

- (2) ₦100,000.00 only being expenses incurred as a result of the Defendant's refusal to pay the said balance with cost.
- (3) 10% interest on the judgment sum per month.

The Defendant was served with the Writ of Summons and Statement of Claim. He reacted by filing a Statement of Defence on the 27/03/2017. The Claimant also filed a reply to the Defendant's Amended Statement of Defence.

The Claimant opened his case and gave evidence as PW1. He is Michael Omosogbon, a Legal Practitioner. He stated orally that he manages a Law Firm called Lawcare, Counsel and Solicitors.

That on the 10th day of March 2016, he deposed to a Witness Statement on Oath. He adopted same as his oral evidence.

In the said written Statement, he states that the Defendant engaged his Law Firm sometime on 23rd April 2015 in respect of an allegation of criminal intimidation,

threat to life, forcible entry and abuse of office committed by a serving Assistant Commissioner of Police and a Director in the Ministry of Finance.

That based on the instruction of Defendant, they wrote letters to the Inspector-General of Police, Deputy Inspector-General of Police, the Permanent Secretary, Police Service Commission and the Chairman of ICPC.

That the professional fees agreed with the Defendant as at the time they were engaged was ~~₦~~410,000.00. That based on the petitions aforesaid, the Defendant was invited to the FCID, Abuja where his Statement was taken and the matter was investigated.

That aside the ~~₦~~40,000.00 deposited by the Defendant as at the time of engagement, the Defendant failed neglected and refused to pay the outstanding balance of ~~₦~~370,000.00 in spite of repeated demands and promises made by the Defendant to settle the bill.

That he issued two bill of charges to the Defendant duly served him at his residence at No. 5, Kumasi Crescent, Off Aminu Kano Crescent, Wuse II, Abuja, FCT through a registered courier.

That in spite of the bill of charges which were duly served on the Defendant, he refuses and neglects to pay the bill of legal services duly rendered. He claims as per the Writ of Summons and Statement of Claim.

The Claimant (PW1) tendered Exhibits A - A3, which are:

- (1) Letter dated 23/04/2015 from Lawcare, Counsel and Solicitors to the I.G.P.
- (2) Letter dated 23/04/2015 from Lawcare & Counsel to Permanent Secretary Police Service Commission.
- (3) Pre-action Notice.
- (4) Bill of Charges dated 27/01/2016.

Under Cross-Examination, the Claimant (PW1) answered as follows:

That he confirms paragraph 3 of the Claim that Defendant engaged Claimant.

To a further question, he answered that he was not given a letter of authority but that he was verbally instructed. That his Firm wrote four letters on behalf of the Defendant. That Exhibits A & A1 were acknowledged. That he wrote letter to Inspector-General of Police and ICPC. That Defendant seized the photocopies under the guise of wanting to photocopy same.

That he has proof of the bill of charges. He refused to acknowledge the first bill of charges. The second bill of charges was served vide courier.

The PW1 gave further evidence by the leave of Court on 28/09/2021. The said Further Witness Statement is dated 17/05/2017. He further tendered Exhibit B titled - General Bill of Charges.

The above is the case of the Claimant.

The Defendant filed a defence. His Counsel cross-examined the Claimant. He further moved a Motion to amend his Statement of Defence, which was granted and

he fizzled out without any reason or excuse. The Defendant failed, refused and or neglected to enter his defence despite the service of Hearing Notices.

The Claimant adopted his Final Written Address dated 11/10/2022 and raised one (1) issue for determination viz: Whether the Claimant has discharged the burden of proof in the circumstances of this case to be entitled to the reliefs sought.

Learned Counsel refer to Section 131 (1) & (2) of the Evidence Act and Section 16 (1) & (2) of the Legal Practitioners Act. That Claimant met the condition precedent to the institution of this action having served bill of charges as required by the Legal Practitioners Act.

He finally canvases that the Claimant has discharged the burden of proof in the circumstances of this case and is entitled to the reliefs sought.

I have carefully read the only evidence available and considered the Written Address of Counsel. The

Defendant failed to give evidence in support of his Statement of Defence. The Statement of Defence is therefore deemed abandoned, moribund and dead. Evidence is therefore one way.

The Claimant has given evidence of the Client-Counsel relationship that existed between him and the Defendant. That he was briefed to take up a case. That he charged ₦410,000.00. That Defendant deposited ₦40,000.00. That he carried out the instructions by writing four (4) letters. That the culprits were invited for investigation.

Exhibits A & A1 are some of the letters. Exhibits A2 & A3 are the Bills of Charges said to have been served on the Defendant while Exhibit B is the General Bill of Charges for prospective clients.

In civil cases such as this, the burden of proof is on the Claimant on the principle that he who asserts must prove. See Sections 131, 132 and 133 of the Evidence

Act. The burden of proof is on the balance of probability and preponderance of evidence.

In civil cases such as this, the only way to reach a decision as to which party is entitled to judgment is by determining on which side the weight of evidence lay and this could be done by putting the evidence called by either side on an imaginary scale and weighing them to find out to which side the evidence preponderates.

In the present case, the Defendant decided to put nothing on his own side of the balance in spite of the evidence adduced by the Claimant. The imaginary scale no doubt preponderates in favour of the Claimant against the Defendant.

When on an issue evidence comes from one side as in this case, and it is unchallenged and uncontradicted, it should be accepted and I hereby accept same as there is nothing put on the other side of the balance.

The Claimant has discharged the burden laid upon him by Sections 131, 132 and 133 of the Evidence Act. He has also proved by Exhibits A2 & A3 that the Bill of Charges were served on the Defendant.

In my humble view, the Claimant is entitled to recover the balance of his professional fees as enjoined by Section 16 (1) & (2) of the Legal Practitioners Act and I so hold.

Judgment is hereby entered in favour of the Claimant against the Defendant as follows:

1. The Defendant shall pay to the Claimant the sum of ₦370,000.00 (Three Hundred and Seventy Thousand Naira) only being outstanding balance of professional fees.
2. 10% interest per annum on the judgment sum from the date of Judgment until it is finally liquidated.

3. ₦100,000.00 (One Hundred Thousand Naira) only as cost of the action.

HON. JUSTICE U. P. KEKEMEKE
(HON. JUDGE)
07/01/2023

Claimant present.

Defendant absent.

Claimant appears in person.

COURT: Judgment delivered.

(Signed)

HON. JUDGE

07/01/2023