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IN THE FEDERAL HIGH COURT
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

SUIT NO.: **FHC/ABJ/CS/562/25**

IN THE MATTER OF AN APPLICATION BY MRS AKABIKE (SUING AS A GUARDIAN FOR MASTER CHUKWUEMEKALUM ALEXANDER) FOR THE ENFORCEMENT OF THE FUNDAMENTAL HUMAN RIGHTS OF FAIR HEARING AS PROVIDED AND PROTECTED UNDER SECTION 36 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) AND UNDER THE INHERENT JURISDICTION OF THIS HONOURABLE COURT

BETWEEN:

CHUKWUEMEKALUM ALEXANDER AKABIKE - APPLICANT/RESPONDENT
(Suing through his next friend Mrs Ogochukwu Jacinta Akabike)

AND

1. **NIGERIAN AIR FORCE**
2. **GROUP CAPTAIN NU DANJUMA**

} RESPONDENTS/
APPLICANTS

**RESPONDENTS/APPLICANTS' MOTION ON NOTICE FOR
EXTENSION OF TIME TO FILE COUNTER AFFIDAVIT AND WRITTEN
ADDRESS IN OPPOSITION TO THE ORIGINATING PROCESS**

Filed by:

J-K Gadzama LLP

J-K Gadzama Court,

Plot 1805, Damaturu Crescent by Kabo Way,

Off Ahmadu Bello Way, Garki 2, Abuja.

E: info@j-kgadzamallp.com ; mjgadzama@nigerianbar.ng

T: +234 816765199 ; W: www.j-kgadzamallp.com

(Respondents/Applicants)

**FEDERAL HIGH COURT
ABUJA**

07 NOV 2025

PAID

Akabike

CASHIER

J-K GADZAMA LLP

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SUIT NO.: FHC/ABJ/CS/562/25

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BETWEEN:

CHUKWUEMEKALUM ALEXANDER AKABIKE - APPLICANT/RESPONDENT
(Suing through his next friend Mrs Ogochukwu Jacinta Akabike)

AND

1. NIGERIAN AIR FORCE	}	RESPONDENTS/ APPLICANTS
2. GROUP CAPTAIN NU DANJUMA		

MOTION ON NOTICE

BROUGHT PURSUANT TO ORDER XV, RULE 4 OF THE FUNDAMENTAL RIGHTS (ENFORCEMENT PROCEDURE) RULES 2009; ORDER 48 RULE 4 OF THE FEDERAL HIGH COURT (CIVIL PROCEDURE) RULES AND UNDER THE INHERENT JURISDICTION OF THIS HONOURABLE COURT

TAKE NOTICE that this honourable Court will be moved on the _____ day of _____ 2025 at the hour of 9 O'clock in the forenoon or so soon thereafter as Counsel for the Respondents/Applicants will be heard praying this honourable Court for the following reliefs:

1. **AN ORDER** of this honourable Court extending the time within which the Respondents/Applicants may file and serve their Counter Affidavit and Written Address in opposition to the Applicant/Respondent's Originating Motion, already filed and served.
2. **AN ORDER** of this honourable Court deeming the Counter Affidavit and Written Address in opposition to the Applicant/Respondent's Originating Motion, already filed and served on the Applicant/Respondent, as properly filed and served.

3. **SUCH FURTHER ORDER(S)** as this honourable Court may deem fit to make in the circumstances.

TAKE FURTHER NOTICE that the grounds upon which this application is brought include the following:

- a. The time prescribed for the Respondents/Applicants under the Fundamental Rights (Enforcement Procedure) Rules 2009 to file their response to the Applicant/Respondent's Originating Motion filed on 21 March 2025 has elapsed.
- b. The Respondents/Applicants' Counter Affidavit and Written Address in opposition to the Applicant/Respondent's Originating Motion could not be filed within the prescribed time due administrative bottlenecks in the office of the Respondents/Applicants, and some protracted case strategy.
- c. The Respondents/Applicants' Counter Affidavit and Written Address in opposition to the Applicant/Respondent's Originating Motion have now been filed, albeit out of the time prescribed under the Fundamental Rights (Enforcement Procedure) Rules 2009.
- d. An Order of this honourable Court is now required to regularize the Respondents/Applicants' Counter Affidavit and Written Address in opposition to the Applicant/Respondent's Originating Motion, already filed and served on the Applicant/Respondent, so as to enable the Respondents/Applicants the opportunity to be heard in this application.
- e. The combined provisions of the Fundamental Rights (Enforcement Procedure) Rules 2009 allow such applications to be made.

DATED THIS MONDAY, THE 3RD DAY OF NOVEMBER, 2025



Joe-Kyari Gadzama, OFR, MFR, SAN, FNIALS, FCIMC, DipICarb, FCIArb,

Oluniyi Adediji, Esq.;

Darlington Onyekwere, Esq.;

Chidera Mgbe, Esq.;

Mark Chidi Agbo, Esq.;

Jerry Ombugadu Musa, Esq.;

Madu Joe-Kyari Gadzama, Esq. [SIGNED];

Lamar Joe-Kyari Gadzama, Esq.;

Sarah Jeta Atunga, Esq.;

Onyekachi Agbonma Eluwa, Esq.;

Hajara Mohammed Sani Sorondinki, Esq.;

Gideon Ohiani Agbede, Esq.;

Victor Okon Daniel, Esq.;

Tabji Simon Baltai, Esq.

(For the Respondents/Applicants)

J-K Gadzama LLP

J-K Gadzama Court,

Plot 1805, Damaturu Crescent by Kabo Way,

Off Ahmadu Bello Way,

Garki 2, Abuja.

E: info@j-kgadzamallp.com

E: mjgadzama@nigerianbar.ng

T: +234 8187 651 999

W: www.j-kgadzamallp.com

FOR SERVICE ON:

The Applicant

C/o their counsel

Dr. Abdul Mahmud, Esq.,

Liberty Semper Fidelis LP,

Plot 8 Veterinary Building,

Zambezi Crescent,

Maitama, Abuja.

08159960386

seunawolade@nigerianbar.ng

IN THE FEDERAL HIGH COURT
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SUIT NO.: **FHC/ABJ/CS/562/25**

IN THE MATTER OF AN APPLICATION BY MRS AKABIKE (SUING AS A GUARDIAN FOR MASTER CHUKWUEMEKALUM ALEXANDER) FOR THE ENFORCEMENT OF THE FUNDAMENTAL HUMAN RIGHTS OF FAIR HEARING AS PROVIDED AND PROTECTED UNDER SECTION 36 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) AND UNDER THE INHERENT JURISDICTION OF THIS HONOURABLE COURT

BETWEEN:

CHUKWUEMEKALUM ALEXANDER AKABIKE - APPLICANT/RESPONDENT
(Suing through his next friend Mrs Ogochukwu Jacinta Akabike)

AND

1. NIGERIAN AIR FORCE	}	RESPONDENTS/ APPLICANTS
2. GROUP CAPTAIN NU DANJUMA		

**AFFIDAVIT IN SUPPORT OF APPLICANTS' MOTION ON NOTICE FOR
EXTENSION OF TIME**

I, **Tajudeen Ayeni**, male, adult, Muslim, and Nigerian citizen of Plot 1805, Damaturu Crescent, Off Kabo Street, Off Ahmadu Bello Way, Garki 2, Abuja, do hereby make oath and state as follows:

1. I am a Litigation Secretary in the law firm of J-K Gadzama LLP, the firm representing the Respondents/Applicants herein, by virtue of which position I am conversant with the facts deposed to herein.
2. I have the consent of my employer and that of the Applicant to depose to this affidavit.
3. I was informed by Victor Okon Daniel, Esq., one of the Counsel in our firm handling this matter and responsible for filing during the review of this case on Monday, 20 October 2025 at 12:22 p.m., at our office at Plot 1805, Damaturu Crescent by Kabo Street, Off Ahmadu Bello Way, Garki 2, Abuja of the following facts, which I verily believe to be true as follows:

- a. That the time prescribed for the Respondents/Applicants under the Fundamental Rights (Enforcement Procedure) Rules 2009 to file their response to the Applicant/Respondent's Originating Motion filed on 21 March 2025, has since elapsed.
 - b. That Respondents/Applicants' Counter Affidavit and Written Address in opposition to the Applicant/Respondent's Originating Motion, could not be filed within the prescribed time due to administrative bottlenecks in the office of the Respondents/Applicants, and some protracted case strategy.
 - c. That the Respondents/Applicants' Counter Affidavit and Written Address in opposition to the Applicant/Respondent's Originating Motion have now been filed, albeit out of the time prescribed under the Fundamental Rights (Enforcement Procedure) Rules 2009.
 - d. That an Order of this honourable Court is now required to regularize the Respondents/Applicants' Counter Affidavit and Written Address in opposition to the Applicant/Respondent's Originating Motion already filed and served on the Respondents, so as to enable the Respondents/Applicants the opportunity to be heard in this matter.
 - e. That the Respondents/Applicants have paid the fees prescribed as penalty for default.
 - f. That the filed Respondents/Applicants' Counter Affidavit and Written Address in opposition to the Applicant/Respondent's Originating Motion are hereby verified as Exhibits "A" and "B".
 - g. That the Respondents/Applicants' delay in filing their Counter Affidavit and Written Address in opposition to the Applicant/Respondent's Originating Motion was neither deliberate nor out of disrespect to this Court.
 - h. That this application is made in good faith.
 - i. That the Respondent will not be prejudiced in any way by the grant of this application.
4. The interest of justice will be better served by the grant of this application.

5. I depose to this affidavit in good faith, conscientiously believing its content to be true and accurate, and in accordance with the provisions of the Oaths Act, 2004.


DEPONENT

**SWORN AT THE REGISTRY OF THE FEDERAL HIGH COURT, ABUJA
DIVISION**

DATED THIS 7TH **DAY OF** NOVEMBER **2025**

BEFORE ME
COMMISSIONER FOR OATHS
FEDERAL HIGH COURT
ABUJA
COMMISSIONER FOR OATH



IN THE FEDERAL HIGH COURT
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

SUIT NO.: FHC/ABJ/CS/562/25

IN THE MATTER OF AN APPLICATION BY MRS AKABIKE (SUING AS A GUARDIAN FOR MASTER CHUKWUEMEKALUM ALEXANDER) FOR THE ENFORCEMENT OF THE FUNDAMENTAL HUMAN RIGHTS OF FAIR HEARING AS PROVIDED AND PROTECTED UNDER SECTION 36 OF THE 1999 CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED) AND UNDER THE INHERENT JURISDICTION OF THIS HONOURABLE COURT

BETWEEN:

CHUKWUEMEKALUM ALEXANDER AKABIKE - APPLICANT/RESPONDENT
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1. NIGERIAN AIR FORCE	}	RESPONDENTS/ APPLICANTS
2. GROUP CAPTAIN NU DANJUMA		

**APPLICANTS' WRITTEN ADDRESS IN SUPPORT OF MOTION ON NOTICE
FOR EXTENSION OF TIME**

1.0 INTRODUCTION

- 1.1 Your Lordship, before this honourable Court is a Motion on Notice brought pursuant to Order XV, Rule 4 of the Fundamental Rights (Enforcement Procedure) Rules 2009 and Order 48 Rule 4 of the Federal High Court (Civil Procedure) Rules, 2019.
- 1.2 The motion is seeking the reliefs endorsed on the face of the motion paper.
- 1.3 In support of the motion is a 5-paragraph affidavit deposed to by Tajudeen Ayeni. We place reliance on all paragraphs of the affidavit and the filed processes before this Honourable Court in urging your Lordship to grant the instant application as prayed.

2.0 RELEVANT FACTS

- 2.1 The facts relevant to this application are as contained in the supporting Affidavit deposed to by Tajudeen Ayeni.

3.0 SOLE ISSUE FOR DETERMINATION

- 3.1 The Respondents/Applicants, for the purpose of this application, have distilled a sole issue for determination to wit;

"Whether the Respondents/Applicants are entitled to the reliefs sought"

4.0 LEGAL ARGUMENT

- 4.1 Your Lordship, it is our submission that the grant of this instant application is at the discretion of this Honourable Court.

- 4.2 We are not oblivious of the applicable regime governing the instant suit, which is *sui generis* in its nature. Even though, the right of an application of this nature is not expressly provided for in the Fundamental Rights (Enforcement Procedure) Rules, we refer this Court to **Order XV, Rule 4, of the Fundamental Rights (Enforcement Procedure) Rules, 2009**, which states thus:

"Where in the course of any Human Rights proceedings, any situation arises for which there is or appears to be no adequate provision in these Rules, the Civil Procedure Rules of the Court for the time being in force shall apply."

- 4.3 On the basis of the foregoing premise, the applicable Civil Procedure Rules here - of the Federal High Court (Civil Procedure) Rules 2019, at Order 48, Rule 4 and Order 26, Rule 2, thereof expressly allows for the bringing of an application of this nature.

- 4.4 Furthermore, the power of the Court to extend the time within which a party can carry out an act has been given judicial imprimatur by a plethora of decided cases. The decision in **Ika Local Govt. Area V. Mba** (2007) 12 NWLR (Pt. 1049) 676 is apt here where the Court of Appeal stated thus:

"Moreover, a Court of trial has an inherent jurisdiction to extend the time for the doing of any act in any given case."

- 4.5 Also, see **Ibitoye V. Nigerian Navy Board** (2016) LPELR-40058(CA) where it was held thus:

"The judge may, as he deems fit and either before or after the expiration of the time appointed by these rules or by any judgment or order or the Court, extend or adjourn the time for doing any act or taking any proceedings."

- 4.6 By the affidavit in support of this application, the Respondents/Applicants have demonstrated before this Court the reasons for the default of filing and that the default has been remedied with the payment of the penalty for the default.

- 4.7 The law is settled that the nature of this application calls for the exercise of discretion by this honourable Court. It has been held that the Court, as the last hope of the common man, ought to consider the peculiarities of each case in the exercise of its discretion. Please see the decision in **Orizu v. Ofomata** (2007) 13 NWLR (Pt. 1052) 487 at 502 – 503, Para H, where the Court held thus:

"The court has a discretionary power to exercise in the matter and like every other discretionary power, it must be exercised judicially and judiciously... The discretionary power must be exercised not in vacuum but in relation to the facts of the particular case before the court."

- 4.8 We submit that, considering the peculiar facts and circumstances of this case, this honourable Court ought to exercise its discretion in favour of the Respondents/Applicants and grant this application.

- 4.9 Your Lordship, the Respondents/Applicants humbly submit that in an application such as this, an applicant must adduce good reason for the delay in filing its processes within time. In the case of **AG Ogun State v. Coker** (1993) 9 NWLR (Pt. 316) 241 at 250 - 251 the Court, in relation to an application for extension of time to take a procedural step, held as follows:

"When a Court is called upon to make an order for extension of time within which to do certain things (i.e. extension of time prescribed by the Rules of Court for taking certain procedural steps) the Court ought always to bear in mind that the Rules of Court must prima facie be obeyed and that it, therefore, follows that in order to justify the exercise of the Court's discretion in extending the time within which a

procedural step has to be taken there must be some material upon which to base the exercise of that discretion."

- 4.10 Also, in **Long-John v. Blakk** (1998) 6 NWLR (Pt. 555) 524 at 542, Paras B - C, the Supreme Court, per Iguh JSC, held as follows:

"For an application for extension of time within which an appellant may file his brief of argument out of time or indeed for an extension of the time prescribed by the rules of court for taking certain procedural steps to succeed, the applicant must establish good, substantial or exceptional reasons or circumstances to explain satisfactorily the delay in filing his brief or taking the steps in issue and thus justify the grant of the extension of time applied for."

- 4.11 The pertinent question, therefore, is whether the Applicant in this suit has adduced sufficient facts as to be entitled to the grant of this application. In answering this question in the affirmative, we humbly refer your Lordship to paragraph 3(b) of the affidavit in support of this application wherein relevant facts that led to the delay in filing the processes within the period stipulated by the Rules of this honourable Court were clearly highlighted.
- 4.12 It is also trite law that this power of the Court is discretionary, and we humbly urge this honourable Court to exercise discretion judicially and judiciously in favour of the Respondents/Applicants herein.

5.0 CONCLUSION

- 5.1 Flowing from the foregoing, we have been able to establish that this honourable Court has the discretionary powers to grant the reliefs sought in the instant application and have adduced good reasons why this honourable Court should exercise its discretion in favour of the Respondents/Applicants, and grant this application.
- 5.2 We thus most respectfully urge this honourable Court to exercise its discretion in favour of the Respondents/Applicants and grant the reliefs as prayed.

DATED THIS MONDAY, THE 3RD DAY OF NOVEMBER, 2025



Joe-Kyari Gadzama, OFR, MFR, SAN, FNIALS, FCIMC, DiplCARb, FCIArb,

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Liberty Semper Fidelis LP,

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08159960386

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