

**IN THE FEDERAL HIGH COURT OF NIGERIA
HOLDEN AT LAGOS**

FHC/L/CS/172/16

**IN THE MATTER OF APPLICATION BY MR. RICKEY TARFA SAN (TRADING UNDER
THE NAME AND STYLE OF MESSRS RICKEY TARFA & CO.) FOR THE ENFORCEMENT
OF HIS FUNDAMENTAL RIGHTS.**

AND

**IN THE MATTER OF FUNDAMENTAL RIGHTS (ENFORCEMENT PROCEDURE) RULES,
2009, MADE BY THE CHIEF JUSTICE OF NIGERIA PURSUANT TO SECTION 46(3) OF
THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999 (AS
AMENDED).**

BETWEEN:

MR. RICKEY TARFA SAN

**(TRADING UNDER THE NAME AND
STYLE OF MESSRS RICKEY TARFA & CO)**

APPLICANT

AND

- **ECONOMIC AND FINANCIAL CRIMES COMMISSION (EFCC)**
- **IBRAHIM MUSTAFA MAGU** **RESPONDENTS**
- **MOSES AWOLUSI**
- **ILIYASU KWARBAI**

**THE 1ST, 2ND, 3RD AND 4TH RESPONDENTS' WRITTEN ADDRESS IN OPPOSITION
TO THE APPLICANTS' ORIGINATING MOTION ON NOTICE DATED 8TH DAY OF
FEBRUARY, 2016.**

1.0 INTRODUCTION

1.1 By an originating motion on notice dated and filed on the 8th day of February, 2016, the applicant brought this application pursuant to Sections 33, 34, 35, 37, 41, 44 and 46(1) of the Constitution of the federal Republic of Nigeria, 1999 (as amended); Articles 2, 4, 6, 7, 9 and 12 (1) of the African Charter on Human and People's Rights (Ratification and enforcement) Act Cap 10, LFN, 1990; Order II Rules 1, 2, 3, 4 and 5; Order XI; Order XII of the Fundamental Rights (Enforcement Procedure) Rules, 2009 as well as under the inherent power of this Honourable court seeking for the reliefs as contained in the motion paper.

1.2 In opposing the said application, we have filed 106 paragraphs counter affidavit deposed to by one Moses Awolusi, an Investigating Officer attached to the Economic and Financial Crimes Commission, the 3rd Respondent herein and another 22 paragraphs affidavit deposed to by one Suleimon Salaudeen, a Legal Practitioner who was an eye witness to the circumstances surrounding the arrest of the applicant by the Respondents on 5th February 2016. We shall be relying on all the averments of the said counter affidavits.

2.0 ISSUES FOR DETERMINATION

2.1 In opposing this application, we respectively submit that the issues that call for determination are as follows:

- Whether in the circumstances of this case and against the background of the arraignment of the Applicant on Tuesday, 16th February 2016 before His Lordship Hon. Justice Aishat Opesanwo on a 2 Count Charge for allegedly obstructing the course of justice, the reliefs sought in this case has not become academic/hypothetical and not justiciable?
- Whether the Applicants' fundamental rights enshrined in chapter IV of the 1999 constitution of the Federal Republic of Nigeria are absolute rights to have enabled this Honourable Court grant the prayers of the Applicant?
- Whether the fundamental rights of the Applicant in the circumstances of this case were infringed upon by the Respondents?
- Whether the Applicant is entitled to general exemplary and aggravated damages in the circumstances?
- Whether from the facts and circumstances of this case, it will be just for this honorable court to make an order of perpetual injunction restraining the Respondents from performing her statutory duties?
- Whether the sum of N20 Million (Twenty Million Naira) sought by the Applicant as cost of this action is entertainable in this circumstances?
- Whether the entire reliefs sought by the Applicant in these proceedings are entertainable and grantable considering the facts and circumstances of this case?
- Whether there is merit in the arguments raised in favour of the reliefs sought in the Applicant's written address?

3.0 TREATMENT OF THE ISSUES

3.1 ISSUE 1

3.2 **Whether in the Circumstances Of This Case And Against The Background Of The Arraignment Of The Applicant On Tuesday, 16th February 2016 before his Lordship Hon. Justice Aishat Opesanwo on a 2 count charge for allegedly obstructing the course of justice, the reliefs sought in this case has not become academic/hypothetical and**

not justiciable?

Arguments on Issue 1

3.3 The Respondents have deposed in the counter-affidavit annexed with exhibit and this Honorable is also entitled to take judicial notice of the fact that the Applicant was arraigned before His Lordship Hon. Justice Aishat Opesanwo on Tuesday, 16th February 2016, on a 2 Count Charge for allegedly obstructing the course of justice based on similar facts and circumstances giving rise to these proceedings.

3.4 In the circumstances of the arraignment of the Applicant as stated above. We submit that the reliefs sought herein by the Applicant has become merely academic and hypothetical in the circumstances and we urge this court to so hold.

3.5 The Supreme Court, in the case of **Attorney-General of Anambra State V. Attorney-General of the Federation (2005) All NLR 90** held as follows:

“A court of law is not interested on reliefs which are merely academic or speculative. On the contrary, the dispute must involve a question of law within the meaning of the constitution of the Federal Republic of Nigeria, 1999. Supreme Court will not engage in academic exercise.”

The Supreme court in a similar position in the case of **The State V. Fatai Azeez & 4 Ors (2008)4 SCNJ 325**, held as follows:

“A court of law deals with live issues which will have bearing in one way or the other on any of the parties or all the parties before it. A court of law cannot serve as a forum for moot trials and academic exercises.”

The Supreme Court also in the case of **National Insurance Corporation of Nig. V. Power & Industrial Engineering Company Ltd. (1986) 1 SC 33** held as follows:

“Courts of law are not established to deal with hypothetical and academic questions. They are established to deal with matters in difference between parties and consequently their function involves dealings with all relevant questions arising therefrom to enable them reach a decision on the matter.”

The Supreme Court again in the case of **Overseas Construction Company (Nig.) Ltd. V. Greek Enterprises (Nig.) Ltd. & Anor (1985) 12 SC 158**, held as follows:

“A trial court is not to go on a wild goose chase; to embark on an academic exercise in which all sorts of questions are discussed at will, without reference to the issues and to the admissible evidence.”

See further; Attorney-General of the Federation V. All Nigerian Peoples Party (2003)12 SCM 1; National Insurance Corporation of Nigeria V. Power & Industrial Engineering Company Ltd. (1986) 1 NSCC 1.

3.6 From the foregoing, judicial authorities are agreed, the court will only be concern with a justifiable controversy upon existing states of facts and not upon hypothetical dispute or academic moot (See Trade Bank V. Benillux (2003) 7 SCM), the court will also not embark on a wild goose chase nor allow itself to be taken on academic hypothetical journey without of course a destination (See Ogboru V. Uduaghan (2011) 12 SC (Pt. II) 37). Clearly, courts are established to decided cases based on real and actual facts not to pontificate on imagined or hypothetical facts.

3.7 The reliefs sought by the applicant herein are based on the fact that his supposed arrest and detention was groundless, whereas, based on the said arrest and detention the Respondents had filed criminal proceedings against the applicant in respect of which the applicant had since be arraigned before a competent court that would determine whether the Applicant is innocent or guilty. If found innocent, the applicant can come back, revisit the case and sue for malicious prosecution. If found guilty, the implications are obvious. Our position however, that a further continuation of these proceedings would imply that there would be parallel civil and criminal proceedings on the same set of facts which in these circumstances given the fact that the criminal matter is yet to be determined would mean that whatever is being done here is merely academic and hypothetical exercise. We therefore urge the court to decline the jurisdiction to entertain this matter in view of the pending criminal proceedings already fixed for commencement of trial on April 20, 2016.

3.8 Alternatively, if the court disagrees with this position, we would be urging the court to stay proceedings in this civil matter until the criminal proceedings is resolved one way or the other against the Applicant. We urge the court to resolve issue 1 in favour of the Respondents by holding that the reliefs sought herein are academic, hypothetical and non-justiciable in the circumstance.

3.9 However, if the court disagrees with the two options proposed herein, we would take all other issues arising in this case on the merits having joined issues with the Applicant.

3.10 ISSUE 2

3.11 Whether the Applicant's Fundamental Rights enshrined in Chapter Iv of the 1999 Constitution of the Federal Republic of Nigeria are absolute rights to have enable this Honourable Court grant the prayers of the Applicant.

Argument on issue 2

3.12 The Applicant alleges an infringement of Sections 33, 34, 35, 37, 41, 44 and 46(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) as well as Articles 2, 4, 6, 7, 9 and 12 (1) of the African Charter on Human and People's Rights (Ratification and Enforcement) Act Cap 10, LFN, 1990. The relevant sections relates to Right to life (Section 33), Right to dignity of Human person (Section 34), Right to personal liberty (Section 35), Right to private and family life (Section 37), Right to freedom of movement (Section 41), Right to compulsory acquisition of property (Section 44), and the special jurisdiction of High Court to adjudicate on fundamental rights (Section 46).

3.13 The first point to be made is that Right to life (Section 33) is never absolute and can be derogated from under circumstances stipulated in Sections 33(1), 33(2) (a), (b), (c) of the constitution. We state categorically that none of the averments contained in the applicant's 145 paragraph affidavit complained of threat to the life of the applicant by the respondents and so we urge the court to hold that Section 33 guarantee right to life has not been infringed upon in any way by the respondents.

3.14 The second point to be made is that Right to the dignity of human person is also never absolute and same can be derogated from under circumstances highlighted in Section 34(2) (a), (b), (c), (d), (e)(i) – (iii). We state categorically that none of the 145 paragraphs affidavit deposed to in support of the applicant's application alleges that the applicant was subjected to torture, inhuman or degrading treatment, slavery or servitude, false or compulsory labour etc. that could be said to constitute infractions on the applicant's right to personal dignity. On the contrary, the facts as deposed to by the deponent on behalf of the applicant and when juxtaposed with the facts contained in the two counter-affidavits of the respondents show that the applicant prevented the respondents from carrying out their statutory deities as a result of which he was arrested after holding the respondents to ransom for five hours in defiance of the law, in circumstances amounting to reasonable suspicion of the commission of an offence by the applicant. In the case of **Dokubo-Asari V. FRN (2007)12 NWLR (Pt. 1048) 320 at 360** where the Court stated as follows:

"The above provisions of section 35 of the Constitution leave no one in doubt that the section is not absolute. Personal liberty of an individual within the contemplation of section 35(1) of the Constitution is a qualified right in the context of his particular case and by virtue of subsection (1)(c) thereof which permits restriction on individual liberty in the course of judicial inquiry or where, rightly as in this case, the appellant was arrested and put under detention upon reasonable suspicion of having committed a felony. A person's liberty, as in this case, can also be curtailed in order to prevent him from committing further offence(s). It is my belief as well that if every person accused of felony can hid under the canopy of section 35 of the Constitution to escape lawful detention then an escape route to freedom is easily and richly made

available to persons suspected to have committed serious crimes and that will not augur well for the peace, progress, prosperity and tranquility of the society. I find support in so saying from Irikefe's JSC (as he then was) earlier pronounced in the case of Echeazu V. Commissioner of Police (1974) NMLR 308 at page 314"

Also in *Ekwenugo V. FRN* (2001)6 NWLR (Pt. 708) 171 at 186-187. Fabiyi JCA has this to say:

"Nigerian Judges do not operate in Utopia. We operate in Nigeria. And no Nigeria Judge can rightly claim he has not heard that transparency International rates our nation state as the most corrupt in the whole Universe in year 2000. This is ear-arching. Should Judges in the prevailing circumstances, part Advance Fee Fraud accused person at the back under the cloak of human right? I think not. I have always held the view and which I shall continue to show that in reality, Judges should strike to operate the law for the attainment of social engineering. It is by so doing that our desire to attain national rebirth and regeneration can become concretized. The National psyche can then start to develop positively once again and lesser mortals in other lands will stop looking at our undoubtedly respectable citizens with utter disdain on presentation of our green passport as "exhibits before them"

Indeed Section 34 of the 1999 Constitution (as amended) is not absolute being subject to exceptions highlighted in Section 34(2) (a) – (e) (iii) – a confirmation that the right to dignity of human person is never absolute.

Section 35(1) on right to personal liberty is also not absolute being subject to exceptions highlighted in **Section 35(1) (a) – (f)** thereof. In particular, Section 35 (1) (c) provides that the right to personal liberty can be derogated from *"for the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonably necessary to prevent his committing a criminal offence"*

There is also an important proviso to section 35 on personal liberty which states:

"Provided that a person who is charged with an offence and who has been detained in lawful custody awaiting trial shall not continue to be kept in such detention for a period larger than the maximum period of imprisonment prescribed for the offence."

Notably in the case of **Brian Anderson V. Federal Minister of Internal Affairs**, the applicant, a **British citizen resident in Nigeria**, alleged the infringement of his right to personal liberty. In the application for the enforcement of his fundamental right he sought an order restraining the respondent from expelling him from Nigeria. In dismissing the application

M.B. Belgore J. (as he then was) held that the right to personal liberty could not be invoked to prevent the lawful expulsion of an alien from Nigeria.

In further guarantee of the right to personal liberty, the constitution provides in Section 35 (2) (3) (4) (a) – (b), (5) (a)-(b), (6), (7) (a)- (b) as follows:

“(2) Any person who is arrested or detained shall have the right to remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice;

(3) Any person who is arrested or detained shall be informed in writing within twenty-four hours (and in a language that he understands) of the facts and grounds for his arrest or detention;

(4) Any person who is arrested or detained in accordance with subsection (1) (c) of this section shall be brought before a court of law within a reasonable time, and if he is not tried within a period of –

(a) two months from the date of his arrest or detention in the case of a person who is in custody or is not entitled to bail; or

(b) three months from the date of his arrest or detention in the case of a person who has been released on bail, he shall (without prejudice to any further proceedings that may be brought against him) be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date.

(5) In subsection (4) of this section, the expression “a reasonable time” means-

(a) in the case of an arrest or detention in any place where there is a court of competent jurisdiction within a radius of forty kilometres, a period of one day; and

(b) in any other case, a period of two days or such longer period as in the circumstances may be considered by the court to be reasonable.

(6) Any person who is unlawfully arrested or detained shall be entitled to compensation and public apology from the appropriate authority or person; and in this subsection, “the appropriate authority or person” means an authority or person specified by law.

(7) Nothing in this section shall be construed

(a) in relation to subsection (4) of this section as applying in the case of a person arrested or detained upon reasonable suspicion of having committed a capital offence and

(b) as invalidating any law by reason only that it authorizes the detention for a period not exceeding three months of a member of the armed forces of the Federation or a member of the Nigeria Police Force in execution of a sentence imposed by an officer of the armed forces of the Federation or of the Nigeria Police Force, in respect of an offence punishable by such detention of which he has been found guilty.”

3.15 We urge the court to resolve issue 2 in favour of the Respondents by holding that fundamental rights are not absolute and can be derogated from in deserving circumstances.

3.16 ISSUE 3

3.17 Whether the fundamental rights of the Applicant in the circumstances of this case were infringed upon by the Respondents?

Arguments on issue 3

3.18 There are copious paragraphs even in the applicant's affidavit, see paragraphs 96 – 110 analyzing the sequence of events leading to the arrest of the applicant and the suspects by the respondents. The account of the incident narrated by the applicant is not significantly different from the account of the respondents as contained in the two counter-affidavits of the respondents on the circumstances surrounding the arrest of the applicant. We urge the court to hold that Section 35 guaranteeing Right to personal liberty to the applicant has not in any way been infringed upon by the respondents. Indeed, there are abundant materials before the Honourable Court establishing that the applicant was arrested upon reasonable suspicion of committing an offence against the State including obstructing lawful officers of the state from performing their statutory duties. It is more painful in the case of the applicant given his high ranking as a legal practitioner of standing and a Senior Advocate of Nigeria who should know better and who is presumed to appreciate the fine nuances and intricacies of the law as a respect member of the inner bar and a member of the privileges committee of the legal profession charged with the responsibility of elevating legal practitioners to the sacred circle of the inner bar where excellence in professionalism and learning is the rule rather than the exception. Section 38 (2) (a) of the Economic and Financial Crimes Commission (Establishment Act) 2004 provides:

“a person who willfully obstructs the Commission or any authorized officer of the Commission in the exercise of any of the powers conferred on the Commission by this Act... commits an offence under this Act and is liable on conviction to imprisonment for a term not exceeding 5 years or to a fine not exceeding the sum of N500, 000 or to both such imprisonment and fine.”

3.19 My Lord, the above underscores the seriousness of the offence alleged against the applicant in circumstances leading to his arrest in these proceedings.

3.20 My Lord, for the avoidance of doubt, the respondents have statutory powers by Section 7(1) (a) of the Act to:

“cause investigations to be conducted as to whether any person, corporate body or organisation has committed an offence under this Act or other law relating to economic and financial crimes.”

3.21 In the circumstances based on dispassionate appraisal of the facts of this case as

presented by the applicant and the respondents, my Lord will have no difficulty to hold that the conduct of the applicant in frustrating the invitation or arrest of his clients by agents of the 1st Respondent is totally indefensible and cannot be justified under any circumstances. The options open to the applicant as a respected member of the inner bar and a legal practitioner of high repute is either of the following:

- To advise his clients to honour the respondents' invitation and thereafter make a case for their prompt release timeously from custody should the applicant feels that the invitation/arrest was unjustified in the circumstances,
- To detail any of the 60 powerful counsel in his chambers to follow the suspects to the respondents' office at 15a, Awolowo Way, Ikoyi, Lagos to intercede on behalf of his clients. This approach is convenient given the fact that the venue of the incident was just a stone-throw away from the respondents' offices,
- The applicant who is a respected member of the inner bar also had the option of applying immediately or at a reasonable time after the incident for the enforcement of his clients' fundamental rights in circumstances such as he has embraced in this proceedings rather than allow his distinguished person to descend into the arena of conflict with the fatal consequences of being blinded by the dust raised by the combatants in circumstances that have arisen in this case. This situation could have been avoided and was indeed avoidable by the applicant who chose the unusual option leading to the unfortunate incident of his arrest leading to this proceedings. We submit with respect that the applicant cannot justifiably claim that his right to personal liberty has been infringed upon for several reasons. First, he was arrested based on reasonable suspicion. Secondly, he was released on administrative bail on the first day of his arrest. Thirdly, when he could not fulfill the conditions of the administrative bail, he was released to the president of the bar on self-recognizance within the time-frame of 48 hours.
- Fourthly, he could not have been arraigned in court given the timing of his arrest on Friday at 5pm when the courts had closed for business or on Saturday or on Sunday that are generally known as non-judicial days by our calendar. Fifthly, a charge was promptly filed against the applicant on 8th February which is a reasonable time to period of the arrest and detention and after he had been released unconditionally to the president of the bar to enjoy his freedom and consult his books ahead of the criminal proceedings preferred against him by the respondents. My Lord is invited to sustain these unassailable arguments and hold that in the circumstances the right of the applicant to personal liberty has not been infringed upon. Indeed, none of the rights applicable to the applicant by Section 35(2), (3), (4)(a) (b), 5(a) (b), 6, 7(a) (b) of the Constitution (as amended) have been violated by the respondents in relation to the applicant.
- Notably, the applicant volunteered a statement freely to the respondents inspite of being aware that he had a choice to remain silent (see Section 35(2)), the applicant was informed of the reason for his arrest immediately he was arrested following which he responded by volunteering extra judicial statements (See Section 35(3)). A charge was

filed against the applicant within a reasonable time (see Section 35(4)), on the 8th of February 2016. The applicant was released on administrative bail on the first day of his arrest and unconditionally within 48 hours (See Section 35(4)(a –b)) and Section 35(5)(a – b) of the Constitution. Significantly, the applicant was arrested based on reasonable suspicion of having committed an offence (See Section 35(7)(a)) as appropriate. Therefore, on all parameters and based on the facts and circumstances of this case, we urge the court to hold that the arrest or detention of the applicant is not unlawful or such that would entitle the applicant to any compensation or public apology particularly on the strength of pending criminal proceedings against him for which he has not been adjudged innocent or guilty. At best, my Lord is urge to encourage the ongoing judicial process so that our jurisprudence could determine whether the applicant in the circumstances of this case and on the strength of Section 38 of the EFCC Act (2004) is innocent or guilty in the circumstances

3.22 The next point is to determine whether Section 37 of the Constitution has been infringed upon. The section preserves privacy of the citizens, their homes, correspondence, telephone conversations and telegraphic communications. Against this right like any fundamental right is not absolute as it is not a license to abuse this privacy by using such communications to perpetuate perversion of justice. There are copious materials before the court revealing that the applicant had deployed telephone conversations and communications to influence the cause of justice in pending proceedings before a court of competence jurisdiction. The call logs/messages in the applicant's mobile handsets recovered in the cause of investigation, if proven portends grave danger to the administration of justice in particular and the foundation of the society in general, my Lord is invited to scrutinize these messages critically as well as the bank details of the applicant furnished by the banker of the applicant and determine whether in the circumstances the applicant is entitle to hide under the canopy of right to privacy to shake the society to its very foundation. Certainly my Lord, it is safe to assume that your right to smoke ends where my nose begins. The offensive materials contained in the applicant's handsets arising from diligent investigation by the respondents make any case for right to privacy in the circumstances certainly illusory. The applicant's handsets containing offensive materials has been recovered and retained as exhibits ahead of the pending criminal proceedings against the applicant.

3.23 On the question of alleged violation of Section 41 relating to freedom of movement, the applicant by the his own admission deposed to the fact that he was allowed to drive in his car to the respondents' office (see paragraph 110) that the deponent was granted restricted access to the applicant (see paragraph 130) and granted administrative bail on the day of his arrest (see paragraph 120) and unwillingly released within 48 hours permissible under the law to the president of the bar of 7th February 2016 (see paragraph 131 of the affidavit respectively). That in the circumstances, we urge the court to hold that the arrest, detention and of release the applicant within permissible hours recognized by law can be justified in the circumstances.

3.24 In respect of alleged contravention of Section 44 of the Constitution, averments and supporting exhibits in the counter-affidavits confirm that applicant's vehicle and mobile handsets were recovered during investigation by the Respondents as instruments used by the applicant to pervert the cause of justice and sought to be tendered in the pending criminal proceedings against the applicant before the Lagos State High Court. this can be justified under **Section 44(1)(k) "relating to the temporary taking of possession of property for the purpose of any examination, investigation or enquiry"** and under Section 45(1)(a) "in the interest of defence, public safety, public order, public morality or public health" and covered under Section 45(1) (b) "for the purpose of protecting the rights and freedom of other persons".

3.25 In all circumstances, we urge the court to hold that the respondents have not violated the applicant's fundamental rights preserved under Sections 33, 34, 35, 37, 41 44, and 46(1) respectively.

- **ISSUE 4**
- **Whether the Applicant is entitled to general exemplary and aggravated damages in the circumstances of this case?**

Argument on issue 4

3.28 There are no specific averments in the affidavit in support of the Applicant's application detailing particulars of the general, exemplary and aggravated damages to which the Applicant is entitled in the circumstances.

- We urge the court to hold that general exemplary and aggravated damages can only apply where there is proof that the fundamental rights of the applicant was in any way infringed upon which is not the case by virtue of the circumstances of this case. In the case of G.K.F Invt. (Nig.) Ltd. Vs. Telecom Plc. (2009)45 W.R.N page 36 at page 44 & 45 where the court held on proof of special and general damages as follows:

"It is elementary law that special damages, unlike general damages, must be proved to the hilt. Damages being special must be specially proved to the satisfaction of the court..."

3.30 The Court further held:

"Special damages, as the name imply, are damages which must be specifically claimed and described in the pleadings if recovery of them will be ordered by the court. exemplary damages are damages on an increased scale over and above special or actual or ordinary damages, awarded in aggravated circumstances. They are punitive in nature. General damages

are damages which the law presumes to flow naturally from the wrong complained of. They are damages implied by the law and need not be proved specifically. By way of recapitulation, it should be said that while our law of evidence requires special and exemplary damages to be proved, general damages need not be proved” Per Tobi, JSC (P.63) lines 35-45.

3.31 *“General damages, are such as the law, will presume to be the direct natural or probable consequences of the act complained of. On the other hand, special damages are such as the law, will not infer from the nature of the act. They do not follow in the ordinary course. They are exceptional in their character and therefore, they must be claimed specially and proved strictly. There are too many decided authorities in this regard. But see the cases of Stroms Bruks Aktie Bolag V. Hutchison (1905) A.C. 515 at 525-526, per Lord Macnaghten, Susquehanna (1926) A.C. 615 at 661 per Lord Dunedin, Messrs. Dumez (Nig.) Ltd. V. Ogboli (1972) 1 All NLR (Pt.1) 241 at 249-250, Odulaja V. Haddad (1973)11 S.C 357; (1973)1 All NLR 1911, ACME Builders Ltd. V. Kaduna State Water Board & Anor. (1999)2 NWLR (Pt.590)288 at 305-306, 309; (1999) 2 SCNJ 25 and The Shell Petroleum Development Company of (Nig.) Ltd. & 4 Ors. V. Chief Trebo VII (2005) 4 SCNJ 39 at 57; (2005) 3-4 S.C 137 just to mention but a few.*

3.32 *Exemplary, punitive, vindictive or aggravated damages where claimed, are usually awarded, whenever the defendant or defendants’ conduct, is sufficiently, outrageous to merit punishment as where for instance, it discloses malice, fraud, cruelty, insolence, or flagrant disregard of the law and the like. See the cases of Elioichin (Nig.) Ltd. & Ors. V. Mbadiwe (1986) 1 NWLR (Pt. 14) 47; (1986) ANLR 1, Shugaba Abdulrahman Derman V. Minister of Internal Affairs (1981)2 NCLR 459; (1983)3 NCLR 915, FRA Williams V. Daily Times of (Nig.) Ltd. (1990)1 SCNJ 1 at 22-23; (1990)1 NWLR (Pt.124) 1, Odogu V. Attorney-General of the Federation & 6 Ors. (1996) 6 NWLR (Pt. 456) 508 at 513; (1996) 7 SCNJ 132 at 139, 141-142, per Ogundare, JSC, Allied Bank of Nigeria Ltd. V. Akubueze (1997)6 SCNJ 116 at 143-144; (1997) 6 NWLR (Pt. 509) 374 and Odiba V. Azege (1998)9 NWLR (Pt. 566) 370; (1998) 7 SCNJ 119 at 135 per iguh, JSC just to mention but a few.” Per Ogbuagu, JSC (Pp.67-68) lines 15- 5”*

3.33 In further response to paragraph 4.045, the Applicant must not only show that his rights has been infringed upon but must also show that he is entitled to the reliefs sought in the proceedings. In the case of **Anambra State Envi. Sani. Auth. V. Ekwenem** (2009) 45 WRN 1 pg. 1 @ 12, the court held:

“Damages either special or general, are not awarded as a matter of course but on sound and solid legal principles and not on speculations or sentiment. Neither is it awarded at large or out of sympathy born out of extraneous considerations but rather on legal evidence of probative value adduced for the establishment of an actionable wrong or injury.” Per Adekeye JSC (P. 28) lines 40 – 45.

3.34 The court further held in the case of Omiyale vs. Macaulay (2009) 46 WRN P. 46 @ 54 as follows:

“It is axiomatic that special damages must be strictly proved and unlike general damages where if the plaintiff establishes in principle his legal entitlement to them, a trial Judge must make his own assessment of the quantum of such general damages and an appeal to this court such general damages will only be altered if they were shown to be either manifestly too high or manifestly too low or awarded a wrong principle.” Per Oguntade JSC (pp. 69 – 70) lines 40 – 5.

3.35 From the above judicial authorities, it is clear that the burden placed on the shoulders of the Applicant in establishing special aggravated and general damages is herculean indeed. In this case other than reference to his standing as a Senior Advocate of Nigeria and his intimidating profile which do not qualify the Applicant as being above the law, the Applicant has not shown by particulars the basis for the purported claim of N2.5 Billion or any amount at all in the circumstances of this case.

3.36 In paragraph 10 of the affidavit in support of the Applicant’s application, the deponent alluded to ‘the effect of the trauma, humiliation and ridicule resulting from his unlawful arrest and detention...’ without stating how he arrived at the Applicant’s state of health as so described, the deponent not being a medical expert and not having conducted examination on the Applicant or annexed any proof of the results of any such medical examination (if any). This Honourable Court is not a Father Christmas to dispense financial favours for claims that are clearly groundless. These arguments take care of paragraphs 4.047, 4.048, 4.049, 4.050, 4.051, 4.052, 4.053, 4.054, 4.055, 4.056, 4.057, 4.058, 4.059, 4.060, 4.061, 4.061, 4.062, 4.063, 4.064 and 4.065 respectively.

3.37 In response to paragraph 4.066, the actions of the Respondents against the Applicant in the circumstances of this case are not oppressive or unconstitutional to make the case of Azege applicable. The Respondent cannot be punished for upholding the law, their actions being protected by statute. The actions of the Respondents are not outrageous to merit punishment and there is no evidence of fraud, cruelty, insolence on the part of the Respondents who waited on the Applicant for 5 hours and tolerated the Applicant who clearly was obstructing the Respondents in the discharge of its statutory duties. Therefore, paragraphs 4.068, 4.069, 4.070, 4.071, 4.072, 4.073, 4.074, 4.075, 4.076 in the circumstances of this case are of no moment. The infringement of the Applicant’s rights having not been established. There is no proof of oppressive, arbitrary or unconstitutional acts against the Respondents in the way the Respondents had tolerated the Applicant for so length a period inspite of the fact that the Applicant was taking the law into his hands. At the first available opportunity on the same day of his arrest, the Applicant was granted administrative bail by the Respondents and as soon as the courts opened for business, a charge was filed against the Applicant by the Respondents and

the Applicant has since been arraigned in court. What timeliness! What promptness! What professionalism! Instructively, the Respondents released the Applicant even before filing the charge on a day acknowledged as non-judicial day. The Respondents bent over backwards to work on Sundays for the sole purpose releasing the Applicant and effected the release significantly, unconditionally to the President of the Bar based on self-recognition. What further proof of good faith of the Respondents is required in the circumstances? We urge the court to resolve issue 4 in favour of the Respondents.

3.38 ISSUE 5

3.39 **Whether from the facts and circumstances of this case, it will be just for this honorable court to make an order of perpetual injunction restraining the respondents from performing her statutory duties?**

Argument on issue 5

3.40 My Lord, the Applicant herein among others is praying your Lordship to grant an order perpetually restraining the Respondents from performing their statutory duties under the pretence that the Respondents purportedly infringed his fundamental rights. It is worthy of note that the Applicant in praying your Lordship for these orders failed to state the particulars of the breach of his rights by the Respondents.

3.41 We respectfully submit to your Lordship that the 1st Respondent has statutory duties, obligations and mandates to investigate all cases of economic and financial crimes and we urge the Honourable court to so hold. We humbly refer your Lordship to the provisions of Sections 6, 7(a), 8(5) and 13(2) of the Economic and Financial Crimes (Establishment) Act 2004. We also with respect refer your Lordship to the case of *Fawehinmi V. IGP* (2002) 7 NWLR (767) pg. 606 at 671 paras C- H, *Peter V. Okoye* (2002)3 NWLR (Pt. 755) 529 at 553 paras G-H and also *AG of Anambra V. Uba* (2005) 15 NWLR (Pt. 947) pg. 44 at 67 paras F-G.

3.42 My Lord it is our submission that the allegation against the Applicant is that of obstructing the operatives of the Economic and Financial Crimes Commission from discharging their statutory responsibilities. Section 38 (2) (a) provides:

“A person who willfully obstructs the Commission or any authorized officer of the Commission in the exercise of any of the powers conferred on the Commission by this Act...commits an offence under this Act and is liable on conviction to imprisonment for a term not exceeding five years or to a fine below the sum of N500,000 or to both such imprisonment and fine”.

3.43 We urge the court to hold that the Respondents cannot be perpetually restrained

from discharging their statutory responsibilities based on the authorities cited above and on the force of the enabling statute i.e Economic and Financial Crimes Commission (Establishment) Act 2004 particularly Section 7 therefore conferring special powers of investigation on the Respondents.

3.44 We therefore respectfully submit that the prayers of the applicant that your Lordship should make an order restraining the Respondents from performing their statutory duty is not only speculative but would also amount to interfering with the roles and statutory duties of the Economic and Financial Crimes Commission by the judiciary. And this, my Lord will not be in best interest of justice. We rely on **Peter V. Okoye (2002) 3 NWLR (Pt. 755) 529 at 537 ratio 5.**

3.45 **ISSUE 6**

3.46 **Whether the sum of ₦20 Million (Twenty Million Naira) sought by the applicant as cost of this action is entertainable in the circumstances?**

Argument on issue 6

3.47 We submit that the Applicant is not entitled to the sum of N20m or any amount at all as cost of this action.

3.48 Specifically In response to paragraph 4.078 of the Applicant's address, we ask the pertinent question, what gives the Applicant the confidence that he is entitle to cost when this Honourable court has not pronounced on the merits of his case and when the Applicant is yet to acquit himself of the criminal allegations currently pending against him? Notably, the Applicant acknowledged in paragraph 4.078 that court followed the event and a successful party is entitled to cost...'. Has the Applicant being adjudged successful in these proceedings to entitle him to cost since cost is awarded to a successful party? The court should discountenance paragraphs 4.078, 4.079, 4.080, 4.081, 4.082, 4.083 and 4.084 being premature and preemptive of the outcome of these proceedings.

3.49 We urge the court to resolve issue 6 in favour of the Respondents.

3.50 **Issue 7**

3.51 **Whether the entire reliefs sought by the Applicant in these proceedings are entertainable and grantable considering the facts and circumstances of this case?**

Arguments on issue 7

3.52 My Lord, relief 1 is predicated upon the erroneous assumption that the Applicant was arrested in the court room during proceedings of Honourable Justice Oke on 5th February 2016 which from the facts and circumstances as narrated in the affidavit and counter affidavits was not the case. It is also not correct or proved that the Applicant

was arrested in the courtroom after proceedings, all accounts including the accounts given by the applicant and the respondents including the account of the applicant's driver and other EFCC operatives including a legal practitioner who witnessed the arrest revealed that the arrest was effected outside the court premises after the EFCC operatives were frustrated for nearly five hours between the hours of 12 noon to 5 p.m. on the 5th of February 2016. We urge the court to hold that relief one in the circumstances is not entertainable and cannot be entertained.

3.53 Relief 2 is also not entertainable, the respondent having shown that the applicant was arrested based on reasonable suspicion of the commission of an offence particularly perversion of the cause of justice.

3.54 We also urge the court to dismiss relief 3, the respondents having shown that the handsets were recovered as exhibits to be tendered in the pending criminal proceedings against the applicant.

3.55 Relief 4 is not entertainable as the release of the applicant's vehicle will paralyze the prosecution of the case as the court in the criminal proceedings may be called upon to visit the locus in quo to inspect the vehicle in the cause of the criminal proceedings against the applicant.

3.56 We adopt our arguments on relief 3 in urging the court to dismiss relief 5 against the applicant.

3.57 Relief 6 is also not entertainable in that valuable and relevant evidence contained in the two mobile handsets would be destroyed thereby frustrating the impending criminal proceedings against the applicant. It is immaterial how evidence is obtained so long as same is relevant in proceedings.

3.58 Relief 8 on public apology to the applicant is not entertainable as the respondent have shown that the fundamental rights of the applicant were not in any way infringed upon by the respondents.

3.59 Relief 9 is not entertainable as the applicant has not proven that he is entitled to any sum of money as general, exemplary or aggravated damages in the circumstances. The deponent deposed in paragraph 11 – 22 specific averments on the profile of the Applicant ostensibly to demonstrate that a man of such pedigree and records ought not to be subjected to such treatment and having been so treated is deserving of the huge sum of N2,500, 000, 000 as general, exemplary and aggravated damages for the alleged "acts of violation of the Applicant's rights". We disagree and argue that the profile of the Applicant is one fundamental reason why he ought not to have behaved in the manner evidential materials and witnesses confirmed he conducted himself. A man of the Applicant standing who has risen to the pinnacle of the profession ought to be

guided by the fact that his actions must be within the permissible limits of the law. The Applicant being an officer of the law and jurist in the temple of justice ought not to be seen as treating the law with alter contempt. The profile of the Applicant no doubt is huge and intimidating, we dare say salutary, but that does not mean he is above the law. Indeed, we submit that no matter how big a person is, the law is bigger than the person. Therefore, the profile of the Applicant is one fundamental reason why in the circumstances of the case he should not be entitled to any general, exemplary and aggravated damages. The Applicant from the affidavit evidence of both the Applicant and the Respondents invited himself for arrest and ought to in the circumstances apologize to the Respondents, the profession and to Nigerians in general for obstructing the cause of justice inspite of his high standing. In the case of **Goriet V. Union of Poster Workers (1977) 1 ALL ER 696 at 702**, the celebrated English Judge, Lord Alfred Thompson Dennining made the point clearly when he said:

“Be you ever so high, the law is above you”

3.60 We cannot agree more in urging this Honourable court to dismiss in its entirety, relief 9 sought by the Applicant as clearly unmeritorious in the circumstances.

3.61 Relief 10 is not entertainable as the respondents cannot be perpetually restrained from performing their statutory duties.

3.62 Relief 11 must collapse, the applicant having not succeeded in proving that he is entitled to the reliefs claimed in this proceedings.

3.63 **Issue 8**

3.64 **Whether there is merit in the arguments raised in favour of the reliefs sought in the Applicant’s written address?**

Arguments on issue 8

3.65 In response to paragraph 4.05 of the Applicant’s address, the Applicant cannot rely on the case of Uzoukwu V. Ezeonu (1991) to argue that his status was degraded by the Respondents, having invited his own arrest by his conduct of holding the Respondents to ransom for 5 hours and preventing them from discharging their statutory duties. The issue of status of the Applicant is immaterial where the supremacy of the law is in issue.

3.66 The case of AG & Commissioner of Justice, Kebbi State v. Jokolo & ORS (2013) LPELR-22349(CA) is also not applicable in favour of the Applicant on the ground that societal status or standing also implies that the person so entitled to such standing would conduct himself or herself with dignity, candour, civility, credibility and on grounds of ethics. Given the facts deposed to by the Respondents and the witnesses to the arrest of the Applicant and his clients, the conduct of the Applicant in forestalling the arrest of his clients for 5 hours inspite of knowledge of the status of the Respondents

as law enforcement officers clearly does not connote nobility, dignity or consistent with the elevated title or position of the Applicant nor can one say that such conduct is dignifying on terms described by the definition of the word dignity referred to in the Jokolo's case above.

3.67 In specific response to paragraph 408, there is no evidence or proof to that effect rather the Applicant by his own averment as contained in the affidavit in support of his application, state that he was allowed to drive his car personally down to the office of the Respondents at No. 15A, Awolowo Road, Ikoyi, Lagos. If the circumstances of the arrest of the Applicant was horrible as described, the Applicant could not have been afforded the luxury of driving in his own car to the Respondents' office in the circumstances. The Applicant who refused to surrender his clients for the length of period described would not have accepted a voluntary invitation of the Respondents forcing the Respondents to arrest him in the circumstances.

3.68 In response to paragraph 4.09, the 3rd Respondent who is one of the operatives of the Economic and Financial Crime Commission whose this matter was assigned to had averred that the Applicant and his clients was arrested outside a court premises and not inside the court. There was no averment in the affidavit of the Applicant suggesting that he was dragged and shouted upon like a common thief as erroneously portrayed as counsel cannot make a case in the address not supported by facts and evidence.

3.69 In the words of Rhodes-Vivour, JSC in the case of *Ogunsanya v. The State* (2011) 6 (Pt. 1) MJSC 24 at 65.

"A case is won on credible evidence and not on address. No amount of brilliance or playing to the gallery by counsel can make up for lack of evidence to prove or defend a case. The main purpose of address is to assist the court, and is never a substitute for compelling evidence. Failure to address will not be fatal or cause miscarriage of justice. This is so because whether counsel addresses the court or not, the court must do its own research with sole aim of seeking the truth and determine which side is entitled to judgment."

3.70 The Respondents by effecting the arrest of the Applicant only intended to interrogate him and bring him to justice and not to bring the Senior Advocate of Nigeria to any ridicule, indignity or opium as erroneously portrayed. The Respondents did not set out originally to arrest the Applicant but were forced to adopt the option of arrest when the Applicant willfully and unlawfully obstructed the Respondents from discharging their statutory responsibilities.

3.71 In further response to paragraph 4.010 and 4.011, there is no evidence or proof to

that effect that the Applicant was maltreated by the Respondents that were executing their statutory duties. There is no proof that the Respondents sponsored any online publications against the Applicants or is there any proof that the Respondents invited any court officers to witness the arrest of the Applicant which took place outside the court premises and when many of the court officers had closed and gone home after the official working hours.

3.72 In Reply to paragraph 4.011, there is no proof that the Applicant was forced to drive in the Respondents' convoy or is there any proof that the arrest was effected in a horrifying manner. The Respondents have vehemently denied this position in the counter affidavits. Fundamentally again, there was a reasonable cause for the arrest of the Applicant having regard to his infraction of Section 38 of the EFCC Act 2004.

3.73 In reply to paragraph 4.012, the Respondents did not force the Applicant to hand over his mobile phones and his Mercedes Benz ML500 SUV rather, the Applicant willingly handed over his mobile phones by filling a form to that effect and also volunteered statements to the Respondents while in custody.

3.74 In response to paragraph 4.013 and 4.014, all the statements contained in these paragraphs are false and denied by the Respondents. In further response to paragraph 4.013, these rights as contained in Section 37 of 1999 Constitution (as amended) are not absolute. This is a matter that would have been resolved amicably between the Applicant and the Respondents but rather, the Applicant chose to throw ashes on the face of the rising wind and wind in turn smatters the Applicant with the same ashes. The privacy guaranteed to the citizen is not a licence to commit criminality. The Respondents have shown that the Applicant deployed telephone conversation and telegraphic communications to perpetuate economic crimes including unlawful attempts to bring the administration of justice into disrepute. The 3rd Respondent's averments in the counter affidavit confirmed this much and also supported same with text messages extracted from the Applicants mobile handsets including incriminating materials contained in his Access Bank Accounts released to interrogators by his bankers.

3.75 In response to paragraph 4.014, the driver of the Applicant never said the mobile phones were forcefully retrieved from him by the Respondents in his extra-judicial statement made to the Respondents and annexed to the counter affidavit in support of the case of the Respondents.

3.76 In response to paragraphs 4.015, 4.016 and 4.017, the Respondents never invaded Applicants privacy or in any way, intimidate or harass the applicant rather, the Respondents wanted to serve the Applicant's client an invitation to appear and respond to new petition written against his client before the commission.

3.77 In further response to paragraph 4.015, it is immaterial how the incriminating

materials contained in the Applicant's handsets were sourced by the Respondents since the evidence is relevant to pending criminal proceedings against the Applicant before the Lagos State High Court.

3.78 In one celebrated case, the court held as follows:

"The test to be applied in considering whether evidence is admissible is whether it is relevant to the matters in issue. If it is admissible, the court is not concerned with how the evidence is obtained. In the instant case, regardless of the source of the evidence of Appellant's witness or even in the face of contravening the provision of section 136(i) and (ii) of the Electoral Act, the illegality, if any, will attach to the person of the witness and not the evidence given by them. Where a witness is branded as illegal, the same will not apply to the evidence given by such a witness no matter the source of the evidence which is immaterial" (See RAUF ADESOJI AREGBESOLA VS. OLAGUNSOYE OYINLOLA – Suit No. CA/1?EPT/Gov/02/2010 – Also cited in (2011) 9 N.W.L.R. (Pt. 1253) 458 @ 494 (H.20) (Sadau vs. State (1968) NSCC. 93). –

3.79 On the question whether method by which evidence is obtained effects its admissibility, the court further said in the Aregbesola's case as follows:

"When it is a question of admissibility of evidence, strictly, it is not whether the method by which it is obtained is tortuous or excusable, but whether what has been obtained is relevant to the issue being tried. The trial court should not be concerned with the manner by which admissible evidence has been obtained".

3.80 The above is a complete answer to paragraph 4.015.

3.81 In response to paragraph 4.016, we state that by virtue of Section 7 (1) (a) of the Economic and Financial Crimes Commission Establishment Act 2004, special powers are conferred on the commission as follows:

"The Commission has power to-

- *Cause investigations to be conducted as to whether any person, corporate body or organisation has committed an offence under this Act or other law relating to economic and financial crimes..."*

3.82 We urge the court to hold that the above is a complete answer to paragraph 4.016 of the Applicant's address.

3.83 In response to paragraph 4.017, there is no proof and the Applicant has not furnished any proof that the Respondents were responsible for any publications regarding the Applicant's arrest and the court would not make a finding in the absence

of proof. The court would not rely on speculation to make findings in favour of any party. We rely on the case of **SEIMOGRAPHY SERVICE NIG. LTD V. OGBEN (1976) 4 s. c. AT 101; IGBERE V. STATE (2005) 4 WCCR 77 AT 73-94 LINE 47-R4**, where the court is enjoined not to speculate on evidence but to decide on the evidence before it.

3.84 In response to paragraph 4.020, the case of **Denca Services Ltd. V. Leo Oleka & Sons Ltd & Ors (2015) LPELR – 24444 (CA)** relied upon by the Applicant does not apply to this present case at hand. Furthermore, Section 44(1) of the 1999 Constitution referred to by the Applicant is not absolute in the circumstances. It can be derogated depending on the nature and circumstance of each case. The said Section 44(1) is qualified by Section 45(1) providing for the taking of property in the interest of defence, public safety, public order, public morality or public health or for the purpose of protecting the rights and freedom of other persons or as stated in paragraph 44(1) (k) 'relating to the temporary taking of possession of property for the purpose of any examination, investigation or enquiry'. The Respondents took advantage of these constitutional provisions in taking over and registering the vehicle of the Applicant as exhibit for use in the impending criminal proceedings for which the Applicant had been arraigned before the Lagos High Court on Tuesday, 16th February, 2016.

3.85 In response to paragraphs 4.021 and 4.022, the Respondents took custody of the Applicant's vehicle in anticipation of using it as exhibit in the pending criminal proceedings against the Applicant and covered by Section 44 (1) (k) of the Constitution allowing the temporary taking of possession of property for the purpose of any examination, investigation or enquiry. Therefore, the rights of the Applicant concerning the circumstances in which the Respondents took over the vehicle has not been infringed upon when assessed against the background that the Applicant utilized the vehicle to shield the suspects wanted by the Respondents from arrest and is also the subject matter of Count 1 in the pending criminal proceedings against the Applicant before the Lagos State High Court.

3.86 In further response to paragraph 4.021 and 4.022, the Respondents did not seize the two mobile phones and the Mercedes Benz ML500, SUV forcefully rather it was the Applicant that surrendered them to the Respondents willfully by filling a requisite form at the Economic Financial Crimes Commission office. In further reply to paragraph 4.022, the Respondents as a law enforcement agency has right to avert any situation that will lead to perversion of justice and as well confiscate any object or material used by the suspect to pervert justice. It was averred by the 3rd Respondent, that the Applicant held the Respondent at ransom by putting his clients inside his Mercedes Benz ML500, SUV for more than 5 hours and as well making calls with his mobile phones just to prevent the Respondents from arresting Applicant's clients and by so doing obstructing the course of justice.

3.87 In response to paragraph 4.023, there is proof that the Applicant was released on

administrative bail the same day he was arrested and upon failure to perfect same was released on Sunday, 7th February, 2016 unconditionally to the President of the Bar. Therefore, the Applicant's rights had not been infringed upon by reason of the fact that Saturday and Sunday are non-judicial days.

3.88 In response to paragraph 4.024, we have shown that Sections 35(4) 5(a), and (b) of the Constitution are never absolute and the circumstances of this case show clearly that the Applicant's rights had not been violated. The same arguments take care of paragraph 4.025, 4.026, 4.027, 4.028, 4.029, 4.030, 4.031, 4.032, 4.033, 4.034, 4.035 and 4.036 to the extent that the fundamental rights guaranteed by the constitution are never absolute and the circumstances of this case show clearly that the rights of the Applicant has not been violated in any way whatsoever.

3.89 In response to paragraphs 4.038 – 4.039, the arrest of the Applicant is justified having regard to his infraction of Section 38 of the EFCC Act 2004 by perverting the course of justice as averments in the counter affidavits before the court have clearly shown.

3.90 In response to paragraphs 4.040, 4.041, 4.042, 4.043, 4.044 and 4.045, we submit that the Applicant's fundamental rights has not been infringed upon as shown by the circumstances of this case.

3.91 In response to paragraph 4.77, the issue of unlawful arrest or detention is taken care of by the pending criminal proceedings against the Applicant before Justice Aishat Opeisonwo of the Lagos State High Court. All issues bordering on legality of arrest or otherwise including detention can only be resolved at the end of the ongoing criminal proceedings against the Applicant. The Applicant should rather focus on proving his innocence in the ongoing proceedings in court as the Respondents have initiated criminal proceedings against the Applicant following his arrest and detention on the subject matter of his complaints before this Honourable Court.

3.92 In further response to paragraph 4.077, we ask, where is proof that the Respondents sponsored publications against the Applicant?

3.93 The case of **Olaghere Vs. P.P & P. (Nig.) Ltd (2013) All FWLR (Pt. 661) 1593 at 1615 para C-G** and all the under listed cases relied upon by the applicant in his written address do not apply to this present case considering the facts and circumstances of this case.

3.94 In all circumstances we urge this court to hold that this suit fails, must fail and be dismissed as lacking in merits and liable to be dismissed with punitive costs against the applicant and in favour of the respondents

3.95 We urge the court to so hold in dismissing the reliefs of the Applicant with

punitive costs against the Applicant.

Dated this _____ day of _____ 2016.

Wahab Shittu, Esq.

- **Onuamah, Esq.**

Emmanuel Sadoh, Esq.

Ujunwa Ndubuisi, Esq.

E. O. Omoijiade, Esq.

T. O. Olaniran, Esq.

(1st, 2nd, 3rd & 4th Respondents' Counsel)

W. K. Shittu & Co.

93/97, Allen Avenue,

Opp. EcoBank Plc,

Ikeja, Lagos.

Email: wkshittuandco@yahoo.com

08152445703, 08036656537

FOR SERVICE ON:

The Applicant

C/o of his Counsels

Chief Wole Olanipekun SAN

Prince Lateef O. Fagbemi SAN

Mallam Yusuf Ali SAN

Anthony Idigbe SAN

Chief Adeniyi Akintola SAN

Nnaemeka Ngige SAN

Adetunji Oyeyipo SAN

Chief Bolaji Ayorinde SAN

Oluyele Delano SAN

Babajide Koku SAN

Babatunde Fagbohunlu SAN

Dr. Joseph Nwobike SAN

Chief Mike Ozekhome SAN *MON, FClarb*

Toyin Pinheiro SAN

Olanrewaju Ogunlesi SAN

Abiodun J. Owonikoko SAN

Hassan M. Liman SAN

Yakubu C. Maikyau SAN

Jibrin Okutepa SAN
Aliyu Umar SAN
Oluseye S. Opasanya SAN
Ahmed Raji SAN
Mahmud Magaji SAN
Rotimi Oguneso SAN
Sylvanus A. Ogwemoh SAN
Teslim O. Busari SAN
Adeniyi A. Adegbonmire SAN
Aderibigbe Ade Adedeji SAN
Dr. Muiz Banire SAN
Mrs. Abimbola I. Akeredolu SAN
Olumiya Akinboro SAN
Uche V. Obi SAN
Kehinde Eleja SAN
John O. Odubela Esq.
Yode Delano Esq.
Olusegun O. Jolaawo Esq.
Andrew M. Malgwi Esq.
Abubakar M. Shamsudeen Esq.
Gbolahan Gbadamosi Esq.
Olatunde Oladele Esq.
Ngozi Ngonadi (Mrs.)
Mumini Bamidele Esq.
Grant Onwuka Esq.
Oladipo Osinowo Esq.
Israel Matesun Esq.
Christianah I. Ajakaiye (Miss)
Kehinde M. Padonu (Miss)
Gloria O. Adejumo (Miss)
Adedoyin A. Andu (Miss)
MESSRS RICKEY TARFA & CO.
Plot 22, Temilola Akinbode Road,
Off Freedom Way,
(New 3rd /Ikate Roundabout),
Lekki Peninsula Phase 1,
Lekki Lagos.
09095321456, 09080000061

