

**IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA**  
**IN THE ABUJA JUDICIAL DIVISION**  
**HOLDEN AT ABUJA**

**BEFORE HIS LORDSHIP HONOURABLE JUSTICE O. Y. ANUWE**

**Dated: 13<sup>th</sup> October 2026**

**SUIT NO: NICN/ABJ/362/2025**

**Between:**

1. Owojecho Omoha
2. Nicholas Ebehikalu

**Claimants**

**And**

1. Academic Staff Union of Universities (ASUU)  
National Secretariat, Comrade Festus Iyayi Complex,  
University of Abuja Main Campus, Airport Road,  
Abuja, Nigeria
2. Academic Staff Union of Universities (ASUU)  
University of Abuja Branch Secretariat,  
Beside National Secretariat, University of Abuja  
Main Campus, Abuja

**Defendants**

**Representation:**

P. A. Onu for the Claimants

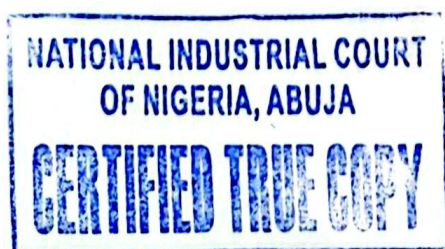
H. Bala with Abubakar Suleiman for the Defendants

**JUDGMENT/RULING**

The claimants commenced this action vide an Originating Summons filed on 1<sup>st</sup> December 2025. In an amended Originating Summons filed on 19<sup>th</sup> June 2026, the claimants submitted these questions to the Court for determination:

1. Whether upon the proper construction of the 2019 Constitution and Code of Practice of the Academic Staff Union of Universities (ASUU) As Amended, is there any provision(s) therein permitting/allowing tenure extension/elongation of elected leaders/officials either for the National or Branch Levels of ASUU?
2. Whether by the provisions of the 2019 Constitution and Code of Practice of the Academic Staff Union of Universities (ASUU) as amended restricting eligibility of a member to be voted into any of the National Offices to a person who is a National Officer, or Branch Chairperson or Convener of a National Executive Council (NEC) Committee or Zonal Coordinator, and that of the Branch Chairperson or Secretary to a member who must have been a Convener of any

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Committee(s) of the Union or serve in the Branch Executive Committee is not an infringement on the Fundamental Right such as non discrimination of the 1999 Constitution of the Federal Republic of Nigeria (As Amended)?

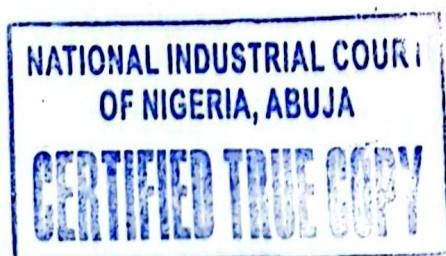
Upon the determination of the above questions, the claimants sought the following reliefs:

1. An Order declaring that upon the proper construction of the 2019 Constitution and Code of Practice of the Academic Staff Union of Universities (ASUU), no provision(s) therein permits/allows tenure extension/elongation of elected officers/leaders either at the National or Branch levels of ASUU.
2. An Order declaring that the tenure of the elected leaders/officers of ASSU University of Abuja Branch of the Academic Staff Union of Universities determined/expired on the midnight of 24<sup>th</sup> April, 2025 and they are occupying the office illegally.
3. An Order declaring that the suspension of the Claimants by the ASUU Executives of University of Abuja Branch (2nd Defendant) in a letter dated the 11<sup>th</sup> November, 2025 and confirmed by the National Executive Committee (NEC) when the tenure of the 2<sup>nd</sup> Defendant's Executives expired on 24<sup>th</sup> April, 2025 and more so that the Claimants did nothing wrong to warrant the suspension is therefore null, void and of no effect.
4. An Order declaring that Article 14 (b)(i) of ASUU Constitution and Code of Practice 2019 restricting a member to be eligible to be voted into any of the National offices, to National Officer or Branch chairperson or convener of a NEC Committee or Zonal Coordinator, and Appendix II Rule (xii) (c)(i) restricting a member aspiring to the office of a Branch Chairperson or Secretary, the member shall in addition to Rule (xii) (a) and (b), have been a convener of any committee(s) of the Union or serve in the Branch Executive Committee and Code 5 (vii) of Appendix I restricting Branch(es) or member(s) from instituting legal proceedings against the Union in any court of law without exhausting the domestic remedies provided for the grievance procedure in the ASUU is null and void for being a breach of Sections 40, 42 and 6(6)(b) of the 1999 Constitution of the Federal Republic of Nigeria (As Amended).
5. An Order to the Defendants to pay to the Claimants the sum of ₦100,000,000 as General Damages for the unlawful suspension and the resultant deprivations the Claimants' suffered as a result of the suspension.

#### CASE OF THE CLAIMANTS

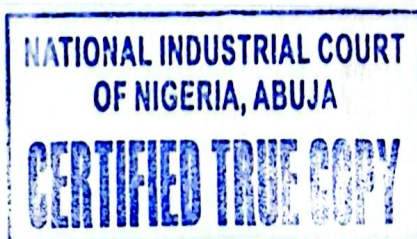
In the affidavit deposed by the 1<sup>st</sup> claimant in support of the amended Originating Summons, the 1<sup>st</sup> claimant said he and the 2<sup>nd</sup> claimant are lecturers in University of Abuja and members of the 2<sup>nd</sup> Defendant, which is a branch of the 1<sup>st</sup> Defendant. The

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Executive Officers of the 2<sup>nd</sup> Defendant who were elected and sworn in on 24<sup>th</sup> April 2023 for a term of two years to terminate on 24<sup>th</sup> April 2025, in line with the Constitution of the 1<sup>st</sup> Defendant, are Sylvanus C. Ugoh as Chairperson, Olabode H. Olatunde as Vice Chairperson, Onakpa M. Monday as Secretary, Aishatu Egbunu as Treasurer, Okorafor D.O.K. as financial Secretary, Binta Balarabe as Assistant Secretary, Odeh O. Julius as Internal Auditor, Area O. Isaac as Investment Officer and Ejeh Sunday as Welfare Officer. Sometimes on 20<sup>th</sup> March 2025, 82 members of the 2<sup>nd</sup> defendant wrote a petition to the Chairperson passing a Vote of No Confidence in the chairperson and other members of the Executives of the 2<sup>nd</sup> defendant. On 24<sup>th</sup> April 2025, election of the Executive officers of the 2<sup>nd</sup> defendant became due and the Executives of the 2<sup>nd</sup> defendant, through the electoral committee, came up with a voters register that was full of retired or dead members; members who were not up to date financial members; and non ASUU members. This was detected and members agitated for a fresh list of members/voters but the electoral committee insisted that the election must go ahead. The situation created tension in University of Abuja Community and the University Management directed that the election be suspended to calm down the tension and avoid breakdown of law and order. As a result of the suspended election, the Executive Officers of the 2<sup>nd</sup> defendant remained in office, issued queries to the claimants and subsequently suspended the claimants on 11<sup>th</sup> November 2025 from being members of the 2<sup>nd</sup> defendant. The 1<sup>st</sup> claimant averred that there is no provision in the 2019 Constitution and Code of Practice of the 1<sup>st</sup> defendant for extension/elongation of tenure of officers for either at the national or at the branch level.

The effect of their suspension from being members of the union is that the Claimants cannot participate in any activity of the Union or benefit any welfare from the Union but the Defendants continued to deduct the Union dues from the salary of each of the Claimants. In a letter dated 6<sup>th</sup> August 2025 addressed to the President and National Officers of the 1<sup>st</sup> defendant, the claimants gave notice to the 1<sup>st</sup> Defendant that failure to address their petition they will seek legal redress in the court of law. The letter was received but nothing was done to address the issues raised in the petition. By an undated notice, the Defendants fixed the election of officers of the 2<sup>nd</sup> Defendant for 26<sup>th</sup> February 2026. Since the Claimants are on suspension, the Claimants cannot aspire to any of the executive positions or exercise their right as members of the 2<sup>nd</sup> Defendant to vote for candidates of their choice. The Claimants, by their suspension, have been made to suffer untold pains and disenfranchisement from participating in the union election of 26<sup>th</sup> February 2026. The 1<sup>st</sup> claimant also stated that some provisions of 1<sup>st</sup> defendant's 2019 Constitution and Code of Practice breached some provisions of the Constitution of the Federal Republic of Nigeria 1999.



The 1<sup>st</sup> claimant referred to a total of nine documents which were exhibited to the affidavit and marked Exhibits 1 to 9 respectively.

In the written address in support of the Originating Summons, the claimants argued 4 issues. On issue 1, it was submitted by the learned counsel for the claimants, Samson Owoicho Ukpoju Esq., that the 2019 Constitution and Code of Practice of ASUU made no provision for tenure elongation of elected officers of the Union either at the National or Branch levels. Article 10 (vi) of the ASUU Constitution provide that a all officers of the Union, except the General Secretary, shall be elected for a term of two years at a time provided that no person shall hold the same elected position for more than two consecutive terms. By the provision, the tenure of any elected officer either at the National or Branch is restricted to a two years term, meaning that the tenure of elected officers should not extend or exceed two years. Thus, it is illegal and a breach of the Constitution and Code of Practice of ASUU for the 2<sup>nd</sup> defendant's executive officers to stay in office after the midnight of 24<sup>th</sup> April 2025, when their tenure of two years lapsed, till 26/02/2026.

On Issue 2, it was submitted that the Constitution and Code of Practice of ASUU restricting eligibility of a member to be voted into any of the National Offices to a person who is a National officer, or Branch Chairman or Convener of National Executive Council (NEC) Committee or Zonal Coordinator and that of the Branch Chairperson or Secretary to a member who must have been a Convener of any Committee of the Union or serve in the Branch Executive Committee is an infringement of the Fundamental Right provision against discrimination in Section 42 of the CFRN 1999. The provisions of Article 14(1) (b)(i) and Appendix II, Rule xii (c) of the ASUU Constitution and Code of Practice restricting a member to be eligible to be voted into any of the National Offices contravened the provisions of Section 42(2) of the CFRN 1999. Counsel urged the Court to declare these provisions of ASUU Constitution and Code of Practice void.

On issue 3, it is submitted that the restriction placed on an aggrieved member of the defendants in Code 5 of Appendix 1 of the ASUU Constitution from ventilating his grievances in a competent court of law unless the aggrieved member exhaust the domestic remedies in the grievance procedure contained in ASUU Constitution is a breach of the provisions of Section 6(1) and (6)(b) of the CFRN 1999 which grant to a court of law the power to resolve all matters between persons or between government or authority and to any person in Nigeria, and to all actions and proceedings relating thereto, for the determination of any question as to civil rights and obligations of that person. Therefore, the provision of Code 5 (viii) of Appendix I of the ASUU Constitution and Code of Practice which deprive members of ASUU the constitutionally guaranteed accessibility to court is inconsistent with the provisions of the CFRN 1999, null and void. Counsel cited Aseikh V. Yale (2012) ALL FWLR (625) 297; Medical And Health



Workers Union Of Nigeria V. Minister Of Labour And Productivity (2005) 17 NWLR (PT. 953) 120 and Attorney General Of The Federation V. Abubakar [2007] 10 NWLR (Pt. 1041) 1.

On issue 4, it was submitted that the Claimants have suffered unjustly by their suspension by the Defendants for what is not the fault of the Claimants, making the Claimants entitled to compensation. While the Claimants were on suspension, the Defendant fixed the election of the 2<sup>nd</sup> Defendants executives for 26<sup>th</sup> February 2026 and the Claimants cannot present themselves to be candidates in the election and cannot vote for candidates of their choice. Counsel cited *Akudo V. Guinness* (2012) All FWLR (Pt. 624) 67.

#### DEFENDANTS DEFENCE TO THE ORIGINATING SUMMONS

The defendants filed a counter affidavit and written address to the Originating Summons on 5<sup>th</sup> January 2026. The Counter affidavit was deposed by Sylvanus C. Ugoh, the Chairperson of the 2<sup>nd</sup> Defendant. He said he and other executive members of the 2<sup>nd</sup> Defendant were elected on the 24<sup>th</sup> April 2023 to serve a single tenure of 2 years in accordance with ASUU Constitution. The 1<sup>st</sup> and 2<sup>nd</sup> Claimants, alongside about 80 members, wrote a complaint dated 30<sup>th</sup> March 2025 and the National Executive Council (NEC) of the 1<sup>st</sup> Defendant constituted an Investigative Committee to look into the complaint. The Committee visited the University of Abuja to engage and interact with the aggrieved members, however, none of the complainants appeared before the Committee. On 9<sup>th</sup> November 2024, the NEC of the 1<sup>st</sup> Defendant fixed the date for the election of the 2<sup>nd</sup> Defendant's Branch Executive at its meeting held between 8<sup>th</sup> and 9<sup>th</sup> November 2024. In view of the impending expiration of their tenure, the Branch Congress constituted an Electoral Committee to conduct the election. The ELCOM discharged its mandate and election came up on 24<sup>th</sup> April 2025. After commencement of voting, the Claimants, alongside some members, forcibly invaded the venue, violently disrupted the process, confiscated ballot papers and the election register. Following the disruption, the Chairman of ELCOM promptly reported the incident to the Zonal Coordinator, who in turn briefed the NEC at its plenary session at Pre-NDC NEC at Benin. After due deliberation, the Pre-NDC NEC suspended the election and directed the Branch to identify the culprit and commence disciplinary procedure against them.

The NEC further resolved to postpone the Branch election until further notice in order to safeguard peace and order. The Branch congress complied with the directive and constituted an Ethics, Grievances and Crisis Management Committee to investigate the incident. The Committee Issued tree separate invitations to the claimants but they failed to honour the invitations. The Ethics Committee nevertheless interacted with the Branch Electoral Committee and other relevant stakeholders and recommended the



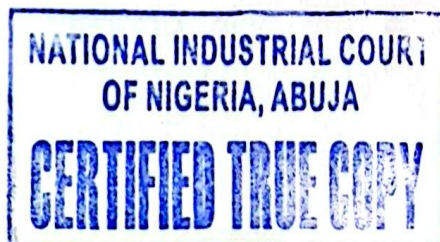
suspension of the claimants from the Union pending their appearance before the Committee. The NEC adopted the Committee's recommendation, suspended the Claimants and fixed a date for the Branch election to be held on 26<sup>th</sup> February 2026 at its meeting held between 8<sup>th</sup> and 9<sup>th</sup> November 2025. Under the 1<sup>st</sup> Defendant's established conventions and practices, the only lawful means of replacing a Branch Executive is through a valid election, as the Union does not recognise caretaker committees. Branch Executives are customarily dissolved only upon the successful conduct of elections where newly elected officers are immediately sworn in.

Nine documents were attached to the Counter affidavit and marked as Exhibit A to Exhibit I respectively.

In the written address in support of the counter affidavit, the defendants submitted the following 4 issues for determination:

1. Whether this Court has jurisdiction to entertain the Claimant's complaint considering the condition precedent contained in the 1<sup>st</sup> Defendant's Constitution?
2. Whether the Claimants' Originating Summons is supported by a competent affidavit in law?
3. Whether the 1<sup>st</sup> Defendant's Constitution requirement for eligibility to be voted for is discriminatory and in contravention of the Nigerian Constitution?
4. Whether the 1<sup>st</sup> Defendant's Convention of allowing Branch Executives to retain their offices in the event of crisis to prevent creating a vacuum is legal?

On issue 1, learned counsel for the defendants, Suleiman Abubakar Esq., submitted that the Claimant failed to utilize the mandatory internal mechanism for resolution of disputes provided in the 1<sup>st</sup> defendant's constitution before approaching this Court. Accordingly, there being a failure to fulfill a condition precedent to institution of the suit, this court lacks jurisdiction to entertain the matter. Counsel cited *Madukolu V. Nkemdelim* (1962) NSCC 374. It was submitted that this Court lacks jurisdiction to entertain this matter because the Claimants failed to utilize the mandatory internal mechanism for resolution of disputes before approaching this Court. The Claimants failed to comply with the condition precedent in Code 5 of the 1<sup>st</sup> Defendant's Code of Practice which made provisions for the internal remedies for resolution of disputes. Counsel proceeded to set out the grievance procedure provided in Appendix 1, Article 5 of the Code of Practice and submitted that the 1<sup>st</sup> Defendant's Constitution has provided a condition precedent for the Claimants to comply with before approaching this Court for redress on their grievances. But the Claimants had failed to comply with the provision and such failure robbed this Court of jurisdiction to entertain the suit. Counsel referred to the cases of *Shaibu V. INEC* (2024) LPELR-62954(CA). Counsel argued further that a condition precedent only delays the vesting of rights and not taking it away completely. He cited *State V. Gideon* (2024) LPELR-62532(SC) to conclude that

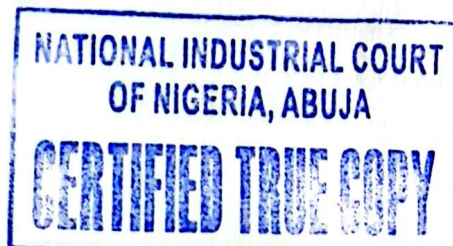


the condition precedent provided in the 1<sup>st</sup> defendant's Constitution is not in conflict with Section 6(1) and (6) (b) of the Constitution of Federal Republic of Nigeria 1999.

On issue 2, it was submitted learned counsel for the defendants referred to section 115 of the Evidence Act 2011 and submitted that paragraphs 17, 18 and 19 of the Claimants' affidavit are legal arguments and conclusion, contrary to Section 115 of the Evidence Act, 2011 and should be struck out. Counsel cited *G.S. & D. Ind. Ltd V. NAFDAC* (2012) 5 NWLR (Pt. 1294) 511; *General Aviation Services Limited V. Tahal* (2004) AFWLR (Pt. 211) 1368; *Haliru V. FRN* (2008) AFWLR (Pt. 425) 1672. It was also argued that the paragraphs of the Claimants' affidavit which did not offend the provision of Section 115 of the Evidence Act cannot save the remaining paragraphs from collapsing because a court of law cannot pick or choose some paragraphs in an affidavit, rather the court shall reject it in its entirety. Counsel cited in support the case of *Buhari V. I.N.E.C* (2008) 19 N.W.L.R. (Pt. 1120) 246. Counsel concluded that the entire paragraphs of the affidavit in support of the Originating Summons are liable to be struck out.

On issue 3, it was argued that the requirement in the 1<sup>st</sup> Defendant's Constitution for eligibility to be voted for is not discriminatory and not in contravention of the CFRN 1999. The rules and regulation in the 1<sup>st</sup> Defendant's Constitution are binding on all its members including the Claimants. The requirement for the eligibility to contest for an election is a requirement stipulated by the 1<sup>st</sup> Defendant's Constitution and it is binding on the claimants. The case of *Anaelo V. Maduagwuna* (2018) LPELR-44884(CA) was referred to. Counsel urged the Court to hold that the provisions of Article 4(b) (1) of the Code of Practice and Appendix II xii (c) (i) of the 1<sup>st</sup> Defendant's Constitution is not discriminatory or unconstitutional.

On issue 4, it was submitted that the 1<sup>st</sup> Defendant's Convention of allowing Branch Executives to retain their offices in the event of crisis to prevent creating a vacuum is legal. The 1<sup>st</sup> Defendant's Constitution only recognizes a single mode of transition, which is by an election. By Article 10 (vi) and paragraph xxiii, Appendix II of the 1<sup>st</sup> defendant's Constitution makes successful conclusion of an election an outright ground for the dissolution of an incumbent executive, and the assumption of duty of the new executive immediately. The NEC of the 1<sup>st</sup> Defendant resolved to conduct the 2<sup>nd</sup> Defendant's election due to the disruption by the Claimants as part of its constitutional mandate under paragraph IV (i) Appendix II of the 1<sup>st</sup> Defendant's Constitution 2020. The NEC being the highest decision body of the 1<sup>st</sup> Defendant, has the final say when it comes to any electoral disputes under paragraph xxvii, Appendix II. The convention and practice of the 1<sup>st</sup> Defendant of retaining the executive is to prevent the creation of vacuum, which is necessary in the circumstance as a child of necessity, and the court will



not interfere even where the decision seems to be unreasonable. Counsel cited *Alhaji Balarabe Musa V. Peoples Redemption Party* (1981) 2 NCLR 763 AT 769.

#### DEFENDANTS NOTICE OF PRELIMINARY OBJECTION

In a NPO filed by the defendants on 5<sup>th</sup> January 2026, they sought for these orders:

1. An Order of this Court striking out this suit for want of jurisdiction, the Claimants having failed, refused, and/or neglected to comply with the mandatory condition precedent prescribed under Appendix I of the ASUU Constitution before instituting this action.
2. Such further or other Orders as this Court may deem fit to make in the circumstances.

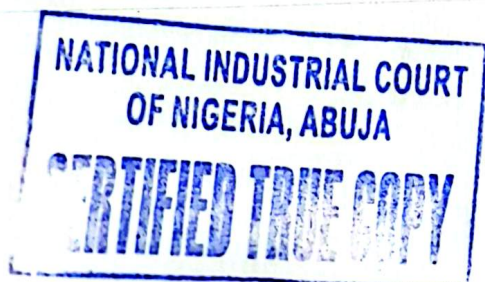
The grounds of objection are that:

1. This Court lacks jurisdiction to entertain this suit as the Claimants failed, neglected, and/or refused to exhaust the mandatory internal dispute resolution mechanisms prescribed under Appendix 1 (Code of Practice Grievance Procedure) of the 1<sup>st</sup> Defendant's Constitution, which constitutes a condition precedent to the invocation of judicial powers.
2. The Claimants' action is premature, incompetent, and abuse of court process, having been instituted in flagrant violation of the express provisions of the 1<sup>st</sup> Defendant's Constitution binding on all members.
3. Compliance with the internal grievance procedure stipulated under Appendix 1 of the 1<sup>st</sup> Defendant's Constitution is mandatory and not optional, and failure to comply robs this Court of jurisdiction.
4. The Claimants, having voluntarily subscribed to the Constitution of the 1<sup>st</sup> Defendant, are estopped from by passing the internal remedies and rushing to court.
5. The suit is not initiated by due process of law, nor upon fulfillment of a condition precedent, contrary to the principles laid down in *Madukolu v. Nkemdilim* (1962) NSCC 374.

The NPO was supported with a written address wherein the issue submitted for determination in the NPO is whether this Court has jurisdiction to entertain the Claimants suit considering the condition precedent contained in the 1<sup>st</sup> Defendant's Constitution? In arguing the issue, learned counsel for the defendants, Suleiman Abubakar Esq., repeated the same arguments made in issue 1 of the written address in support of the counter affidavit to the Originating Summons.

#### CLAIMANTS WRITTEN ADDRESS IN OPPOSITION OF THE NPO

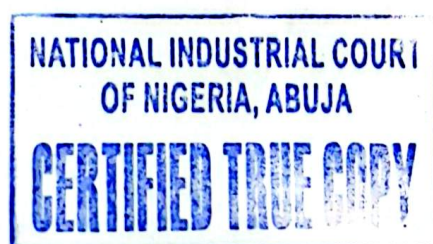
In opposing the NPO, the claimants filed a written address on 11<sup>th</sup> February 2026. In his submissions, learned counsel for the claimants, Samson Owoicho Ukpaju Esq., submitted



that the ground of objection of the Defendants and the relief sought thereby relates to the constitutionality of the grievance resolution mechanism in the 1<sup>st</sup> Defendant's constitution and they are the same as the issue raised and relief sought by the Defendants in issue 1 of their written address in support of their counter affidavit to the Originating Summons. For that reason, the NPO is an abuse of court process. Counsel cited *R-Benkary (Nig) Ltd V. Cadbury (Nig) Plc* (2012) AFWLR (Pt. 631) 1450 and urged the Court to dismiss the NPO. It was submitted further that Exhibit 2 attached to the affidavit in supporting of the Originating Summons is a complaint against the chairperson and the Exco of the 2<sup>nd</sup> defendant but the chairperson fail to take any step in compliance with the provisions of code 5 (iv) and (v) of the 1<sup>st</sup> Defendant's constitution to address the complaint. The Claimants having complained to the Defendants vide Exhibit 2 and a letter dated 5<sup>th</sup> August 2025, all seeking to explore means of internal remedies to resolve their grievances, the defendants however refuse to act by failing to set on motion the necessary machinery in accordance with the 1<sup>st</sup> defendant's constitution. Therefore, the Defendants should not be allowed to object to the suit of the Claimants on the ground that the claimants failed to exhaust the internal remedies of dispute resolution.

#### DEFENDANTS REPLY ON POINTS OF LAW

In the defendants reply on points of law filed on 3<sup>rd</sup> March 2026, it was submitted by Suleiman Abubakar Esq., on behalf of the defendants, that the NPO is not an abuse of Court process because the issues raised in the NPO are issues of law and it was brought pursuant to Order 17 Rule 1 [4] and [6] of the Rules this Court. Again, since the defendants have raised an objection, it must be heard and determined on its merit and once it succeeds, the Court will not have need to go into the substantive suit. Counsel cited *Okeke V. Uwarchina* (2022) LPELR-57291(SC); *CBN V. Eze* (2021) LPELR-55554(CA); *UBN V. Petro Union Oil & Gas Co. Ltd* (2021) LPELR-56671(SC). Thus, the mere fact that the relief sought in the NPO and issue 1 in the written address in support of the Originating Summons are the same does not constitute an abuse of court process. It was further submitted that the Claimants/Respondents' failure to respond to all the legal arguments in the Defendants written address amount to admission of the legal arguments or points raised by the Defendants. Counsel for the defendants referred to the case of *Golden Construction Company Ltd. V. Stateco Nig. Ltd.* (2013) LPELR-22832(CA). The issues which the Claimants want the court to determine are issues of elongation of tenure of the 2<sup>nd</sup> Defendant's executives and the constitutionality of the internal mechanism for disputes resolution of the 1<sup>st</sup> Defendant Constitution. The Claimants did not comply with the grievance procedure of the 1<sup>st</sup> Defendant Constitution as the letters written by the Claimants has nothing to do with the issues they raised for interpretation before this court. The cause of action of the



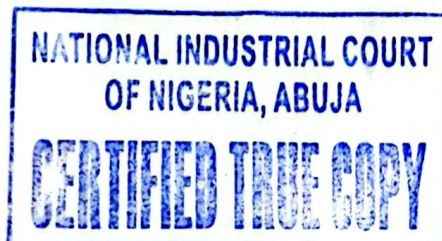
Claimants arose after 24<sup>th</sup> April 2025 when the tenure of office the 2<sup>nd</sup> defendant's executives expired and on 11<sup>th</sup> November, 2025 when the claimants were suspended. The Claimants Respondents did not comply with the grievance procedure with respect to these causes of action.

### **DECISION ON THE NOTICE OF PRELIMINARY OBJECTION**

The defendants ground of objection is that the claimant failed to exhaust the internal grievance resolution process provided in the 1<sup>st</sup> defendant's constitution before instituting this suit. For that reason, the defendants seek that the suit be struck out. Before I consider the ground of objection, let me examine the claimants' contention that the defendants' objection is an abuse of court process. It was the submission of the learned counsel for the claimants that the instant ground of objection of the Defendants and the relief sought thereby are the same as the issue raised and the relief sought by the Defendants in issue 1 of their written address in support of their counter affidavit to the Originating Summons. According to the claimants, this makes the NPO an abuse of court process and should be dismissed.

I have examined the processes filed by the parties in respect of the Originating Summons and the NPO. In the written address in support of the Originating Summons, the claimants argued 4 issues. The arguments on the 3<sup>rd</sup> issue are that the grievance resolution process of the 1<sup>st</sup> defendant's constitution which contains a restriction that unless the process is exhausted an aggrieved member cannot approach the Court is unconstitutional. In response to the arguments of the claimants, the defendants formulated 4 issues for determination in the written address in support of their counter affidavit. Issue 1 is whether the claimants' suit can be entertained by this Court in view of the fact that the claimants failed to exhaust the internal grievance resolution process of the 1<sup>st</sup> defendant. From the written addresses of the parties on the Originating Summons, issue 1 of the defendants' written address is a response to issue 3 of the claimants' written address. As rightly pointed out by the claimants, the issue whether or not the claimants exhausted the internal grievance resolution process of the 1<sup>st</sup> defendant before bringing this action has already been raised by the defendants in their defence to the Originating Summons.

Now, the issue that a claimant failed to exhaust the internal grievance resolution process before instituting a suit is a matter which affects both the competence of the suit and the jurisdiction of the Court to entertain the suit. Being an issue of jurisdiction, it can be raised by way of preliminary objection for it to be determined *in limine*. The fact that the ground of objection had been raised or argued by the defendants in their defence to the suit does not prevent the defendants from bringing a separate preliminary objection on the same ground for the court to determine before hearing the

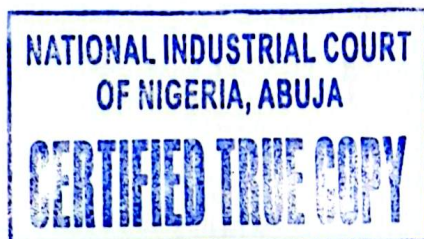


main suit. See Order 30 Rules 7 and 8[1] of the Rules of this Court which require parties to plead condition precedent which he intended to contest and all grounds of defence which make the action unmaintainable. It is proper, acceptable and permitted by Rules of Court for a defendant to raise or plead preliminary points constituting objection to the suit in the statement of defence or any process filed in defence of the suit and then bring a separate NPO subsequently to raise the grounds of objection for the court to determine before hearing the substantive suit. Therefore, I hold the view that the defendants NPO brought on the same ground as issue 1 of their written address in opposition to the Originating Summons is proper and not an abuse of Court process.

It is not in dispute that the claimants are members of the 2<sup>nd</sup> defendant which is a branch of the 1<sup>st</sup> defendant union. It is also not in dispute that the 1<sup>st</sup> defendant has its Constitution. The Constitution is Exhibit 1 of the Originating Summons. The defendants' contention in the NPO is that the Claimants failed to exhaust the internal mechanism for resolution of disputes provided in Appendix 1, Article 5 of the Code of Practice of the 1<sup>st</sup> defendant's constitution before instituting this suit to seek redress for their grievances against the defendants. For this reason, it was submitted on behalf of the defendants that a condition precedent to the institution of the suit having not been met, this court lacks jurisdiction to entertain the suit. On the other hand, the claimants' position is that Exhibits 2 and 8 of the affidavit in support of the Originating Summons were complaints they submitted to the defendants but the defendants failed to take any step to set in motion the internal dispute resolution mechanism to resolve their grievances. It was also submitted on behalf of the claimants that the requirement in Code 5 of Appendix 1 of the 1<sup>st</sup> defendant's Constitution that a member of the 1<sup>st</sup> defendant must exhaust the internal dispute resolution process before instituting action in court is a breach of the provisions of Section 6(1) and (6)(b) of the CFRN 1999 and a deprivation of members right of access to court.

The law is that where the rules or constitution of an association, be it trade union or political party, provides that an aggrieved member must explore internal dispute resolution mechanism before litigation, recourse to such internal dispute resolution mechanism is a condition precedent to the filing of a suit before a court and where same is not explored, the suit filed will be premature, incompetent and incapable of activating the jurisdiction of the Court to entertain the suit. See *S.P.D.C NIG. LTD V. OKEH* [2026] 11 NWLR [PT. 2050] 93; *GUSAU V. LAWAL* [2023] 10 NWLR [PT. 1892] 297; *OZOIJE V. ORLU* [2022] LPELR-59125 [CA].

Let me add that the issue of exhaustion of internal dispute resolution mechanism as a condition precedent to institution of a suit in court is not a matter of denial of a claimant's right of access to court or ousting the jurisdiction of the court. Where the constitution of a union or association provides for internal remedies for the purpose of



resolving internal disputes, such provisions are not intended to restrict exercise of the members right to access to court nor does not oust jurisdiction of the Court. Such provisions simply create a condition precedent that must be fulfilled before the right can be exercised or to validly activate the jurisdiction of the court. The internal dispute mechanism only operates to put the right of access to court in abeyance and the jurisdiction of the court postponed pending the completion of the internal mechanism for resolution of the dispute. See *PROSAFE PRODUCTION SERVICES LTD V. O.S.B.I.R* [2018] 18 NWLR [PT. 1650] 86; *AKINTEMI V. ONWUMECHILI* [1995] 1 NWLR [PT. 1] 98; *ORAKUL RESOURCES LTD. V. N.C.C.* [2022] 6 NWLR [PT. 1827] 539

Thus, the issues to be examined in this NPO, in view of the defendants' ground of objection, are whether the 1<sup>st</sup> defendant's constitution provided for internal dispute resolution mechanism and whether the claimants exhausted the process before bringing this action.

The 1<sup>st</sup> defendant's constitution provided for the grievance resolution procedure for members of the 1<sup>st</sup> defendant in Code 5 of Appendix 1 [Code of Practice] of the constitution. The grievance procedure is as follows:

- i. Any aggrieved member(s) shall write to the Branch Executive in the first instance, stating clearly his or her grievance. The Branch Executive shall respond within two weeks of the receipt of the letters.
- ii. If the complaint is not addressed to the satisfaction of the complainant, he or she shall be free to bring the complaint before the branch congress.
- iii. For the purpose of (ii) above, the Chairperson shall summon the Congress within 14 days of the receipt of the expression of dissatisfaction of the member(s).
- iv. Where the complaint is against an officer of a Branch, the EXCO shall first try to resolve the matter failing which it shall forward the complaint to the appropriate committee of Congress who shall make its report to Congress within 14 days of the receipt of the complaint from the EXCO.
- v. Where the complaint is against the Chairperson of the Branch, the finding and recommendation of the Congress shall be forwarded to NEC for confirmation or otherwise.
- vi. Where the complaint is against a National Officer in a Branch, such complaints shall be forwarded to NEC for necessary action.
- vii. In all cases, other than (v) and (vi) above, the member(s) shall have right of appeal to NEC, whose decisions shall be final.
- viii. No Branch(es) or member(s) shall institute any legal proceedings against the Union (or any Branch) in any court of law without exhausting the



*domestic remedies provided for in the Grievance Procedure contained in this Constitution or any other rule and procedure as may be provided by NEC or the Branch congress as the case may be."*

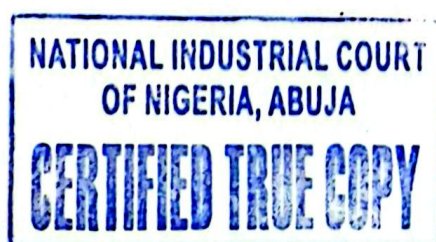
The above provision spelt out the internal procedure for resolution of grievances of members of the defendants. An aggrieved member is required to submit a written complaint of his grievance to either the Branch Exco or the Branch Congress who shall proceed to act on the complaint. The members also have a right of appeal to NEC of the 1<sup>st</sup> defendant from the decision on his complaint and the decision of NEC shall be final. Then Code 5[viii] of Appendix 1 specifically provides that no member shall institute any legal proceedings against the 1<sup>st</sup> defendant or any of its Branches in any court of law without first exhausting the internal procedure for resolution of grievances of members provided in the 1<sup>st</sup> defendant's Constitution.

The grievances of the claimants upon which they brought this suit against the defendants, as disclosed in the questions for determination and the affidavit in support of the Originating Summons, are the suspension of the 2<sup>nd</sup> defendant's branch election of 24<sup>th</sup> April 2025 leading to the elongation of the tenure of the Executive Officers of the 2<sup>nd</sup> defendant, the provisions of the 1<sup>st</sup> defendant's constitution restricting eligibility to contest elections and the suspension of the claimants from membership of the defendants on 11<sup>th</sup> November 2025. Did the claimants submit any written complaint on these grievances to the 2<sup>nd</sup> defendant's Executives or Congress to activate the grievance resolution procedure in the 1<sup>st</sup> defendant's Constitution before instituting this suit?

I have carefully read the affidavit in support of the Originating Summons and the further affidavit filed by the claimants. The two written complaints mentioned by the claimants in paragraphs 7 and 18 of the supporting affidavit are Exhibit 2 dated 20<sup>th</sup> March 2025 and Exhibit 8 dated 6<sup>th</sup> August 2025. Exhibit 2 predates the grievances of the claimants in this suit and also not concerned with the cause of action of the claimants. Exhibit 8 was addressed to the President and national officers of the 1<sup>st</sup> defendant. It was signed by both claimants. In paragraphs 1, 2, 3 and 4, the claimants complained about the provisions of the 1<sup>st</sup> defendant's constitution which prevents them from aspiring for election to the office of branch Chairman or secretary, suspension of the branch election of 24<sup>th</sup> April 2025 and the elongation of the tenure of the Executive Officers of the 2<sup>nd</sup> defendant without any constitutional backing. In paragraph 6 of the letter, the claimants wrote as follows:

**"ADDRESSING OUR GRIEVANCES**

*In view of the provision of section (Viii) of the Constitution of ASUU, 2019, (as amended) that "No branch or member(s) shall initiate any legal proceedings against the Union (or any branch) in any Court of Law without exhausting the*



remedies provided for in the provisions contained in the Constitution or any other rule and procedure as may be provided by ASUU at the branch congress as the case may be; we, Omojeho Omohe and Nicholas Ebehikhah, hereby alert the President and the Executive Officers of ASUU to address these our grievances brought to you as follows:

- (a) That in view of the fact that we are doing in ASUU as a result of the undemocratic provisions in the Constitution of ASUU, 2019 (as amended), we demand that the President and National Executive Council of ASUU within two weeks from the date of this letter, call for a constitutional Conference to amend the undemocratic ASUU constitution that has denied us, Omojeho Omohe and Nicholas Ebehikhah, fundamental right to aspire to any leadership position in ASUU as guaranteed in the Constitution of the Federal Republic of Nigeria, 1999, (as amended).
- (b) That the President and the National Executive Council of ASUU within another two weeks from the day the constitutional conference comes to an end publish the amended ASUU constitution to guarantee our right to contest any leadership position in ASUU as guaranteed by the Constitution of the Federal Republic of Nigeria, 1999, (as amended).
- (c) That the President and the National Executive Council of ASUU immediately stop the tenure elongation of Dr. Sylvanus Ugoch led Executive at University of Abuja and open new nominations for elections to offices at the branch, giving us, Omojeho Omohe and Nicholas Ebehikhah, the fundamental right to contest for either the chairman or the secretary position of ASUU at University of Abuja.
- (d) That the President and the National Executive Council of ASUU accept the vote of no confidence passed by 82 members of the Union in the Dr. Sylvanus Ugoch led Executive at University of Abuja and accordingly remove the Executive from office.
- (e) That the President and the National Executive Council of ASUU compel the illegal occupant of the seat of chairperson ASUU at University of Abuja to withdraw the queries issued us, Omojeho Omohe and Nicholas Ebehikhah at University of Abuja branch, for allegedly disrupting the April 24<sup>th</sup> 2023 election at the branch, even as the Management of the University ordered the stoppage of the elections due to irregularities in members/voters' register and to avoid a breakdown of law and order at the campus.
- (f) That the failure of the President and the National Executive Council of ASUU to address these grievances within one month from the day of receipt of this letter will make us to go to the Court of Law to seek judicial interpretations of some provisions in the Constitution of ASUU, 2019, (as



domestic remedies provided for in the Grievance Procedure contained in this Constitution or any other rule and procedure as may be provided by NIEL or the branch congress as the case may be" we, Owojecho Omoha and Nicholas Ebehikhulu hereby alert the President and the Executive Officers of ASUU to address these our grievances brought to you as follows:

- (a) That in view of the fact that we are dying in ASUU as a result of the undemocratic provisions in the Constitution of ASUU, 2019, (as amended), we demand that the President and National Executive Council of ASUU within two weeks from the date of this letter, call for a Constitutional Conference to amend the undemocratic ASUU Constitution that has denied us, Owojecho Omoha and Nicholas Ebehikhulu fundamental right to aspire to any leadership position in ASUU as guaranteed in the Constitution of the Federal Republic of Nigeria, 1999, (as amended).
- (b) That the President and the National Executive Council of ASUU within another two weeks from the day the Constitutional Conference comes to an end publish the amended ASUU Constitution to guarantee our right to contest any leadership position in ASUU as guaranteed by the Constitution of the Federal Republic of Nigeria, 1999, (as amended).
- (c) That the President and the National Executive Council of ASUU immediately stop the tenure elongation of Dr. Sylvanus Ugo led Executive at University of Abuja and open new nominations for elections to offices at the branch, giving us, Owojecho Omoha and Nicholas Ebehikhulu the fundamental right to contest for either the chairman or the secretary position of ASUU at University of Abuja.
- (d) That the President and the National Executive Council of ASUU accept the vote of no confidence passed by 82 members of the Union in the Dr. Sylvanus Ugo led Executive at University of Abuja and accordingly remove the Executive from office.
- (e) That the President and the National Executive Council of ASUU compel the illegal occupant of the seat of chairperson ASUU at University of Abuja to withdraw the queries issued us, Owojecho Omoha and Nicholas Ebehikhulu at University of Abuja branch, for allegedly disrupting the April 24<sup>th</sup> 2023 election at the branch, even as the Management of the University ordered the stoppage of the elections due to irregularities in members/voters' register and to avoid a breakdown of law and order at the campus.
- (f) That the failure of the President and the National Executive Council of ASUU to address these grievances within one month from the day of receipt of this letter will make us to go to the Court of Law to seek judicial interpretations of some provisions in the Constitution of ASUU, 2019. (as



*amended) that are at variance with the Constitution of the Federal Republic of Nigeria, 1999, (as amended). The failure by the President and the National Executive Council of ASUU to resolve our grievances within one month will make us to further seek redress at a Court of Law on the infringements of our fundamental rights as guaranteed in the Constitution of the Federal Republic of Nigeria, 1999, (as amended)."*

This letter was received by the 2<sup>nd</sup> defendant on 7<sup>th</sup> August 2025. In the letter, the claimants had stated their grievances clearly and requested redress of their grievances. In paragraph 19 of the affidavit in support of the Originating Summons, the claimants said the defendants received the letter but did nothing to address the issues raised in the letter. The defendants did not deny the letter and did not controvert the claimants' averments in paragraph 19.

Although the letter was addressed to the President and National Officers of the 1<sup>st</sup> defendant, it was received by the 2<sup>nd</sup> defendant branch whose Branch Exco the claimants are required to submit their complaint in the first place. When the 2<sup>nd</sup> defendant received the letter, the claimant had effectively delivered their complaint to the Branch Exco who is then required by the constitution to forward it to the appropriate quarters for consideration or resolution of the complaints.

What the claimants are required to do in Code 5[i] of Appendix 1 to activate the grievance resolution procedure is to submit their written complaint to the Branch Exco and after that, it is the defendants to take other steps in the grievance resolution process to resolve the complaints. Where the claimants made a complaint but no step was taken in accordance with the Constitution by the defendants to resolve the grievances, the failure is that of the defendants and not that of the claimants. When the claimants filed this suit on 1<sup>st</sup> December 2025, it was a period of more than 3 months since the complaint of 6<sup>th</sup> August 2025 was submitted to the 2<sup>nd</sup> defendant yet the defendants never attended to the complaint. The claimants are not expected to wait in perpetuity for the defendants to attend to their complaints. The failure of the defendants to take the necessary steps to attend to the claimants complaints gives the claimant the right to approach the court for redress.

I find that the claimants activated the grievance resolution mechanism of the 1<sup>st</sup> defendant by submitting a written complaint of their grievances in this suit to the defendants but it was the defendants who failed to perform their own responsibilities in the grievance resolution mechanism. In my view, the defendants whose default occasioned the non-exhaustion of the internal grievance resolution mechanism cannot turn around to blame it on the claimants.



I hold that the claimants' suit is competent. Consequently, the NPO lacks merit. It is dismissed.

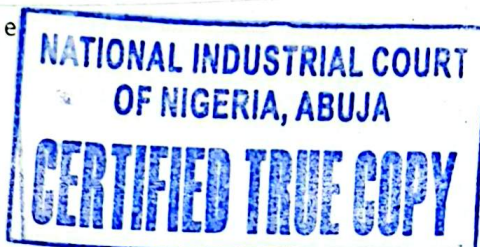
### **DECISION ON THE ORIGINATING SUMMONS**

The claimant submitted two questions for determination in the amended Originating Summons. The questions are these:

1. *Whether upon the proper construction of the 2019 Constitution and Code of Practice of the Academic Staff Union of Universities (ASUU) As Amended, is there any provision(s) therein permitting/allowing tenure extension/elongation of elected leaders/officials either for the National or Branch Levels of ASUU?*
2. *Whether by the provisions of the 2019 Constitution and Code of Practice of the Academic Staff Union of Universities (ASUU) as amended restricting eligibility of a member to be voted into any of the National Offices to a person who is a National Officer, or Branch Chairperson or Convener of a National Executive Council (NEC) Committee or Zonal Coordinator, and that of the Branch Chairperson or Secretary to a member who must have been a Convener of any Committee(s) of the Union or serve in the Branch Executive Committee is not an infringement on the Fundamental Right such as non discrimination of the 1999 Constitution of the Federal Republic of Nigeria (As Amended)?*

However, in the written address in support of the amended Originating Summons, the claimant set out 4 questions in paragraph 1.02 as being the questions for determination in the Originating Summons. The 3<sup>rd</sup> and 4<sup>th</sup> questions contained in paragraph 1.02 of the written address cannot be found on the amended originating summons. Again, while the claimants submitted 2 questions for determination in the Originating Summons, they formulated 4 issues for determination in the written address in support of the Originating Summons. Issues 1 and 2 flow from questions 1 and 2 of the Originating Summons but issues 3 and 4 are not based on any of the questions for determination in the Originating Summons.

In Originating Summons proceedings, it is the questions in the Originating Summons that the court is called upon to determine and the issues to be determined in the suit must be connected to or flow directly from the questions for determination in the Originating Summons. Any question or issue contained in the written address but not contained in the Originating Summons or which does not flow or arise from the questions in the Originating Summons is not competent and Originating Summons cannot be considered by the Court. Accordingly, issues 3 and 4 contained in the written address in support of the Originating Summons are not competent issues to be considered in this judgment. Also, the two questions contained in the Originating Summons are the only issues to be determined in this suit.



I will now consider the questions individually.

**RESOLUTION OF QUESTION 1:**

In the affidavit in support of the Originating Summons the claimants case is that the Executive Officers of the 2<sup>nd</sup> Defendant branch of the 1<sup>st</sup> defendant were elected and sworn in on 24<sup>th</sup> April 2023 for a term, which is, according to the 1<sup>st</sup> defendant's constitution, for two years which tenure was to terminate on 24<sup>th</sup> April 2025 on which date another election was to be conducted to elect new officers. The process towards the conduct of election was underway on 24<sup>th</sup> April 2025 but the process was disrupted by crisis and as a result, the management of University of Abuja directed that the election be suspended to avoid breakdown of law and order. Because of the suspension of the election, the Executive Officers of the 2<sup>nd</sup> defendant remained in office up to when another election of officers of the 2<sup>nd</sup> Defendant was fixed for 26<sup>th</sup> February 2026. According to the claimants, there is no provision in the Constitution and Code of Practice of the 1<sup>st</sup> defendant for elongation of tenure of officers either at the national or branch level. Learned Counsel for the claimants submitted that the 1<sup>st</sup> defendant's Constitution did not make any provision for tenure elongation of elected officers of the Union but Article 10 (vi) of the Constitution provide that all officers of the Union, except the General Secretary, shall be elected for a term of two years at a time. The effect is that the tenure of any elected officer cannot exceed two years. It is therefore a breach of the Constitution for the 2<sup>nd</sup> defendant's executive officers to stay in office beyond 24<sup>th</sup> April 2025, when their tenure of two years lapsed.

On the part of the defendants, their case is that the Executive Officers of the 2<sup>nd</sup> Defendant were elected on 24<sup>th</sup> April 2023 for single tenure of 2 years in accordance with 1<sup>st</sup> defendant's Constitution and as the tenure of the said executives was nearing expiration, the NEC of the 1<sup>st</sup> Defendant fixed the date for election of new executives, Electoral Committee was constituted to conduct the election and the election came up on 24<sup>th</sup> April 2025. After voting commenced, the election was disrupted which made the NEC, at its plenary session at Pre-NDC NEC to suspend and postpone the election until further notice. The NEC subsequently fixed 26<sup>th</sup> February 2026 for a new election to be conducted. Learned counsel for the defendants submitted that the 1<sup>st</sup> Defendant's Constitution in Article 10 (vi) and paragraph xxiii, Appendix II, recognizes election as the only way to dissolve incumbent executives and to bring in new executives. Thus, when there is crisis and election could not be conducted, branch Executives are allowed to retain their offices, as a necessity, to avoid vacuum. It was also submitted that the NEC of the 1<sup>st</sup> Defendant has the mandate under paragraph IV (i) Appendix II of the 1<sup>st</sup> Defendant's Constitution to take decisions on the 2<sup>nd</sup> Defendant's election due to the disruption of the election.

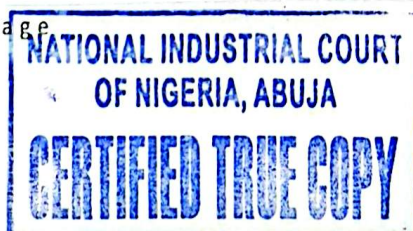


It is not in dispute that the tenure of elected officers of the defendants, in accordance with the 1<sup>st</sup> defendant's constitution, is 2 years from the date of election. Article 14 of the 1<sup>st</sup> defendant's constitution provides that "all officers of the union shall be elected by the body authorized in accordance with this constitution". Also, there is Article 10[vi] which provide that "all officers of the union, except the General Secretary, shall be elected for a term of two years at a time". The effect of these provisions of the 1<sup>st</sup> defendant's constitution is that all officers of the 1<sup>st</sup> defendant, except the General Secretary, whether at the national or branch level, must assume office through election and the tenure of office is two years. It is also not in dispute in this case that the tenure of the executive officers of the 2<sup>nd</sup> defendant who were elected on 24<sup>th</sup> April 2023 for a term was to expire on 24<sup>th</sup> April 2025 and another election to elect new officers was being conducted on 24<sup>th</sup> April 2025. However, the election was disrupted by crisis of the members and the election was accordingly suspended and postponed. Meanwhile, the executive officers of the 2<sup>nd</sup> defendant whose two years tenure lapsed on 24<sup>th</sup> April 2025 continued in office until the conduct of new election rescheduled for 26<sup>th</sup> February 2026. This is where question 1 of the Originating Summons arose from. The claimants asked whether there is any provision in the 1<sup>st</sup> defendant's constitution permitting the tenure of the executive officer of the 2<sup>nd</sup> defendant to be elongated beyond the constitutional two years.

The National Executive Council [NEC] is one of the governments of the 1<sup>st</sup> defendant in Article 5[v] of the 1<sup>st</sup> defendant's constitution and in Article 8[b], the NEC is vested with powers to administer the 1<sup>st</sup> defendant in between the National Delegates Conference in accordance with the Constitution. The 1<sup>st</sup> defendant's constitution also gave the NEC responsibilities and powers with respect to Branch elections in Appendix II. The following provisions were made in Appendix II [ii], [iii] and [iv]:

- ii. *The National Secretariat shall, through NEC, normally announce at, least one month in advance the expiration date of the tenure of the particular Branch Executive Committee.*
- iii. *NEC reserves the right to postpone/suspend the announcement or intended announcement of any date as contained in (ii) above where, in its judgment, the Branch is considered to be in a crisis.*
- iv. *Once NEC has given clearance for the conduct of an election in a branch, the Branch Congress shall set up an Electoral Committee whose responsibility shall be to conduct a free and fair election for the branch. Where the Branch is in crisis, and it is in NEC's judgment that there shall be an election, NEC will conduct the election.*

Also, with respect to disputes arising from branch elections which could not be resolved by branch congress, Appendix II [xxvii] provide as follows:



*Where, however, the Congress is unable to resolve the dispute or crisis as the case may be, the National Secretariat shall be informed as soon as possible by the NEC representatives/observers. The National Secretariat shall present the case to NEC for further directives where necessary, and the decision of NEC in such a case shall be final.*

By these provisions of Appendix II of the 1<sup>st</sup> defendant's constitution, the NEC is vested with power to decide, where a branch is having election crisis, to hold the election or suspend/postpone the election. Also, where there is branch election crisis/disputes, the decision of NEC on such dispute/crisis is final.

In the counter affidavit of the defendants, it was explained that as a result of the disruption of the 2<sup>nd</sup> defendant's branch election on 24<sup>th</sup> April 2025, the NEC, upon being informed at the Pre-NDC NEC, suspended the election and postponed same until further notice. Exhibit G of the defendants counter affidavit is the resolutions of NEC made on 8<sup>th</sup> May 2025. I have seen the resolution at paragraph III of page 2 of the Exhibit where the NEC ratified the resolution of the Electoral Committee to put the election on hold until further notice. The claimant did not dispute this resolution but merely averred in paragraph 33 of their further affidavit that NEC did not suspend the election in their meeting of 8<sup>th</sup> May 2025 but rather, it was the management of the University of Abuja that suspended the election. In my view, whether it was the NEC that suspended the election or not, the NEC ratified the suspension of the election in its meeting of 8<sup>th</sup> May 2025 and further postponed the election until further notice.

Now, the election having been suspended and subsequently postponed by NEC, what happens to the tenure of the officers whose tenure was to lapse on 24<sup>th</sup> April 2025? As a result of the disrupted election, election could not hold to elect new officers. The 1<sup>st</sup> defendant's constitution did not make any provision as to how a branch whose election was disrupted should be administered before proper election is conducted. However, Appendix II [xxiii] of the 1<sup>st</sup> defendant's constitution provides that:

*"Upon successful conclusion of election, the incumbent executives shall stand dissolved and the new executives so elected shall assume office immediately".*

The implication of this provision is clear. Transition from incumbent executives to new ones is based on successful election. The tenure of incumbent executives is automatically dissolved upon a successful election and it is only upon a successful election that new officers are sworn in. Thus, where there is no successful election, as in this case, no new officers were elected to assume office and the incumbent executives do not stand dissolved. This provision, in my view, is a fortuitous inclusion in the 1<sup>st</sup> defendant's constitution but happens to be the saving grace for situations of this nature



where branch elections could not be conducted at the expiration of the tenure of incumbent executives.

From the foregoing, incumbent officers, even though their tenure has lapsed, are dissolved only by a successful election to elect new officer to assume their offices. Having not been dissolved by a successful election, the incumbent officers are entitled to continue in office until when a successful election is conducted and new officers were elected to assume their offices. Accordingly, question 1 of the Originating Summons is answered in the affirmative and against the claimant.

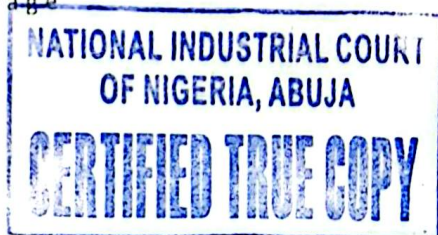
#### RESOLUTION OF QUESTION 2:

It was submitted in issue 2 of the written address in support of the Originating Summons that the provisions of Article 14(1) (b)(i) and Appendix II [xii] (c) of the Constitution of the 1<sup>st</sup> defendant placed eligibility restrictions on members which prevents some members affected by the restrictions from being voted into National and Branch Offices of the 1<sup>st</sup> defendant. According to the claimants, such provisions amount to infringement of the members fundamental right against discrimination provided in Section 42[2] of the CFRN 1999.

In response, it was submitted in issue 3 of the written address in support of the defendants counter affidavit that the requirements for the eligibility to contest for an election stipulated in Article 14(b) (1) of the Code of Practice and Appendix II xii (c) (i) of the 1<sup>st</sup> Defendant's Constitution is not discriminatory, not a violation of section 42 of the CFRN 1999 but binding on all members of the 1<sup>st</sup> defendant, including the claimants.

I have examined the constitution of the 1<sup>st</sup> defendant. Article 11 of the constitution created the offices of the national officers while Article 12 created the offices of branch officers. Article 14 provides that all officers of the 1<sup>st</sup> defendants shall be elected and it proceeded to set out the criteria for eligibility to contest for any of the national or branch offices. Additional eligibility criteria for branch chairperson or secretary are provided in Appendix II [xii] of the 1<sup>st</sup> Defendant's Constitution.

The complaint of the claimants in question 2 of the Originating Summons is simply about the requirements stipulated in the 1<sup>st</sup> defendant's constitution for qualification or eligibility to contest for any of the national offices or branch chairperson or secretary. The issue of eligibility criteria or requirement to contest trade union internal elections or election to offices in political parties or any voluntary association, is an internal affair of such trade union, political party or association. Trade unions, political parties or associations are free to decide or fix criteria or requirements for their members to be eligible to contest internal elections. Thus, the requirements as set by the 1<sup>st</sup> defendant are purely within the internal or domestic affairs of the 1<sup>st</sup> defendant. As such, this court does not have jurisdiction to dabble into or interfere in such internal matters. See



ANYANWU V. EMMANUEL [2025] 14 NWLR [PT. 2006] 531; A.P.C. V. MOSES [2021] 14 NWLR [PT. 1796] 278.

Since this Court cannot dictate to the defendants what should be the eligibility criteria for its members to contest for offices in the union, so also the court cannot interfere with the eligibility criteria fixed by the defendants. The Court may interfere in affairs of trade union, political party or association only where there is a complaint that there is a breach of provisions of the rules or constitution of the trade union, political party or association affecting a member and to enforce compliance with such rules or constitution. But once the issue in dispute is about who should or should not be qualified to contest internal offices, the court does not interfere. See *ELUFIOYE V. HALILU* [1990] 2 NWLR [PT. 130] 1; *MAGAJI V. A.P.C.* [2024] 1 NWLR [PT. 1918] 1.

Let me add that Article 5[ii] of the 1<sup>st</sup> defendant's constitution states that the constitution is the basis of the contract between the members of the 1<sup>st</sup> defendant to establish and operate the union. It therefore implies that members willingly subscribed to the constitution and agreed to be bound by the provisions of the Constitution. The claimants, as members of the 1<sup>st</sup> defendant, have therefore agreed to the eligibility requirements in Article 14 and Appendix II [xii] of the 1<sup>st</sup> defendant's constitution. They cannot now be seeking to invalidate the provisions simply because it does not favour them.

Without wasting more time on this issue, I resolve question 2 of the Originating Summons in the negative and against the claimant.

Relief 3 sought by the claimants is for a declaration that the suspension of the Claimants from membership of the 1<sup>st</sup> defendant is null and void. The claimants did not, however, raise any question in the Originating Summons for the determination of the validity or propriety of their suspension from membership of the defendants. Since the relief did not arise from any of the questions presented in the Originating Summons to be determined by this Court, this court lacks the vires to consider relief 3 independently.

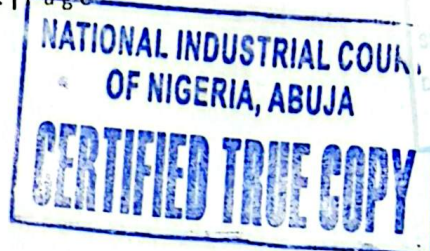
In the result of all the foregoing, this suit obviously lacks merit. It is accordingly dismissed.

Parties shall bear their costs.

Judgment is entered accordingly.

Hon. Justice O. Y. Anuwe  
Judge

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ANYANWU V. EMMANUEL [2025] 14 NWLR [PT. 2006] 531; A.P.C. V. MOSES [2021] 14 NWLR [PT. 1796] 278.

Since this Court cannot dictate to the defendants what should be the eligibility criteria for its members to contest for offices in the union, so also the court cannot interfere with the eligibility criteria fixed by the defendants. The Court may interfere in affairs of trade union, political party or association only where there is a complaint that there is a breach of provisions of the rules or constitution of the trade union, political party or association affecting a member and to enforce compliance with such rules or constitution. But once the issue in dispute is about who should or should not be qualified to contest internal offices, the court does not interfere. See *ELUFIOYE V. HALILU* [1990] 2 NWLR [PT. 130] 1; *MAGAJI V. A.P.C.* [2024] 1 NWLR [PT. 1918] 1.

Let me add that Article 5[ii] of the 1<sup>st</sup> defendant's constitution states that the constitution is the basis of the contract between the members of the 1<sup>st</sup> defendant to establish and operate the union. It therefore implies that members willingly subscribed to the constitution and agreed to be bound by the provisions of the Constitution. The claimants, as members of the 1<sup>st</sup> defendant, have therefore agreed to the eligibility requirements in Article 14 and Appendix II [xii] of the 1<sup>st</sup> defendant's constitution. They cannot now be seeking to invalidate the provisions simply because it does not favour them.

Without wasting more time on this issue, I resolve question 2 of the Originating Summons in the negative and against the claimant.

Relief 3 sought by the claimants is for a declaration that the suspension of the Claimants from membership of the 1<sup>st</sup> defendant is null and void. The claimants did not, however, raise any question in the Originating Summons for the determination of the validity or propriety of their suspension from membership of the defendants. Since the relief did not arise from any of the questions presented in the Originating Summons to be determined by this Court, this court lacks the vires to consider relief 3 independently.

In the result of all the foregoing, this suit obviously lacks merit. It is accordingly dismissed.

Parties shall bear their costs.

Judgment is entered accordingly.

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