

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

SUIT NO: CV/2358/2022

MOTION NO: 21/27/8/2022

BETWEEN

ALHAJI MAMMAN

ZUBAIRU.....PLAINTIFF

(TRADING UNDER THE NAME AND STYLE
OF MOH'D ZUBAIRU AND BROTHERS)

AND

- | | | |
|--|---|-----------------------|
| 1. ABDULRAHMAN MOHAMMAD | } | DEFENDANTS/APPLICANTS |
| 2. DAILY NEED DISTRIBUTORS LIMITED | | |
| 3. FEDERAL CAPITAL DEVELOPMENT AUTHORITY | } | DEFENDANTS |
| 4. MINISTER OF THE FEDERAL CAPITAL TERRITORY | | |

**MOTION ON NOTICE FOR EXTENSION OF TIME PURSUANT TO
ORDER 49 RULE 4 OF THE HIGH COURT OF THE FEDERAL CAPITAL
TERRITORY (CIVIL PROCEDURE RULES 2018)**

TAKE NOTICE that this Honorable Court will be moved on.....day December of2022, at the hour of 9 0' clock in the forenoon or so soon thereafter as Counsel for the 1st and 2nd Defendant/Applicant may be heard praying the Court for the following reliefs:

- i. An Order extending time within which the 1st Defendant and 2nd Defendant shall file and serve its Statement of Defence to the Plaintiff's Statement of Claim with suit no: **CV/2358/2022** filed on the 14th day of July 2022.
- ii. An order deeming the 1st and 2nd Defendant's Statement of Defense as properly filed, and served, appropriate fees having been paid.

Free At 2,000

1212619754

Date 15/12/2022

- iii. And such other Orders this Honorable Court may deem necessary to make.

Dated this 14th day of December 2022



✓ Dayo G. Ashonibare, Esq. LL.M. CI Arb. (UK)

R.E. Okwori, Esq.,

Simiat Suleiman, Esq.,

S.F Wofuru Esq.,

(1st & 2nd Defendant's Counsel),

Levite Solicitors & Arbitrators,

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FOR SERVICE ON:

For service on:

THE PLAINTIFF

C/O Their Counsel

Godwin Ojebiyi, Esq

Dr. Kabiru Adamu, Esq.

Mohammed Salihu

NORTHEDGE ATTORNEY

3rd Floor, Bank of Industry Building,

No. 18 Muhammadu Buhari Way,

Kaduna.

08186744916, 08034770177

ADDRESS FOR SERVICE WITHIN JURISDICTION

HAKIM BAKARE & ASSOCIATES

ABUJA-FCT

08067111131

3RD & 4TH DEFENDANTS

FEDERAL CAPITAL TERRITORY, ABUJA

**IN THE HIGH COURT OF FEDERAL CAPITAL TERRITORY
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**1st AND 2ND DEFENDANT/APPLICANT'S AFFIDAVIT IN SUPPORT OF
MOTION ON NOTICE FOR EXTENSION OF TIME**

I, Mardiya Muhammed, adult, female, litigation clerk and Nigerian Citizen of SF 22 Anafara'a Plaza 1st Avenue, Gwarimpa, Abuja, do hereby make oath and state as follows:

1. I am a litigation clerk in Levite Solicitors & Co., the firm of lawyers representing the 1st and 2nd defendant in this matter.
2. I have the consent and authority of my employer and the 1st and 2nd Defendant to depose to this affidavit from facts within my knowledge and those that came to me by virtue of my duties.
3. I was further informed by Dayo Ashonibare, Esq., one of the Counsel in our firm handling this matter, during case review on 12th December 2022 at about 12:30pm at our office at SF 22 Anafara'a Plaza, 1st Avenue, Gwarimpa, Abuja of the following facts which I believe to be true that;

- a) the 1st and 2nd Defendant were served with the Originating process with suit no: CV/2358/2022.
- b) The 1st and 2nd Defendant are out of time in filing their Statement of Defendant, hence it is expedient to seek the leave of this Honorable Court for extension of time to file their Statement of Defence.
- (a) That the default fees for the late filing of the 1st and 2nd Defendant's Statement of Defence have been paid and the process filed and served on the other parties respectively.
- (b) That the 1st and 2nd Defendant regret all inconveniences caused this Court by the late filing of the processes.
- (c) That the Claimant will not be prejudiced by the grant of this Application.
- (d) That it is in the interest of justice that this Application be granted.
4. That I make this deposition in good faith believing the content to be true and correct and in accordance with the Oaths Acts 2004.



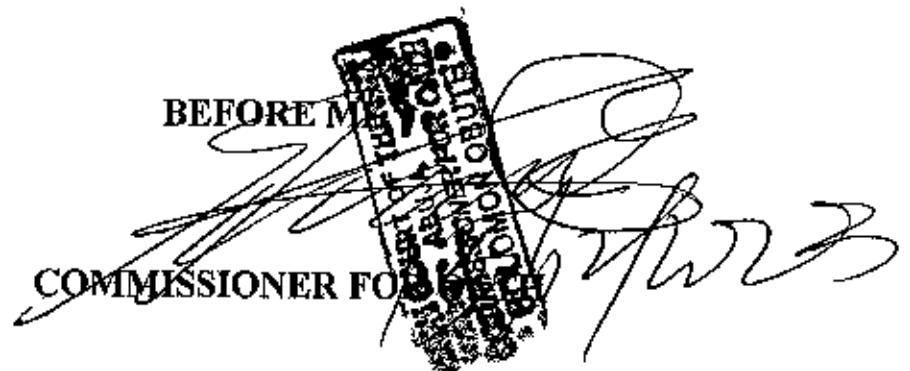
Deponent

Sworn to at the Registry of the

High Court of the FCT, Abuja,

This 4th Day of Decemeber 2022

BEFORE ME



COMMISSIONER FOR



**IN THE HIGH COURT OF FEDERAL CAPITAL TERRITORY
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**WRITTEN ADDRESS IN SUPPORT OF 1ST AND 2ND DEFENDANT'S
MOTION ON NOTICE FOR EXTENSION OF TIME**

1.0 INTRODUCTION

The 1st and 2nd Defendant were served with the Plaintiff's Statement of Claim with suit no: CV/2358/22. However, they could not file their Statement of Defence within the time allowed by the rules of Court.

The Application is supported by a 4-paragraph affidavit deposed to by Mardiya Muhammed, Counsel at Levite Solicitors & co..

2.0 ISSUES FOR DETERMINATION

- 2.1 The 1st and 2nd Defendant formulate a lone issue for determination thus, *"Whether this Application can be granted"*.

3.0 ARGUMENT ON THE ISSUE

3.1 1st and 2nd Defendant has shown vide deposition in the supporting affidavit that the inability to file a Statement of Defence to the 1st Defendant/Applicant's application within the time allowed by the FCT High Court Civil procedure rules. It is the argument of the 1st and 2nd Defendant that the Court can exercise her powers under **Order 49 rule 4** of the High court of the federal capital territory rules (Civil Procedure) to extend time for the 1st and 2nd Defendant to file their Statement of Defence.

3.2 My Lord, it is the practice in all courts that where there is a default in filing a process within time, the party in default must file a motion for extension of time seeking the approval of the court to file and serve the other parties in the suit. It is the decision of the Court.

3.3 CONCLUSION

My Lord, the grant of this application will not be prejudicial to the Plaintiff but rather advance the interest of justice.

Dated this 14th Day of December 2022



✓ Dayo G. Ashonibare, Esq.LLMACI Arb. (UK)
R.E. Okwori, Esq.,
Simiat Suleiman, Esq.,
S.F Wofuru Esq.,
(1st & 2nd Defendant's Counsel),
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