

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

16TH DAY OF FEBRUARY, 2023

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

SUIT NO. FCT/HC/CV/1495/2014

COURT CLERKS: *JOSEPH ISHAKU BALAMI & ORS.*

BETWEEN:

COLONEL JOSEPH EJEH CLAIMANT

AND

**1. DOM COMMUNICATION LTD
PUBLISHER OF NIGERIAN PILOT NEWSPAPER**

2. MR. SUNDAY OGLI

3. PIUS ACHADU ONUH, ESQ.

4. PAUL AGBO

DEFENDANTS

JUDGMENT

The Claimant's Writ of Summons and Statement of Claim filed on the 13th of May, 2014 against the Defendants pray for the following reliefs:

- (1) An Order of Court that the Defendants shall jointly and severally pay the sum of ₦100,000,000 (One

- Hundred Million Naira) only as general damages for the shock, risk of travelling and libel.
- (2) An Order for the Defendants to retract and tender an apology to be published in the front page of the Pilot Newspaper and one other National Newspaper.
 - (3) ₦2 Million as special damages for cost of travelling to dispel the false publication.
 - (4) ₦1.5 Million only as legal fees.
 - (5) Cost of the action.

The Defendants were served with the Originating Processes. The 1st and 2nd Defendants filed a Statement of Defence on 3/11/2014. The 3rd and 4th Defendants also entered appearance and filed a Joint Statement of Defence dated 25/03/2015.

The Claimant opened his case and called three (3) witnesses in proof thereof. The first Claimant's witness is Ambrose E. Odeh. He lives in Mpape Village, a suburb of Bwari Area Council. He adopts his Witness Statement on Oath sworn to on the 13th of May, 2014. He identifies same and adopt it as his oral evidence in this case.

In the said Witness Statement on Oath, he states that he is an uncle to the Claimant. That he has known the Claimant for about 40 years as a humble, gentle and peace loving individual.

That he was in the village when he read the publication about the Claimant in the National Pilot Newspaper of Friday, 25th April 2014 at page 32 and he was astonished because of the contents. He called the Claimant from the village and he explained the true position to him.

That some elders in the village that had knowledge of it equally met him and commented about it. That his explanation did not convince them as they requested that Claimant be invited to the village to answer questions on the issues raised in the publication. That Claimant came as a result and met with the elders to explain the true position as it concerns the publication.

On being cross-examined by 3rd and 4th Defendants' Counsel, witness answered that he was astonished about

the content of the publication. That what he read about the Claimant is different from his perception of him.

When he read about the publication, he asked him and he said he did not foment any trouble. That Claimant said he did not have any land in that place.

To a further question, witness said he cannot remember being in the same hotel with the Claimant in Mararaba. He denied knowing the Claimant's house in the village. He knows that Claimant but does not know anything about his properties.

He answered that he was there when Claimant explained to the elders. He said he was accused of what he did not do.

The second Claimant's witness is David A. Jahja. He lives at Masamani Malali, Kaduna. He is a teacher. He deposed to a Witness Statement on Oath on 13/05/2013. He identified it and adopted same as his oral testimony.

In the said Witness Statement on Oath, he states that he is a childhood friend of the Claimant. That they both attended Government Day Secondary School, Gurmi-Mashi, Kaduna. That they both belong to the Old Students Association.

That when he read the publication in the Nigerian Pilot Newspaper of Friday, 25th April 2014 at page 32, he found it difficult to believe because the story painted the character, image and reputation of the Claimant in a negative form.

That he called the Claimant on phone with respect to the publication. That some Old Students also called him and they discussed it. That the Association in their meeting on 3/05/2014 suspended the Claimant based on the newspaper publication pending when he will appear before the Association on the next meeting to answer to the facts alleged.

Under cross-examination by the 1st and 2nd Defendants' Counsel, he answered that he does not know Claimant's

relations. He knows the uncle he was staying with when they were in school. He is not aware that there is a land dispute between the Claimant's relation and the 4th Defendant.

He is also not aware that the 4th Defendant was attacked while carrying out a construction on the piece of land, which the relations of Claimant and the 4th Defendant were contesting.

To a further question, he answered that he is not aware of a Police action against the relations of the Claimant. He also answered he is not aware of a judgment in respect of the land.

Under cross-examination by the 3rd and 4th Defendants' Counsel he answered that Claimant is his classmate and childhood friend. That Claimant was of a good behaviour.

That the newspaper report was a shock to him. That he has not been to the Claimant's village. That he read the newspaper report about the Claimant.

To a further question, he answered that he read about the Court issue in the newspaper. That he only saw the caption, what he read was confiscation of piece of land. He did not read anything about judgment. He did not know Joy FM broadcast.

The third Claimant's witness is the Claimant himself. He is Brigadier-General Joseph Ejeh. He lives in the Nigerian Army Cantoment, Minna. He is a soldier. He sworn to a Witness Statement on Oath on 13/05/2014. He identifies same and adopted it as his oral testimony.

In the said Witness Statement, he states that the 1st Defendant is the publisher of Nigerian Pilot Newspaper while the 2nd Defendant is a reporter with the said Newspaper.

The 2nd Defendant quoted the 3rd Defendant as Counsel to the 4th Defendant and published by the 1st Defendant on Friday, 25th April 2014 at page 32 of the paper as follows:

“According to Pius Achadu Onuh, Counsel to Agbo, when two of the attackers were taken to the Police Area Command, one Colonel Joseph Ejeh, that served at the Nigerian Army Headquarters, Abuja Defence Headquarters, Abuja came and began to threaten the Assistant Area Commander for offering Police protection to Agbo.”

That the content of the said publication are false in its entirety and aimed at disparaging his person and lowering his esteem before his colleagues, friends, relations and right thinking members of the public.

That as a result of the publication, he has to travel to the village several times to answer queries from his elders and state the true position of things. That he made several telephone calls to people within and outside Nigeria explaining the true position. That the cost of travelling and telephone calls cost him ₦2 Million.

That the 3rd and 4th Defendants were asked to retract the statement but they vehemently refused to do so. That he briefed his lawyer, P. C. Ozoagu & Co. to institute this action. That he paid his Counsel ₦1.5 Million. He claims as per the Writ of summons and Statement of Claim.

The witness tendered Exhibit A - page 32 of the Pilot Newspaper of Friday, April 25, 2014.

On being cross-examined by 1st and 2nd Defendants' Counsel, he answered that he knows Onyico Onuh and Reginna Matthew. That they are his maternal relations.

To a question, he answered that he is aware of the land dispute between them and Augustina Oduche. He is not aware of a Court case in 2002. He is also aware 3rd and 4th Defendants were there during the dispute. He is not aware of the outcome of the dispute in Court neither is he aware of any judgment.

That by the nature of his work, he is always off town. There was a time he was told the children of his maternal

relation were arrested by the Police. He went to the Police Station to take them out on bail.

On being cross-examined by the 3rd and 4th Defendants' Counsel, he answered that he is from a village called Oleng, Bencho Ekeh. He built a house there.

He knows Philip Oche Okpe who owns a Guest House. He knows Ojo Matthew but does not know Sunday Jacob. He also does not know Edache Emmanuel.

He met Police Officers at the Area Commander's office. He could not see the Area Commander but he saw the CP to lay the matter before him and went back to his station. He was later told the boys were released.

He has heard about Joy FM but is not aware of any broadcast that attack his relations. He does not know its location. That his father's compound is close to the market square. That his father owns the land accommodating the market square.

To a further question, he said he did not accuse the Police Officer of being a relation of 4th Defendant. That he never met the 3rd Defendant before the publication.

To another question, he said he met the 3rd Defendant in the hotel of Philip Oche, he called him and asked if he was the Counsel, and he said yes. He told him to hands off the case. When he said he would not, and that they should go to Court, he took his bag and left.

He knows 3rd Defendant was handling a case for 4th Defendant. He did not send Oche Philip Okpe to him.

The above is the case of the Claimant.

The Defendants opened their defence. The first defence witness is Sunday Oghi. He lives at No. 24, Ibadan Street, Markudi, Benue State. He is a journalist with the Nigerian Pilot Newspaper. On the 3rd day of November, 2014 he swore to a Witness Statement on Oath.

That he is the leader of the team that reported and caused to be published the said article in the suit being complained of. He wrote and captioned the story on the publication being complained of. That the facts leading to the publication were revealed to him on 22/04/2014 by 3rd and 4th Defendants in Markudi, Benue State in an interview with them.

From the interview, he gathered the following information:

- (1) That sometime in 2002, one Onyibo Onuh and Regina Matthew instituted an action at the Grade 1 Area Court in Ugbokolo against two relatives of the 4th Defendant over title to a parcel of land.
- (2) That at the end of the trial, the case was dismissed for lack of merit. The relations of the 4th Defendant were deemed to have a good and valid title.

That sometime in 2010 after his retirement from the Army, the 4th Defendant proceeded to erect a building on the said land but was obstructed by Onyilo Onuh and Regina Ameh and three others who mobilized and attacked them, vandalized the properties of the construction workers.

That aggrieved 4th Defendant lodged a complaint to the Police Area Command at Otukpo, and the accused were arrested and arraigned before Otukpo Magistrate Court.

Sometime in April 2014, the 4th Defendant with the protection of some policemen from the Police Area Command, Otukpo went to resume work at the site but once again the duo appeared with guns and disrupted work at the site.

They were taken to the Police Area Command and it was while they were in Police custody that Colonel Joseph Egeh, the Claimant came to threaten officers of the Police Force.

That after the interview, 2nd Defendant proceeded to write the report. That the report was written bona fide and without any malice whatsoever.

That he does not have any prior issue with Claimant neither is there any ill-feeling or malice. That 1st and 2nd Defendants as journalists are duty bound to inform and sensitize the public on authentic news.

Under cross-examination by 3rd Defendant's Counsel, he answered he never met Claimant and 3rd and 4th Defendants. We also heard of the development in Joy FM Radio Otukpo.

It was when he heard the news he decided to go after the details. He went to Joy FM to get the particulars of the story. He also interviewed the 4th Defendant who was being victimized. He stated the legal battles he had with the Claimant in respect of the land after which he gave the particulars of his lawyer (3rd Defendant).

Under cross-examination by the Claimant's Counsel, he claimed to have a Diploma in Journalism. He admitted he could not interview the Claimant due to logistics. He was not able to interview the Area Commander. He relied on what the Area Commader told Joy FM.

To a question, he said he did not see the 4th Defendant as being oppressed. He is not aware Claimant does not have a land dispute with 4th Defendant.

The second Defendant's witness is Aguche Onyewu. He is a businessman. He lives in Ajidi Eke in Idumoke Okpoku, Benue State. He made a Witness Statement on Oath. He adopts same as his oral evidence.

In the said Witness Statement he stated that on 5/04/2014, himself, his friend Innocent Agbo with other workmen were engaged by the 4th Defendant to work on the plot of land in question at Ajide Ekeh. The plot of land was the compound of the 4th Defendant's late elder brother called Odugboche Agbo.

That after the death of Odugboche Agbo, the compound was in ruins as the children were too young and were taken into custody by brothers and relations.

That Police patrol vehicle was stationed around as early as 8.00 a.m. while family members and workmen commenced work on the said piece of land. As they started work, the relations of the Claimant gathered in their compound at the back of the palm trees namely, Ojo Matthew, Eboyi, Matthew, Sunday Jacob and Edache Emmanuel Ochigbo making frantic efforts with their handset to reach some persons.

After about two hours of working, the Claimant arrived in his car driving slowly passing by the plot, smiling and observing the works going on in the plot of land. That one of the relations of the Claimant known as Eboyi Matthew picked a motorcycle and followed the Claimant. They were attacked in the presence of the Police Officers from the Command Headquarters.

They started to sand-fill the trench already dug for the foundation. The Police tried to stop the attack but they refused. The Police apprehended two of the culprits. They were taken to the Area Command Headquarters, Otukpo.

That Joy FM Otukpo reporter came to interview them. That Joy FM reports that the youths had disrupted work in a building owned by Mr. John Paul Agbo, despite the fact that the Court decision has named him the rightful owner of the land that was previously in dispute.

Under cross-examination, he said he is not a retired Staff Sgt. Aside buying and selling, he also do any other menial job. He denied touting at the Police Station. That he saw Claimant visit the Area Command.

On the day they were working, he drove past. He cannot also remember the name of the Joy FM reporter. He cannot also remember the name of the Police Officer whose clothes were torn.

The third Defendant's witness is Innocent Agbo. He works as an IT Engineer. He made a deposition on oath on the 23/03/2015. He adopts same as his oral testimony.

In the said testimony, he states that he is the son of the 4th Defendant. That on the 4/04/2014, he accompanied his father and the 3rd Defendant to submit an application for Police protection to the Area Commander in Otukpo, Benue State.

That on 5/04/2014, he, his friend Ogwuche Onjefu and 4th Defendant with other workmen engaged by his father were working on the plot of land in question at Ajide Eke. That the plot of land was the compound of his father's late elder brother called Odugboche Agbo.

That after two hours of work, Claimant arrived in his car driving slowly, observing the works. The Claimant's maternal relations sand-filled the trenches already dug by the Defendants. The Police uniform of one of the Policemen was torn.

That Joy FM, Otukpo reporter interviewed the Area Commander and aired same on 10/04/2014 that

“Mr. Dra-Koji was reacting to the attitude of a serving Military Officer who instigated youths in Ekeh Ejide to beat up Police Officer for lawfully arresting his relations. The Otukpo Area Command has therefore advised the people especially military officers in Zone C to use their professional experience to ensure that peace is maintained in their area. ...etc.”

That the claim of the Claimant against the 4th Defendant and his lawyer is frivolous.

Under cross-examination by Claimant, he said he did not communicate with the Claimant’s relations when they gathered in their compound.

To a question, he said he saw the Claimant but did not bother about his car plate number. They did not tell who sent them. He does not know the name of the Policeman

whose clothe was torn. He also did not know the name of the Joy FM reporter.

That he knows the Claimant and that he does not have any case with his father in the Court.

The fourth Defendant's witness is DSP John Ochigbo (Rtd). He retired while serving at Otukpo, Benue State Command. That he knows the parties in this suit.

That he came to the 4th Defendant when he wrote a letter to the Area Commander for Police protection. He also needed protection for his land and workers. He attached proceedings of Grade 1 Area Court, Ugbokolo and proceedings from the High Court, Otukpo.

He was instructed to lead a team to Eke Ajide, Okpokun Local Government. That on arrival, about 8.00 a.m. 4th Defendant started work on the land with his workers.

He saw a man drove his car and parked by the land. Later some group of men and women arrived at the scene and attacked the 4th Defendant and his workers.

One of his Policemen tried to separate them. Two men came out of them, held the Sergeant, beat him up and tore his uniform. They were apprehended for assault and were taken to the Area Commander's office.

The Defendant and his lawyer also accompanied them to the Area Commander's office. The Claimant also came to the office. He introduced himself to Area Commander. The Claimant challenged him saying, he should not have brought the suspects to the Police Station, stating that the matter is in Court.

He explained to him. He was annoyed and went to the Area Commander's office. He later drove out of the Police Station. Later in the evening, the matter was transferred to the Commissioner of Police's office.

Under cross-examination, he answered that he served for 35 years. He was OC/Operation. That there were five men with him. He does not know where they are now.

The Petition written is an official document. It could be in the file. He is not an Eke man. He did not know Claimant before now. Claimant did not beat him. The Claimant is not one of those who tore the Sergeant's uniform.

The fifth Defendant's witness is Onu Pius Achadu. He lives in Markudi, Benue State. He is a Legal Practitioner. He made a Witness Statement on Oath. He adopts same as his evidence in this case.

I have read the long history of the title to the land, the various disputes on the said piece of land and the proceedings both civil and criminal. In the testimony of the 5th Defendant, I observed that the 5th Defendant's witness who is a Legal Practitioner to the 4th Defendant is fully involved in this matter.

He further said he was interviewed by the 2nd Defendant in his office. That he commented on the matter, which was already a public issue and broadcast by Joy FM, Otukpo severally. That his comment is not only true but justified and a fair comment.

That Claimant did not receive any disturbing telephone calls from colleagues, friends, relations. He never visited Lagos or Ibadan to see any senior colleague. That the publication never caused any hardship to the Claimant neither does it lower his esteem among friends.

That right thinking members of society were angered by the Claimant's action of inciting his relations to make trouble, attack Police Officers over a claim of a piece of land which a Court had dismissed.

That Claimant did not state the truth of his activities as it relates to the said land. He did not pay ₦1.5 Million to his lawyer. That the suit is baseless, frivolous and gold-digging and should be dismissed.

That he is aggrieved by the publication that he incited people in the community to litigate in order to get briefs. He prays for ₦150 Million general damages.

Under cross-examination, he said he has no land dispute with the Claimant. That there is no land dispute directly between Claimant and 4th Defendant. That Claimant's name is not in Exhibit B. That he cannot confirm paragraph 21 of his Oath.

That the facts are not debunked. That he was not interviewed by Joy FM correspondent. That it is Pilot Newspaper correspondent that interviewed him. That he did not pay for it.

He denied writing personally to the said Pilot Newspaper. The above is the case of the Defendants.

The 3rd and 4th Defendants' Final Written Address is dated 14/09/2022 but filed on the 15th. Learned Counsel adopted same as his oral argument. He raised three (3) issues for determination:

- (1) Whether the publication complained of by the Claimant is fair comment.*
- (2) Whether the comment published is the truth and justified.*
- (3) Whether the 3rd Defendant/Counterclaimant is entitled to the reliefs in the Counterclaim.*

On Issue 1, Learned Counsel submits that the publication alleged by the Claimant is a fair comment on the Claimant's actions. That discussion of public affairs and those participating is a safeguard against the tort of defamation. The Claimant did not rebuff the defence of fair comment in a reply.

On Issue 2, the publication complained of by the Claimant is true and justified. That the 3rd and 4th Defendants have proved the truth of the publication.

On the 3rd Issue, Learned Counsel submits that the 3rd Defendant's Counterclaim is proved. There is no reply to defence and defence to 3rd and 4th Defendants' Counterclaim.

That what is admitted needs no further proof. That the accusation of Claimant against the 3rd Defendant is not only defamatory but an imputation of crime.

The Claimant adopted his Final Written Address dated 25/10/2022 and formulated two issues for determination, which are in essence one.

Whether the Claimant has established the elements of libel to entitle him to the reliefs sought.

On the 3rd and 4th Defendants' issues, Claimant's Counsel argues that on Issue 1, the publication made by the Defendants against the Claimant is not a fair comment. That the 1st and 2nd Defendants refused to interview the Claimant to hear his own side of the story.

The bulletin of Joy FM which is allegedly used to make the publication of 24/04/2014 is not before the Court. No official of Joy FM was called. That there is no truth in the comment made in the publication by the 3rd and 4th Defendants. That there is no justification whatsoever for

the publication. That there is no evidence to show that Claimant slandered the 3rd Defendant. That it is an afterthought. There is no evidence of publication.

On the other hand, Claimant canvasses that the Claimant has been able to establish the elements of libel. That there was a defamatory publication. It was made by the Defendants. That it lowered the person of the Claimant in the estimation of reasonable members of society.

That the publication exposed him to hatred, contempt and ridicule. That the publication discredited Claimant in his office or profession. That 3rd Defendant gave the defamatory information to the 1st and 2nd Defendants for publication.

Learned Counsel to the Claimant further contends that the Claimant has successfully proved his case on the preponderance of evidence. That Exhibit A is not a record or bulletin of Joy FM.

Learned Counsel finally submits that the publication made by the Defendants are false, and made out of malice with intention to bring the Claimant to disrepute.

That there are no witnesses to support the Counterclaim. That the Counterclaim of 3rd Defendant must fail. He urges the Court to enter Judgment for the Claimant and dismiss the 3rd Defendant's Counterclaim.

I have also read the 3rd and 4th Defendants' reply on points of law. The issue for determination in my view is simple. The issue before this Court is not about title to land in Ekeh Ajide. It is not about a customary right of occupancy. It is a simple case of defamation.

The issue for determination therefore is:

- (1) Whether the Claimant has been able to establish the elements of libel so as to entitle him to the reliefs sought.
- (2) Whether the 3rd Defendant/Counterclaimant has been able to prove his Counterclaim to be entitled to Judgment.

Defamation is concerned with injury to reputation resulting from words written or spoken by others. A defamatory statement may be defined as a statement which tends

- (a) to lower the Claimant in the estimation of right thinking members of society generally, or
- (b) to expose him to hatred, contempt or ridicule
- (c) to cause other persons to shun or avoid him
- (d) to discredit him in his office, trade or profession, or
- (e) to injure his financial credit.

See **ALAWIYE vs. OGUNSANYA (2004) 4 NWLR (PT. 864) 486.**
GUARDIAN NEWSPAPER LTD vs. AJEH (2005) 12 NWLR (PT. 938) 205.
AYENI vs. ADESINA (2007) All FWLR (PT. 370) 1451.

The test is to give the words the natural and ordinary meaning that would be conveyed to the reasonable reader who is presumed not to be naïve but capable of reading between the lines and not to be unduly suspicious.

See **AYENI vs. ADESINA (supra).**

Similarly, libel as in this case is a statement reduced into writing by one about the other, which statement has been published to a third party and has the effect or tendency of lowering the addressee in the estimation of right thinking members of society generally.

Particularly, when the statement causes its victim to be regarded with ill-feelings or ridicule, fear, disdain, hatred or contempt.

The Claimant must be able to demonstrate that the defamatory words referred to him or her.

See **SKETCH vs. AJAGBE MOKEFERI (1989) 1 NWLR (PT. 100) 678.**

NITEL vs. TUGBIYELE (2005) 3 NWLR (PT. 912) 334.

To succeed in an action for libel, the Claimant must prove upon balance of probability that the libelous material (1) was in writing (2) was published (3) referred to him (4) published to some other persons (5) was defamatory (6) was false (7) there was no justifiable grounds for the publication of the words.

See *AYENI vs. ADESINA* (2007) All FWLR (PT. 370) 1451.

In the instant case, the 1st Defendant is the publisher of the Nigeria Pilot Newspaper while the 2nd Defendant is a reporter with the 1st Defendant. The 3rd Defendant is a Legal Practitioner that was quoted by the 2nd Defendant and published by the 1st Defendant of the Claimant the following words on Friday, 25th April 2014 at page 32 of the Nigeria Pilot Newspaper.

“According to Pius Achadu Onuh, Counsel to Agbo, when two of the attackers were taken to the Police Area Command, one Colonel Joseph Ejeh, that served at the Nigerian Army Headquarters, Abuja, Defence Headquarters, Abuja came and began to threaten the Assistant Area Commander for offering Police protection to Agbo.”

Exhibit A is the said publication. The publication was generally denied by the 3rd and 4th Defendants in paragraph 1 of their Joint Statement of Defence but confirmed in paragraph 241 (3).

In the 1st and 2nd Defendants' Statement of Defence which is in the Court's file, they admitted the publication. The 3rd and 4th Defendants' pleading and evidence is that the publication was not a falsehood but the truth, a fair comment and therefore justified.

There is no doubt therefore that the publication is in writing. It is published as could be seen in Exhibit A and admitted by the 1st and 2nd Defendants who are the author/reporter and publisher of the words complained of. The name of the Claimant in this instance is on the body of the alleged defamatory words published.

PW1, Chief Ambrose Odeh said he read the publication about the Claimant. That he was astonished because of the contents.

PW2, David Jaliya also said he read the publication. That he found it difficult to believe because the story painted the character, image and reputation of the Claimant in a negative form.

The next ingredient is whether the words reproduced above are defamatory. I shall consider the meaning the words would convey to the ordinary person and secondly, the circumstances in which the words were published to determine whether in those circumstances, a reasonable person would be likely to understand them in a defamatory sense.

See **OKAFOR vs. IFEANYI (2007) 12 NSCC 43.**

I have read the alleged defamatory statement again and again and the circumstances in which the words were alleged to have been published in the heat of an altercation in respect of ownership of land.

I do not think in my respectfully view that reasonable persons would be likely to understand them in a defamatory sense.

See **CIROMA vs. ALI (1999) 2 NWLR (PT. 590) 317.**

Threatening the Assistant Area Commander for offering protection to Agbo in the eyes of a reasonable person cannot convey a defamatory meaning. Even if it does

convey a defamatory meaning, the Claimant failed to file a reply to Statement of Defence, the facts in the Statement of Defence that the alleged defamatory words complained of are true is not controverted.

The Claimant admitted he was in the Police Station and the Area Commander's office to take his maternal relations on bail. There is evidence he went to the site where construction of the 4th Defendant was going on.

I believe the evidence of DW1, DW2, DW3 and DW4. The alleged defamatory words in my view represent the true position of what transpired at the Area Commander's office.

The Claimant also prays for ₦2 Million as special damages for cost of travelling and ₦1.5 Million as cost of legal fees.

Special damages must specifically be pleaded and proved. The said cost of travelling was not specifically pleaded and proved. The costs were not itemized with

dates and where the journeys were made to. It is not stated whether the journeys were by air or road and how the amount totalled ₦2 Million.

The Claimant also did not prove that he paid ₦1.5 Million as legal fees. No receipt of payment or Bill of Charges were laid before the Court.

In totality, the claim fails and it is dismissed.

The 3rd Defendant's Counterclaim is for slander. That Defendant to Counterclaim who is the Claimant in the main suit said "he is a lawyer who incites the people in the community to litigate in order to get brief."

Slander is the uttering of words which are defamatory of a person. It is only actionable in proof of damages. See **ADEYEMO vs. AKINTOLA (2004) 12 NWLR (PT. 887) 390.**

In the law of defamation, some words uttered by a Defendant in the heat of a quarrel, depending on the

circumstances surrounding the utterance of the words may not constitute a slander.

Thus it is not every annoying, vulgar statement or mere abuse or insult that is *ipiso facto* defamatory. See **SKETCH vs. AJAGBEMOKEFERI (supra)**.

The Counterclaimant did not call Oche Philip Okpeh who confronted him to ascertain the truth of the alleged slanderous words. There is no evidence that he suffered actual damage. The person who actually debriefed him as a result of the alleged slanderous words was not called as a witness.

In totality, the Counterclaimant failed to prove a case of slander against the Defendant to Counterclaim.

It is pertinent for me to advise the 3rd Defendant who is also the lawyer for the 4th Defendant. He should learn to separate himself from cases he handles. He should not be personally involved.

It is against professional ethics for a lawyer to intermeddle personally in cases he is handling. The legal profession is a noble one. No Counsel should be seen to drag the profession into the mud by his or her attitude and character. A lawyer should be above board or at least be seen to be above board.

The 3rd Defendant/Counterclaim is accordingly dismissed.

HON. JUSTICE U. P. KEKEMEKE
(HON. JUDGE)
16/02/2023

Parties absent.

Morris Osakwe, Esq. for the Claimant.

Defendants not represented.

COURT: Judgment delivered.

(Signed)
HON. JUDGE
16/02/2023