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

SUIT NO. FHC/ABJ/CS/2331/2026

BETWEEN

1. SULE NASIRU GARO

2. NIGERIA DEMOCRATIC CONGRESS (NDC)- PLAINTIFFS

AND

INDEPENDENT NATIONAL ELECTORAL  
COMMISSION (INEC)

- DEFENDANT

DEFENDANT'S COUNTER AFFIDAVIT TO THE ORIGINATING  
SUMMONS

I, Jacob Ayuba, Adult, male, a Nigerian citizen of the Independent National Electoral Commission (INEC), Plot 436, Zambezi Crescent, Maitama District, Abuja do hereby make oath and state as follows, that:

1. I am an Assistant Executive Officer in the Litigation & Prosecution Department of the Defendant by virtue of which I am conversant with the facts deposed herein.
2. I have the consent and authority of the Defendant to depose to this Counter Affidavit.
3. I state that the facts deposed herein are within my personal knowledge except where otherwise stated.
4. I have read the Plaintiff's Affidavit in support of the Originating Summons filed in this suit.
6. Paragraph 4 of the Affidavit in support of the Originating Summons is CORRECT and is hereby admitted.



7. That paragraphs 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19 and 20 of the Affidavit in support of the Originating Summons are facts within the knowledge of Plaintiffs and they are put to the strictest proof of same and in response to the said paragraphs, I state as follows:

8. I was informed by O. A. Adeyemi, Esq. of Counsel in the Litigation & Prosecution Department of the Defendant on 6<sup>th</sup> day of October, 2026 while preparing this defence in his office around 10:00am at the Headquarters of the Defendant which information I verily believed to be true and correct that:

(a) That on 26<sup>th</sup> day of February 2026 the Defendant issued Time Table and Schedule of Activities for 2027 General Elections. A copy of the Time Table and Schedule of Activities for 2027 General Elections is attached and marked **"Exhibit INEC I"**.

(b) Pursuant to the said Time Table and Schedule of Activities, the 2<sup>nd</sup> Plaintiff and all other Political Parties are to submit or substitute nominated candidates, by conducting fresh Primary Elections to nominate a new candidate to substitute withdrawn Candidates and submit the New Candidate on the defendant's Nomination Portal within the time provided for substitution of candidates on the Time Table and Schedule of Activities for 2027 General Elections.

(c) That the portal of the Defendant opens and closes automatically according to the timeline provided in the Time Table and Schedule of Activities for 2027 General Elections.

(d) That the 2<sup>nd</sup> Plaintiff failed to submit the details of the 1<sup>st</sup> Plaintiff within the time provided in the Time Table and Schedule of Activities for 2027 General Elections.

(e) that the 2<sup>nd</sup> Plaintiff and all other political parties are to strictly comply to the time lines and activities enumerated on the Time Table and Schedule of Activities for 2027 General Elections for the Defendant to effectively fulfill its Constitutional and Statutory mandates.

9. I know that it is in the interest of justice to dismissed this suit.

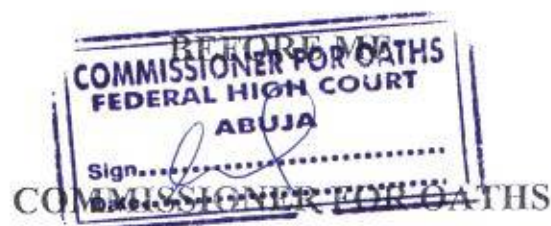
10. I make this Counter Affidavit in good faith believing same to be true in accordance with the Oaths Act.



**DEPONENT**

Sworn to at the Registry of the Federal High Court, Abuja.

THIS.....<sup>6<sup>th</sup></sup> DAY OF OCTOBER, 2026





LATEST. EXHIBIT "INEC 1"

## INDEPENDENT NATIONAL ELECTORAL COMMISSION REVISED TIMETABLE AND SCHEDULE OF ACTIVITIES FOR 2027 GENERAL ELECTION

In virtue of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), tenure of the President, Vice President, Governors and Deputy Governors of States of the Federation (except Anambra, Bayelsa, Edo, Ekiti, Imo, Kogi, Ondo, and Osun States) will expire on the 28<sup>th</sup> day of May, 2027 while membership of the National and State Assemblies will stand dissolved on the 8<sup>th</sup> day of June, 2027.

Pursuant to Sections 76(2), 116 (2), 132 (2) and 178 (2) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), elections for the said offices shall hold not earlier than One Hundred and Fifty (150) days and not later than Thirty (30) days before the expiration of the term of office of the last holder of that office.

Whereas section 28(1) of the now repealed Electoral Act, 2022 required the Commission to issue a Notice of Election not later than Three Hundred and Sixty (360) days before the date fixed for the election, and having issued same on 13<sup>th</sup> February, 2026;

And whereas the said statutory timeline has been revised pursuant to the enactment of the Electoral Act, 2026, which now requires that the Notice of Election be issued not later than Three Hundred (300) days before the date of the election;

And whereas the Commission has, in strict compliance with the provisions of the Electoral Act, 2026, issued the requisite Notice of Election and has accordingly adjusted the Timetable and Schedule of Activities to align fully with the extant statutory framework;

Now therefore, in exercise of the powers conferred on the Commission by the Constitution of the Federal Republic of Nigeria, 1999 (as amended), the Electoral Act, 2026, and all other powers enabling it in that behalf, and in accordance with the revised statutory timelines, the Commission hereby issues this Revised Timetable and Schedule of Activities for the 2027 General Election.

| S/N | ACTIVITY                                                                                 | DATE                                                                                    | REMARK                                                                                                                            |
|-----|------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| 1   | Notice of Election                                                                       | 13 <sup>th</sup> February, 2026                                                         | Section 28(1) of the Electoral Act, 2026 provides not later than 300 days before the election.                                    |
| 2   | Submission of Political Parties' Register of Members to the Commission                   | Commencement date<br>1 <sup>st</sup> April, 2026<br>End<br>21 <sup>st</sup> April, 2026 | Section 77(4) of the Electoral Act, 2026 provides not later than 21 days to the conduct of party primaries.                       |
| 3   | Conduct of Party Primaries, including resolution of disputes arising from the Primaries. | Commencement date<br>23 <sup>rd</sup> April, 2026<br>End<br>30 <sup>th</sup> May, 2026  | To enable Political Parties democratically nominate candidates for election as required by Section 84 of the Electoral Act, 2026. |

TOMI ADESINA  
TOMI ADESINA

SIGN.....

SIGN.....

COMMISSIONER FOR OATHS  
FEDERAL HIGH COURT

SIGN.....

Date.....

|   |                                                                                                     |                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                               |
|---|-----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4 | Submission of Forms EC9 and EC9A, 9B, 9C, 9D & 9E online (Nomination Portal).                       | <p>Presidential &amp; National Assembly<br/>9.00AM 27<sup>th</sup> June, 2026 - 6.00PM 11<sup>th</sup> July, 2026</p> <p>Governorship &amp; State Houses of Assembly<br/>9.00AM 18<sup>th</sup> July, 2026 - 6.00PM 8<sup>th</sup> August, 2026</p> | <p>Section 29(1) of the Electoral Act, 2026 provides for not later than 120 days before the election.</p> <p>EC9 (Personal Particulars of Candidates).<br/>EC9A, 9B, 9C, 9D &amp; 9E (Names /List of Nominated Candidates).</p> <p>Access code for the submission of nomination forms shall be available for collection from 26<sup>th</sup> June, 2026 at the Commission's Headquarters.</p> |
| 5 | Publication of Personal Particulars of candidates (EC9) by the Commission.                          | <p>Presidential &amp; National Assembly<br/>1<sup>st</sup> August, 2026</p> <p>Governorship &amp; State Houses of Assembly<br/>29<sup>th</sup> August, 2026</p>                                                                                     | Section 29(3) of the Electoral Act, 2026 provides for the publication of Form EC9 within 21 days of receipt.                                                                                                                                                                                                                                                                                  |
| 6 | Commencement of Campaign by Political Parties in public.                                            | <p>Presidential &amp; National Assembly<br/>19<sup>th</sup> August, 2026</p> <p>Governorship &amp; State Houses of Assembly<br/>9<sup>th</sup> September, 2026</p>                                                                                  | Section 98(1) of the Electoral Act, 2026 provides that campaign in public by every political party shall commence 150 days before polling day and end 24 hours prior to that day.                                                                                                                                                                                                             |
| 7 | Last day for withdrawal by candidate(s)/replacement of withdrawn candidate(s) by Political Parties. | <p>Presidential &amp; National Assembly<br/>22<sup>nd</sup> August, 2026</p> <p>Governorship &amp; State Houses of Assembly<br/>19<sup>th</sup> September, 2026</p>                                                                                 | Section 31 of the Electoral Act, 2026 provides not later than 90 days to the election.                                                                                                                                                                                                                                                                                                        |
| 8 | Last day for submission of Nomination forms (EC13A, 13B, 13C, 13D & 13E) by Political Parties.      | <p>Presidential &amp; National Assembly<br/>29<sup>th</sup> August, 2026</p> <p>Governorship &amp; State Houses of Assembly<br/>26<sup>th</sup> September, 2026</p>                                                                                 | To enable Political parties comply with Section 30(1) of the Electoral Act, 2026.                                                                                                                                                                                                                                                                                                             |

CERTIFIED TRUE COPY.  
INEC HQ/RS ABUJA

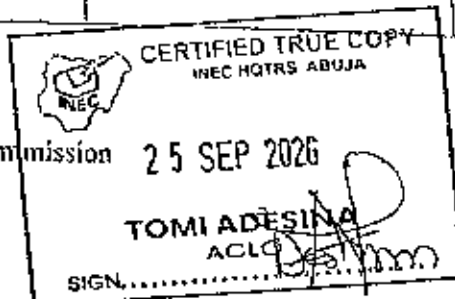
25 SEP 2026

TOMI ADESINA  
ACLO

-SIGN. ....

|    |                                                                                                                                |                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|----|--------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 9  | Publication of final list of nominated candidates by the Commission.                                                           | Presidential & National Assembly<br>12 <sup>th</sup> September, 2026<br>Governorship & State Houses of Assembly<br>10 <sup>th</sup> October, 2026 | Section 32(1) of the Electoral Act, 2026 provides at least 60 days before the day of election.                                                                                                                                                                                                                                                                                                                                         |
| 10 | Last day for submission of names of Polling Agents to the Electoral Officer of the Local Government Area by Political Parties. | Presidential & National Assembly<br>10 <sup>th</sup> December, 2026<br>Governorship & State Houses of Assembly<br>6 <sup>th</sup> January, 2027   | Section 43(1) of the Electoral Act, 2026 provides for not later than 14 days before the election.                                                                                                                                                                                                                                                                                                                                      |
| 11 | Publication of the official Register of Voters by the Commission.                                                              | 15 <sup>th</sup> December, 2026                                                                                                                   | Section 10(4) & 44(b) of the Electoral Act, 2026                                                                                                                                                                                                                                                                                                                                                                                       |
| 12 | Publication of Notice of Poll by the Commission.                                                                               | 29 <sup>th</sup> December, 2026                                                                                                                   | Section 44(a) of the Electoral Act, 2026 provides for not later than 14 days before the election.                                                                                                                                                                                                                                                                                                                                      |
| 13 | Last day for campaigns by Political Parties.                                                                                   | Presidential & National Assembly<br>14 <sup>th</sup> January, 2027<br>Governorship & State Houses of Assembly<br>4 <sup>th</sup> February, 2027   | Section 98(1) of the Electoral Act, 2026 provides that campaign in public by every political party shall commence 150 days before polling day and end 24 hours prior to that day.                                                                                                                                                                                                                                                      |
| 14 | Date of Election                                                                                                               | Presidential & National Assembly<br>16 <sup>th</sup> January, 2027<br>Governorship & State Houses of Assembly<br>6 <sup>th</sup> February, 2027   | Sections 76 (1) & (2), 116 (1) & (2), 132 (1) & (2) and 178 (1) & (2) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) empower the Commission to appoint dates for Presidential, Governorship, National Assembly and State House of Assembly elections not earlier than 150 days and not later than 30 days before the expiration of the term of office of the last holder/before the House stands dissolved. |

  
 Professor Joash O. Amupitan, SAN  
 Chairman, Independent National Electoral Commission



Dated this 21<sup>st</sup> day of February, 2026

SUTT NO. FUC/ABJ/CS/2331/2026

**1. SULE NASIRU GARO**  
**2. NIGERIA DEMOCRATIC CONGRESS (NDC)- PLAINTIFFS**

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

2.2 According to the Plaintiffs, the candidate nominated for Kano North Senatorial District for the 2027 General Election withdrew from the race, hence the need for the 2<sup>nd</sup> Plaintiff in compliance to the Electoral Act 2026, conducted a fresh primary election and the 1<sup>st</sup> Plaintiff emerged as a winner.

2.3 Worthy of note is the fact that the 2<sup>nd</sup> Plaintiff could not successfully submit the details of the 1<sup>st</sup> Plaintiff on the Defendant's Nomination Portal because same was submitted outside the timeline provided Time Table and Schedule of Activities for 2027 General Elections.

2.4 In response to the Suit, Defendant filed a 10 Paragraphs Affidavit emphatically stating that the 2<sup>nd</sup> Plaintiff could not successfully submit the details of the 1<sup>st</sup> Plaintiff on the Defendant's Nomination Portal because same was submitted outside the timeline provided Time Table and Schedule of Activities for 2027 General Elections.

### 3.0 ISSUE FOR DETERMINATION

3.1 It is respectfully submitted that having regard to the facts as deposed to in the Affidavit in support of the Originating Summons the Defendant raises a lone issue for determination, to wit:

*Whether the Plaintiffs are entitled to the reliefs sought?*

### 4.0 ARGUMENT ON THE LONE ISSUE

#### 4.1 *Whether the Plaintiffs are entitled to the reliefs sought?*

4.2 My lord, it is submitted straightaway that the answer to this question is in the negative. Surely, the Plaintiffs are not entitled to the reliefs sought in this Suit. The burden of proof is placed on the Plaintiff who claims the reliefs in the Originating Summons, \*See *Emenike vs. PDP* (2012) 12 NWLR (Pt.1315) 556 @ Pp. 589-590 paras H-B.

4.3 It is trite law that he who asserts must prove. Section 133 of the Evidence Act, 2011 provides:

*"133 (1) In civil cases, the burden of first proving existence or non-existence of a fact lies on the party against whom the judgement of the court would be given if no evidence were pronounced on either side, regard being had to any presumption that may arise on the pleadings.*

*(2) If the party referred to in subsection (1) of this section adduces evidence which ought reasonably to satisfy the court that the fact sought to be proved is established, the burden lies on the party against whom judgment would be given if no more evidence were adduced, and so on successively until all the issues in the pleadings have been dealt with"*

See the cases of: **Dikwa v. Modu** (1993) 3 NWLR (PL.280) 183, **Okonkwo v. Okagbue** (1994) 9 NWLR (Pt. 368) Pg. 301, 325-326 and **Ebo v. Egbu** (1994) 5 NWLR (Pt.347) Pg. 703, 718

- 4.4 My Lord, the claims of the Plaintiffs in the instant case are declaratory in nature, a hurdle the Plaintiffs must cross to be entitled to the reliefs claimed is, its case succeeds on its strength even in the face of admissions (which is not the case here). Declaratory orders are not granted as matter of cause or even based on admissions. The principles upon which declaratory reliefs are granted have been eloquently stipulated in plethora of judicial authorities. See **Luke v. R.S.H. & P.D.A.**(2023) 3 NWLR (Pt. 1871) 221 at 251-252 paras C-D & H-A(SC) and **Ojiayan v. Ani. Dev. Ent. Ltd.** (2024) 4 NWLR (Pt. 1929) 381, at 403, paras G-H (CA)
- 4.5 My noble lord, we submit most humbly that it is trite law that declaratory reliefs are not grantable even on admission, or the weakness of the defence, if any. The Plaintiffs is not relieved from its legal and evidential onus to prove its case or assertions with credible evidence in line with our extant laws and we urge your lordship to so hold. We refer your lordship to the cases of **Omisore v. Aregbesola** (2015)15 NWLR (Pt.1482) 205 @ P.322, paras. D-E (SC); **Seamarine Int'l Ltd v. Ayetoro Bay Agency** (2016) 4 NWLR (Pt. 1502) P. 313 at Pp. 343 - 344, paras. F-A.
- 4.6 The burden of proving a fact rests on the party who asserts the affirmative of an issue and not a party who denies it or who asserts the negative. A negative assertion cannot be proved. In **Danjuma vs. Garba** (2021) LPELR- 57105 CA. The Court of Appeal held that:

*"I am of the view that the trial Court erred in law by placing a legal burden of the 1<sup>st</sup> defendant which it should not have been saddled with. This takes me to the decision in Olorundare's case which I had hitherto referred to in this*

*judgment. Although Sections 131-132 of the Evidence Act, places the burden of proving a fact on the one who asserts a fact, this cannot be said of a party who asserts the non-existence as there is nothing for him to assert, save to insist on the non-payment to the Appellant”.*

- 4.7 My lord, appreciating the case of the Plaintiff, as deposed to in its Affidavit in support of the Originating Summons, the Plaintiff claimed the Defendant refused the submission of the details of the 1<sup>st</sup> Plaintiff on its portal. In response to the Suit, Defendant filed a 10 Paragraphs Counter Affidavit emphatically stating that the 2<sup>nd</sup> Plaintiff could not successfully submit the details of the 1<sup>st</sup> Plaintiff on the Defendant’s Nomination Portal due to the facts that same was submitted outside the timeline provided Time Table and Schedule of Activities for 2027 General Elections.
- 4.8 Going by the above, it then means that the case of the Plaintiffs built on hunch cannot succeed even where there is no challenge or counter affidavit. Defendant by its deposition in Paragraph 9 reveals that it is in the interest of justice to dismiss this suit, that the Plaintiffs are not entitled to the relief sought. We urge My Lord to hold so.
- 4.9 My Lord, the purported facts as deposed to in their Affidavits in support of the Originating Summons are not sacrosanct, they are subject to consideration/evaluation by this Honourable Court even where they are not challenged. In the case of **Adeniyi v. Tina George Ind. Ltd. (2019) 16 NWLR (Pt. 1699) 560 at 587-588 paras A-A** where the Supreme Court held:

*“One of the first complaints of the appellants is that the application was unopposed and therefore the court ought to have accepted and acted on the unchallenged averments. While it is generally well settled that unopposed averments in an affidavit will be deemed admitted, it is also trite that the court has a duty to evaluate the unopposed averments and determine whether, as they stand, they justify the grant of the relief sought. The mere fact that averments are not denied does not mean that the court must accept them without more. The averments, even if accepted by the court, must be cogent and credible. If the court is not so satisfied, the application will be refused. In Neka B.B.B. Manufacturing Co. Ltd. v. A.C.B. Ltd. (2004)*

*2 NWLR (Pt.858) 521 @ 550-551 F-A, this court held, per Pats-Acholonu, JSC:*

*“I am familiar with the case of Odulaja v. Haddad(1973) 1 ANLR 191 to the effect that an evidence not challenged by the party that had the opportunity to do so should ordinarily be believed and accorded credibility. I believe that such holding rests on the premise that such evidence is capable of being believed if not challenged. In other words, when the evidence is weak in content as not to assist the court or is manifestly unreasonable or is devoid of any substance as not to help to resolve the matter in issue it will be safe to ignore it as it does not attain the standard of credibility. Although it is the general rule that uncontradicted evidence from which reasonable people can draw but one conclusion may not ordinarily be rejected by the court but must be accepted as true, it is also true to say that the court is not in all the circumstances bound to accept as true testimony an evidence that is uncontradicted where it is willfully or corruptly false, incredible, improbable or sharply falls below the standard expected in a particular case.” (Italic mine)*

*See also: Obasanjo Farms (Nig.) Ltd. v. Muhammad (2016) LPELR-40199 (CA) @ 41-42 A-D; R-Benkay (Nig.) Ltd. v. Cadbury(Nig.) Ltd. (2012) 9 NWLR (Pt.1306) 596; Gonzee (Nig.) Ltd. v. NERDC (2005) 13 NWLR (Pt. 943) 634 @ 638 @ 650 D.*

4.10 It follows therefore that this Honourable Court is entitled to evaluate the averments in the supporting affidavit to satisfy itself that the Plaintiffs is entitled to the reliefs sought by it.

4.11 My Lord, is urged to discountenance the argument of the Plaintiffs and the cases cited which are inapposite its case. This case succeeds only if the facts deposed to in the affidavit in support are reliable.

## **5.0 CONCLUSION**

5.1 My Lord is urged to hold that the case of the Plaintiffs is bereft of any substance. it is in the interest of justice to allow only duly nominated candidates that was submitted within the time provided in the Time table and

Schedule of Activities for elections to ensure the Defendant seamlessly carries out its Statutory duties to conduct free, fair and credible elections that satisfy the aspiration all Nigerians.

DATED THIS <sup>17th</sup> ... DAY OF OCTOBER, 2026.



*Femi*  
Sulayman O. Ibrahim, SAN  
Adeyemi O.A., Esq.(Sign)  
Dr. Kingsley Magbui, Esq.  
Hassan Aminu, Esq.

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