

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA
IN THE LAGOS JUDICIAL DIVISION
HOLDEN AT LAGOS

SUIT NO:

NICN/LA/417/2020

BETWEEN

ENGINEER OLOKO BABATUNDE OLADIMEJI - CLAIMANT/APPLICANT

AND

UNIVERSITY OF LAGOS

DEFENDANT/RESPONDENT



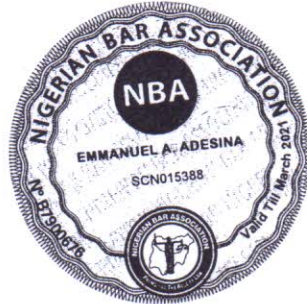
MOTION ON NOTICE BROUGHT PURSUANT TO ORDER 17 RULE 1 (1), 4(A) & 5 AND ORDER 22 RULE 1 (1), 2(4) & (5) OF THE NATIONAL INDUSTRIAL COURT RULES 2017 AND UNDER THE INHERENT JURISDICTION OF THIS HONOURABLE COURT.

TAKE NOTICE that this Honourable Court will be moved on theday of2020 at the hour of 9 O' clock in the forenoon or so soon thereafter as Counsel to the Claimant/Applicant may be heard praying this Honourable Court for the following:

1. **AN ORDER of Interlocutory Injunction** restraining the Defendant/Respondent, its agents, representatives, privies, affiliates, officers, staff controlled by it either directly or indirectly from forcibly repossessing the official car of the Claimant/Applicant with registration number 50M-10FG, laptop (Dell) etc. pending the determination of the substantive suit herein.
2. **AN ORDER of this Honourable Court** restraining the Defendant/Respondent, its agents, representatives, privies, affiliates, officers, staff and by whomsoever from harassing, molesting and forcibly ejecting the Claimant/Applicant from his official quarters at House 7, Jibowu Close, University of Lagos, Akoka, Yaba, Lagos.
3. **AN ORDER of Interlocutory Injunction** restraining the Defendant/Respondent, its agents, representatives, privies, affiliates, staff, security operatives and by whomsoever from locking up the office of the Claimant/Applicant and or engage in any act or acts that will prevent the Claimant/Applicant from performing his official duties to the Defendant/Respondent in accordance with the terms and memorandum of appointment of the Claimant/Applicant
4. **AND FOR SUCH Order or further orders** as this Honourable Court may deem fit to make in the circumstances.



Dated this^{28th}..... Day of October 2020



.....
✓ E. A. ADESINA (JP) ESQ
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FOR SERVICE ON:-

Defendant/Respondent,
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E-mail: registrar@unilag.edu.ng
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ENGINEER OLOKO BABATUNDE OLADIMEJI - CLAIMANT/APPLICANT

AND

UNIVERSITY OF LAGOS - DEFENDANT/RESPONDENT

AFFIDAVIT IN SUPPORT OF MOTION

I, Engineer Oloko Babatunde Oladimeji, Nigerian, Male, Christian of House 7, Jibowu Close, University of Lagos Staff Quarters, Akoka, Yaba, Lagos do hereby make Oaths and states as follows:

1. That I am the Claimant/ Applicant herein
2. That I am a Civil Engineer and a Member of Nigerian Society of Engineers.
3. That in December 18, 2018 I was offered appointment as Director, Works and Physical Planning of the Defendant/Respondent on contract.
4. That the contract is subject to conditions of service and other provisions on Staff welfare and discipline contained in the University of Lagos Act 1967 and the Regulations Governing the Conditions of Service of Senior Staff approved by the Governing Council in 2016.
5. That the appointment is based on key performance indicators.
6. That the letter of offer of appointment as Director of Works and Physical Planning on Contract dated 18thDecember 2018 was accompanied with the Defendant's Memorandum of Appointment herein attached and marked **Exhibit EOB1**.
7. That I assumed duty on January 14, 2019.
8. That upon resumption of duty I was given a mandate by the Council of the Defendant to restructure the works and Physical Planning Department of the

Defendant as per the internal memorandum dated February 8, 2019 herein attached and marked **Exhibit EOB 2**.

9. That within the one (1) year contract period I achieved enormous success in all area of operations and responsibilities given to me by the Defendant.
10. That in accordance with the terms of my appointment I sought an extension to my contract in December 2019 before the expiration of the first year of my contract through a memo to the Vice Chancellor of the 1st Defendant.
11. That the Vice Chancellor of the Defendant failed to bring forward the memo for Council's deliberation during its January meeting.
12. That notwithstanding the Vice Chancellor's refusal to bring forward my memo for extension of contract, the Chairman of Council at its January 2020 meeting gave me the directives to carry out and report back to Council at its next meeting in March 2020.
13. That part of the Chairman of Council of the Defendant's directives to me includes the following to wit: -
 - a. Survey of the land for the proposed building development on campus,
 - b. Progress report for all the capital projects,
 - c. Report on all proposed projects,
 - d. Students hotel rehabilitation,
 - e. Health Center Additional Works and
 - f. Special progress report for the CBN Center of Excellence which the Pro-Chancellor is to use for discussion with the CBN Governor.
14. That between the Council's meeting of January 2020 and March 2020, I carried out numerous assignments for both the Council and Management of the Defendant.
15. That I represented the Defendant/Respondent as Director of Works at the Investigative Panel by the Council for Regulation of Engineering in Nigeria (COREN) in February 2020 in Abuja, Federal Capital Territory (FCT).

16. That I used my professional skill and knowledge to negotiate and secure a no objection from COREN which was mandated by law to investigate the causes of the failure of the Defendant/Respondent's Main Library Project.
17. That prior to the Defendant/Respondent's Council meeting of March 2020 in which I was in attendance in my capacity as Director of Works and Physical Planning of the Defendant/Respondent I wrote a reminder to the Defendant's Vice Chancellor on the need to have a formal document validating my one (1) year contract renewal via an internal memorandum dated March 3, 2020 with an attachment detailing my progress and landmarks both herein attached and marked **Exhibit EOB3-3A**
18. That I participated in IPPIS Bio-Data verification of Nigeria Federal Universities and Colleges of Education at the instance and directive of the Defendant/Respondent without any objection to my participation.
19. That I continued to carry out my official duties without any objection by the Defendant/Respondent writing internal memorandum to the Pro-Chancellor at his instance on request for urgent intervention to curb sharp and corrupt practices in works department of the Defendant/Respondent in my capacity as the Director, Works and Physical Planning as recent as June 25, 2020. The memo is herein attached and marked **Exhibit EOB4**
20. That by another internal memorandum dated July 08, 2020 which I forwarded to the Pro-Chancellor's email on attack on my office as the Director, Works and Physical Planning, the Defendant/Respondent has continually related with me as the Director Works, and Physical Planning.
21. That surprisingly I received an internal memorandum dated July 20, 2020 directing me to immediately hand-over all University properties "pending the Council's" determination of your expired appointment".
22. That I received similar memo dated August 3, 2020 herein attached and marked **Exhibit EOB5**.
23. That I detailed the activities and atrocities committed by the Vice-Chancellor and Management of the Defendant/Respondent to frustrate my daily schedule of works and duties in a write-up titled "Attack on the office of the Director of Works by the

Vice Chancellor as a result of the exposure of various fraudulent practices" herein attached and marked **Exhibit EOB6**.

24. That as recent as May 27, 2020 by a memo to the Pro-Chancellor furtherance to the Council directive at its November/December 2019 meeting I brought to the attention of the Pro-Chancellor latest development on the contract for the additional work for the supply of loose furniture and fixtures for scholars hostel and another memo dated April, 2020 on payment certificate for additional work for the provision of maintenance services for hostels (Eni-Njoku, MakamaBida, Fagunwa, Madam Tinubu and Sodeinde, undergraduate and Post graduate halls) herein attached and marked **Exhibit EOB7**.
25. That I was invited to present memorandum to the Special Visitation panel of the Defendant as Director, Works and Physical Planning of the Defendant through a memo dated August 29, 2020 herein attached and marked **Exhibit EOB8**.
26. That in July 2020 in my capacity as the Director, Works and Physical Planning I did a confidential audit report to the Defendant/Respondent herein attached and marked **Exhibit EOB9**.
27. That I state unequivocally that the Defendant/Respondent by its official interaction with me from January 14, 2020 is deemed to have granted a one-year renewal of my contract as Director, Works and Physical Planning.
28. That the entire memos from July 2020 to October 2020 are afterthoughts and mere expression and indication of the Defendant/Respondent to breach its contract of appointment with me for no just cause.
29. That the Defendant/Respondent has failed, refused and neglected to pay my salaries and allowances totaling **₦4,382,110.00 (Four Million, Three Hundred and Eighty Two Thousand, One Hundred and Ten Naira)** only comprising of the following:-

SALARIES AND ALLOWANCES

	Basis Salary	Telephone Allowance	Others
DEC, 2019	-	25,000	Council seating Hall-
JAN, 2020	349,711	25,000	• Nov 2019 - 70,000
FEB, 2020	349,711	25,000	• Dec 2019 - 70,000
MAR, 2020	349,711	25,000	• Jan 2020- 70,000

APR, 2020	349,711	25,000	• Mar 2020 - 107,500
MAY, 2020	349,711	25,000	Abuja Trip Expenses - 107,500
JUN, 2020	349,711	25,000	Security Sitting Hall- 107,500
JUL, 2020	349,711	25,000	Works Dept Allowance for Director (6Months) - 165,000
AUG, 2020	349,711	25,000	
SEPT, 2020	349,711	25,000	
OCT, 2020	349,711	25,000	
TOTAL	3,497,110	275,000	610,000
Ground Total			₦4,382,110.00

30. That the failure, refusal and neglect of the Defendant/Respondent to pay my wages and allowances is a fundamental breach of the contract of appointment already.
31. That the Defendant/Respondent by another letter dated October 14, 2020 requested for the return of the University's properties in my possession the letter is herein attached and marked **Exhibit EOB10**.
32. That if the Defendant/Respondent is not restrained by the order of this court it will carry out its' threats against my appointment and irreparable loss and damage would have been caused to my person.
33. That I undertake to give an undertaking in damages to the Defendant/Respondent to indemnify in case this Honourable court discover that an injunction should not have been issued against the Defendant/Respondent in the first place.
34. That it is in the interest of justice that this application be granted as the Defendant/Respondent will not in any way be prejudiced by the grant of this application.
35. That I depose to this affidavit in support most conscientiously believing all the contents therein in accordance with the Oaths Acts.

35. That I depose to this affidavit in support most conscientiously believing all the contents therein in accordance with the Oaths Acts.



.....
Deponent

Deposed to at the National Industrial Court Registry,
Ikoyi, Lagos this 3rd day of Nov., 2020

BEFORE ME



COMMISSIONER FOR OATHS

AJIBADE MONOWI ADELOWALE (Mrs)
REGISTRAR II



IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA
IN THE LAGOS JUDICIAL DIVISION
HOLDEN AT LAGOS

SUIT NO:

BETWEEN

ENGINEER OLOKO BABATUNDE OLADIMEJI - CLAIMANT/APPLICANT

AND

UNIVERSITY OF LAGOS - DEFENDANT/RESPONDENT

WRITTEN ADDRESS IN SUPPORT OF THE MOTION FOR INJUNCTION

- 1.0. This Written Address has been filed in support of Claimant's Motion on Notice dated theday of October, 2020. The application is supported by a 35 paragraphed affidavit deposed to by Engineer Oloko Babatunde Oladimeji.
- 1.1. The prayer sought on the Motion on Notice are as follows:
 - b. **AN ORDER of Interlocutory Injunction** restraining the Defendant, its agents, representatives, privies, affiliates, officers controlled by it either directly or indirectly from forcibly repossessing the official car of the Claimant with registration number 50M-FG, the laptop (Dell) etc. pending the determination of the substantive suit herein.
 - c. **AN ORDER of this Honourable Court** restraining the Defendant, its agents, representatives, privies, affiliates, officers and whomsoever from harassing molesting and forcibly eject the Claimant from his official quarters at University of Lagos, Akoka, Yaba, Lagos.
 - d. **AN ORDER** of Interlocutory Injunction restraining the Defendant, its agents, representatives, privies, affiliates, staff, security operatives and whomsoever from locking up the office of the Claimant and or engage in any act or acts that will prevent the Claimant from performing his official duties to the Defendant in accordance with the terms and memorandum of appointment of the Claimant
 - e. **AND FOR SUCH other order(s)** as this Honourable Court may deem fit to make in the circumstances.

2.0. **ISSUES FOR DETERMINATION**

The sole issue for determination is: Whether the Claimant/Applicant is entitled to the grant of an order of interlocutory injunction in the circumstance of this case.

3.0. LEGAL ARGUMENT

3.01. It is settled law that the grant of an injunction is a matter of discretion of the Court, which discretion must be exercised judicially and judiciously based on sufficient materials. See **NPC v. Ojo&Ors. (2013) LPELR - 20826 (CA)**.

3.02. It is trite that no hard and fast rule is ever laid down to guide the exercise of such discretion of the court, which discretion must be exercised judicially and judiciously. In effect, no one previous decision of the one court can bind another in the exercise of its discretion for if it does, that puts an end to the discretion. It was held in the case of **IGP v. FAYOSE (2007) 9 NWLR (Pt. 1039) 263 at 284, paras H-B**, when a court held as follows:

“...in a matter of discretion no one case can be authority for another, and the court cannot be barred by previous decision to exercise its discretion in a particular way because that would be as it were, fettering the discretion”

3.03. It is therefore obvious that this Honourable Court have the powers to grant injunctions or to make necessary orders for the protection of contractual appointment of the Claimant/Applicant. The Court however have principles it will still have to look at in granting its injunction as same would be set out for the Court to holistically look at the trajectory of this case as well as the principles that should guide this Honourable Court in granting the Appellants' application.

3.04. The principle guiding the grant or refusal of interlocutory injunctions were aptly stated in the case of **OBEYA MEMORIAL HOSPITAL V. ATTORNEY GENERAL OF THE FEDERATION & ANOR (1987) 7 SC (PT 1) 52** as follows:

i. EXISTENCE OF AN ENFORCEABLE RIGHT

3.05. In the instant case, the Claimant is a bonafide Staff of the Defendant. This averment was enunciated in the Claimant/Applicant's affidavit particularly in paragraph 2-5. It is submitted that an injunction would be granted in favour of an Applicant who establishes that he has an enforceable legal right over the res (subject matter) of the suit and that the continued existence of such res is threatened. We rely on the cases of **AKAPO V. HAKEEM HABEEB SUPRA AND UNION BEVERAGES LIMITED V. PEPSI COLA (1994) 3 NWLR PT 330 P. 12**. Particularly the lead judgment of Adio J.S.C. at page 12 paragraph B-C where he stated as follows:

“This is because the fact that the act of a Defendant is causing injury to the Plaintiff is not sufficient for the purpose of determining whether an application for

interlocutory injunction should be granted. The application would not be granted if it is not shown that the act of the Defendant constituted an infringement of a legally enforceable right of the Plaintiff. See **Day v. Broenrigg (1878)** 10 Ch. D 2; and **Akapo V. Hakeem Habeeb (1992)** 6 NWLR (PT. 247) 266. It is a fundamental rule of law that the court will grant an injunction to support or protect a legal right. If the applicant has no right recognizable by law, there is no power to grant an injunction”.

3.06. It is trite that the Court will grant an injunction to protect or support a recognizable legal right. The question that arises for determination herein is whether the Applicant have established that it has legal right which it seeks to protect by the orders of injunction sought.

3.07. In addressing this issue, it is important that we consider one of the various definitions and descriptions given to the term “right” in the 7th Edition of the Black’s Law Dictionary. On page 1324 it is described as follows:

“In a narrow signification, an interest or title in an object or property, a just and legal claim to hold, use or enjoy it, convey or donate it as he may please. A legally enforceable claim of one person against another, that the other shall do a given act or shall not do a given act. That which one person ought to have or receive from another, it being withheld from him, or not in his possession. In this sense right has the force of claim and is properly expressed by the latin, “Jus”.

3.08. A review of the affidavit which was filed in support of the application by the Claimant/Applicants clearly reveals that the Applicant has a legal right which he seeks to protect with the orders of injunction.

3.09. It is our further submission that the facts highlighted in the above mentioned paragraphs clearly disclose that the Applicant has a recognizable legal right in the res which is the subject matter of this suit and is entitled to approach this Honourable Court for protective orders to prevent the Defendants/Respondent from unlawfully interfering with the means to earn his livelihood or engage in actions which may result in the breach of the peace. Consequently, we respectfully urge your Lordship to so hold.

ii. **SERIOUS ISSUES TO BE TRIED**

3.10. It is submitted that where the totality of the affidavit evidence before the court reveals that there are serious issues to be tried in the substantive suit, the court will readily grant an injunction to maintain status quo pending the determination of the suit. We rely on the cases of:

KOTOYE V. CENTRAL BANK OF NIGERIA SUPRA

- 3.11. In the case of **AYORINDE V. A. G. OYO STATE** (1996) 3 NWLR PT 434 20 AT 32 A-C, the Court held as follows:

“Now in application for interlocutory injunction the first issue to be determined is whether there is a question of law or legal right or serious issues to be determined in the substantive action...”

- 3.12. It is settled and beyond contention that in reaching a conclusion whether or not there are serious issues to be tried in a suit where an application for an order of interlocutory injunction has been filed, our courts are enjoined to examine the affidavit in support of the Applicant’s Motion for interlocutory injunction. We rely on the case of:

REGISTERED TRUSTEES OF PCN V REGISTERED TRUSTEES OF ASN (2000) 5NWLR PART 657 PAGE 368 AT 381 C where Nzeako J.C.A. held as follows:

“The duty of the judge therefore is to look at the depositions in the affidavits before him to see if there be some evidence to show that there are serious triable issues to be tried or that the applicant’s case is just not frivolous”

- 3.13. A holistic perusal of the affidavit in support of this Motion reveals that there are serious issues to be tried by this Honourable Court. The major issue which the Court must consider is:

a. Whether the Defendant/Respondent is not caught by the equitable doctrine of estoppel.

- 3.14. This is one of the serious issues for trial which has arisen from the case put forward by the Claimant and therefore ought to be determined.

- 3.15. It is further submitted that where such serious issues as above are placed before a Court, such Court ought to exercise its discretion in favour of granting an injunction to preserve the res pending the trial and determination of those serious issues. Therefore, we respectfully urge your Lordship to hold that there are serious issues to be tried herein and consequently grant the orders of interlocutory injunction sought herein.

iii. **BALANCE OF CONVENIENCE**

- 3.16. We submit that the essence of the principle of balance of convenience in an application for injunction is for the Court to weigh the competing interest of the parties so as to determine the harm that will be done to the applicant if the

application is refused and on the other hand the harm that will result to the Respondent if the application is granted.

3.17. We rely on **REGISTERED TRUSTEES OF PCN V REGISTERED TRUSTEES OF ASN (2000) 5 NWLR 657 PAGE 368 at 379 E** where it was held as follows:

“One cannot help recognizing also how material it is to consider what effect, the granting or refusal of the application will have. Will more harm be done by granting or by refusing the injunction?”

3.18. The principle of law was further re-iterated in the cases of **KOTOYE V CENTRAL BANK OF NIGERIA (SUPRA)** and **AYORINDE V. A. G. OYO STATE (SUPRA)** where the courts stated that it is settled that in trying to find where the balance of convenience tilts, the Court will look at the competing interest of the parties and where the court finds that more harm will be done in refusing the application than in granting it, the injunction will be granted. Thus, the court will grant an injunction if more harm will be done than that which will occur when it is refused.

3.19. It is Claimant's contention that unless the Defendant/Respondent's conduct is restrained and brought under the supervision of the court pending the determination of the suit, they will continue to harass the Claimant/Applicant and deprive him the lawful and peaceful right to earn a livelihood.

3.20. Such inconvenience and loss would constitute irreparable damage. On the other hand, the Defendant/Respondent would not suffer anything as the order of injunction would preserve the status quo until the Court determines the suit one way or the other.

3.21. In view of the foregoing, it is our humble submission that the balance of convenience tilts in favour of the Claimant/Applicant. Accordingly, we urge your Lordship to so hold.

iv. **DAMAGES AS INADEQUATE COMPENSATION**

3.22. It is settled and beyond contention that the Court will exercise its discretion towards granting an injunction if the Claimant/Applicant satisfies the Court that damages will not adequately compensate him for the loss suffered if he succeeds at the final determination of the suit. **KOTOYE V CENTRAL BANK OF NIGERIA (SUPRA)**; **AMACHREE V ICC LIMITED (1989) 4 NWLR (PART 118) PAGE 68.**

3.23. We respectfully submit that if this Honourable Court refuses to grant the injunction the Despondent/Respondent will continue to harass interfere and intimidate Claimant/Applicant this may lead to a serious breach of peace.

3.24. In the case of **AYORINDE V A.G. OYO STATE (1996) 3 NWLR PT. 434 20 AT 32 F-H**, the Court of Appeal held as follows:

“...on the other hand, where damages would not provide an adequate remedy for the plaintiff in the event of his succeeding at the trial, the court should then consider whether the Defendant should succeed at the trial he would be sufficiently compensated under an undertaking to be given by the plaintiff as to damages for the loss the Defendant would sustain by reason of the granting of the application for interlocutory injunction”

In view of the foregoing, it is our humble submission that damages would not be adequate compensation for the Claimant/Applicant whilst on the other hand, the Defendant/Respondent would be adequately compensated under the undertaking of the Defendant/Respondent for damages.

v. **CONDUCT OF THE PARTIES**

3.25. It is submitted that the Court will not exercise its discretion in favour of a party who has been shown to be a person or body of unconscionable conduct. The totality of the affidavit evidence before the Court clearly shows that the Respondent have been unlawfully interfering with the right of the Claimant/Applicant and therefore must be restrained. We respectfully refer to the depositions made in the affidavit in support of this application and the various Exhibits attached

3.26. Accordingly, we urge your Lordships to grant the others of interlocutory injunction sought by the Claimant/Applicant for the following reasons enumerated succinctly as conclusions.

4.0. **CONCLUSION:**

It is clear from the affidavit and material placed before this Honourable Court that the Claimant/Applicant is vested with a recognizable legal right over the subject matter of the suit, which is being threatened by the actions of the Defendant/Respondent.

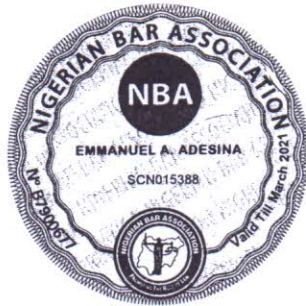
A review of the facts and materials presented to the court by the Claimant has substantially revealed that there are serious issues to be tried if the matter proceeds to hearing between the parties.


The balance of convenience clearly tilts in Claimant/Applicant's favour as the Court would be presented with a fait accompli if the order of injunction is not granted.

The award of damages would not be adequate compensation to the Claimant/Applicant.

In view of the conduct of the Defendant, it would be in the interest of justice, equity and fairness if the order of interlocutory injunction sought by the Applicant is granted.

Dated this 28th..... Day of October 2020




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