

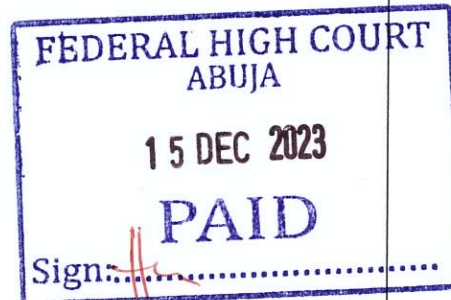
IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

SUIT NO: FHC/ABJ/CS/1681/2023

BETWEEN:

1. THE RT HON.MARTIN CHIKE AMAEWHULE
(THE HONOURABLE SPEAKER, RIVERS STATE HOUSE OF ASSEMBLY)
2. RT. HON. DUMLE MAOL
(THE HONOURABLE DEPUTY SPEAKER, RIVERS STATE HOUSE OF ASSEMBLY)
3. HON. MAJOR JACK
4. HON. LINDA SOMIARI-STEWART
5. HON. FRANKLIN UCHENNA NWABOCHIOFIKS
6. HON. CHRISTOPHER KAGBANG
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25. HON. NWANKWO SYLVANUS
26. HON. GERALD OFORJI
27. HON. WAMI SOLOMON

PLAINTIFFS/
RESPONDENTS



310955756155

AND

- | | | |
|--|---|-------------------------|
| 1. INDEPENDENT NATIONAL ELECTORAL COMMISSION(INEC) | } | DEFENDANTS |
| 2. PEOPLESDEMOCRATICPARTY (PDP) | | - DEFENDANTS/APPLICANTS |
| 3. RIVERS STATE HOUSE OF ASSEMBLY | } | DEFENDANTS |
| 4. CLERK OF RIVERS STATE HOUSE OF ASSEMBLY | | |
| 5. INSPECTOR GENERAL OF POLICE | | |
| 6. DEPARTMENT OF STATE SERVICES(DSS) | | |

MOTION ON NOTICE BROUGHT PURSUANT TO:

1. **SECTION 251 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS ALTERED);**
2. **SECTION 21 OF THE LEGISLATIVE HOUSES (POWERS AND PRIVILEGES) ACT, 2017;**
3. **SECTION 115(1) AND (2) OF THE EVIDENCE ACT, 2011;**
4. **ORDER 26 RULES 1, 2(1), AND 3 OF THE FEDERAL HIGH COURT (CIVIL PROCEDURE) RULES, 2019;**
5. **ORDER 29, RULES 1 AND 4 OF THE FEDERAL HIGH COURT (CIVIL PROCEDURE) RULES, 2019; AND**
6. **UNDER THE INHERENT POWERS OF THIS HONOURABLE COURT.**

TAKE NOTICE that this Honourable Court shall be moved on the day of, 2023, at the hour of 9 O' Clock in the forenoon or so soon thereafter as Counsel to the 3rd Defendant/Applicant may be heard praying this Honourable Court for the following orders:

1. **AN ORDER** of this Honourable Court dismissing the Plaintiffs/Respondents' suit *in limine*, for want of jurisdiction;
2. **AN ORDER** of this Honourable Court striking out **Paragraphs 1, 2, 3, 18, 19 and 20** of the Plaintiffs/Respondents' Statement of Claim for being incompetent;
3. **AND FOR SUCH FURTHER ORDER(S) OR OTHER ORDER(S)** as this Honourable Court may deem fit to make in the circumstances of this suit.

TAKE FURTHER NOTICE that the grounds upon which this 3rd Defendant/Applicant's application is predicated are as follows:

1. The subject matter culminating in the instant suit does not fall within the domain of substantive jurisdiction donated to this Honourable Court by Section 251 of the 1999 Constitution of the Federal Republic of Nigeria (As Altered);
2. This Honourable Court is not imbued with the territorial jurisdiction to entertain the instant suit, the entirety of the purported grouse of same having emanated from Port-Harcourt, Rivers State, outside the territorial jurisdiction of this Court;
3. The necessary parties for the exhaustive determination of the instant suit were not joined in this suit;
4. The instant suit as presently constituted is premature, based on suspicion and merely pre-emptive;
5. The Plaintiffs/Respondents' suit as presently constituted discloses no reasonable cause of action against the 3rd Defendant/Applicant as well as the 1st Defendant/Respondent in this case;
6. The instant suit constitutes a gross and offensive abuse of the process of this Honourable Court;
7. The instant suit was not instituted in compliance with due process of law and satisfaction of statutory condition precedent, as stipulated in Section 21 of the Legislative Houses (Powers and Privileges) Act, 2017;
8. The condition precedent for filing of the instant suit has not been fulfilled, as all the copies of the Writ have not been sealed by the Registrar of the Court as required by law;
9. Paragraphs 18, 19 and 20 of the Statement of claim is vague, imprecise and thereby contrary to the Rules of Court; and
10. Paragraphs 1, 2, 3, 19 and 20 of the Statement of claim is materially contradictory and thereby contrary to the Rules of Court.

TAKE FURTHER NOTICE that the 3rd Defendant/Applicant shall, at the hearing of this Application, rely on the record of this Honourable Court, including all the processes filed by the parties in the suit.

Dated this 15TH day of December, 2023.




.....
Lukman O. Fagbemi, SAN,

Ikoro. N. A Ikoro, Esq.
A.O. Ademokoya, Esq.
R.L Ajetunmobi, Esq
Samuel Onah, Esq
David O. Ogundipe, Esq
K.O. Ajana, Esq
M.L Abubakar, Esq.
K.A Imafidon, Esq.
J.A Olanrewaju, Esq.
G.N Nzere, Esq.
I.A. Salah Esq.

3rd Defendant/Applicant's Counsel
Lukman O. Fagbemi & Co,
Rahman Chambers,
No. 19, Ebitu Ukiwe Street,
Jabi, Abuja
08056670448, 090747764334.
oyebanjifagbemi@gmail.com

FOR SERVICE ON:

- 1) **1----27TH PLAINTIFF**
Sir Stephen Zakari Adehi, SAN, FCI Arb (UK)
Peter Onuh Esq.,
Pritchard Osariemen Esq.,
Wale Babalola Esq.,
M.U. Namtar Esq.,
Linda Abari Esq.,
Martins Ekpah Esq.,
Idaye X.O. Imbu Esq.

Counsel to the Plaintiffs,
Steve Adehi, SAN & CO
House 1, Dutsima Close, Off Kano Street, Area 1,
FCT Abuja.
08023040518
saclaws@nigerianbar.com

- 2) 1st DEFENDANT
INDEPENDENT NATIONAL ELECTORAL COMMISSION(INEC)
No.436 Zambezi Crescent,
Maitama District,
Abuja.
- 3) 2ND DEFENDANT
PEOPLES DEMOCRATIC PARTY
Wadata House,
Micheal Okpara Way,
Wuse Zone 5,
Abuja.
- 4) 4TH DEFENDANT
Rivers State House of Assembly Complex,
Port Harcourt, Rivers State.
- 5) 5TH DEFENDANT
INSPECTOR GENERAL OF POLICE
Louis Edet House,
Central Business District,
Abuja.
- 6) 6th DEFENDANT
Aso Drive, Three Arm Zone,
Abuja, FCT.

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IN THE ABUJA JUDICIAL DIVISION
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**PLAINTIFFS/
RESPONDENTS**

AND

- | | | |
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| 5. INSPECTOR GENERAL OF POLICE | } | DEFENDANTS |
| 6. DEPARTMENT OF STATE SERVICES(DSS) | | |

AFFIDAVIT IN SUPPORT OF MOTION ON NOTICE

I, Ayobami Aishat Raheem, female, Adult, Nigerian citizen of No. 19, House 1, Ebitu Ukiwe Street, Jabi, Abuja Federal Capital Territory do hereby swear as follows:

1. I am one of the office assistants in the Law Firm of Lukman O. Fagbemi, SAN lead counsel to the 3rd Defendant in this suit.
2. That by dint of my afore-stated capacity, I am conversant with the facts and events that informed the instant action having been properly briefed by the speaker presiding over the affairs of the 3rd Defendant.
3. I have the information, authority, and consent of the 3rd Defendant/Applicant as well as that of my principal to depose to this affidavit.
4. I depose to this affidavit from facts within my knowledge and documents shown to me except where otherwise stated.
5. By my attendance at the meeting and study of the processes filed by the respective parties in the instant suit, I know for a fact that the Plaintiff/Respondents' suit emanated from purported events that happened in Rivers State, particularly in relation to the affairs of the Rivers State House of Assembly.
6. The entirety of the grouse of the Plaintiff/Respondents bothers on alleged events that took place or is taking place in Rivers state, particularly the Rivers State House of Assembly.
7. On 15th December 2023, during a case conference, at about 9:00am, at our above referenced address during the telephone conversation between the 3rd Defendant

and my Principal, I was informed by **Rt. Hon. (Barr) Ehie Ogerenye Edison, DSSRS (Speaker, Rivers State House of Assembly)** presiding over the affairs of the 3rd Defendant/Applicant of the following facts, and I verily believed him to be true as follows:

- a. that he has seen and read the Writ of Summons as well as the statement of claim and the accompanying processes filed by the Plaintiffs/Respondents in this matter on the 13th day of December, 2023;
- b. that the Plaintiffs/Respondents, are challenging the supposed pressure being placed on the 3rd Defendant/Applicant to declare their seats vacant consequent upon their defection from the Peoples Democratic Party (PDP) to the All Progressives Congress (APC) whilst being members of the 3rd Defendant;
- c. that the subject matter culminating in the instant suit is strictly in relation to alleged activities within Rivers State, particularly as it relates to the Legislative arm of Rivers State Government;
- d. that the Plaintiffs/Respondents' suit as presently constituted are mere allegations without more and has not disclosed any reasonable cause of action against the 3rd Defendant;
- e. that the 3rd Defendant (Rivers State House of Assembly) instituted a suit against the 1st Plaintiff (Rt. Hon. Martin Chike Amaewhule) before the Honourable Federal High Court, Port Harcourt Judicial Division in **suit no.: FHC/PH/CS/240/2023, Between Rivers State House of Assembly & Rt. Hon. (Barr) Ehie Ogerenye Edison, DSSRS (Speaker, Rivers State House of Assembly) v. Rt. Hon. Martin Chike Amaewhule (Former Speaker, Rivers House of Assembly) & 4 Ors., on the 6th day of November 2023. Now shown to me and marked Exhibit A is the Certified True Copy of the Originating Summons of the said suit no.: FHC/PH/CS/240/2023;**
- f. that in the aforesaid suit, the Rivers State House of Assembly (3rd Defendant in this suit) sought, in the main, declarations and/or reliefs as shown on Exhibit C, that:
 - i. the 1st Plaintiff (Rt. Hon. Martin Chike Amaewhule) having been removed as Speaker and suspended as a member of the 3rd Defendant is not entitled to participate, disturb, obstruct or interfere with the legislative proceedings of the 3rd Defendant;

- ii. the 1st Plaintiff (Rt. Hon. Martin Chike Amaewhule) having been suspended as a member of the 3rd Defendant is not entitled to perform any legislative duty or oversight function on behalf of the 3rd Defendant during the period of the suspension;
 - iii. the 1st Plaintiff (Rt. Hon. Martin Chike Amaewhule) be restrained from disturbing, obstructing or interfering with the legislative proceedings of the 3rd Defendant and/or the legislative duties, powers and functions of **Rt. Hon. (Barr) Ehie Ogerenye Edison, DSSRS (Speaker, Rivers State House of Assembly)**.
- g. there is a subsisting order of this Honourable Federal High Court of the 7th day of November 2023, in the said suit no.: **FHC/PH/CS/240/2023, Between Rivers State House of Assembly & Rt. Hon. (Barr) Ehie Ogerenye Edison, DSSRS (Speaker, Rivers State House of Assembly) v. Rt. Hon. Martin Chike Amaewhule (Former Speaker, Rivers House of Assembly) & 4 ors.**, wherein this Court ordered that the subject matter of the suit should not be tampered with, including the not doing anything that will affect the legislative proceedings of the 1st Plaintiff (Rivers State House of Assembly) and the legislative duties, powers and functions of **Rt. Hon. (Barr) Ehie Ogerenye Edison, DSSRS (Speaker, Rivers State House of Assembly)**; *Now shown to me and marked Exhibit B is a Certified True copy of the Order of the Federal High Court dated 7th November 2023;*
- h. there is also a subsisting order of the High Court of Rivers State of the 12th day of December 2023, in suit no.: **PHC/3030/CS/2023, Between Rivers State House of Assembly & Rt. Hon. Edison Ogerenye Ehie, (DSSRS) (Speaker, Rivers State House of Assembly) v. Rt. Hon. Martin Chike Amaewhule (Former Speaker, Rivers House of Assembly) & ANOR.**, wherein the Rivers State High Court restrained the 1st and 2nd Claimants, their agents, privies and representatives howsoever described from disturbing, disrupting and interfering with the exercise of the 3rd Defendant's statutory legislative duties, holding meetings, proceedings, issuing notices, passing resolutions, bills and performing other legislative functions pending the hearing and determination of the motion on notice (which is yet to be heard); *Now shown to me and marked Exhibit C is a Certified True copy of the said Order in the above-mentioned suit made on 12th December, 2023;*

- i. the entirety of this suit as presently filed by the Plaintiffs herein happened in River State and as such this Honourable Court is not imbued with the territorial jurisdiction to entertain the instant suit;.
8. Further to the above, still on 15th December, 2023, during the said case conference, at about 9:00am, at our above referenced, I was informed by **Mr. Lukman O. Fagbemi, SAN**, of the following facts, which I verily believe:
- i) the subject matter culminating in the instant suit does not fall within the domain of substantive jurisdiction donated to this Honourable Court by Section 251 of the 1999 Constitution of the Federal Republic of Nigeria (As Altered) and section 7 of the Federal High Court Act;
 - ii) This Honourable Court is not imbued with the territorial jurisdiction to entertain the instant suit, the entirety of the purported grouse of same having emanated from Port-Harcourt, Rivers State, outside the territorial jurisdiction of this Court;
 - iii) The necessary parties for the exhaustive determination of the instant suit were not joined in this suit;
 - iv) The instant suit as presently constituted is premature, based on suspicion and merely pre-emptive;
 - v) The Plaintiffs/Respondents' suit as presently constituted discloses no reasonable cause of action against the 3rd Defendant/Applicant;
 - vi) The instant suit constitutes a gross and offensive abuse of the process of this Honourable Court;
 - vii) The instant suit was not instituted in compliance with due process of law and satisfaction of statutory condition precedent, as stipulated in Section 21 of the Legislative Houses (Powers and Privileges) Act, 2017;
 - viii) The condition precedent for filing of the instant suit has not been fulfilled, as all the copies of the Writ have not been sealed by the Registrar of the Court as required by law;

- ix) Paragraphs 18, 19 and 20 of the Statement of claim is vague, imprecise and thereby contrary to the Rules of Court;
- x) Paragraphs 1, 2, 3, 19 and 20 of the Statement of claim is materially contradictory and thereby contrary to the Rules of Court;

9. This Honourable Court lacks the jurisdiction to entertain the suit, as presently constituted.

10. The grant of this application will not be prejudicial to the Plaintiffs/ Respondents in this matter.

11. It is in the interest of justice to grant this application.

12. I swear to this affidavit in good faith believing its content to be true and in accordance with Oaths Act.


.....
DEPONENT

Sworn to at the Federal High Court Registry, Abuja,
This 15th day of Dec, 2023

BEFORE ME
COMMISSIONER FOR OATHS
FEDERAL HIGH COURT
ABUJA
COMMISSIONER FOR OATHS

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| 6. DEPARTMENT OF STATE SERVICES(DSS) | | |

3rd DEFENDANT/APPLICANT'S WRITTEN ADDRESS IN SUPPORT OF THE MOTION ON NOTICE

1.0 INTRODUCTION

1.01 This 3RD Defendant/Applicant's Application probes into the competence of the Plaintiffs/Respondents' suit, commenced by writ of Summons filed on 13th December 2023. The instant written address is in support of the 3rd Defendant/Applicant's Motion on Notice, challenging the competence of the Plaintiffs/Respondents' suit, as presently constituted. My noble lord, the heart of the instant application beats to the tune of both facts and law, such that a joint consideration of same, as amply submitted before your lordship, *vide* the Affidavit in support of the instant application and the instant written address, would reveal to your lordships, that indeed, the instant suit, was brought before this Honourable court cold dead.

2.0 STATEMENT OF RELEVANT FACTS TO THIS APPLICATION

- 2.1. My noble lord, the facts, which necessitated the instant Application are amenable to brevity and comprehension. The Plaintiffs/Respondents, are challenging the supposed pressure being placed on the 3rd Defendant/Applicant by the 2nd Defendant/Respondent to declare their seats vacant consequent upon their defection from the People Democratic Party (PDP) to the All Progressives Congress (APC) whilst being members of the 3rd Defendant
- 2.2. The instant Written Address constitutes the 3rd Defendant/Applicant's very firm opposition to the Plaintiffs/Respondents' writ of Summons. My noble lord, before going into the meat of our submission, **we humbly seek the kind indulgence of this Honourable Court to rely on the record/file of this Honourable Court, particularly the writ of Summons of the Plaintiffs and other accompanying processes. In addition, we rely on the entire depositions in the Affidavit filed in support of the**

instant Application, in urging your lordship to accord the Plaintiffs' already dead suit a judicial funeral.

1.02 We rely on the depositions in all the paragraphs of the Affidavit in support and adopt this Written Address as our argument on this application.

2.0 **PRELIMINARY ISSUE**

2.01 For a starter, we submit most humbly that the law commands the court to deal first with preliminary objections of this nature when raised in any proceedings before any further action can be taken by the court. See the case of ***OKEREKE v. JAMES (2012) 16 NWLR (PT.1326) 339.***

2.02 Moreover, the Honourable Court, with due respect, Court cannot make a restraining order when its jurisdiction is being challenged. It is trite law that the Court must not give an order in the suit affecting the defendants until the issue of jurisdiction is settled one way or the other when same has been raised by adverse parties. See the case of: ***NDIC V. C.B.N. (2002) 7 NWLR (Pt.766) 272 @ 291-292 PARA H-H, APC v. ASEKOMHE & ORS (2020) LPELR-50032(CA) Per HELEN MORONKEJI OGUNWUMIJU, JCA Pp. 19 – 30 PARAS C – A.***

3.0 **ISSUE FOR DETERMINATION**

3.01 The 3rd Defendant submits that, the sole issue for determination in this application is:
Whether this Honourable Court has jurisdiction to entertain this suit as presently constituted considering that the subject matter and main claims of the Plaintiffs fall outside the purview of the jurisdiction of this Honourable Court?

4.0 **LEGAL ARGUMENT**

Whether this Honourable Court has jurisdiction to entertain this suit as presently constituted considering that the subject matter and main claims of the Plaintiffs fall outside the purview of the jurisdiction of this Honourable Court.

4.01 My Noble Lord, there is no dispute to the fact that the issue of the jurisdiction of a Court to adjudicate on a matter brought before it, is fundamental and indeed a pre-requisite condition to adjudication. It is the life wire of the suit and where the Court lacks jurisdiction, the proceedings before a court no matter however well conducted,

is a nullity. In *UMANNAH VS. ATTAH 2006*) 5 JNSC (PT. 20) 529 AT 555, PARAS F- G; 556, PARAS. B-C, per Onnoghen, JSC, thus:

“Jurisdiction is a fundamental issue in litigation as it can be said to supply the blood that gives life to the authority of the court to entertain the matter formally presented before it.... Where a court has no jurisdiction to hear or determine a case but goes ahead to do so, it becomes an exercise in futility as the decision arrived at in such a case amount in law to a nullity irrespective of how well the proceedings was conducted.”

4.02 In the case of *RAHMAN BROTHERS VS NPA (2019) LPELR 46415 SC*, the Supreme Court held as follows:

“It is settled law that the question of jurisdiction is fundamental and crucial to adjudication and that the very fact of its absence automatically results in a nullity of proceedings no matter how well conducted. It is for the above reason that it is further settled law that when raised in a proceeding, it must be specifically dealt with and resolved.”

4.03 It is submitted that a Court is said to have jurisdiction and therefore competent to determine a matter before it when:

- a) It is properly constituted as regards number and qualification of the members of the bench and no member is disqualified for one reason or the other;
- b) The subject matter of the case is within its jurisdiction, and there is no feature in the case which prevents the court from exercising its jurisdiction;
- c) The case comes before the court initiated by due process of law and upon fulfillment of any condition precedent to the exercise of jurisdiction.

See cases of: *MADUKOLU VS. NKEDILIM (1962) 2 SCNLR 341* and *ROSSEK VS. ABC LTD. (1993) 8 NWLR (PT. 312) 382*.

4.04 It is submitted that; in the instant case the subject matter of this suit and the principal claims of the Plaintiffs fall outside the jurisdiction of this Court and the case has NOT come before the court initiated by due process of law. Thus, this Honourable Court is automatically robbed of the jurisdiction to hear and determine this suit as we shall proceed to demonstrate under different headings with kind indulgence of this Honourable Court as follows:

**THE SUBJECT MATTER CULMINATING IN THE INSTANT SUIT DOES NOT FALL
WITHIN THE DOMAIN OF SUBSTANTIVE JURISDICTION DONATED TO THIS
HONOURABLE COURT**

- 4.05 We submit most humbly that, the Plaintiffs' main claim and the alleged grouse that led to the institution of this action condescend to the exercise of powers by the House of Assembly of River State which this Honourable Court is not clothed with jurisdiction to hear and determine. The mere addition of the 1st, 5th and 6th Defendants, against whom there is no cause of action against looking at the case presented by the Plaintiffs cannot arrogate or confer jurisdiction on this Honorable Court.
- 4.06 A careful perusal of Section 251 of the Constitution of the Federal of Nigeria 1999 (As amended) as well as section 7 of the Federal High Court discloses matters in which this Honourable Court is vested with exclusive jurisdiction to entertain. It is submitted that the mere fact that one or more of the Defendants is an agency of the Federal Government, does not without more crown the Federal High Court with jurisdiction. The subject matter of the action must also fall within the ambit of what can be determined by the court before the court can assume jurisdiction.
- 4.07 In considering whether Federal High Court has jurisdiction in matters involving Federal Government or it's agency, the court in interpreting provision of Section 251(1) of the 1999 Constitution of the Federal Republic of Nigeria, ought to take into account of the parties to the matter and the subject matter of the suit. So, in determining whether this Honourable Court has jurisdiction, the consideration goes beyond mere fact that a Federal Government agency is a party. The subject matter of the dispute is also a relevant fact in determining whether the Federal High Court has jurisdiction to entertain a suit. In the case ***OHAKIM VS, AGBASO (2010) 19 NWLR (PT. 1226) 172 AT 236 – 237***, the apex court held as follows:

“The fact that the action was against the Respondent does not ipso facto bring the case within the jurisdiction of the Federal High Court, unless and until other requirements of the law touching on the subject matter of the claims, is also satisfied. In other words, the subject matter of the action must fall squarely within the jurisdiction of the Federal High Court, before the Court can assume jurisdiction in a case against the Federal Government or any of its agencies.”

- 4.08 We submit therefore that, even if any of the Defendant is an agency of the Federal Government without more, it does not confer the requisite jurisdiction on the Federal High Court to hear and determine this suit as the main claim bothers on the powers of the 3rd Defendant to declare vacant the seats of the Plaintiffs in Rivers State House of Assembly. The other reliefs sought by the Plaintiffs against the Defendants are ancillary to the main claim and therefore cannot confer jurisdiction on this Honourable Court. Moreso, as the Plaintiffs have not made out any claim against the administrative or management and control of the 1st, 5th and 6th Defendant or exercised by them to bring this suit within the jurisdiction of this Honourable Court. In a nutshell, the Plaintiff is not complaining against any of the administrative action of any of the 1st, 5th and 6th Defendants as far as the claims stated in the writ is concerned and therefore falls outside the subject matter with this Honourable Court can exercise its jurisdiction. We refer to the case of ***OLAYEMI VS. FHA (2022) LPELR – 57579 (SC)***.
- 4.09 It is further submitted with humility that this Honourable Court is entitled by settled law to consider the reliefs sought by a party for the purpose of determining what the principal relief of the party is. We refer my Lord to the cases of ***COTENA INT’L LTD VS. IVORY MERCHANT BANK LTD, (2006) All FWLR (PT. 3150 26 AT 38; TUKUR VS GOVERNMENT OF GONGOLA STATE (No. 2) 1989 4 NWLR (PT. 117) 517***.
- 4.10 We submit further that in considering the reliefs of a party for the purpose of determining the party’s principal relief, due regard must be had to the facts upon which those reliefs are predicated as contained in the Statement of Claim, as the reliefs do not exist on their own but are a product of facts giving rise to them.
- 4.11 It is our humble contention that a careful perusal of the Statement of Claims especially paragraphs 12, 13, 14, 15, 16, 17, 18 and 19 of the Statement of Claim reveals the principal claim in this suit. This therefore birth the question as to whether this Honourable Court has the requisite jurisdiction bothering on the sitting and resolutions of the House of Assembly of Rivers State being not one of agencies of the Federal Government to which this Honourable Court can exercise its jurisdiction by virtue of section 251 and section 7 of the Federal Highs Court? The answer lies in Section 251 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and we submit most humbly that by the said provision, this Honourable Court lacks jurisdiction to entertain this suit as presently constituted.

4.12 We further submit that Section 251 (1) (q) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) confers jurisdiction on this Honourable Court on matters relating to the operation and interpretation of the constitution as it relates to the Federal Government and its agencies. The word “and” is a conjunction, so therefore, for Section 251(1)(q) of the constitution to apply the issue and facts must relate to the operation and interpretation of the Constitution as it relates to the Federal Government or any of its agencies. This means that a State High Court can conveniently make an interpretation on provision of the constitution as it relates to an agency of the Federal Government as long as it does not fall into operation of the agencies of the Federal Government under the listed items in Section 251 of the constitution. It is therefore clear, that mere mention of agencies of Federal Government in any given suit does not grant or confer jurisdiction to the Federal High Court. We refer my Lord to the case of **ACHEBE & ANOR VS, NWOSU (2002) LPELR-7096(CA)** wherein the court held as follows:

“We have said it in this court in several cases that it is not in every and any case in which a Federal Government Ministry, functionary or Agency is sued that the case should be taken to the Federal High Court.

4.13 Also, In the case of **N.U.E.E vs. B.P.E ((2010) 7 NWLR (PT. 1194) PAGE 538 AT 573-574 PARAS G-B**, the court held as follows:

“I hold the view in unison with the above dicta, to the effect that parties and subject matter of litigation must be examined on the background of the provisions of Section 251 of the 1999 Constitution. In that vein, although the plaintiff/respondent is an agency of the Federal Government the subject matter in this case involves using the union machinery to frustrate the statutory duty of the plaintiff/respondent to privatize NEPA. As rightly pointed out by the respondent, the instant action to privatize NEPA is not a challenge as to the question of mines or minerals nor of executive or management decisions as contemplated under Section 251(1) (n) and (p) of the 1999 constitution and so the principles of construction that guided the decision in Edegbero’s case is not helpful in the circumstance. The claim before Lagos State High Court is properly founded just as the reliefs of declaration and injunction are also properly grounded.”

See also *WEMA SEC & FIN PLC. VS. N.A.I.C (2015) 16 NWLR (PT. 1484) PAGE 93 AT 130-131 PARAS E-E.*

4.14 It is our humble contention that the 1st, 5th and 6th Defendants were only made parties for the purposes of attempting to confer jurisdiction on this Honourable Court. We submit with respect that Section 251 of the 1999 constitution and section 7 of the Federal High Court Act, which both confers jurisdiction on Federal High Court with respect to agencies of the Federal Government are only with respect to declaration or injunction affecting the validity of any executive or administrative action or decision by the Federal Government or any of its agencies. The provision in its entirety excludes circumstance giving rise to the instant suit as there is no allegation against any administrative act of the 1st, 5th and 6th Defendants and therefore this Honourable is not vested with the jurisdiction to entertain this suit.

4.15 We submit that the duty of the 5th and 6th Defendant for the protection of members of Rivers State House of Assembly which has been alluded to herein by the Plaintiffs cannot be regarded as a federal duty or acting as agent of the Federal Government in that regards. That is to say that where the DSS or the Police is used as machineries to carry out state or Local government objectives has been alleged by the Plaintiffs/Respondent herein, same cannot be classified as acting as agent of the Federal Government. At such point, it will best be regarded as acting for the state government and therefore cannot fall within the jurisdiction of the Federal High Court as far the provision of section 251 of the 1999 constitution of the Federal Republic of Nigeria is concerned. In the case of *AG LAGOS STATE VS. REGISTERED TRUSTEE OF CATTLE DEALERS ASSOCIATION LAGOS STATE & ORS (2016) LPELR – 40475 CA Pp 13-15, PARAS A-F*, the Court held as follows:

The fact that a federal government agency such as the police meddles into the state affairs like tax collection does not mean the Federal High Court is now bestowed with jurisdiction over such matters under Section 251(1) (r) of the 1999 Constitution. By so doing, the police were not acting as agents of the Federal Government but acting on behalf of the State Government. A similar decision was reached in case of Sir, Jude Agbaso vs. Hon. Simeon Iwunze (2014) LPELR – 24108(CA), where the court stated as follows:.....it must be appreciated that the Commissioner of Police, when carrying out duty, purely, in relation to the state matter cannot be regarded as agency of the Federal Government

4.16 We submit therefore that the inclusion of the 1st Defendant whom no relief is sought against as well as the 5th and 6th Defendants who can only be invited in the circumstance of this case is only a surreptitious way of cunningly vesting jurisdiction on this court, given that the principal reliefs are not sought against any of them and no complain lies against them in the Statement of Claim and we most humbly urge this Honourable Court to so hold

4.17 Our noble lord, we submit strongly with the greatest humility that when a Court is deciding whether it has jurisdiction or not over a matter before it, it should be guided by the following considerations that:

- (i) Judges ought not to encroach or enlarge their jurisdiction because by so doing the Courts will be usurping the functions of the legislature.
- (ii) Nothing shall be intended to be out of the jurisdiction of the Superior Court; but that which specially appears to be so, and on the contrary, nothing shall be intended to be within the jurisdiction of an inferior court but that which is so expressly alleged.
- (iii) Courts are creatures of Statutes and the jurisdiction of each court is therefore limited and circumscribed by the statute creating it.
- (iv) The Court is not hungry after jurisdiction.
- (v) Judges have a duty to expound the jurisdiction of the Court but it is not part of their duty to expand it.
- (vi) A court cannot give itself jurisdiction by misconstruing a Statute.

See: *AFRICAN NEWSPAPERS v. NIGERIA (1985) 2 NWLR (PT. 6) 137 @ 159 – 160 PARAS. F-B, DANGANA v. USMAN (2013) 6 NWLR (PT.1349) 50 @ 79 PARAS. B-G.*

4.18 In the final analysis and in view of the clear position of the law stated herein, we most humbly submit that on the strength of the arguments canvassed above, that this Honourable Court does not have the jurisdiction to entertain this suit as presently constituted and we respectfully urge this Honourable Court to resolve this issue in favour of the 3rd Defendant/Applicant and dismiss the Plaintiffs' suit for lack of jurisdiction.

THIS HONOURABLE COURT IS NOT IMBUED WITH THE TERRITORIAL JURISDICTION TO ENTERTAIN THE INSTANT SUIT, THE ENTIRETY OF THE PURPORTED GROUSE OF SAME HAVING EMANATED FROM PORT-HARCOURT, RIVERS STATE, OUTSIDE THE TERRITORIAL JURISDICTION OF THIS COURT

- 4.19 Our noble lord, it is our humble contention with the greatest humility that there is clear forum-shopping engaged in by the Plaintiffs who have opted to file the instant suit in Abuja outside Port-Harcourt where all the facts leading to this suit happened. A cursory look at the Plaintiffs' Statement of Claim will reveal that the Plaintiffs/Respondents, are challenging the supposed pressure being placed on the 3rd Defendant/Applicant to declare their seats vacant consequent upon their defection from the Peoples Democratic Party (PDP) to the All Progressives Congress (APC) whilst being members of the 3rd Defendant in Rivers State.
- 4.20 Our noble lord, it has been held that forum shopping occurs when a party attempts to have his action tried in a particular Court or jurisdiction where he feels he will receive the most favourable decision or advantage. See the case of **MAILANTARKI v. TONGO & ORS (2017) LPELR-42467(SC)**. There is no contest that the entirety of the purported grouse of the Plaintiffs occurred in Rivers State, outside the Federal Capital Territory. There is also no doubt that this Honourable Court is well-established in Rivers State too. We are not unmindful of the fact that the divisions of this Court is to pave way for administrative convenience and that it is one same court. However, the choice of Abuja for instituting this matter is to run from the fact that the Federal High Court in Rivers State would easily discover that the instant suit is a gross abuse and an unacceptable practice.
- 4.21 What is even more, all the plaintiffs on record as well as all the Defendants lives in Rivers State and all have presence where this matter can be competently dealt with but chose for the best reason known to them ran to Abuja to file this action before this Honourable Court.
- 4.22 We submit that this Honourable Court is not imbued with the territorial jurisdiction to entertain the instant suit, the entirety of the purported grouse of same having emanated from Port-Harcourt, Rivers state, outside the territorial jurisdiction of this court. This will defeat the administrative basis for having a division of this Court in Port-Harcourt and would fuel a distrust of the judiciary by the common man, who would rightly be wondering why a matter that emanated in Port-Harcourt had to be brought all the way down to the Federal Capital Territory. Indeed, it is a gross abuse of judicial process for a party to embark on a frolic of forum shopping; that is looking

for a favourable court to entertain its suit. See the case of **EZENWO v. FESTUS (NO. 1) (2020) 16 NWLR (PT. 1750) 324 @ 349, PARAS. E-H.**

- 4.23 Flowing from the above, we respectfully urge my noble lord to resolve this point in favour of the 3rd Defendant/Applicant

THE NECESSARY PARTIES FOR THE EXHAUSTIVE DETERMINATION OF THE INSTANT SUIT WERE NOT JOINED IN THIS SUIT

- 4.24 It is our humble submission that the Plaintiff having made allegations against the 2nd Defendant also alleged that the 3rd Defendant may want to remove him, YET he has not joined **Rt. Hon. (Barr) Ehie Ogerenye Edison, DSSRS (Speaker, Rivers State House of Assembly)**; the Speaker of the House of Assembly who this Honourable Court in **SUIT NO: FHC/PH/CS/240/2023** (See Exhibit B) declared as the authentic speaker. My noble lord, this Honourable Court's subsisting order of 7th day of November 2023, commanded that the subject matter of the suit should not be tampered with, including the not doing anything that will affect the legislative proceedings of the 1st Plaintiff (Rivers State House of Assembly) therein and the legislative duties, powers and functions of **Rt. Hon. (Barr) Ehie Ogerenye Edison, DSSRS (Speaker, Rivers State House of Assembly)**. Moreover, the High Court of Rivers State on the 12th day of December 2023, in suit no.: **PHC/3030/CS/2023**, restrained the 1st and 2nd Claimants, their agents, privies and representatives howsoever described from disturbing, disrupting and interfering with the exercise of the 3rd Defendant's statutory legislative duties, holding meetings, proceedings, issuing notices, passing resolutions, bills and performing other legislative functions.
- 4.25 My noble lord, therefore, having regard to the fact, it is our contention most humbly that it is only a speaker that can declare a seat vacant, and the failure to join **Rt. Hon. (Barr) Ehie Ogerenye Edison, DSSRS (Speaker, Rivers State House of Assembly)**, the Speaker of the Rivers State House of Assembly, means that the condition precedent for this suit has not been met as this Honourable Court cannot proceed without having proper parties before it for effective and efficient determination of this suit and as such the instant suit is incompetent. See the case of **APC v. OKORODUDU & ANOR (2019) LPELR-47762(CA) (Pp 36 - 37 PARAS E - B)** BABA IDRIS, JCA where it was held as follows:

"There is no doubt that because parties are an integral part of any judicial proceeding, where there are no proper parties in any action pending in Court, it has no jurisdiction to try it. These are parties against whom

complaints are made in the action. In essence, a person who asserts the right claimed or against whom the right claimed is exercisable must be present to give the Court the necessary jurisdiction. See also OLARIEDE VS. OYEBI (1984) 1 SCNLR 390; AYORINDE VS. ONI (2000) 3 NWLR (PT. 649) 348."

4.26 In the same vein, the Apex Court in the case of *JEGEDE v. INEC (2021) 14 NWLR (PT. 1797) 409 @ 588 PARAS. D – G*, held thus:

"The law is very well settled that where a party is projected in the process of litigation as a necessary party, that party must be made an integral part of the litigation process before the court, the party must be heard. Where a decision is reached without affording necessary party a fair hearing the proceedings will be null and void See; Okonta v. Philips (2010) 18 NWLR (Pt. 1225) 320. Again, a court has no jurisdiction to make any order against the interest of any person as in the instant case unless he is made a party. Where there is brazen and far-reaching allegation of infraction against a party, that party must be heard, the adversary will not be allowed to dig a hole around the party, so doing will amount to setting a trap or laying ambush in litigation, it will not be allowed. His Excellency Mai Mala Buni is a necessary party in the petition having prominently featured, his alleged infraction of section 183 of the Constitution of the Federal Republic of Nigeria 1999, cannot be determined in his absence, he is a necessary party, he must therefore constitute an integral part of the parties before the court. See: Green v. Green (2001) FWLR (Pt.76)795, (1987) 3 NWLR (Pt. 61) 480."

4.27 We submit most humbly therefore, that the non-joinder of Rt. Hon. (Barr) Ehie Ogerenye Edison, DSSRS (Speaker, Rivers State House of Assembly), the Speaker of the Rivers State House of Assembly to this action vitiates the action as the fair and effectual trial of the case is impossible. The proceedings which may therefore be conducted will be null and void.

4.28 Guided by the foregoing, we most humbly urge this Honourable Court to dismiss or strike out this suit.

**THE INSTANT SUIT AS PRESENTLY CONSTITUTED IS PREMATURE, BASED ON
SUSPICION AND MERELY PRE-EMPTIVE.**

4.29 Our noble lord, a cursory look at the Plaintiffs' Statement of Claim will reveal that meat of their complaint is premature as it is based on a suspicion and/or on the fear of a futuristic and speculative act by the Defendants. See Paragraphs 18, 19 and 20 of the Statement of Claim. Paragraph 20 of the Statement of Claim, is particularly instructive as it states as follows:

“Unless this Honourable Court intervenes, the Defendants will unlawfully declare the seats of the Plaintiffs vacant, withdraw their Certificates of Return and prevent them from carrying out their constitutional duties and functions as Honourable members of the 3rd Defendant.”

4.30 The above paragraph therefore shows that the cause of action had not accrued as the date they filed this suit and no amendment can cure the *malaise*. The condition precedent set up by Section 6(6)(b) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), for filing a suit is as follows:

“(6)The judicial powers vested in accordance with the foregoing provisions of this section –

(a)...

(b) shall extend, to all matters between persons, or between government or authority and to any persons in Nigeria, and to all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person;”
(UNDERLINE MINE FOR EMPHASIS)

4.31 Thus, my noble lord, there must be in existence a civil rights and obligations in existence before the judicial powers of a Court under Section 6(6)(b) of the extant Constitution can be activated. In legal terms, it means that cause of action must accrue before the judicial powers of a Court can become eminent. The preliminary nature of a cause of action in any suit has led to its explanation in a plethora of cases. In the case of **STERLING PLANTATION AND PROCESSING COMPANY LTD v. AGBOSU & ORS** (2013) LPELR-22146(CA), a cause of action was defined thus:

"A cause of action is the entire set of circumstances giving rise to an enforceable claim. It is the fact or combination of facts, which gives rise to sue and it consists of two elements, viz, the wrongful act of the defendant which gives the plaintiff his cause of complaint, and the consequent damage. In other words, it is factual situation which a plaintiff relies upon to support his claim recognized by law as giving rise to a substantive right capable of being claimed or enforced against a defendant. See AGBANELO VS UNION BANK OF NIGERIA LTD (2004) 4 SC (PT.1) 233, EMIATOR VS NIGERIA ARMY (1999) 12 NWLR (PT.631) 362. ASABORO VS PAN OCEAN OIL (NIG) LTD (2006) 4 NWLR (PT.971) 595; AKANDE VS ADISA (2004) ALL NWLR (PT.236) 413; ADESOKAN VS ADEGOROLU (1977) 3 NWLR (PT.493) 261:-. IN WOHEREM vs EMERUWA (2004) ALL FWLR (PT.221) 570. It was held by the supreme court per Iguh JSC at page 1581 that:- "It cannot be disputed that a cause of action matures or arises on a date or from the time when a breach of any duty or act occurs which warrants the person thereby injured or the victim who is adversely affected by such breach to take a court action in assertion or protection of his legal right that has been breached." Per OSEJI, J.C.A. (Pp. 24-25, paras. B-A)"
(UNDERLINING OURS FOR EMPHASIS)

- 4.32 From the aggregate facts at paragraphs 18, 19 and 20 it is apparent that the suit as stated is premature. The Plaintiff is therefore suing **PREEMPTIVELY**. We therefore opine that the suit is premature, not ripe and an academic in nature, which ousts the jurisdiction of this Honourable Court to entertain. See the case of **TRANSOCEAN SHIPPING VENTURES PRIVATE LTD v. MT SEA STERLING** (2018) LPELR-45108(CA) (Pp. 11-12, Paras. F-A) where OGAKWU, J.C.A. in the Lead Judgment of the Court of Appeal held that:

"...It is rudimentary law that Courts do not engage in academic issues/exercise but only deal with live issues. See DANIEL vs. INEC (2015) LPELR (24566) 1 at 34, K. R. K. HOLDINGS (NIG) LTD vs. FBN (2016) LPELR (41463) 1 at 26-27 and CPC vs. INEC (2011) LPELR (8257) 1 at 78-79."

- 4.33 What constitutes an academic suit has been defined by the Apex Court in **ABUBAKAR VS, YAR'ADUA** (2008)4 NWLR (PT. 1078) 435 at 497 PARAS B – F where Tobi JSC, as follows:

"An academic matter in a suit is one which is raised for the purpose of intellectual argument qua reason which cannot in any way affect the determination of the life issues in the matter. It is merely to satisfy intellectual

proWess qua intellect. It is a matter which is theoretical and not related to practical situation. And in the context of this appeal, the practical situation is the application of the outcome of this appeal to the petition in the court of appeal...”

4.34 We urge this Honourable Court to consider the totality of fact contained in the writ and the arguments canvassed herein and come to the simple and irrefutable conclusion that the instant action is premature, not ripe and an academic exercise not based on live issues thereby resolving this point also in favour of the 3rd Defendant/Applicant.

THE PLAINTIFFS/RESPONDENTS’ SUIT AS PRESENTLY CONSTITUTED DISCLOSES NO REASONABLE CAUSE OF ACTION AGAINST THE 3RD DEFENDANT/APPLICANT

4.35 Our noble lord, a reasonable cause of action in general terms means a fact or a combination of fact which if proved would entitle a Plaintiff to a remedy against a defendant. See the cases of EGBE v. ADEFARASIN (1987) 1 N.W.L.R. (Part. 47) 20, AKILU v. FAWEHINMI (No.2) (1989) 2 NWLR (Part. 102) 122 and OSHOBOJA v. AMUDA (1992) 6 N.W.L.R. (Part. 250) 690. It is the law that in the determination of whether a case discloses a reasonable cause of action, the Court examines the statement of claim and see whether on the face of it, it discloses facts which if proved would entitle the Plaintiff to a remedy. It is only the statement of claim that would clearly reveal or show whether or not a Plaintiff has a reasonable cause of action which may entitle him to a remedy and once it is disclosed, the reason exists to approach the Court to seek the remedy and for the Court to intervene. We rely on the cases of EGBUE v. ARAKA (1988) 3 NWLR Part. 84) 598, YUSUFU v. CO-OPERATIVE BOARD (1994) 7 N.W.L.R. (Part. 359) 676, OGBIMI v. OLOLO (1993) 7 SCNJ and BRIGHT MOTORS v. HONDA MOTORS (1998) 12 N.W.L.R. (Part. 577) 230.

4.36 Having acted contrary to the celebrated principle of law on cause of action, the Plaintiffs’ suit has come to serve another example of a suit without a reasonable cause of action. In determining whether an action discloses a reasonable cause of action, the only relevant materials to look at albeit, on the surface, is the statement of claim where pleadings were filed and exchanged. See BRAS VENTURES LTD & ANOR v. WESTSTAR ASSOCIATES LTD & ORS (2020) LPELR-51682(CA).

4.37 In the instant case, what is to be examined by this Court is the Plaintiffs’ Statement of Claim. The relevant paragraphs of the Statement of Claim, as they relate to the 3rd Defendant/Applicant are paragraphs 18, 19, 20 and 21 thereof, where the Plaintiffs

alleged that the 2nd Defendant has been putting pressure on the 3rd Defendant to stop the Plaintiffs from performing their constitutional duties and functions and that the Defendants may declare their seats vacant unless the court intervenes. No nexus whatsoever, has been established between the acts of the 2nd Defendant and the 3rd Defendant. Can it then be said that a reasonable cause of action exists? The answer is in the negative.

4.38 Our noble lord, there is no single proof in support of these diabolic and strange allegations. This court cannot assume jurisdiction to entertain issues based on conjectures, rumours, and speculations. In the case of **GOV. OF OYO STATE & ORS v. AJUWON & ORS (2020) LPELR-50471(CA)**, in resolving a similar issue, the Court of Appeal had this to say:

"...It would be seen therefore that, the response of the Appellants was a complete denial of the Respondents' claim that the Appellants (particularly the 1stAppellant) had any plan to dissolve the Local Government Area Councils or the Local Council Development Area. By so denying, issues were therefore joined between the parties on the claims of the Claimants/Respondents. To succeed, the Respondents had the burden to supply facts and nothing but facts which were concrete, cogent and plausible, that indeed, the 1st Respondent had hatched a plan to dissolve the councils. This, they could do by filing a further affidavit to supply those facts but they failed to do that. It should be noted that Courts of law do not decide cases on mere conjecture or speculation. Courts of law decide issues on facts presented and duly proved before them. Speculation and conjecture is therefore not within the realm of Courts of law. In other words, Courts receive and act on evidence presented by the parties in accordance with the law. Therefore, when the facts presented by the parties are premised on speculation, conjecture, suspicion or guess work, the Court will decline jurisdiction to act or adjudicate on it. See Archibong v. Ita (2004) 2 NWLR (pt.858) 590 at 610 - 620 paragraphs H - A; N.B.C. v. Ubani (2009) 3 NWLR (pt.1129) 512 at 544 paragraphs A - C; Ikenta Best (Nig.) Ltd v. A.G; Rivers State (2008) 8 NWLR (pt.1084) 612; Engr. Frank Okon Daniel v. INEC Per HARUNA SIMON TSAMMANI, JCA.

4.39 The law is trite that Courts are not allowed to act on speculations, let alone conjectures that are ambiguously speculative. The Courts act only on empirical facts

provided by the parties. On this point, see the case of NUP v. INEC (2021) LPELR-58407(SC).

4.40 In the case of GOV. OF OYO STATE & ORS v. AJUWON & ORS (2020) LPELR-50471(CA), in resolving a similar issue, the Court of Appeal had this to say:

"...It would be seen therefore that, the response of the Appellants was a complete denial of the Respondents' claim that the Appellants (particularly the 1st Appellant) had any plan to dissolve the Local Government Area Councils or the Local Council Development Area. By so denying, issues were therefore joined between the parties on the claims of the Claimants/Respondents. To succeed, the Respondents had the burden to supply facts and nothing but facts which were concrete, cogent and plausible, that indeed, the 1st Respondent had hatched a plan to dissolve the councils. This, they could do by filing a further affidavit to supply those facts but they failed to do that. It should be noted that Courts of law do not decide cases on mere conjecture or speculation. Courts of law decide issues on facts presented and duly proved before them. Speculation and conjecture is therefore not within the realm of Courts of law. In other words, Courts receive and act on evidence presented by the parties in accordance with the law. Therefore when the facts presented by the parties are premised on speculation, conjecture, suspicion or guess work, the Court will decline jurisdiction to act or adjudicate on it. See Archibong v. Ita (2004) 2 NWLR (pt.858) 590 at 610 - 620 paragraphs H - A; N.B.C. v. Ubani (2009) 3 NWLR (pt.1129) 512 at 544 paragraphs A - C; Ikenta Best (Nig.) Ltd v. A.G; Rivers State (2008) 8 NWLR (pt.1084) 612; Engr. Frank Okon Daniel v. INEC Per HARUNA SIMON TSAMMANI, JCA.

4.41 On this score, we submit that the Plaintiffs' suit as presently constituted struggles to disclose a reasonable cause of action against the 3rd Defendant and cannot be sustained. The law is that where there is a failure to disclose reasonable cause of action against a party, the Court is obliged to strike out the case against the party. See the case of ABUBAKAR v FALOLA (1997) 11 NWLR PT. 530 PG. 638. We most humbly urge your lordship to so hold.

THE INSTANT SUIT WAS NOT INSTITUTED IN COMPLIANCE WITH DUE PROCESS OF LAW AND SATISFACTION OF STATUTORY CONDITION PRECEDENT, AS STIPULATED IN SECTION 21 OF THE LEGISLATIVE HOUSES (POWERS AND PRIVILEGES) ACT, 2017

4.42 On this point, it is our contention with the greatest humility that the statutory requirement of filing/service of pre-action notice on the 3rd Defendant, has not been met and thus the instant action is inchoate and not on a legal *terra firma*. We submit that the implication of this is that this Honourable Court cannot entertain the instant suit, as same is doomed for termination, *in limine*.

4.43 As a starter, we contend that the provision of **Section 21 of the Legislative Houses (Powers and Privileges) Act, 2017** holds an olympian position in the resolution of this leg of objection. Being the cynosure of the issue, it is imperative to pluck it out from the Statute book, where it is domiciled, *verbatim ac litteratim*, thusly:

21. "A person who has a cause of action against a Legislative House shall serve a three-month written notice to the office of the Clerk of the Legislative House disclosing the cause of action and relief sought".

4.44 Our noble lord, a legislative has been interpreted under Section 25 of the same **Legislative Houses (Powers and Privileges) Act, 2017**, as including a State House of Assembly such as the 3rd Respondent.

4.45 Our noble lord, the above provision is clearly a hard law and hard laws operate like speed train, it does not pamper anything that violates its track. The literal rule of interpretation is the oldest rule and is followed by Judges all over the world. The rationale behind the Literal Rule is that it prevents Courts from making biased decisions when the issue relates to core issues of law by sticking to the dictionary meaning without discretion (without expansion or contraction) of the very words used in the statute. Thus, when the words of the statute are very clear, plain and unambiguous without equivocation, like in the case of Section 21 of the Legislative House (Powers and privileges) Act, 2017, then the Courts are bound to give effect to that meaning irrespective of the consequences. On this point, we call in aid the cases

of NWOBIKE v. FRN (2021) LPELR-56670(SC); IMOH v. IMOH (2021) LPELR-52459(CA).

- 4.46 This is an issue of law and adherence to the provision of the Statutes is strict and a matter of compulsion. Being a hard law, considering the adoption of “shall”, it cannot be wished away or left to the whims and caprices of parties. It is not an issue left to the discretion of the court. Hard laws are laws that have mandatory guidelines with clear and precise rules or procedure to follow. They are not flexible and strong sanctions awaits non-compliance all the time. Incontestably, the provision is rebellious to ambiguity and wooliness. In this wise, the law commands the court to deploy the literal canon of interpretation of statutes in construing it, *id est*, to accord it its ordinary grammatical meaning without garnishing it with any lexical embroidery that will make it subservient to misapprehension. Thus, a prospective Plaintiff, who desires to commence an action against the Legislative House at the Federal or State level **must as matter of law** pay allegiance to the words of Section 21 of Legislatives Houses (Power and Privileges) Act, 2017.
- 4.47 In the process of instituting the instant suit, the requirement of law as per issuance of pre-action notice to the 3rd Defendant was lost on the Plaintiffs as the Plaintiffs, in their wisdom, deemed the said requirement as of mere cosmetic value. Their fate can be likened to that of lotus-eaters. In Greek mythology, the lotus-eaters were a race of people living on an island populated by the lotus tree, a plant whose botanical identity remains indeterminate. The lotus fruits, flowers, and other derivates were the primary food of the island and had a calming and sedative effect, causing the inhabitants to sleep in peaceful apathy, leading to a state of forgetfulness.
- 4.48 We submit that the Courts have emphasized the importance of compliance by a plaintiff intending to bring an action with the provisions of the law on pre-action notice. It forms a condition precedent, which delays the vesting of a right until the happening of such an event. It is our humble contention that Section 21 of the Legislative Houses (Powers and Privileges) Act, 2017 has prescribed the conditions for commencing actions against the Legislative House. We submit that the intendment of the law is that a plaintiff who fails to file a pre-action notice in

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- 2) 1st DEFENDANT
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No.436 Zambezi Crescent,
Maitama District,
Abuja.

- 3) 2ND DEFENDANT
PEOPLES DEMOCRATIC PARTY
Wadata House,
Micheal Okpara Way,
Wuse Zone 5,
Abuja.

- 4) 4TH DEFENDANT
Rivers State House of Assembly Complex,
Port Harcourt, Rivers State.

- 5) 5TH DEFENDANT
INSPECTOR GENERAL OF POLICE
Louis Edet House,
Central Business District,
Abuja.

- 6) 6th DEFENDANT
Aso Drive, Three Arm Zone,
Abuja, FCT.