

# **COURT AFFIRMS THE CANDIDATURE OF HON. HARUNA SHEKWOLO AUDI AS THE APC CANDIDATE OF BWARI AREA COUNCIL IN THE FORTHCOMING CHAIRMANSHIP ELECTION**

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We are pleased to announce that the Federal High Court, Abuja has affirmed the candidacy of our client, Hon. Haruna Shekwolo Audi, as the validly nominated All Progressives Congress (APC) flagbearer for the forthcoming Bwari Area Council Chairmanship Election. The Court upheld our objections that the suit challenging his nomination was filed outside the strict constitutional timeline for pre-election matters and that the Plaintiff failed to exhaust the internal dispute resolution mechanisms of the APC, rendering the action statute-barred, premature, and incompetent. The Court equally considered the merit of the substantive dispute and dismissed same in its entirety.

We are proud of this well-deserved victory secured by our Dispute Resolution Team led by M. J. Numa SAN in conjunction with Mahmud Magaji & Co.

**IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT ABUJA  
ON WEDNESDAY, THE 12<sup>TH</sup> DAY OF NOVEMBER, 2025  
BEFORE HIS LORDSHIP, THE HON. JUSTICE EMEKA NWITE  
JUDGE**

**SUIT NO. FHC/ABJ/CS/1494/2025**

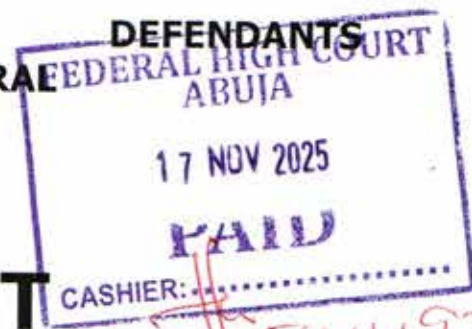
**BETWEEN**

**HON. JOSHUA M. ISHAKU**

**PLAINTIFF**

**AND**

- 1. ALL PROGRESSIVES CONGRESS**
- 2. HON. HARUNA SHEKWOLO AUDI**
- 3. INDEPENDENT NATIONAL ELECTORAL COMMISSION**



## **JUDGMENT**

The Plaintiff commenced this action via an "Originating Summons" dated and filed 23rd day of July, 2025 but filed on 24/7/2025.

The Plaintiff through his Counsel, George Ibrahim, SAN sets down three (3) issues in the Originating Summons for the Court's determination.

The questions are:

- 1. "Whether in view of result of the Bwari Area Council Chairmanship Election of the 1st Defendant conducted*

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*[Handwritten signature]*  
*[Handwritten initials]*

*on the 25th June, 2025 wherein the Plaintiff was declared as the winner with 33 votes cast, the forwarding of the name of the 2nd Defendant to the 3rd Defendant on the 14th July, 2025 by the 1st Defendant is not contrary to the provisions of the APC Constitution and the Guidelines for the conduct of Area Council primaries as well as the Electoral Act and thus null and void?"*

2. *"Whether in view of the Area Council Chairmanship Primaries Election of the 1st Defendant conducted in Bwari Area Council on the 25th July, 2025 wherein the Plaintiff emerged as the winner, it is not the name of the Plaintiff that ought to be forwarded by the 1st Defendant to the Defendant as its Chairmanship candidate for the Area Council Election slated for the year, 2026 in Bwari Area Council."*
3. *"Whether in view of the Affidavit/statement of the 2nd Defendant on oath dated 1st July, 2015 in support of his Originating Summons in Suit No.FHC/ABJ/CS/1302/2025 Between Hon. Haruna Shekwolo Audi V. Joshua M. Ishaku & 3 Ors., wherein he deposed in paragraph 22 thereof that the Plaintiff was declared as the winner of the primary conducted on the 25th June, 2025 by the 1st Defendant, either himself or the 1st Defendant can hold him forward as*



*the winner of the said primary or any other by the letter dated 14th July, 2025 addressed to the 3rd Defendant."*

In the event that each of these questions are determined or resolved in the manner envisaged by the Plaintiff and favourable, the Plaintiff seeks the following reliefs:

- (a) **"A DECLARATION** that it is null and void and contrary to the APC Constitution, the APC Guideline for conduct of Area Council Primary and the Electoral Act for the name of the 2nd Defendant to be forwarded by the 1st Defendant vide a letter dated 14th July, 2025 as the Candidate of the 1st Defendant for the Bwari Area Council, Chairmanship Election slated for the year 2026."
- (b) **"A DECLARATION** that only the name of the Plaintiff and no other ought to be forwarded to the 3rd Defendant as the Candidate of the 1st Defendant for the Bwari Area Council, Chairmanship Election for the year 2026."
- (c) **"A DECLARATION** that by the Affidavit/Statement of the 2nd Defendant on oath dated 1st July, 2015 in support of his Originating Summons in Suit No: FHC/ABJ/CS/1302/2025 Between Hon. Haruna Shekwolo Audi V. Joshua M. Ishaku & 3 Ors., wherein



*he deposed in paragraph 22 thereof that the Plaintiff was declared as the winner of the primary by the 1st Defendant, neither himself nor the 1st Defendant can hold him forward as the winner of the said primary or any other by the letter dated 14th July, 2025 addressed to the 1st Defendant."*

- (d) **"AN ORDER** directing the 1st Defendant to forward the name of the Plaintiff to the 1st Defendant as its Chairmanship candidate for Bwari Area Council in the 2026 Area Council Chairmanship Election."
- (e) **"AN ORDER** directing the 3rd Defendant to publish the name of the Plaintiff as the candidate of the 1st Defendant for the Bwari Area Council Chairmanship Election fixed for the year 2026."
- (f) **"AN ORDER** directing the 1st Defendant to publish the name of the Plaintiff as the candidate of the 1st Defendant for the Bwari Area Council Chairmanship Election slated for the year, 2026."
- (g) **"AN ORDER OF INJUNCTION** restraining the 1st Defendant from parading the 2nd Defendant as its candidate for the Bwari Area Council Chairmanship Election slated for the year, 2026."

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- (h) **"AN ORDER OF INJUNCTION** restraining the 2nd Defendant from parading himself as the candidate of the 1st Defendant for the Bwari Area Council Chairmanship Election slated for the year, 2026."
- (i) **"AN ORDER OF INJUNCITON** restraining the 3rd Defendant from publishing the name of the 2nd Defendant as the candidate of the 1st Defendant for Bwari Area Council Chairmanship Election slated for the year, 2026."
- (j) **"ANY ORDER OR FURTHER ORDERS** the Honourable Court may be disposed to make in the circumstances."

The Originating Summons is supported by 24 paragraphs Affidavit with eleven (11) annexures marked as Exhibits "A" – "K". There is a written address.

Upon receipt of the Counter-Affidavit of the 1st Defendant, the Plaintiff filed a Reply Affidavit of 12 paragraphs filed on 13/8/2025. There is a written address.

In response to the 2nd Defendant's Counter-Affidavit, the Plaintiff filed a 13 paragraphed Further Affidavit filed on 20/8/2025. There is a written address.

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In reaction to the 3rd Defendant's Counter-Affidavit, the Plaintiff filed a 9 paragraphed Further Affidavit filed on 3/8/2025. There is a written address.

In opposition to the Originating Summons, the 1st Defendant filed a Counter-Affidavit of 29 paragraphs on 8/8/2025 with seven (7) annexures marked as Exhibits "A" – "G". There is a written address.

In opposition to the Originating Summons, the 2nd Defendant filed a Counter-Affidavit of 37 paragraphs on 15/8/2025 with nine (9) annexures marked as "MAM1" – "MAM9". There is a written address.

In opposition to the Originating Summons, the 3rd Defendant filed a Counter-Affidavit of 10 paragraphs on 8/8/2025 with five (5) annexures marked as Exhibits "INEC1" – "INEC5". There is a written address.

Learned Counsel to the 1st Defendant filed a Notice of Preliminary Objection to the Originating Summons dated 6/8/2025 and filed on 7/8/2025 praying that this Honourable Court lack jurisdiction to entertain this suit and same to be dismissed or struck out.

**GROUND UPON WHICH THIS OBJECTION IS PREDICATED ARE AS FOLLOWS:**

- "1. *The Complaints of the Plaintiff/Respondent relates to the internal/domestic affairs of the 1st Defendant as a political Party.*



2. *The Plaintiff/Respondent has not exhausted the internal mechanism for resolution dispute provided in the 1st Defendant's Constitution, Guidelines for the Nomination of Candidates for Area Councils Elections and paragraph 7 of the Plaintiff/Respondent's Oath of Allegiance to All Progressives Congress.*
3. *The Plaintiff/Respondent's cause of action based on primary election of 25th June 2025 is statute barred having being filed outside the 14 days prescribed by **Section 285(9) of the Constitution of Federal Republic of Nigeria, 1999 (As Amended).***
4. *The Plaintiff/Respondent's claim challenging the purported forwarding of the name of the 1st Defendant's Chairmanship candidate for Bwari Area Council to 3rd Defendant is premature and academic.*
5. *That this Honourable Court is robbed of jurisdiction to entertain this suit."*

The Objection is supported by 5 paragraphs Affidavit with three (3) annexures marked as Exhibits "A" – "C". There is a written address. There is also a Further Affidavit of 5 paragraphs in Support of the Objection filed on 21/8/2025 with one Exhibit "A". There is a Reply Address.

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Learned senior Counsel for the 2nd Defendant filed a Notice of Preliminary Objection dated and filed on 12/8/2025 praying the Court for the following reliefs:

1. *"AN ORDER of this Honourable Court striking out this suit for want of jurisdiction."*
2. *"AN ORDER of this Honourable Court dismissing this Suit for being statute-barred."*

*"AND FOR SUCH FURTHER ORDER(S) as this Honourable Court may deem fit to make in the circumstances."*

**GROUND UPON WHICH THE OBJECTION IS PREDICATED ARE AS FOLLOWS:**

1. ***"THAT THIS SUIT IS STATUTE BARRED, IN VIEW OF THE PLAINTIFF INSTITUTING SAME BEYOND THE PRESCRIBED CONSTITUTIONAL PERIOD OF 14 DAYS."***

***Particulars of Statute-barred.***

- a. *The Plaintiff in this suit claims that he was the purported winner of the APC Primary elections conducted in the Bwari Area Council Chairmanship Primary held on 25th June, 2025.*
- b. *The National Working Committee (NWC) of 1st Defendant, after a meeting held on 30th June*



2025, upheld the Primary election appeal committee report and the result of the primary election result and issued a Certificate of Return to the 2nd Defendant on 30th June 2025.

- c. The Plaintiff's cause of action arose on 25th June 2025 and 30th June 2025.
- d. The Plaintiff's cause of action therefore accrued, at the latest, on 30th June 2025.
- e. The instant suit was commenced on 24th July 2025, a clear 24 days after the accrual of the cause of action, which is 10 days beyond the constitutional limit.
- f. By virtue of Section 285(9) of the 1999 Constitution (as altered), this suit is incurably incompetent, and this Honourable Court is divested of jurisdiction to entertain same.
- g. The Suit was therefore commenced outside the statutory fourteen (14) days mandatorily provided for by virtue of Section 285(9) of Constitution of Federal Republic of Nigeria 1999 (Fourth Alteration, No. 21) Act 2017.

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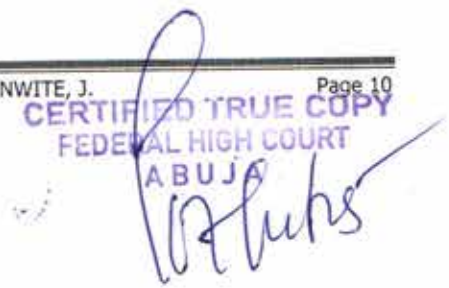
*h. This Honourable Court lacks the Competence and Jurisdiction to entertain this case."*

**2. "THIS HONOURABLE COURT LACKS THE JURISDICTION TO HEAR AND DETERMINE THIS MATTER.**

***Particulars of Lack of jurisdiction.***

- a. The Plaintiff's cause of action relates to the internal affairs of a political party and therefore falls within the doctrine of political questions that are non-justiciable.*
- b. It is only a political party that is constitutionally empowered to nominate and sponsor candidates for the general election.*
- c. That the submission of names of winners in a primary election is the exclusive prerogative of the political party that conducted same.*
- d. Furthermore, the Plaintiff's case is pre-mature, speculative and preemptive, thus robbing this Honourable Court of the jurisdiction to entertain same."*

**3. "THIS HONOURABLE COURT OUGHT TO STRIKE OUT OR DISMISS THIS SUIT FOR BEING INCOMPETENT."**



The Notice of Preliminary Objection is supported by 18 paragraphs Affidavit with three (3) annexures marked as Exhibits "MAM1" – "MAM3". There is a written address. There is also a Further Affidavit of 15 paragraphs filed on 21/8/2025 in Support of the Objection with three (2) annexures marked as Exhibits "MAM4" – "MAM7" respectively. There is a written address.

In opposition to the 1st Defendant's Notice of Preliminary Objection, the Plaintiff/Respondent filed a Counter-Affidavit of 10 paragraphs on 13/8/2025 with a written address.

In opposition to the 2nd Defendant's Notice of Preliminary Objection, the Plaintiff/Respondent filed a Counter-Affidavit of 12 paragraphs on 19/8/2025 with a written address.

The matter came up for hearing before this Honourable Court on the 9th day of September, 2025. The Counter-Affidavit dated 8/8/2025 with four (4) Exhibits was withdrawn and same was struck out.

I have carefully examined the Preliminary Objections challenging the jurisdiction of this Court as raised by the 1st and 2nd Defendants. The Objections revolve around the following issues:

- (i) *"Whether this suit is statute barred?"*
- (ii) *"Whether the action of the Plaintiff bothers on the domestic affairs of the 1st Defendant (All Progressives Congress)?"*

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- (iii) *"Whether the Plaintiff/Respondent has exhausted the material mechanism for resolution of dispute provided in the 1st Defendant's constitution, Guidelines for the nomination of candidates for Area Council Elections and paragraph 7 of the Plaintiff/Respondent Oath of Allegiance to All Progressives Congress?"*
- (iv) *"Whether the Plaintiff/Respondent claims challenging the purported forwarding of the name of the 1st Defendant Chairmanship Candidate for Bwari Area Council to the 3rd Defendant is premature and academic?"*

#### **ISSUE NO.1:**

In arguing Issue No.1, the learned Counsel for the 1st Defendant submitted that the Plaintiff/Respondent's *cause of action* based on primary election of 25th June, 2025 is statute barred having been filed outside the 14 days prescribed by **Section 285(9) of the Constitution of Federal Republic of Nigeria, 1999 (as Amended)**. That the Plaintiff's issue number 3 in the Originating Summons is basically asking this Court to determine between the Plaintiff and 2nd Defendant who won the primary election of 25th June, 2025. Relied on the Plaintiff's relief 2 as endorsed on the Originating Summons and paragraphs 6, 9, 10, 11, 13, 15, 16, 18, 19 and 22 of the Affidavit in Support of the Originating Summons which





centres on who is the winner of the primary election of 25th June, 2025.

That the Plaintiff's *cause of action* for determination of who won the primary election of 25th June, 2025 arose on the said 25th June, 2025 when the event occurred and not when the Plaintiff became aware that the 2nd Defendant was declared winner of the primary election. He referred the Court to the case of **KARSHI & ORS. vs. GWAGWA & ORS. (2022) LPELR – 57544 (SC)**.

That the Report of Primary Election Appeal Committee shows that it was on the 27th June, 2025 that it rendered its report reversing the purported victory of the Plaintiff and declaring the 2nd Defendant as winner of the primary election of 25th June, 2025 with highest 38 votes. That computing the Plaintiff's cause of action from the date he was replaced with the 2nd Defendant by the Primary Election Appeal Committee from 27th June, 2025 to the 24th July, 2025 when this suit was filed is well outside the 14th days permitted by **Section 285(9) of the Constitution of the Federal Republic of Nigeria**.

That the Plaintiff cannot feign ignorance of the sitting of the Primary Election Appeal Committee as he is very much conversant with the 1st Defendant Timetable for the primary election, which included sitting of the Primary Election Appeal Committee.

Arguing on the same Issue No.1, the learned senior Counsel for the 2nd Defendant submitted that where there is a challenge as to whether or not a suit is statute barred, the Court looks at the

originating processes, averments/depositions in the Pleadings as well as relevant processes filed in the suit vis-à-vis the applicable limitation law to determine whether or not the said suit is statute barred.

That by the Plaintiff's Questions for determination, the Primary election in dispute was conducted on 25th June, 2025, also by Plaintiff's own deposition in paragraphs 10 and 15 of the Affidavit in Support of the Originating Summons he has stated clearly that the primary election, the fulcrum of the Plaintiff's case was conducted on 25th June, 2025 and he also received the troubling news that the name of the 2nd Defendant was forwarded to the 3rd Defendant.

He contended that the event, decision and action complained of were done by the 1st Defendant's National Working Committee, which is the highest decision making body in a political party on 30th June, 2025. Referred the Court to Exhibit "MAM3" (attached to their Counter-Affidavit).

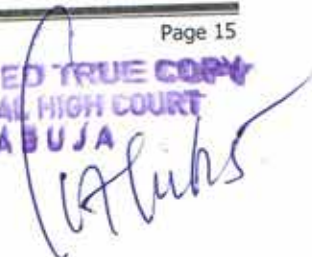
That the Plaintiff commenced the present action on the 24th July, 2025, while the cause of action of the Plaintiff in this suit arose latest on 30th June, 2025 the date the 1st Defendant's National Working Committee directed that the 2nd Defendant should be issued a Certificate of Return and his name should be forwarded to the 3rd Defendant Independent National Electoral Commission (INEC). That flowing from the above, it is clear that the Plaintiff's action was filed outside the period limited by **Section 285(9) of the Constitution** hence *statute barred*.



In reaction to the 1st Defendant's Counsel submission on this issue, the learned senior Counsel for the Plaintiff/Respondent submitted that the Plaintiff's action is not *statute barred* as the *cause of action* of the Plaintiff is founded on the publication made by the 1st Defendant to the 3rd Defendant on 14/7/2025 to consequent upon which the Plaintiff filed this action on 24/7/2025 a period of ten (10) days from the date of the publication. That the purported Report of the "Appeal Panel" was never published to the Plaintiff or any other person, the 2nd Defendant inclusive on 27/6/2025 which was the reason he filed an action in Court on 1/7/2025.

That the 1st Defendant's Notice of Preliminary Objection has no correlation with the Originating Summons in this suit. That the 1st Defendant cannot by its Preliminary Objection deliberately create a different case in a desperate bid not to be answerable to this Honourable Court for its denial of the Plaintiff's constitutional right to participate in the forthcoming Local Government elections and urge the Court to so hold.

In reaction to the 2nd Defendant's Notice of Preliminary Objection, the learned Counsel for the Plaintiff/Respondent stated that from the fact of the Plaintiff's case the *cause of action* is the publication by the 1st Defendant to the 3rd Defendant dated 14th July, 2025 on the emergence of the 2nd Defendant as the flag bearer for Bwari Area Council Local Government Election contrary to the outcome of the 1st Defendant's primaries conducted on the 25th June, 2025.





That the 2nd Defendant argued that the *cause of action* occurred on 30/6/2025 when the National Working Committee of the 1st Defendant resolved to forward the name of 2nd Defendant to the 3rd Defendant. That the 2nd Defendant however failed to state whether the Plaintiff was a member of the national Working Committee of the 1st Defendant and whether he was invited to the meeting or communicated in writing of such decision. That whatever decision the National Working Committee of the 1st Defendant took on 30th June, 2025 is immaterial since it was never put into practice by communicating same to INEC who even as at 14th July, 2025 recognised the Plaintiff as the candidate of the 1st Defendant until the letter forward the name of the 2nd Defendant same day. That it is clear that the occurrence of the events given rise to the instant action was the communication of the 1st Defendant to the 3rd Defendant on the 14th July, 2025 and not earlier. That the instant action having been filed just ten (10) days after the event satisfied the requirement of **Section 285(9) of the Constitution of the Federal Republic of Nigeria, 1999 (as Amended)**.

On Reply on Points of Law, the 1st Defendant's Counsel submitted that the contention of the Plaintiff that his *cause of action* arose on 14th July, 2025 when the 1st Defendant published the name of the 2nd Defendant to the 3rd Defendant is misconceived and not rooted in law. That the said Exhibit "K" heavily relied upon by the Plaintiff by itself clearly stated that it is not a publication of List of Candidates but a letter to forward the Report of the Appeal Committee of the Bwari

Area Council Chairmanship Primary Election. That pre-election suit that can be filed upon publication of name of a candidate cannot be filed before such publication by INEC. Referred the Court to the case of **EDEVIE vs. OROHWEDOR & ORS. (2022) LPELR – 58931 SC.**

That the case of **UBA vs. MOGHALU; LAU vs. PDP** and **UGWU ARARUME** cited by the Plaintiff are inapplicable in the circumstances of this case. That the Plaintiff has now voiced out the true character of his case that it is based on challenging the falsification of documents by the 1st Defendant in favour of the 2nd Defendant. That no primary Election Appeal Committee was set up or sat, and no National Working Committee sat to ratify the decision of the Primary Election Appeal Committee but Reports of the bodies were falsified or forged by the 1st Defendant. That being a case of forgery the case of the Plaintiff commenced by Originating Summons ought to be dismissed.

On the issue that the 1st Defendant's Preliminary Objection has no correlation with the Plaintiff's suit but a different case was set up. He submitted that the law has now evolved that determination of whether an action is statute barred in pre-election matter is no longer limited to the facts stated in the Originating Summons alone. That the Court is to look at all available evidence before it in reaching a correct decision. Referred the Court to the case of **KARSHI & ORS. vs. GWAGWA & ORS. (2022) LPELR -57544 SC.**

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On Reply on Points of Law by the 2nd Defendant's Counsel, he submitted that judicial authority has broadened the scope of inquiry in ascertaining when the cause of action arose. That the current position of the law is that the Court is entitled to look not only at the Plaintiff's Supporting Affidavit and Exhibits but also at the 2nd Defendant's Counter-Affidavit and the Affidavit/Exhibits filed with the Notice of Preliminary Objection to ascertain the true accrual date. Relied on the case of **ABDULLAHI vs. LOKO (2023) 6 NWLR (pt.1881) 445 @ 474**. That the case of **APC vs. LERE** has been overruled by more recent, authoritative and clearer pronouncement of the Supreme Court in **ABDULLAHI vs. LOKO**, supra.

That the *cause of action* in law is not a continuing event. That it arises once and only once, namely from the first time the decision or action complained of was taken.

#### **RESOLUTION OF ISSUE NO.I:**

Before I delve into the merit of the application, I will address the issue of the Counter-Affidavit of the Plaintiff/Respondent been filed out of time and thereby being incompetent.

**Order 7 Rule 2 of the Practice Direction (No.2) 2022 of the Federal High Court of Nigeria** provide as follows:

- (2) *"The Respondent(s) upon being served with the processes, shall have 5 (five) days within which to file processes in response (if any) to the Motion on*



*Notice and the Applicant shall have 3 (three) days to file a Reply (if any) to the processes of the Respondent."*

By the above provision, it is obvious that the Plaintiff/Respondent has five (5) days to file his Counter-Affidavit in response to the Notice of Preliminary Objection. A critical examination of the record of the Court will reveal that the Notice of Preliminary Objection was served on the Plaintiff/Respondent on 7/8/2025 while the Plaintiff/Respondent filed his Counter-Affidavit on 13/8/2025 which is beyond five (5) days stipulated by the Practice Direction of this Honourable Court. However, the Defendant/Applicant having gone ahead to file their Further Affidavit and Reply on Points of Law, they have waived their right. Again, by virtue of Rule 8 of the Practice Direction which provide that **Federal High Court (Civil Procedure) Rules, 2019** shall apply to any issue not capture under this Practice Direction the issue of weekend days (i.e. Saturday and Sundays) are inclusive in computation of time were not captured by the Practice Direction hence we have fall back to the Rules of this Honourable Court and Order 48 Rule 1 of the Rules of this Honourable Court exclude Saturday and Sunday in computation of time of service and service having effected on Friday and excluding weekends, the processes of the Plaintiff/Respondent were filed within time.

Having addressed the preliminary issue I will now delve into the main application.

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## ISSUE NO.I:

### *"Whether this suit is statute barred?"*

A *cause of action* arises on the date or from the time the breach of duty occurs which warrants the person *adversely affected* by the breach or the injury therefrom to sue in a law Court to assert or protect his legal right that has been breached or violated. Thus, a *cause of action enures* to the Plaintiff the very moment a wrong is done to him by another, which factual situation entitles the former to seek relief in the law Court by way of enforcement. A cause of action arises as soon as the combination of facts giving the right to complain accrued or happened. See **A.G. ADAMAWA vs. A.G. FED. (2014) 14 NWLR (pt.1428) 515; WOHEREN vs. EMEREUWA (2004) 13 NWLR (pt.890) 393** and **ZUBAIR vs. KOLAWOLE (2019) 11 NWLR (pt.1682) 66.**

Time begins to run where there is in existence, a person who can sue and another who can be sued and all facts have happened which are material to be proved to entitle the Plaintiff to succeed.

By virtue of **Section 285(9) of the 4th Alteration to the Constitution of the Federal Republic of Nigeria, 1999 (as Amended)** "*notwithstanding anything to the contrary in the Constitution, every pre-election matter shall be filed not later than 14 (fourteen) days from the date of the occurrence of the event, decision or action complained of in the suit.*"

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It is the contention of the 1st Defendant that the Plaintiff's cause of action challenging the primary election arose on 25/6/2025. That by the Plaintiff's Issue 3 and Relief 3 of the Originating Summons what the Plaintiff is seeking is that he won the election and nothing more.

On the part of the 2nd Defendant while agreeing with the position of the 1st Defendant further stated that the act complaint of is the refusal of the 1st Defendant to affirm the result and that organ which will affirm the result is the National Working Committee of the 1st Defendant. That the decision of the National Working Committee affirming the result to *enure* benefit and victory to the 2nd Defendant was made on 30/6/2025. That the three ingredients i.e. the event, action and decision complain about in the Originating Summons all occurred between 25th and 30th June, 2025 hence the suit that was filed by the Plaintiff on 24/7/2025 is after fourteen (14) days hence *statute barred*.

On the contrary, the Plaintiff contention is that the *cause of action* arose on 14/7/2025 when the 1st Defendant forwarded the name of the 2nd Defendant to the 3rd Defendant. That the purported report of the Appeal Panel was never published to the Plaintiff or any other person, the 2nd Defendant inclusive on 27/6/2025 which was the reason he filed an action in Court on 1/7/2025. That the Plaintiff was not a member of the National Working Committee of the 1st Defendant and he was not invited to the meeting of the National Working Committee or communicated in writing of such decision. That the 1st Defendant forwarded his name to the 3rd Defendant on

4/7/2025 as the 1st Defendant candidate for Bwari Area Council. In other words, the Plaintiff is contending that both Appeal Committee and National Working Committee did not give him fair hearing before taking their decision.

Fair hearing is a judicial or administrative hearing conducted in accordance with due process. In essence fair hearing means giving equal opportunity to be heard. A party cannot complain of breach of the fair hearing principles where he has been given an opportunity to advocate his case equal to that given to the opposing party. In paragraph 4(3) and (4) of the Further Affidavit of the 1st Defendant in Support of the Notice of Preliminary Objection, it averred as follows:

4(3) "The Plaintiff was duly invited to appear before the Primary Election Appeal Committee via his phone number 08034527135 but failed to appear.

4(4) That other witnesses, delegates, aspirants, party members appeared before the Primary Election Appeal Committee that conducted its sitting in open at the Conference Hall of the APC Office."

Fair enough, there was no rebuttal by way of Further Counter-Affidavit by the Plaintiff and the law is trite that fact admitted need no further proof. Again, I have gone through the constitution and Schedule activities and timetable for the 2026 Area Council Election in FCT, Abuja of the 1st Defendant, there is nowhere the mode of communicating to the candidates of the sitting of the Primary Election Appeal Committee of the 1st Defendant was stated hence the



communication of the sitting can be via orally or writing and having called the Plaintiff via his phone number to inform him about the sitting of the Primary Appeal Committee he cannot turn around to complain that he was not informed of the sitting of the Committee. Furthermore, the Plaintiff cannot feign ignorance of the sitting of the Primary Election Committee as he is very much conversant with the 1st Defendant Timetable Election which included sitting of the Primary Election Appeal Committee. He merely denied that the Primary Election Appeal Committee did not sit and did not receive any Petition. But on the contrary, the documents before this Court shows that the Primary Election Appeal Committee actually received from the 2nd Defendant, sat and reversed the victory of the Plaintiff on the 27th June, 2025. In view of the foregoing, I am of the view and I so hold that the Plaintiff's right of fair hearing was not breach by the 1st Defendant or its Primary Election Appeal Committee.

A calm and dispassionate examination of the Plaintiff's Affidavit of the Originating Summons, makes it abundantly clear that the gravamen of the Plaintiff's complaint is against the decision, that the name of the 2nd Defendant be forwarded to INEC as the candidate nominated for the Chairmanship Election for Bwari Area Council. It is therefore beyond dispute that the event, decision or action complained of in this suit occurred on 30th June, 2025. The attempt to shift the accrual date of the cause of action to the date when the 1st Defendant wrote a letter to INEC (Exhibit "K") is completely misconceived. Exhibit "K" does not and cannot alter the true accrual date of the cause of action.

The letter is merely a consequential communication and not the date when the decision to forward the 2nd Defendant's name was made. The uncontroverted evidence before this Honourable Court as shown in Exhibit "MAM3" attached to the 2nd Defendant's Affidavit in Support of Notice of Preliminary Objection, is that the National Working Committee (NWC) of the 1st Defendant took the decision to forward the 2nd Defendant's name to INEC on 30th June, 2025.

The Plaintiff admits that he only became aware of the forwarding of the 2nd Defendant's name on 21st July, 2025 and seeks to rely heavily on Exhibit "K". The law is trite and firmly settled that in pre-election matters, the date of knowledge or awareness is wholly immaterial for purposes of computing time under **Section 285(9) of the Constitution**. The clock starts running from the date of the event, decision or action complained of, regardless of when he is aware of it.

In **APC vs. UDUJI (2021) LPELR – 53531 SC**, Ogunwumiju, JSC stated thus:

*"It is no moment when the Appellant got to know about the occurrence of the event, decision or action complained of. What is material is the date the event actually occurred. To hold otherwise will defeat the intention of the legislature in imposing a strict time limit for filing pre-election matter."*



In **ABDULLAHI vs. LOKO (2023) 6 NWLR (pt.1881) 445**, the Supreme Court re-aligned the law, noting that earlier decision (including **APC vs. LERE, SAKI vs. APC** and **MUSA vs. UMAR**) appeared to lay emphasis on awareness/submission/publication, but that the current position is to reckon strictly with "the date of the occurrence of the event decision or action complained of and not the date the aggrieved party became aware per Jauro, JSC @ 475 – 476 paragraphs F-B held thus:

*"It should be noted that in determining whether a pre-election matter is statute barred, some of our past decisions to wit: Mohammed Sani Musa V. David Umar & Ors. (2020) 11 NWLR (pt.1735) 213; Saki V. APC (2020) 1 NWLR (pt.1706) page 515; APC V. Lere (2020) 1 NWLR (pt.1705) 254 have placed emphasis on the fact that it is reasonable to say that the cause of action occurred when the aggrieved party became aware of his replacement with another. In those decisions, this Court was of the view that the cause of action occurs when the aspirant first declared winner of party primary election becomes aware that he was been replaced as winner of the said primary or its candidate for the election. This is because such awareness occurred actually or constructively, only when another name was substituted by the party to INEC*

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***or the list was published by INEC. This Court has moved from the above position and it is currently of the view that it is the date of the occurrence of the event, decision, the action complained of that is to be reckoned with and not the date the aggrieved party became aware of the event, decision, action complained of."***

Applying these authorities, the fact that the Plaintiff claims to have discovered the National Working Committee's decision only on 21st July, 2025 is wholly irrelevant. The cause of action crystallized on 30th June, 2025 when the National Working Committee of the 1st Defendant made the decision to forward the 2nd Defendant's name to INEC. (See Exhibit "MAM3") attached to the 2nd Defendant's Affidavit in Support of Notice of Preliminary Objection. Exhibit "K" attached to the Affidavit of the Originating Summons relied upon by the Plaintiff, is merely a consequential correspondence and cannot override or displace the actual date of the decision.

More fundamentally, a cause of action in law is not a continuing event. It arises once and only once, namely, from the first time the decision or action complained of was taken. Thereafter, time begins to run inexorably. To allow the Plaintiff to treat the accrual as shifting or continuous would amount to re-writing the law of limitation.

In view of the foregoing analysis, I am of the view and I so hold that the Plaintiff had fourteen (14) days 27th and 30th June, 2025 to file



his action. The instant suit, filed on 24th July, 2025 was ten (10) days out of time and is incurably statute barred and same is hereby struck out on this ground alone.

**ISSUE NO.2:**

***"Whether the action of the Plaintiff borders on the domestic affairs of the 1st Defendant (All Progressives Congress)?"***

The choice of a political party's candidate for an election is a matter within the internal affairs of that party and a Court should ordinarily not interfere with same as it is not the function of the Court to select candidates for political parties. However, the liberties enjoyed by political parties in selecting/nominating their candidates are not *absolute*. In the process of nominating their candidates, they have a duty to comply with the **Constitution of the Federal Republic of Nigeria, the Electoral Act**, other Statutes as well as their Constitutions and Guidelines. Where they conduct their nomination exercise in breach of extant laws or their own instruments the Court will be entitled to interfere in line with **Section 84(14) of the Electoral Act 2022**, which provides that:

*"Notwithstanding the provisions of this Act or Rules of a political party an aspirant who complains that any of the provisions of this Act and Guidelines of a Political Party have not been complied with in the selection or nomination*



*of a candidate of a political party for election may apply to the Federal High Court for redress."*

It is the case of the Plaintiff, that after the emergence in line with the provisions of the parties Constitution the 1st Defendant without recourse to him or the Constitution of the Party, its Guidelines and/or the Electoral Act took away his victory and allocate same to the 2nd Defendant. It is obvious that judging from the facts and circumstance of this case the Plaintiff has the right to bring this action having participated in the primaries of the 1st Defendant held on 25th June, 2025 by virtue of **Section 84(14) of the Electoral Act, 2022**. Hence I resolve this issue in favour of the Plaintiff against the Defendants.

### **ISSUE NO.3:**

***"Whether the Plaintiff/Respondent has exhausted the material mechanism for resolution of dispute provided in the 1st Defendant's constitution, Guidelines for the nomination of candidates for Area Council Elections and paragraph 7 of the Plaintiff/Respondent Oath of Allegiance to All Progressives Congress?"***

There is no doubt that there are the pre-conditions to be fulfilled by a party before his complains on Nomination or Selection of Candidate of a political party can be entertained by this Court. The Supreme Court has in a litany of cases settled this point that the Plaintiff must have

exhausted the internal mechanism for resolution dispute provided in the 1st Defendant's Constitution Guidelines for the Nomination of Candidates for Area Council's elections and paragraph 7 of the Plaintiff/Respondent's Oath of Allegiance to All Progressives Congress. See **ALIYU vs. APC & ORS. (2022) LPELR – 57345 SC.** In **NYAMEH vs. INEC & ORS. (2023) LPELR – 59999 (SC),** the Supreme Court per Emmanuel Akomaye Agim, JSC stated as follows:

*"The purpose of Section 84 of the Electoral Act 2022 as a whole is to enforce compliance with the Electoral Act and political party Constitution and Guidelines in the selection or nomination of the candidates of political parties for general elections. The primary election process as provided in the 2nd Respondent's Primary Election Guidelines include the poll, hearing and determination of dispute or complains from the poll by an Election Appeal Panel established by the NWC on behalf of NEC of the party and appeal from the decision of the Election Appeal Panel to the NWC of the Party. Section 84(14) of the Electoral Act 2022 cannot be applied or interpreted to waive or suspend compliance with the part of the Guidelines on the primary election process of complaining about the election to the Election Appeal Panel and further to NWC if need be. That is part of the primary election process and compliance with the prescribed time lines for the determination of such complains would not in any way defeat the exercise of the*



*right of action given to the aspirant by Section 84(14) of the Electoral Act 2022."*

A careful look at the Plaintiff's Exhibit "B" (the Nomination Form) it has Oath of Allegiance sworn to by the Plaintiff where he stated on oath at paragraph 7 thus:

*"Not to file any action in Court of law against the party or any of its officers on any matter relating to the discharge of the duties of the party without exhausting all avenues for redress provided."*

Paragraphs 15 of the Plaintiff's Exhibit "G" (Guidelines for the Nomination of Candidates for Area Council(s) provided that:

*"Electoral Committee's decision shall be subject to review by the Primary Election Appeal Committee and final decision of the National Working Committee (NWC)."*

In other words, any complain against the decision of the Primary Election Appeal Committee as contained in the Plaintiff's Exhibit "K" titled: "Forwarding of the Report of the Appeal Committee of Bwari Area Council Chairmanship Primaries held on Friday, 25th June, 2025 must be tabled by way of Further Appeal to the 1st Defendant's National Secretariat. The Plaintiff has not shown that he has taken advantage or written any Further Appeal upon becoming aware of the decision of the Appeal Committee and National Working Committee.

Again, Exhibit "L" attached to the Plaintiff's Affidavit in Support of the Originating Summons particularly in Article 25(c) of the said Exhibit "L", an internal dispute resolution mechanism is well laid out. The Plaintiff has not shown that he compiled or exhausted any or all of the above processes of internal dispute resolution.

The argument of the learned senior Counsel for the Plaintiff that a Further Appeal to the National Working Committee of the Party amounts to making it a Judge in its own case does not hold water. In view of the foregoing, I am of the view and I so hold that this suit is premature based on the above authorities cited. Having resolved Issue 3 as formulated above in the course of this Judgment, I find it unnecessary to consider Issue No.4 as raised above.

In sum, the Notice of Preliminary objection by the 1st and 2nd Defendants succeed in part, consequently this Honourable Court is robbed of jurisdiction to entertain this suit and same is hereby dismissed for lack of jurisdiction.

Ordinarily, that would have been the end of the matter but this Court being a Court of first instance I will still delve into the merit of this case assuming I am wrong in my holding in the Notice of Preliminary Objection.

In his written address, the learned senior Counsel for the Plaintiff adopts the questions nominated for determination as the issue for determination.

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On their own part, the learned Counsel for the 1st Defendant formulated three (3) issues which he subsume into one for determination, to wit:

*"Whether the APC Constitution and Guidelines for Bwari Area Council Chairmanship Primaries and the Electoral Act permits the 1st Defendant to subject the result of the primary election to 1st Defendant's internal dispute resolution mechanism of Primary Election Appeal Committee and further appeal to National Working Committee (NWC) before final determination of the winner of the primary election of 25th June 2025?"*

On the other hand, the learned senior Counsel for the 2nd Defendant formulated two issues for determination, to wit:

1. *"Whether by a community consideration of the Electoral Act, the APC Constitution and Guidelines for Bwari Area Council Chairmanship primaries, the Plaintiff has proved his case on the balance of probabilities entitling him to the declaratory reliefs sought in the Originating Summons."*
2. *"Whether the Plaintiff may validly rely on the Affidavit and originating processes from Suit No. FHC/ABJ/CS/1302/2025 BETWEEN HON. HARUNA SHEKWOLO AUDI vs. JOSHUA M. ISHAKU & 3 ORS. which were struck out."*

The learned Counsel for the 3rd Defendant formulated a sole issue for determination, to wit:

*"Whether the Plaintiff has placed before this Honourable Court sufficient facts and materials to warrant grant of the reliefs sought by the Plaintiffs."*

A critical look at both issues will reveal that the two issues formulated by the 2nd Defendant's Counsel is apt in resolution of the matter before this Court. However, I will review the argument of Counsel as they argue in their respective written address.

In arguing the subsume issue, the learned senior Counsel for the Plaintiff submitted that by the **Electoral Act, 2022** in Section 84(14) therefore, for a person to have a *locus standi* to institute an action challenging the candidacy of any person in a primary election of a political party, such a persons must have been a candidate of the party in the primary. That by his Affidavit in Support of the Originating Summons he has met all the requirement. That his victory at the primaries did not go down well with the 2nd Defendant who filed Suit No. FHC/ABJ/CS/1302/2025 against the Plaintiff and 1st and 3rd Defendants. Referred the Court to paragraph 22 of the Affidavit in Support of the Originating Summons to the effect that the election did not hold and the Plaintiff was purportedly declared as a "winner".

He submitted that in spite of the clear admission by the 2nd Defendant in his Statement on Oath, the Plaintiff was purportedly declared as the "winner" of Chairmanship primary of the 1st



Defendant for Bwari Area Council on the 25th June, 2025, the 1st Defendant unlawfully forwarded the name of the 2nd Defendant to the 3rd Defendant as the purported candidate of the 1st Defendant for Bwari Area Council Chairmanship Election scheduled for the year 2026. That the decision to forward the name of the 2nd Defendant in spite of his admission on oath that he lost the said election to the Plaintiff is a travesty of justice and ought to be redress by this Court. Relied on the case of **LAU vs. PDP (2018) 4 NWLR (pt.1608) 64 @ 119.**

That the admission of the 2nd Defendant on Oath as seen at paragraph 22 of Exhibit attached to the Affidavit in Support of the Originating Summons is an admission against interest which must continue to hunt the 2nd Defendant. Referred the Court to the case of **KAMALU vs. UMUNNA (1997) 5 NWLR @ 32 – 336.**

Further submit that the only primary that took place was on 25th June, 2025 and no other wherein the Plaintiff emerged as the winner with 33 votes as admitted by the 2nd Defendant. That no other primary election held within the time allowed by the 3rd Defendant for conduct of Area Council Primaries being 30th June, 2025 as evident from the INEC Timetable attached to the Affidavit of the Plaintiff as "Exhibit "D". That is therefore very appalling how the officials of the 1st Defendant came up with fictitious roles of 38 votes for the 2nd Defendant as seen on their letter of 14th July, 2025 (Exhibit "K"). That allocation of fictitious votes without a properly conducted

primary election is contrary to the Constitution of the 1st Defendant, its Guidelines and **Electoral Act, 2022** particularly Section 84.

Finally, he submitted that looking at the questions nominated for determination, Originating Summons is the appropriate mode for the commencement of this suit which strictly seeking for interpretation of Statutes and Instruments. Relying on the case of **OKADA AIRLINES LTD. vs. FAAN (2015) 1 NWLR (pt.1439) 1 @ 16.**

He finally urged the Court to resolving this suit in their favour.

In reaction to the above submission, the learned Counsel for the 1st Defendant submit that the APC Constitution, Guidelines for the nomination of candidates for Area Council Elections and the Electoral Act permits the 1st Defendant to determine the procedure for selecting its candidate for Bwari Area Council Chairmanship Election including subjecting the result of the primary election to internal disputes resolution mechanism of Primary Election Appeal Committee and Further Appeal to National Working committee before final determination of the winner of the primary election of 25th June, 2025. Referred the Court to the cases of **ALIYU vs. APLC & ORS., supra** and **NYAMEH vs. INEC & ORS. supra.**

That both the Primary Election Appeal Committee and the National Working Committee were unanimous and in accord that the correct result of the Primary Election of 25th June, 2025 is that Hon. Haruna Shekwolo Audi won the Primary Election with 38 Votes while Plaintiff scored 5 votes. That the Plaintiff has in his nomination bound himself





that he must comply with internal dispute resolution of Primary Election Appeal Committee and Further Appeal to National Working Committee.

That the concurrent decision of the Primary Election Appeal Committee and the National Working Committee correcting the result of the primary election of 25th June, 2025 in favour of the 2nd Defendant cannot be said to be contrary to the **Electoral Act**, APC Constitution or Guidelines as same is clearly provided and duly recognized. That the Plaintiff has not shown that he complied or exhausted any or all of the processes of internal dispute resolution. Rely on the case of **KARSHI & ORS. vs. GWAGWA & ORS. (2022) LPELR – 57544 (SC)**.

He submitted that the case of the Plaintiff is laced in self-contradiction and not grantable. That this is because the Plaintiff offered Exhibit "F" (an Affidavit from previous proceedings) in his submission in paragraphs 4.3 and 4.4 to say that the primary election did not hold but he was purportedly allocated 33 votes but summersaulted in his reliefs and other paragraphs to say that he won the same primary election.

That Exhibits "H" and "J" attached to the Originating Summons as evidence from previous proceedings are worthless and have not met the requirements of using evidence from previous proceedings. Rely on the case of **AYORINDE & ORS. vs. SOGUNRO & ORS. (2012) LPELR – 7808 (SC)** and **Section 34 of the Evidence Act, 2011**.

That in the instant case, the Maker of the Statement in Exhibits "H" and "J" has not been shown to be dead or that he cannot be found or that he is incapable of giving evidence and urged the Court to reject it.

He finally urged the Court to dismiss the case.

In reaction to the submission of the learned senior Counsel to the Plaintiff, the learned senior Counsel for the 2nd Defendant submitted that given that the averments in the Affidavit in Support of the Originating Summons and the facts evinced in his Exhibits particularly Exhibits "A" – "L" and the unassailable rebuttal contained in the 32 paragraphs Counter-Affidavit of the 2nd Defendant together with his Exhibits, namely: Exhibits "MAM1" – "MAM9", that Plaintiff has failed to make out a case to be entitled to the reliefs sought in the Originating Summons filed on 24th July, 2025. That the law is crystalized that whoever asserts the existence of a fact has the burden of proving same. Relied on Section 133(1) of the Evidence Act, 2011.

That a party seeking declaratory reliefs like the Plaintiff must succeed on the strength of his own case and not necessary on the paucity of defence to his claims. Referred the Court to the case of **AMOBI vs. OGIDI UNION (NIG.) & ORS. (2021) LPELR – 57337 (SC)**. That the law is equally settled that in determining civil cases such as the instant case, the burden of proof is on the balance of probabilities by preponderance of evidence. Referred the Court to the case of



**SAKATI vs. BAKO & ANOR. (2015) LPELR -24739 (SC)** and **BUHARI vs. INEC & ORS. (2008) LPELR – 814 (SC)**. He submitted that applying the foregoing authorities to the facts of this case, that the Plaintiff herein has failed woefully to prove on the preponderance of evidence that he is entitled to the reliefs sought herein.

On Issue No.2, he stated that the Plaintiff has placed reliance on processes and on Affidavit filed in a previous suit with Suit No. FHC/ABJ/CS/1302/2025 BETWEEN HON. HARUNA SHEKWOLO AUDI vs. JOSHUA A.M. ISHAKU & ORS. which was dismissed by this Honourable Court on the 8th August, 2025 upon the Notice of Discontinuance filed by the 2nd Defendant without any opposition. He contended that such reliance impermissible. Further contended that Exhibit "E" claiming to be the list of the elected delegates that emerged from the congress election of the 21st of June, 2025 is neither dated, signed nor does it bear either the logo or insignia of the 1st Defendant hence the Court should not countenanced same nor ascribed any probative value to it.

He opined that a careful reading of reliefs (d) – (i) and paragraphs 15 – 21 of the Plaintiff's Supporting Affidavit sows, without ambiguity, that the complaint is against the nomination and sponsorship of the 2nd Defendant as the APC Candidate for the Bwari Area Council Chairmanship Election. That the Nomination of a candidate in a primary election as well as nomination of delegates to votes at the primary election is the domestics affairs of a political party over which



no Court or tribunal has jurisdiction to entertain. Relied on the case of **ONUOHA vs. OKAFOR & ORS. (1993) Vol.14 NSCC 494 @ 508; DALHATU vs. TURAKI (2003) 15 NWLR (pt.843) 310; UKACHUKWU vs. PDP (2014) 17 NWLR (pt.1435) 134 @ 181 – 183 and GWEDE vs. INEC (2014) 18 NWLR (1438) 56 @ 113.**

That even under **Section 84(14) of the Electoral Act, 2022**, the Court's jurisdiction is only triggered where there is credible evidence of non-compliance with the Act, party Constitution or Guidelines in the conduct of primaries. That absent of such proof, the presumption of irregularity under **Section 168(1) of the Evidence Act** applies and the Court must decline jurisdiction. That from the three (3) questions submitted for determination, the Plaintiff did not refer to a particular provision of the 1st Defendant's Constitution that should be interpreted in order to show the breach occasioned by the 1st to 3rd Defendants' breach in order to give the Court jurisdiction over pre-election matter. That the suit is bound to fail in its entirety since this Honourable Court lacks the jurisdiction to determine it as presently constituted on the threshold fundamental ground that it is internal affairs of the 1st Defendant which is not justifiable. That the primary election conducted by the 1st Defendant for the nomination of Chairmanship candidate in Bwari area Council was done in compliance with the **Electoral Act**, APC Constitution as well as Guidelines.

By way of adumbration: He submitted that the law is trite that when there is contention as to validity of two primaries conducted by the parties, it is the one that is accepted and acknowledge by duly



recognize organ of the Party National Working Committee. Relied on **ETIM vs. AKPAN (2018) LPELR – 4904 SC 23**. That if there is grave allegation of criminality in any case, it goes beyond the Affidavit evidence but must be dealt through voice vice evidence. Relied on **APC vs. MACHINA (2023) LPELR – 59953 SC** and **ISA vs. APC (2023) LPELR – 60150 SC**.

That Further Affidavit of the Plaintiff was filed out of time and urged the Court to discountenance same.

In reaction to the Plaintiff's Counsel submission, the learned Counsel for the 3rd Defendant submitted that Exhibit "INEC2" which is the Monitoring Report is the basis and foundation of Exhibit "INEC4" which the Plaintiff is relying upon. That impeaching that Report which is the basis of their own report would amount to affecting their own report Exhibit "INEC4". That Exhibit "INEC2" does not speculate and contemplate any report document or correspondence coming in future time. Exhibit "INEC4" was received by the 3rd Defendant as it is. That the two documents are two separate documents, the 1st Defendant being the author of "INEC4" while the 3rd Defendant is the author of "INEC2". That he urged the Court to discountenance the argument of the Plaintiff's Counsel and hold that Exhibit "INEC2" is genuine and authentic. That the law is clear and unequivocal that political parties have the discretion to nominate candidates of their choice for elections, but they must do so in accordance with their Constitutions and Guidelines as well as the laws of the land. That where they fail to

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do so the Courts have been conferred with jurisdiction to ensure that the sanctity of the law is upheld.

That having stated the foregoing, they do not intend to respond to any issue raised by the Plaintiff or any other party.

On Reply on Points of Law: The learned Counsel to the Plaintiff submitted that the 3rd Defendant's Counsel misconstrued his submission. That they are in an agreement with what they have said except that the Court should view Exhibit "2" with circumspection because in their view it has information that postdated the report itself.

On the issue raised by the 1st and 2nd Defendant, he submitted that both parties completely misconceived the case of the Plaintiff. On the issue that the Court cannot rely on Exhibit "J" on the ground that the Exhibit was not annexed to the Affidavit and also relying on **Section 34 of Evidence Act 2011** to say that the party was called to testify in a matter commenced by Originating Summons. He submitted that the submission is unfounded because the Defendant in Exhibit "J" is the 2nd Defendant in the instant suit and he did not deny the deposition. That it is trite law that evidence admitted need no further proof. Relied on **INAKOJU vs. ADELEKE (2007) 1 NWLR (pt.1025)**.

RESOLUTION OF THE ARGUMENT OF THE PARTIES:

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I would like to state that most of the issues raised in the main suit have been addressed in the Notice of Preliminary Objection, hence there is no need to repeat same.

**Section 133(1) of the Evidence Act, 2011** states thus:

- (1) *"In civil cases, the burden of first proving existence or non-existence of a fact lies on the party against whom the Judgment would be given if no evidence were pronounced on either side regard being had to any presumption that may arise on the Pleadings.*
- (2) *If the party referred to in subsection (1) of this Section adduces evidence which ought reasonably to satisfy the Court that the fact sought to be proved to established the burdens lies on the party against whom judgment would be given if no more evidence were adduced and so on successfully until all the issues in the pleadings have been dealt with.*
- (3) *Where there are conflicting presumptions, the case is the same as if there were conflicting evidence."*

It is also the law that a party seeking declaratory reliefs like the Plaintiff herein must succeed on the strength of his own case and not necessary on the paucity of defence to his claims. See **EMENIKE vs. PDP (2012) 12 NWLR (pt.1315) 556; DUMEZ NIG. LTD. vs. NWAKHOBA (2008) 18 NWLR (pt.1119) 361 @ 373 – 374** and

*[Signature]*

**AMOBI vs. OGIDI UNION (NIG.) & ORS. (2021) LPELR – 57337 (SC).**

A careful perusal of the Originating Summons in this matter reveals that the principal reliefs 1, 2 and 3 being sought are declaratory reliefs which by settled law must be proved to the satisfaction of this Honourable Court. The law is also settled that in determining civil cases such as the instant case. The burden of proof is on balance of probabilities by preponderance of evidence. See **BUHARI vs. INEC & ORS. (2008) LPELR – 814 (SC)**.

It is not in doubt that the fulcrum of the Plaintiff's suit is predicated on the nomination of candidates of the 1st Defendant for Bwari Area Council in respect of the forthcoming Area Council general elections. It is not in dispute that the nomination of the 1st Defendant candidate is regulated by the **Electoral Act, 2022**, the 1st Defendant's Constitution and Guidelines for Bwari Area Council. To this end, the provisions of Section 84 of the **Electoral Act, 2022** provided a comprehensive legal framework, which was adopted extensively in the 1st Defendant's Constitution particularly Article 20 thereof. **Section 84(3) of the Electoral Act, 2022**, however ceded to the political parties, the powers to make guidelines by which the general framework of the **Electoral Act** can be achieved subject to the **Constitution of the Federal Republic of Nigeria, 1999 (as Amended)**. It is premised on this fact that the 1st Defendant issued the Guidelines for the Nomination of Candidates for Area Councils



Elections (Exhibit "G" attached to the Affidavit in Support of the Originating Summons).

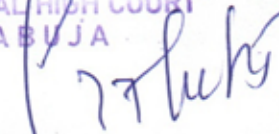
The Plaintiff in recognition of the importance and binding nature of the Guidelines for the Nomination of Candidates for Area Council Elections (Exhibit "G" attached to the Affidavit in Support of the Originating Summons) deposed at paragraph 9 of the Affidavit in Support of the Originating Summons that the primary election of 25th June, 2025 was done in compliance with the said Guidelines as well as the **Electoral Act**. As a matter of fact, all the parties in their respective Affidavits are at ad idem with respect to the importance and binding nature of the 1st Defendant's Guidelines in the nomination process of a candidate in the Area Council elections.

A cursory examination of the provision of paragraphs 16 (headed "Reviews") and 17 (headed "Primary Election Appeal Committee") of the Guidelines for the Nomination of Candidates for Area Council's Elections (Exhibit "G" attached to the Affidavit in Support of the Originating Summons) provide as follows:

**16    REVIEWS**

*"Any aggrieved aspirant shall have the right to appeal within 24 hours of notification, against any decision of the Electoral Committee in line with the party's Constitution and Guidelines."*

**17    PRIMARY ELECTION APPEAL COMMITTEE**



- "(a) There shall be a 5 Member Election Appeal Committee for each of the Area Council made up of Chairman, Secretary and 3 other members appointed by the National Secretariat who shall not be from the Local Government. They shall be responsible for hearing of Appeals (if any) arising from the conduct of all primaries in the State/FCT."*
- (b) Membership of All Appeal Committee shall comprise of persons of proven integrity.*
- (c) The National Secretariat whose decision is final shall be the obiter for all Further Appeals arising from the conduct of all primaries."*

There is no gain saying that from the above copious reproduction of paragraphs 16 and 17 of the 1st Defendant's Guidelines the process of nomination of candidates of the 1st Defendant does not terminate in the primary election venue. Where any aggrieved aspirant wishes to exercise his right to activate the party's internal dispute resolution mechanism, all that is required is for the aspirant to lodge his complaint within 24 hours of the occurrence of the event and exhaustively follow the process to its logical conclusion.

In recognition of this important aspect of the process of nomination of candidates by political parties, the Supreme Court per Emmanuel Agim, JSC in **ALIYU vs. APC & ORS. (2022) LPELR – 57345 SC** at page 27 – 29 held thus:



*"I agree with the sound restatement of my learned brother that political parties and their members should have faith in the internal dispute resolution mechanisms prescribed in their party constitution. A member of a political party has by his membership of that party agreed to be bound by the Constitution and the decision of the party contained in its guidelines and other of its documents. So that he must comply with the provisions of the party Constitution on how disputes over the internal affairs of the party can be resolved in keeping with the legal doctrine that the internal affairs of a political party are non-justiciable and therefore not subject to the judicial powers of Courts. An aspirant cannot exercise that right of action without first exhausting the internal mechanisms for resolving disputes arising from primary elections over nomination or selection of the party's candidate prescribed in the Guidelines or Constitution of the party as part of its process of selection of its candidates. This is because the internal mechanisms for resolving disputes arising from party primaries is part of the process of selecting the party's candidates for general elections."*

Also in **NYAMEH vs. INEC & ORS. (2023) LPELR – 59999 SC** at pages 3 – 11, the Supreme Court restated thus:

*"The purpose of Section 84 of the Electoral Act 2022 as a whole is to enforce compliance with the Electoral Act and*

*political party Constitution and Guidelines in the selection or nomination of the candidates of political parties for general elections. The primary election process as provided in the 2nd Respondent's Primary Elections Guidelines include the poll, hearing and determination of dispute or complains from the poll by an Election Appeal Panel established by the NWC on behalf of NEC of the party and appeal from the decision of the Election Appeal Panel to the NWC of the Party. S.84(14) of the Electoral Act 2022 cannot be applied or interpreted to waive or suspend compliance with the part of the Guidelines on the primary election process of complaining about the election to the Election Appeal Panel and further to NWC if need be. That is part of the primary election process and compliance with the prescribed time lines for the determination of such complains would not in any way defeat the exercise of the right of action given to the aspirant by S.84 (14) of the Electoral Act 2022."*

It is in line with the above provision of the law that the 2nd Defendant petitions the 1st Defendant's Primary Election Appeal Committee vide Exhibit "MAM3" which led to the outcome in Exhibit "MAM4" (Report of the Appeal Committee held on 27th June, 2025). Exhibit "MAM5" (copy of the Extract of National Working Committee (NWC) meeting held on 30th June, 2025) and the issuance of Exhibit "MAM6" (Certificate of Return) to the 2nd Defendant..

*[Handwritten signature]*



From paragraph 6 of the Affidavit in Support of the Originating Summons and Exhibit "D" (INEC Timetable) attached thereto, the 9th June, 2025 - 30th June, 2025 was fixed for the conduct of party primaries, including resolutions of disputes arising from the primaries, the Plaintiff was thus not oblivious of this part of the primary election process.

It is however surprising that same Plaintiff in the depositions at paragraphs 18 - 21 of the Affidavit in Support of the Originating Summons has attempted to deny the occurrence of the conclusive part of this primary election process as same was not favourable to him. I agree with the submission of the learned Counsel to the 2nd Defendant that the Plaintiff's attempt to wish away this integral part of the 1st Defendant's nomination process of its Chairmanship candidate for the Area Council General Election, is hardly tenable in the light of Exhibit "MAM4" (Report of the Appeal Committee held on 27th June, 2025) and Exhibit "MAM5" (copy of the Extract of National Working Committee (NWC) meeting held on 30th June, 2025).

Incidentally, Exhibits "MAM4" and "MAM5" are also attached to the 1st Defendant's Counter-Affidavit as Exhibits "E" and "F" and the 3rd Defendant's Counter-Affidavit as Exhibit "INEC5", respectively.

In Exhibit "MAM4" (Extract of 174 Meeting of the National Working Committee (NWC) held on Monday, 30th June, 2025 by 10:05am at the APC National Secretariat - the letter read thus:

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*"Having extensively deliberated on the Reports, the meeting unanimously adopted the primary election results and also upheld the Primary Election Appeal Reports accordingly through a Motion moved and seconded by the National Vice Chairman (SW) and National Youth Leader, respectively. Consequently, the NWC directed that Haruna Shekwolo Audi should be given a Certificate of Return and his name forwarded to INEC as the candidate of the party for Bwari Area Council Election."*

There is no again saying that on the light of Exhibit "MAM4" (Report of the Appeal Committee held on 27th June, 2025) and Exhibit "MAM5" (copy of the Extract of National Working Committee (NWC) meeting held on 30th June, 2025) which predicated on the unambiguous provisions of paragraphs 16 and 17 of the 1st Defendant's Guidelines for the Nomination of Candidates for Area Councils Elections vis-à-vis the decision of the Supreme Court in **ALIYU vs. APC & ORS. supra** and **NYAMEH vs. INEC & ORS. supra**, respectively, the recognition of the 2nd Defendant as against the Plaintiff as the Chairmanship candidate of the 1st Defendant cannot be said to be contrary to the **Electoral Act**, the 1st Defendant's Constitution and indeed the 1st Defendant's Guidelines for the Nomination of Candidates for Area Council.

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The Plaintiff has relied heavily on Exhibit "INEC4" of the 3rd Defendant to claim that his name has been already submitted to INEC before same was changed by the 1st Defendant. A cursory look at paragraph titled: 'Observation in the 3rd Defendant Exhibit "INEC2", it was reported thus: *"The party officials promised to get back to the Commission after concluding their internal party dispute settlement process."*

It is not in dispute that submission of name of candidate of the political party can only be done by the National body of the political party to the National Chairman of INEC and not the Secretary APC Bwari Area Council to E.O. Bwari as purported done in Exhibit "INEC4".

The said INEC4 is a letter dated 4th July, 2025 written solely by one Shaibu Musa Rade, Secretary APC Bwari Area Council forwarding same documents to E.O. Bwari. Although, the letter clearly shows the name of Hon. Aliyu Tanko Shere as Chairman, the letter was not signed by Aliyu Tanko Shere the Chairman. The same Aliyu Tanko Shere who is indicated as Chairman of the party Bwari Area Council in Exhibit "INEC4" is the deponent of the 1st Defendant's Counter-Affidavit in Originating Summons stating what actually transpired and how the internal dispute settlement process was followed to declare the 2nd Defendant as a "winner" of the election.

The APC Secretary of Bwari Area Council cannot override his Chairman of the Area Council and override the National Working

Committee of the party. APC Secretary of Bwari Area Council lacks the vires, authority to submit the name of the party's candidate when the National Working Committee of the party is available. Paragraph 15 of the APC Guidelines for the nomination of candidates for the Area Council that is the Plaintiff's Exhibit "G" clearly provided that the Primary Election Committee's decision on the outcome of the election *"shall however be subject to review by the Primary Election Appeal Committee and final decision of the National Working Committee (NWC)"*.

The decision of the Primary Election Appeal Committee against the Plaintiff was 27th June, 2025. The decision of the National Working Committee was on 30th June, 2025. The Chairman of APC Bwari the Primary Election Appeal Committee and the National Working Committee cannot all be wrong about the certain victory of the 2nd Defendant as winner of the primary election with 38 votes while Plaintiff score 5 votes.

Going by the facts evinced before this Honourable Court, it is the Plaintiff that has chosen not to comply with the unambiguous provisions of paragraphs 16 and 17 of the 1st Defendant's Guidelines for the Nomination of Candidates for Area Councils by exhausting all the 1st Defendant's internal dispute resolution mechanisms.

In the case of **KARSHI & ORS. vs. GWAGWA & ORS. (2022) LPELR – 57544 (SC)** the Supreme Court laid to rest on the finality of the decision of the 1st Defendant's Primary Election Appeal



Committee adopted by the National Working Committee (NWC) with respect to the process of nomination of candidates by the 1st Defendant as in the instant case.

Before I finally come to conclusion on this issue, I must not fail to address the allegation made by the Plaintiff in his written address that the 1st Defendant falsified documents to justify the injustice against the Plaintiff and by that reason the 1st Defendant cannot be trusted to resolve its internal dispute before resort to Court. The law is settled that allegation of falsification of document cannot be resolved or entertain by way of Originating Summons or Affidavit evidence. See the case of **EDVIE vs. OROHWEDOR & ORS. (2022) LPELR – 58931 (SC)** where the Supreme Court held thus:

*"Instructively, this Court in APC Vs. ELEBEKE (Supra) considered similar issue as to the appropriateness of originating summons in similar circumstances as the instant case. Please hear what my learned brother, AGIM, JSC at pages 33 - 34, paras B - B said: "It was obvious that the allegations of falsification and forgery of document cannot be proved on the bare assertions in the affidavit relating to the documents attached to them. It was obvious that it would be impossible to resolve the irreconcilable disputes on the relevant facts on the state of affairs as they stood. Yet the trial Court proceeded to try allegations of forgery on originating summons and the assertions in the affidavits and counter affidavits and found that the 2nd Respondent*

*falsified or forged the documents because the name of the 2nd Respondent in some documents is stated in a manner or form different from how it is stated in his other documents ... The trial Court erred in law to have tried and decided the matter in that manner. This state of affairs appears to have caused it to resort to speculations and assumptions to fill in the yawning evidential gaps in the 1st Respondent's case. The error occasioned a serious miscarriage of justice as it violated the 2nd Respondent's right to fair hearing. The error rendered the whole proceedings a mistrial. It is plain that Originating Summons is not the appropriate means of commencing this kind of action. The law is settled by a long line of decisions of this Court that it is not appropriate or suitable to use originating summons to commence an action where the relevant facts are likely to be irreconcilably in dispute ... " I must say, contrary to the Appellant's contention, that the Federal High Court (Pre-Election) Practice Direction, 2022 issued on 28th day of June, 2022, and which mandates the filing of Originating Summons in pre-election matters, as in the instant case, is of no relevance in this appeal because (he Appellant's suit was commenced prior to the coming into force of the said Practice Directions. In any event, a Practice Direction is analogous to a subsidiary legislation by the operation of Section 18 of the Interpretation Act, and*



like all other subsidiary legislations, it indeed has a force of law. See *OWNERS OF THE MY "ARABELLA" vs. NIGERIAN AGRICULTURAL INSURANCE CORP.* (2018) 11 NWLR (Pt. 1097) 182. However, where a Practice Direction is in conflict with the provision of the Constitution or of a statute or of substantive Rule of Court, it will not have any force of law,' thus, the Practice Direction must not conflict with any Law or Rule of Court. In this case, it is not in dispute that Order 3 Rule 2(b) of the Federal High Court (Civil Procedure) Rules, 2019 provides that where a suit is based on or includes an allegation of fraud, it must not be commenced by Originating Summons. My view is that the provisions of the Practice Direction cannot hold dominance where an action is based on or involves allegations of fraud,' rather, it is the provisions of the Rules of Court that must apply. The authorities are clear on the position that allegations of fraud in cases where facts are likely to be in dispute cannot be proved on the basis of affidavit evidence and on originating summons. Closing the curtain on this issue, I believe the views expressed by the Court below that Appellant's suit cannot be sustained on the basis of an originating summons procedure is in line with the settled position of the law handed down by this Court; the decision cannot therefore be faulted."

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Thus on this score alone, the case of the Plaintiff is incompetent. Being in a case of forgery, the case of the Plaintiff commenced by Originating Summons ought to be dismissed and same is hereby dismissed on that ground. That notwithstanding, I am of the view and I so hold that the 2nd Defendant's Nomination as the "Candidate" of the 1st Defendant accords with the Electoral Act, the 1st Defendant's Constitution as well as the 1st Defendant's Guidelines for the Nomination of Candidates for Area Councils.

On the issue whether the Plaintiff may validly rely on the Affidavit and originating process from Suit No. FHC/ABJ/CS/1302/2025 between Hon. Haruna Shekwolo Audi V. Joshua M. Ishaku & 3 Ors. which were struck out in these current proceedings which the Plaintiff has placed heavy reliance. The law is settled that once a matter is dismissed or struck out, all processes filed therein are deemed extinct in law, as if they had never been filed. They therefore have no evidential or procedural weight and cannot be imported into or relied upon in subsequent proceedings except they are properly refilled and admitted in accordance with the rules of evidence. In the case of

**CENRAL BANK OF NIGERIA vs. OKOJIE (2015) 14 NWLR (pt.1479) 231 @ 239** the Supreme Court emphasized that:

*"A process that has been struck out is lifeless, it cannot be acted upon by any Court until it is properly brought back before the Court."*

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Also, the Supreme Court in **OKOYE vs. NIGERIAN CONSTRUCTION & FURNITURE CO. LTD. (1991) 6 NWLR (pt.199) 501 @ 540** per Karibi-Whyte, JSC, reiterated that a struck out matter "has no life until revived" and cannot form the foundation of rights or liabilities in another proceeding.

Again, in **MAGAJI vs. NIGERIAN ARMY (2008) 8 NWLR (pt.1089) 338**, the Court warned against reliance on processes already struck out, as that would amount to giving judicial recognition to a document that has no legal existence. Applying the above authorities in the instant case, Exhibit "H" (the Affidavit from the earlier suit) is a non-existent process in law. The Plaintiff cannot blow hot and cold by acquiescing to the dismissal/striking out in the earlier suit, only to attempt to resurrect and rely upon the same process here. That attempt is a *legal nullity*.

In view of the foregoing analysis, I am of the view and I so hold that all the paragraphs of the Affidavit from Suit No. FHC/ABJ/CS/1302/2025 Between Hon. Haruna Shekwolo Audi V. Joshua M. Ishaku & 3 Ors. cannot be relied upon in this case. Unless properly refilled in this suit, they remain void, inadmissible and I cannot bear any probative value in aiding the Plaintiff discharge the onerous burden of proof required to entitle him to the declaratory reliefs sought.

In sum, I am of the view and I so hold that the Plaintiff herein has failed woefully to prove on the preponderance of evidence that is

*[Signature]*

entitled to the reliefs sought herein. Consequently, this suit is hereby dismissed.

This is the Judgment of this Court.



**HON. JUSTICE EMEKA NWITE**  
**JUDGE**

**12/11/2025**

**COUNSEL'S REPRESENTATION:**

1. **GEORGE IBRAHIM, SAN with INNOCENT L. ADOO, ESQ.; CHIMEZIE ENUKA, ESQ.; F.O. AKOH, ESQ.; I.P. NWOGU, ESQ.; K.O. MUSTAPHA, ESQ.; J.B. OKUBA, ESQ.; H.B. ABDULRAHMAN, ESQ.; O.M. OFFIAH, ESQ. and AUDU ESTHER, ESQ. for the PLAINTIFF.**
2. **P.D. PIUS, ESQ. with O.A. MARTINS, ESQ. and U.M. GALADIMA, ESQ. for the 1<sup>ST</sup> DEFENDANT.**
3. **M.J. NUMA, SAN and OKECHUKWU EDEZE, SAN with ALIYU D. HUSSAIN, ESQ.; AFFIX A. MATANMI, ESQ.; HUSSAINI A. MAIBEZA, ESQ.; EMMANUEL C. SOGO, ESQ.; NABILA ABDULLAHI, ESQ. and N.C. SAMANI, ESQ. for the 2<sup>ND</sup> DEFENDANT.**
4. **BASHIR M. ABUBAKAR, ESQ. with FRANCA OSAGIEDE, ESQ. for the 3<sup>RD</sup> DEFENDANT.**

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