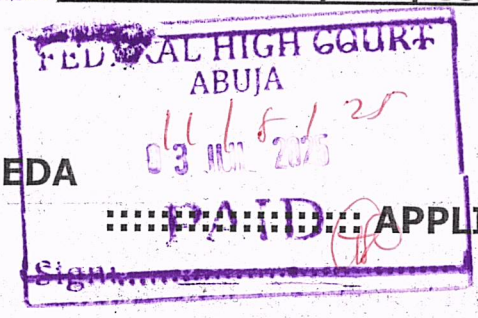
IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
ON WEDNESDAY, THE 9TH DAY OF JULY, 2024
BEFORE HIS LORDSHIP, THE HON. JUSTICE EMEKA NWITE
JUDGE

SUIT NO. FHC/ABJ/CS/51/2022



BETWEEN:

INCORPORATED TRUSTEES OF HEDA RESOURCES CENTRE :::::::::::: APPLICANT

AND

THE NATIONAL ASSEMBLY :::::::::::::::::::::::::::: RESPONDENT

JUDGMENT

The Applicant commenced this action via Motion on Notice dated 25th March, 2022 and filed on 28th March, 2022 brought pursuant to Order 34 of the Federal High Court (Civil Procedure) Rules, 2019, Section 1, 2, 9, 20, & 21 of the Freedom of Information Act, 2011 and under the Inherent Powers of this Honourable Court, praying for the following reliefs:

1. *AN ORDER of Mandamus compelling the Respondent to supply the information requested by the Applicant as contained in the Applicant's Request dated 17/12/2021, attached to the affidavit in support of this application as Exhibit HEDA 1, to wit:*
    a. *The proposal, assessment, and procedure employed by the National Assembly and the Federal Capital Development*

Authority (FCDA) in arriving at the initially reported N37billion for renovation of the National Assembly Complex.

b. *The actual amount approved and allocated for the renovation of the National Assembly Complex as at the time of the request: and*

c. *The amount already disbursed for the renovation of the National Assembly Complex as at the time of this request;*

2. *SUCH FURTHER ORDER OR ORDERS as this Honourable Court may deem fit to make in the circumstances.*

Accompanying the Motion on Notice is a Statement, a 9 paragraphs affidavit deposed to by one Catherine Joseph with a single annexure marked as Exhibit HEDA 1. There is a Written Address. Upon being served with the Respondent's Counter Affidavit, the Applicant on 15th July, 2022 filed a 6 paragraphs Further Affidavit deposed to by same Catherine Joseph with a within annexure marked a Exhibit HEDA 2 and a Reply address on points of law.

In opposition to the motion, the Respondent on 17th May, 2022 filed a 16 paragraphed Counter-Affidavit deposed to by one Selman F. Dashe. There is a Written Address attached.

In the Written Address of the Applicant, counsel formulated a sole issue for determination, to wit:

Whether or not considering the facts and circumstances of this case, the Applicant is entitled to AN ORDER OF MANDAMUS

compelling the Respondent to supply the information requested by the Applicant in EXHIBIT HEDA 1; to wit:

d. The proposal, assessment, and procedure employed by the National Assembly and the Federal Capital Development Authority (FCDA) in arriving at the initially reported N37billion for renovation of the National Assembly Complex.

e. The actual amount approved and allocated for the renovation of the National Assembly Complex as at the time of the request: and

f. The amount already disbursed for the renovation of the National Assembly Complex as at the time of this request;

Arguing the sole issue, counsel submitted that the core purpose of the Freedom of Information Act, 2011 is to make public information, freely available to the public. That the right of every person to access or request information and enforce same is enshrined in section 1(1) of the FOI Act. That in line with the Applicant's mandate as an organization that an application for information as contained in Exhibit HEDA 1 was made via a letter dated 17th December, 2021. That the Respondent has refused to act on the request made by the Applicant thereby contravening the provisions of the Freedom of Information Act, 2011. He cites **SECTION 20 OF THE FO1 ACT, CENTRAL BANK OF NIGERIA V. SYSTEM APPLICATION PRODUCTS LTD (2005) 3 NWLR (PT. 911) 152**. He argued that the Applicant need not show specific interest in the information before an order of mandamus can be made against the Respondent. He cites **ALO V.**

SPEAKER, ONDO STATE HOUSE OF ASSEMBLY & ANOR (2018) LPELR-45143 (CA). That the Applicant has made demand for the performance of the duty and same was refused. He referred the court to paragraphs 7 and 8 of the Affidavit in support of the Application as well as Exhibit HEDA 1. He cites **SECTION OF THE FO1 ACT**

Counsel concluded by urging the court to grant the reliefs sought in line with its power as provided for in Section 25 of the FOI Act.

In reaction, counsel to the Respondent in his written address formulated a sole issue to wit:

> *Whether considering the facts and circumstances of this case, the suit of the Applicant is competent before the court.*

Arguing sole issue, counsel submitted that the case of the Applicant before this court is incompetent pre-mature and brought in bad faith to annoy and irritate the Respondent. That a case of this nature against the Respondent requires a pre-action notice of three months as a matter of procedure in line with the provision of Section 21 of the Legislative Houses (Powers and Privileges) Act, 2019. That no pre-action notice was served on the Respondent.

Counsel added that the failure to issue pre-action notice where required robs any court of jurisdiction to sit on any matter of this nature affecting the performance of the duties of the Respondent. He cites **Madukolu v. Nkemdilim (!962) 2 SCNLR 341, 348, Osungwu v. Onyeikigbo (2005) 16 NWLR (PT.950) 80, 91-93, Inakoju & 17 Ors v. Adeleke & 3 Ors (2007) 4 NWLR (Pt. 1025) 423, 589.**

It is also the submission of counsel that the suit was not brought within the time stipulated under the law of the institution of suits for judicial review under the FOI, Act. He refers the court to **SECTION 20 OF THE FOI ACT**. That the suit was not instituted within the stipulated 30 days and there was no order to abridge the 30 days period. That the Applicant served the Respondent with a letter of request on 20th December, 2021, and the Respondent is required to respond to the request within 7 days upon service or deemed to have denied access to the information after 7 days upon being served with the letter.

Counsel concluded by urging the court to dismiss the suit.

Replying on points of law, counsel to the Applicant submitted that paragraphs 4, 7, 8, 9, 10, 11, 12, 13 and 15 of the Respondent's Counter Affidavit are in contravention of the provisions of Section 115 of the Evidence Act, 2011 for being arguments, submissions and conclusions which ought to be made by counsel in a written address and submitted to the court for its consideration. That the paragraphs ought to be struck out. He placed reliance of **BAMAIYI V. THE STATE AND ORS (2001) LPELR-731 (SC), JOSEIEN HOLDING LTD V. LORNAMEAD LTD (19995) 1 NWLR (PT. 371) 254. ADEDIPE V. FRAMEINENDUR (UNREPORTED) SUIT NO. CA/L/128/08, ORJI V. ZARIA IND. LTD (1992) 1 NWLR (PT. 216), SAIDU H. AHMED & ORS V. CENTRAL BANK OF NIGERIA (2013) 11 NWLR (PT. 1365) SC 352 AT 368 TO 370 AND NIGERIA POLICE FORCE v. ONU (2008) ALL FWLR (PT. 406) 1920 AT 1931**

Counsel further contended that the arguments of counsel to the Respondent that the Applicant failed to issue the Respondent with a pre-action notice is misconceived on the ground that the application before this court is for judicial review and same is *sui generis*. That the provisions of Section 21 of the Legislative Houses (Powers and Privileges) Act, 2017 is a general provision which provides generally in relation to cause of action against the Legislative House while Section 20 of the FOI Act is a specific provision in relation only to instance where an application has been denied access to information. He cites **A.G.. Lagos State v. A.G. Federation & Ors (2014) lpelr-22701(sc), Saraki v. FRN (2016) LPELR-40013 (sc), Section 1 FOI Act And Public And Private Dev./GTE (ppdc) v. National Agency For Food And Drugs Administration And Control (NAFDAC) & Anor (Unreported) (2014) Suit No. FHC/ABJ/CS/760/13**

Counsel submitted that the Applicant did sought for extension time within which to apply for judicial review when the records of the court is examined particularly the order granted by this court on the 23rd March, 2022.

It is also the submission of counsel that the Respondent has not placed any defence before this court to prevent the Respondent from grantinf access to the information requested by the Applicant. That the closest attempt at defence by the Respondent is the deposition in paragraph 14 of its counter affidavit wherein it stated that the renovation exercise is the responsibility of the Federal Capital Development Authority which does not controvert the fact that it is in possession of the information sought by the Applicant. He referred the court to **Section 24 of the FOI Act**.

Counsel urged the court to discountenance the argument of the Respondent and grant the reliefs sought by the Applicant.

RESOLUTION OF THE ARGUMENTS OF PARTIES

Before the court proceeds with the determination of this suit, it is imperative the court decides the issue raised by the counsel to the Applicant which borders on whether paragraphs 4, 7, 8, 9, 10, 11, 12, 13 and 15 of the Counter Affidavit in opposition to the Applicant's Motion on Notice contravenes the provisions of Section 115(1),(2),(3) and (4) of the Evidence Act, 2011. The Section provides:

> ***115***.*-(1) Every affidavit used in the court shall contain only a statement of facts and circumstances to which the witness deposes, either of his own personal knowledge or from information which he believes to be true.*
>
> *(2) An affidavit shall not contain extraneous matter, by way of objection, prayer or legal argument or conclusion.*
>
> *(3) When a person deposes to his belief in any matter of fact, and his belief is derived from any source other than his own personal knowledge, he shall set forth explicitly the facts and circumstances forming the ground of his belief.*
>
> *(4) When such belief is derived from information received from another person, the name of his informant shall be stated, and reasonable particulars shall be given respecting the informant, and the time, place, and circumstance of the information.*

The above cited provision is clear and unambiguous. The court in interpreting the provision held in the case of **IBIYEYE V. GOLD (2013) 9 WRN 45 AT 70** that prayers, objections and legal arguments are matters that may be pressed by counsel in court and not fit for a witness either in oral testimony or affidavit evidence while conclusion should not be drawn by witness but left for the court to reach. Therefore, for the court to come to a conclusion that a particular paragraph contravenes the provision of Section 115(2) of the Evidence Act, 2011 the onus or burden of showing how the said paragraphs contravened the provision is on the party raising the issue. It is not enough for a party to state that a paragraph of an affidavit contravenes the Evidence Act and leave the burden to the court to do decipher the contravention. See the case of **STANBIC IBTC BANK PLC V. LGC LTD (2017) 18 NWLR (PT.1598) 431** where the court held:

> *"Where a party alleges that certain paragraphs of an affidavit offend the provisions of Section 115(2) of the Evidence Act, the responsibility is on that party to explain how the paragraphs of the affidavit are inconsistent with that section of the Evidence Act. It is therefore not enough for the party to allege certain paragraphs are inconsistent with the provisions of the Act. In the instant case, learned counsel for the respondent failed to explain how paragraph 8(c) and (d) of the affidavit in support of the motion constituted arguments and conclusion as alleged"*

The Counsel to the Applicant while making an argument on this issue in his reply on points of law reproduced paragraphs 4, 7, 8, 9, 10, 11, 12, 13 and

15 of the Respondent's counter affidavit. The said paragraphs are reproduced for ease of reference:

> *4. That the entire deposition of the Applicant are not true but mere facts are meant to pull the wool over the eyes of the Hon. Court.*
>
> *7. That the suit of the Applicant this Hon. Court is premature and brought in bad faith.*
>
> *8. That due process was not followed in the institution of this suit by the Applicant against the Respondent as no pre-action notice was issued.*
>
> *9. That the Applicant has failed in the requirement of the law in instituting this suit.*
>
> *10. That the applicant is out of time in bringing this action against the Respondent as there is no application for extention of time to commence this suit.*
>
> *11. That the court cannot adjudicate matter that is improperly instituted.*
>
> *12. That this court has no jurisdiction to consider this matter as presently instituted as this matter was instituted without following due process required under the laws.*

13. That the institution of this matter is an abuse of court process and the Court should at best dismiss/ strike out the case of the Applicant against Respondent with cost.

15. That this deposition is made in the interest of justice to counter the case of the Applicant against the Respondent.

A careful examination of the above paragraphs shows that the paragraphs are in gross violation of the provisions of Section 115(2) of the Evidence Act, 2011. The provisions of the Evidence Act particularly Section 115(1) of the Act states that every affidavit must contain only a statement of facts and circumstances to which the witness deposes. The Respondent in her counter affidavit in opposition to the present Application did not only make conclusion but legal conclusion. Paragraphs 4, 7, 9, 11, 12, 13 and 15 Counter Affidavit of the Respondent are legal argument that should only be pressed by counsel to the Respondent in his written address while paragraphs 8 and 10 are legal conclusion that should make by the court.

The law is well settled that where paragraphs of an affidavit are contrary to the provisions of the Evidence Act, 2011, the paragraphs ought to be struck out. See **OGBE v. OKONKWO & ORS (2018) LPELR-43876(CA)** where the court held:

"On the issue of whether the Court below was right in holding that the affidavit filed in support of the suit initiated by the Appellant is fundamentally defective, Counsel had contended that the Court below erred in law in its interpretation of the provisions of Sections 115(1) and (2) of the Evidence Act, 2011,

when the Court, at page 86 of the records line 16 declared the supporting affidavit contained extraneous matter, by way of objection or prayers or legal arguments and conclusions. The settled position of the law is that where a paragraph or some paragraphs of an affidavit in support of an application offends the Section 115(1) and (2) of the Evidence Act, 2011 the proper thing to do is not to strike out the entire affidavit, but to strike out the offending paragraph or paragraphs of the affidavit as the action of striking out the offending paragraphs does not render the whole affidavit useless. See BANQUE DE LA' AFRIQUE OCCIDENTAL VS. ALHAJI BABA SHAFARDI & ORS (1963) NNLR 21. I cannot therefore, in the light of the foregoing say as learned Counsel for the Respondents have argued that by striking out the offending paragraphs of the supporting affidavit, nothing useful remains of the supporting affidavit. To therefore strike out the entire supporting affidavit as the Court below had done just because of a few offending paragraphs, is clearly an error of law."

See also the case of **OJO v. ABDULAZEEZ & ORS (2023) LPELR-59557(CA),** the court held:

"Looking at the said paragraphs 32 - 35 of the Appellant's supporting affidavit, I agree that it contravenes the provision of Section 115(2) of the Evidence Act 2011. In general conclusion on this issue, I hold the opinion of the Supreme Court in the later in time judgment in the case of SAIDU H. AHMED & ORS VS.

CENTRAL BANK OF NIGERIA (SUPRA), that only the offending paragraphs 32 - 35 should be struck out."

Consequently, paragraphs 4, 7, 8, 9, 10, 11, 12, 13 and 15 of the Respondent's counter affidavit are hereby struck out. I so hold.

It is also the argument of counsel to the Respondent the Applicant failed to serve Respondent with a pre-action notice in line with Section 21 of the Legislative Houses (Power & Privileges) Act, 2017. The said Section 21 provides:

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

The courts have in plethora of cases held the importance or essence of a pre-action notice to mean that the notice is to allow the proposed defendant time to consider whether to make reparation to the intending plaintiff or not. The purpose of serving pre-action notice on a party is that such a party is not taken by surprise to allow the party to have adequate time to deal with the claim against it. See the case of **Udoeka v. Isikoboo (2013) 1 WRN 130 AT 144**

It is not in dispute that this is a suit against the Respondent and the Applicant from the records before the court failed to serve the pre-action notice as required by the provision of the Section 21 of the Legislative House (Powers & Privileges) Act. By the above, it will seem too easy to come to a conclusion that the Applicant failed in fulfilling the condition precedent in

order commencing this action and thereby robbing the court of the jurisdiction to entertain the suit as it is presently constituted. But before I decide whether to hold this view or not, it is instructive that Sections 1(1) and 20 of the Freedom of Information Act, 2011 are carefully examined once more. The sections 1(1) and 20 states:

1. *(1) Notwithstanding anything contained in any other Act, law or regulation, the right of any person to access or request information, whether or not contained in any written form, which is in the custody or possession of any public official, agency or institution howsoever described, is established.*

20. *Any applicant who has been denied access to information, or a part thereof, may apply to the Court for a review of the matter within 30 days after the public institution denies or is deemed to have denied the application, or within such further time as the Court may either before or after the expiration of the 30 days fix or allow.*

Section 1 of the Freedom of Information Act, 2011 began with the phrase *"Notwithstanding anything contained in any other Act, Law or regulation..".* The Apex court of the land in the case of **OBI v. INEC & ORS (2007) LPELR-24347 (SC)** while interpreting the word "Notwithstanding" had this to say:

> *"The word "NOTWITHSTANDING" was judicially considered by this court in NDIC v. Okem Ltd. & Anor (2004) 4 SC (Pt. II) 77; (2004) 10 NWLR (Pt. 880) 107 when at pages 182/183 it*

reasoned thus:...When the term 'notwithstanding' is used in a section of a statute it is meant to exclude an impinging or impending effect of any other provision of the statute or other subordinate legislation so that the said section may fulfill itself.

The word "Notwithstanding" as used could only mean that the operation of the provisions of the Freedom of Information Act, 2011 shall be to the exclusion of any other Act, Law or Regulations. It therefore means that any Act, Law or Regulations that seeks to impinge the strict operations of the Freedom of Information Act shall not stand especially when the party before the court is seeking to enforce his or her right to access or request information whether or not in any written form as provided for in the Freedom of Information Act, 2011.

It must be stated the law makers never intend to make any law that will be unreasonable. This in my view is premised on Section 4(2)of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) which gave the National Assembly the power to make laws for the peace, order and good government of the Federation or any part thereof. Therefore, it will be unreasonable for the National Assembly to make any law that seeks bore inconvenient result or create disorderliness to the government of the Federation or any part thereof. In the instant case, the implementation of the provisions of Section 21 of the Legislative House (Powers & Privileges) Act will not only create an unreasonable result and disorderliness in the enforcement of the right to access information but will be a total negation of the intent and purpose of the Freedom of Information Act, 2011.

More so, the law is trite that where there is a specific law and a general law as rightly submitted counsel to the Applicant, the former will prevail over the latter. This was aptly stated in the case of **Ibru-Stankov v. Stankov (2016) LPELR-40981 (CA)** where the court held that:

> *"The law is trite that where there are two enactments on a matter one making general provisions and the other making specific provisions, the specific provisions shall prevail"*

In the instant case, the Applicant seeks to enforce his right to access or request information from the Respondent, a public institution within the contemplation of the provisions of the Freedom of Information, Act specifically. Whereas, Section 21 of the Legislative House (Powers & Privileges) Act a general legislation was made to deal with all kinds of suit. It is therefore the law that the provisions of the Freedom of Information Act, 2011 will prevail over the Section 21 of the Legislative House (Powers & Privileges) Act with respect to the subject matter of this suit.

I need to state that if the argument of the learned counsel of the Respondent is anything to go by, it will mean that the Applicant will have an unenforceable cause of action by the time he complies with the provision of Section 21 of the Legislative House (Powers & Privileges) Act that provides of three months pre-action notice before commencing an action against the Respondent. This position is irrespective of the right to seek extension of time to enforce the right to access or request information.

In circumstance, I am of the humble view and I so hold that the argument of the Respondent's counsel on this issue is hereby discountenance.

It is also the argument of counsel to the Respondent that the present suit was outside the 30 days period allowed by the provisions of the FOI Act. It is not in doubt that Section 20 of the FOI Act provides that where an applicant has been denied access to information or deemed to have been denied the information may apply to the court within 30 days or such further time as the court may extend to review the action of the said public institution.

In the instant case, the Applicant via an application brought by motion ex parte applied for judicial review of the Respondent's action as well as an order of the court extending time within which to apply for judicial review. This court on the 23rd March, 2022 examined the application and granted the order for judicial review as well as extended the time within which the Applicant can apply for judicial review of the Respondent's action within seven days.

On the 28th March, 2022, the Applicant filed a Motion on Notice seeking a judicial review of the Respondent's action after the extended time granted by the court, and a careful examination of the time when the order of court was made and the time when the Applicant filed the Motion on Notice, it is quite obvious that the said Motion on Notice was filed within the time allowed by the court.

Consequently, this issue also resolved as against the Resolution in view of the application for extension of time granted by the court. I so hold

Now to the substance of this application. The Applicant in the instant case had sought from the Respondent via its letter dated 17th December, 2021 the following information, to wit:

a. *The proposal, assessment, and procedure employed by the National Assembly and the Federal Capital Development Authority (FCDA) in arriving at the initially reported N37billion for renovation of the National Assembly Complex.*

b. *The actual amount approved and allocated for the renovation of the National Assembly Complex as at the time of the request: and*

c. *The amount already disbursed for the renovation of the National Assembly Complex as at the time of this request;*

It must be noted that the FOI Act affects everyone, every issue and every aspect of daily life. The Freedom of Information is the foundation for open system of governance in Nigeria. It is important to the healthy functioning of our society and would directly impact the quality of life of people residing in Nigeria. It would foster an open and participatory system of governance where the government, public and private institutions contribute to and benefit from healthier, more transparent collaborative governance. Therefore, the Freedom of Information Act, 2011 was enacted clearly with the intention of making public records and information freely available to any member of the interested public. This no doubt is to expose public institutions to openness and accountability in respect of their basic dealings and decisions on issues of interest to the public. The Act in an ambitious manner prescribes in Section 1(2) and (3) that any person entitled to the right to information under this Act, irrespective of his specific interest in the information being applied for shall have the right to institute proceedings in

the Court to compel any public institution to comply with the provisions of the Act. **Section 1(2) and (3) of the FOI Act** states:

> *"(2) An applicant under this Act needs not demonstrate any specific interest in the information being applied for.*
>
> *(3) Any person entitled to the right to information under this Act, shall have the right to institute proceedings in the Court to compel any public institution to comply with the provisions of this Act."*

However, the above conferred right is not absolute owing to the fact that there are certain information that are exempted from disclosure. In other words, where an Applicant demands from a public institution information that are exempted from disclosure, the Applicant's right cannot be said to have been violated. Some of the sections that give any public institution the right to deny an Applicant to right to information are found in Sections 11, 12, 13, 15, 16, 17 and 19 of the FOI Act. In the instant case, the Respondent relied did not relied on any of the provisions exempting it from disclosing the information sought but stated in paragraph 14 of its Counter Affidavit that the purported proposed renovation of the National Assembly is exclusively the responsibility of the Federal Capital Development Authority.

I have carefully examined the records, and there is absolutely nothing before this court that shows that the proposed renovation of the Respondent is exclusively the responsibility of the Federal Capital Development Authority for which the Applicant is aware. More so, the reason for denying the

information sought is not one contemplated among the Sections 11, 12, 13, 15, 16, 17 and 19 of the FOI Act.

The information sought by the Applicant from the Respondent as evidence in HEDA 1 cannot be denied. The reason is not farfetched. The Applicant is only asking for the proposal, assessment, and procedure employed by the National Assembly and the Federal Capital Development Authority (FCDA) in arriving at the initially reported N37billion for renovation of the National Assembly Complex, the actual amount approved and allocated for the renovation of the National Assembly Complex as at the time of the request and, the amount already disbursed for the renovation of the National Assembly Complex as at the time of this request.

In my humble view, the information sought are the most simplest and harmless information that an Applicant is expected to get from a public institution like the Respondent. Where an institution like the Respondent denies or is deemed to have denied an Applicant the instant information sought, it will not only defeat the very purpose of the Act but encourage corruption and financial recklessness. The Respondent has no valid reason to deny the Applicant the information in line with the FOI Act.

In view of the above analysis of the present suit as constituted and in line with the provisions of Section 25 of the FOI Act which gives the court the power to order the public institution to disclosure the information on the ground that it was not authorized to deny the application for the information as well as on the ground that the public interest will be served if the

information is disclosed, this court finds merit in the present suit and accordingly make this order:

An Order of Mandamus is hereby made compelling the Respondent to supply the information requested by the Applicant as contained in the Applicant's Request dated 17/12/2021 marked as Exhibit HEDA 1, to wit:

a. *The proposal, assessment, and procedure employed by the National Assembly and the Federal Capital Development Authority (FCDA) in arriving at the initially reported N37billion for renovation of the National Assembly Complex.*
b. *The actual amount approved and allocated for the renovation of the National Assembly Complex as at the time of the request: and*
c. *The amount already disbursed for the renovation of the National Assembly Complex as at the time of this request;*

This is the judgment of the court.

HON. JUSTICE EMEKA NWITE

JUDGE

9/07/2025

COUNSEL'S REPRESENTATION:

SAIDU MUHAMMAD LAWAL ESQ., MOHAMMAD MUJAHID MOHAMMAD ESQ, ABDULRAZAK ABDULGANIYU ESQ, JOSHUA

IFEANYI ONUEKWUSI ESQ, PAUL ADEDAPO ADEWUYO ESQ, LABIRU AHMED ESQ ABDULRAHMAN UWAIS ESQ AND C.B. YAKUBU ESQ FOR THE APPLICANT

CHARLES YOILA ESQ AND SELMAN F. DASHE FOR THE RESPONDENT