

IN THE HIGH COURT OF JUSTICE
FEDERAL CAPITAL TERRITORY OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT APO – ABUJA
ON, 28TH DAY OF FEBRUARY, 2023.
BEFORE HIS LORDSHIP:- HON. JUSTICE A. O. OTALUKA.

SUIT NO.: -FCT/HC/CV/526/2021

BETWEEN:

OLUWOLE OSAZE-UZZI:.....CLAIMANT

AND

JOHN MAYAKI:.....DEFENDANT

Mary-ann O. Ediawe for the Claimant.
Defendant unrepresented.

JUDGMENT.

The Claimant filed this suit dated 11th February, 2021 and filed on 22nd February, 2021 claiming these reliefs;

- 1) A declaration that the publication of the Defendant, titled **PDP plans rigging using retired INEC Staff and Obaseki’s Cousin, Oluwole Osaze-Uzzi** and caused to be circulated on several news and social media outlets including but not limited to the Defendant’s blog at: <https://www.johnmayaki.com/pdp-plans-rigging-using-retired-inec-staff-and-obasekis-cousin-oluwole-osaze-uzzi/>. The Punch, The Guardian, Nigerian Tribune, Vanguard, Facebook, Twitter, Instagram, and Whatsapp is false and defamatory of the Claimant.
- 2) AN ORDER PERPETUAL INJUNCTION restraining the Defendant, his Agents, Representatives, Privies, or anyone acting through him from further making libellous

publications or making slanderous remarks about the Claimant or from further inferring in any manner whatsoever to the Claimant's reputation.

- 3) EXEMPLARY DAMAGES of a sum of N5, 000,000,000.00 (Five Billion Naira) for the libellous publication made against the person of the Claimant at the Defendant's blog at: <https://www.johnmayaki.com/pdp-plans-rigging-using-retired-inec-staff-and-obasekis-cousin-oluwole-osaze-uzzi/>, and widely circulated through different print and online media, including The Punch, The Guardian, Nigerian Tribune, Vanguard, Facebook, Twitter, Instagram, and Whatsapp which is false and defamatory of the Claimant.
- 4) AN ORDER OF MANDATORY INJUNCTION commanding the Defendant to retract the said publication and tender an apology to the Claimant in Four (4) national dailies to wit: Nigerian Tribune, Daily Trust, Vanguard and The Punch, including his blog at <https://www.johnmayaki.com/>, within 7 days after the judgment of this Honourable Court.
- 5) The sum of N200,000,000.00 (Two Hundred Million) Naira only being the cost of litigation for this suit and which cost include professional fees of counsel engaged by the Claimant as a consequence of the defamation of the Claimant by the Defendant as aforesaid.

In the Claimant's 48 paragraph statement of claim, he averred that he is a lawyer called to the Nigerian Bar in 1982, a legal practitioner and was a lecturer from 1997 to 1998.

That in 1998, he became a Special Assistant to the pioneer chairman of INEC Justice E.O.I. Akpata and subsequent chairman till 2015. That he was retained by subsequent chairman because of his competence scholarship and uprightness. Claimant was found worthy of appointment and

retirement he therefore occupied various high profile positions including Chief Legal Officer, Director International Cooperation and Protocol and Director Voter Education and Publicity where he performed as Chief Spokesperson of the Commission until his retirement.

That is Public Service, the Claimant distinguished himself in character and Scholarship. He equally served in various committees. In his over two decades of public service that the Claimant was never found wanting and never record a query. That his exemplified character reflected in his private and professional life.

That the Claimant also served in important National assignments which includes: - Member Electoral Reform Committee, Resource person in numerous international and national trainings, workshops and seminars. That he had held notable positions in the Bar which includes Social Secretary of NBA. That beyond the above, that the Claimant is a responsible family man with children and a devout Christian.

That on 24th August, 2020, he received a call from two of his friends Mr. Bamidele Edojpayi and Mr. Osaretin Osalmhiyereobd family members calling attention to a damaging publication circulating on line made by the Defendant and published on his blog and several media outfits. He then checked on the link at "<https://www.johnmayaki.com/pdp-plans-rigging-using-retired-inec-staff-and-obasekis-cousin-oluwole-osaze-uzzi/>" and discovered that Defendant made slanderous remarks against him.

Claimant averred that the said publication also circulated through reputable and widely read national dailies including 'The Punch', 'The Guardian' Nigerian Tribune, Vanguard published on 25th August, 2020.

Claimant averred that the entire publication is false and fictitious allegations. That the Defendant alleged that he was forced out of INEC after the expiration of his term and that the Claimant is planning to rig the EDO State Governorship election in favour of a candidate.

That the publication suggestions that he is in breach of oath of office of neutrality.

That as a result he was ridiculed and humiliated contrary to his unblemished record in various capacity, Claimant further averred that the caption “PDP plans rigging using retired INEC staff and Obaseki’s cousin Oluwole Osaze-Uzzi” publication on 24th August, 2020 in several prints including electronic media and social media plethoras. That many people read the defamatory publications and damaging status published by the Defendant and friends and family members have been calling him. Claimant award that he has never been imprisoned, that the publication has caused him and his family serious embarrassment, emotional trauma and insults in the face of the public.

That the defamatory status are as stated in paragraph 40 statement of claim;

“Oluwole Osaze-Uzzi, who recently quietly retired as INEC’s Director of Voter Education, is a first-cousin to Governor Godwin Obaseki and has been identified in a plot to trade sensitive inside information on the results collation process of the electoral body with the PDP in exchange for unnamed benefits...”

Oluwole Osaze-Uzzi had initially refused to bow out of INEC despite the expiration of his tenure at the electoral commission but was forced out following the

revelation of his strong ties with the Edo Governor and his secret plot to stay put at the commission to gain access to sensitive information on the Edo election...

Governor Godwin Obaseki has discreetly named Oluwole Osaze-Uzzi as a private consultant in his re-election campaign with a mandate to provide tactics and strategies, using his experience at INEC, on ways to manipulate the election and substitute real results obtained at the polling units with fake results pre-written in the Edo State Government House...

As an upgrade to the server scam that failed the PDP in the 2019 General Election because it ignorantly went with the fraud without insight on the result collation process of INEC, the party of tax-collectors, having lost all hopes of winning the Edo election in a fair contest, are concluding plans on another rigging strategy with the recent secret conscription of one Oluwole Osaze-Uzzi.”

“Mr. Oluwole Osaze-Uzzi, Obaseki’s first-cousin who served for many years at INEC and had to be forced out of Commission despite his stalling tactics to stay put until the conclusion of the election which he had planned to manipulate by offering, sensitive inside information to his cousin, has now fully joined the Obaseki Campaign, though secretly as a private consultant.”

“His mandate, and those of others assigned to serve as his aides in the secret location where has been lodged, is to develop strategies and tactics for the party on how to substitute results obtained at the

polls with fake, pre-written ballots and a corresponding reflection of the electoral fraud in any electronic transfer, using his experience at the Commission.

“We have been reliably told by numerous sources at the Commission of Oluwole Osaze-Uzzi’s strange enthusiasm and stubborn insistence to be a part of every meeting held at INEC, even sensitive ones outside the remit of his former position as Voter Education Director, before an internal disquiet at the Commission left him with no other choice but to tender his resignation.”

The party called on INEC to strengthen its infrastructure for the election against potential saboteurs like Oluwole Osaze-Uzzi...”

The Defendant who is the author of the above slanderous and subsequent libellous publication deliberately, carelessly, intentionally and maliciously authored the said publication in the words referred to herein, knowing fully well that the words as written and as concerning the Claimant meant in their natural and ordinary meaning in the estimation of all right thinking persons to be the following:

- i. That the Claimant is a corrupt and lawless individual who shows utmost disregard for his oath of office.
- ii. That the Claimant is a dishonourable person whose interest lies solely in monetary reward at the expense of the will of the people.
- iii. That the Claimant, even though a public officer who has served the country meritoriously, was disgraced out of office.

- iv. That the Claimant is dishonest and dishonourable who under the guise of performing his duty sells classified information to politicians.
- v. That the Claimant cannot be trusted to hold a position of trust.
- vi. That the Claimant is dishonest and disreputable.
- vii. That the Claimant is guilty of corruption and abuse of office.
- viii. That the Claimant is not a fit and proper person to occupy any position of authority or responsibility.
- ix. That the Claimant is a criminal who conspired to commit fraud by substituting fake results for genuine ones:
- x. That the Claimant is in breach of his Oath of Secrecy, Oath of neutrality and is in breach of the penal provisions of the Official Secrets Act as well as the Code of Conduct, thus making him unfit to hold any public office.

Furthermore, the Claimant averred that the defamatory statement made maliciously referred to him without any correctness. That the Defendant failed to withdraw the malicious false publication after the Claimant's counsel wrote to the Defendant to retract the said defamatory statements. The writ of summons was served on the Defendant outside jurisdiction on 3rd December, 2021 by substituted means of pasting at 37 Etete Rd, GRA, Benin City, Edo State. On 15th February, 2022 the Claimant was in Court and Defendant was absent and records showed that he was served hearing notice. The claimant Mr. Oluwole Osaze-Uzzi as PW1 adopted his witness statement on oath as his evidence in support of his pleadings.

PW1: tendered;

Exh PW1A – Re: PDP Plans Rigging Using INEC Staff and Obaseki’s Cousin, Oluwole Osaze-Uzzi dated 24/8/20.

Exh PW1B – Re: PDP Plans Rigging Using Rtd INEC Staff and Obaseki’s Cousin, Oluwole Osaze-Uzzi.

Exh PW1C – DHL Express Farms & Conditions dated 25/8/20.

Exh PW1D – The Punch Newspaper dated 25/8/20 CTC photocopy.

Exh PW1E – The Guardian of 25/8/20. Page 27.

Exh PW1F – Nigerian Tribune dated 25/8/20, CTC photocopy.

Exh PW1G – Vanguard dated 25/8/20, CTC photocopy.

Exh PW1H – Revenue Receipt for Certification of the Newspapers.

Exh PW1J – Print out from Facebook electronic media Johnmayaki.com being “PDP plans rigging using retired INEC Staff and Obaseki’s cousin, Oluwole Osaze-Uzzi” dated 24/8/20.

Exh PW1K – Certificate of compliance dated 22/2/21.

At the close of the evidence of PW1, the matter was adjourned for cross examination to 24/5/22.

On 24/5/22, the Defendant was absent, records showed the service of hearing notice.

Defendant was foreclosed on the application of the Claimant’s counsel.

On 24/5/22, the Defendant was absent and unrepresented but was served with hearing notice. The PW2 testified and in support of the pleadings tendered.

Exhibit PW2A-D CTC photocopy of The Punch Newspaper, The Guardian, The Tribune, Vanguard all dated 25/8/20.

Exh PW2C – Receipt for payment for certification dated 22/3/22.

At the close of the Claimant's case and in the absence of the Defendant, the Plaintiff's counsel on application for foreclosure for the defence, the Defendant was foreclosed and matter was adjourned for adoption of final written address.

On the 8/12/22, the Claimant adopt its final written address and matter was adjourn for adjournment with order of hearing notice. The Claimant's counsel raised a sole issue for determination whether the ingredients of libel have been fulfilled by the facts and circumstances of this instant suit.

The Plaintiff's counsel Ahmed Raji SAN in his 24 page final written address submitted that the absence of the Defendant without any cogent reason throughout the trial was deliberate even though that he was served. Learned SAN delivered on **Okpolo Community Bank Ltd v. Igwe (2013) 13 NWLR (Pt.1376)** to submit that failure of Defendant to adduce evidence to challenge the Claimant's evidence that the burden of proof on the Claimant becomes minimal.

The learned SAN for the Claimant relied on the case of **Guardian Newspaper v. Rev. Pastor Ajire (2011) 10 NWLR (Pt.1256)602** to define defamation.

“...a method of defamation expressed by print, writing, pictures or signs; publication that is injurious to the reputation of another, a false and unprivileged publication in writing of a defamatory material; a malicious written or printed publication which tends to blacken a person's reputation or to expose him to public hatred or ridicule,

contempt or to injure him in his business or profession.

(Highlighted for emphasis).

The above holding of Court draws further reference to the provisions of Section 34, 1999 Constitution of the Federal Republic of Nigeria (as amended) which provides for the protection of an individual's right to personal dignity.

Plaintiff's counsel submitted by relying on **Sketch v. Ajagbemokeferi (1989) 1 NWLR P 100** that;

In an action for libel, the onus is on the Plaintiff to prove;

- (a) That the defendant published in a permanent form a statement;
- (b) That the statement referred to the Plaintiff;
- (c) That the statement conveys a defamatory meaning to those to whom it was published; and
- (d) That the statement was defamatory of the Plaintiff in the sense that:
 - i. It lowered him in the estimation of right-thinking members of the society; or
 - ii. It exposed him to hatred, ridicule or contempt; or
 - iii. It injured his reputation in his office, trade or profession; or
 - iv. It injured his financial credit.

In other words, for an imputation to be defamatory, it must be proved to have been to the discredit of the Plaintiff.

See also the case of **GUARDIAN NEWSPAPER & ANOR V. REV AJEH (SUPRA) (P.588,paras. E-G)** where the apex court further enumerated the ingredients of libel to include:

The essential ingredients of libel are: the words complained of must have been;

- a) Written;
- b) The words must be defamatory or convey defamatory imputation;
- c) The words must refer to the plaintiff;
- d) The publication must be false;
- e) It must be the defendant who published the words; and
- f) The onus is on the plaintiff to prove he was the one referred to in the alleged libel.

He submitted that the publication about the Claimant is a grouse false representation of facts by the Defendant. That in line with the above case the learned SAN strongly argued that:

- a) The Defendant published in a perusal form a statement - He relied on **Daily Tel Publishing Coy Ltd v. Ekeuwei (2019)14 (Pt.1693)486.** That the question to be asked by the Court is whether the publication was to 3rd party. He concluded his argument that this publication is the 4 decision. The Punch, The Guardian, Nigerian Tribune and Vanguard of 25/8/20 and 24/8/20 suffice to that the publication was libellous.
- b) That the statement referred to the Claimant. He submitted that in addition to exhibiting the picture of the Claimant on the publication that it also read “PDP plans Rigging Edo Election using retired INEC staff and Obaseki’s cousin Oluwole Osaze-Uzzi”
- c) That the statement conveys defamatory meaning to those to whom it was published.

“In the said publication titled: “PDP plans rigging using retired INEC staff and Obaseki’s cousin, Oluwole Osaze-Uzzi”, the Defendant falsely, deliberately and maliciously wrote and published of the Claimant in the following words:

“Oluwole Osaze-Uzzi, who recently quietly retired as INEC’s Director of Voter Education, is a first-cousin to Governor Godwin Obaseki and has been identified in a plot to trade sensitive inside information on the results collation process of the electoral body with the PDP in exchange for unnamed benefits...”

Oluwole Osaze-Uzzi had initially refused to bow out of INEC despite the expiration of his tenure at the electoral commission but was forced out following the revelation of his strong ties with the Edo Governor and his secret plot to stay put at the commission to gain access to sensitive information on the Edo election...”

Governor Godwin Obaseki has discreetly named Oluwole Osaze-Uzzi as a private consultant in his re-election campaign with a mandate to provide tactics and strategies, using his experience at INEC, on ways to manipulate the election and substitute real results obtained at the polling units with fake results pre-written in the Edo State Government House...”

As an upgrade to the server scam that failed the PDP in the 2019 General Election because it ignorantly went with the fraud without insight on the result collation process of INEC, the party of tax-collectors, having lost all hopes of winning the Edo election in a fair contest, are concluding plans on another rigging strategy with the recent secret conscription of one Oluwole Osaze-Uzzi.”

“Mr. Oluwole Osaze-Uzzi, Obaseki’s first-cousin who served for many years at INEC and had to be forced out of Commission despite his stalling tactics to stay

put until the conclusion of the election which he had planned to manipulate by offering, sensitive inside information to his cousin, has now fully joined the Obaseki Campaign, though secretly as a private consultant.”

“His mandate, and those of others assigned to serve as his aides in the secret location where has been lodged, is to develop strategies and tactics for the party on how to substitute results obtained at the polls with fake, pre-written ballots and a corresponding reflection of the electoral fraud in any electronic transfer, using his experience at the Commission.

“We have been reliably told by numerous sources at the Commission of Oluwole Osaze-Uzzi’s strange enthusiasm and stubborn insistence to be a part of every meeting held at INEC, even sensitive ones outside the remit of his former position as Voter Education Director, before an internal disquiet at the Commission left him with no other choice but to tender his resignation.”

The party called on INEC to strengthen its infrastructure for the election against potential saboteurs like Oluwole Osaze-Uzzi...”

The Plaintiff’s counsel submitted that clearly from the publication that the Defendant connected series of falsehood against the Claimant. That the word used on the Claimant was clear and unambiguous – **Sketch v. Ajagbemokefeer (supra)**.

On whether the statement is defamatory or not is what the meaning of that word is to an ordinary person. That is the position of the law. **C.S.S. & D.F. Ltd v. Schlumberger Nig Ltd (2018) 15 NWLR (Pt.1642) 258.**

That the words he used opinionated, alluded to the fact that the Claimant was purposing to carry out a criminal offence, corrupt, had no regard for sanctity of public office, had personal interest , was dishonest and would truncate the interest of justice. Thus the Plaintiff's counsel referred to the paragraph 10 witness statement on oath of PW2 stating;

“The content of the publication greatly and negatively impacted on my original notion and understanding of the person of the Claimant..”

- d) That the statement was defamatory of the Plaintiff, Plaintiff's counsel relied on the case of **Sketch v. Ajagbe Mokeferi (supra)** to submit that it lowered the Claimant in the estimation of the right thinking members of the society and exposed him to hatred, radicle and contempt and also inured his reputation and final credit.

He submitted that flowing from the defamatory statement, the Claimant, his family and friends were totally embarrassed and caused insults in the face of other members of the public.

Plaintiff's counsel finally submitted that the Claimant has aptly fulfilled the ingredients of libel and thereafter is entitled to the reliefs sought. Relying on **W.P.C. Ltd v. Fayemi (2017) 12 NWLR (Pt.1582)269,** learned SAN submitted that if the Claimant has proved that there was libel against him, he need not prove that he suffered any resulting actual damage or injury to his reputation for such damage is presumed.

Conclusively, the Plaintiff's counsel submitted relying on **Z.P. Ind. Ltd v. Samotech Ltd (2007)16 NWLR (Pt.1062)348** that the purpose of action for libel is to vindicate the character of the person defenced and injured the Court to hold that the Claimant has proved his case.

The classic definition of defamatory statement is described in **Parmiter v. Coupled (1840)6 M&W 105 per Parke B,** thus;

“...which is calculated to injure the reputation of another by exposing him to hatred, contempt or ridicule.”

Also defamation is the act of communicating to a third party false statements about a person, place or thing that results in damage of his reputation.

The position of the law therefore is that the test would be whether the words or publication tend to lower the Claimant in the estimation of a right thinking members of the society generally.

The case of the Claimant involves a publication credited to the Defendant in social media and daily newspapers PW1D. the Punch Newspaper of 25/8/20 represented the statement of John Mayaki the chairman of APC Media Campaign Council the Defendant in the instant case said that: ***“As an up grade to the server scam that failed the PDP in the 2019 General Election because it ignorantly went with the fraud without insight on the result collation process of INEC, the party of tax collectors, having lost all hopes of winning the Edo Election in fair contest are concluding plans on another rigging strategy”***. The publication alleged that the former INEC staff referred to is a first cousin to Governor Godwin Obaseki.

In Guardian Newspaper, Exh PW1E dated 25/8/22 it was published a similar statement and credited to the Defendant, I quote;

“Meanwhile the APC Media Campaign Council for Edo election has accused the PDP of colluding with a snr employee of the INEC to rig the Election.”

In publication in the Tribune dated 25/8/20, the publication stated that the Defendant John Mayaki alleged that a retired INEC staff a cousin to Governor Obaseki, Mr. Oluwole Osaze-Uzzi was appointed as a consultant to PDP ahead of the September election. That the appointment had an under tone to the fairness of the election. The Vanguard published to the credit of the Defendant that ***“...PDP in the 2019 General Elections having lost all hopes of winning the Edo election in a fair contest, are concluding the plans on another rigging strategy with the recent secret conscription of one Oluwole Osaze-Uzi.”***

Also Exh PW1J, a publication in the social media clearly stated ***“PDP plans rigging using retired INEC staff and Obaseki cousin, Oluwole Osaze-Uzzi”***.

To prove a prima facie case of defamation, the Claimant must prove four things.

- 1) That the statement purporting the fact is false.
- 2) The publication or communication of the statement to a 3rd party.
- 3) There were damages or harm caused to the reputation of the person.
- 4) Fault amounting to at least negligence.

In evaluating the evidence before this Court, the Claimant has evidently shown that the statements were published and

disseminated to a third person and social media which words produced are false and caused harm to his person, professional and reputation induce of harm on his family and friends. The publication in the Newspapers Exh PW1E-J and PW2A-D finely demonstrated that the statements were defamatory in nature.

The Claimant also argued that the Defendant knew that the statement were false and made them. Finally the statement was not only published in the dailies but also posted on line.

In proof of the fact that 3rd parties received the publications, the PW2 in his paragraph 10 of his witness statement on oath stated that the publication greatly and negatively impacted on his personality thus causing the Claimant suffering damages.

Unfortunately, the Defendant neither entered appearance to nor put up a defence to this serious issue. Records of the Court showed that the Defendant was duly served with the originating summons and subsequently served with hearing notice but he never appeared. Where there is clear evidence of service of processes on a party and he fails to appear, it means that the judgment of the Court is binding on him.

It is my conclusion that the Claimant has by prima facie evidence proved that the statements published by and credited to the Defendant are defamatory, published to the third party and are damaging to the Claimant reputation and character. I totally agree with the argument and submissions of the learned SAN representing the Claimant.

From the bunch of evidence adduced and plethora of cases supporting the complaint, the publications indeed conveyed defamatory meaning in the mind of a reasonable person and had brought shame, odium and disgrace to the Claimant, if I

may borrow the words of Sankey, JCA in **Alh. Aminu Suleiman v. Alh. Tukur Adamu (2016) LPELR-40316(CA).**

I therefore find the case of the Claimant successful and order as follows;

- 1) It is declared that the publication of the Defendant, titled **PDP plans rigging using retired INEC Staff and Obaseki's Cousin, Oluwole Osaze-Uzzi** and caused to be circulated on several news and social media outlets including but not limited to the Defendant's blog at: <https://www.johnmayaki.com/pdp-plans-rigging-using-retired-inec-staff-and-obasekis-cousin-oluwole-osaze-uzzi/>. The Punch, The Guardian, Nigerian Tribune, Vanguard, Facebook, Twitter, Instagram, and Whatsapp is false and defamatory of the Claimant.
- 2) AN ORDER PERPETUAL INJUNCTION is made restraining the Defendant, his Agents, Representatives, Privies, or anyone acting through him from further making libellous publications or making slanderous remarks about the Claimant or from further inferring in any manner whatsoever to the Claimant's reputation.
- 3) An order for EXEMPLARY DAMAGES of a sum of N50, 000,000.00 (Fifty Million Naira) only is made against the Defendant for the libellous publication made against the person of the Claimant at the Defendant's blog at: <https://www.johnmayaki.com/pdp-plans-rigging-using-retired-inec-staff-and-obasekis-cousin-oluwole-osaze-uzzi/>, and widely circulated through different print and online media, including The Punch, The Guardian, Nigerian Tribune, Vanguard, Facebook, Twitter,

Instagram, and Whatsapp which is false and defamatory of the Claimant.

- 4) AN ORDER OF MANDATORY INJUNCTION is made ordering the Defendant to retract the said publication and tender an apology to the Claimant in Four (4) national dailies to wit: Nigerian Tribune, Daily Trust, Vanguard and The Punch, including his blog at <https://www.johnmayaki.com/>, within 7 days after the judgment of this Honourable Court.
- 5) The sum of N3,000,000.00 (Three Million Naira) only being the cost of litigation for this suit is ordered against the Defendant.

HON. JUSTICE A. O. OTALUKA
28/2/2023.