

IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE AWKA JUDICIAL DIVISION

HOLDEN AT AWKA

SUIT NO. FHC/AWK/CS/103/2024

BETWEEN:

WILFRED IKECHUKWU EZIKE

APPLICANT

AND

1. ANAMBRA STATE GOVERNMENT = DEFENDANTS
2. THE HONORABLE ATTORNEY GENERAL OF ANAMBRA STATE
3. HON. SOLOMON CHUKWUEBUKA ONWUEMENE  
*(State Director, Special Anti-Touting Squad Anambra State (AKA SASA))*
4. MR. FRED NWEKE  
*(The Admin Officer of SASA)*
5. KENECHUKWU OKOLIE (AKA Onuwa)  
*(Officer in Charge of Torture, Special Anti-Touting Squad Anambra State)*
6. THE INSPECTOR GENERAL OF POLICE
7. THE ATTORNEY GENERAL OF THE FEDERATION

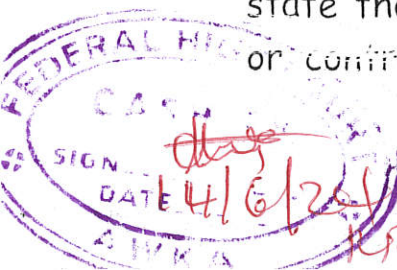


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COUNTER AFFIDAVIT OF 1<sup>ST</sup> & 2<sup>ND</sup> RESPONDENTS

I, Mr. Obumneme Obiechie, Adult male, Christian, Nigerian Citizen of the Honorable Attorney General's Office, Ministry of Justice, Awka, Anambra State do hereby make oath and state as follows:

1. That I am a litigation officer in the office of the Honorable Attorney General, Ministry of Justice Awka by virtue of which I am conversant with the facts of this case. I also have the authority and consent of the 1<sup>st</sup> and 2<sup>nd</sup> respondents to depose to this affidavit.
2. That unless expressly and specifically admitted, the 1<sup>st</sup> and 2<sup>nd</sup> defendants deny each and every allegation of facts contained in the applicant's affidavit in support of this application as if such facts were particularly set out and denied seriatim.
3. That Paragraphs 3, 4, 5 and 6 of the applicant's affidavit are false. In response to paragraph 3, the 1<sup>st</sup> and 2<sup>nd</sup> respondents state that the 3<sup>rd</sup> to 5<sup>th</sup> respondents are not employees, agents or contractors of the 1<sup>st</sup> and 2<sup>nd</sup> respondents. In response to



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122-2910-6319-2316

paragraph 4 of the applicant's affidavit, the 1<sup>st</sup> and 2<sup>nd</sup> respondents state that state organs/entities in Anambra State are created by law, executive orders or other contracts duly executed by the State Government. The applicant is challenged to provide any law, executive order, official gazette or any other contract duly executed by the Anambra State Government creating and/or constituting the alleged Special Anti-Touting Squad. In response to paragraph 6, the 1<sup>st</sup> and 2<sup>nd</sup> respondents state that they are not responsible for the activities of the 3<sup>rd</sup> to 5<sup>th</sup> respondents or the alleged Special Anti-Touting Squad complained of in this suit. The applicant is challenged to produce evidence that either the Special Anti-Touting Squad or the 3<sup>rd</sup> to 5<sup>th</sup> respondents are employed directly or indirectly by the Anambra State Civil Service Commission, or that they receive their salaries out of the consolidated fund of the state.

4. In further response to paragraph 5 of the applicant's affidavit, the 1<sup>st</sup> and 2<sup>nd</sup> respondents state that they have no hand in the travails of the applicant described in this suit. The 3<sup>rd</sup> to 5<sup>th</sup> respondents never acted on the instructions of or on behalf of the 1<sup>st</sup> and 2<sup>nd</sup> respondents in allegedly arresting, detaining, torturing or extorting the applicant. The applicant is hereby challenged to produce evidence at the trial that the 3<sup>rd</sup> to 5<sup>th</sup> respondents acted on the instructions of the 1<sup>st</sup> and 2<sup>nd</sup> respondents in the circumstances complained of in this suit.
5. That the 1<sup>st</sup> and 2<sup>nd</sup> respondents are not in any position to deny or admit paragraphs 7, 8, 9 and 10 of the applicant's affidavit as the 1<sup>st</sup> and 2<sup>nd</sup> respondents were never part of the transactions alleged in the said paragraphs.
6. That the 1<sup>st</sup> and 2<sup>nd</sup> respondents admit paragraphs 11 & 12 of the applicant's affidavit.
7. That the 1<sup>st</sup> and 2<sup>nd</sup> respondents deny paragraphs 13, 14 & 15 of the applicant's affidavit. In response to paragraph 13, the Anambra State Government led by Prof. Chukwuma Charles Soludo has no arrangement with Hon. Chief Hipolite Ekwegbara, Deways Global Resources Nigeria Ltd or any other private person or company to sell revenue emblems to tricycle operators in

Anambra State. The applicant is hereby challenged to prove otherwise by cogent evidence.

8. In further response to paragraph 14 & 15 of the applicant's affidavit, the Anambra State Government never had any arrangement with the applicant to sell any such retail franchise to the applicant either directly or through any other person. The applicant never paid any money to the Anambra State Government for any such arrangement either directly or through any other person authorized by the Anambra State Government.
9. That the 1<sup>st</sup> and 2<sup>nd</sup> respondents are not in any position to deny or admit paragraphs 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31 of the applicant's affidavit as the 1<sup>st</sup> and 2<sup>nd</sup> respondents were never part of the alleged transactions narrated in those paragraphs.
10. That paragraphs 32, 33, 34, 35, 36, 37 and 38 of the applicant's affidavit are false and hereby denied. In response, the 1<sup>st</sup> and 2<sup>nd</sup> respondents state that they never arrested, detained or tortured the applicant. The 1<sup>st</sup> and 2<sup>nd</sup> defendants never extorted any money from the applicant. The 1<sup>st</sup> and 2<sup>nd</sup> respondents never threatened to kill the applicant or expel the applicant from Anambra State.
11. That the 1<sup>st</sup> and 2<sup>nd</sup> respondents are not liable to the applicant in this suit. The 1<sup>st</sup> and 2<sup>nd</sup> respondents shall rely on all legal and equitable defenses available to them in respect of this suit. The 1<sup>st</sup> and 2<sup>nd</sup> respondents shall contend that this suit does not disclose any cause of action against the 1<sup>st</sup> and 2<sup>nd</sup> respondents, and ought to be dismissed with heavy costs against the applicant.
12. That I make this statement in good faith, believing same to be true in accordance with the relevant Oaths Law.



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DEPONENT

Sworn to at the Federal High Court Registry,  
Awka this 14<sup>th</sup> day of June, 2024.

BEFORE ME  
  
COMMISSIONER FOR OATHS

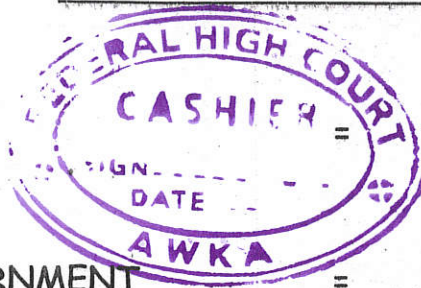
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WRITTEN ADDRESS OF 1<sup>ST</sup> & 2<sup>ND</sup> RESPONDENTS

1.0 INTRODUCTION

The applicant by an originating motion on notice dated the 2<sup>nd</sup> day of May 2024 and filed on the 7<sup>th</sup> day of May 2024 sued the respondents for the enforcement of his fundamental rights. The applicant claims the following reliefs:

1. A **DECLARATION** that the arrest and torture of the applicant on the 9<sup>th</sup> day of May 2024 by the 1<sup>st</sup> to 5<sup>th</sup> respondents is unlawful, illegal, oppressive, unconstitutional, null, void and a violation of his fundamental right.
2. A **DECLARATION** that the arrest of the applicant on the 9<sup>th</sup> March, 2024 and his detention from the 9<sup>th</sup> March 2024 to the 10<sup>th</sup> March, 2024 by the respondents is unlawful, illegal, oppressive, unconstitutional, and a violation of his fundamental right.

3. **A DECLARATION** that in the circumstances of this case, there is no law permitting the 1<sup>st</sup> to 5<sup>th</sup> respondents to arrest and detain the applicant in the manner and for the reason provided.
4. **A DECLARATION** that no law empowers 1<sup>st</sup> to 5<sup>th</sup> respondents to torture the applicant.
5. **A DECLARATION** that the 1<sup>st</sup> to 5<sup>th</sup> respondents acted wrongfully and unlawfully by torturing the applicant with wooden pestle and inflicting grievous bodily injury on him.
6. **A DECLARATION** that order by the 1<sup>st</sup> to 5<sup>th</sup> respondents to the applicant to leave Anambra State or be killed is unlawful.
7. **A DECLARATION** that it is unlawful for the respondents to kill the applicant whether as threatened by the 4<sup>th</sup> respondent or at all unless ordered by a court of competent jurisdiction.
8. **A DECLARATION** that the 6<sup>th</sup> and 7<sup>th</sup> respondents are under legal obligation to investigate the reported illegal activities of Special Anti-Touting Squad, Anambra State (SASA), the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> respondents and where necessary, prosecute them.
9. **A DECLARATION** that it is unconstitutional and infringes on the applicant's right to fair hearing for the 1<sup>st</sup> to 5<sup>th</sup> respondents to be the accuser, the judge and the executor.
10. **AN ORDER** restraining the 1<sup>st</sup> to 5<sup>th</sup> respondents, their agents, servants, privies or any other person acting on their behalf from further arresting, detaining and/or torturing the applicant.
11. **AN ORDER** restraining the 1<sup>st</sup> to 5<sup>th</sup> respondents, their agents, servants, privies or any other person acting on their behalf, from killing or threatening to kill the applicant.
12. **AN ORDER** directing the 1<sup>st</sup>, 2<sup>nd</sup>, 6<sup>th</sup> and 7<sup>th</sup> respondents to take all steps necessary to ensure that no harm whatsoever, including but not limited to deprivation of rights to life,

livelihood, dignity, liberty, property are visited on the applicant for whatever reason except in the course of carrying out the sentence of a court of competent jurisdiction.

13. **AN ORDER** of court awarding the sum of five hundred million naira (N500,000,000.00) general damages in favor of the applicant against the 1<sup>st</sup> to 5<sup>th</sup> respondents for infringing the fundamental rights of the applicant including for his arrest, detention and torture which inflicted grievous bodily excruciating pain on the applicant on the 9<sup>th</sup> March 2024.
14. **AN ORDER** of the Honorable Court compelling the 1<sup>st</sup> to 5<sup>th</sup> respondents to pay the sum of two million naira (N2,000,000.00) being the cost of medical treatment of the applicant resulting from torture by the 1<sup>st</sup> to 5<sup>th</sup> respondents which inflicted grievous bodily injury on the applicant.
15. **AN ORDER** of this Honorable Court compelling the 3<sup>rd</sup> respondent to return the sum of N100,000.00 being the ransom paid by the applicant to the 3<sup>rd</sup> respondent described as bail to the applicant.
16. **AN ORDER** of the Honorable Court directing the 1<sup>st</sup> to 5<sup>th</sup> respondents to write a letter of apology to the applicant and publish same on two National daily newspapers.

The 1<sup>st</sup> and 2<sup>nd</sup> respondents filed a 12 paragraph counter affidavit in opposition, and urged the court to dismiss this suit as it relates to the 1<sup>st</sup> and 2<sup>nd</sup> respondents.

## 2.0 ISSUE FOR DETERMINATION

The 1<sup>st</sup> and 2<sup>nd</sup> respondents propose the following issues for determination to wit:

*"Whether the applicant has proved his case against the 1<sup>st</sup> & 2<sup>nd</sup> respondents to be entitled to judgment against the 1<sup>st</sup> & 2<sup>nd</sup> respondents"*

### 3.0 ARGUMENT

3.1 My Lord, we submit that the applicant has not established by cogent evidence any wrongdoing against the 1<sup>st</sup> and 2<sup>nd</sup> respondents in this case to be entitled to any judgment against the 1<sup>st</sup> and 2<sup>nd</sup> respondents. The law is that, where a material fact is pleaded and is either denied or disputed by the other side, the onus of proof rests on he who asserts that fact to establish it by evidence. See Crushed Rock Ind. Ltd vs. Ububa (2002) 8 NWLR (Pt. 770) 522

Section 133 Evidence Act 2011 provides thus:

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

In *A.G. Anambra State vs. A.G. Fed.* (2005) 9 NWLR (Pt. 931) 572, the Supreme Court restated the law clearly thus:

*"Pleadings of a party unless conceded by the other party must of necessity be well fleshed up by evidence to persuade the court positively."*

3.2 The alleged grievances of the applicant against the 1<sup>st</sup> and 2<sup>nd</sup> respondents captured in paragraphs 3, 4, 5, 6, 7, 13, 14, 17, 32, 33, 34, 35, 36, 37, 38 and 41 of the applicant's affidavit are at best speculative, imaginary and not supported by any evidence before the court.

3.3 The applicant alleged that Anambra State Government under the leadership of Professor Chukwuma Soludo constituted the Special Anti-Touting Squad of Anambra State (SASS). The applicant did not provide any law, executive order, official gazette or any other contract or document duly executed by the Anambra State Government showing that Anambra State Government in fact created and inaugurated the alleged Special Anti-Touting Squad.



- 3.4 The applicant merely tendered online newspaper publications (**exhibits MG1, MG 1A and MG 1B**) downloaded from his mobile phone to assert that Anambra State Government created the said Special Anti-Touting Squad. Any person can write and post anything online which may not necessarily be the truth, especially in this era of proliferation of fake news. Any such online publications would therefore not be taken at face value, but must be subjected to judicial and evidential scrutiny.
- 3.5 The said online newspaper publications (**exhibits MG1, MG 1A and MG 1B**) were not authored by the applicant. The said online newspaper publications (**exhibits MG1, MG 1A and MG 1B**) were therefore documentary hearsay.

In **Lambert vs. Nigerian Navy (2006) 7 NWLR (Pt. 980) 514**, the court held as follows:

*"The proper person through whom a document is tendered is the maker of such document. If a person who is not the maker of a document tenders the document, the court should not attach any probative value to the document because the person tendering the document not being the maker of the document cannot answer questions arising from any cross examination.*

- 3.6 In other words, even in the event that an inadmissible evidence was admitted for whatever reason, the court is entitled and indeed under a duty to discountenance such evidence in its final determination of the case. We therefore urge my Lord to discountenance **exhibits MG1, MG 1A and MG 1B**, and attach no probative value to them.
- 3.7 Having failed to prove that Anambra State Government created the Special Anti-Touting Squad, the applicant also woefully failed to establish any link between the 1<sup>st</sup> and 2<sup>nd</sup> respondents on one hand and the 3<sup>rd</sup> to 5<sup>th</sup> respondents. In paragraphs 5 & 32 of his affidavit, the applicant averred as follows:

"5. I believe that the 3<sup>rd</sup> to 5<sup>th</sup> respondents are agents of the 1<sup>st</sup> respondent and acted at the behest and instructions of the 1<sup>st</sup> respondent in this matter and many other activities that have become notorious and nefarious. They also acted for themselves and each other".

"32. That my torture by the 1<sup>st</sup> to 5<sup>th</sup> respondents was widely publicized in online newspaper. I hereby attached the online newspaper report as exhibit MG 7. The certificate in compliance with section 84(4) is also attached."

- 3.7 We humbly submit that the applicant's belief is not legal proof that the 3<sup>rd</sup> to 5<sup>th</sup> respondents are in fact agents of the 1<sup>st</sup> and 2<sup>nd</sup> respondents, or that the 3<sup>rd</sup> to 5<sup>th</sup> respondents acted on the instructions of the 1<sup>st</sup> and 2<sup>nd</sup> respondents. The applicant ought to have exhibited a document or contract duly executed by the 1<sup>st</sup> and 2<sup>nd</sup> respondents, appointing the 3<sup>rd</sup> to 5<sup>th</sup> respondents as its agents or authorizing them to act on behalf of the Anambra State Government in the manner complained of by the applicant.

Section 5 of the State Proceedings Law of Anambra State provides that:

"Notwithstanding the provisions of section 4 of this Law, no action in tort shall be brought—

(c) against the State for tort committed by any servant of the State in discharge of his duties unless such officer has been appointed directly or indirectly by the Civil Service Commission of the State or receives his salary out of the Consolidated Fund of the State.

For the purposes of this subsection, the onus shall be on the plaintiff to show that such officer of the state has been so employed, or so receives his salary as the case may be.

**Exhibit MG 7** referred to by the applicant is an online newspaper report. The said online newspaper report was not authored by the applicant and is therefore documentary hearsay, and we urge My Lord to so hold.

3.8 In short, the applicant never established any link at all between the injury he allegedly suffered and the 1<sup>st</sup> and 2<sup>nd</sup> respondents. Whereas the applicant alleged that he was arrested, tortured, detained and extorted by the 1<sup>st</sup> to 5<sup>th</sup> respondents, we urge My Lord to hold that the applicant failed to provide any evidence that the 1<sup>st</sup> and 2<sup>nd</sup> applicants were involved in the circumstances complained of in this suit.

3.9 **Exhibit MG 3** exhibited in paragraph 14 of the applicant's affidavit is Ecobank statement of account showing transfers of money the applicant allegedly made to one Chief Ekwegbara and his company. **Exhibit MG 5** in paragraph 30 of the applicant's affidavit is the alleged N102,000.00 the applicant paid for his release on the demand of the 3<sup>rd</sup> respondent.

The Anambra State Government was not involved in any of the alleged transactions. Chief Ekwegbara alleged by the applicant does not represent the Anambra State Government and is not a party to this suit. From exhibit MG 3 and MG 5, no money was paid to the 1<sup>st</sup> and 2<sup>nd</sup> respondents either directly or to any person duly authorized by the 1<sup>st</sup> and 2<sup>nd</sup> respondents. We therefore urge My Lord to discountenance exhibit MG 3 and MG 5 as against the 1<sup>st</sup> and 2<sup>nd</sup> respondents, and not attach any probative value to them.

#### 4.0 CONCLUSION

The applicant alleged that the 1<sup>st</sup> and 2<sup>nd</sup> respondents arrested, detained, tortured and extorted him. It was therefore incumbent upon him to prove those allegations by cogent evidence. See section 133(1) of the Evidence Act, 2011; *Alao vs. Kure* (2000) FWLR (Pt. 6) 889 CA.

The applicant failed to prove that the 1<sup>st</sup> and 2<sup>nd</sup> respondents arrested, detained, tortured and extorted him either directly or through any other person authorized by the 1<sup>st</sup> and

respondents. We therefore urge My Lord to dismiss this suit as against the 1<sup>st</sup> and 2<sup>nd</sup> respondents.

We are grateful.

Dated this 28<sup>th</sup> day of May 2024

✓ **OBIANUJU UMEH, ESQ. (NEE OKEKE) (AD)**  
**SUNDAY NNABA, ESQ.**

Department of Civil Litigation  
Ministry of Justice,  
Awka. 08132666987



**FOR SERVICE ON THE APPLICANT:**

C/O His Counsel

Ifeanyi Okeke, Esq.

Benjamin O. Komuo, Esq.

O.E. Okafoeze Esq.

Johnson Agwu

Ifeanyi Okeke & Associates

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Anambra State

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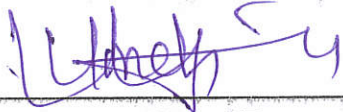
MOTION ON NOTICE BROUGHT PURSUANT TO ORDER 48 RULE  
4 OF THE FEDERAL HIGH COURT (CIVIL PROCEDURE) RULES  
2019 AND THE INHERENT JURISDICTION OF THIS  
HONORABLE COURT

TAKE NOTICE that this Honorable Court shall be moved on the \_\_\_\_\_ of \_\_\_\_\_ 2024 at the hour of 9 o'clock in the forenoon or so soon thereafter as counsel on behalf of the applicant may be heard praying the Honorable Court for the following reliefs:

1. AN ORDER of this court extending the time within which the 1<sup>st</sup> and 2<sup>nd</sup> defendants may file their counter affidavit, written address and other processes in opposition to the plaintiff's originating summons, and deeming the said counter affidavit, written address and other processes of the 1<sup>st</sup> and 2<sup>nd</sup> defendants already filed as properly filed and served the appropriate filing and default fees having been paid.

AND FOR SUCH FURTHER ORDER(S) as the court may deem fit to make in the circumstances.

Dated this 28<sup>th</sup> day of May 2024



✓ OBIANUJU UMEH, ESQ. (AD) (N/EE OKEKE)

SUNDAY NNABA, ESQ.

Department of Civil Litigation

Ministry of Justice,

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FOR SERVICE ON THE APPLICANT:

C/O His Counsel

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AFFIDAVIT IN SUPPORT OF MOTION ON NOTICE FOR  
EXTENSION OF TIME

I, Mr. Obumneme Obiekie, Adult male, Christian, Nigerian Citizen of the Honorable Attorney General's Office, Ministry of Justice, Awka, Anambra State do hereby make oath and state as follows:


1. That I am a litigation officer in the office of the Honorable Attorney General, Ministry of Justice Awka by virtue of which I am conversant with the facts of this case. I also have the authority and consent of the 1<sup>st</sup> and 2<sup>nd</sup> respondents to depose to this affidavit.
2. That this suit was brought to the attention of the Honorable Attorney General of Anambra State on the 24<sup>th</sup> of May 2024 at about 2pm.

3. That the time allowed by the rules for the 1<sup>st</sup> and 2<sup>nd</sup> defendants to file a response to the plaintiff's motion having expired, it is necessary for the 1<sup>st</sup> and 2<sup>nd</sup> defendant to bring this application to extend time.
4. That the plaintiff will not be prejudiced by the grant of this application.
5. That it is in the interest of justice to grant this application.
6. That I make this deposition in good faith believing same to be true in accordance with the Oaths Act.

  
\_\_\_\_\_  
DEPONENT

Sworn to at the Federal High Court Registry,  
Awka this 14<sup>th</sup> day of June 2024.

BEFORE ME

  
COMMISSIONER FOR OATHS



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WRITTEN ADDRESS

My Lord, the application of the 1<sup>st</sup> and 2<sup>nd</sup> defendants herein is for extension of time to file their counter affidavit, written address and other processes. The application is supported by a six paragraph affidavit deposed to by Mr. Obumneme Obiekie, litigation officer in the office of the Honorable Attorney General and Commissioner of Justice, Anambra State. We rely on all the paragraphs of the affidavit and adopt same in urging the court to grant the prayers of the applicant as same is in the interest of justice.

May it please My Lord.

Dated this 28<sup>th</sup> day of May 2024

  
OBIANUJU UMEH, ESQ. (AD)

SUNDAY NNABA, ESQ.  
Department of Civil Litigation

(NIEE OKEKE)