

IN THE HIGH COURT OF JUSTICE: DELTA STATE OF NIGERIA
IN THE EFFURUN JUDICIAL DIVISION
HOLDEN AT EFFURUN

SUIT NO.

BETWEEN

1. **JOHN AIKPOKPO-MARTINS**
2. **FUNMI ADEOGUN**

}

CLAIMANTS

(For themselves and on behalf of the members
Of the Executive Committee of the Nigerian Bar
Association Section on Public Interest and
Development Law (NBA-SPIDEL)

AND

1. **YAKUBU C. MAIKYAU, OON, SAN.**
(President, Nigerian Bar Association)
2. **ADESINA ADEGBITE**
(General-Secretary, Nigerian Bar Association)
(For themselves and as representing the members of the
National Executive Council of the Nigerian Bar Association
Excluding the claimants.)
3. **THE INCORPORATED TRUSTEES OF
THE NIGERIAN BAR ASSOCIATION**

}

DEFENDANTS

ORIGINATING SUMMONS

In The matter for the judicial determination of the constitutionality/validity of certain unconstitutional actions of the 1st and 2nd defendants in gross violation of the constitution of the 3rd defendant.

Dated this day of March, 2024

(Claimants' Counsel)

I. C. E. Okugbo, Esq.
George Nwabunike, Esq.
Felix Akpowowo, Esq.
Maxwell Opara, Esq.
Inibehe Effiong, Esq.
Mohammed Danjuma, Esq.
Izu Aniagu, Esq.
U. O. Udoh, Esq.(signed)

C/o Apex Jural Legal Practitioners
10, Ebrumede Police Station,
Effurun-Warri, Delta
State.
08068446506

FOR SERVICE ON DEFENDANTS.

The NBA House,
Muhammadu Buhari Way,
Central Business Area
Abuja, FCT.

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DEFENDANTS

ORIGINATING SUMMONS

LET THE DEFENDANTS within 30 days after the service of this summons on them inclusive of the day of such service cause an appearance to be entered for them to this summons on the application of the claimants for the determination of the following questions:

1. Whether by the provisions of the constitution of the Nigerian Bar Association (the 3rd defendant) , and the uniform byelaws for sections of the Nigerian Bar Association, the executive committees of sections of the Nigerian Bar Association are elected by the members of the various sections?
2. Whether by the provisions of the constitution of the Nigerian Bar Association (3rd defendant) and its byelaw for Sections, the National Executive Council of the Nigerian Bar Association has the power, duty or responsibility to dissolve an elected executive committee of a section of the Nigerian Bar Association.

3. Whether in the light of the Notice of Motion dated the 26th day of February, 2024, the 1st defendant had not breached the principle of natural justice to wit: NemoJudex In CasuaSua

AND THE CLAIMANTS CLAIM AGAINST THE DEFENDANTS JOINTLY AND/OR SEVERALLY AS FOLLOWS:

1. A declaration that by the provisions of the constitution of the 3rd defendant, and the uniform byelaws for sections of the 3rd defendant, the Claimants (the executive committee of the Section on Public Interest and Development Law (NBA-SPIDEL)) were elected into office by the members of the Section on Public Interest and Development Law of the 3rd defendant for a term certain of 2 years.
2. A declaration that by the provisions of the constitution of the 3rd defendant and its byelaw for Sections, the National Executive Council of the Nigerian Bar Association lacks the power to remove the claimants from office as the elected executive committee of the Nigerian Bar Association Section on Public Interest and Development Law and/or the power to dissolve the Executive Committee of the Nigerian Bar Association Section on Public Interest and Development Law.
3. A declaration that the purported dissolution of the elected Executive Committee of the Nigerian Bar Association Section on Public Interest and Development Law is unlawful, ultra vires the powers of the 1st and 2nd defendants and is therefore null and void abinitio and of no effect however.
4. A declaration that the act of the 1st defendant in presiding over the dispute between himself and the claimants at the 3rd defendant's, National Executive meeting in Jos on the 29th of February, 2024 amounts to an abuse of office and power and therefore very reprehensible and unbecoming of the holder of the office of the President of the 3rd defendant.
5. An order setting aside the purported dissolution of the Executive Committee of the Nigerian Bar Association Section on Public Interest and Development Law by the 1st and 2nd defendants made on the 29th day of February, 2024 same being unconstitutional, null and void ab initio and of no effect whatsoever.

6. An order directing the 1st defendant to pay the sum of N10,000,000 to the claimants as exemplary and general damages for the embarrassment caused them by his unconstitutional action.
7. An order directing the 1st defendant to publish on a full page of two (2) national daily newspapers a letter of apology to the claimants for the embarrassment caused them by his actions.
8. An order of perpetual injunction restraining the 1st and 3rd defendants either by themselves and/or through their agents, officers etc. from further interfering with the tenure of office of the claimants as the Executive Committee of the Nigerian Bar Association Section on Public Interest and Development Law.

ALTERNATIVELY

9. A declaration that the failure of the defendants to recuse the 1st defendant from presiding over the dispute between himself and the claimants at the Nigerian Bar Association National Executive Council Meeting held on the 29th day of February, 2024 in Jos amounts to a violent breach of the fundamental right of the claimants to fair hearing as guaranteed under the constitution of the Federal Republic of Nigeria and/or runs violently contrary to the principle of natural justice to wit: nemo iudex in casu suo.
10. AN ORDER setting aside the purported dissolution of the Executive Committee of the Nigerian Bar Association Section on Public Interest and Development Law by the 1st and 2nd defendants made on the 29th day of February, 2024 same being null and void ab initio and of no effect whatsoever for breaching the claimants' right to fair hearing as guaranteed under the constitution of the Federal Republic of Nigeria.
11. An order directing the 1st defendant to pay the sum of N10,000,000 to the claimants as exemplary and general damages for the embarrassment caused them by the breach of their fundamental right to fair hearing by the 1st and 2nd defendants.
12. An order directing the 1st defendant to publish on a full page of two (2) national daily newspapers a letter of apology to the claimants for the embarrassment caused them by his unconstitutional actions.

THIS SUMMONS was taken by the claimants of No. 60, Airport Road, Warri, this _____ day of March, 2024

(Claimants' Counsel)

I. C. E. Okugbo, Esq.
George Nwabunike, Esq.
Felix Akpowowo, Esq.
Maxwell Opara, Esq.
Inibehe Effiong, Esq.
Mohammed Danjuma, Esq.
Izu Aniagu, Esq.
U. O. Udoh, Esq.(signed)

C/o Apex Jural Legal Practitioners

10, Ebrumede Police Station,
Effurun-Warri, Delta
State.

08068446506

The Defendants may appear hereto by entering appearance personally or by legal practitioner either by handing in the appropriate forms duly completed, at the High Court Registry, or by sending them to that office by post.

Note:

If the Defendants do not enter appearance within the time and at the place above mentioned, such orders will be made and proceedings may be taken as the Judge may think just and expedient.

Dated this day of 2024.

REGISTRAR

FOR SERVICE ON DEFENDANTS.

The NBA House,
MuhammaduBuhari Way,
Central Business Area
Abuja, FCT

THIS ORIGINATING SUMMONS IS TO BE SERVED OUT OF DELTA STATE OF NIGERIA AND IN THE FEDERAL CAPITAL TERRITORY, (ABUJA.)

IN THE HIGH COURT OF JUSTICE: DELTA STATE OF NIGERIA
IN THE EFFURUN JUDICIAL DIVISION
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BETWEEN

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2. FUNMI ADEOGUN

(For themselves and on behalf of the members
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CLAIMANTS

AND

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(For themselves and as representing the members of the
National Executive Council of the Nigerian Bar Association
Excluding the claimants.)

**3. THE INCORPORATED TRUSTEES OF
THE NIGERIAN BAR ASSOCIATION**

}

DEFENDANTS

AFFIDAVIT IN SUPPORT OF ORIGINATING SUMMONS

I, John Aikpokpo-Martins, male, Christian, Nigerian, legal practitioner of No. 60, Airport Road, Warri, Warri-South Local Government Area of Delta Stated hereby make oath and states thus:

1. That I am the 1st Claimant in this suit by virtue of which I am very conversant with the facts of this suit. I have the authority of the 2nd claimant and indeed of the entire Executive Committee of the Nigerian Bar Association Section on Public Interest and Development Law (hereinafter simply referred to as NBA-SPIDEL) to depose to this affidavit.
2. That I am the Chairman of NBA-SPIDEL as well as being the immediate past 1st Vice President of the Nigerian Bar Association (hereinafter simply referred to as NBA), a member of the General Council of the Bar and currently a member of the National Executive Council of the NBA.

3. That the 2nd claimant is the Secretary, NBA-SPIDEL as well as being the immediate past Vice-Chairman of NBA Epe Branch and a member of the National Executive Council of the NBA (NBA-NEC).
4. That the Executive Committee of NBA-SPIDEL is made up of senior lawyers, past National Officers of the defendants, past chairmen, vice chairmen, and secretaries of branches of the 3rd defendant and other well accomplished lawyers.
5. That the NBA-SPIDEL is a voluntary assemblage of members of the NBA with the passion for public interest matters and one of the three Sections of the NBA devoted to the promotion, defence and advancement of the rule of law and public interest. It has a membership spread in all the branches of the Nigerian Bar Association all over the country running into thousands.
6. That the 1st defendant is the President of the Nigerian Bar Association whose duties, powers and responsibilities are as provided and limited by the constitution of the 3rd defendant in general and the byelaw for Sections of the Association in particular with respect to the cause of action in this suit. The 1st defendant is sued as the president of the NBA and also for and on behalf of the members of the National Executive Council of the NBA (NBA-NEC) as its presiding officer.
7. That the 2nd Defendant is the General Secretary of the NBA and is sued only as representing members of NBA-NEC as its secretary.
8. The National Executive Council of the NBA is a body provided for under the constitution of the NBA with specific powers and duties and none of these powers, duties or responsibilities include the appointment or election of the claimants or the suspension and/or dissolution of the claimant, or the removal from office of the claimants.
9. The NBA is divided into 3 sections, i.e. the Section on Legal Practice (SLP), Section on Business Law (SBL) and Section on Public Interest and Development Law (SPIDEL). The constitution mandates that a member of the NBA must belong to a Section.
10. That membership of sections of the NBA and in this instance, the membership of NBA-SPIDEL is solely voluntary and determined by the payment of annual dues of the Section by members to NBA-SPIDEL designated account for that particular year.

11. The Sections including NBA-SPIDEL are generally guided by the NBA Constitution and particularly guided by the byelaws for Sections which is a schedule of the constitution of the NBA. **The NBA constitution is hereby attached and marked as exhibit SPIDEL 1.**
12. That assumption to the membership of the Executive Council of NBA-SPIDEL is by election of all members voting and by co-option in accordance with the provisions of the byelaws of the NBA sections.
13. That the claimants were elected on the June, 2023 for a 2 year term certain to expire in June, 2025.
14. That the 1st defendant is not a member of NBA-SPIDEL. And only a handful of the members of NBA NEC are members of NBA-SPIDEL.
15. That on the 1st of February, 2024, myself like the rest of the other members of NBA-SPIDEL were astonished to see News blogs publish a letter dated the 31st of January, 2024 from the 1st defendant to NBA-SPIDEL that he has suspended the activities of NBA-SPIDEL, on the ground that NBA-SPIDEL failed to take prior approvals from him before undertaking its activities. The 1st defendant though agreed that the activities of NBA-SPIDEL were lawful and in order, but that no approval was sought and given by him before those activities were undertaken by NBA-SPIDEL. The said letter was widely circulated in social media, and newspapers in Nigeria.
16. That due to the implication of the said letter, the claimants summoned an extraordinary general meeting of the members of NBA-SPIDEL which held on Sunday, the 4th of February, 2024.
17. That as chairman, NBA-SPIDEL, I presided over the said extraordinary general meeting in which the letter referred to was extensively discussed. The NBA-SPIDEL general meeting resolved that the 1st defendant lacks the power to interfere in the activities of NBA-SPIDEL and/or suspend same, therefore NBA-SPIDEL should disregard same. The extraordinary general meeting also directed me as chairman NBA-SPIDEL to respond to the letter of the 1st defendant. Therefore, I responded to the 1st defendant's letter on the 9th of February, on behalf of NBA-SPIDEL.
18. That the 1st defendant then fixed the quarterly meeting of the NBA-NEC for Jos, Plateau State for the 29th of February, 2024.
19. That before the said meeting in Jos, that I am aware that a member of NBA-SPIDEL went to court vide **Suit No. HOR/13/2024: Godfrey Echeho**

V Y. C. Maikyau, SAN & 2 Ors to challenge the legality of the 1st defendant purporting to suspend the activities of NBA-SPIDEL. The processes in the said cases were served on the defendants.

20. That I am aware that the Delta State High Court, sitting at Orerokpe made an order giving the respondents in that case, who are also the respondent in this case to come to court to show cause why the interlocutory orders sought should not be granted.
21. That, also, the claimants realized that a fundamental dispute between the 1st defendant and the claimants has arisen at that point. The claimants therefore wrote to the NBA-NEC through the 2nd defendant seeking for a resolution of the dispute vide internal conflict resolution mechanism of the 3rd defendant.
22. That thereafter, the claimants also forwarded to NBA-NEC through the 2nd defendant a notice of motion seeking the NBA-NEC to recuse the 1st defendant from presiding over the matters of the dispute between the 1st defendant and the claimants at the NBA NEC meeting fixed for Jos, for the 29th of February, 2024. The notice of motion is hereby attached and marked as exhibit SPIDEL 2. The said notice of motion includes the letters hereinbefore referred to above.
23. That at the NBA-NEC meeting held in Jos, on the 29th of February, 2024, the 1st defendant presided over the NBA-NEC without recusing himself and NBA-NEC allowed him to preside over the matter of the dispute between himself and the claimants in total disregard on the notice of motion to recuse the 1st defendant from presiding. The request to activate the dispute resolution mechanism of the 3rd defendant was also disregarded in utter contempt.
24. That I was present in the meeting to represent the claimants and witnessed everything that happened at the meeting.
25. That at the meeting, the 2nd defendant informed NBA-NEC of the receipt of the letters mentioned above and of exhibit SPIDEL 2. The 2nd defendant also informed the NEC meeting of the service of the court processes in **Suit No. HOR/13/2024: Godfrey Echeho vs. Y. C. Maikyau, SAN & 2 Ors** mentioned above on him.
26. However, the 1st defendant discountenanced the fact of the pendency of **Suit No. HOR/13/2024: Godfrey Echeho V Y. C. Maikyau, SAN & 2 Ors** and exhibit SPIDEL 2 and proceeded to preside over the matters in

dispute. In the course of the proceedings in the meeting, the 2nd defendant drew the attention of the NEC to the pendency of the said **Suit No. HOR/13/2024: Godfrey Echeho V Y. C. Maikyau, SAN & 2 Ors**, but the 1st defendant shouted down the 2nd defendant.

27. That not only did the 1st defendant preside over the matters, he failed to avail the 1st claimant the opportunity to defend himself and the other claimants from the accusations being leveled by the 1st defendant against them.
28. Thereafter, the 1st defendant caused the NBA-NEC to take a decision purportedly dissolving the claimants as the Executive Committee of NBA-SPIDEL, and immediately thereafter purportedly appointed a caretaker committee made up of non-members of NBA SPIDEL.
29. That NBA-NEC lacks the power to purport to dissolve the executive committee of NBA-SPIDEL or to remove the claimants from office.
30. That the actions of the 1st and 2nd defendants, particularly of the 1st defendant has greatly embarrass the claimants and caused it serious loss of goodwill as same was published by the 1st defendant.
31. That the motto of the 3rd defendant is promoting the rule of law. The 1st defendant is the president of the 3rd defendant and therefore generally expected to obey the rule of law. However, his conduct has trampled on the rule of law abashedly and with so much gusto and bravado.
32. That the attempt to dissolve the Executive Committee of NBA-SPIDEL by the 1st and 2nd defendants will negatively impact on its interventions in the interest of the public. I place reliance on the cases instituted in court as shown in the letters of the 1st defendant and the response of NBA-SPIDEL vide exhibit SPIDEL 2.
33. That it is in the interest of justice and the sacred duty of this Honourable Court to uphold the provisions of the Constitution of the 3rd defendant by granting all the prayers sought in the summons.
34. That if the 1st defendant had obeyed the provisions of the 3rd defendant, the constitution of the Federal Republic of Nigeria and the rule of law, the claimants would not have gone this length to challenge his actions. The gross refusal of the 1st defendant to obey the provisions of the Constitutions aforementioned compelled the claimants to come to court and incurred incredibly high resources.

35. That I make this affidavit in good faith, bonafide and in accordance with the extant oaths law of Delta State.

DEPONENT

Sworn to at the Effurun High Court Registry,

This _____ day of March, 2024.

BEFORE ME

COMMISSIONER FOR OATHS

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AND

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National Executive Council of the Nigerian Bar Association
Excluding the claimants.)

- 3. THE INCORPORATED TRUSTEES OF
THE NIGERIAN BAR ASSOCIATION**

} **DEFENDANTS**

**WRITTEN ADDRESS OF THE CLAIMANTS IN SUPPORT OF THE
ORIGINATING SUMMONS**

1.00. INTRODUCTION

1.01. My Lord, claimant's Originating Summons is supported by an affidavit and this written address. We rely on all these processes in urging my lord to grant the application sought herein and as prayed.

1.02. The Claimants seek for the determination of the following questions:

- a. Whether by the provisions of the constitution of the Nigerian Bar Association (the 3rd defendant) , and the uniform byelaws for sections of the Nigerian Bar Association, the executive committees of sections of the Nigerian Bar Association are elected by the members of the various sections?
- b. Whether by the provisions of the constitution of the Nigerian Bar Association (3rd defendant) and its byelaw for Sections, the National

Executive Council of the Nigerian Bar Association has the power, duty or responsibility to dissolve an elected executive committee of a section of the Nigerian Bar Association.

- c. Whether in the light of the Notice of Motion dated the 26th day of February, 2024, the 1st defendant had not breached the principle of natural justice to wit: NemoJudex In CasuaSua

AND THE CLAIMANTS CLAIM AGAINST THE DEFENDANTS JOINTLY AND/OR SEVERALLY AS FOLLOWS:

- a. A declaration that by the provisions of the constitution of the 3rd defendant, and the uniform byelaws for sections of the 3rd defendant, the Claimants (the executive committee of the Section on Public Interest and Development Law (NBA-SPIDEL)) were elected into office by the members of the Section on Public Interest and Development Law of the 3rd defendant for a term certain of 2 years.
- b. A declaration that by the provisions of the constitution of the 3rd defendant and its byelaw for Sections, the National Executive Council of the Nigerian Bar Association lacks the power to remove the claimants from office as the elected executive committee of the Nigerian Bar Association Section on Public Interest and Development Law and/or the power to dissolve the Executive Committee of the Nigerian Bar Association Section on Public Interest and Development Law.
- c. A declaration that the purported dissolution of the elected Executive Committee of the Nigerian Bar Association Section on Public Interest and Development Law is unlawful, ultra vires the powers of the 1st and 2nd defendants and is therefore null and void abinito and of no effect however.
- d. A declaration that the act of the 1st defendant in presiding over the dispute between himself and the claimants at the 3rd defendant's, National Executive meeting in Jos on the 29th of February, 2024 amount to an abuse of office and power and therefore very reprehensible and unbecoming of the holder of the office of the President of the 3rd defendant.

- e. An order setting aside the purported dissolution of the Executive Committee of the Nigerian Bar Association Section on Public Interest and Development Law by the 1st and 2nd defendants made on the 29th day of February, 2024 same being unconstitutional, null and void ab initio and of no effect whatsoever.
- f. An order directing the 1st defendant to pay the sum of N10,000,000 to the claimants as exemplary and general damages for the embarrassment caused them by his unconstitutional action.
- g. An order directing the 1st defendant to publish on a full page of two (2) national daily newspapers a letter of apology to the claimants for the embarrassment caused them by his actions.
- h. An order of perpetual injunction restraining the 1st and 2nd defendants either by themselves and/or through their agents, officers etc. from further interfering with the tenure of office of the claimants as the Executive Committee of the Nigerian Bar Association Section on Public Interest and Development Law.

ALTERNATIVELY

- i. A declaration that the failure of the defendants to recuse the 1st defendant from presiding over the dispute between himself and the claimants at the Nigerian Bar Association National Executive Council Meeting held on the 29th day of February, 2024 in Jos amounts to a violent breach of the fundamental right of the claimants to fair hearing as guaranteed under the constitution of the Federal Republic of Nigeria and/or runs violently contrary to the principle of natural justice to wit: *nemo iudex in causa sua*.
- j. An order setting aside the purported dissolution of the Executive Committee of the Nigerian Bar Association Section on Public Interest and Development Law by the 1st and 2nd defendants made on the 29th day of February, 2024 same being null and void ab initio and of no effect whatsoever for breaching the claimants' right to fair hearing as guaranteed under the constitution of the Federal Republic of Nigeria.
- k. An order directing the 1st defendant to pay the sum of N10,000,000 to the claimants as exemplary and general damages for the embarrassment caused them by the breach of their fundamental right to fair hearing by the 1st and 2nd defendants.

- I. An order directing the 1st defendant to publish on a full page of two (2) national daily newspapers a letter of apology to the claimants for the embarrassment caused them by his unconstitutional actions.

1.03. This is the written argument of the Claimants in support of their case.

2.00. ISSUES FOR DETERMINATION:

2.01. My Lord the Claimants raise three (3) issues for determination by this Honourable Court to wit;

- a. Whether by the provisions of the constitution of the Nigerian Bar Association, and the uniform byelaws for sections of the Nigerian Bar Association, the executive committees of sections of the Nigerian Bar Association are elected by the members of the various sections?
- b. Whether by the provisions of the constitution of the Nigerian Bar Association and its byelaw for Sections, the National Executive Council of the Nigerian Bar Association has the power, duty or responsibility to dissolve an elected executive committee of a section of the Nigerian Bar Association.
- c. Whether in the light of the Notice of Motion dated the 26th day of February, 2024, the 1st defendant had not breached the principle of natural justice to wit: Nemo Judex in CasuaSua.

3.00 ARGUMENT ON THE ISSUES:

1. Whether by the provisions of the constitution of the Nigerian Bar Association, and the uniform byelaws for sections of the Nigerian Bar Association, the executive committees of sections of the Nigerian Bar Association are elected by the members of the various sections?

3.01. We humbly submit that the 1st issue for determination be resolved in the affirmative.

3.02. Section 17(1) and (3) of the Constitution of the Nigerian Bar Association provides for the establishment of Sections, including the Nigerian Bar Association Section on Public Interest and Development (NBA-SPIDEL)

and further states that the Uniform Bye-laws set out in Part II of the Third Schedule of the Constitution shall be applicable to every Section of the Association.

3.03. Furthermore, the Constitution of the Nigerian Bar Association(NBA)and the uniform bye-laws for the sections of the Nigerian Bar Association clearly provide election of the executive Committees of each of the sections by members of the sections.

3.04. Article XII, Part II of the 3rd Schedule of the uniform Bye-laws for the Sections of the Nigerian Bar Association provides on the Election of Officers of the Section thus;

- a) "the election of officers of the Section and other elected members of the Executive Committee of the Section shall take place at the Biennial General Meeting of the section in the manner herein set out.**
- b) The Executive Committee of the Section shall, not less than Ninety (90) days preceding the date of election, appoint an Electoral Committee consisting of three (3) or more members of the Section with the power and duties conferred upon it in this Article.**
- c) The Electoral Committee shall, not later than Sixty (60) days to the date of the election, invite nominations of candidates for the various offices and membership of the Executive Committee of the Section and shall publicize the provisions of this Bye-law relating to eligibility to contest and eligibility to vote and also issue election guidelines.**
- d) The Electoral Committee shall scrutinize all nominations to ensure that they comply with the provisions herein and shall notify candidates who fail to qualify of the reason (s) for their disqualification within seven (7) days of any decision to such effect; provided that such a disqualified candidate may apply to the Election Appeal Committee of the Section for a review of the decision of the Electoral Committee within seven (7) days of the decision whose decision should be final.**

- e) **Not less than Thirty (30) days prior to the election, the Electoral Committee shall cause a list of the candidates for election to various offices of the Section to be publicized by sending same by email to all members in good financial standing, or on the website or other electronic platform(s) of the Section.**
- f) **The Electoral Committee shall determine the mode and procedure for the conduct of the election and shall notify the members.**
- g) **The Electoral Committee shall not later than twenty-one (21) days before the date of election compile and publish the list of eligible voters by sending same by email to all members in good financial standing, or on the website or other electronic platform(s) of the Section.”**

3.05. A cursory look at the afore-listed provisions reveal that the members of the executive committee of each Section of the Nigerian Bar Association are voted by the members of the section. As such, the members of the executive committee NBA-SPIDEL, were lawfully elected into their offices on terms prescribed by the uniform Bye-laws of the Association.

3.06. In the light of the facts above, we humbly urge this Honourable Court to hold that executive committees of sections of the Nigerian Bar Association are elected by the members of the various sections.

2. Whether by the provisions of the constitution of the Nigerian Bar Association and its byelaw for Sections, the National Executive Council of the Nigerian Bar Association has the power, duty or responsibility to dissolve an elected executive committee of a section of the Nigerian Bar Association.

3.07. On whether by the provisions of the Constitution of the Nigerian Bar Association and the bye-law for Sections, the National Executive Council of the Nigerian Bar Association has the power, duty or responsibility to dissolve an elected executive committee of a section of the Nigerian Bar Association, we submit that the National Executive Council (NEC) lacks such powers.

3.08. The powers of the National Executive Council (NEC) are as vested on it by the Constitution of the Association. As such, anything done outside the

ambits of their constitutional powers are ultra vires, illegal, null and void ab initio. See the case of **EKANEM & ORS v. OBU (2010) LPELR-4084(CA) (Pp. 13 - 13 Paras D - E)** on the meaning of ultra vires;

"Ultra vires" means beyond or above the power conferred. "It is an act which is invalid since it has been done in excess of authority conferred by law, in excess of powers." See page 36 of Academic's legal Dictionary."

See also the case of **OBIAGELI v. FCE ZARIA & ORS (2014) LPELR-24010(CA) (Pp. 38 - 39 Paras C - A)** on the failure to follow laid down legal procedures;

"It is an undeniable fact that the Appellant was a senior staff of the 1st Respondent before her challenged dismissal therefore the Registrar has not as a matter of obligation possessed with the power to discipline the Appellant. The use of the word "shall" in the regulation, in my view connotes mandatoriness which indicates that the power only lies on the Provost (3rd Respondent). In University of Nigeria Teaching Hospital Management Board V Hope C. Nnoli (1994) NWLR (Pt. 363) 376 at 412, (1994) 10 SCNJ at 98-99 it was said that; "where a public body fails to comply with certain procedural safeguards in an enabling Act or regulation, there is a breach of a duty imposed on it, decision in such circumstances is ultra vires." Per Ogundare, J.S.C. In a nut shell, it follows therefore that the actions of the 4th Respondent of unilaterally in the issuance of queries, warning and suspension is ultra vires and contravened the 1st Respondent's condition of service. It amounts to an act of arbitrary use of power which must be quashed upon application."

3.09. We submit, that there is nowhere in the provisions of the NBA Constitution or the uniform Bye-laws for Sections that provides that the powers of the National Executive Council extends to the dissolution of the executive committee of any Section of the NBA. In that vein therefore and in accordance with the principle upheld in **OBIAGELI v. FCE ZARIA & ORS (2014) LPELR-24010(CA)(Pp. 38 - 39 Paras C - A)** above, the purported dissolution of the executive of NBA-SPIDEL and/or removal from office of the claimants is null and void, same being ultra vires the 1st and 2nd defendants.

3.10. The rules of interpretation provide that an interpretation of clear and unambiguous provisions of a law must be employed by the courts in the interpretation of statutes. See the case of **AKPOTI v. A. P. C. & ORS**

2020) LPELR-51192(CA) (Pp. 37 - 37 Paras A - D) where the Court of Appeal held thus on the interpretation of constitutional provisions;

"The proper approach to the interpretation of clear words of a statute is to follow them, in their simple, grammatical and ordinary meaning rather than look further because that is what prima facie gives them their reliable meaning. This is also generally true of constitutional provisions if they are clear and unambiguous even when it is necessary to give them a liberal or broad interpretation. See the cases of FAWEHINMI VS. INSPECTOR GENERAL OF POLICE (2002) FWLR (PT.108) 1355, (2002) 7 NWLR (PT. 767) 606; (2002) 5 SCNJ 103; AFRICAN NEWSPAPERS LTD VS. FEDERAL REPUBLIC OF NIGERIA (1985) 2 NWLR (PT.6) 137; SALAMI VS. CHAIRMAN L.E.D.B. (1989) 5 NWLR (PT.123) 539; OGBONNA VS. ATTORNEY-GENERAL, IMO STATE (1992) 1 NWLR (PT.220) 647."

3.11. For clarity, the provisions of section 8(6) of the NBA Constitution providing for the powers of the National Executive Council (NEC) are reproduced below. Section 8(6) of the Constitution of the Nigerian Bar Association (exhibit 1) provides that;

"(6) Subject to the provisions of the Legal Practitioners Act and other provisions of this Constitution, the National Executive Council shall have the power to;

- a. Exercise control and management over the finances of the Association including the Appointment of suitable Bankers for that purpose;**
- b) (b) Exercise the powers of the Association with respect to the appointment of the representatives to any Statutory, Executive/Judicial Commissions, or other bodies;**
- c) (c) Express the views of the Association upon any matters of public interest or upon any matters of general interest to the Legal Profession;**
- d) (d) Make all necessary arrangements for the Annual General Meeting through the National Secretariat of the Association;**
- e) (e) Cause the accounts of the Association to be audited annually by a professional firm of auditors, appointed by the Annual General Meeting;**

f) (f) Generally, exercise all the powers vested in the Association (except those powers reserved for an Annual General Meeting or Extraordinary General Meetings of the Association) so as to promote and carry out the aims and objectives of the Association as contained in this Constitution, and in particular, when the need arises, to apply for and receive donations on behalf of the Association; and

g) (g) Entertain petitions and complaints pertaining to disputes arising from the administration of Branches, and take such decisions or give such directives as may be necessary.

3.12. In the light of the provisions of section 8 (6) of the NBA Constitution, we wish to reiterate the indelible fact, that the Constitution of the Nigeria Bar Association does not grant the power, duty or responsibility to dissolve the elected executive committee of any Section of the Association to the National Executive Council.

3.13. The position of the law is that the express mention of a thing is the exclusion of others. **See the case of MATAHOR & ANOR v. IBARAKUNYE (2017) LPELR-43346(CA)** where the Court of Appeal, Per Mudashiru Nasiru Oniyangi, JCA (Pp. 28 - 28 Paras A - F) on how principle of expression uniusest exclusion alterius is applied in construction of statute, held thus;

"...My careful reading of the foregoing exposes the fact that no provision is made for substituted service by pasting under or. 7 Rule 5 of the High Court of Delta State (Civil Procedure) Rules 2009. I then start to wonder where the Court got the authority to order substituted service by pasting at the residence of the 1st Appellant. The order to say a little ultra vires the provision of Order 7 Rule 5. The act of the Court bring to mind the Latin maxim "EXPRESSIO UNIUS EST EXCLUSIO ALTERIUS" meaning the express mention of one person or thing is the exclusion of another. So also the maxim "EXPRESSIO FACIT CESSARE TACTITUM" meaning where there is express mention of certain things then

anything not mentioned is excluded. See also the case of AGBAREH V. MIMRA (2008) 2 NWLR (PT. 1071) 378 at 432;

- 3.14. Consequently, we humbly urge this Honourable Court to find that the 1st and 2nd defendants(National Executive Council (NBA-NEC)) absolutely lacks the power to dissolve the duly elected executive committee of the NBA-SPIDEL, a section of the Nigeria Bar Association. The purported act of the National Executive Council dissolving the executive committee of the Nigerian Bar Association Section on Public Interest and Development Law (NBA-SPIDEL), is an act of rascality perpetrated without any recourse or consideration to the rule of law and the extant statutes of the Nigerian Bar Association. We refer this Honourable Court to the case of **OBIAGELI v. FCE ZARIA & ORS (Supra)**.
- 3.15. We refer this Honourable Court to paragraphs 24, 25, 26, 27 and 28 of the supporting affidavit. The facts stated therein reveal that the 1st defendant as well as the members of the National Executive Council (NEC) were informed by the 2nd defendant of the service on him of the originating processes in **Suit No. HOR/13/2024: Godfrey Echeho V Y. C. Maikyau, SAN & 2 Ors**;bothering on the legality of alleged suspension of NBA-SPIDEL by the 1st defendant and of an enrolled order of the court giving it 7 days to come show cause on why restraining orders should not be granted against them. We submit that at that point, it would have been ordinarily expected that a body of "Ministers in the temple of justice " would know that any discussion on issues bothering on the alleged suspension of the NBA-SPIDEL is sub-judice and no longer within the agenda of discussion or resolution of NEC for that day.
- 3.16. Contrarily, the 1st defendant spearheading the deliberations of the day, chose to display such level of disregard for the principles of law, allowing the passing of the invalid resolution on the dissolution of the NBA-SPIDEL executive committee. We refer this Honourable Court to the case of **ABIODUN v. C.J. KWARA STATE & ORS (2007) LPELR-8308(CA) (Pp. 41 - 42 Paras B - D) on whether when a matter is pending in court whether any other step taken by parties is lawful**, the Court of Appeal held thus;

"The 3rd facet of this issue is whether or not the Hon. Chief Judge of Kwara State was right to set up and inaugurate a panel to investigate the appellant while a suit challenging

the legality and validity of his suspension, and the Constitution of a Panel of Inquiry was pending. One appreciates the delicate balancing act which Hon. Chief Judge has to engage in, while navigating the potentially stormy political waters when called upon by the provisions of the Constitution to take up a not too palatable role as a referee in a political quarrel. It is indeed not an enviable position. However, the doctrine of separation of powers entrenched in the 1999 Constitution in this instance should not be lightly ignored in this case which is of utmost importance to the entrenchment of the rule of law and the proper practice of the presidential system of Government. The Courts are at all times to be impartial arbiters between the citizenry, and the State machinery. The rule of law must be followed though the heavens may fall. The rule of law in this instance is that immediately the Hon. Chief Judge was properly served with process preventing him from taking further steps in the matter in controversy, he ought to have abstained from doing so no matter whose ox was gored. The Hon. Chief Judge is the custodian of the rule of law in Kwara State. The circumstances of this case shout from the roof tops the rape on the judiciary and judicial powers. We Judges should not be the ones to rape the judiciary and violate its hallowed portals by wilful neglect and/or a show of contempt for the judicial process. The Hon. Chief Judge's show of contempt for the judicial process in spite of being served as a party when a notice of motion for injunction and substantive matter was pending is not good enough. When a case is before the Court of law it is very wrong to try to overreach the opposing party by taking steps that could scuttle the judicial process and foists a fait accompli on the Courts. The inauguration of the panel by the Hon. the Chief Judge ought not to have been done. See *Combined Trade v. ASTB Ltd.* (1995) 6 NWLR (Pt. 404) pg. 709 at 710; *Ezegbu v. FATB Ltd.* (1992) 1 NWLR (Pt. 220) pg. 699 at 724."

We therefore urge this Honourable Court to find that the 1st and 2nd defendants acted arbitrarily in discussing the dispute between the NBA-SPIDEL and the 1st defendant during the pendency of **Suit No. HOR/13/2024: Godfrey Echeho**

V Y. C. Maikyau, SAN & 2 Ors. We therefore urge this Honourable Court to find that any act done, step taken or resolution made by the National Executive Council of the NBA during the pendency of the said suit, is null, void and of no effect whatsoever.

3.17. Consequently, we humbly urge this Honourable Court to set aside the purported resolution of the National Executive Council (NEC) of the 29th of February, 2024 dissolving the duly elected executive committee of the NBA-SPIDEL and appointing a caretaker committee to take over the affairs of NBA-SPIDEL. The appointment of caretaker committees to replace duly elected officers is a sacrilegious abuse of power and must not be allowed to stand. **See the case of Akpan v. Umah (2002) FWLR (Pt. 110) @1838-1839, D-C** per Ekpe, JCA speaking that,

“In as much as do not doubt the legislative power of the State House of Assembly to make law to regulate a local government council in the State plagued with crises....but any law made by the House of Assembly which provides for nomination of membership of a council or appointment of an administrator or Caretaker Committee to replace a democratically elected council is inconsistent with the clear and unambiguous provision of section 7(1) of the 1999 Constitution which guarantees democratically elected Local Government Councils, and is therefore unconstitutional to the extent of the inconsistency”.

3.18. We wish to point out the unlawful and unconstitutional acts of the National Executive Council (NEC) in appointing a caretaker committee made up of non-members contravenes the provisions of **Article XIII of the uniformed Bye-laws of the sections of the Nigerian Bar Association** which provides that those eligible to vote or be voted for during elections into elective positions must be financial members of the section. Furthermore, the law vide Article XVI provides that any vacancy that occurs in any position of the officers of any section after the Biennial General meeting of such section may be filled by the executive committee subject to ratification of the General Meeting of the Section.

3.19. Importantly, a wholesome perusal of the Nigerian Bar Association uniform Bye-laws for Sections, reveal that the law does not grant powers to the National Executive Council to remove and or dissolve the executive committee of any section of the Association. The supervisory role granted to NEC over the sections vide the provision of **Article XXII** does not extend to dissolution of the executive committee of any Section of the Association, including that of the NBA-SPIDEL. It is only to ensure that the section submits reports to the annual general meeting of the Association.

3.20. On the whole, we urge humbly, that issue two (2) be resolved in the affirmative as the National Executive Council acted beyond the ambits of their constitutional powers.

3. Whether in the light of the Notice of Motion dated the 26th day of February, 2024, the 1st and 2nd defendants had not breached the principle of natural justice to wit: Nemo Judex In Casua Sua.

- 3.21. Once again, we make reference to paragraphs 19 – 30 of the supporting affidavit, which reveals in detail, the purposeful act of the 1st defendant in sitting over a dispute between NBA-SPIDEL and himself to pass the resolution allegedly dissolving the executive committee of the NBA-SPIDEL. Paragraph 20 reveals that by a notice of motion (exhibit SPIDEL 2), the claimants requested that the 1st defendant be recused from presiding over the dispute which involves him and claimants was served on the National Executive Council through the 2nd defendant, who brought it to the attention of everyone including the 1st defendant at the NEC meeting; yet the 1st defendant presided over the meeting acting as the complainant, prosecutor and judge in his own cause.
- 3.22 We therefore submit that the refusal of the 1st defendant to recuse himself, or to be recused violates the twin principles of natural justice as not only were the executive committee of the NBA-SPIDEL represented by the 1st Claimant not given an opportunity to present their case, but the 1st defendant presided over a dispute that involved him. This is a crass breach of the principles of natural justice. See the case of **NDUKAUBA v. KOLOMO & ANOR (2005) LPELR-1976(SC)** where the Supreme Court per George Adesola Oguntade, JSC (Pp. 11 - 12 Paras F - A) held thus;

"The principles of natural justice are part of the pillars that support the concept of the Rule of Law. They are indispensable part of the process of adjudication in any civilized society. The twin pillars on which they are built are the principles that one must be heard in his own defence before being condemned and that, put shortly, no one should be a Judge in his own cause."

See also the case of **SIFAX (NIG) LTD v. PHOENIX CAPITAL LTD & ANOR (2023) LPELR-59979(SC)** (Pp. 16 - 16 Paras A - B) where the Supreme Court held thus;

"The twin pillars of natural justice and fair hearing are: Audi alteram partem - you must hear both sides; and Nemo iudex in causa sua - You must not be a judge in your own cause."

3.23. Consequently, we submit that every action flowing through the violation of the principles of natural justice are null and void and of no effect whatsoever. We therefore urge this Honourable Court to find that the 1st and 2nd defendants breached the principle of natural justice. Consequently, the Honourable court is obliged to set aside whatever decisions that were reached by the National Executive Council pertaining to the claimants (NBA-SPIDEL executive committee). See the case of **ANI & ORS v. OTU & ORS (2023) LPELR-59602(SC) (Pp. 76 - 76 Paras A - E)**, where the Supreme Court established the effect of a breach of the principles of natural justice, holding thus;

"it is settled that if a principle of natural justice is violated, it does not matter whether, if the proper thing had been done, the decision would have been the same - "The decision must be declared to be no decision" - see Adigun V. A-G., of Oyo State (1987) 1 NWLR (7.53) 678 and Salu V. Egeibon (1994) 6 NWLR (Pt. 348) 23 at 44, wherein this Court per Adio, JSC, also explained as follows: "If a principle of natural justice is violated, it does not matter whether if the proper thing had been done, the decision would have been the same; the proceedings will still be null and void. In other words, if the principles of natural justice are violated in respect of any decision, it is immaterial whether the same decision would have been arrived at in the absence of the departure from the essential principles of justice. The decision must be declared to be no decision."

In the case of **SIFAX (NIG) LTD v. PHOENIX CAPITAL LTD & ANOR (2023) LPELR-59979(SC) (Pp. 20 - 20 Paras A - C)** the Supreme Court recently maintained its position on the breach of the principles of natural justice, holding thus;

"Where violence is done to any of the twin pillars of natural justice which ensures fair hearing, the Court or an Appellate Court is obliged to declare the proceedings a nullity. See DASUKI (Rtd) v. FRN (2021) 9 NWLR Pt. 1781

- 3.24. In the light of the position of the law as espoused by the Apex Court above, we submit that the acts of the 1st defendant in presiding over a dispute between NBA-SPIDEL and himself despite the notice of motion requesting him to recuse himself being submitted and brought to his attention and that of the National Executive Council, are a nullity and as such should be set aside by this Honourable Court. See also the case of **OGBOBE & ORS v. OLIJI & ORS (2011) LPELR-4530(CA)** where the Court of Appeal Per Amina Adamu Augie, JCA at (Pp. 11 - 13 Paras C - A) held thus;

"Nemo judex in causa sua is Latin for the fundamental principle of natural justice that "no man can be a Judge in his own cause" and the rule applies also to any cause in which that person has an interest - see The Longman Dictionary of Law. See also Section 67 of the Customary Court Law of Enugu State, which specifically states that when a Member of a Customary Court has an interest in a cause or matter within the Court's jurisdiction that Member shall before the commencement of any proceeding declare his interest and shall thereafter withdraw from sitting on that particular cause or matter. In this case, the lower Court found as a fact that one of the Members of the trial Customary Court was the 1st Appellant's brother, which, of course, renders the trial a nullity, and the proper order to make was to set aside that decision, without more - see Oni V. Fayemi (2008) 8 NWLR (Pt. 1089) 400, Adigun V. A.-G. Of Oyo State (Pt. 53) 678 SC, Tamti V. N.C.S.B. (2009) 7 NWLR (Pt. 1141) 631. See also Salu V. Egeibon (supra), wherein Adio, JSC stated as follows - "The consequence of a breach of the rule of natural justice of fair hearing is that the proceedings in the case are null and void - - If the principle of natural justice is violated, it does not matter whether if the proper thing had been done the decision would have been the same; the proceeding will still be null and void. In other words, if the principles of natural justice are violated in respect of any decision, it is

immaterial whether the same decision would have been arrived at in the absence of the departure from the essential principles of justice. The decision must be declared to be no decision. - - In the circumstance, the proper order to make is one of affirming the order of the Court below for a retrial of this case before another Judge of the High Court - -."

- 3.25 In the light of the foregoing, we urge this Honourable Court to resolve issue three (3) in the affirmative. We further urge humbly that the resolution of the National Executive Council (NEC) dissolving the executive committee of the NBA-SPIDEL as led by the Claimants, and purportedly appointing a caretaker committee over the NBA-SPIDEL be set aside in its totality as they were all made in breach of the principles of natural justice and respect for the rule of law.
- 3.26. We submit finally, that the acts of the defendants in purportedly removing the executive committee of the NBA-SPIDEL (and appointing a caretaker committee) is not only a gross breach of the principles of natural justice, but also an unfortunate display of executive rascality. The 1st defendant in going ahead with his threats to suspend NBA-SPIDEL, displayed such level of disregard for the Court and everything the Nigerian Bar Association should stand for. His decision to preside over a dispute even when his attention has been drawn to a notice of motion to recuse yourself; even when he was informed that there are pending matters in court concerning the dispute with NBA-SPIDEL, unfortunately shows that he does not seek to promote the rule of the law but rather abuse same.
- 3.27. We therefore come before this Honourable Court being an unbiased umpire, for the resolution of issues presented before it in line with the principles of fair hearing and the rule of law. We urge that the reliefs sought by the Claimants be granted in their totality, the Claimants having proven their case.

4.00 CONCLUSION/PRAYER

4.01. We, most respectfully, submit that upon a proper perusal of the Claimants' summons, affidavit in support and adumbrations made hereinbefore, Claimants have successfully made out a case for the grant of the reliefs sought. We therefore respectfully, urge this Honorable Court to grant the reliefs as prayed.

We beg to move.

Dated this _____ day of _____ 2024.

(Claimants' Counsel)

I. C. E. Okugbo, Esq.

George Nwabunike, Esq.

Felix Akpowowo, Esq.

Maxwell Opara, Esq.

Inibehe Effiong, Esq.

Mohammed Danjuma, Esq.

Izu Aniagu, Esq.

U. O. Udoh, Esq. (signed)

C/o Apex Jural Legal Practitioners

10, Ebrumede Police Station,

Effurun-Warri, Delta

State.

08068446506

FOR SERVICE ON DEFENDANTS.

The NBA House,

Muhammadu Buhari Way,

Central Business Area

Abuja, FCT.

IN THE HIGH COURT OF JUSTICE: DELTA STATE OF NIGERIA
IN THE EFFURUN JUDICIAL DIVISION

SUIT NO.

BETWEEN

1. JOHN AIKPOKPO-MARTINS

2. FUNMI ADEOGUN

(For themselves and on behalf of the members
Of the Executive Committee of the Nigerian Bar
Association Section on Public Interest and
Development Law (NBA-SPIDEL)



CLAIMANTS

AND

1. YAKUBU C. MAIKYAU, OON, SAN.

(President, Nigerian Bar Association)

2. ADESINA ADEGBITE

(General-Secretary, Nigerian Bar Association)

(For themselves and as representing the members of the
National Executive Council of the Nigerian Bar Association
Excluding the claimants.)

**3. THE INCORPORATED TRUSTEES OF
THE NIGERIAN BAR ASSOCIATION**



DEFENDANTS

MOTION EX-PARTE

**BROUGHT PURSUANT TO ORDER RULE OF THE DELTA
STATE HIGH COURT CIVIL PROCEDURE RULES 2009 AND UNDER THE
INHERENT JURISDICTION OF THIS HONOURABLE COURT**

TAKE NOTICE that the Honourable Court will be moved on theday of
_____. 2024 at the hour of 9 0'clock in the forenoon or so soon thereafter as
counsel on behalf of the above named claimants/Applicants can be heard for:

AN ORDER of interim injunction restraining the defendants, their
appointees, staff, agents, privies any or anyone taking authority or
instructions from them from interfering with the office, duties,
responsibilities and properties of the claimants/Applicants pending the
hearing of the motion on notice for interlocutory injunction.

And for such further or other order(s) as this Honourable Court may deem fit to
make in the circumstance.

Dated this _____ day of _____ 2024

(Claimants' Counsel)

I. C. E. Okugbo, Esq.

George Nwabunike, Esq.

Felix Akpowowo, Esq.

Maxwell Opara, Esq.

Inibehe Effiong, Esq.

Mohammed Danjuma, Esq.

Izu Aniagu, Esq.

U. O. Udoh, Esq.(signed)

C/o Apex Jural Legal Practitioners

10, Ebrumede Police Station,

Effurun-Warri, Delta

State.

08068446506

IN THE HIGH COURT OF JUSTICE: DELTA STATE OF NIGERIA
IN THE EFFURUN JUDICIAL DIVISION
HOLDEN AT EFFURUN

BETWEEN

1. JOHN AIKPOKPO-MARTINS

2. FUNMI ADEOGUN

(For themselves and on behalf of the members
Of the Executive Committee of the Nigerian Bar
Association Section on Public Interest and
Development Law (NBA-SPIDEL)



CLAIMANTS

AND

1. YAKUBU C. MAIKYAU, OON, SAN.

(President, Nigerian Bar Association)

2. ADESINA ADEGBITE

(General-Secretary, Nigerian Bar Association)

(For themselves and as representing the members of the
National Executive Council of the Nigerian Bar Association
Excluding the claimants.)

**3. THE INCORPORATED TRUSTEES OF
THE NIGERIAN BAR ASSOCIATION**



DEFENDANTS

AFFIDAVIT IN SUPPORT OF EX-PARTE APPLICATION

I, John Aikpokpo-Martins, male, Christian, Nigerian, legal practitioner of No. 60, Airport Road, Warri, Warri-South Local Government Area of Delta State do hereby make oath and states thus:

1. That I am the 1st Claimant/Applicant in this suit by virtue of which I am very conversant with the facts of this suit and application. I have the authority of the 2nd claimant and indeed of the entire Executive Committee of the Nigerian Bar Association Section on Public Interest and Development Law (hereinafter simply referred to as NBA-SPIDEL) to depose to this affidavit.
2. That I am the Chairman of NBA-SPIDEL as well as being the immediate past 1st Vice President of the Nigerian Bar Association (hereinafter simply referred to as NBA), a member of the General Council of the Bar and currently a member of the National Executive Council of the NBA.
3. That the 2nd claimant is the Secretary, NBA-SPIDEL as well as being the immediate past Vice-Chairman of NBA-Epe Branch and a member of the National Executive Council of the NBA (NBA-NEC).

4. That the Executive Committee of NBA-SPIDEL is made up of senior lawyers, past National Officers of the defendants, past chairmen, vice chairmen, and secretaries of branches of the 3rd defendant and other well accomplished lawyers.
5. That the NBA-SPIDEL is a voluntary assemblage of members of the NBA with the passion for public interest matters and one of the three Sections of the NBA devoted to the promotion, defence and advancement of the rule of law and public interest. It has a membership spread in all the branches of the Nigerian Bar Association all over the country.
6. That the 1st defendant is the President of the Nigerian Bar Association whose duties, powers and responsibilities are as provided and limited by the constitution of the 3rd defendant in general and the byelaw for Sections of the Association in particular with respect to the cause of action in this suit. The 1st defendant is sued as the president of the NBA and also for and on behalf of the members of the National Executive Council of the NBA (NBA-NEC) as its presiding officer.
7. That the 2nd Defendant is the General Secretary of the NBA and is sued only as representing members of NBA-NEC as its secretary.
8. The National Executive Council of the NBA is a body provided for under the constitution of the NBA with specific powers and duties and none of these powers, duties or responsibilities include the appointment or election of the claimants or the suspension and/or dissolution of the claimant, or the removal from office of the claimants.
9. The NBA is divided into 3 sections, i.e. the Section on Legal Practice (SLP), Section on Business Law (SBL) and Section on Public Interest and Development Law (SPIDEL). The constitution mandates that a member of the NBA must belong to a Section.
10. That membership of sections of the NBA and in this instance, the membership of NBA-SPIDEL is solely voluntary and determined by the payment of annual dues of the Section by members to NBA-SPIDEL designated account for that particular year.
11. The Sections including NBA-SPIDEL are generally guided by the NBA Constitution and particularly guided by the byelaws for Sections which is a

schedule of the constitution of the NBA. **The NBA constitution is hereby attached and marked as exhibit SPIDEL 1.**

12. That assumption to the membership of the Executive Council of NBA-SPIDEL is by election of all members voting and by co-option in accordance with the provisions of the byelaws of the NBA sections.
13. That the claimants were elected on the June, 2023 for a 2 year term certain to expire in June, 2025.
14. That the 1st defendant is not a member of NBA-SPIDEL. And only a handful of the members of NBA NEC are members of NBA-SPIDEL.
15. That on the 1st of February, 2024, myself like the rest of the other members of NBA-SPIDEL were astonished to see News blogs publish a letter dated the 31st of January, 2024 from the 1st defendant to NBA-SPIDEL that he has suspended the activities of NBA-SPIDEL, on the ground that NBA-SPIDEL failed to take prior approvals from him before undertaking its activities. The 1st defendant though agreed that the activities of NBA-SPIDEL were lawful and in order, but that no approval was sought and given by him before those activities were undertaken by NBA-SPIDEL. The said letter was widely circulated in social media, and newspapers in Nigeria.
16. That due to the implication of the said letter, the claimants summoned an extraordinary general meeting of the members of NBA-SPIDEL which held on Sunday, the 4th of February, 2024.
17. That as chairman, NBA-SPIDEL, I presided over the said extraordinary general meeting in which the letter referred to was extensively discussed. The NBA-SPIDEL general meeting resolved that the 1st defendant lacks the power to interfere in the activities of NBA-SPIDEL and/or suspend same, therefore NBA-SPIDEL should disregard same. The extraordinary general meeting also directed me as chairman NBA-SPIDEL to respond to the letter of the 1st defendant. Therefore, I responded to the 1st defendant's letter on the 9th of February, on behalf of NBA-SPIDEL.
18. That the 1st defendant then fixed the quarterly meeting of the NBA-NEC for Jos, Plateau State for the 29th of February, 2024.

19. That before the said meeting in Jos, that I am aware that a member of NBA-SPIDEL went to court vide **Suit No. HOR/13/2024: Godfrey Echeho V Y.**

C. Maikyau, SAN & 2 Ors to challenge the legality of the 1st defendant purporting to suspend the activities of NBA-SPIDEL. The processes in the said cases were served on the defendants.

20. That I am aware that the Delta State High Court, sitting at Orerokpe made an order giving the respondents in that case, who are also the respondent in this case to come to court to show cause why the interlocutory orders sought should not be granted.
21. That, also, the claimants realized that a fundamental dispute between the 1st defendant and the claimants has arisen at that point. The claimants therefore wrote to the NBA-NEC through the 2nd defendant seeking for a resolution of the dispute vide internal conflict resolution mechanism of the 3rd defendant.
22. That thereafter, the claimants also forwarded to NBA-NEC through the 2nd defendant a notice of motion seeking the NBA-NEC to recuse the 1st defendant from presiding over the matters of the dispute between the 1st defendant and the claimants at the NBA NEC meeting fixed for Jos, for the 29th of February, 2024. The notice of motion is hereby attached and marked as exhibit SPIDEL 2. The said notice of motion includes the letters hereinbefore referred to above.
23. That at the NBA-NEC meeting held in Jos, on the 29th of February, 2024, the 1st defendant presided over the NBA-NEC without recusing himself and NBA-NEC allowed him to preside over the matter of the dispute between himself and the claimants in total disregard on the notice of motion to recuse the 1st defendant from presiding. The request to activate the dispute resolution mechanism of the 3rd defendant was also disregarded in utter contempt.
24. That I was present in the meeting to represent the claimants and witnessed everything that happened at the meeting.
25. That at the meeting, the 2nd defendant informed NBA-NEC of the receipt of the letters mentioned above and of exhibit SPIDEL 2. The 2nd defendant also informed the NEC meeting of the service of the court processes in **Suit No. HOR/13/2024: Godfrey Echeho Vs. Y. C. Maikyau, SAN & 2 Ors** mentioned above on him.
26. However, the 1st defendant discountenanced the fact of the pendency of **Suit No. HOR/13/2024: Godfrey Echeho V Y. C. Maikyau, SAN & 2 Ors** and exhibit SPIDEL 2 and proceeded to preside over the matters in dispute. In

the course of the proceedings in the meeting, the 2nd defendant drew the attention of the NEC to the pendency of the said **Suit No. HOR/13/2024: Godfrey Echeho V Y. C. Maikyau, SAN & 2 Ors**, but the 1st defendant shouted down the 2nd defendant.

27. That not only did the 1st defendant preside over the matters, he failed to avail the 1st claimant the opportunity to defend himself and the other claimants from the accusations being leveled by the 1st defendant against them.
28. Thereafter, the 1st defendant caused the NBA-NEC to take a decision purportedly dissolving the claimants as the Executive Committee of NBA-SPIDEL, and immediately thereafter purportedly appointed a caretaker committee made up of non-members of NBA SPIDEL.
29. That NBA-NEC lacks the power to purport to dissolve the executive committee of NBA-SPIDEL or to remove the claimants from office.
30. That the actions of the 1st and 2nd defendants, particularly of the 1st defendant has greatly embarrass the claimants and caused it serious loss of goodwill as same was published by the 1st defendant.
31. That the motto of the 3rd defendant is promoting the rule of law. The 1st defendant is the president of the 3rd defendant and therefore generally expected to obey the rule of law. However, his conduct has trampled on the rule of law abashedly and with so much gusto and bravado.
32. That the attempt to dissolve the Executive Committee of NBA-SPIDEL by the 1st and 2nd defendants will negatively impact on its interventions in the interest of the public. I place reliance on the cases instituted in court as shown in the letters of the 1st defendant and the response of NBA-SPIDEL vide exhibit SPIDEL 2.
33. That it is in the interest of justice and the sacred duty of this Honourable Court to uphold the provisions of the Constitution of the 3rd defendant by granting all the prayers sought in the summons.
34. That if the 1st defendant had obeyed the provisions of the 3rd defendant, the constitution of the Federal Republic of Nigeria and the rule of law, the claimants would not have gone this length to challenge his actions. The

gross refusal of the 1st defendant to obey the provisions of the Constitutions afore-mentioned compelled the claimants to come to court and incurred incredibly high resources.

35. That the balance of convenience is in our favour. And that the status quo ante bellum be maintained.
36. We are ready to enter an undertaking to pay damages to the defendant if it turns out that this application ought not to have been made, and a restraining order out not to have been granted in the first instance.
37. That it is in the interest of justice to grant this application as the applicants will suffered irreparable damages if this application is refused.
38. That I make this affidavit in good faith, bonafide and in accordance with the extant oaths law of Delta State.

DEPONENT

Sworn to at the Effurun High Court Registry,
This _____ Day of March, 2024.

BEFORE ME

COMMISSIONER FOR OATHS

IN THE HIGH COURT OF JUSTICE: DELTA STATE OF NIGERIA
IN THE EFFURUN JUDICIAL DIVISION
HOLDEN AT EFFURUN

SUIT NO.

BETWEEN

}

1. JOHN AIKPOKPO-MARTINS

CLAIMANTS/APPLICANTS

2. FUNMI ADEOGUN

(For themselves and on behalf of the members
Of the Executive Committee of the Nigerian Bar
Association Section on Public Interest and
Development Law (NBA-SPIDEL)

AND

1. YAKUBU C. MAIKYAU, OON, SAN.

(President, Nigerian Bar Association)

2. ADESINA ADEGBITE

(General-Secretary, Nigerian Bar Association)

(For themselves and as representing the members
Of the National Executive Council of the Nigerian
Bar Association excluding the claimants.)

**3. THE INCORPORATED TRUSTEES OF
THE NIGERIAN BAR ASSOCIATION**

DEFENDANTS/RESPONDENTS

MOTION NOTICE

**BROUGHT PURSUANT TO ORDER _____ RULE _____ OF THE DELTA
STATE HIGH COURT CIVIL PROCEDURE RULES 2009 AND UNDER THE
INHERENT JURISDICTION OF THIS HONOURABLE COURT**

TAKE NOTICE that the Honourable Court will be moved on theday of
_____. 2024 at the hour of 9 0'clock in the forenoon or so soon thereafter as
counsel on behalf of the above named claimants/Applicants can be heard for:

AN ORDER of interlocutory injunction restraining the defendants, their
appointees, staff, agents, privies any or anyone taking authority or
instructions from them from interfering with the office, duties,
responsibilities and properties of the claimants/Applicants pending the
hearing of the substantive originating summons

And for such further or other order(s) as this Honourable Court may deem fit to
make in the circumstance.

Dated this _____ day of _____ 2024.

(Claimants' Counsel)

I. C. E. Okugbo, Esq.
George Nwabunike, Esq.
Felix Akpowowo, Esq.
Maxwell Opara, Esq.
Inibehe Effiong, Esq.
Mohammed Danjuma, Esq.
Izu Aniagu, Esq.
U. O. Udoh, Esq. (signed)

C/o Apex Jural Legal Practitioners
10, Ebrumede Police Station,
Effurun-Warri, Delta
State.
08068446506

FOR SERVICE ON DEFENDANTS.

The NBA House,
Muhammadu Buhari Way,
Central Business Area
Abuja, FCT.

IN THE HIGH COURT OF JUSTICE: DELTA STATE OF NIGERIA
IN THE EFFURUN JUDICIAL DIVISION
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**3. THE INCORPORATED TRUSTEES OF
THE NIGERIAN BAR ASSOCIATION**

DEFENDANTS/RESPONDENTS

AFFIDAVIT IN SUPPORT OF INTERLOCUTORY APPLICATION

I, John Aikpokpo-Martins, male, Christian, Nigerian, legal practitioner of No. 60, Airport Road, Warri, Warri-South Local Government Area of Delta State do hereby make oath and states thus:

1. That I am the 1st Claimant/Applicant in this suit by virtue of which I am very conversant with the facts of this suit and application. I have the authority of the 2nd claimant and indeed of the entire Executive Committee of the Nigerian Bar Association Section on Public Interest and Development Law (hereinafter simply referred to as NBA-SPIDEL) to depose to this affidavit.
2. That I am the Chairman of NBA-SPIDEL as well as being the immediate past 1st Vice President of the Nigerian Bar Association (hereinafter simply referred to as NBA), a member of the General Council of the Bar and currently a member of the National Executive Council of the NBA.
3. That the 2nd claimant is the Secretary, NBA-SPIDEL as well as being the immediate past Vice-Chairman of NBA-Epe Branch and a member of the National Executive Council of the NBA (NBA-NEC).
4. That the Executive Committee of NBA-SPIDEL is made up of senior lawyers, past National Officers of the defendants, past chairmen, vice chairmen, and

secretaries of branches of the 3rd defendant and other well accomplished lawyers.

5. That the NBA-SPIDEL is a voluntary assemblage of members of the NBA with the passion for public interest matters and one of the three Sections of the NBA devoted to the promotion, defence and advancement of the rule of law and public interest. It has a membership spread in all the branches of the Nigerian Bar Association all over the country.
6. That the 1st defendant is the President of the Nigerian Bar Association whose duties, powers and responsibilities are as provided and limited by the constitution of the 3rd defendant in general and the byelaw for Sections of the Association in particular with respect to the cause of action in this suit. The 1st defendant is sued as the president of the NBA and also for and on behalf of the members of the National Executive Council of the NBA (NBA-NEC) as its presiding officer.
7. That the 2nd Defendant is the General Secretary of the NBA and is sued only as representing members of NBA-NEC as its secretary.
8. The National Executive Council of the NBA is a body provided for under the constitution of the NBA with specific powers and duties and none of these powers, duties or responsibilities include the appointment or election of the claimants or the suspension and/or dissolution of the claimant, or the removal from office of the claimants.
9. The NBA is divided into 3 sections, i.e. the Section on Legal Practice (SLP), Section on Business Law (SBL) and Section on Public Interest and Development Law (SPIDEL). The constitution mandates that a member of the NBA must belong to a Section.
10. That membership of sections of the NBA and in this instance, the membership of NBA-SPIDEL is solely voluntary and determined by the payment of annual dues of the Section by members to NBA-SPIDEL designated account for that particular year.
11. The Sections including NBA-SPIDEL are generally guided by the NBA Constitution and particularly guided by the byelaws for Sections which is a schedule of the constitution of the NBA. **The NBA constitution is hereby attached and marked as exhibit SPIDEL 1.**

12. That assumption to the membership of the Executive Council of NBA-SPIDEL is by election of all members voting and by co-option in accordance with the provisions of the byelaws of the NBA sections.
13. That the claimants were elected on the June, 2023 for a 2 year term certain to expire in June, 2025.
14. That the 1st defendant is not a member of NBA-SPIDEL. And only a handful of the members of NBA NEC are members of NBA-SPIDEL.
15. That on the 1st of February, 2024, myself like the rest of the other members of NBA-SPIDEL were astonished to see News blogs publish a letter dated the 31st of January, 2024 from the 1st defendant to NBA-SPIDEL that he has suspended the activities of NBA-SPIDEL, on the ground that NBA-SPIDEL failed to take prior approvals from him before undertaking its activities. The 1st defendant though agreed that the activities of NBA-SPIDEL were lawful and in order, but that no approval was sought and given by him before those activities were undertaken by NBA-SPIDEL. The said letter was widely circulated in social media, and newspapers in Nigeria.
16. That due to the implication of the said letter, the claimants summoned an extraordinary general meeting of the members of NBA-SPIDEL which held on Sunday, the 4th of February, 2024.
17. That as chairman, NBA-SPIDEL, I presided over the said extraordinary general meeting in which the letter referred to was extensively discussed. The NBA-SPIDEL general meeting resolved that the 1st defendant lacks the power to interfere in the activities of NBA-SPIDEL and/or suspend same, therefore NBA-SPIDEL should disregard same. The extraordinary general meeting also directed me as chairman NBA-SPIDEL to respond to the letter of the 1st defendant. Therefore, I responded to the 1st defendant's letter on the 9th of February, on behalf of NBA-SPIDEL.
18. That the 1st defendant then fixed the quarterly meeting of the NBA-NEC for Jos, Plateau State for the 29th of February, 2024.
19. That before the said meeting in Jos, that I am aware that a member of NBA-SPIDEL went to court vide **Suit No. HOR/13/2024: Godfrey Echeho V Y. C. Maikyau, SAN & 2 Ors** to challenge the legality of the 1st defendant purporting to suspend the activities of NBA-SPIDEL. The processes in the said cases were served on the defendants.

20. That I am aware that the Delta State High Court, sitting at Orerokpe made an order giving the respondents in that case, who are also the respondent in this case to come to court to show cause why the interlocutory orders sought should not be granted.
21. That, also, the claimants realized that a fundamental dispute between the 1st defendant and the claimants has arisen at that point. The claimants therefore wrote to the NBA-NEC through the 2nd defendant seeking for a resolution of the dispute vide internal conflict resolution mechanism of the 3rd defendant.
22. That thereafter, the claimants also forwarded to NBA-NEC through the 2nd defendant a notice of motion seeking the NBA-NEC to recuse the 1st defendant from presiding over the matters of the dispute between the 1st defendant and the claimants at the NBA NEC meeting fixed for Jos, for the 29th of February, 2024. The notice of motion is hereby attached and marked as exhibit SPIDEL 2. The said notice of motion includes the letters hereinbefore referred to above.
23. That at the NBA-NEC meeting held in Jos, on the 29th of February, 2024, the 1st defendant presided over the NBA-NEC without recusing himself and NBA-NEC allowed him to preside over the matter of the dispute between himself and the claimants in total disregard on the notice of motion to recuse the 1st defendant from presiding. The request to activate the dispute resolution mechanism of the 3rd defendant was also disregarded in utter contempt.
24. That I was present in the meeting to represent the claimants and witnessed everything that happened at the meeting.
25. That at the meeting, the 2nd defendant informed NBA-NEC of the receipt of the letters mentioned above and of exhibit SPIDEL 2. The 2nd defendant also informed the NEC meeting of the service of the court processes in **Suit No. HOR/13/2024: Godfrey Echeho Vs. Y. C. Maikyau, SAN & 2 Ors** mentioned above on him.
26. However, the 1st defendant discountenanced the fact of the pendency of **Suit No. HOR/13/2024: Godfrey Echeho V Y. C. Maikyau, SAN & 2 Ors** and exhibit SPIDEL 2 and proceeded to preside over the matters in dispute. In the course of the proceedings in the meeting, the 2nd defendant drew the attention of the NEC to the pendency of the said **Suit No. HOR/13/2024: Godfrey Echeho V Y. C. Maikyau, SAN & 2 Ors**, but the 1st defendant shouted down the 2nd defendant.

27. That not only did the 1st defendant preside over the matters, he failed to avail the 1st claimant the opportunity to defend himself and the other claimants from the accusations being levelled by the 1st defendant against them.
28. Thereafter, the 1st defendant caused the NBA-NEC to take a decision purportedly dissolving the claimants as the Executive Committee of NBA-SPIDEL, and immediately thereafter purportedly appointed a caretaker committee made up of non-members of NBA SPIDEL.
29. That NBA-NEC lacks the power to purport to dissolve the executive committee of NBA-SPIDEL or to remove the claimants from office.
30. That the actions of the 1st and 2nd defendants, particularly of the 1st defendant has greatly embarrass the claimants and caused it serious loss of goodwill as same was published by the 1st defendant.
31. That the motto of the 3rd defendant is promoting the rule of law. The 1st defendant is the president of the 3rd defendant and therefore generally expected to obey the rule of law. However, his conduct has trampled on the rule of law abashedly and with so much gusto and bravado.
32. That the attempt to dissolve the Executive Committee of NBA-SPIDEL by the 1st and 2nd defendants will negatively impact on its interventions in the interest of the public. I place reliance on the cases instituted in court as shown in the letters of the 1st defendant and the response of NBA-SPIDEL vide exhibit SPIDEL 2.
33. That it is in the interest of justice and the sacred duty of this Honourable Court to uphold the provisions of the Constitution of the 3rd defendant by granting all the prayers sought in the summons.
34. That if the 1st defendant had obeyed the provisions of the 3rd defendant, the constitution of the Federal Republic of Nigeria and the rule of law, the claimants would not have gone this length to challenge his actions. The

gross refusal of the 1st defendant to obey the provisions of the Constitutions afore-mentioned compelled the claimants to come to court and incurred incredibly high resources.

35. That the balance of convenience is in our favour. And that the status quo ante bellum be maintained.

36. We are ready to enter an undertaking to pay damages to the defendant if it turns out that this application ought not to have been made, and a restraining order out not to have been granted in the first instance.
37. That it is in the interest of justice to grant this application as the applicants will suffered irreparable damages if this application is refused.
38. That I make this affidavit in good faith, bonafide and in accordance with the extant oaths law of Delta State.

DEPONENT

Sworn to at the Effurun High Court Registry,
This _____ Day of March, 2024.

BEFORE ME

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