IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
SUITNO. FHC/ABJ/CS/2059/2026

BETWEEN
1. ABAH MICHEAL AUDU
2. SOCIAL DEMOCRATIC PARTY
3. DR. CHUKWUAMA UCHECHUKWU OGBONNA (National Organizing Secretary, SDP) ... **PLAINTIFFS**

AND

INDEPENDENT NATIONAL ELECTORAL COMMISSION (INEC) ... **DEFENDANT**

FEDERAL HIGH COURT ABUJA
15 SEP 2026
PAID
CASHIER:
3025 | 2515524

DEFENDANT'S COUNTER AFFIDAVIT TO THE PLAINTIFF'S ORIGINATING SUMMONS FILED ON 1ST OF SEPTEMBER, 2026 AND SERVED ON THE 10TH SEPTEMBER, 2026

I, Comfort Ikechukwu, Female, Adult, Litigation Secretary and Nigerian citizen Block 15D Salis Court Estate, Efire Ileogun Street Life Camp Abuja, FCT, Nigeria, do hereby make oath and state as follows:

1. That I am the Litigation Secretary of the Defendant's Counsel, by virtue of which I am conversant with the facts deposed herein.
2. I have the consent and authority of the Defendant and my Employer to depose to this affidavit from facts within my personal knowledge except where otherwise stated.
3. I state that the facts contained in this Affidavit are within my personal knowledge, except where otherwise expressly indicated.
4. I was informed by the Defendant's Director of Legal Services at the instance of Dr. Dayo G. Ashonibare (Lead Counsel) and during a

case review at INEC Headquarters Plot 436, Zambezi Crescent, Maitama FCT-Abuja at about 12noon on the 11th of September, 2026 of the following facts which I verily believe to be true as follows:

5. The Defendant states that it is not in a position to admit or deny paragraphs 1, 2 and 3 of the Affidavit in support of Originating Summonscontain facts within the knowledge of the Deponent and the Plaintiff is put to strictly prove those facts.
6. That paragraphs 4, 5, 6, 7, 8, 10, 11, 12, 13 and 14 of the Affidavit in support of Originating Summonsare untrue, are matters within the knowledge of the Plaintiffs, and the Plaintiffs are put to the strictest proof thereof.
7. That the Defendant in carrying out its Constitutional and Statutory dutiesalways acts strictly within the ambit of theextant laws, regulations and guidelines.
8. That in Specific response to paragraphs 4, 5, 6, 7, 8, 10, 11, 12, 13 and 14 of the Affidavit in support of Originating Summons and pursuant to the binding decision of the Supreme Court in **Suit No. SC/CV/229/2026-Fayemi Tosin Babatunde V Independent National Electoral Commission (INEC)& 3 Ors**, delivered on 22nd day of May 2026, Coram Jamilu Yammama Tukur, JSC, ***"where the Court held that the purported existence of parallel candidates or the leadership tussle within the 2nd Respondent (SDP) are made without jurisdiction and they hereby all set aside"*** this position of the Apex Court settled the intra-party battle of the 2nd Defendant and cleared the path for the Defendant according recognition to the **Sadiq Abubakar Gombe** led faction of the SDP Sued in the said Appeal as the 4th Respondent.

9. That it is in compliance with said decision that the Defendant de-recognized **Alh. Shehu Musa Gabam led Leadership of the 2nd Plaintiff (SDP)** and the invalidity of the persons that emerged at the National Convention of SDP under Alh. Shehu Musa Gabam led faction as detailed in the Defendant's monitoring Report **attached by the Plaintiffs in this suit as Exhibit 2.**

10. That it is in obedience to the said Supreme Court decision that the Defendant issued **Sadiq Abubakar Gombe** led faction of the SDP with the access code to nominate candidates for the 2nd Plaintiff (SDP) pursuant to the **Guidelines for nomination of Candidates for Elections 2026** attached **as Exhibit INEC 1.**

11. That it is in flagrant disobedience to the said Supreme Court decision and unlawful protest to the decision of the Defendant to accord recognition to the **Sadiq Abubakar Gombe** led faction of the SDP and issuance of access code to nominate candidates for the 2nd Plaintiff (SDP) that the Plaintiffs under the derecognized **Alh. Shehu Musa Gabam led Leadership of the 2nd Plaintiff (SDP)**against theGuidelines for nomination of Candidates for Elections 2026 forwarded the letter nominating the 1st Plaintiff and other candidates through the unconventional method as demonstrated in **Exhibit 3 and 4.**

12. That the Plaintiffs have not disclosed any valid cause of action against the Defendant in this Suit.

13. That the Defendant shall, always in compliance with the Extant Guidelines and Laws, recognize only candidates that emerged from

validly conducted primary elections conducted by the recognized National Executive Committee of the political party.

14. That the Defendant has no vested interest in the list of candidates submitted by any political party, as its role is limited to ensuring compliance with the law and recognition of candidates from the appropriate authorities.

15. That the Defendant has consistently maintained impartiality in the recognition of candidates across all political parties and elections, thereby reinforcing its neutrality and credibility.

16. That the role of the Defendant is supervisory and regulatory, and it does not interfere with the internal affairs of political parties beyond ensuring compliance with the law.

17. That any faction not recognized by the Commission pursuant to the said judgment is not entitled to submit candidates to the Defendant, and any such submission is a nullity.

18. That the dispute as to which faction of the political party is entitled to conduct primaries and submit candidates is an internal affair of the party, which had already been resolved by the courts up to the Supreme Court.

19. That the Defendant, being bound by the judgment of the Supreme Court, has no discretion to act otherwise than in accordance with the said judgment.

20. That the Defendant has at all times acted in good faith, within the confines of the law, and in strict compliance with judicial pronouncements, including the decision of the Supreme Court in **Suit No. SC/CV/229/2026-Fayemi Tosin Babatunde V Independent National Electoral Commission (INEC)& 3 Ors.**

21. That the Defendant reiterates that it is independent, impartial, and neutral in the discharge of its statutory functions, and has no interest in the internal disputes of political parties beyond ensuring compliance with the law.

22. That the Plaintiffs' complaints in this case clearly border on the internal affairs of a political party, which the Courts have no jurisdiction to entertain.

23. That I depose to this Affidavit in good faith, believing the content of same to be true, correct and in accordance with the Oaths Act, 2004.

Deponent

Sworn to at the Registry of the Federal High Court of Nigeria, Abuja
This 15th day of September, 2026.

BEFORE ME
COMMISSIONER FOR OATHS
FEDERAL HIGH COURT
ABUJA
Sign.....
Date.....

COMMISSIONER FOR OATHS

Exhibit INEC 1

INDEPENDENT NATIONAL ELECTORAL COMMISSION

COMMISSIONER FOR OATHS
FEDERAL HIGH COURT
ABUJA
Sign.....
Date.....

GUIDELINES FOR NOMINATION OF CANDIDATES FOR ELECTIONS

2026

INDEPENDENT NATIONAL ELECTORAL COMMISSION

GUIDELINES FOR THE NOMINATION OF CANDIDATES FOR ELECTIONS

1.0 INTRODUCTION

1.1. The Independent National Electoral Commission (Commission) is empowered by Section 153 and Paragraph 15(a) of the Third Schedule of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) to:

> "organize, undertake and supervise all elections to the offices of the President, Vice – President, the Governor, and Deputy Governor of a State and to the Membership of the Senate, the House of Representatives and the House of Assembly of each State of the Federation."

1.2 Pursuant to its Constitutional mandate, the Commission approves and issues Timetable and Schedule of Activities for elections.

1.3 In the exercise of the powers conferred on the Commission by the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and the Electoral Act, 2026, the following Guidelines are hereby issued for the nomination of candidates for elections.

1.4 These Guidelines shall apply to the nomination of candidates for election into the following offices:

i. President and Vice President;
ii. Governor and Deputy Governor;
iii. National Assembly (Senate and House of Representatives);
iv. State Houses of Assembly;
v. Chairmen and Vice - Chairmen of Area Councils of the Federal Capital Territory (FCT); and
vi. Councillorship of Area Councils of the FCT.

1.5 These Guidelines supersede all other Guidelines on the Nomination of Candidates for Elections issued by the Commission and shall remain in force until replaced by new Guidelines or amendments approved by the commission.

2.0 PROCEDURE FOR THE SUBMISSION OF PRESCRIBED FORMS BY POLITICAL PARTIES

2.1 Political Parties seeking to nominate candidates for elections shall hold Primaries for aspirants into elective positions listed in Clause 1.4 above, in accordance with the provisions of Section 84 of the Electoral Act, 2026.

2.2 All Political Parties shall, not later than 120 days to the date appointed for a General Election and Area Council Election, submit to the Commission in the prescribed Forms, a list of candidates they intend to sponsor accompanied with an Affidavit sworn to by the candidate indicating that he or she has fulfilled all constitutional requirements for the office.

2.3 The submission of all Forms referred to in Clause 2.2 shall be made on the INEC Candidates Nomination Portal (ICNP) only in respect of candidates that emerged from validly conducted primaries.

2.4 The period for submission shall commence at 9.00am on the first day and end at 11.59pm on the last day as stipulated in the Timetable and Schedule of Activities for the election.

2.5 Every Political Party intending to sponsor candidates for elections in accordance with Section 29(1) of the Electoral Act 2026 shall:

(a) Obtain access codes from the Commission on a date stipulated in the Timetable and Schedule of Activities for election;

(b) Upload covering letter duly signed by the designated National Executives authorised by the respective Political Party's Constitution;

(c) Complete Form EC9 (Affidavit in Support of Personal Particulars) and EC 9(A)-(G) (whichever is applicable) on the ICNP;

(d) Ensure Forms EC9 (A-G) are signed electronically by the designated National Executives authorised by the respective Political Party's Constitution;

(e) Ensure the completed Form EC9 is downloaded and sworn to by the candidate at the Federal High Court, High Court of a State or of the Federal Capital Territory indicating that he or she has fulfilled all the constitutional requirement for election into that office;

(f) Upon swearing to the oath, scan and upload the oath page and other supporting documents to the ICNP;

(g) Ensure that all required fields are completed and all prompts on the ICNP are followed to enable successful submission.

2.6 After submission, an acknowledgment slip shall be generated. The ICNP will also send an e-mail confirmation to the e-mail address registered by the Political Party.

2.7 **NOTE:**

a. The prescribed Forms referred to in these guidelines are listed in Schedule 1.

b. The portal shall no longer be accessible for submission of prescribed Forms and other documents listed in Clause 2.5 (b), (d) and (f) after 11.59pm on the last day stipulated by the Timetable and Schedule of Activities for the submission of Forms EC9 and EC9 (A – G);

c. Hard copies of Forms and documents delivered in person, by Courier, or postal service deliveries shall NOT be accepted or processed by the Commission.

3.0 PROCESSING OF PRESCRIBED FORMS

3.1 CLEARANCE BY THE OFFICE OF THE HON. CHAIRMAN:

Upon submission by Political Parties, the Hon. Chairman shall initiate the processing of Forms by forwarding submissions made by Political Parties on the ICNP to the Election Party and Monitoring Department (EPM) for verification and clearance.

3.2 ELECTION AND PARTY MONITORING DEPARTMENT

The EPM Department Shall:

(a) Verify and confirm the signatures of designated National Executives authorised by the respective Political Party's Constitution with the sample signatures in the ICNP database; and

(b) Upon confirmation, the EPM shall clear and forward submissions made by the Political Parties to the Legal Drafting and Clearance Department (LD&C) for further processing.

3.3 LEGAL DRAFTING AND CLEARANCE (LD&C) DEPARTMENT

The LD&C Department shall:

(a) Accept and validate the submissions forwarded by the EPM Department;

(b) Print all prescribed Forms and other supporting documents uploaded by Political Parties, which shall already be electronically stamped;

(c) Date and sign each page of the printed Forms and documents;

(d) Sort all Forms according to elective office and on State basis;

(e) Arrange, process, and forward all Forms EC9 to State and FCT offices of the Commission within 21 days for publication in compliance with Section 29(3) of the Electoral Act, 2026.

4.0 INTERIM LIST OF CANDIDATES

The LD&C Department shall:

(a) Generate the list of candidates for each election from the ICNP;

(b) Vet the List of Candidates with the information provided in Form EC9;

(c) Process for Commission's information.

5.0 WITHDRAWAL/SUBSTITUTION OF CANDIDATES

5.1 A Political Party that intends to change its candidate in accordance with Section 33 of the Electoral Act, 2026, shall, within the period stipulated in the Timetable and Schedule of Activities for election:

(a) Notify the Commission of the conduct of fresh primaries to replace its withdrawn or dead candidate, and attach evidence of withdrawal or death; and

(b) Ensure that the date fixed for the conduct of fresh primaries is within the 14 days of the withdrawal/death and the period for substitution stipulated in the Timetable and Schedule of Activities for election.

5.2 Upon the emergence of a substitute candidate in accordance with Section 33 of the Electoral Act, 2026, the Political Party shall:

(a) Upload on the ICNP, a letter signed by designated National Executives authorised by the respective Political Party's Constitution, forwarding the proof of death or withdrawal letter duly signed by the candidate withdrawing;

(b) Complete and upload:

i. Withdrawal of Candidates Form EC11 A -G (whichever is applicable) signed by the candidate withdrawing and the substitute candidate; and

ii. Passport photographs of the withdrawn and substitute candidate

(c) Complete and upload Forms EC9, EC9 (A-G) in respect of the substitute candidate using the procedure in Clauses 2.3 -2.5.

5.3 Note that there shall be no withdrawal/substitution of candidates for bye-elections EXCEPT in the case of death.

6.0 FORM EC13 (A – G)

6.1 Political Parties shall:

(a) Download and complete Forms EC13 A - G (whichever is applicable) in respect of candidates sponsored for elections within the stipulated period in the Timetable and Schedule of Activities for election; and

(b) Upload the completed Forms EC13 A - G (whichever is applicable).

7.0 FINAL LIST OF CANDIDATES

7.1 The LD&C Department shall:

(a) Integrate the names of substitute candidates with the Interim List of candidates;

(b) Vet the List of Candidates with the information provided in Form EC9;

(c) Seek the Commission's approval for publication of the Final List of candidates within the timeline stipulated in the Timetable and Schedule of Activities for the election;

(d) Forward the Final List to the respective State and FCT offices of the Commission for publication at least 60 days before the date of election in compliance with Section 32(1) of the Electoral Act, 2026.

8.0 COURT ORDERS

8.1 Where there is a Court Order in respect of the nomination of any candidate, the Commission shall comply with such Order and indicate same against the name of the court ordered candidate on the Final List of Candidates.

These Guidelines complement the provisions of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and the Electoral Act, 2026.

Dated this .....10th..... day of .....JUNE..... 2026

Prof. Joash Ojo Amupitan, SAN
Chairman
INDEPENDENT NATIONAL ELECTORAL COMMISSION

SCHEDULE 1
PRESCRIBED FORMS

Presidential	Governorship	Senatorial	House of Reps	State House of Assembly	Chairmanship	Councillorship
A series	B Series	C Series	D Series	E Series	F Series	G Series

S/N	FORM NO.	FORM
1	EC9	Affidavit In Support of Personal Particulars (All Elections)
2	EC9 A	Submission of Names of Candidates by Political Party (Presidential Election)
3	EC9 B	Submission of Names of Candidates by Political Party (Governorship Election)
4	EC9 C	Submission of Names of Candidates by Political Party (Senatorial District Election)
5	EC9 D	Submission Of Names of Candidates by Political Party (House of Representatives Election)
6	EC9 E	Submission of Names of Candidates by Political Party (State House of Assembly Election)
7	EC9 F	Submission of Names of Candidates by Political Party (FCT Area Council Chairmanship Election)
8	EC9 G	Submission of Names of Candidates by Political Party (FCT Area Council Councillorship Election)
9	EC11 A	Notice of Withdrawal of Candidate (Presdiential Election)
10	EC11 B	Notice of Withdrawal of Candidate (Governorship Election)
11	EC11 C	Notice of Withdrawal of Candidate (Senatorial District Election)
12	EC11 D	Notice of Withdrawal of Candidate (House of Representatives Election)
13	EC11 E	Notice of Withdrawal of Candidate (State House of Assembly Election)
14	EC11 F	Notice of Withdrawal of Candidate (FCT Area Council Chairmanship Election)
15	EC11 G	Notice of Withdrawal of Candidate (FCT Area Council Councillorship Election)
16	EC13 A	Nomination Form (President)
17	EC13 B	Nomination Form (Governor)
18	EC13 C	Nomination Form (Member of Senate)
19	EC13 D	Nomination Form (Member of House of Representatives)
20	EC13 E	Nomination Form (Member of State House of Assembly)
21	EC13 F	Nomination Form (FCT Area Council Chairman)
22	EC13 G	Nomination Form (FCT Area Council Councillor)

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
SUITNO.
FHC/ABJ/CS/2059/2026.

BETWEEN
4. ABAH MICHEAL AUDU
5. SOCIAL DEMOCRATIC PARTY
6. DR. CHUKWUAMA UCHECHUKWU OGBONNA - **PLAINTIFFS**
(National Organizing Secretary, SDP)

AND

INDEPENDENT NATIONAL ELECTORAL COMMISSION (INEC) - **DEFENDANT**

DEFENDANT'S WRITTEN ADDRESS IN SUPPORT OF THE COUNTER AFFIDAVIT IN RESPONSE TO THE ORIGINATING SUMMONS

1.0 **INTRODUCTION**

1.1 This Suit was commenced by way of an Originating Summons filed on the 1st day of September, 2026. In the said Summons, the Applicant formulated three (3) questions for determination and sought seven (7) distinct reliefs, as contained on pages 1 to 4 thereof.

1.2 The Plaintiffs contend that the Defendant wrongfully published the name and particulars of another person in place of the 1st Plaintiff, who they allege was duly submitted as the Governorship Candidate of the Social Democratic Party in Benue State for the 2027 General Election. This suit was consequently filed, notwithstanding the fact that the subject matter clearly pertains to the internal affairs of the political party.

1.3 In response to the Applicant's claims, the Defendant filed a Counter Affidavit of Twenty-Three (23) paragraphs and one exhibit, deposed to by **Comfort Ikechukwu**. The Defendant shall rely on the Exhibit and all the averments contained therein, together with its accompanying Written Address, in opposition to the Applicant's case.

2.0 ISSUES FOR DETERMINATION

2.1 The Defendant submits the following issues for the determination of this Honourable Court, to wit:

I. Whether in view of the facts of this Suit and the applicable laws, this Honourable Court possesses the requisite jurisdiction to entertain this Suit.

II. Whether the Defendant acted within its statutory mandate and in compliance with the decision of the Supreme Court in **Suit No. SC/CV/229/2026-Fayemi Tosin Babatunde V Independent National Electoral Commission (INEC) & 3 Ors.**

3.0 LEGAL ARGUMENT

3.1 ISSUE ONE

Whether in view of the facts of this Suit and the applicable laws, this Honourable Court possesses the requisite jurisdiction to entertain this Suit.

3.1.1 My Lord, it is respectfully submitted that a careful examination of the Originating Summons, the Affidavit in Support thereof and the reliefs sought by the Plaintiffs clearly reveals that the gravamen of this action is the nomination and sponsorship of the Governorship

Candidate of the 2nd Plaintiff for the 2027 General Elections. The Plaintiffs invite this Honourable Court to determine who ought to have emerged as the valid candidate of the 2nd Plaintiff and to compel the Defendant to recognize only the 1st Plaintiff as such candidate. Respectfully, that complaint is fundamentally rooted in the internal affairs of the 2nd Plaintiff and not in any unlawful act of the Defendant.

3.1.2 My Lord, it is settled law that every political party is a voluntary association governed by its Constitution, Rules and Guidelines. The nomination of candidates, the conduct of party primaries and the determination of the appropriate organs authorized to act on behalf of the party are matters regulated primarily by the Constitution and internal regulations of the political party. The Defendant neither organizes party primaries nor determines who should emerge as the candidate of any political party. In **Magaji v. A.P.C. (2024) 1 NWLR (Pt. 1918) 1**, the Supreme Court succinctly restated the law as follows:

> ***"A party is like a club. It has its own rules, regulations, guidelines and constitution. Members join the party on their own free will. By joining, they freely give their consent to be bound by the rules, regulations, guidelines and constitution of the party. The rules of the party must be obeyed by all members of the party, as the party's decision is final over its own affairs. Members of a party need to understand and appreciate the finality of a party's decision over its domestic or internal affairs. The Court would only interfere where the party has violated its own rules."***

3.1.3 In the unreported decision of the Supreme Court in **Suit No. SC/CV/229/2026-Fayemi Tosin Babatunde V Independent National Electoral Commission (INEC)& 3 Ors**, delivered on 22nd day of May 2026, Coram Jamilu Yammama Tukur, JSC, the Court explicitly held that;

"the purported existence of parallel candidates or the leadership tussle within the 2nd Respondent (SDP) are made without jurisdiction and they hereby all set aside"

The Apex Court in the above case which is central to the determination of this suit set aside the Originating summons of the appellant filed at the trial court for explicit existence facts of parallel candidates or the leadership tussle within the 2nd Respondent (SDP) and dismissed the Appeal. I draw my Lords attention to **paragraphs of the 10, 11 and 12 of the Affidavit in Support of the Originating Summons** where the Plaintiff alluded to clash out of parallel candidacy of the 2nd Respondent (SDP). Equally my lord, the Plaintiff at**Paragraph 7 of the Affidavit in Support of the Originating Summons**particularly demonstrated an existence of a parallel leadership of the 2nd Respondent and exhibited the Monitored Report of the Defendant to elicit validity to the **Alh. Shehu Musa Gabam led Leadership of the 2nd Plaintiff (SDP)** led faction of the 2nd Respondent. We submit that the above is a clear demonstration of the Parallel candidacy and leadership tussle that is exposed clearly in the plaintiffs Originating Summons which squarely place this case as domestic affairs of the 2nd Defendant which this Court lacks jurisdiction to determine. We urge my lord to so hold.

3.1.4 The Defendant respectfully submits that the Plaintiffs' complaint, which questions the validity of the nomination process and the submission of a candidate by the 2nd Plaintiff, falls squarely within the domestic affairs of the political party.My Lord, this principle has received further judicial affirmation. In **Oni v. Oyebanji (2023) 13 NWLR (Pt. 1902) 507**, the Supreme Court held:

> ***"The internal affairs of a political party are non-justiciable subject to express statutory provisions or in cases of breach of contract or tort. Questions relating to the leadership of a political party and the authority of its organs remain internal matters of the party."***

3.1.5 It is respectfully submitted that the Plaintiffs' case, as constituted, is predicated upon the competing claims relating to the authority of party organs and the validity of the nomination process. These are matters which the Defendant is neither empowered nor required by law to determine.

3.1.6 My Lord, the Constitution and the Electoral Act clearly define the role of the Defendant in relation to political parties. By **Section 153(1)(f) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended),** the Independent National Electoral Commission is established as an independent constitutional body. **Paragraph 15(c) of Part I of the Third Schedule** further empowers the Defendant to monitor the organization and operation of political parties, including their conventions, congresses and party primaries.

3.1.7 Similarly, **Section 84(1) of the Electoral Act, 2026** provides that political parties seeking to nominate candidates shall conduct primaries which shall be monitored by the Defendant, while **Section**

85 provides that such primaries shall be conducted in accordance with the guidelines of the political party.

3.1.8 The combined effect of these provisions is that the Defendant's role is supervisory and regulatory. The law does not confer upon the Defendant the responsibility of conducting party primaries, determining which faction of a political party is legitimate or resolving disputes arising from the internal management of political parties

3.1.9 This position was emphatically affirmed by the Supreme Court in **Sani v. A.P.C. (2023) 17 NWLR (Pt. 1912) 109**, where the Court held:

> "The monitoring of primary election by the Commission, which is its statutory right upon invitation or uninvited, cannot confer legitimacy on an election conducted which the political party did not sanction... ***It is the National Working Committee or National Executive Committee that can determine whether the primary election... has legitimacy of compliance*** with the guidelines of the political party."

3.1.10 The import of this decision is that the legitimacy of a party primary is determined by the appropriate organs of the political party in accordance with its Constitution and Guidelines, and not by the Defendant merely because it monitored the exercise.In the same vein, the Supreme Court in **Kente v. Bwacha(2023) 9 NWLR (Pt. 1889) 329** held:

> "It is ***only the National Executive Committee of a political party that has the vires to organize primary elections***. The National Executive Committee may act through its National Working Committee..."

3.1.11 My Lord, the Defendant has pleaded in **paragraphs 8, 9, 10, 11, 14, 15, 16 and 17 of its Counter-Affidavit** that it recognized only candidates emerging from primaries conducted by **the recognized executive body of the political party** and acted pursuant to a binding decision of the Supreme Court.

3.1.12 My Lord, the Plaintiffs have sought to portray the Defendant as the author of their grievance. With respect, that position is misconceived. The Defendant neither nominated any candidate nor conducted any primary election. The Defendant has no personal interest in who emerges as the candidate of the 2nd Plaintiff. Its statutory responsibility begins only after the political party has undertaken the processes required of it under the Constitution, the Electoral Act and its own Guidelines.

3.1.13 Indeed, **Section 29(1) of the Electoral Act, 2026** provides that every political party shall submit to the Defendant the list of candidates **"who shall have emerged from valid primaries conducted by the political party."** The responsibility for producing a validly nominated candidate is therefore placed by statute on the political party and not on the Defendant.

3.1.14 My Lord, while **Section 29(3)** obliges the Defendant to publish the personal particulars of candidates submitted to it, that statutory obligation does not confer upon the Defendant the authority to determine rival claims arising from the internal affairs of a political party.

3.1.15 Furthermore, **Section 83(5) of the Electoral Act, 2026** provides that:

"Subject to the provision of subsection (3), no Court in Nigeria shall entertain jurisdiction over any suit or matter pertaining to the internal affairs of a political party."

3.1.16 The Defendant respectfully submits that the essence of the Plaintiffs' complaint concerns the internal nomination processes of the 2nd Plaintiff and the authority of its party organs. The Defendant cannot be held liable for complying with its statutory obligations in relation to matters that originate from the internal affairs of a political party.

3.1.17 My Lord, all the reliefs sought by the Plaintiffs are declaratory. The law imposes a heavy burden on any party seeking declaratory reliefs to establish his entitlement by credible and satisfactory evidence. In **Yau-Yau v. A.P.C. (2024) 8 NWLR (Pt. 1941) 403**, the Supreme Court held:

"A huge burden is placed on a party who seeks declaratory reliefs to succeed solely on the strength of his own case."

3.1.18 The Plaintiffs cannot succeed merely by alleging that another candidate was published. They must establish, by credible evidence, that the Defendant acted outside the limits of its constitutional and statutory functions. Respectfully, they have failed to do so.

3.1.19 My Lord, the Defendant has consistently maintained that it acted within the limits of its constitutional and statutory mandate and has no authority to determine or resolve disputes concerning the internal affairs of political parties. The Plaintiffs' complaints, as disclosed in their Originating Summons and Affidavit in Support, arise fundamentally from the internal nomination processes of the 2nd Plaintiff. The Defendant cannot lawfully be compelled to assume

powers which neither the Constitution nor the Electoral Act has conferred upon it.

3.1.20 We therefore respectfully urge this Honourable Court to resolve this Issue in favour of the Defendant and hold that the Plaintiffs' complaints arise from the internal affairs of the 2nd Plaintiff over which this Honourable Court lacks jurisdiction to determine and consequently dismiss this action against the Defendant.

3.2 **ISSUE TWO**

Whether the Defendant acted within its statutory mandate and in compliance with the decision of the Supreme Court in ***Suit No. SC/CV/229/2026-Fayemi Tosin Babatunde V Independent National Electoral Commission (INEC) & 3 Ors.***

3.2.1 My Lord, assuming, without conceding, that the Plaintiffs have established any grievance whatsoever, the Defendant respectfully submits that every step taken by it was strictly within the confines of its constitutional and statutory powers. The Defendant neither acted arbitrarily nor exercised any personal discretion. Rather, it discharged the duties imposed upon it by the Constitution, the Electoral Act, 2026, and the binding judgment of the Supreme Court in **Suit No. SC/CV/229/2026-Fayemi Tosin Babatunde V Independent National Electoral Commission (INEC) & 3 Ors.**

3.2.2 The Defendant is a constitutional body established under **Section 153(1)(f)of the Constitution of the Federal Republic of Nigeria, 1999 (as amended),** while **Paragraph 15 of Part I of the Third**

Schedule to the Constitution confers upon it the constitutional responsibility to organize, supervise and regulate elections, monitor political parties and perform such other electoral functions as are conferred upon it by law. Furthermore, **Section 160(1)** of the Constitution guarantees the Defendant's institutional independence by providing that, unlike other constitutional bodies, its powers to regulate its own procedure shall not be subject to the approval or control of the President. The unmistakable intention of the Constitution is that the Defendant must discharge its statutory responsibilities independently, impartially and strictly in accordance with the law.

3.2.3 My Lord, the Electoral Act, 2026 equally defines the scope of the Defendant's responsibilities. By **Section 29(1)** thereof, every political party is required to submit to the Defendant the list of candidates it proposes to sponsor for election, **"who shall have emerged from valid primaries conducted by the political party."** Thereafter, **Section 29(3)** mandates the Defendant to publish the personal particulars of such candidates. Likewise, **Sections 84 and 85** of the Electoral Act require that candidates must emerge from valid party primaries conducted in accordance with the Electoral Act and the guidelines of the political party.

3.2.4 It follows, My Lord, that the Defendant is not expected to act on every document or list presented before it irrespective of its legal validity. The statutory obligation imposed upon the Defendant is to recognize candidates emerging from **valid primaries conducted by the lawful organs of the political party.** Once the legal authority competent to conduct the primaries has been judicially determined, the Defendant

has no discretion to disregard that determination. Flowing from the above, the 1st Plaintiff utterly failed to show that he emerged from a validly conducted primary and that a validly recognized Organs of the party pursuant to the **Guidelines for nomination of Candidates for Elections 2026** attached by the Defendant as **Exhibit INEC 1**was complied with to warrant the Defendant publishing his name as demanded in this suit. This position accords with the decision of the Supreme Court in **Kente v. Bwacha (supra)**, where the Court held:

> ***"By Section 84(5)(b)(i) of the Electoral Act 2022, it is the National Executive Committee of a political party that has the vires to organize primary elections. The National Executive Committee may act through its National Working Committee. It follows that it is only the national organs of the party that have the responsibility of notifying the Independent National Electoral Commission of the date of the election and the mode to be adopted..."***

3.2.5 The implication of this decision is that only candidates emerging through the lawful party structure recognized by law can be presented to the Defendant.Similarly, in **Sani v. A.P.C. (supra)**, the Supreme Court made it abundantly clear that the Defendant's presence or monitoring of a primary election does not validate an otherwise unlawful primary. His Lordship **Nweze, JSC**, further stated:

> ***"It is the first respondent's National Working Committee or National Executive Committee that can determine whether the primary election conducted... has legitimacy of compliance with the guidelines of the first respondent, being a registered association."***

3.2.6 The foregoing authority completely answers the Plaintiffs' case. The Defendant cannot recognize a candidate emanating from a process lacking legitimacy under the party's recognized national leadership.

3.2.7 The Defendant further submits that its conduct in the instant case was not merely a statutory obligation but also a constitutional duty arising from the binding decision of the Supreme Court in **Suit No. SC/CV/229/2026-Fayemi Tosin Babatunde V Independent National Electoral Commission (INEC)& 3 Ors** which, as deposed to in paragraphs 8, 14, 15, 16, 17 and 18 of the Counter Affidavit, conclusively determined the faction entitled to act for the political party. Having been so determined by the apex Court, the Defendant was under a constitutional obligation to comply with that judgment. My Lord, **Section 287(1)** of the Constitution is mandatory. It provides that:

> ***"The decisions of the Supreme Court shall be enforced in any part of the Federation by all authorities and persons, and by courts with subordinate jurisdiction to that of the Supreme Court."***

3.2.8 The Defendant undoubtedly falls within the expression **"all authorities and persons."** Consequently, once the Supreme Court pronounced on the recognized leadership of the political party, the Defendant was left with no lawful alternative but to give effect to that decision.The Supreme Court reiterated this constitutional obligation in **Ojo v. Attorney-General, Oyo State (2008) 15 NWLR (Pt.1110) 309**, where it held:

> ***"By virtue of Section 287(1) of the 1999 Constitution, all authorities and persons are bound to give effect to the***

judgment of the Supreme Court and any act done to the contrary would amount to contempt of the order of the Supreme Court."

3.2.9 Likewise, in **Aondoakaa v. Obot (2022) 5 NWLR (Pt.1824) 523**, the Supreme Court reaffirmed the constitutional imperative of obedience to court decisions when it held:

"By virtue of Section 287(2) of the 1999 Constitution (as amended), ... the Chairman of the Independent National Electoral Commission (INEC)... has a bounden duty to obey and give effect to the judgment of the Court of Appeal."

3.2.10 If obedience is constitutionally required in respect of Court of Appeal judgments, with even greater force must the Defendant obey the final and binding decision of the Supreme Court.

3.2.11 It is trite that when Judgment of the Supreme Court is delivered, it isfinal and cannot be appealed against or reviewed. In **Iteogu v. L.P.D.C. (2018) 11 NWLR (Pt. 1630) 375**, the Supreme Court held thus;

"The judgment of the Supreme Court validly constituted as to the number of its Justices and jurisdiction of the subject matter is final and there is no right of appeal to any person or authority except as provided under section 235 of the 1999 Constitution. By virtue of section 235 of the 1999 Constitution, without prejudice to the powers of the President or of the Governor of a State with respect to the prerogative of mercy, no appeal shall lie to any other body or person from any determination of the Supreme Court. By section 235 of the Constitution, the Supreme Court

cannot sit on appeal over its own judgment. <u>The provision gives a stamp of finality to any decision of the Supreme Court.</u> There is no constitutional provision for the review of the judgment of the court by itself."

3.2.12 My Lord, the Plaintiffs have not alleged, much less established, that the Supreme Court in **Suit No. SC/CV/229/2026-Fayemi Tosin Babatunde V Independent National Electoral Commission (INEC)& 3 Ors** has been set aside, reviewed or vacated. Until that judgment suffers such fate, every authority in Nigeria, including the Defendant, remains constitutionally bound to obey and implement it. The Defendant cannot lawfully substitute its own opinion for that of the Supreme Court or ignore a binding judgment merely because one faction of a political party is dissatisfied with it.

3.2.13 The Plaintiffs' complaint therefore seeks to place the Defendant in an impossible position. On the one hand, the Constitution commands the Defendant to obey the decision of the Supreme Court; on the other hand, the Plaintiffs invite this Honourable Court to hold the Defendant liable for doing exactly what the Constitution required of it. Such invitation ought to be firmly rejected.

3.2.14 It is therefore respectfully submitted that the Defendant acted strictly within its constitutional and statutory mandate, complied with the provisions of the Electoral Act, 2026, faithfully obeyed the binding judgment of the Supreme Court in **Suit No. SC/CV/229/2026-Fayemi Tosin Babatunde V Independent National Electoral Commission (INEC)& 3 Ors**, and discharged its constitutional responsibilities in good faith. No illegality, arbitrariness or breach of statutory duty has been established against the Defendant.

3.2.15 We respectfully urge this Honourable Court to resolve this Issue in favour of the Defendant and against the Plaintiffs.

4.0 CONCLUSION

4.1 In the light of the foregoing, we respectfully urge this Honourable Court to resolve both issues for determination in favour of the Defendant and dismiss this suit in its entirety for lacking merit.

4.2 We are most obliged, my Lord.

Dated this 14th day of September, 2026

✓ Dr. Dayo G. Ashonibare, Esq **(Signed)**
Simiat Suleiman, Esq
J. O. Ibrahim, Esq
David Babangida, Esq
Idowu Iyanuoluwa, Esq
(Defendant's Counsel)
Levite Solicitors & Arbitrators
Block 15D, Salis Court,
Efire Illeogun Street,
Life Camp, FCT-Abuja.
08033661414, 08165550165
levitesolicitors@gmail.com

FOR SERVICE ON:
1. THE PLAINTIFFS',

C/o its Counsel,
Yahaya Mukaila Mavo Esq.
Usman Sani Sallamu, Esq
Abdulhakam Adamu, Esq.
Umar Aliyu Mohammed, Esq
White Chambers & Co
Plaintiffs' Counsel
No. 7 Asaba Close,
Area 11, Garki Abuja
yahayamavo@nigerianbar.ng
08086265662