

**IN THE HIGH COURT OF FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**

**SUIT NO: CV/4828/2025
MOTION NO: M/15714/2025**

BETWEEN

1. AYO ABOSEDE

}

CLAIMANT/APPLICANT

AND

1. HH MINIMAL CONCEPTS LTD

2. HADIZA HASSAN

}

DEFENDANTS/RESPONDENT

**DEFENDANTS' COUNTER AFFIDAVIT IN OPPOSITION TO THE
CLAIMANTS' MOTION ON NOTICE DATED 25th NOVEMBER 2025**

I Hadiza Hassan, female, Adult, Nigerian Citizen of 576 Idris Gidado Street, Wuye FCT – Abuja, 759, Nigeria, do hereby make an oath and state as follows:

1. That I am the 2nd Defendant and Managing Director of the 1st Defendant in this matter, by virtue of which I am familiar with the facts of this matter.
2. That I have the consent of the 1st Defendant to make this Counter affidavit.
3. Except as otherwise expressly stated, all facts deposed to in this affidavit are within my personal knowledge.
4. That I have read and understood the affidavit in support of the Claimant/Applicant's motion.
5. That the reliefs sought in the present application are substantially the same as the reliefs sought in the substantive suit before this Honorable Court.
6. That granting the said application at this stage will effectively determine the substantive issues in dispute and render the substantive suit nugatory.
7. That the grant of the application will therefore occasion serious prejudice to the Defendants/Respondents, as it will amount to granting the substantive reliefs sought without full trial.
8. That the application, if granted, will overreach the Defendants/Respondents and undermine their right to fair hearing in the determination of the substantive suit.

*Fee 2,200
Date 13/1/26*

9. That the balance of justice demands that the substantive issues be determined at the hearing of the substantive suit rather than at an interlocutory stage.
10. That not granting this application will not prejudice the interest of the Claimant/Applicant.
11. I depose to this affidavit in good faith conscientiously believing same to be true and correct, and by virtue of the provisions of the Oaths Act.

.....
Deponent

SWORN TO AT THE REGISTRY OF THE FCT HIGH COURT, ABUJA
THIS...13th..... DAY OF DECEMBER 2026



**IN THE HIGH COURT OF FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**

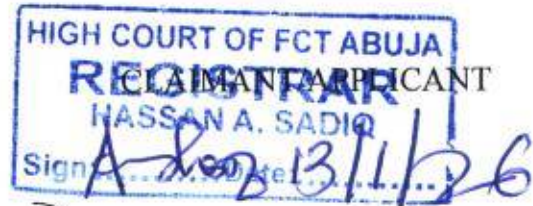
**SUIT NO: CV/4828/2025
MOTION NO: M/15714/2025**

BETWEEN

AYO ABOSEDE

AND

- 1. HH MINIMAL CONCEPTS LTD**
- 2. HADIZA HASSAN**



DEFENDANTS/RESPONDENT

**WRITTEN ADDRESS IN SUPPORT OF THE
DEFENDANTS/RESPONDENTS' COUNTER AFFIDAVIT**

1.0. INTRODUCTION

- 1.1. The Claimant/Applicant filed a motion on Notice seeking for an order of interlocutory injunction of this Honorable Court restraining the Defendants/ Respondents from publishing, advertising, circulating or in any manner using the Claimant's property images, videos or virtual tours pending the determination of the substantive suit.
- 1.2. In response to the motion for interlocutory injunction, the Defendants/Respondents filed a 11 paragraphs counter affidavit deposed to by Hadiza Hassan, the Managing Director of the 1st Defendant.

2.0. RELEVANT FACTS

- 2.1. We submit that the facts relevant to the counter affidavit are as contained in the counter affidavit deposed to by Hadiza Hassan.

3.0. ISSUES FOR DETERMINATION

3.1. The Defendants/Respondents proposes the following issues for determination, in opposition to the application of the Claimants/Applicants to wit:

- i. ***WHETHER THE CLAIMANT/APPLICANT HAS ESTABLISH ANY LEGAL RIGHT FOR THE COURT TO GRANT AN INTERLOCUTORY INJUNCTION AGAINST THE DEFENDANTS/RESPONDENTS.***
- ii. ***WHETHER THE CLAMANT/APPLICANT WILL SUFFER ANY IRREPARABLE DAMAGE IF THE APPLICATION IS GRANTED.***
- iii. ***WHETHER AN APPLICATION FOR INTERLOCUTORY INJUNCTION CAN PROPERLY SEEK THE SAME RELIEFS AS THOSE SOUGHT IN THE SUBSTANTIVE SUIT.***

4.0. LEGAL ARGUMENT

WHETHER THE CLAIMANT/APPLICANT HAS ESTABLISH ANY LEGAL RIGHT FOR THE COURT TO GRANT AN INTERLOCUTORY INJUNCTION AGAINST THE DEFENDANTS/RESPONDENTS.

4.1. My Lord, the issue being canvassed herein is whether having regards to the facts and circumstances of this case and the distorted facts placed before this Honorable court by the Claimant/Applicant, whether the Claimant/Applicant is entitled to the grant of an interlocutory injunction putting into consideration the totality of facts placed before this Honorable Court.

4.2. My lord it is trite law that the claim for injunction is an adversary claim and cannot be established without any allegation of invasion or infraction or trespass, or threat of invasion, infraction, or trespass to someone's civil rights. It follows therefore that a party who wishes that the court grant an injunction must clearly show the following:

- a. The legal right of the Applicant,
- b. The status quo "ante bellum",
- ↪ c. Relative strength of the Applicant's case,

- d. Balance of convenience,
- e. Inadequacy of damages and
- f. Conduct of the parties.

4.3. My lord, the above position received judicial favor in the case of **OGUNSOLA vs. USMAN (2003) FWLR (pt. 180) 1465 at 1479** paragraphs C-G; where the above stated principles were subsumed under three broad based principles to wit:

"(a) Whether there is a serious question to be tried at the hearing of the substantive suit.

(b) The balance of convenience, and

(c) Inadequacy of damages.

Where the above is adopted, it becomes easy to see that the principles of whether there are serious questions to be tried, has within it, the sub-issue of the legal rights of the appellant; the relative strength of case of the parties and status quo ante bellum....".

4.4. My lord to give impetus to the above decision of the court concerning the treatment of an application for interlocutory injunction pending before Court, the views of IGUH, JSC in the case of **FALOMO vs. BANIGBE (1998) 7 NWLR (Pt. 559) 679 at 694** is instructive in this regard. His lordship said;

"The Court on the question of the appellant's real prospect of success in the right claimed must at the out-set be satisfied that the plaintiff's claim is not frivolous and vexatious and that there is a serious question to be tried at the hearing of the substantive suit. This first ingredient is a fundamental requirement to be established by an applicant for an order of interlocutory injunction. Where the plaintiff fails to satisfy this basic requirement, this in effect will automatically bring to an end, and defeat his application... see The LORD CABLE (1977) 1 WLR 7. Although there is no rule requiring the plaintiff to establish a 'prima facie' case before he can obtain an interlocutory injunction, the Court must be satisfied that

the plaintiff's case is not frivolous or vexatious and that there is a serious question to be tried. Once this requirement is established, the governing consideration must be balance of convenience."

- 4.5. We respectfully submit that the Claimant/Applicant has failed to establish the existence of any legal right deserving of protection by this Honorable Court or to disclose any serious and triable issue for determination. A careful examination of the affidavit in support of the Motion for Interlocutory Injunction and the exhibits attached thereto reveals that no legal right was disclosed to warrant the exercise of the Court's equitable jurisdiction.
- 4.6. We refer My Lord to paragraph 5 of the Defendants/Respondents' Counter Affidavit, which clearly shows that the reliefs sought in the instant application are substantially the same as those sought in the substantive Originating Motion pending before this Honorable Court. We submit that granting this application will amount to a determination of the substantive suit at an interlocutory stage and will render the Originating Motion nugatory. We urge My Lord to so hold.
- 4.7. We further submit that the Claimant/Applicant failed to demonstrate any existing or contestable right to justify the relief sought. From the totality of the affidavit evidence before this Honorable Court, the Claimant/Applicant did not disclose any loss suffered or likely to be suffered as a result of the alleged acts of the Defendants/Respondents.
- 4.8. It is our respectful submission that the Claimant/Applicant has not established any legal right capable of protection by way of interlocutory injunction. An injunction being an equitable relief cannot be granted in the absence of a proven legal right. We therefore urge this Honorable Court to dismiss the Motion for Interlocutory Injunction for failure to disclose any legal right or basis for the grant of the relief sought. ,

WHETHER THE CLAIMANT/APPLICANT WILL SUFFER ANY IRREPARABLE DAMAGE IF THE DEFENDANTS PROCEED WITH THE ALLEGED ACT.

44

- 4.9. My Lord, in resolving these issues, it is necessary to consider what ought to be the proper attitude of this Honorable Court in circumstances where the Applicant has not exhibited whether he will suffer any irreparable damages if the Defendants proceed with the alleged act.
- 4.10. We respectfully submit that the Claimant/Applicant has failed to demonstrate that they will suffer any irreparable damage if the Defendants/Respondents proceed with the alleged act. It is trite that a party seeking an interlocutory injunction must show that the injury complained of is irreparable and cannot be adequately compensated by an award of damages. The Claimant/Applicant has not discharged this burden.
- 4.11. From the affidavit evidence before this Honorable Court, the Claimant/Applicant did not particularize any injury that is real, imminent, or incapable of monetary compensation. The alleged harm remains speculative and unsubstantiated, and mere apprehension of damage, without credible evidence, is insufficient to warrant the grant of an interlocutory injunction.
- 4.12. We further submit that where damages are an adequate remedy, an application for interlocutory injunction must fail. The Claimant/Applicant has not shown that damages will be inadequate should the substantive action succeed. In the absence of proof of irreparable harm, the equitable relief of injunction cannot be granted.
- 4.13. We refer your noble Lord to the decision of the Court of Appeal in the case of **ADAMU & ORS v. SUEMO (2007) LPELR-4468(CA)**, where the court held thus:

"In determining the balance of convenience in an application for interlocutory injunction, the Court must weigh the inconvenience, the degree of hardship and damage that will be suffered by the applicant/plaintiff against that of the respondent/defendant in deciding whether or not to grant the order of interlocutory injunction sought. Put in other words

there must be the consideration of the irreparable injury which the defendant would suffer if the injunction was granted should the case be subsequently decided in his favour and that which the plaintiff might sustain if the injunction was refused should she ultimately obtain judgment in her favour. See the cases of: Akinkugbe v. Bucknor (2004) 11 NWLR (pt.885)p.652, Otu v. Udonwa (2000) 13 NWLR (Pt.683) p.157 and Udeze v. Orazulike Trading Co. Ltd. (2000) 3 NWLR (pt. 648) p.203."

4.14. My Lord, the Claimant/Applicant has not shown this court why the res should be preserved pending the final determination of the substantive suit considering the fact that the subsequent publication has not affected the Claimant/Applicant wrongly in anyway and we urge my noble Lord to so hold.

4.15. It is therefore our respectful submission that the Claimant/Applicant will not suffer any irreparable damage if the Defendants/Respondents proceed with the alleged act and we urge this Honorable Court to so hold.

WHETHER AN APPLICATION FOR INTERLOCUTORY INJUNCTION CAN PROPERLY SEEK THE SAME RELIEFS AS THOSE SOUGHT IN THE SUBSTANTIVE SUIT

4.16. We respectfully submit that an application for interlocutory injunction cannot validly seek the same or substantially the same reliefs as those sought in the substantive suit. It is settled law that the purpose of an interlocutory injunction is merely to preserve the res and maintain the status quo pending the determination of the substantive action. It is not intended to determine the rights of the parties or grant final reliefs at an interim stage.

4.17. We submit that where the reliefs sought in an interlocutory application are identical or substantially similar to those sought in the substantive suit, the effect of granting such an application will be to determine the substantive matter at an interlocutory stage. This is contrary to established principles of law, as a court must refrain from prejudging the issues in controversy before hearing the substantive suit on its merits.

- 4.18. We refer your noble Lord to the decision of the Court of Appeal in the case of **NAU AWKA V. NWEKE (2007) LPELR-8092(CA)**, where the court held thus:

"On the second issue it is trite law that courts are enjoined not to decide substantive suit at an interlocutory application stage. See the cases of Akapo v. Hakeem Habeeb and Ogbuehi v. Governor of Imo State (Supra). It is beyond dispute that the learned trial judge in granting the reliefs for the interlocutory application had decided the reliefs in the main case. There was nothing left for Him to decide in the substantive suit. This was clearly irregular and cannot be allowed to stand."

- 4.19. In the instant case, the reliefs sought by the Claimant/Applicant in the Motion for Interlocutory Injunction are substantially the same as the reliefs sought in the substantive suit pending before this Honorable Court. We respectfully submit that granting the instant application will render the substantive suit nugatory and will amount to granting the Claimant/Applicant the final reliefs sought without a full trial.
- 4.20. We further submit that an interlocutory injunction is ancillary and incidental to the substantive suit and cannot be used as a substitute for it. The law does not permit a party to obtain, at an interim stage, what they seek to obtain finally at the conclusion of the substantive action. To do so will be an improper exercise of the Court's equitable jurisdiction. We refer your noble Lord to the decision of the Court of Appeal in the case of **ALTINE & ANOR V. AFRIBANK PLC(2000) LPELR-6678(CA)**, where the court held thus:

"In an application for the grant of interlocutory injunction pending the determination of the substantive claim, the judge has a duty to ensure that he does not in the determination of the application determine the same issues that would arise for determination in the substantive suit as it is not proper for the Court at that stage to express any opinion as to such rights as such an opinion might give the impression that the Court has made up its mind on the substantive issue for trial before it. See A.C.B. Ltd v. Awogboro (1996) 3 NWLR (Pt. 437) 383;

Orji v. Zaria Ind. Ltd (1992) 6 NWLR (Pt. 216) 124. The Court should also desist from making orders touching on substantive issue at interlocutory stage. See Ojukwu v. Military Governor of Lagos State (1986) 3 NWLR (Pt. 26) 39 Nnaemeka Agu, J.C.A. (as he then was) said at page 45: - "I cannot over emphasise the need of trial Judges in interlocutory rulings desisting from making any findings which may prejudice the substantive case. It is true that if the above findings were rightly made and allowed to stand, they have completely knocked the bottom out of substantive suit." See also Akapo v. Hakeem-Habeeb(1992) 6 NWLR (Pt. 247) 266; Kotoye v. Saraki (1994) 7 NWLR (Pt.357) 414 and Egbe v. Onogun (1972) 1 All NLR (Pt.1) 95. Where a relief in an interlocutory matter has the same substratum with the relief in the substantive suit, the Court should refrain from granting it. The appropriate course, the Court should take, is to refuse the application and accelerate the hearing of the substantive suit."

- 4.21. It is also settled that equity acts in aid of the law and will not act in vain. Where an interlocutory injunction will effectively dispose of the substantive suit, the court is bound to refuse the application. The Claimant/Applicant's application, having sought reliefs identical to those in the substantive suit, is therefore misconceived and incompetent.
- 4.22. We therefore urge this Honorable Court to resolve this issue in favor of the Defendants/Respondents and hold that the application for interlocutory injunction, having sought the same reliefs as the substantive suit, is improper and ought to be refused.

5.0 CONCLUSION

- 5.1 In the light of the foregoing submissions, we respectfully urge this Honorable Court to dismiss the Claimant/Applicant's Motion for Interlocutory Injunction in its entirety, same having failed to satisfy the settled principles governing the grant of such reliefs. The application is lacking in merit and discloses no legal or equitable basis upon which this Honorable Court can exercise its discretion in favor of the Claimant/Applicant.

✱

Dated this 13 January 2026




Dr. Dayo G. Ashonibare, Esq. (Notary Public)

Ene Ashonibare, Esq

Simiat Suleiman, Esq

J.O Ibrahim, Esq

Respondents' Counsel

Levite Solicitors & Arbitrators

Flat 4 Salis Court, Efire Ileogun

Street

, (Around Airport Junction)

Gwarimpa

FCT-Abuja

08033661414

levitesolicitors@gmail.com

hello@levitesolicitors.com

FOR SERVICE ON:

Claimants/Applicant

C/o of its Counsel,

Stephen Mandeun, Esq.,

Chika Sandra Onyiorah, Esq.,

Idris Muhammad Esq.,

U.S. Audu & Co.

Solicitors & Advocates

Suite C02, Peace Park Plaza B,

Utako, Abuja.

08067341249, 08036188179

Questions

- 1) Confirm to this Court that you agree with all witness statements on oath
- 2) Confirm to this Court that you Reply to Defendants, ~~do not~~ you don't have any witness statement on oath.
- 3) Look at paragraph 6 you do not have any thing to substantiate that
- 4) ~~you will not know~~
- 5) I suggest to you that ~~to~~ you are not the only client of the 1st defendant
- 6) your project is value? you also would ~~not know~~ agree with me that your is not the only one.
- 7) you don't have any evidence to substantiate paragraph 9
- 8) is a material part of the contract.
- 9) you don't have evidence that this fees has been paid.
- 10) Read para 8(a) of the agreement
- 11) was referred made to you
- 12) This agreement is between you and the defendant