2005) LPELR-3180 (SC)***, Edozie, JSC succinctly stated, at page 33 of the E-Report that:

***"The position of the law is that when in a situation in which facts are provable by affidavit, one of the parties deposes to certain facts, his adversary has a duty to swear to an affidavit to the contrary, if he disputes the facts. Where such a party fails to swear to an affidavit to controvert such facts, they may be regarded as duly established."***

Flowing from the above authorities, I hereby regard the unchallenged and uncontroverted evidence led by the Applicant in this case as unchallenged and uncontroverted. Having given serious consideration to the facts as disclosed in the affidavit in support of the application and having perused the Written Address of the Applicant, this Court believes that the following issue can dispose with this application one way or the other. The issue which this Court has formulated, therefore, is this:

***"Whether from a dispassionate evaluation of the totality of the facts disclosed in the affidavit in support of the application, the Respondent has not violated the rights of the Applicant herein?"***

In resolving this issue, it is pertinent to first state that human rights have been defined as the inalienable rights of people. They are legal entitlements which every citizen should enjoy without fear of government



or fellow citizen. The fundamental rights of every citizen are contained in Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria (as amended). In the event of violation of these rights, section 46(1) of the same chapter of the Constitution empowers the victim to seek redress in a High Court of competent jurisdiction. Section 46(1) provides:

***“Any person who alleges that any of the provisions of this Chapter has been, is being or likely to be contravened in any state in relation to him may apply to a High Court in that State for redress”***

The purpose of the fundamental rights enforcement proceeding is as contained in the Preamble to the Fundamental Rights (Enforcement Procedure) Rules, 2009. Specifically, and of interest to this action, paragraph (3) of the Preamble stipulates what it considers to be the overriding objectives of the Fundamental Rights (Enforcement Procedure) Rules, 2009. Of interest are sub-paragraphs (a), (b), (c), (d) and (f) of paragraph (3) of the Preamble. I have taken the liberty to reproduce the above provisions *in extenso* below:-

Paragraph 3:

***“The overriding objectives of these Rules are as follows:***

***(a) The Constitution, especially Chapter IV, as well as the African Charter, shall be expansively and purposely interpreted and applied, with a view to advancing and realizing the rights and freedoms contained in them and affording the protections intended by them.***

***(b) For the purpose of advancing but never for the purpose of restricting the applicant’s rights and freedoms, the Court***

***shall respect municipal, regional and international bills of rights cited to it or brought to its attention or of which the Court is aware, whether these bills constitute instruments in themselves or form parts of larger documents like constitutions. Such bills include:***

- (i) The African Charter on Human and Peoples' Rights and other instruments (including protocols) in the African regional human rights system.***
- (ii) The Universal Declaration of Human Rights and other instruments (including protocols) in the United Nations human rights system,***
- (c) For the purpose of advancing but never for the purpose of restricting the applicant's rights and freedoms, the Court may make consequential orders as may be just and expedient.***
- (d) The Court shall proactively pursue enhanced access to justice for all classes of litigants, especially the poor, the illiterate, the uninformed, the vulnerable, the incarcerated, and the unrepresented.***
- (f) The Court shall in a manner calculated to advance Nigerian democracy, good governance, human rights and culture, pursue the speedy and efficient enforcement and realization of human rights.***

The Courts have accorded these provisions judicial recognition in a plethora of decisions and have gone on to hold that it is the duty of the Courts to uphold and give effect to these overriding objectives. In ***Johnson v. Udonsek & Ors (2017) LPELR-43647 (CA)***, the Court of Appeal per Adah, JCA, after examining the provisions of the Preamble to

the Fundamental Rights (Enforcement Procedure) Rules, 2009, particularly Paragraph 3(c) and (d) held at **pages 11 – 13, paras F – B** that **“the objective to be driven by the Court is to advance and not to restrict the pursuit of rights. The objective is also to be proactive in enhancing access to justice for all who desire to enforce their fundamental rights. The objectives were set as guides to every enforcing Court to have tolerance for substantial justice rather than technical justice.”** See also ***Federal Polytechnic Bauchi & Anor v. Aboaba & Anor (2013) LPELR-21916 (CA)***; ***Aig-Imoukhuede v. Ubah & Ors (2014) LPELR-23965 (CA)***; ***Rumugu Air and Space (Nig) Ltd v. FAAN & Anor (2016) LPELR-41506 (CA)***; and ***Chima v. FBN & Anor (2017) LPELR-43652 (CA)***.

In as much as the overriding objectives contained in the Preamble to the Fundamental Rights (Enforcement Procedure) Rules, 2009 remain the guiding principles for the Courts in fundamental rights enforcement suits and the Courts are enjoined always to do substantial justice, the suits must, however, conform to the conditions and prerequisites stipulated in the Fundamental Rights (Enforcement Procedure) Rules, 2009. This is because of the *sui generis* nature of fundamental rights matters. In ***IGP v. Ikpila & Anor (2015) LPELR-40630 (CA)*** Georgewill, JCA noted at **page 60 paras D – F** that **“However, it must be borne in mind that proceedings under the Fundamental Rights Enforcement Procedure Rules are neither strictly civil nor criminal proceedings. They are sui generis, being proceedings of their own kind. At best therefore, they are an hybrid proceeding, taking on some of the features of the different types of proceedings in our Courts but still remaining sui generis. See *Jim Jaja V. COP Rivers State (2013) 22 WRN 39 @ p. 66.*”**

In *Enukeme v. Mazi (2014) LPELR-23540 (CA)*, the Court of Appeal per Mbaba, JCA at **pages 21 – 23 paras E** held that,

***“I must start by stating the obvious, that fundamental rights enforcement procedure is sui generis, being specially and specifically designed, with its own unique rules by the Constitution, to address issues of fundamental rights of persons protected under the Constitution. Of course, consideration of issues founded on breaches of fundamental rights in this case must be handled within the exclusive confines of the Fundamental Rights (Enforcement Procedure) Rules of 2009, which actually came to correct some perceived wrongs and hardship which the 1979 Rules (fashioned on the 1979 Constitution) caused to Applicants seeking enforcement of their fundamental rights, especially in the areas of adherence to undue technicalities and delays in determining applications. The preamble to the Fundamental Rights (Enforcement Procedure) Rules (FREPR) 2009, particularly 1, 3(a), (b) and (d), state as follows: “(1) The Court shall constantly and consciously seek to give effect to the overriding objectives of these Rules at every stage of human rights action, especially whenever it exercises any power given it by these Rules or any other law and whenever it applies or interprets any rule ... (3) The overriding objectives of these Rules are as follows: (a) The Constitution, especially chapter iv, as well as the African Charter, shall be expansively, and purposely interpreted and applied, with a view to advancing and***

*realizing the rights and freedom contained in them and affording the protections intended by them. (b)... (c) For the purpose of advancing but never for the purpose of restricting the Applicant's Rights and freedoms, the Court may make consequential orders as may be just and expedient. (d) The Court, shall proactively pursue enhanced access to justice for all classes of litigants, especially the poor, the illiterate, the uninformed, the vulnerable, the incarcerated and the unrepresented....” I believe it was in realization of such objectives that the law stipulates in Order ix Rule 1 as follows: “Where at any stage in the course of or in connection with any proceedings, there has, by any reason of anything done or left undone, been failure to comply with the requirement as to time, place or manner or form, the failure shall be treated as an irregularity and may not nullify such proceedings, except as they relate to: “(i) Mode of commencement of the application; (ii) The subject matter is not within chapter iv of the Constitution or the African Charter on Human and People's Right (Ratification and Enforcement) Act.””*

See also *Skye Bank v. Njoku & Ors (2016) LPELR- 40447 (CA)* where the Court of Appeal cited with approval and followed its decision in *Enukeme v. Mazi, (2014) supra*.

As *sui generis* proceedings, fundamental rights enforcement suits must be for the enforcement of any of the rights enshrined in Chapter IV of the Constitution of the Federal Republic of Nigeria 1999 as amended. The provisions of section 46(1) of the Constitution and Order II Rule 1 of the

Fundamental Rights (Enforcement Procedure) Rules, 2009 made by the Chief Justice of Nigeria pursuant to the provisions of section 46(3) of the Constitution imply that the rights enforceable by way of a fundamental rights enforcement proceeding are rights that are specifically delineated in Chapter IV of the Constitution. These rights, for the sake of clarity, are contained in sections 33 to 44 of the Constitution and are, respectively, the right to life, the right to dignity of human person, the right to personal liberty, the right to fair hearing, the right to private and family life, the right to freedom of thought, conscience and religion, the right to freedom of expression and the press, the right to peaceful assembly and association, the right to freedom of movement, the right to freedom from discrimination, the right to acquire and own immovable property anywhere in Nigeria and the right to be paid compensation for compulsory acquisition of property. An application for the enforcement of the fundamental rights of an Applicant which does not seek any of the reliefs contained in Chapter IV of the Constitution must necessarily fail. Similarly, any relief sought which is not one of the rights contained in Chapter IV of the Constitution will not be granted. In ***Aig-Imoukhuede v. Ubah & Ors, supra***, the Court of Appeal held that the provisions of the Fundamental Rights (Enforcement Procedure) Rules, 2009 should not be interpreted in such a manner as to give protection to rights that are not intended in the Rules. In ***Mujaid v. IBEDC & Ors (2020) LPELR-50754 (CA)***, the Court of Appeal held that the rights to be protected must be those covered in Chapter IV of the Constitution. See also ***Omonyahuy & Ors v. IGP & Ors (2015) LPELR-25581 (CA)***.

Another feature of fundamental rights proceedings as *sui generis* proceedings is that they are decided on the basis of affidavit evidence. The facts deposed to in the affidavit in support of the application for the

enforcement of the Applicant's fundamental rights must be such that they can ground the reliefs sought. See *Mbang v. Janet & Ors (2014) LPELR-22656 (CA)*. In *Anowu v. Ulu & Anor (2020) LPELR-50754(CA)* the Court of Appeal held at *pages 15 – 16 paras C – A* that,

***“It is trite that, the facts averred in the affidavits placed before the Court by the parties in fundamental rights enforcement proceedings constitute the pleadings, and the adduced evidence in the matter, see; SSS & ANOR v. MALLAM NASIR EL-RUFAI OFR; JACK v. UNIVERSITY OF AGRICULTURE MAKURDI (2004) LPELR- 1587 (SC); UKAOBASI v. EZIMORA (2016) LPELR - 40174 (CA); ASCO INVESTMENT LTD & ANOR v. EZEIGBO & ANOR (2015) ALL FWLR (PT. 767) P 766 AT 784. In IKUDAYISI & ORS v. OYINGBO & ORS (2015) LPELR - 40525, ABIRIYI, JCA (P.16, PARAS. A - E) held; ‘The special procedure of the Fundamental Rights (Enforcement Procedure) Rules is not to be equated with the normal procedure in actions tried on pleadings and to which normal rules of pleadings apply. In the procedure under the Fundamental Rights (Enforcement Procedure) Rules, the affidavit constitutes the evidence. If only evidence before the Court or judge is that of the complainant, that is the material he should consider...’”***

With the foregoing at the back of my mind, I return to the reliefs contained in the Originating Motion on Notice and the affidavit of the Applicant in support of the application to determine if the facts deposed therein are sufficient to ground the reliefs sought in this application. I have already set out the reliefs sought by the Applicant above and there

is no point repeating same. I have carefully gone through the affidavit in support and in paragraph 4-17 of the affidavit, the Applicant swore as follows:

- 4) *That the Respondent entered into an investment agreement with Templecom Capital & Investment Ltd to invest the sum of **₦30,000,000.00 (Thirty Million Naira)** and subsequently invested on the 1<sup>st</sup> of March 2018.*
- 5) *According to the investment agreement, part of the interest associated with the sum invested shall be payable at the end of the month while the rest shall consequently become payable on the last day of the investment.*
- 6) *That after the investment plan and all the agreement were perfected, the transaction was moving smoothly as the respondent has always been paid his interest as stipulated in the binding agreement between the parties.*
- 7) *That as a result of the success of the first transaction in 2018, the Respondent renewed the investment agreement on the 1<sup>st</sup> day of July 2029, wherein he invested the sum of **₦39,000,000.00(Thirty-Nine Million Naira)** .*
- 8) *That the total sum which is due to the Respondent as both the principal sum and the interest is a cumulative sum of **₦109,098,000 (One Hundred and Nine Million, Ninety-Eight Thousand Naira)**.*
- 9) *That the company has paid the sum of **₦97,477,300. 42 (Ninety Seven Million, Four Hundred and Seventy-Seven Thousand, Three Hundred Naira and Forty-Two Kobo)** only to the Respondent and is still committed to making further payment up until the time the company encountered financial crisis.*



- 10) *That when Templecom Capital & Investment Ltd started facing some financial challenges and crisis, a mail was sent to all investors including but not limited to the Respondent, updating him of the present situations and happenings and further craved their indulgence with the company for a little while to enable the company bounce back and refund him of the outstanding sum.*
- 11) *That as the financial crisis persisted, the company could not discharge its obligations to its staff, vis-a-vis payment of salaries and all, the company was forced to shut down even as they struggle to resuscitate and bounce back.*
- 12) *That despite all that, the company continued to be in constant communication with the Respondent, pleading for time and patience to enable it bounce back and settle its outstanding sum.*
- 13) *That this continued up until sometime early this year, when the Respondent started harassing, intimidating, embarrassing, obstructing and threatening my life physically through calls and text messages.*
- 14) *That the continuous intimidation, harassment and threat to my life and public embarrassment is (sic) making life difficult for me irrespective (sic) my health status.*
- 15) *That the Respondent has continued to harass, intimidate, embarrass, and in (sic) one of the occasions, blocked and obstructed me from where am (sic) going to, insisting that I will not continue my movement unless I pay him thereby creating a scene and attracted the attention of many passers-by.*
- 16) *That as a result of what happened sometime this year between me and the Respondent and consequent obstruction of my movement by the Respondent, I quickly drew the attention of*

*my lawyer who advised the Respondent to do the right thing and avoid taking the law into his hands.*

- 17) *That I have sickle cell disease which makes me vulnerable to any attacks at any given time so therefore I live my day strictly on doctors' instructions.*

In addition to the above sworn evidence of the affidavit, the Applicant attached the following exhibits to the affidavit in support of the application. They are:

- 1) The investment agreement attached and marked as **Exhibit A**;
- 2) The second investment agreement attached and marked as **Exhibit B**;
- 3) Bank transfers evidencing payment and an excel sheet showing the breakdown of payments, attached and marked as **Exhibit C and C1**;
- 4) A copy of the correspondence sent to Respondent, attached and marked as **Exhibit D**;
- 5) The text messages and correspondence evidencing some of the conversations and threats, attached and marked as **Exhibit E**;
- 6) A laboratory report showing the genotype from body affairs diagnosis attached and marked as **Exhibit F**.

From the affidavit in support and the exhibits attached, it is undoubtedly clear that the relationship which existed between the Applicant and the Respondent was contractual in nature. Whatever disagreement that arose out of the relationship is therefore civil in nature, and does not justify the way the Respondent has handled the matter. The Respondent, by his insistent stalking, harassment, public embarrassment, intimidation and frustration of the Applicant, his health

issues notwithstanding, has put the Applicant in palpable danger that his rights as identified above were about to be infringed. This is particularly true when considered against the backdrop that the Respondent has a number of legal options available to him to recover his investments and part of the interest associated with the sum invested from the Applicant. For instance, an action for breach of contract would have served the Respondent well.

The Respondent's approach, therefore in resorting to intimidation and, other unlawful antics, effectively renders the law redundant and would be condoned by this Honorable Court. This Court will not stand by and watch people, no matter the extent of their grievances, take the law into their hands. To do otherwise would amount to tilling the ground for chaos and anarchy. This is unacceptable. The Applicant is therefore right to have approached this Court to halt the Respondent's unlawful, illegal and unconstitutional excesses which derogate from the guaranteed rights of the Applicant.

There is no doubt that the Applicant has clearly made out a case of infringement of his fundamental rights. It is my considered view that in support of the application are extremely relevant, cogent and compelling. These paragraphs establish conclusively that the rights of the Applicant to life, dignity of the human person, personal liberty and freedom of movement were at different times breached and, in other times, were in imminent danger of being breached following the relentless threats and intimidation of the Respondent.

The fact the Respondent deemed it unnecessary to file a Counter-Affidavit simultaneously narrating his own side of the story and challenging the facts in the affidavit in support of the Applicant's

application means that this application is decided solely on the unchallenged affidavit evidence of the Applicant. The Respondent's failure to file any process in opposition is deemed an admission of the facts contained in the Applicant's affidavit in support of his application. In ***Anowu v. Ulu & Anor (2020), supra***, the Court held that if the only evidence before the Court was that of the Applicant, the Court was bound to consider that material.

In all, I find the application meritorious and the reliefs sought are accordingly granted as follows:

- 1) That the incessant and indiscriminate threats to life both physically and through calls and text messages of the Applicant by the Respondent is unconstitutional and a violation of the Applicant's fundamental right to life as provided for in section 33 of the Constitution of the Federal Republic of Nigeria, 1999.**
- 2) That the continuous harassment, embarrassment, intimidation and disturbance of the Applicant by the Respondent is unconstitutional and a violation of the Applicant's fundamental right to dignity of his person as provided for in Section 34 of the Constitution of the Federal Republic of Nigeria, 1999.**
- 3) That the obstruction of the Applicant's movement by the Respondent is unlawful, illegal and unconstitutional and a violation of his right to personal liberty and right to freedom of movement enshrined in sections 35 and 41 of the Constitution of the Federal Republic of Nigeria, 1999.**
- 4) An Order of Perpetual Injunction is hereby made restraining the Respondent, his agents, servants, privies howsoever**

described from any further form of threat, public embarrassments, intimidation, harassment or obstruction of the Applicant in connection with the subject matter of this application.

This is the judgment of this Honourable Court delivered today, the 5<sup>th</sup> of July, 2022.

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**HON. JUSTICE A. H. MUSA**  
**JUDGE**  
**5/07/2022**

**APPEARANCES:**

**FOR THE APPLICANT:**

Christopher O. Richard Esq.  
V. I. Miduador Esq.  
Ifechukwu Okwudili Esq.  
Fatima A. Shehu Esq.  
Chinenye J. Ugwu Esq.  
Shalom C. Emejulu Esq.  
Augustine A. Ugboha Esq.

**FOR THE RESPONDENT**

**Not in Court and No legal representation.**