FOR SERVICE

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ABUJA

SUIT NO: CV/230/2026

IN THE MATTER OF THE ESTATE OF LATE ASHIB GODWIN ANGIATING (DECEASED)

BETWEEN:

1. DR. GREG UKEL ANGIATING
2. MR. GIFT UNIMKE ANGIATING
3. MISS PRISCA BIWOM ANGIATING _____ ***CLAIMANTS***

AND

1. PREMIUM PENSION LIMITED

2. MRS. FELICIA ABIYE-ANGIATING _____ ***DEFENDANTS***

NOTICE OF PRELIMINARY OBJECTION

BROUGHT PURSUANT TO ORDER 2 RULE 3 OF THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY (CIVIL PROCEDURE) RULES 2025, THE INHERENT JURISDICTION OF THIS HONOURABLE COURT, AND UNDER THE APPLICABLE LAWS

TAKE NOTICE that the hearing of this suit dated the _____day of_____2026, the 2nd Defendant shall raise a preliminary objection to the determination of the said suit praying this Honourable Court for the following orders:

Fees - 2500
R/A1 - 07041277918
Date - 10/7/26

1. **AN ORDER** striking out the name of the 2nd Defendant for misjoinder and for failure to disclose any reasonable cause of action against it.
2. **AN ORDER** striking out and/or dismissing this suit in its entirety for being incompetent, improperly commenced and an abuse of the process of this Honourable Court.
3. An Order striking out this suit as being an abuse of the process of this Honourable Court.
4. And for such further or other orders as this Honourable Court may deem fit to make in the circumstances.

TAKE FURTHER NOTICE that the grounds upon which this objection is brought are as follows:

1. That this Honourable Court lacks jurisdiction and/or competence to entertain this suit as presently constituted, the subject matter being a pension benefit dispute which is still undergoing mandatory statutory verification and reconciliation of competing beneficiary claims under the Pension Reform Act, 2014 (as amended), regulated by the National Pension Commission.

2. That the Claimants have failed to exhaust the mandatory administrative verification and dispute resolution mechanisms provided under the Pension Reform Act, 2014 (as amended), which constitute conditions precedent to the assumption of jurisdiction by this Honourable Court.

3. That this suit constitutes an abuse of court process in that the Claimants are seeking to:

i. pre-empt ongoing statutory verification and reconciliation of beneficiary records;
ii. obtain judicial determination of contested entitlement issues presently under

administrative review; and

iii. compel payment notwithstanding unresolved regulatory discrepancies and competing claims.

4. That the 2nd Defendant is improperly joined in this suit as no contractual, statutory, fiduciary, or regulatory obligation exists between her and the Claimants capable of founding a reasonable cause of action.

5. That this suit is premature, the 1st Defendant not having concluded statutory verification of competing claims, including Next of Kin nominations and the letters of administration submitted by the Claimants.

Dated this 10th day of July, 2026.

NIGERIAN BAR ASSOCIATION
NBA
TIVLUMUN ANDREW NGAVAN
SCN134406
Nº E9875214
Valid Till March 2026

A.T. UDOH, ESQ.
T.A. NGAVAN ESQ.
Ability & Associates
Suite 5/6, 2nd Floor, Rysan Plaza
Opposite NNPC Filling Station
Off Kogo Road, Bwari
TEL:+234[0]8073304700,
08034050333
EMAIL: abilitoms@gmail.com

FOR SERVICE ON THE CLAIMANTS COUNSEL

Ifeanyi M. Nrialike Esq.

Ogechi P Ogbenna Esq.

Collins Nnabuike Onah, Esq.

Kenechukwu H. Okolo, Esq

Christian C. Iheka, Esq.

Amarachi S. Ogbu, Esq.

Ikechukwu Ezechukwu, SAN & CO.

No. 2 Tanga Street,

Wuse Zone 6, Abuja - FCT.

2ND DEFENDANT

Dr. Dayo G. Ashonibare, Esq.
Ene Ashonibare, Esq.
Simiat Suleiman, Esq.
Blessing Etamessor, Esq.
J.o Ibrahim, Esq.
Somadina C. Offor, Esq.
Idowu Iyanuoluwa, Esq.
U.T Anko, Esq.
(1st Defendant Counsel)
Levite Solicitors & Arbitrators
Block 15D, Salis Court,
Efire Illeogun Street,
Gwarinpa, FCT- Abuja.
08033661414, 08165550165
levitesolicitors@gmail.com

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ABUJA

SUIT NO: CV/230/2026

IN THE MATTER OF THE ESTATE OF LATE ASHIB GODWIN ANGIATING (DECEASED)

BETWEEN:

1. DR. GREG UKEL ANGIATING
2. MR. GIFT UNIMKE ANGIATING
3. MISS PRISCA BIWOM ANGIATING _____ ***CLAIMANTS***

AND

1. PREMIUM PENSION LIMITED
2. MRS. FELICIA ABIYE-ANGIATING _____ ***DEFENDANTS***

AFFIDAVIT IN SUPPORT OF THE PRELIMINARY OBJECTION

I, Audu Thomas Ayim, Male, Adult, Nigerian Citizen of Zone B40, Kuduru-Bwari Area Counsil, do hereby make oath and state as follows:

1. That I am a Litigation Secretary in the Chambers of Ability & Associates, Counsel to the 2nd Defendant in this suit and conversant with the facts deposed herein.
2. That I have the consent and authority of my principal and the 2nd Defendant to depose to this affidavit.
3. That I have read the processes filed by the Claimants and verily believe same to be fundamentally defective in law and procedure.

4. That the subject matter of this suit relates to pension benefits of the late Ashib Godwin Angiating.

5. That the 1st Defendant is currently undertaking statutory verification of competing claims, including Next of Kin nomination records and Letters of Administration submitted by the Claimants.

6. That the verification process has not been concluded.

7. That the Claimants have instituted this suit notwithstanding the ongoing administrative reconciliation.

8. That the 2nd Defendant was improperly joined in this suit as the Claimants have disclosed no contractual, statutory, fiduciary, or regulatory duty owed by her to them in relation to the administration or disbursement of the deceased's pension benefits, thereby disclosing no reasonable cause of action against her.

9. That I verily believe that this suit seeks to pre-empt administrative decision-making under the Pension Reform Act.

10. That I depose to this affidavit in good faith and in accordance with the Oath Act 2004.

DEPONENT

SWORN TO AT THE REGISTRY OF THE F. CT HIGH COURT, ABUJA

THIS ..... DAY OF JULY 2026

BEFORE ME:

COMMISSIONER FOR OATHS

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ABUJA

SUIT NO: CV/230/2026

IN THE MATTER OF THE ESTATE OF LATE ASHIB GODWIN ANGIATING (DECEASED)

BETWEEN:

1. DR. GREG UKEL ANGIATING
2. MR. GIFT UNIMKE ANGIATING
3. MISS PRISCA BIWOM ANGIATING _____ *CLAIMANTS*

AND

1. PREMIUM PENSION LIMITED
2. MRS. FELICIA ABIYE-ANGIATING _____ ***DEFENDANTS***

WRITTEN ADDRESS IN SUPPORT OF THE NOTICE OF PRELIMINARY OBJECTION

1.0 INTRODUCTION

May it please this Honourable Court.

This Written Address is respectfully filed in support of the 2nd Defendant's Notice of Preliminary Objection challenging the competence of the Claimants' Originating Summons and urging this Honourable Court to decline jurisdiction to entertain this suit in its present form.

This objection raises fundamental threshold issues which strike at the very root of the competence of this action and the jurisdiction of this Honourable Court. At its

core lies the question whether this Honourable Court can properly assume jurisdiction over a dispute whose principal subject matter concerns pension benefits, pension administration, beneficiary verification, and entitlement to pension proceeds, matters which, by virtue of **Section 254C(1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended)**, fall within the exclusive jurisdiction of the National Industrial Court of Nigeria.

The objection is predicated on the following fundamental grounds:

i. That this Honourable Court lacks jurisdiction to entertain this suit, the principal subject matter being pension entitlement and pension administration, matters falling within the exclusive jurisdiction of the National Industrial Court of Nigeria;

ii. That this action is founded on substantially disputed and highly contentious facts, including serious allegations of material non-disclosure during the probate process, particularly the alleged failure of the Claimants to disclose the existence of the 2nd Defendant as the lawful surviving spouse of the deceased, thereby rendering the Originating Summons procedure inappropriate and incompetent;

iii. That the Claimants have failed to disclose any reasonable cause of action against the 2nd Defendant, who owes no contractual, statutory, fiduciary, or regulatory obligation to the Claimants and is neither a necessary nor proper party to this suit;

iv. That this suit is premature, the 1st Defendant not having concluded the statutory verification and reconciliation process in respect of competing beneficiary claims pursuant to the Pension Reform Act, 2014; and

v. That the suit, as presently constituted, amounts to an abuse of the process of this Honourable Court.

My Lord, at the heart of this objection lies a jurisdictional issue of considerable legal significance: whether this Honourable Court can properly exercise adjudicatory authority over a dispute relating to pension benefits where the Pension Fund Administrator is still actively engaged in the statutory verification and reconciliation of competing beneficiary claims under the Pension Reform Act, 2014, and where the reliefs sought would, in practical effect, require this Court to prematurely intervene in, pre-empt, and effectively override a regulatory process deliberately placed by law within a specialized statutory framework.

The 2nd Defendant respectfully submits that such invitation to judicial intervention is premature, legally impermissible, and contrary to settled principles governing jurisdiction, statutory compliance, and exhaustion of administrative remedies.

This suit, with respect, is not merely procedurally defective; it is fundamentally premature, improperly constituted, and incompetent. The Claimants have approached this Honourable Court in an attempt to secure judicial pronouncement over matters that remain subject to statutory administrative review, while simultaneously inviting the Court to resolve highly contentious issues of fact touching on competing beneficiary interests, alleged probate irregularities, and material non-disclosure.

In support of this Preliminary Objection is a ten (10) paragraph affidavit deposed to by Mr. Audu Thomas Ayim, upon which the 2nd Defendant places reliance.

The law remains firmly settled that where an action is fundamentally defective, particularly as to jurisdiction and competence, the Court is bound to decline jurisdiction and strike out the action without proceeding to the merits. This is because jurisdiction is the lifeblood of adjudication; where it is absent, every step taken in the proceedings, no matter how well conducted, is a nullity.

In the celebrated case of ***Madukolu v. Nkemdilim*** **(1962) 2 SCNLR 341**, the Supreme Court held that a Court is competent only when:

(a) it is properly constituted;

(b) the subject matter is within its jurisdiction; and

(c) the case comes before it initiated by due process of law.

Where any of these conditions is absent, the proceedings are incompetent and liable to be struck out.

2.0 BRIEF STATEMENT OF FACTS

We submit with respect that the facts relevant to this preliminary objection are as set out in the supporting affidavit.

3.0 ISSUES FOR DETERMINATION

The 2nd Defendant respectfully submits the following issues for determination of this preliminary objection:

ISSUE ONE

Whether this Honourable Court possesses jurisdiction to entertain this suit, having regard to the subject matter of the action which principally concerns pension benefits and pension administration, matters falling within the exclusive jurisdiction of the National Industrial Court of Nigeria.

ISSUE TWO

Whether in view of the unresolved competing beneficiary claims and the subsisting statutory verification process being undertaken by the 1st Defendant pursuant to the Pension Reform Act, 2014, the Claimants' action is not premature, incompetent, and an abuse of court process for failure to exhaust administrative remedies.

ISSUE THREE

Whether the 2nd Defendant is a necessary or proper party to this suit, and if not, whether her joinder is not improper and liable to be struck out for failure of the Claimants to disclose any reasonable cause of action against her.

3.1 LEGAL ARGUMENT

ISSUE ONE

Whether this Honourable Court possesses jurisdiction to entertain this suit, having regard to the subject matter of the action which principally concerns pension benefits and pension administration, matters falling within the exclusive jurisdiction of the National Industrial Court of Nigeria.

My Lord, jurisdiction is the foundation upon which every adjudication rests. It is the lifeblood of judicial proceedings. Where jurisdiction is absent, the entire proceedings, no matter how well conducted, become incurably defective and amount to a nullity.

The law on this point is firmly settled. In the celebrated case of **Madukolu v. Nkemdilim (1962) 2 SCNLR 341**, Bairamian, F.J., laid down the classical test of competence of a court in the following terms:

"A court is competent when—
(1) it is properly constituted as regards numbers and qualification of members of the bench;
(2) the subject matter of the case is within its jurisdiction and there is no feature in the case which prevents the court from exercising its jurisdiction; and
(3) the case comes before the court initiated by due process of law and upon fulfillment of any condition precedent to the exercise of jurisdiction."

His Lordship concluded with the now-settled principle that:

"Any defect in competence is fatal, for the proceedings are a nullity however well conducted and decided."

This principle has remained good law and has been consistently reaffirmed by the superior courts. See **Tukur v. Government of Gongola State (1989) 4 NWLR (Pt.117) 517** and **A.G. Lagos State v. Dosunmu (1989) 3 NWLR (Pt.111) 552.**

My Lord, in determining whether this Honourable Court possesses jurisdiction, the law is equally settled that the Court must look principally at the Claimants' originating processes, particularly the reliefs sought and the substance of the claims presented before the Court.

In **Adeyemi v. Opeyori (1976) 9–10 SC 31**, the Supreme Court held that jurisdiction is determined by the plaintiff's claim as endorsed on the writ. Similarly, in **NEPA v. Edegbero (2002) 18 NWLR (Pt.798) 79**, the Supreme Court reiterated that it is the claim before the Court that determines jurisdiction.

My Lord, a careful examination of the Claimants' Originating Summons reveals that the gravamen of this suit is the release and payment of pension benefits standing to the credit of the deceased's Retirement Savings Account maintained by the 1st Defendant, a licensed Pension Fund Administrator.

With profound respect, the real dispute before this Honourable Court is not probate administration simpliciter, nor is it merely a succession dispute concerning the estate of the deceased. The substance of the action concerns entitlement to pension benefits, beneficiary verification, pension administration, and the statutory obligations of a Pension Fund Administrator under the applicable pension regulatory framework.

The Claimants seek, in practical effect, to compel the 1st Defendant to release pension funds to them and to disregard competing beneficiary claims pending verification. That, in substance and in law, is a pension dispute.

My Lord, this immediately invokes the constitutional jurisdictional provisions governing pension-related disputes.

By virtue of **Section 254C(1)(k) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)**, the National Industrial Court of Nigeria is vested with exclusive jurisdiction in civil causes and matters relating to or connected with:

"the payment or non-payment of pensions, gratuities, allowances, benefits and any other entitlement of any employee, worker, political office holder or public officer in any part of the Federation and matters incidental thereto."

The operative word in the constitutional provision is **exclusive**.

The legal implication is straightforward and unambiguous: once the subject matter of a dispute substantially concerns pension entitlement, pension administration, retirement benefits, or payment of pension funds, jurisdiction is constitutionally removed from all other courts, including this Honourable Court, and vested exclusively in the National Industrial Court of Nigeria.

The Supreme Court has repeatedly emphasized that where the Constitution confers exclusive jurisdiction on a specialized court, no other court can validly assume jurisdiction over such subject matter.

In **CBN v. Amao (2010) 16 NWLR (Pt.1219) 271**, the Supreme Court reaffirmed that where jurisdiction is constitutionally vested in a particular court, any proceedings conducted by another court without jurisdiction are null and void.

Similarly, in **National Union of Electricity Employees v. Bureau of Public Enterprises (2010) 7 NWLR (Pt.1194) 538**, the Supreme Court affirmed the specialized and exclusive jurisdiction of the labour court over matters falling within its constitutional competence.

My Lord, the Claimants may attempt to avoid this constitutional barrier by presenting this suit as one grounded in probate or estate administration, particularly because they rely on Letters of Administration.

With respect, such characterization cannot alter the true legal nature of the dispute.

The law is settled that jurisdiction is determined not by labels or clever drafting but by the substance of the claim.

In **Bronik Motors Ltd v. Wema Bank Ltd (1983) 1 SCNLR 296**, the Supreme Court held that courts must look beyond the form of an action and examine its substance in determining jurisdiction.

Likewise, in **A.G. Kwara State v. Olawale (1993) 1 NWLR (Pt.272) 645**, the Court emphasized that jurisdiction cannot be conferred by artful drafting or cosmetic description of claims.

My Lord, the mere fact that the Claimants rely on Letters of Administration does not transform a pension dispute into a probate action.

The central and unavoidable question remains: who is entitled to receive pension benefits held by the 1st Defendant?

That question is squarely one of pension entitlement and pension administration.

More importantly, this dispute involves competing beneficiary claims, conflicting records, Next of Kin nomination issues, and ongoing statutory verification by the Pension Fund Administrator under the Pension Reform Act, 2014 (as amended).

These are matters deeply rooted in pension administration and regulatory compliance.

The Claimants are effectively asking this Honourable Court to determine beneficiary entitlement under pension records, override the statutory verification process of the Pension Fund Administrator, and compel the release of pension funds.

With profound respect, those questions lie outside the jurisdictional competence of this Honourable Court.

My Lord, once jurisdiction is absent, the only proper order is one striking out the suit.

In **Dapianlong v. Dariye (2007) 8 NWLR (Pt.1036) 332**, the Supreme Court reiterated that once a court finds it lacks jurisdiction, it must decline jurisdiction and strike out the matter.

See also **Mustapha v. Governor of Lagos State (1987) 2 NWLR (Pt.58) 539**.

In the final analysis, My Lord, this suit, despite its probate coloration, is fundamentally and unmistakably a pension dispute. The principal reliefs relate directly to entitlement, administration, and release of pension benefits. Such matters fall exclusively within the constitutional jurisdiction of the National Industrial Court of Nigeria.

Accordingly, we respectfully submit that this Honourable Court lacks jurisdiction to entertain this suit, and we urge Your Lordship to so hold.

ISSUE TWO

Whether in view of the unresolved competing beneficiary claims and the subsisting statutory verification process being undertaken by the 1st Defendant

pursuant to the Pension Reform Act, 2014, the Claimants' action is not premature, incompetent, and an abuse of court process for failure to exhaust administrative remedies.

My Lord, assuming without conceding that this Honourable Court possesses jurisdiction to entertain this action, it is respectfully submitted that the present suit is nevertheless fundamentally incompetent, premature, and liable to be struck out for failure to satisfy a condition precedent to litigation.

The settled position of the law is that where a statute creates a specific procedure or administrative mechanism for the resolution of disputes, parties are bound to exhaust such procedure before approaching the Court. Any action commenced in breach of such mandatory procedural framework is premature and incompetent.

This principle is firmly settled in our jurisprudence.

In **Eguamwense v. Amaghizemwen (1993) 9 NWLR (Pt.315) 1**, the Supreme Court held that where a statute prescribes a legal line of action for determination of an issue, that procedure must be strictly followed.

Similarly, in **Mobil Producing (Nig.) Unlimited v. LASEPA (2002) 18 NWLR (Pt.798) 1**, the Supreme Court held that where a statute provides a remedy or procedural pathway, a party must exhaust that pathway before resorting to the courts.

The Supreme Court reiterated this principle in **A.G. Federation v. A.G. Abia State (No. 2) (2002) 6 NWLR (Pt.764) 542**, where it emphasized that statutory dispute resolution procedures cannot be ignored or bypassed.

The rationale is straightforward. Courts do not encourage premature litigation, especially where the law has vested primary responsibility for initial determination,

verification, reconciliation, or administrative resolution in a designated statutory body or regulated institution.

My Lord, pension administration in Nigeria is governed by a specialized statutory regime under the Pension Reform Act, 2014 (as amended), supervised by the National Pension Commission. Pension Fund Administrators are not mere custodians of pension funds; they operate under strict statutory and regulatory obligations requiring due diligence, beneficiary verification, fraud prevention, and reconciliation of competing claims prior to disbursement.

The statutory and regulatory framework imposes on the 1st Defendant a continuing duty to ensure that pension benefits are released only to properly verified and entitled beneficiaries. This obligation necessarily includes verification of beneficiary records, reconciliation of discrepancies, and investigation of competing claims where such disputes arise.

In the present case, the affidavit evidence before this Honourable Court clearly discloses that there are unresolved and competing claims regarding entitlement to the pension benefits of the deceased.

On one hand, the Claimants rely on Letters of Administration obtained from the Probate Registry. On the other hand, the records of the 1st Defendant disclose competing beneficiary interests, including Next of Kin nomination records and other documentation requiring reconciliation and verification.

These competing claims triggered the statutory verification processes of the 1st Defendant.

My Lord, once such discrepancies emerged, the 1st Defendant became legally bound to suspend payment and undertake thorough verification in line with its statutory obligations under the pension regulatory regime.

The law does not permit a Pension Fund Administrator to recklessly disburse pension funds where beneficiary entitlement remains disputed or uncertain. To do so would expose the administrator to serious legal consequences, including liability for wrongful disbursement, negligence, and possible double payment.

The duty imposed on the 1st Defendant is therefore not discretionary; it is statutory, fiduciary, and mandatory.

It is important to emphasize that the Claimants themselves acknowledge the existence of ongoing engagement, communication, and verification efforts by the 1st Defendant. Rather than allowing the statutory process to run its full course, the Claimants rushed to this Honourable Court seeking orders that would effectively terminate, override, and pre-empt that ongoing administrative process.

With respect, this is precisely what the law discourages.

The Claimants are asking this Honourable Court to intervene before the completion of a lawful administrative verification process and compel payment notwithstanding unresolved discrepancies.

Such judicial intervention at this stage would amount to pre-emption of an ongoing statutory process.

My Lord, courts have consistently declined jurisdiction in matters where administrative procedures remain ongoing or where conditions precedent to litigation have not been fulfilled.

A cause of action is said to be premature where a condition precedent to instituting the action has not been satisfied.

See **Madukolu v. Nkemdilim (1962) 2 SCNLR 341.**

The failure to satisfy a condition precedent deprives the Court of competence to entertain the suit.

The present action falls squarely within that principle.

Until the 1st Defendant concludes the statutory verification and reconciliation of competing beneficiary claims, no enforceable right to immediate payment can crystallize in favour of the Claimants.

Their claim for immediate judicial intervention is therefore premature.

My Lord, beyond prematurity, this action also constitutes an abuse of court process.

The concept of abuse of court process has been judicially defined as the improper use of judicial machinery to interfere with due process or secure an unfair procedural advantage.

In **Saraki v. Kotoye (1992) 9 NWLR (Pt.264) 156**, the Supreme Court described abuse of court process as the improper use of judicial process to the irritation and annoyance of an opponent and in a manner inconsistent with the orderly administration of justice.

Similarly, in **Dingyadi v. INEC (No. 2) (2010) 18 NWLR (Pt.1224) 154**, the Supreme Court reaffirmed that abuse occurs where judicial process is used in a manner that is oppressive, vexatious, or aimed at circumventing lawful procedures.

My Lord, that is precisely what has occurred here.

The Claimants have instituted this action while the statutory verification process remains ongoing, with the obvious objective of securing judicial compulsion against the 1st Defendant before the administrative process reaches its lawful conclusion.

This suit is therefore not merely premature; it constitutes an attempt to circumvent a lawful regulatory process through premature judicial intervention.

The courts have repeatedly warned against such conduct.

Judicial process ought not to be deployed as a mechanism for short-circuiting statutory administrative procedures.

In the final analysis, My Lord, the facts before this Honourable Court clearly establish that:

1. there are unresolved competing beneficiary claims;
2. the 1st Defendant is actively undertaking statutory verification and reconciliation;
3. the administrative process has not been concluded; and
4. the Claimants commenced this suit without exhausting the available administrative remedies.

In these circumstances, this action is premature, incompetent, and constitutes an abuse of court process.

We respectfully urge this Honourable Court to so hold and strike out the suit.

ISSUE THREE

Whether the 2nd Defendant is a necessary or proper party to this suit, and if not, whether her joinder is not improper and liable to be struck out for failure of the Claimants to disclose any reasonable cause of action against her.

My Lord, it is respectfully submitted that the joinder of the 2nd Defendant in this suit is fundamentally misconceived, legally unsustainable, and liable to be struck out for failure to disclose any reasonable cause of action against her.

The law is firmly settled that only proper and necessary parties ought to be joined in an action. A necessary party is one whose presence is indispensable to the effectual and complete determination of the issues in controversy. Put differently, such a party must be one against whom relief is sought, or whose legal rights and obligations are likely to be directly affected by the outcome of the proceedings.

The Supreme Court in **Green v. Green (1987) 3 NWLR (Pt. 61) 480** laid down the classical test for determining necessary parties when it held that a party is necessary if his presence before the Court is essential for the effectual and complete adjudication of the issues before the Court.

Similarly, in **Peenok Investments Ltd v. Hotel Presidential Ltd (1982) 12 SC 1,** the Supreme Court held that the essence of joinder is to ensure that all parties necessary for the complete resolution of the dispute are before the Court, but a person against whom no relief lies ought not to be joined.

The law was further restated in **Uku v. Okumagba (1974) 3 SC 35**, where the Supreme Court emphasized that a party should not be joined merely because he may be interested in the outcome of the litigation. The party must be one whose legal rights are directly in issue.

My Lord, applying these settled principles to the present case, it becomes immediately clear that the 2nd Defendant is neither a necessary party nor a proper party.

A careful examination of the Claimants' Originating Summons reveals that the substantive relief sought is directed principally against the 1st Defendant, namely, an order compelling the release and payment of pension benefits standing to the credit of the deceased's Retirement Savings Account.

The real complaint of the Claimants is therefore against the refusal or inability of the 1st Defendant to release the pension benefits.

The 2nd Defendant is not the Pension Fund Administrator.
The 2nd Defendant does not manage the pension account.
The 2nd Defendant has no statutory authority over pension administration.
The 2nd Defendant has no contractual obligation toward the Claimants.
The 2nd Defendant is under no legal duty to release, approve, administer, or disburse pension funds.

In essence, there exists no enforceable legal obligation between the Claimants and the 2nd Defendant capable of grounding a cause of action.

My Lord, a cause of action comprises the aggregate of facts which gives a claimant the right to seek judicial relief against a defendant. It must disclose:

1. a legal right vested in the claimant; and
2. a corresponding obligation owed by the defendant.

See **Thomas v. Olufosoye (1986) 1 NWLR (Pt. 18) 669.**

The Supreme Court in **Rinco Construction Co. Ltd v. Veepee Industries Ltd (2005) 9 NWLR (Pt. 929) 85** held that where no reasonable cause of action is disclosed against a party, such party ought to be struck out.

Likewise, in **A.G. Federation v. A.G. Abia State (No. 2) (2002) 6 NWLR (Pt. 764) 542**, the Supreme Court reiterated that a Court lacks competence to entertain claims against a party where the originating process discloses no legal grievance against that party.

My Lord, the Claimants' case discloses no wrongful act committed by the 2nd Defendant against them.

No allegation of fraud has been established against her.
No allegation of unlawful withdrawal exists.
No allegation of conversion of pension funds exists.
No allegation of interference with pension administration exists.

The only apparent reason for joining the 2nd Defendant is because she is recorded by the 1st Defendant as a Next of Kin and claims spousal status.

With respect, that fact alone does not create a cause of action.

A person does not become liable merely because she is named as Next of Kin or because she asserts a competing claim to entitlement.

At best, the 2nd Defendant is a person with an alleged competing interest in the pension benefits. That interest does not create an independent legal wrong against the Claimants.

My Lord, the courts have consistently frowned upon the joinder of parties against whom no relief lies.

In **Chief Daniel v. INEC (2015) 9 NWLR (Pt. 1463) 113**, the Court reiterated that where no cause of action is disclosed against a party, such party should not remain in the suit merely for convenience.

The inclusion of the 2nd Defendant in the present proceedings therefore appears speculative, oppressive, and calculated to embarrass her.

More importantly, the presence or absence of the 2nd Defendant does not affect the Court's ability to determine whether the 1st Defendant acted lawfully in withholding payment pending verification.

The central questions remain:

1. whether the pension administrator acted lawfully;
2. whether verification was justified; and
3. whether payment should be made.

These issues can be fully determined between the Claimants and the 1st Defendant.

The presence of the 2nd Defendant is therefore unnecessary for the effectual determination of the dispute.

My Lord, courts possess inherent jurisdiction to strike out improperly joined parties in order to prevent abuse of judicial process and avoid needless litigation.

See **Okonkwo v. UBA Plc (2011) 16 NWLR (Pt. 1274) 647**, where the Court held that improperly joined parties should be struck out to preserve the integrity of judicial proceedings.

In the final analysis, the Claimants have failed to disclose any reasonable cause of action against the 2nd Defendant. Her joinder is therefore improper, unnecessary, and legally unsustainable.

This Honourable Court is respectfully urged to strike out the name of the 2nd Defendant from this suit.

Dated this 10th day of July, 2026.

A.T. UDOH, ESQ.
T.A. NGAVAN ESQ.
Ability & Associates
Suite 5/6, 2nd Floor, Rysan Plaza
Opposite NNPC Filling Station
Off Kogo Road, Bwari
TEL:+234[0]8073304700,
08034050333
EMAIL: abilitoms@gmail.com

FOR SERVICE ON THE CLAIMANTS COUNSEL

Ifeanyi M. Nrialike Esq.
Ogechi P Ogbenna Esq.
Collins Nnabuike Onah, Esq.
Kenechukwu H. Okolo, Esq
Christian C. Iheka, Esq.
Amarachi S. Ogbu, Esq.
Ikechukwu Ezechukwu, SAN & CO.
No. 2 Tanga Street,
Wuse Zone 6, Abuja - FCT.

2ND DEFENDANT

Dr. Dayo G. Ashonibare, Esq.
Ene Ashonibare, Esq.
Simiat Suleiman, Esq.
Blessing Etamessor, Esq.
J.o Ibrahim, Esq.
Somadina C. Offor, Esq.
Idowu Iyanuoluwa, Esq.
U.T Anko, Esq.
(1st Defendant Counsel)
Levite Solicitors & Arbitrators
Block 15D, Salis Court,
Efire Illeogun Street,
Gwarinpa, FCT- Abuja.
08033661414, 08165550165
levitesolicitors@gmail.com