

Counsel's

IN THE HIGH COURT OF IMO STATE OF NIGERIA

IN THE IHO JUDICIAL DIVISION

HOLDEN AT IHO

SUIT NO: HIH/25/2025

BETWEEN

THE INCORPORATED TRUSTEES OF LAWYERS OF LIKEMINDS ===== PLAINTIFF

AND

1. ATTORNEY-GENERAL OF IMO STATE

2. IMO STATE HOUSE OF ASSEMBLY

DEFENDANTS

ORIGINATING SUMMONS

TO:

- 1. ATTORNEY-GENERAL OF IMO STATE** of Attorney-General's Chambers, Ministry of Justice, State Secretariat, Port Harcourt Road, Owerri, Imo State
- 2. IMO STATE HOUSE OF ASSEMBLY** of Imo State House of Assembly Complex, New Owerri, Imo State

LET THE DEFENDANTS within thirty (30) days after service of this Summons on them, inclusive of the day of such service cause an appearance to be entered for them to this summons which is issued upon the **PLAINTIFF** who claims to be entitled to the following reliefs:

- 1. A DECLARATION** that by virtue of **Section 1(1) & (3)** of the **Constitution of the Federal Republic of Nigeria, 1999** (as amended), the provisions of the **Constitution of the Federal Republic of Nigeria, 1999** (as amended) is supreme and binding on all authorities and persons throughout the Federal Republic of Nigeria including the Defendants.
- 2. A DECLARATION** that by virtue of **Section 1(3)** of the **Constitution of the Federal Republic of Nigeria, 1999** (as amended), any law or enactment including, but not limited to, **Sections 258 & 259** of the **Administration of Criminal Justice Law of Imo State 2020**; which is inconsistent with the provisions, particularly **Section 6**, of the **Constitution of the Federal Republic of Nigeria, 1999** (as amended) is void to the extent of the inconsistency.
- 3. A DECLARATION** that the provisions of **Sections 258 & 259** of the **Administration of Criminal Justice Law of Imo State 2020**, enacted by the 2nd

Defendant, which prescribe a time-limit for the conclusion of criminal cases, are unconstitutional, illegal, null, void and *ultra vires* the powers of the 2nd Defendant in that it purports to control or fetter the Judiciary in the discharge of its constitutionally-enshrined duty of adjudication as provided for under **Section 6 of the Constitution of the Federal Republic of Nigeria, 1999** (as amended).

4. **AN ORDER VOIDING AND/OR NULLIFYING** the provisions of **Sections 258 & 259 of the Administration of Criminal Justice Law of Imo State 2020** which prescribe a time-limit for the conclusion of criminal cases, for being unconstitutional, illegal, null, void and *ultra vires* the powers of the 2nd Defendant in that it purports to control and/or fetter the Judiciary in the discharge of its constitutionally-enshrined duty of adjudication as provided for under **Section 6 of the Constitution of the Federal Republic of Nigeria, 1999** (as amended).
5. **ANY OTHER ORDER** which the Honourable Court may deem fit to make in the circumstances of this suit.

Upon the determination of the following questions:

- a. *Whether the provisions of Sections 258 & 259 of the Administration of Criminal Justice Law of Imo State 2020 are not inconsistent with the provisions of Section 6 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)?*
- b. *Whether the provisions of Sections 258 & 259 of the Administration of Criminal Justice Law of Imo State 2020 do not purport to fetter and/or control the Judiciary in the discharge of its constitutionally-enshrined duty of adjudication as provided for under Section 6 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)?*
- c. *If the answers to questions (a) and (b) above are in the affirmative, whether the provisions of Sections 258 & 259 of the Administration of Criminal Justice Law of Imo State 2020 should not be struck down by this Honourable Court for being unconstitutional, illegal, null, void and *ultra vires* the powers of the 2nd Defendant?*

This summons was taken out by **I. K. Ujah Esq**, counsel for the Plaintiff whose address for service is **Viable Attorneys, 6, Eni Njoku Street, Ikenegbu Layout, Owerri, Imo State**

The Defendants may enter appearance personally or by Solicitor either by handing in the appropriate forms, duly completed, at the Registry of the High Court of the Judicial Division above mentioned such order will be made and proceedings taken as the Judge may deem just and expedient.



NB: If the Defendants do not respond within the time and at the place above mentioned, such order will be made, and proceedings may be taken as the judge may think just and expedient.

Dated this 20th day of February, 2025



- John Uba, Esq.**
 - Gabriel Abazie, Esq.**
 - Obinna John-Agbasl, Esq.**
 - I. K. Ujah, Esq.**
 - U. D. Unegbu, Esq.**
 - C. H. Mbachu, Esq.**
 - J. U. Adimelechi, Esq.**
 - U. V. Enwere, Esq.**
 - Chinedu Agu, Esq.**
 - C. E. Anyanwu, Esq.**
 - Ikenna Ndukwe, Esq.**
 - Jordan Okoro, Esq.**
 - Blaise Iwunze, Esq.**
 - Obieze D. Nze, Esq.**
 - C. R. Ovuoh, Esq.**
- Viable Attorneys
6 Eni Njoku Street,
Ikenegbu Layout,
Owerri, Imo State.
08037748730

PD CR. 26
0241432
20-2-25



FOR SERVICE ON:

The 1st Defendant,

Attorney-General's Chambers,

Ministry of Justice, State Secretariat

Owerri, Imo State

The 2nd Defendant,

Imo State House of Assembly Complex

New Owerri, Imo State

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AND

1. ATTORNEY-GENERAL OF IMO STATE	}	
2. IMO STATE HOUSE OF ASSEMBLY		

DEFENDANTS

AFFIDAVIT IN SUPPORT OF ORIGINATING SUMMONS

I, **Chinedu Agu**, Male, Adult, Christian, Legal Practitioner, of 51 Onitsha Road, do hereby make oath and state as follows:

1. That I am the deponent and as such I am conversant with the facts deposed herein.
2. That I am the Secretary of the Plaintiff and have her authority to depose to this affidavit on her behalf.
3. That the Plaintiff is an Incorporated Trustees registered under **Part “C” of the Companies and Allied Matters Act, 2020**. A copy of the Certificate of Registration is hereto annexed and marked as **Exhibit “Agu 1”**.
4. That the Plaintiff is an association of lawyers who are dedicated to upholding the Rule of Law and constitutional order both in Imo State and beyond.
5. The 1st Defendant is the Chief Law Officer of Imo State and bears the burden of advising the Government of the State while the 2nd Defendant is the august body saddled with the constitutional responsibility of making laws for the good governance of Imo State.
6. That I know that the 2nd Defendant, purportedly, enacted the **Administration of Criminal Justice Law of Imo State, 2020** (which repealed the hitherto applicable **Criminal Procedure Law**) and same was assented to by the Governor of Imo State.
7. That as a lawyer of over twelve (12) years post-Call experience and who practices in this Honourable Court I have read the provisions of the said law.

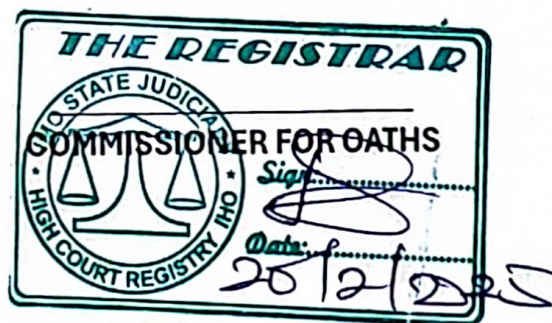
8. That **Section 258** of the Law stipulates the time standards, prescribed by the 2nd Defendant, for the hearing and conclusion of criminal cases pending court while **Section 259** provides for sanctions for non-compliance with these timelines which include the award of costs and reconsideration of bail among others.
9. That as a lawyer, I know that the 2nd Defendant is constitutional empowered to make laws while the Judiciary is to interpret and adjudicate on disputes between persons and governments or persons *inter se*.
10. That I also know that being separate bodies, none is superior to and can dictate for the other in the discharge of that other's constitutional duty.
11. That I also know that these sections prescribe a time-limit for the hearing and determination of criminal cases pending in courts including this Honourable Court.
12. That these provisions infringe on the doctrine of separation of powers between the 2nd Defendant and the Judiciary.
13. That I also know that any law which violates the provisions of the **1999 Constitution** will be struck down by this Honourable Court.
14. That I urge the Honourable Court to answer the questions for determination in the affirmative in granting the reliefs sought in this suit.
15. That I make this affidavit in good faith and in accordance with the **Oaths Act, 2004** as applicable to Imo State of Nigeria.



 DEPONENT

Sworn to at the High Court Registry, Iho, Ikeduru LGA
 This 20th day of Feb 2025

BEFORE ME



CAC/11/NO/144748

THIS IS THE DOCUMENT REFERRED TO AS EXHIBIT IN PARAGRAPH OF THE AFFIDAVIT / COUNTER AFFIDAVIT BEFORE THIS DAY OF 20



CORPORATE AFFAIRS COMMISSION
FEDERAL REPUBLIC OF NIGERIA

Certificate of Incorporation

of the ~~Incorporated Trustees of~~



LAWYERS OF LIKEMINDS

Whereby certify that

UBA JOHN, AGU CHINEDU MAURICE, JOHN-ACHASI OBINNA, UJAH IKENNA KENNY
MBACHU CHIKEZIE HENRY, ADIMELICHI JONATHAN UKACHIUKWU, ENWERE
UZOCHUKWU VICTOR, OYUOH CHUKWUEMPKA RONALD, ANYANWU CHIBUEZE
EMMANUEL, NDUKWE IKENNA ONYEKACHI, UNPCHU UDOCHUKWU DESMOND

the duly appointed trustees of LAWYERS OF LIKEMINDS have this day been registered as a corporate body, subject to the below mentioned conditions and directions.

Given under my hand and the Common Seal of the Corporate Affairs Commission at Abuja this 16th day of December, 2020

CONDITIONS AND DIRECTIONS

This certificate is liable to cancellation should the objects or the rules of the body be changed without the previous consent in writing of the Registrar General or should the body at any time permit or condone any divergence from or breach of such objects and rules.

Note:

This certificate does not bestow upon the Organization the right to establish any institution, engage in any business and the like without permission from the appropriate authority



A. G. ABUBAKAR
Registrar - General

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IN THE IHO JUDICIAL DIVISION
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2. IMO STATE HOUSE OF ASSEMBLY		

WRITTEN ADDRESS IN SUPPORT OF ORIGINATING SUMMONS

1.0 INTRODUCTION

1.1 The Plaintiff filed this Originating summons seeking the reliefs adumbrated on the face of the summons. In support of the action is a fifteen [15] paragraph affidavit in support deposed to by Chinedu Agu, Esq. personally to which an exhibit: **Exhibit "AGU 1"** [Certificate of Registration of the Plaintiff].

1.2 We crave the indulgence of the Honourable Court to rely upon these averments and the exhibit annexed in urging the Honourable Court to answer the questions posed for determination favorably and grant the reliefs sought in their entirety in the interest of justice.

2.0 ISSUE FOR DETERMINATION

2.1 In the light of the facts and circumstances of this case, the issues which present themselves for determination are as follows:

- a. *Whether Originating summons is appropriate in the circumstances of this case?*
- b. *Whether the Honourable Court should not answer questions (a) and (b) in the affirmative in granting the reliefs sought by the Plaintiff?*

3.0 ARGUMENT ON ISSUES

3.1 Issue 3.1(a)

Whether Originating summons is appropriate in the circumstances of this case?

It is our humble but firm contention that originating summons procedure is very appropriate in the circumstances of this instant suit. The *raison d'être* for this submission is not far-fetched and will be demonstrated *anon*.

- 3.2 For starters, by the clear provisions of **Order 3 Rule 5** of the **Imo State High Court [Civil Procedure] Rules 2017** the Plaintiff can competently commence this suit by way of originating summons. For the purposes of clarity, that portion of the **Rules** provide thus:

“Any person who claiming to be interested or claiming any legal or equitable right under a Deed, Will, enactment or other written instrument may apply by Originating Summons for the determination of any question of construction arising under the instrument and for a declaration of the rights of the persons interested”

[Underlining supplied for emphasis]

- 3.3 Without a doubt, we submit, this case is an appropriate case for the invocation of originating summons procedure. The Plaintiff in this case seeks the interpretation of the **Sections 1(1) & (3) and 6** of the **Constitution of the Federal Republic of Nigeria 1999** (as amended). In consequence thereof, the Plaintiff have posed some questions for the determination of this Honourable Court as required by the quoted portion of the **Rules**.

- 3.4 The law has been settled beyond *peradventure* that originating summons may be employed to commence an action where the issue involved is one of the constructions of a written law, instrument, Deed, Will, or other document or some question of pure law is involved or where there is unlikely to be any substantial dispute on issues of fact between the parties. We take refuge in the cases of **KEYAMO v. L.S.H.A [2002] 18 NWLR [PT. 799] 605**, **CONOIL PLC v. I.T.F. GOVERNING COUNCIL [2015] 9 NWLR [PT. 1464] 399**.

- 3.5 In **AGBAKOBA v. INEC [2008] 18 NWLR [PT. 1119] 489**, the Supreme Court held *per* Chukwuma-Eneh JSC [as he then was] in the following telling words, at page 537 paras D-E, as follows:

“...Originating summons is used to commence an action *where the questions in controversy for determination turn on the simple questions of constructions and would not call for the settlement of pleadings...*”

[Underlining supplied for emphasis]

3.6 We submit further that facts are not in dispute in this case in any way or manner whatsoever as this Honourable Court is only called upon to interpret the relevant provisions of the *grundnorm vis-à-vis* **Sections 258 and 259** of the **Administration of Justice Law of Imo State, 2020**.

3.7 We most humbly urge the Honourable Court to so hold in coming to a decision that originating summons procedure is appropriate in the circumstances of this suit. We urge the Honourable Court to resolve this issue in favour of the Plaintiff.

3.8 Issue 3.1(b)

Whether the Honourable Court should not answer questions (a) & (b) in the affirmative in granting the reliefs sought by the Plaintiff?

It is submitted that, by dint of the eternal doctrine of the separation of powers, which is recognized by the **1999 Constitution** (supra), the Legislature represented by the 2nd Defendant, is empowered to make laws, the Executive represented by the 1st Defendant is to execute the laws enacted by the 2nd Defendant while the Judiciary is to adjudicate on disputes and interpret the laws made by the 2nd Defendant.

3.9 Before proceeding further, it will be apposite to reproduce the provisions of **Sections 258 and 259** of the **Administration of Criminal Justice Law of Imo State, 2020**. **Section 258** provides as follows:

258 *All criminal proceedings in the court shall be guided by the following time standards –*

(a) for capital offences, a maximum period of 540 (five hundred and forty) days

(b) for other offences triable on information, a maximum period of 360 (three hundred and sixty) days

(c) for all summary trials, a maximum period of 180 (one hundred and eighty) days

(d) for bail applications, a maximum period of 30 days

(e) for all other interlocutory applications, a maximum period of 90 (ninety) days.

3.10 **Section 259 (1)** reads as follows:

259(1) Where for any cogent reason, a case cannot be concluded within the stipulated time standards, the trial court may, suo motu, or on application of any party, extend the time to a period not exceeding half of the period originally stipulated:

Provided that in such proceedings, the court may-

- (a) award cost/impose penalty on any party causing delay;**
- (b) reconsider the issue of bail; and**
- (c) make any order or give such directives in any other manner the court considers fit in the circumstances of the case.**

Provided also that if the matter is not concluded within the extended time, the matter shall proceed and the court shall report the matter to the Chief Judge.

- (2) In computing time, the period of court vacation, annual leave of a Magistrate, public holidays, industrial actions shall not be taken into account.**

3.11 It can be appreciated that these provisions purport to provide a time-line for the hearing and determination of criminal cases before the court. The words used in that portion of the enactment are clear and unambiguous and as such entitled to be given their ordinary meanings. It is now elementary that in the construction or interpretation of statutes, clear and unambiguous words used in a statute or enactment are to be given their ordinary and natural meanings. See **NYESOM v. PETERSIDE [2016] 7 NWLR [PT. 1512] 452**, **OJOKOLOBO v. ALAMU [1987] 3 NWLR [PT. 61] 377**, **ADISA v. OYINWOLA [2000] 10 NWLR [PT. 674] 116** respectively.

3.12 The Apex Court in the celebrated case of **ADISA v. OYINWOLA [supra] per Iguh JSC [as he then was] at page 202 paras D-E** restated this settled position of the law in no uncertain terms as follows:

“...Where the language of statute is plain and admits of but one meaning the task of interpretation can hardly be said to arise. Where, therefore, by the use of clear and unequivocal language capable of only one meaning, anything is enacted by the legislature, it must be enforced however harsh or absurd or contrary to common sense the result may be...”

[Underlining supplied for emphasis]

3.13 Going further, it can be understood that these provisions operate as to limit the exercise of judicial functions by a competent court of law by stipulating time-lines for the exercise of judicial powers by the courts. It is our contention that this is an affront to the provisions of **Section 6 (6)a & b** of the **1999 Constitution** (supra) and should not be allowed to stand. For the purpose of emphasis, the provisions of **Section 6 (6) a & b** are reproduced hereunder.

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

(a) shall extend, notwithstanding anything to the contrary in this constitution, to all inherent powers and sanctions of a court of;

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

(Underlining supplied for emphasis)

3.14 We submit further that by dint of the above reproduced portion of the *grundnorm*, courts, such as this Honourable Court, have an inherent jurisdiction to control their proceedings as can be understood from the wordings of **Section 6 (6)b** of the **1999 Constitution** (supra) and do not require external control as the 2nd Defendant attempted to do *vide Sections 258 and 259* of the **ACJL** (supra).

3.15 These sections tend to constitute the 2nd Defendant into an oversight authority over the Judiciary. This, we submit, smacks of a deliberate attempt to violate the eternal doctrine of separation of powers which is well entrenched in the *grundnorm* which under **Section 4** thereof vests legislative powers of the Federation in the National Assembly and under **Section 6** vests the judicial powers of the Federation in the courts specified therein.

3.16 There is no gainsaying that the provisions of the **1999 Constitution** (supra) which is the *fons et origo* of the land, by virtue of **Section 1(1)** thereof, are supreme and have binding force on all authorities and persons throughout the Federal Republic of Nigeria. That being the case, we submit that the **1999 Constitution** (supra) clearly delineated the provinces of authority of the 2nd

Defendant and the Judiciary such that there is no conflict or overlap of the functions of these bodies.

- 3.17 In dealing with a similar scenario touching on the powers of the Legislature and the Judiciary, the apex court in **SOFEKUN v. AKINYEMI & ORS (1980) 5-7 S.C. 1 @ 25 to 30** per Anigolu, J.S.C. (as he then was) had this to say *inter-alia*:

*“...It is essential in a constitutional democracy, such as we have in our country, that for the protection of the rights of citizens, for the guarantee of the rule of law which includes according fair trial to the citizen under procedural regularity, and, for checking arbitrary use of power by the executive or its agencies, **the power and jurisdiction of the courts under the Constitution must not only be kept intact and unfettered but also must not be nibbled at. To permit any interference with, or a usurpation of, the authority of the courts, as aforesaid, is to strike at that bulwark which the Constitution gives and guarantees to the citizens, of fairness to him, against all arbitrariness and oppression. Indeed, so important is this preservation of, and non-interference with, the jurisdiction of the courts that our present Constitution (Decree No. 25 of 1978) has specifically provided (see s.4(8) that neither the National Assembly nor a House of Assembly shall enact any law that oust the jurisdiction of a court of law or a judicial tribunal established by law...**”*
(Underlining supplied for emphasis)

- 3.18 It can be appreciated from the above-reproduced portion of the *dictum* of the apex court that the Legislature, represented by the 2nd Defendant on record, lacks the *vires* to enact any law which seeks to regulate the exercise of judicial powers as doing so would amount to an interference with jurisdiction of the Courts which the **1999 Constitution** (*supra*) frowns at. Going further, in **UNONGO v. AKU (1983) N.S.C.C. 563** the same apex court in striking down **section 140(2) of the Electoral Act, 1982** (which stipulates a time-limit for hearing and determination of election petitions) held *per* Uwais J.S.C. (later CJN) *inter-alia* as follows:

*“...**If therefore, any portion of any Act enacted by the National Assembly infringes section 33 (1) and thereby ousts the jurisdiction of a court of law to hear and determine a matter then there is a breach of section 4 (8) of the Constitution of the Federal Republic of Nigeria 1979, and to that extent the**”*

provision of section 140 (2) of the Electoral Act 1982 which ousts the jurisdiction of a competent High Court to hear and determine election petition in conformity with the provisions of section 33 (1) and section 258 of the Constitution of the Federal Republic of Nigeria is, therefore, unconstitutional. To that extent therefore that it limits the exercise of judicial functions by a competent court of law, it is void..”

(Underlining supplied for emphasis)

3.19 In the same token, it is our contention that **sections 258 and 259** of the ACJL (supra) which seek to *limit the exercise of judicial functions by a competent court of law* are void and *ultra vires* the powers of the 2nd Defendant and we most respectfully urge the Honourable Court to so hold in striking down these offensive provisions. It is now *calcified* in our *corpus juris* and expressed in the Latin maxim: “*Desimilibus idem est iudicium*” which translates into “*in like cases, justice is the same*”. We submit that the facts of **UNONGO v. AKU** (supra) are on all-fours with the facts of this case and as such justice, which is striking down **sections 258 and 259** of the ACJL (supra), should be the same.

3.20 In drawing the curtain on this issue, may we commend the reasoning of the apex court in **ATTORNEY-GENERAL OF BENDEL STATE v. ATTORNEY-GENERAL OF THE FEDERATION & ORS (1982) 3 N. C. L. R. 1 @ 40** per Fatayi-Williams, C.J.N. (as he then was) as follows:

*“...By virtue of the provisions of section 4 (8) of the Constitution, the courts of law in Nigeria have the power, and indeed, the duty to see to it that there is no infraction of the exercise of legislative power, whether substantive or procedural, as laid down in the relevant provisions of the Constitution. **If there is any such infraction, the courts will declare any legislation passed pursuant to it unconstitutional and invalid...**”* (Underlining supplied for emphasis)

3.21 In the light of the arguments canvassed above and authorities cited, we most respectfully invite the Honourable Court answer the questions posed for determination as follows:

a. ***Whether the provisions of Sections 258 & 259 of the Administration of Criminal Justice Law of Imo State 2020 are not inconsistent with the***

provisions of Section 6 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)? In the affirmative

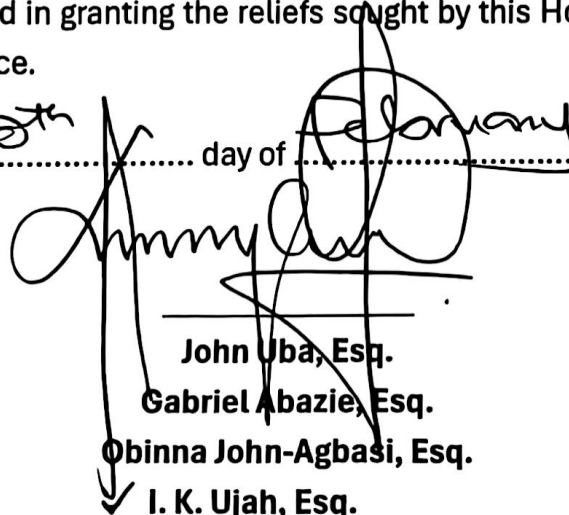
- b. *Whether the provisions of Sections 258 & 259 of the Administration of Criminal Justice Law of Imo State 2020 do not purport to fetter and/or control the Judiciary in the discharge of its constitutionally-enshrined duty of adjudication as provided for under Section 6 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)? In the affirmative*
- c. *If the answers to questions (a) and (b) above are in the affirmative, whether the provisions of Sections 258 & 259 of the Administration of Criminal Justice Law of Imo State 2020 should not be struck down by this Honourable Court for being unconstitutional, illegal, null, void and ultra vires the powers of the 2nd Defendant? In the affirmative.*

Consequently, we urge the Honourable Court to grant all the reliefs sought by the Plaintiff in this suit in the interest of justice.

4.0 **CONCLUSION/SUMMARY**

- 4.1 We urge the Honourable to be persuaded by the arguments canvassed and the authorities cited in granting the reliefs sought by this Honourable Court in the interest of justice.

Dated this.....^{28th}..... day of ^{February}....., 2025



John Uba, Esq.

Gabriel Abazie, Esq.

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C. R. Ovuoh, Esq.
Plaintiff's Counsel
Viable Attorneys
6 Eni Njoku Street,
Ikenegbu Layout,
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FOR SERVICE ON:

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