Comfort Ugochukwu
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IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ABUJA

SUIT NO:

BETWEEN:

DANIEL NDUBUISI JOHNSON ——————— CLAIMANT

AND

1. BERKSHIRE INVESTMENT COMPANY LIMITED
2. NATHANIEL JOSHUA OGWUCHE ——— DEFENDANTS

CLAIMANT'S FURTHER AND BETTER AFFIDAVIT

I, **DANIEL NDUBUISI JOHNSON**, Male, Nigerian Citizen, Legal Practitioner, of Plot 724 Zone B Apo Resettlement, Abuja, do hereby make oath and state as follows:

1. That I am the Claimant in this suit and by virtue of that fact I am fully conversant with the facts of this case.
2. That I have read the Defendants' Counter-Affidavit deposed to by AKUBO PETER and I depose to this Further and Better Affidavit in response thereto.
3. That I state that several depositions in the said Counter-Affidavit are misleading, inaccurate and made in an attempt to evade the Defendants' contractual obligation to pay my professional legal fees.
4. That contrary to paragraph 3 of the Counter-Affidavit, the 2nd Defendant, Mr. Nathaniel Joshua Ogwuche, at all material times represented himself to me as the Managing Director of the 1st Defendant, Berkshire Investment Company Limited.
5. That the 2nd Defendant personally handled the transaction on behalf of the 1st Defendant and introduced several persons, including Mr. Akubo Peter, to me as staff members of the 1st Defendant.
6. That the said Mr. Akubo Peter, who deposed to the Counter-Affidavit, was introduced to me by the 2nd Defendant as the Personal Assistant to the Managing Director of the 1st Defendant, a fact he himself admitted in paragraph 1 of his Counter-Affidavit.
7. Throughout the transaction, all correspondence, professional communications and

legal documents relating to the transaction were addressed to the 2nd Defendant as the Managing Director of the 1st Defendant, and this designation was never disputed by him at any time.

8. That the 2nd Defendant also informed me during the transaction that the 1st Defendant company was part of a business conglomerate belonging to his father-in-law, Chief Lucky Nosakhare Igbinedion.

9. That the documents relating to the transaction, including the Deed of Assignment and Powers of Attorney, were signed on behalf of the 1st Defendant by the 2nd Defendant and his wife, Mrs. Osasu Igbinedion Ogwuche, who executed the documents as directors of the company.

10. That the execution of the documents by the 2nd Defendant and Mrs. Osasu Igbinedion Ogwuche therefore constitutes valid execution on behalf of the 1st Defendant.

11. That the 2nd Defendant personally received and acknowledged several title documents relating to the property in question.

12. That the 2nd Defendant also acknowledged receipt of the land title documents for Plots J114A and J114B, Mpape Layout, Abuja on behalf of the 1st Defendant.

13. That the Defendants took possession of the documents prepared and processed by me in the course of rendering my professional services.

14. That contrary to paragraph 8 of the Counter-Affidavit, I was expressly retained to provide legal services in relation to the transaction.

15. That the executed Contract of Sale between the Vendor and the 1st Defendant expressly provided that the Purchaser (1st Defendant) shall pay the Claimant's professional legal fee calculated at 5% of the purchase consideration of ₦180,000,000.00.

16. That the Defendants accepted this contractual obligation at the time the transaction was concluded.

17 That following the completion of substantial legal work, I issued my Bill of Charges dated 16th July 2025 in the sum of ₦9,000,000.00.

18. That the said Bill of Charges was addressed to the 2nd Defendant, Mr. Nathaniel Joshua Ogwuche, who at all material times held himself out as the Managing Director of the 1st Defendant.

19. That the said Bill of Charges was dispatched through a courier service to the Defendants.

20. That the courier service receipt evidencing the shipment and delivery of the Bill of

Charges was attached to the Originating Summons as Exhibit 6.

21. That the Bill of Charges was delivered to the office of the Defendants and received and acknowledged by Mr. Akubo Peter, the Personal Assistant to the Managing Director.

22. That the said Mr. Akubo Peter signed and acknowledged receipt of the Bill of Charges on the 16th day of July 2025, as evidenced on the reverse side of the acknowledged copy of the document.

23. That the Defendants never disputed receipt of the Bill of Charges after the said acknowledgement.

24. That from 16th July 2025 when the Bill of Charges was served until the institution of this suit, the Defendants never protested, rejected or disputed the Bill of Charges.

25. That the Defendants' present denial of receipt of the Bill of Charges is therefore false and an afterthought.

26. That contrary to paragraph 23 of the Counter-Affidavit, the Bill of Charges was duly served and acknowledged by the Defendants through their authorized staff member, Mr. Akubo Peter.

27 That in paragraph 26 of the Defendants' Counter-Affidavit, the Defendants attached a document described as a receipt purportedly issued by Levite Solicitors & Arbitrators in the sum of ₦600,000.00 allegedly received from the Claimant as payment for legal fees.

28. That I categorically deny the contents of the said rece pt and state that I did not at any time pay the sum of ₦600,000.00 or any sum whatsoever to Levite Solicitors & Arbitrators as alleged in the said receipt.

29. That I further state that I never engaged the services of Levite Solicitors & Arbitrators, nor did I retain them in any capacity that would warrant payment of professional fees to them.

30. That the statement contained in the said receipt which reads "Money received from Daniel Ndubuisi Johnson" is false, misleading and does not represent any transaction whatsoever between myself and the said law firm.

31. That I know as a fact that no such payment was ever made by me to the said law firm on the 5th day of March 2026 or on any other date.

32. That I verily believe that the said receipt does not represent any genuine payment made by the Claimant and appears to have been created solely for the purpose of these proceedings.

33. That the WhatsApp communication attached by the Defendants as Exhibit B clearly shows the vendor addressing the 2nd Defendant as "Nate", a short form of Nathaniel, confirming that he was the representative of the 1st Defendant in the transaction.

34. That the said communication further confirms that the 2nd Defendant acted throughout the transaction on behalf of the 1st Defendant company.

35. That I rendered substantial professional services in relation to the transaction including preparation of title documents including a deed of assignment and a contract of sale, execution of powers of attorney and several related legal tasks.

36. That the Defendants have enjoyed the benefit of the professional services rendered by me but have refused to pay the agreed professional fees.

37. That I verily believe that the Defendants are deliberately attempting to avoid their contractual obligation to pay my professional fees.

38. That it is in the interest of justice for this Honourable Court to grant the reliefs sought in the Originating Summons.

39. That I depose to this affidavit conscientiously believing the facts stated herein to be true and correct in accordance with the Oaths Act.2004.

DEPONENT

SWORN TO AT THE REGISTRY OF THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY ABUJA

THIS 16th **DAY OF** March **2026**

BEFORE ME

HIGH COURT OF FCT ABUJA
COMMISSIONER FOR OATH
HASSAN A. SADIQ
Sign: ..... Date: 16/3/26
COMMISSIONER FOR OATHS

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

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SUIT NO:

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AND

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HIGH COURT OF FCT ABUJA
REGISTRAR
HASSAN A. SADIQ
Sign:..... Date: 16/3/26

CLAIMANT'S REPLY ON POINTS OF LAW IN OPPOSITION TO THE DEFENDANTS' WRITTEN ADDRESS

1.0 INTRODUCTION

1.1 This Reply on Points of Law is filed on behalf of the Claimant in response to the Defendants' Written Address filed in support of their Counter-Affidavit opposing the Claimant's Originating Summons.

1.2 The Claimant adopts and relies on all the depositions contained in his Affidavit in Support of the Originating Summons as well as the Further and Better Affidavit filed in response to the Defendants' Counter-Affidavit.

1.3 The Claimant respectfully submits that the arguments canvassed by the Defendants are misconceived both in fact and in law and fail to displace the overwhelming documentary and affidavit evidence establishing the Claimant's entitlement to his professional legal fees.

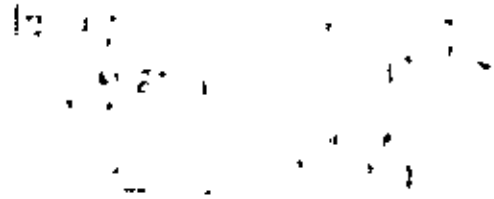
1.4 The Defendants' opposition to the Claimant's case is predicated primarily on three grounds:

a. That no retainer existed between the Claimant and the Defendants;

b. That the 2nd Defendant is not a proper party to this action;

c. That the Claimant's action is frivolous and constitutes an abuse of court process.

1.5 The Claimant respectfully submits that these arguments collapse when considered in light of:



• the executed Contract of Sale;

• the acknowledgment of title documents by the 2nd Defendant;

• the acknowledgment and receipt of the Claimant's Bill of Charges;

• the documentary evidence before the Court establishing the Defendants' liability.

2.0 PRELIMINARY OBSERVATION ON THE DEFENDANTS' COUNTER-AFFIDAVIT

2.1 The Counter-Affidavit deposed to by Mr. Akubo Peter, the Personal Assistant to the Managing Director of the 1st Defendant, contains several contradictions and material admissions which reinforce the Claimant's case rather than weaken it.

Evidence Act, 2011 (Section 115) provides that An affidavit must contain only facts within the personal knowledge of the deponent. If based on information/belief, the source must be stated. Where an affidavit is not challenged or contradicted, the court is entitled to accept the facts deposed to as true

2.2 It is trite law that affidavit evidence must be based on facts within the personal knowledge of the deponent and not on speculation or conjecture as seen in **Bamaiyi v. State (2001) 8 NWLR (Pt. 715) 270.**

2.3 Several paragraphs of the Defendants' Counter-Affidavit contain bare denials which do not effectively traverse the positive depositions made by the Claimant.

2.4 **Okike v. LPDC (2005) 15 NWLR (Pt. 949) 471 S.C.** The Supreme Court (referenced in lower courts) affirmed that unchallenged or uncontroverted evidence (including affidavit evidence) will be deemed admitted, allowing the court to rely on it.

3.0 ISSUE ONE WHETHER THE CLAIMANT IS ENTITLED TO PAYMENT OF HIS PROFESSIONAL LEGAL FEES

3.1 The Binding Nature of the Contract of Sale

3.1.1 The Defendants' central argument is that the Claimant had no retainer with them.

3.1.2 With respect, this argument ignores the express provisions of the executed Contract of Sale, which clearly stipulates that the Purchaser shall bear the legal fees of the Claimant calculated at 5% of the purchase consideration of ₦180,000,000.

3.1.3 It is a cardinal principle of contract law that where parties freely enter into a contract, the court must give effect to its terms as seen in **Ayorinde v. Kuforiji [2022] LPELR-56600 (SC).** The Supreme Court affirmed that written terms cannot be contradicted by oral evidence.

3.1.4 Similarly, in **Alade v. Alic (Nig.) Ltd. [2010] 19 NWLR (Pt. 1226) 111** the Supreme Court held that "Where the intention of the parties is clearly expressed in a

document, the court must give effect to that intention."

3.1.5 The Defendants cannot therefore approbate and reprobate by enjoying the benefit of the contractual arrangement while refusing to perform their obligations under the same contract.

3.2 Entitlement of a Legal Practitioner to Professional Fees

3.2.1 The right of a legal practitioner to recover his professional fees is expressly recognized under the Legal Practitioners Act.

3.2.2 **Sections 16 (1) (2) of the Legal Practitioners Act Cap L11 LFN 2004** empower a legal practitioner to recover his fees through the court. It provides that a legal practitioner shall be entitled to re-cover his charges by action in any court of competent jurisdiction.

(2) Subject as aforesaid, a legal practitioner shall not be entitled to begin an action to recover his charges unless-

(a) a bill for the charges containing particulars of the principal items included in the bill and signed by him, or in the case of a firm by one of the partners or in the name of the firm. has been served on the client personally or left for him at his last address as known to the legal practitioner or sent by post addressed to the client at that address; and

(b) the period of one month beginning with the date of delivery of the bill has ex-pired.

3.2.3 The courts have consistently upheld this right, especially in **FRN v. Ozekhome (2021) NWLR (Pt. 1782) 448:** The Supreme Court held "A legal practitioner who has rendered professional services is entitled to his professional fees and may recover same through the court "

3.2.4 Similarly in **Adike v. Obiareri (2002) 1 NWLR (Pt.748) 19** the Court affirmed that a solicitor is entitled to recover fees for services rendered to his client.

3.2.5 The affidavit evidence before this Honourable Court clearly shows that the Claimant rendered extensive professional services including:

- drafting the Contract of Sale
- preparing the Deed of Assignment
- preparing Powers of Attorney
- handling title documentation relating to the transaction.

3.3 Acceptance of Services Creates Liability

3.3.1 The law recognizes that where a person knowingly accepts professional services rendered by another, he becomes liable to compensate that person.

3.3.2 In **Pan Bisbilder (Nig.) Ltd v. First Bank of Nigeria Ltd (2000) 1 NWLR (Pt.642) 684**

the Court held that a party who accepts the benefit of services rendered cannot refuse to pay for those services.

3.3.3 The Defendants accepted the services of the Claimant and received the documents prepared by him.

3.3.4 Their refusal to pay therefore amounts to unjust enrichment.

4.0 THE PRINCIPLE AGAINST UNJUST ENRICHMENT

4.1 Equity abhors unjust enrichment.

4.2 **In Nigerian National Petroleum Corporation (NNPC) v. Clifco Nigeria Limited (2011) LPELR-21897** This case affirms that the court will act to prevent injustice when one party benefits unfairly.

4.3 The Defendants cannot accept the Claimant's professional labour and skill and thereafter refuse to compensate him.

5.0 WHETHER THE 2ND DEFENDANT IS A PROPER PARTY

5.1 The Defendants contend that the 2nd Defendant is not a director or agent of the 1st Defendant.

5.2 This assertion is contradicted by the evidence before the Court.

5.3 The Claimant's affidavit shows that the 2nd Defendant represented himself as the Managing Director of the 1st Defendant throughout the transaction.

5.4 The 2nd Defendant personally acknowledged receipt of the title documents relating to the property.

5 5 Furthermore, the relevant documents were executed by the 2nd Defendant Nathaniel Joshua Ogwuche and Mrs. Osasu Igbinedion Ogwuche on behalf of the 1st Defendant.

5.1 Execution of Company Documents Under CAMA

5.1.1 The Defendants also argued that the documents were not validly executed because the company seal was not affixed.

5.1.2 This argument is legally incorrect.

5.1.3 By virtue of **Section 103 of the Companies and Allied Matters Act 2020,** documents requiring execution by a company are deemed validly executed if signed by two directors, a director and the company secretary or a director in the presence of a witness.

5.1.4 The execution of the documents by the 2nd Defendant and Mrs. Osasu Igbinedion Ogwuche therefore constitutes valid execution under the law.

6.0 RECEIPT OF THE BILL OF CHARGES

6.1 The Defendants also deny receiving the Claimant's Bill of Charges.

6.2 This denial is contradicted by documentary evidence.

6.3 The Bill of Charges dated 16 July 2025 was dispatched to the Defendants through a courier service.

6.4 The courier delivery receipt evidencing delivery of the document was attached as an exhibit to the Originating Summons

6.5 More importantly, the Bill of Charges was received and acknowledged by Mr. Akubo Peter, the Personal Assistant to the Managing Director of the 1st Defendant.

6.6 The said Mr. Akubo Peter signed the acknowledgment copy of the Bill of Charges on 16 July 2025.

6.7 The Defendants cannot therefore deny receipt of a document acknowledged by their own employee.

7.0 ON THE DEFENDANTS' RELIANCE ON THE PURPORTED RECEIPT

7.1 The Defendants attached a document described as a receipt allegedly showing that the sum of ₦600,000 was received from the Claimant as payment for legal fees to their solicitors.

7.2 The Claimant has categorically denied ever making such payment.

7.3 The said receipt falsely states that money was received from the Claimant, whereas the Claimant did not make any such payment and never engaged the services of the Defendants' solicitors.

7 4 The document is therefore irrelevant to the issues before this Honourable Court.

7.5 The issue before the Court is whether the Defendants are liable to pay the Claimant's professional fees arising from the land transaction.

7.6 The purported receipt neither relates to the transaction nor establishes any defence to the Claimant's claim.

7.7 In **Rockonoh Property Co. Ltd. v. Nigerian Telecommunications Plc & Anor** (2001) 7 SC (Pt. III) 154; (2001) 14 NWLR (Pt. 733) 468 The Supreme Court emphasized that any evidence that does not prove the proposition for which it is proffered (irrelevant) cannot have any probative value. The Court is entitled to disregard such evidence even if admitted, as only relevant and credible evidence assists

in proving a case.

7.1 ATTEMPT TO MISLEAD THE COURT

7.1.1 The Claimant respectfully submits that the Defendants' reliance on the said receipt is an attempt to create the false impression that the Claimant made payment to their solicitors.

7.1.2 The Claimant has denied making any such payment and has put the Defendants to strict proof of the authenticity of the document.

7.1.3 The law is settled that the Court will not attach probative value to a document whose authenticity has been successfully challenged as seen in **A.G. Rivers State v. A.G. Akwa Ibom State (2011) 8 NWLR (Pt.1248) 31**

8.0 ON THE PURPORTED COUNTER CLAIM INTRODUCED IN THE WRITTEN ADDRESS

8.1 My Lord, the Claimant respectfully submits that the Defendants' attempt, in paragraph 1 (one) of their written address, to introduce what is styled as a counter-claim is grossly incompetent and unknown to law.

8.2 It is trite that a written address is meant strictly for legal arguments and cannot be used as a vehicle to introduce fresh facts or substantive claims.

8.3 A counter claim, being a cross-action, must be commenced through the proper originating process.

8.4 The attempt to introduce it through a written address is therefore procedurally defective.

8.5 The law is settled that addresses of counsel cannot take the place of pleadings or evidence as seen in **Nwankwo v. Yar'Adua (2010) 12 NWLR (Pt.1209) 518**

8.6 Furthermore, the Supreme Court in **National Bank of Nigeria Ltd v. Alakija (1978) 9–10 SC 59**

emphasized that the Originating Summons procedure is unsuitable where issues involve substantive claims requiring pleadings.

8.7 The Claimant therefore urges this Honourable Court to discountenance the purported counter-claim.

9.0 WHETHER THE SUIT IS FRIVOLOUS

9.1 The Defendants' allegation that this suit is frivolous is unfounded.

9.2 A suit is frivolous only where it discloses no reasonable cause of action as Seen in **Idoko v. Ogbeikwu (2003) 7 NWLR (Pt.819) 275**

9.3 The Claimant's action is founded on:

- an executed contract
- professional services rendered
- a bill of charges issued and acknowledged
- refusal by the Defendants to pay.

9.4 These facts clearly disclose a valid cause of action.

10.0 CONCLUSION

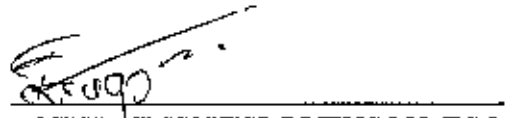
10.1 The Claimant has demonstrated that:

- the Defendants expressly undertook to pay his professional legal fees
- he rendered extensive professional services
- the Defendants received and acknowledged his Bill of Charges
- the Defendants are liable under the contract and the law.

10.2 The Defendants' denial is therefore a clear attempt to evade their contractual obligation.

10.3 In the circumstances, the Claimant respectfully urges this Honourable Court to resolve the issue for determination in favour of the Claimant and grant all the reliefs sought in the Originating Summons

DATED THIS 16 **DAY OF** March **2026**



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FOR SERVICE ON THE DEFENDANTS
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08033661414
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SUPREME COURT OF NIGERIA

OFFICE OF THE CHIEF REGISTRAR
Three Arms Complex, Central District, PMB 308, Abuja

Payment Receipt

NATIONAL SECRETARIAT
NBA House, Plot 1101 Mohammadu.
Buhari Way, Centeral Business District,
Abuja, F.C.T Nigeria

nigerianbar.org.ng
info@nigerianbar.org.ng
+234-800-33-111

Payment date 2026-02-27T07:15:31.496Z

Payment Reference:

BPF-CRED-530686-268764

PAYER INFORMATION	
Name	NDUBUISI DANIEL JOHNSON.
Payee Branch	Abuja
Enrollment No.	SCN142174
Email	yellowkidmourikado@gmail.com
Year of Call	2024

PAYMENT DETAILS

PAYMENT DATE	PAYMENT REF.	PAYMENT DESCRIPTION	AMOUNT ₦	CHARGES ₦	VAT ₦	TOTAL ₦
2026-02-27T07:15:31.496Z	BPF-CRED-530686-268764	Bar Practicing Fee	5000	0.00	0.00	5000

PAYMENT CHANNEL INFORMATION

TRANSITION	STATUS	PAYMENT TYPE	PAYMENT YEAR	BILLING METHOD
NBA Portal	Successful	BPF	2026	CREDO