

IN THE MAGISTRATES' COURT OF RIVERS STATE
IN THE PORT HARCOURT MAGISTERIAL DISTRICT
HOLDEN AT PORTHARCOURT BEFORE HIS WORSHIP. G.C. AMADI ESQ.
SITTING AT SMALL CLAIMS COURT AT CHIEF MAGISTRATE COURT 7, ON
THE 28TH OF JANUARY 2025

SUIT NO. PMC /SCC/329/2024

MS ROSELINE EKUMA

}

CLAIMANT

AND

ELLA LOGISTICS SERVICES LTD

}

DEFENDANT

JUDGMENT

This is the final judgment in this suit wherein the small claim before the court, dated and filed on the 29th November, 2024 is for:

1. An order of this Court compelling the defendant to pay the Claimant, the sum of N1,000,000,00 being cost for Buchy food processor and one sound proof Buchy blender .The sum of N100,000 (One Hundred Thousand Naira) being cost for undelivered cow skin.Total in special damages is N1,100,000
2. An order of this Court compelling the defendant to pay the Claimant, the sum of N2,000,000 (Two million Naira) only as damages for breach of contract and N1,500,000 (One Million and five Hundred Thousand Naira) for damages for loss of goodwill , loss of customers, emotional, psychological trauma and loss of earnings. Total in general damages is N3,500,000 (Three Million, Five Hundred Thousand only)
3. 20% interest from the 5th of July, 2024 until judgment is delivered
4. 20% post judgment interest.

In proof of his case, the Claimant called one witness and the defendant also called one witness .



On the 16th December, 2024 an application to enter plea of not liable for the defendant by the defendant counsel was granted and the matter was set down for hearing.

On the 10th day of January, 2025, the Claimant was present and the defendant was present. On this date, the CWI, who is also the Claimant on record, commenced her evidence in Chief and states that she is a businesswoman who is into export of Nigerian agricultural Produce and products, Nigerian and African fabrics and attires. Nigerian manufactured household goods etc. to the United States of America, Europe and Asia.

That the Defendant is a Courier Company with a branch office within the jurisdiction of this Court whom she contracted to Courier her goods from Port Harcourt, Rivers State, Nigeria to the United States of America and who had breached the said contract, allegedly damaged one of the goods as well as held over the said goods since June, 2024.

That she has been doing her business successfully for over three years until Sometime in May, 2024 when she came across the Defendant's online advertisement wherein the Defendant's CEO and founder Ms. Iheuwa Sandra represented in an online advertisement that the Defendant delivers goods from Nigeria to America and Europe within 10 to 15 days. The said video Clip and flier of the Defendant's advertisement published on the Defendant's website, their social media platforms: Instagram etc wherein the Defendant's CEO and founder Ms. Iheuwa Sandra Ifeoma and staff of the Defendant unequivocally proclaimed, assert and advertised that they deliver goods to the United States of America and other parts of the world within 10 to 15 days is hereby pleaded and shall be relied on during trial.

That she downloaded the video advertisements of the Defendant from the Defendant's Instagram Page using her personal HP pavilion laptop Computer which she uses for her business as well as for accessing her social media platforms, her emails and for downloading documents of this kind.

That she also burned the said videos into a DVD, and also downloaded the advertisement fliers of the Defendant using her personal HP pavilion laptop Computer thereafter she printed the fliers with my HP Laser Jet MFP 135A printer which she uses daily to print documents. Both the video and printed fliers are herein pleaded and shall be relied on during trial.

Testifying further, the CWI stated that after coming across the advertisement of the Defendant, she went to the office of the Defendant in Port Harcourt, Rivers State at about the 13th day of June, 2024 to make further inquiry. That at the Defendant's Port Harcourt branch office, she met the Defendant's Port Harcourt Branch manager; Mr. Chris Chinedu Amarami whom she informed of the urgency of the shipment and that some of the goods she will be exporting are wedding clothes and clothing materials that were to be used for a



Nigerian traditional wedding in the United States of America and also notified him that the wedding was scheduled for the 27th day of July, 2024.

That the Port Harcourt branch manager of the Defendant then assured her that the Defendant will deliver the goods on or before 15 days from the date of engagement as was advertised in their company's website.

That on the 14th day of June, 2024, she was at the branch office of the Defendant at No. 21 Bekwere Wosu Street, D/line, Diobu, Port Harcourt, Rivers State, where I entered into a contract with the Defendant to Courier 33 items (hereinafter called "goods") valued at about N10,100,000 (Ten Million and One Hundred Thousand Naira) only to one Mrs. Edit G. who lives and does business in the United States of America.

That the goods she contracted the Defendant to deliver to the United States of America are:

1. 1 ZIPLOC OF PEPPER SOUP SPICE
2. 1 ZIPLOC OF PEPPER,
3. 2 ZIPLOC OF STEW SPICE
4. 1 ZIPLOC OF SOUP SPICE,
5. 1 ZIPLOC OF BANGA SPICE
6. 1 ZIPLOC OF RED PEPPER,
7. 2 ZIPLOC OF CRAYFISH,
8. 1 ZIPLOC OF GARRI
9. 1 ZIPLOC OF YELLOW GARRI,
- 10.1 ZIPLOC OF STOCKEISH
- 11.3 ZIPLOC OF DRIED FISH
- 12.2 ZIPLOC OF ZOBO SPICE,
- 13.1 ZIPLOC OF CURRY POWDER
- 14.1 ZIPLOC OF ROSEMARY LEAF,
- 15.2 ZIPLOC OF EGUSI
- 16.1 ZIPLOC OF THYME,
17. 1 CONTAINER OF IRU
- 18.1 ZIPLOC OF POMON
- 19.1 RUBBER OF HONEY
- 20.2 bottles OF BLACK SOAP,
- 21.2 ZIPLOC OF COCONUT
- 22.1 BANGA PLUYP
- 23.1 FANCY HAND FAN,
- 24.1 ZIPLOC OF TIGERNUT,
- 25.1 FANCY HAND FANCY
- 26.HAND PULSE
- 27.2 PEARLS OF SHOES,
- 28.1 MALE CAP,
- 29.1 PLAIN TAIN FLOUR
- 30.1 WIG,
- 31.FEMALE CLOTHES,

32.1 BUCHYMIX FOOD PROCESSOR

33.1 BUCHYMIX BLENDER

That upon handing over the goods to the Defendant, the Defendant's representatives who received the goods informed her that they will repackage the goods and put them into crates because of the nature of the goods to avoid damage. That she paid the Defendant a total payment of the sum of N 1,490,825 (One Million, four Hundred and Ninety thousand, Eight hundred and Twenty Five Naira) Only as fees and Charges for the delivery of her goods to her customer in the United states of America within 10 to 15 days from the 14th day of June, 2024. My United Bank for African Plc and Access Bank Plc Statements of Accounts showing the transfer of the money to the Defendant are herein pleaded and shall be relied on during trial.

That she made a total of N 1,490,825 (One Million, four Hundred and Ninety thousand, Eight hundred and Twenty Five Naira) Only as payment to the Defendant for the shipment of the goods. The payment was made in two trenches via my United Bank Of Africa account and my Access Bank Plc bank Accounts on the 14th and 15th day of June, 2024 respectively.

The Defendant insisted that she must pay additional fees for the transportation of the goods to their Head office in Lagos State to which she transferred N 92,000 (Ninety Two Thousand Naira) only through one Dike Uwandu on the 14th day of June, 2024 and N50,000 on the 15th day of June. That she protested this additional hidden charges but the Defendant's Port Harcourt Branch Manager Mr. Chris Chinedu Amaram insisted that it was the procedure of the Defendant. That because she wanted the goods delivered on schedule, she also paid the above mentioned hidden charges.

That about 5 days after the conclusion of the contract with the Defendant, she got an email from the Defendant containing the Receipt of payment as well as an alleged terms and conditions for the transaction. The said terms and condition were never made known to her nor shown to her until about 5 day after the conclusion of the whole transaction.

Further, the CW1 stated that she was also surprised when on the 26th day of June, 2024, she received via an email the waybills numbers for the shipment of the goods from a third party- UPS instead of from the Defendant notifying her that her shipment will be delivered soon. That she was shocked at the email because she never had any business dealings with UPS but with the Defendant. That she called the Defendant customer Care phone No.: 07049214980 to know why they gave her goods to UPS without her consent. That she informed the Defendant's customer care cent that if I wanted UPS to deliver my goods to the United States of America would have gone straight to the UPS office and contract with them to deliver her goods. She insisted on knowing why her goods where sent to a third party

without her coment, the customer care of the Defendant who had no answer to my questions then referred me to the Defendant's Cargo Manager Emeka Omwurah- and the



Customer care gave me mobile phone No. 018063429708 as the mobile Number of Mr. Emeka Onwura. That she called Mr. Emeka Onwura to know why the Defendant gave her goods to a third party without her knowledge but the Defendant's Cargo Manager-Mr. Emeka Onwura informed her that UPS is the Defendant's partner and that UPS will deliver the goods on behalf of the Defendant. That she expressed her disappointment to the manager. The Cargo Manager also gave her the delivery Manager's phone No. The email from UPS was downloaded into his HP pavilion laptop Computer and thereafter printed from my HP Laser Jet MFP 135A printer which he daily uses to print documents.

That when the 10 to 15 days advertised by the Defendant had elapsed without the goods been delivered, she contacted the Defendant's delivery manager who told her that the 10 to 15 days advertised, by their company's policy starts counting after 5 days from the date of payment and as such the 10 to 15 days started counting from the 20th day of June, 2024 and not from the 14th day of June, 2024 when she made the payment for the delivery of the goods and the delivery date of the goods will be 5th day of July, 2024.

The Defendant again failed to deliver the goods on the new date of delivery of 5th July, 2024 imposed on me by them. The Defendant refused to deliver the goods nor return the undelivered goods to me.

That for more than 40 days after entering the contract for the shipment of the goods, the Defendant held-over, neglected, refused and failed to deliver my goods to their destination in the United States of America notwithstanding her constant calls and appeal to the Defendant. That every effort made to have her goods deliver by the Defendant proved abortive. The Defendant's alleged partner -UPS who has no business with me and the Defendant kept changing and sending different "expected dates of delivery" of the goods to me. That the Defendant and her partner latter delivered three packs out of the Six packages of my goods in piecemeal between late July and late August, 2024 but held-over three other packs of the goods including the Clothes and the clothing materials for the wedding.

On the 6th of August, 2024, her customer to whom the goods were meant to be delivered to called me and informed me that she was not going to pay for the goods and that her customers who ordered the clothes and clothing materials had threatened to sue her for breach of contract in the United States of America and that her said customer had sought and got alternative Nigerian clothes which they used for their wedding.

That she was so frustrated, traumatized and confused that on the 7th day of August, 2024, she made a complainant to the Abacha Road, Divisional Police Station. The DPO of Abacha Road, Divisional Police Station, arrested Mr. Chris Chinedu Amaram- the Port Harcourt branch manager of the Defendant and granted him bail the same day.

That On the 8th day of August 2024, briefed K. Oluo, Esq of Lord Edwards Chamber, who did a letter dated the 8th day of August, 2024 to the Defendant and captioned: "Case Of Breach Of Contract, Fraudulent Misrepresentation And Obtaining By False Presence:



Demand For Specific Performance And Damages Of N30,000,000 (THIRTY MILLION NAIRA)*.

That the Defendant via a letter dated the 15th day of August, 2024 captioned "RE: Case Of Breach Of Contract, Fraudulent Misrepresentation And Obtaining By False Presence: Demand For Specific Performance and Damages Of N30,000,000 (THIRTY MILLION NAIRA)"

wherein they absolved the Defendant of liability for the Defendant's failure to fulfill its part of their contract and also requested for settlement. The Defendant's lawyer, a few days later called her lawyer requesting for a zoom meeting but I requested for a physical meeting. The meeting never held. The Defendant response letter is herein pleaded and shall be relied on during trial.

That attempts were proposed to settle the matter but the meetings for settlement could not hold due to some discrepancies regarding time and venue of the meeting.

That after waiting endlessly for the Defendant to deliver or return her undelivered goods, she made complaint to the Rivers State commissioner of police. The Police commenced investigation into the complaint, invited the Defendant's Port Harcourt Branch Manager and fixed the 10th day of September, 2024 for interview.

That on the 10th day of September, 2024, the Defendant's company Secretary, one Miss Nkeiruka Ulasi, Esq accompanied the Defendant's manager to the State CID, Port Harcourt, Rivers State, The Company Secretary and the Port Harcourt branch manager of the Defendant, Mr. Chris Chinedu Amaram at the State CID, Port Harcourt both admitted the existence of the contract between the Defendant and herself.

The Defendant's lawyer at the Rivers State CID, Port Harcourt assured her that the remaining three packs of my goods shall be delivered to my Customer in the United States of America before the 10th day of October, 2024. They also informed me that one of the goods had been damaged in transit and that they will pay and compensate me for the loss I had suffered and pay me for the damaged goods before the same 10th of October, 2024.

The Cautionary statement of the Defendant's Port Harcourt branch manager- Mr. Chris Chinedu Amaram and those of their Secretary to the Rivers State CID, Port Harcourt is herein plead and shall be relied on during trial.

That she has called her customer and informed her of the steps, she has taken so to have the remaining goods delivered to her. But because of my persistent calls and plea to her, That her customer agreed to receive the goods but insisted that she shall deduct the sum of N1, 200,000 (one Million and Two Hundred thousand Naira) only from the N 10,000,000 (Ten Million Naira) Only she is to pay her as compensation for her losses occasioned by the delay in delivery of the goods by the Defendant and that she shall pay the said balance to her whenever she receives the remaining three packs of her goods.



That she was shocked that in less than 12 days after she reported the Defendant to the Commissioner of Police, the Defendant delivered two of the remaining three packs of the goods including the wedding clothes and clothing materials to her Customer in the United States of America. That the Defendant had alleged that one of the packages was damaged on transit but refused to disclose the particular package that was damaged neither had they returned the alleged damaged goods to me till date nor pay me for the goods as they promise or paid me compensation for the pains and loss of business they have caused her. That the Defendant had refused to honour the police invitation for further meetings nor sent back to me or deliver to my Customer the remaining one package of my goods to my Customer till date.

That every effort to have the Defendant return or deliver the remaining goods comprising of one Buchy food processor and one Sound proof 570, 000 (Five Hundred and seventy Buchy blender worth Thousand Naira) only and supply value of N 1,000,000 (one Million Naira) only have proved abortive till date. Receipt of purchase of the Buchy food processor and one Sound proof Buchy blender is hereby pleaded and shall be relied on during trial.

Testifying further, the Defendant also held over the Cow Skin (Pomor) worth N100,000 (one hundred thousand Naira) only and refused to deliver nor return them to me till date.

That following the breach of contract by the Defendant, She has not been able to make any delivery to her customers in the United States and Europe.

That her Customers are all insisting that she must deliver the full goods to Mrs. Edith before they can resume business with her. That she has also lost a valued customer and good will with her customers who resides in the United States of America and Europe.

That items 25 to 31 listed in paragraph 10 above are items needed for a Nigerian traditional marriage in the United States of America scheduled for the 27th day of July, 2024 but the Defendant held them over and refused to deliver them to her customer until after the wedding.

That she filed a letter of demand from the court, which was served on the Defendant by the bailiff of this Court. The said Demand letter is pleaded

That WHEREFORE the 1st claim against the Defendant as follows:

A. SPECIAL DAMAGES:

i. The sum of ₦ 1,000,000 (one Million Naira) been cost for Buchy food processor and one Sound proof Buchy blender.

ii. The sum of ₦ 100,000 (One Hundred Thousand Naira) been cost for undelivered cow skin (Pomor)

TOTAL —= N 1,100,000

B. GENERAL DAMAGES

1. N 2,000,000 (Two Million Thousand Naira) only as damages for breach of contract;

2. N 1, 500, 000 (One Million and Five Hundred Thousand Naira) for damages for loss of goodwill, lost of Customers, emotional, psychological trauma and loss of earnings.



TOTAL GENERAL DAMAGES N 3,500,000

Total Claim: ₦ 4,600,000

Twenty percent (20%) interest from the 5th day of July, 2024 until judgment

Twenty percent(20%) post judgment interest from the date of judgment until judgment sum is liquidated

Urges the court to grant all the prayers contained in her summons.

The CW1 identifies the CD Rom, Invoice from Bushy Mix Limited, letter from Specter and Ashburn LP, Whatsapp message from the defendant, online Account summary of the Claimant from United Bank Of Africa, Plc. Account statement from Access Bank Plc, Four (4) print outs of UPS Tracking US. information and certificate of compliance and they were admitted in evidence as Exhibits A, B,C,D,E,F,G,H,J,K,L and M respectively.

During the cross examination of the CW1 on the 14th January, 2025, she stated that she brought her goods to the defendant's office on the 14th and the 15th of June, 2025.

That during their transaction with the defendant, communication was physical. That yes, she received a receipt on the 20th, that is 5 days after making payment, titled invoice of the payment transaction and it was to her Email. UPS tracking number was sent to her, that she did not ask them to discontinue because they told her that the shipment have already left. That the Claimant's message that the shipment has already left is not before the Court. That the defendant never told her about any insurance and that she did not ask why no insurance was written on the invoice because she has already paid money to the defendant.

The CW1 identifies the invoice issued to her via email and the defendant counsel applies to tender same in evidence.

The Claimant counsel is objecting to the admissibility of the document because the CW1 did not sign the terms and condition now attached to the invoice. That the CW1's signature is not on the T&C and she did not acquiesce to it.

The defendant counsel applies to withdraw the said invoice and same is granted. That she disclosed the value of her goods to the defendant and that her goods were packed into six(6) boxes for shipment and that only 3 of the boxes were delivered and had passed the 10-15 days, they told her before she reported the matter to the police. That two of the packages were not received after meeting with the defendant at the state CID. That by paragraph 37 of her deposition that it was only one item that her client did not receive. Which consist of the blender and the food processor. That she did not declare the price of the food processor and the blender, that she declared the value of the entire goods as Ten million, Five Hundred Thousand Naira (N10,500,00)

The CW1 is asked to read box 4 of the attachment to Exhibit C and she replies that she did not declare anything on exhibit C, because the Exhibit C was given to her after payment. That she cannot remember objecting to the value of N200,000 written on the Exhibit C. That when she received the said invoice, she did not object to the terms because she has already paid. That she did not ask them to stop because she has already made payments.



That she is surprised that the defendant is using UPS courier because the manager of the defendant have informed her that the defendant have their own plane.

Yes that it is true that defendant told her via whatsapp that the UPS will return the damaged goods and she will send the total amount but that she did not receive the damaged goods, so she did not declare the worth. That nobody told her about the returned ponmo until the case started, that was when she knew about the ponmo.

That the defendant never asked her for the receipt of the food processor and the blender. That she will not be surprised to see a whatsapp message requesting for the receipt of the food processor and the blender.

That she did not receive any message from the defendant on the 24th September only for the receipt of the blender and the food processor.

The CW1 is shown a whatsapp message for the 24th of September and the defendant counsel seeks to tender same in evidence. The Claimant's counsel objects to the admissibility of the document because it was not part of the frontloaded document and also offends the provisions of section 84 of the Evidence because no certification was done.

The defendant counsel replies that this is cross examination and that the certificate will be tendered through other witnesses.

In her ruling, the Court held that the document sought to be tendered is not in an admissible form and offends section 84 EA. Same was not admitted and was marked as 'NOT ADMITTED'

Testifying further, the CW1 stated that she never furnished the defendant, the receipt for the blender or food processor, That she did not also show evidence of bank transfer to show for the purchase of the ponmo because she bought ponmo from the market and the market woman did not give her receipt and even when asked by the defendant and she paid in cash to the market woman.

That she paid into the defendant bank statement with Fidelity bank and some money was also paid into the defendant's driver account number

That in Exhibit A, it was plain and showed that the Company delivers goods within 10-15 days. That the total sum she paid is One Million, Four Hundred And Ninety Something thousand. That apart from Exhibits A and D, there is nothing else before the Court to show that defendant promised to deliver within 5-10 days

That there is nothing before the Court to show that she has not been paid

On the 17th January 2025, the DW1, Faith Uyo Edegbu, adult, female, Christian and Nigerian citizen of 2 Bekwere Wogu Street, D-line Dioba, Port-Harcourt, Rivers State do make oath and state as follows:

That she is the Regional Manager of the Defendant in this suit and by virtue of her position, she is conversant with the facts of the case.



That the Defendant is a duly registered courier and logistics company that delivers goods to different countries both within and outside Africa.

That the Defendant while delivering her customers goods/packages operates as a third party courier and logistics company hence, the defendant's customers are not only informed of her status as a third party courier and logistics company but the names of the defendant's courier partners/ secondary courier companies are explicitly stated in the "Terms and Conditions" on the invoice given to all customers including the Claimant. That the Defendant's invoice is hereby pleaded and shall be relied on during trial.

That while the Claimant came to the defendant's branch office at Port Harcourt, Rivers State on 13th June, 2024 to make inquiry and on 14th June, 2024 to ship her goods, the Defendant informed her that her goods will be shipped to United States of America via the defendant's cargo known as Ella Cargo[®] but as a third party courier company, the doorstep delivery of the Claimant's goods at its final destination in the United States of America (U.S) will be done by one of defendant's courier partners/ secondary courier known as UPS. That in any transaction that involves rendering of services like that of the defendant or buying and selling, invoices are usually issued after receipt of payment.

That when a client makes inquiry before shipment either personally or via phone call or messages, the defendant informs the client of her partners that will deliver the goods at the final destination and then sends invoice to the client after processing her payment giving the client ample time to read through the defendant's terms and conditions contained in the invoice before proceeding to ship the goods by creating labels and tracking numbers which are subsequently forwarded to the client to also track her goods and know their whereabouts at all times BUT where the client does not make inquiry and comes to the office to ship her goods immediately (on the spot), the defendant first creates an invoice before payment and issues same to the client to read the defendant's terms and conditions before shipment

That as a result of the volume of the Claimant's goods to be shipped, the defendant's staff put the claimant's goods in 5 (five) different boxes in the presence of the Claimant for ease of shipment. That the content of the 5 (five) different boxes with the worth/ value of each boxes declared by the client explicitly written on the client's invoice are as follows;

A.Box 1

1 Ziploc of pepper soup spice

1 Ziploc of pepper

[17:17, 26/01/2025] Gift Chinyere Aworabbi: 2 Ziploc of stew spice

1 Ziploc of soup spice

1 Ziploc of bunga spice

1 Ziploc of red pepper

2 Ziploc of crayfish

1 Ziploc of garri

- 1 Ziploc of yellow garti
 - 1 Ziploc of stockfish
 - 3 Ziploc of dried fish
 - 2 Ziploc of zobo Spice
 - 1 Ziploc of curry powder
 - 1 Ziploc of rosemary leaf
 - 2 Ziploc of egusi
 - 1 Ziploc of Thyme
 - 1 container of iru
 - 1 Ziploc of kpomo
- DECLARED VALUE :- N 200,000

- B. Box 3
- 1 rubber of honey
 - 2 Ziploc of black soap
 - 2 Ziploc of coconut
 - 1 banga pulpy
 - 1 fancy hand fan
 - 1 Ziploc of tigernut
 - 1 hand purse
 - 2 pairs of shoes
 - 1 male cap
 - 1 plantain flour
 - 1 wig
- DECLARED VALUE:- N-200,00

- C. Box 2
- 34 female clothes
- DECLARED VALUE ; N 200,000

- D. Box 4
- 1 food processor

DECLARED VALUE ; N 200,000

E. BOX 5

- 4 Wooden box of red oil
- DECLARED VALUE ; N 200,000

That the defendant's staff in compliance with NIPOST best practice on logistics and courier services, section 48 of Civil Aviation Act, Part 18 of Nigerian Civil Aviation Regulations (NCAR) 2015 and Contractual Agreements and International Air Transport Association (IATA) Rules informed the Claimant to insure her goods with the defendant due to the inherent risk associated with courier business and shipment of goods in order to be protected by the Defendant's insurance policy in case of damage, loss or theft of her goods while on transit as it is one of the mandatory requirements for all courier and logistics company to have an insurance scheme before obtaining a license.

That the claimant opted not to insure her goods and the word "NO INSURANCE" is boldly written on the claimant's invoice pleaded in the above paragraph 4 thereby indicating that the claimant did not insure her goods.

Testifying further. The DWI stated that the claimant paid the sum of N 1, 490, 825 (One Million Four Hundred and Ninety-Thousand, Eight Hundred and Twenty-Five naira) only as cost of shipment of her goods as written in the Claimant's invoice.

That the Defendant as a duly registered company has her cooperate accounts in Fidelity bank and Access bank as such, the defendant only recognizes payment from customers/clients paid into the above designated cooperate bank accounts and not into any other account.

That it is clearly stated on the defendant's Instagram page and also on the Claimant's invoice given to all customers including the claimant that payment should be by "POS OR TRANSFER TO ONLY THE COMPANY'S CORPORATE ACCOUNTS WITH FIDELITY OR ACCESS BANK".

That the claimant was given a tracking number to track her goods while in Nigeria and also six (6) different tracking numbers to track her packages via UPS website/portal once her packages are outside Nigeria in order to determine when her good/packages will be on transit and also delivered at the receiver's address in USA.

That the defendant proceeded to ship the Claimant's goods due to the fact that the Claimant did not object to any of the information given to her by the defendant's staff neither did she object to the terms and conditions in the invoice nor delivery of her goods to the final destination via UPS.

That the defendant and defendant's secondary courier company/ partner (UPS) creates a label and tracking numbers before the shipment of customers' goods outside Nigeria hence, if the Claimant had demanded for her goods to be returned and not delivered at the final destination in United States of America by UPS at the time UPS tracking numbers were given to her, the defendant would have returned her goods immediately and refunded her the cost of shipment.

That the Claimant did not object to the prior information by the defendant's staff that her goods will be delivered at the final destination in U.S by the defendant's secondary courier company (UPS) neither did she request for her goods to be returned when UPS tracking ID / numbers were sent to her thereby terminating the contract as such, the claimant accepted and consented to the terms & conditions stated in her invoice.

That the defendant informed the Claimant that her goods will be delivered between 10 to 15 working days from the date of shipment but due to delay by UPS in sorting out the defendant's cargo packages shipped to United States of America (U.S), Three boxes out of the Claimant's five boxes were delivered in July, 2024.



That both the Claimant and the Defendant had access to track the goods on the UPS portal/website using the tracking ID/numbers, which was the purpose of sending the tracking numbers to the Claimant in first place. While tracking the Claimant's goods on the UPS

portal/website using the tracking ID/numbers, both parties observed that one of the packages/boxes was marked as damaged on the UPS portal/website, and that the Defendant's staff reached out to the Claimant on several occasions via phone conversations, explaining the reason for the delay and stating that if any item was damaged in the box, UPS would pay for it according to their policy which is the payment of not more than \$100 dollar for uninsured goods once the Claimant gives a receipt of purchase showing the cost of the item to the defendant.

That the Claimant came to the Defendant's office on 7th August, 2024 in the company of armed police officers and arrested the Defendant's staff despite the fact that the claimant's transaction with the defendant is contractual and civil in nature with the terms of the contract and our client's obligations to her written in the terms & conditions on the Claimant's invoice which is the only binding and legal document between the Claimant and the Defendant. That by a letter dated 9th August, 2024 and titled CASE OF BREACH OF CONTRACT, FRAUDULENT MISREPRESENTATION AND OBTAINING BY FALSE PRESENCE: DEMAND FOR SPECIFIC PERFORMANCE AND DAMAGES OF N 30,000,000, the claimant's lawyer K. OLUO, ESQ demanded for delivery of the claimant's goods within 7 days, the payment of N-30,000,000 (Thirty Million Naira) as damages for breach of contract and a written apology to the claimant.

That the above dated letter from the Claimant's lawyer is hereby pleaded, and that by a letter dated 15th August, 2024 written in response to the Claimant's letter, the defendant's company secretary informed the Claimant that her goods are not stolen and that the defendant is doing all that is necessary to ensure that the remaining packages are delivered by the defendant's secondary courier company/ partner.

The defendant's company secretary also informed the claimant in the above dated letter that UPS will pay damages in accordance to their policy and the defendant's dispute resolution department will reach out to the claimant for amicable settlement.

Defendant's letter dated 15th August, 2024 is hereby pleaded.

That they issued the invoice to the Claimant also before payment but above upon letter further that invoice inquiry, was the defendant staff at Port Harcourt informed the defendant that the claimant's invoice was sent to her after payment which is in compliance with the company policy in paragraph 7 above thereby giving the claimant ample time to also read the terms and conditions which were previously communicated to her before payment of her shipment

That the Claimant also made a complaint on 10th September, 2024 to the Rivers State Commissioner of Police at the Rivers State CID wherein the Defendant was invited. That

the defendant's secretary while representing the defendant informed the police at Rivers State CID that the Claimant's remaining goods/ boxes will be delivered before 10th October, 2024 as the label on the boxes were erroneously removed at U.S cargo depot while sorting out the defendant's bulk shipment of customers' goods and that a new label has been created and sent to UPS for delivery at the final destination.

That the police officers at Rivers State CID and the claimant's lawyer demanded that the defendant should pay damages and compensation to the client but the defendant's company secretary maintained the defendant's stance in the letter pleaded in the above paragraph 22 that damages will only be paid by the defendant's secondary courier company / partner (UPS) in accordance to their policy and that the defendant is exempted from paying damages owing to the terms and conditions in the claimant's invoice as the claimant refused to insure her goods. That the Nigerian Postal Service (NIPOST) is the body that regulates logistics and courier services in Nigeria. That the NIPOST ACT (CAP N 127 LFN 2004) holds NIPOST (in this substantive suit the Defendant) liable for loss, theft, or damage of goods in certain circumstances unless otherwise exempted by the terms and conditions.

That the defendant's terms of service which is the terms and conditions in the invoice given to the claimant explicitly exempts the defendant from liability of uninsured goods as it is explicitly stated in paragraph 7 therein that "Ella Logistics is not liable for lost, stolen or damage packages already in transit with any of our courier partners (DHL, UPS, ARAMEX, FEDEX, DELTA CARGO) any goods lost, damaged or stolen during transit and not covered by insurance will be covered by the courier partner chosen by the client. UPS, FEDEX, ARAMEX, DELTA CARGO and DHL, liable for lost, stolen or damaged packages based on their policy.

That the Defendant's company secretary also wrote in her statement at Rivers State CID that Mr Chris Chinedu Amaram (the defendant's staff) whose statement was also taken, was done in the absence of a lawyer as the police refused to allow the defendant's company secretary to go in with Mr Chris Chinedu Amaram when his statement was taken as such, the defendant's company secretary does not know what transpired between him and the police that formed the content of his statement.

That on 11th September, 2024 the Defendant's company secretary forwarded the new tracking ID/ Numbers for the new labels created for the remaining two boxes to the client via WhatsApp. We hereby plead the WhatsApp message from the Defendant's staff to the claimant. That the remaining two boxes were successfully delivered to the Claimant. That the Claimant confirmed receipt of the remaining two boxes via a WhatsApp message to the Defendant's company secretary on 24th September, 2024. That the claimant also informed the Defendant's company secretary in the WhatsApp message that the blender/mixer (food processor) was not delivered and should be the damaged goods.

That the said WhatsApp message from the claimant to the defendant is hereby pleaded and shall be relied on during trial. That the Defendant's company secretary in response to the claimant's WhatsApp message informed the claimant to send a receipt of the alleged missing blender and mixer (Food processor) showing cost of the items so that same can be forwarded to UPS for a refund in accordance to their policy as no company will refund cost of any item without a receipt but the claimant refused to do so. The WhatsApp message from the defendant staff requesting for a receipt showing cost of the alleged mixer/blender is hereby pleaded and shall be relied on during trial.

That the Claimant deliberately refused to furnish the defendant with the receipt of purchase of the blender and mixer (Food processor) till date despite repeated demands. That the Claimant also informed the Defendant that 1 Ziploc of kpomo (cow skin) listed in paragraph 7 above was returned to the defendant's office but she refused to pick it up when she came to the office and left it at the defendant's office.

That at the time the defendant's staff in Port Harcourt branch received the claimant's 1 Ziploc of Kpomo, U.S custom categorized Kpomo as contraband and toxic items as such, cannot be shipped into the U.S.

The said Ziploc of Kpomo was returned to the defendant's office and the Claimant acknowledged via WhatsApp message that she left it in the defendant's office/ company. The said WhatsApp message from the Claimant admitting that the Ziploc bag of Kpomo was returned but that she left it in the office is hereby pleaded and shall be relied on during trial. That out of goodwill and in order to maintain customer-relationship with the Claimant, the defendant via WhatsApp message asked the claimant for a receipt of purchase of the kpomo containing the claimant's alleged cost of the Ziploc bag of kpomo which is N100,000 (One Hundred Thousand Naira) or even a bank statement showing payment of the said sum as cost of the kpomo in order to refund the purchase sum

That the Claimant refused every attempt by the defendant to have a meeting with her in order to discuss her grievances. The defendant through the company secretary reached out to the claimant and her lawyer and subsequently scheduled a meeting through Zoom with them on 25th August, 2024 but the Claimant's lawyer suddenly became incommunicado on the scheduled day while the claimant refused to attend the zoom meeting. The WhatsApp message from the Defendant's company secretary containing the scheduled zoom meeting forwarded to the Claimant and her lawyer are hereby pleaded and shall be relied on during trial.

That the defendant while waiting for the Claimant to send a receipt of purchase of the alleged missing blender and food processor (mixer) went through the claimant's invoice and discovered that the Claimant declared the worth / value of the blender and mixer as N 200,000 (Two Hundred Thousand Naira). That the claimant is not entitled to a N1,000,000 (One Million Naira) as the cost of the alleged blender and food processor owing to the fact that the claimant already declared the value of the blender and food processor as A 200,000 (Two Hundred Thousand) which is contained in the Claimant's invoice.

That the Claimant did not deny or place any material fact before this honourable court showing denial or disapproval of the value of the blender or food processor which she willingly and voluntarily declared on her invoice.

That the claimant is not entitled to N 100,000 (One Hundred Thousand Naira) as the alleged cost of the 1 Ziploc bag of Kpomo as the Claimant admitted

That in the WhatsApp message pleaded in paragraph 35 above that she left the Kpomo in the Defendant's office after she was told to pick it up. That the defendant did not breach her contract with the Claimant as her goods were delivered and the Claimant admitted same in the WhatsApp message pleaded in paragraph 31 above that the remaining two boxes have been delivered.

That the Claimant was informed by the Defendant's staff before shipping her goods through the Defendant that her goods will be delivered at the final destination by the defendant's secondary courier company/ partner (UPS) and it is also stated in the terms and conditions on the claimant's invoice that as a third party courier company, the defendant delivers customers' goods through her courier partners.

That the Claimant did not object to the prior information by the defendant's staff that her goods will be delivered at the final destination in U.S by the defendant's secondary courier company (UPS) neither did the Claimant request for her goods to be returned when the defendant sent UPS tracking ID / numbers to her thereby terminating the contract hence, the Claimant accepted and consented to the terms of the contract stated in her invoice when she did not ask for her goods to be returned upon receipt of UPS Tracking ID/ numbers

That the defendant is exempted from paying any damages whatsoever to the Claimant as the terms and conditions in the invoice given to the claimant explicitly exempts the defendant from liability of uninsured goods as it is clearly stated in paragraph 7 therein that "Ella logistics is not liable for lost, stolen or damage packages already in transit with any of our courier partners (DHL, UPS, ARAMEX, FEDEX, DELTA CARGO), any goods lost, damaged or stolen during transit and not covered by insurance will be covered by the courier partner chosen by the client. UPS, FEDEX, ARAMEX, DELTA CARGO and DHL are liable for lost, stolen or damaged packages based on their policy.

That the Claimant deliberately refused to furnish the defendant with a receipt showing cost of the alleged damaged blender or Processor (mixer) despite repeated demands which is expected to be the same with the value of the above item declared by the Claimant on her invoice. This is to enable the defendant transmit the receipt showing cost of the above items to UPS in order for UPS to process refund of cost of the above items according to their policy which is the payment of not more than \$100 (One Hundred Dollars) for uninsured goods.

The DW1 identifies the invoice from the defendant to the claimant, the letter from Lord Edwards Chamber dated 9th August, 2024 and five (5) print outs of whatsapp messages

and a certificate of compliance and status report from CAC and they were all admitted in evidence as Exhibits O,P,P1,P2,P3,P4 AND P5,R and S respectively.

During the cross-examination of the DW1 on the same date, she stated that she has worked for the defendant for 5 years. That she knows all the managers of the defendant that worked in Port Harcourt but that she does not know any Steve Ogara, That the defendant is registered under the CAC and the CEO is one Sandra Ifeoma Ihunwa

The Claimants counsel applies to tender the CAC document of the defendant and the defendant counsel objects to the admissibility of the document on the ground that the witness has not been the relevant portion of the CAC document

In admitting the document, the Court held that the document is relevant and is in an admissible form and same is admitted and marked as **Exhibit "S."**

That though she has not been in direct communication with the Claimant but that she knows about everything that transpired in the office because the Port Harcourt office staff told her everything and they had a CCTV Camera. That Mr Chinedu furnished the Claimant with all their mode of operation before commencing with the shipment

That everything on her deposition as on the 13th, 14th and 15th June, 2024 were things told her by Mr Chinedu. That there are CCTV Camera that shows everything in the office so her report is from Chinedu and the CCTV footage. That the CCTV footage are not part of the document tendered before the court. That it is true that the Claimant paid the sum of N1,490,825 for her shipment and that the payment were made on the 14th and the 15th June, 2024. That there is nothing before the Court to show that the Claimant handed the T&C attached to Exhibit O before payment

That their mode of operation is that when a client makes enquiry either physically or via phone calls, they are furnished with details of how the terms works and when they eventually ship their items, they are now given an invoice, after payment and they are given ample time to make sure that what ever they are shipping is represented in the invoice

That she is aware that the fact that they use a 3rd party courier company was communicated to the Claimant that because even on their advert as in Exhibit A, it is there, and she came via their online whatsapp value.

That she doesn't have anything before the Court that they are in partnership with the companies mentioned in Paragraph 30 of the deposition on oath.

That the Claimants good were fixed into 5 and not 6 boxes but that the 5th box was divided into two and that is why she had six tracking numbers.

That they were over 66 items that they didn't give different tracking numbers to single items. That they were grouped and boxed.

That she is aware that the defendant delivered 3 of the boxes of the goods of the claimant between 23rd and 26th July 2024, Two others about the 22nd September 2024 and the food processor and that the blender is yet to be delivered till date.

That two of the boxes, that is the ones that were delivered in September, had issues with labeling. That the boxes are not the boxes that contain the damaged goods which is the blender and the food processor.

It is not true that apart from the money paid for shipping, that all other items on Exhibit O is correct.

That the items were not delivered and that it took five days for the Claimant to get the invoice because her payment was not confirmed. That she made no objection to the invoice. That Mr. Chinedu informed the Claimant that her goods were shipped, the next day after they landed in Lagos.

That it is true that the Exhibit O contains 5 boxes whereas the Claimant goods were packed in 6 boxes and given 6 tracking numbers

That Exhibit O was issued 5 days after payment, but the transaction has not been concluded because the items have not been delivered yet.

That the Exhibit O is signed by the defendant but the content of the invoice is made by both the defendant and the Claimant. That the signature on Exhibit O is that of the CEO.

That the Exhibit O was physically sent to the defendant.

That it is true that N200,000 is alleged to be the value of the goods contained in the boxes

That the T and C in Exhibit O were not concocted and that is not the reason, the defendant refused to sign

That there is nothing on the record that shows that the defendant objected to Exhibit O and so she is in agreement with Exhibit O

That she can cancel shipping, that they have a refund policy, but that there is no document showing refund policy before the Court. That she will be surprised to learn that Nkiruka Uliasi is not the company secretary that it is not true that she is an imposter.

At the end of the evidence of the DW1, the defence closed her case and the matter was adjourned for final addresses.

A total of twenty one (21) Exhibits were tendered in evidence in the course of the trial.

Though the parties filed final written addresses in this suit, I will not make reference to their addresses because first, the Article of the Practice direction makes provision for a final address to be in only 3 pages but the Claimant and the defendant counsel went ahead to file 5 pages of final addresses each and what's more, Article 9 of the Small Claims Court by the use of the word "may" makes non mandatory, the filing of final addresses.

That said, I will proceed to consider the case of the parties in the light of the relevant laws. I have noted the essence of the claim have also taken cognizance of the evidence before the court. I have read all the exhibits and I have couched a lone issue for determination and that is whether the Claimant has discharged the burden of proving his Claim before the Court.

On the First Claim of the Claimant asking for an order of this Court compelling the defendant to pay the Claimant, the sum of N1,000,000.00 being cost for Buchy food



processor and one sound proof Buchy blender .The sum of N100,000 (One Hundred Thousand Naira) being cost for undelivered cow skin. Total in special damages is N1,100,000. In *ONYIAORAH V. ONYIAORAH (2008) ALL FWLR (PT. 397) 152 AT 160, PARA. A (CA)* it was held that: "Special damages must be claimed specifically and proved strictly and in cases of contract, cannot be claimed unless they are within the contemplation of both parties at the time of the contract."

It is in evidence and not in contention that the parties entered a contract and the Claimant paid the sum of N1,490,825 (One Million Four Hundred And Ninety -Thousand Eight Hundred and Twenty Five Naira) as cost of shipment of goods for a fixed Nigeria wedding in the USA -Paragraphs 7,33,34 and 42 of the claimants deposition on oath to this effect was not controverted in evidence.

The CWI during evidence in chief has stated that every effort to have the Defendant return or deliver the remaining goods comprising of one Buchy food processor and one Sound proof N570,000 Buchy blender worth (Five Hundred and seventy Thousand Naira) only and supply value of N 1,000,000 (one Million Naira) only have proved abortive till date. Receipt of purchase of the Buchy food processor and one Sound proof Buchy blender were tendered in evidence as Exhibit B.

Testifying further, the Defendant also held over the Cow Skin (pomor) worth N100,000 (one hund thousand Naira) only and refused to deliver nor return them to me till date.

On the other hand, the DWI admitted during cross-examination that she is aware that the defendant delivered 3 of the boxes of the goods of the claimant between 23rd and 26th July 2024,two others about the 22nd September 2024 and the food processor and that the blender is yet to be delivered till date.

Further in her deposition on oath, the DWI stated that the claimant is not entitled to N1,000,000 (One Million Naira) as the cost of the alleged blender and food processor owing to the fact that the claimant already declared the value of the blender and food processor as 200,000 (Two Hundred Thousand) which is contained in the Claimant's invoice.

Furthermore, the DWI in her deposition had also stated that the defendant did not insure her goods and no insurance was written on the face of the invoice which is Exhibit O before the Court. That the defendant's terms of service which is the terms and conditions in the invoice given to the claimant explicitly exempts the defendant from liability of uninsured goods as it is explicitly stated in paragraph 7 therein that " Ella logistics is not liable for lost , stolen or damage packages already in transit with any of our courier partners (DHL, UPS,ARAMEX, FEDEX, DELTA CARGO) any goods lost, damaged or stolen during transit and not covered by insurance will be covered by the courier partner chosen by the client. UPS, FEDEX, ARAMEX, DELTA CARGO and DHL are liable for lost, stolen or damaged packages based on their policy

On the other hand, the CWI stated that she was also surprised when on the 26th day of June, 2024; she received via an email the waybills numbers for the shipment of the goods from a third party- UPS instead of from the Defendant notifying her that her shipment will be delivered soon. That she was shocked at the email because she never had any business dealings with UPS but with the Defendant.

The defendant had without any direct evidence as corroboration stated the Claimant had prior notice of the existence of the secondary courier, that apart from the information of the secondary courier being contained in the advert. That the staff of the defendant also briefed the Claimant on the existence of the secondary courier.

I have seen the video of the advert as on the Exhibit A and also looked at the Exhibit D, there is nothing that gives off the impression that UPS is the secondary courier to the defendant.

The defendant have maintained that paragraph 7 of the Exhibit 0 reads that "Ella logistics is not liable for lost, stolen or damaged packages already in transit with any of their courier partners (DHL, UPS, ARAMEX, FEDEX, DELTA CARGO), any goods lost, damaged or stolen during transit and not covered by insurance will be covered by the courier partner chosen by the client. UPS, FEDEX, ARAMEX, DELTA CARGO and DHL are liable for lost, stolen or damaged packages based on their policy and that this was communicated both orally by the staff of the defendant via Exhibit 0.

On the other hand, the Claimant have denied any prior knowledge of the terms and conditions attached to the Exhibit 0, that she saw the Terms and Conditions via Email 5 days after payment was already done.

The said terms and condition were never made known to her nor shown to her until about 5 days after the conclusion of the whole transaction.

That though she has not been in direct communication with the Claimant but that she knows about everything that transpired in the office because the Port Harcourt office staff told her everything and they had a CCTV Camera. That Mr. Chinedu furnished the Claimant with all their mode of operation before commencing with the shipment.

That everything on his deposition on the 13th, 14th and 15th June 2024 were things told her by Mr. Chinedu, That there are CCTV Camera that shows everything in the office so her report is from Chinedu and the CCTV footage. That the CCTV footage is not part of the document tendered before the court. The DWI further testified that there is nothing before the Court to show that the terms were showed to the Claimant before payment.

Now the question on the mind of the court is: where is the staff of the defendant that informed the claimant on the contents of the Exhibit 0 and the existence of UPS as a secondary courier and that also informed her that the goods had already been shipped at the time of the receipt of Exhibit 0? Why was that staff not called as a witness and if the



Transaction was recorded on a CCTV, why was the CCTV footage not tendered as an exhibit before the Court.

The presumption of withholding evidence as in Section 167(d) of the Evidence Act which states that evidence which could be produced and was not produced, if produced would be unfavorable to the party who withholds it see the case of *STATE V AZEEZ (2008) 14 NWLR (1108)439; EDOSA V EHIMWENMA (2022) 5NWLR (PT 1823) 215 @233, PARA B, SC.*

It is unethical and a very bad business practice to first take the money of a customer, and then wait for five days later when the contract is concluded to send a unilateral contract and invoice to the customer which was signed by only the defendant.

The Claimant's uncontroverted evidence is that, she complained to the manager of the defendant at Port Harcourt, and she could not cancel because she was informed the item has already been shipped and the items shipped were time bound to a Nigerian wedding for her client that has already been scheduled to hold in the united States on the 27th day of July, 2024.

On the issue of whether the Claimant raised an objection about the invoice and could not cancel because she was told by the defendant's Port Harcourt manager that the item has already been shipped; It is only the defendant's Port Harcourt manager that can effectively deny whether there was such an oral complaint or protest and whether or not he told the Claimant that her item had already been shipped.

Please take important note that DW1's deposition on oath on several points were all based on what was told her by the defendant's Port Harcourt Office Staff who was himself not called as a witness.

Furthermore, the Defendant had stated that they have a refund policy that would ensure that the Claimant gets her refund if she had cancelled and asked for her refund. However during cross-examination, the DW1 have admitted that there is nothing before the Court to show that the defendant had such a refund policy.

From all of the above, it is the finding of this Court that the Claimant did not sign nor give her consent to the Terms and Conditions and was not given prior briefing of the secondary courier company as attached to Exhibit 0 before the Court. Consequently, the Court hereby holds that Claimant is not bound by the insurance clause as it relates to the secondary courier company as in the attachment in Exhibit 0 before the Court.

On the strength of the Exhibit B and the uncontroverted evidence of the CW1, the defendant is hereby found liable to pay the claimed sum of N1,000,000 (One Million Naira) for the damaged Buchy food processor and the blender.

For the 2nd arm of the first Claim for the sum of N100,000 (One Hundred Thousand Naira) being cost for undelivered cow skin.

The DWI have stated in evidence that the undelivered ponmo could not be delivered because it was declared by the law and the enforcement as a contraband goods. It will be unreasonable to expect the defendant to perform an obligation which is illegal in nature. The 2nd claim for N100,000(One hundred Thousand Naira) being cost for undelivered cow skins hereby fails.

On the 2nd claim for an order of this Court compelling the defendant to pay the Claimant, the sum of N2,000,000 (Two million Naira) only as damages for breach of contract and N1,500,000(One Million and five Hundred Thousand Naira) for damages for loss of goodwill, loss of customers, emotional, psychological trauma and loss of earnings. Total in general damages is N3,500,000(Three Million, Five Hundred Thousand only)

The CWI, testified on oath that on the 6th of August, 2024, her customer to whom the goods were meant to be delivered to called her and informed her that she was not going to pay for the goods and that her customers who ordered the clothes and clothing materials had threatened to sue her for breach of contract in the United States of America and that her said customer had sought and got alternative Nigerian clothes which they used for their wedding.

That she was so frustrated, traumatized and confused and she has called her customer and informed her of the steps, she has taken so to have the remaining goods delivered to her. But because of her persistent calls and plea to her, That her customer agreed to receive the goods but insisted that she shall deduct the sum of N1, 200,000 (one Million and Two Hundred thousand Naira) only from the N 10,000,000 (Ten Million Naira) Only she is to pay her as compensation for her losses occasioned by the delay in delivery of the goods by the Defendant and that she shall pay the said balance to her whenever she receives the remaining three packs of her goods.

That she was shocked that in less than 12 days after she reported the Defendant to the Commissioner of Police, the Defendant delivered two of the remaining three packs of the goods including the wedding clothes and clothing materials to my Customer in the United States of America. That the Defendant had alleged that one of the packages was damaged on transit but refused to disclose the particular package that was damaged neither had they returned the alleged damaged goods to me till date nor pay me for the goods as they promise or paid me compensation for the pains and loss of business they have caused her

In Paragraph 19 of the defendant's witnesses deposition on oath, the defendant admitted that they contracted to ship the goods within 10-15 days from the date of shipment. In Paragraph 18 of the Claimant's deposition on oath, she stated that the staff of the defendant told her that 10—15 working days started counting from 20th June, 2024 and

Not from the 14th day of June, 2024 when she made payment for the delivery and that the delivery date of the good will be the 5th day of July, 2024.

The DW1 in during cross-examination admitted that she is aware that the defendant delivered 3 of the boxes of the goods of the Claimant between 23rd and 26th July 2024, Two others about the 22nd September 2024 and the food processor and that the blender is yet to be delivered till date.

From the above admission of the lone witness of the defendant, the DW1, it is clear that the defendant had breached a fundamental term of her contract with the Claimant which is the delivery of the shipment to the US within 10-15 days after shipment from the 20th June 2024. It is also important to note that till date one of the item is yet undelivered.

From the above admission of the defendant, it is obvious that the defendant had breached the contract with the Claimant.

The Court of Appeal, Per Galinje, JCA succinctly held in *DAUDA V. LAGOS BUILDING INVESTMENT COMPANY LTD & ORS. (2010) LPELR-4024(CA)* thus: "The action for general damages is always available as of right when a contract has been broken."

The correct assessment for general damages remains an award that compensates the injured party and restores it to the position it would have been had the breach or injury not occurred. As a result, the assessment of damages is based purely on damages flowing naturally from the breach. *STEPHEN OKONGWU V NNPC (1989) 4 NWLR (PT 115) 296 @ 306H-307A; GFK INVESTMENT LTD V NIGERIA TELECOMMUNICATIONS PLC (2009) 15 NWLR (PT 1160) 344; @ 384D-E.*

The award is quantified by what in the opinion of a reasonable person is considered adequate loss or inconvenience which flows naturally, as generally presumed by law, from the act or conduct of the Defendant. It does not depend upon calculation made and figure arrived at from specific items. See *ODULAJA V HADDAD (1973) 11 SC 357; (1973) 11 S.C. (REPRINT) 216; LAR V STIRLING ASTALDI LIMITED (1977) 11-12 SC 53; (1977) 11-12 SC (REPRINT) 106 AND OSUJI V LSIIOCHA (1989) 6 S.C. (PART II) 158; (1989) 3 NWLR (PART 111) 623*

The natural consequence of the admitted failure of the defendant to deliver on a business promise (in this case failure to deliver within the contracted time of 10-15 days) directly resulted in the failure of the Claimant to deliver on her business promise to Clients in the United States culminating in loss of business trust and opportunities and emotional harm . We don't need to admit exhibits to acknowledge these natural flows of cause and effect in business transactions, more so, when the claim head is under general damages requiring no strict proof.

is quite clear that the inconveniences in the form of loss of business trust and opportunities, loss of customers, and emotional and psychological harm suffered by the Claimant flows naturally from the non-delivery within the contracted time as admitted by the defendant.

Flowing from the above, the defendant is hereby found liable for general damages.

IT IS THUS ADJUDGED that the Defendant to pay the Claimant, the sum of N1,000,000 being cost for the Buchy food processor and one sound proof Buchy blender.

IT IS THUS ADJUDGED that the defendant to pay the Claimant, the sum of N2,000,000 (Two million Naira) only as damages for breach of contract and N1,500,000 (One Million and five Hundred Thousand Naira) for damages for loss of goodwill, loss of customers, emotional, psychological trauma etc. Total in general damages is N3,500,000 (Three Million, Five Hundred Thousand only)

AND IT IS ORDERED that the defendant to pay the Claimant, the aforesaid sum of N4,500,000 (Four Million, Five Hundred Thousand Naira) only with immediate effect

AND IT IS FURTHER ORDERED that the defendant do pay to the Claimant the total sum of N4,500,000 (Four Million And Five Hundred Thousand Naira) above mentioned representing the sum of N1,000,000 (One Million, Naira) as cost for the Buchy food processor and one sound proof Buchy blender and N2,000,000 (Two Million Naira) for breach of contract and N1,500,000 (One Million, Five Hundred Thousand Naira) as general damages.

TAKE NOTICE -That if payment is not made as above ordered, a warrant or warrants may issue requiring an officer of the court to levy the sum above mentioned, to the Claimant together with further costs.



**G.CHINYERE AMADI, ESQ.
CHIEF MAGISTRATE G.D.I**

