

IN THE HIGH COURT OF RIVER STATE
IN THE PORT HARCOURT JUDICIAL DIVISION
HOLDEN AT PORT HARCOURT

SUIT NO. PHC/3193/2018

BETWEEN:

SIR (DR.) PETER ODILI (CON) -----

CLAIMANT

AND

1. CHIDI ODINKALU
2. AYISHA OSORI

}

DEFENDANTS

AFFIDAVIT IN VERIFICATION OF PROCEEDINGS IN COURT

I, **I.C OPI ESQ.**, Male, Christian, Nigerian Citizen of No. 4 Iriebe Street, D/Line, Port Harcourt, do hereby make Oath and state as follows:-

1. That I am the lead Counsel in the above named suit. Therefore I am conversant with the facts of the matter.
2. That I have the consent of the Defendants to depose to this affidavit.
3. That the subject matter of this action is a book titled “**Too Good to Die – Third Term And The Myth of The Indispensable Man in Africa**” which was published in 2018 by the Defendants.
4. That the Claimant brought the above action for Defamation. The Claimant also filed applications for interim and interlocutory injunctions restraining the Defendants from further publication of the book.
5. That in the Supporting Affidavit, the only ground for the application for both the interim injunction and interlocutory injunction was that the Defendants attended a **Dialogue Session** organized by the **Abuja Global Shapers** in Abuja on **14/11/2018** after being served with the Originating Process in this matter. The Claimant alleged that at the Dialogue Session the subject book was discussed concerning his person, further deepening his claim of defamation.
6. That the fact, which is also contained in the records of the Honourable Court is that the Defendants were actually served with the Originating Process by substituted service on **29/11/2018**, whereas the Abuja Dialogue Session was held on **14/11/2018**, a period of 15 days before the service of the Process on the Defendants.
7. That surprisingly the Honourable Court granted the interim injunction, notwithstanding the fact that the Defendants were IN FACT served with the Originating Process on **29/11/2018**, a period of 15 days after the alleged Abuja Dialogue Session.
8. That the subject book is of 298 pages and contains several issues on Nigeria and Nigerian politics including political developments across the African Continent. At the event, there was no mention whatsoever about the Claimant.

9. That the Defendants are not members of the Abuja Global Shapers and therefore were not involved in the organization of the Dialogue Session. They were only invited as guests by the organizers of the event.
10. That on **04/02/2019**, after the court delivered its ruling striking out the Defendants' Motion For Preliminary Objection, the court urged parties to continue with other pending applications before it.
11. That on that same date, I, as the Defendants' lead counsel, applied for an adjournment on the hearing of the Interlocutory application by the Claimant [following the interim injunction granted in the Claimant's favour by the Honourable Court]. My application for adjournment was on health ground as I was under medication.
12. That Claimant's Counsel opposed the application for adjournment and the court declined the grant of the application. I was therefore forced to proceed with the matter.
13. That during the hearing of the said Interlocutory application for injunction by the Claimant [following the grant of Claimant's interim injunction] the learned Counsel for the Claimant was given ample time and opportunity by the court to conclude his submissions. On the other hand, while I was still on my feet making submissions I was interrupted by the Court thus:-

Court: "Counsel, when did you say you will file your Statement of Defence?"

Counsel: "In Seven days' time, my Lord."

Court: "This court will adjourn to the 27th day of February, 2019 for ruling on the interlocutory Injunction."

The Honourable Court therefore ended my submissions abruptly and adjourned the matter.

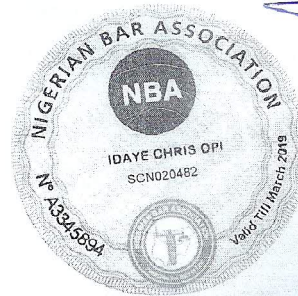
14. That the submission I was making before I was shut out by the Honourable Court was not contained in my Written Address.
15. That before I was unceremoniously shut out by the court, I was at the verge of raising a point of law, such as the relevance of the plea or defence of justification in the substantive matter in relation to the interlocutory application for injunction. The plea of justification is contained in **paragraph 4(m) of the Defendants Further And Better Affidavit in Opposition to the Interlocutory application for injunction, dated 08/01/2019, thus:-**

paragraph 4(m) "That the Defendants' major defence is justification."

16. That it is trite law that the Defence of justification whether contained in the Statement of Defence or on Oath [where the Statement of Defence has not been filed] is very crucial to the Defendants' case in the interlocutory application. See **Gatley on Libel and Slander, 8th Edition, 1987, page 641.**

17. That by cutting short counsel's submission on the interlocutory application, the Honourable Court is in denial of fair hearing to the Defendants. The presence of paragraph 4(m) on the defence of justification in the Defendants' Further And Better Affidavit dated and filed on 08/01/2019, which was **NEVER** referred to by counsel in his submissions on that day is clear proof that counsel was indeed shut out and denied fair hearing by the Honourable Court.
18. That **Order 31 Rule 4 of the High Court (Civil Procedure) Rules, 2010**, allows both Counsel not more than 20 minutes each to further adumbrate on issues after adopting their Written Addresses, which I was doing before I was shut out by the Court.
19. That while addressing the court I was still within the stipulated time allowed by the Rules of Court before I was shut out.
20. That by reason of above premises, the Defendants filed a motion before the Honourable Court urging the court to recuse from the proceedings and refer the case file back to the Honourable the Chief Judge for transfer to another judge.
21. That expectedly, the court struck out the application urging it to recuse from the proceedings. The Court on same date gave its ruling on the interlocutory application and granted the Claimant's application, notwithstanding the denial of fair hearing to the Defendants during proceedings.
22. That in granting the interlocutory application, the Honourable court abandoned the ground for the grant of the interim injunction being that the Defendants attended a Dialogue Session in Abuja after they were served with the Originating Process. The court rather relied on other facts contained in the Claimant's Further Affidavit as to the purchase of the book online (while proceedings were pending), **for which no legal submissions whatsoever was made by counsel to the Claimant**. This decision by the court represents a clear acknowledgement by the court of the fact that as contained in its own record, the Defendants were indeed served with the Originating Process after the Abuja Dialogue Session and not before, contrary to the position contained in the interim order of injunction.
23. That on **27/06/2019**, I sent a letter of adjournment to the Court, wherein I explained that I had two different matters at the Federal High Court, Lagos, which were adjourned as far back as **April 2019**. I also stated the names, titles and Suit numbers of the cases at the Federal High Court, Lagos, urging the court for a short adjournment as the date of **27th June, 2019** was a date recently imposed on the Defendants by the Honourable Court. Attached herewith as **Exhibit "A"** is a copy of the letter of adjournment dated 27/06/2019.
24. That at the court, the male Registrar refused to accept the letter for adjournment on the ground that he was "**under instruction not to accept any letter from counsel to the Defendants.**"
25. That on the said 27/06/2019, the court saw a copy of the same letter served on learned Senior Counsel for the Claimant. The Court awarded **₦50,000 (Fifty Thousand Naira)** cost against the Defendants and went ahead with the proceedings for the day in the absence of the Defendants and their counsel.

26. That on 17/07/2019 I informed the court that the clerk rejected a letter I sent to the court, stating he was under instructions not to receive letters from the Defendants' counsel. I further reminded the court of what had transpired in the proceedings against the interest of my clients. On same 17/07/2019 I informed the court of my decision to withdraw from further proceedings in the matter as I felt quite incompetent to continue in the proceedings before his Lordship.
27. That the Honourable Court duly inquired from the clerk of court the veracity of the allegation by counsel that the clerk of court rejected the letter he sent to the court. And the court in fact confirmed that counsel's letter was indeed rejected by the clerk. However the court denied that it directed the clerk of court against accepting the letter from counsel to the Defendants. Accordingly the court excused counsel for the Defendants from the proceedings as requested and adjourned the matter for continuation.
28. That since then the matter has been going on without the Defendants and their Counsel.
29. That I make this affidavit bona fide and in accordance with the Oath's Act.



[Handwritten Signature]

DEPONENT
 08033126225
 idayeopi@gmail.com

Sworn To At The High Court Registry,
 Port Harcourt,
 This 7th Day of Oct' 2019

5059716
THE JUDICIARY
HIGH COURT, REGISTRY
PORT HARCOURT
CASH OFFICE
 DATE: 7/10/2019

BEFORE ME
[Handwritten Signature]
G.A. NKWOR

COMMISSIONER FOR OATH

OPI, OPIA & ASSOCIATES

(Legal Practitioners)

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F.C.T Abuja.
Tel No. 08062749857

27th June, 2019.

Director (lit)
The Registrar,
High Court 20,
Rivers State,
Port Harcourt.

Registrar Ct 20
Also treat
27/06/19

Dear Sir,

LETTER OF ADJOURNMENT
(SUIT NO. PHC/3193/2018 SIR (DR.) PETER ODILI AND CHIDI ODINKALU & ANOR)

We are counsel to the Defendants in the above named suit, which comes up in this Honourable Court on the Thursday, 27th June, 2019.

We write to inform you that our I.C Opi, Esq. who is seised of the facts of this case and has been handling same personally, cannot attend court today.

On 17/06/2019, when this matter came up, the Counsel wrote an adjournment letter that he was indisposed on the grounds of ill health, and suggested the following dates of adjournment, 15th and 17th July, 2019, however, the court adjourned the matter to 27th June, 2019.

We regret to inform this Honourable Court that our I. C. Opi Esq., already has two matters on 27th July, 2019, before Hon. Justice Saidu of the Federal High Court 3, Lagos, which were adjourned since April, 2019. The suit Nos. of the mattes before the said FHC 3 are (FHC/LAG/CS/899/2018 - Petropride Subsea Limited Vs. I.G.P. and FHC/LAG/CS/1856/2015 - Petropride Subsea Limited Vs. Africa Diving Services).

Under the circumstance and subject to the convenience of this Honourable Court, we humbly suggest the following date earlier suggested; 17th July, 2019 for adjournment. We sincerely regret the inconveniences.

Please bring this application to the knowledge of His Lordship and Counsel on the other side. We had earlier sent this letter to Counsel on the other side.

Kindest regards.

For: Opi, Opia & Associates.

Daniel Sunday
27/06/2019

DANIEL SUNDAY
(Litigation Secretary)

APPLICATION - 1500
01231049
THE JUDICIARY
HIGH COURT REGISTRY
PORT HARCOURT
CASH OFFICE
22/6/19

PARTNERS
Idaye C. Opi Esq.
Owupete Philemon Esq.