

**IN THE MAGISTRATES' COURT OF RIVERS STATE**  
**IN THE PORT HARCOURT MAGISTERIAL DISTRICT**  
**HOLDEN AT SMALL CLAIMS COURT BEFORE HIS WORSHIP G. C. AMADI ESQ.**  
**SITTING AT SMALL CLAIMS COURT 2**  
**PORT HARCOURT ON FRIDAY, THE 6<sup>TH</sup> SEPTEMBER, 2024.**

**SUIT NO. PMC/SCC/176/2024**

**MR. STANLEY OGECHIKWU NJOKU** } **CLAIMANT**

**AND**

**BARR. OGONDA WOGOZO ORIANWO** } **DEFENDANT**

**JUDGMENT**

This is the final judgment in this suit wherein the Small claim before the court, dated and filed on the 28<sup>th</sup> March, 2024 is for:

- A. An order directing the defendant to refund the Claimant, the sum of N1,100,000 which is the principal sum of the legal fees.
- B. N300,000 (Three Hundred Thousand Naira) for cost of litigation.

The defendant also filed a counterclaim as in Form RSSC5 where he counterclaimed for the sum of N2,000,000.00 (Two Million Naira) being for legal fees in respect of suit Nos: CA/PHC/164MISC/2022; PHC/3670/CS/2022 and PHC/3666/CS/2023.

In proof of their case, the Claimant called one witness and the Defendant also called one witness and a total of Twelve (12) Exhibits (Exhibits A-M) were tendered in evidence.

On the 15<sup>th</sup> day of July, 2024, the Defendant's Counsel applies for plea of not liable to be entered on behalf of the Defendant and the matter was set down for hearing.

On the 25<sup>th</sup> July, 2024, the CW1, the Claimant on record commenced his evidence in Chief and adopts his written statement on oath, dated 17<sup>th</sup> July, 2024 wherein he deposed that he was staggering from the trauma of the outcome of his divorce matter that took place when he met Mrs. Francisca Chukwudi Esq. to handle his matter. That after consultation, he retrieved his file from Okwuego Ekene Esq. and handed same over to Mrs. Francisca Chukwudi Esq. who told him that his matter will be handled by the principal being Mr. Ogonda Wonozo Orianwo Esq. (now the Defendant) and that when he met the Defendant, the Defendant told him to pay money to perfect his brief and he did and they moved on.

That the first suit that the defendant handled for him is PHC/3666/CS/2022, a contempt proceeding pending before Hon Justice Green for which the defendant charged N150,000(One Hundred and Fifty Thousand Naira) and he paid. The CW1 tenders the certificate of compliance and the print out of the WhatsApp message evidencing payment and same is tendered in evidence as Exhibits A and B respectively.

Testifying further, the CW1 stated that the defendant did not file any process in PHC/3666/CS/2022 until the recruitment of his present lawyer and he also did not refund the sum of ₦150,000.00 (One Hundred and Fifty Thousand Naira).

Further, the Defendant testified that another brief that he gave the Defendant to handle was his appeal matter for which Okwuego Ekene Esq. had filed Notice of Appeal in Appeal NO: CA/PH/164/2022. That the Defendant charged him ₦1,500,000.00 (One Million, Five Hundred Thousand Naira) as professional fee for the Appeal case and he paid over ₦700,000 (Seven Hundred Thousand Naira) to the Defendant in respect of the Appeal matter.

That all the monies he paid to the Defendant was ₦1,600,000.00 (One Million, Six Hundred Thousand Naira) in total. That the manner in which the defendant was demanding for money was too much and at a time, he told him to sell his land and sometimes he insults him in the process of asking for money. In the absence of any objection, the Claimants counsel tendered Exhibit C-C11.

That he moved away from the Defendant and got C.C Nwugo Esq. as his lawyer. That the Defendant even sent him a WhatsApp message that he has converted the professional fees of ₦50,000.00 as Christmas Bonus. The said WhatsApp memo was admitted in evidence as Exhibit D and E.

That the Defendant knowing that a date was marked for NLC strike took ₦30,000.00 (Thirty Thousand Naira) for appearance fee on that date and also sneakily took ₦40,000.00 (Forty Thousand Naira) from him in respect of getting a date for the appeal case and nothing to show at the end. That he wrote a letter of demand same is admitted in evidence as Exhibit F.

That he gave the Defendant, a total of ₦1,600,000.00 (One, Million, Six Hundred Thousand Naira) aside monies for contingencies and appearance fees. That out of the ₦1,900,000.00 (One Million, Nine Hundred Thousand Naira) he is entitled to a refund of ₦1,600,000.00 (One Million, Six Hundred Thousand Naira) and magnanimously leaving out ₦500,000.00 (Five Hundred Thousand Naira) for the Defendant. Transaction receipt from Access Bank is admitted in evidence as Exhibits G1-G3.

During the cross-examination of the CW1 on the 29<sup>th</sup> July, 2024, he stated that the first money he gave to the Defendant is for an appeal case in CA/PHC/164M/2022 between him and his ex-wife. That it is not true that the Defendant asked for ₦1,000,000.00 (One million Naira) as deposit out of which he paid ₦300,000 through Francisca Chukwu as deposit. That it is true that while waiting for a date in suit no; CA/PH/164M/2022. That he ran to the Defendant and told him that his first bank Account with Onne Branch has been blocked. That it is true that on hearing this, the Defendant wrote a letter to the Branch Manager at Onne and he collected ₦300,000.00 (Three Hundred Thousand Naira) for the letter. That he did not pay ₦50,000.00 to the Defendant, that it was ₦300,000.00 that he paid for the letter. That the ₦300,000.00 he paid was not captured in the Exhibit C1-C13 because he paid in installment. That the installmental payment are captured in Exhibits C-12. That it is not true that the letter to the bank for the defendant revealed that his ex-wife had filed a suit in PHC/3670/CS/2022 that led to the blocking of his account. That it is because of the judgment delivered between him and his ex-wife.



That it was as a result of the judgement by Justice Nwogu Court, a decree Nisi that led to the freezing of the account. That the Defendant did not file a preliminary objection to set aside the order Nisi.

That in Exhibit F in Paragraph 2. He said he paid ₦300,000.00 to the Defendant and the suit went in his favour. That the ₦300,000.00 is for the garnishee proceedings and is not part payment paid to the Defendant. That while the matter before Justice Nwogu was pending. His ex-wife filed another suit before Justice Green for committal to prison in Suit No: PHC/3666/CS/2022. That it is not true that the defendant asked him to pay ₦1,000,000.00 (One million Naira) as legal fees.

That Avina never contacted the Defendant to plead on his behalf to take ₦100,000.00 to take the matter to the Court and the balance will be sorted out. That in total, the Defendant did not stand for him in three cases. That he did not in Paragraphs 5, 6 and 8 mention 3 cases. That he only mentioned 2 cases, the one in appeal court and the one before Justice Green.

That from what he has read from his deposition, in paragraph 5, 6 and 8, it is only two matters that the defendant handled for him. That from paragraph 9 of his deposition, it means he is owing the Defendant, ₦800,000.00. Then he paid him ₦350,000.00, then ₦200,000.00, then another ₦200,000.00 and then ₦50,000.00, which is the one the Defendant termed as Christmas bonus. That all the above installment does not match his exhibits before the Court because there was a mistake in Exhibit F.

That all the monies, he paid to the defendant amounted to ₦1,600,000.00 (One million, Six Hundred Thousand). That this is plus filing fees and everything. That he knows the difference between filing fees, professional fees and appearance fees. That the difference is that one going to Court is the appearance fee. The one collected in bulk to work for the appeal is the professional fees. That he does not understand if it is only motion on notice in the appeal file when he brought the file to the Defendant. That he is not aware that the Defendant wrote a letter to the deputy chief registrar asking for a date in the appeal case.

That he is aware that on the 19<sup>th</sup> October, 2022, the appeal matter came up and the Defendant and Francisca Chukwudi appeared and the Court did not sit because the Labour president had an issue with the Governor of Imo State and all the Court in Nigeria went on strike. That he is not aware that there was national strike on the 15<sup>th</sup> November, 2023 and nobody asked him for appearance fee that morning. That he is telling this Court, that it is only two matter at Justice Greens Court and the appeal court that the Defendant handled for him.

During the continuation of cross-examination of CW1 on the 30<sup>th</sup> July, 2024, he further testified that there was no reply to the Defendant Exhibit F. Yes, that in his particular of claim: RSC3, the Defendant replied to his letter dated 7<sup>th</sup> May, 2024. That he has told the Court the truth as regards the Defendants response to Exhibit F. That he cannot say what is in his paragraph 9 and 10 of his deposition, that his lawyer is in a better position to say. That the deposition is not scanned, that he signed it. That Exhibit B is not a private conversation.

That Exhibit C1, C2, C3, C4 are not appearance fees paid to Francisca Chukwudi and Theodore Ndamati because some are appearance fees and some are not appearance fees.

That the Defendant advised him to sell his land and he told him to help him to get a buyer. That Exhibit D is a conversation of the proposal to sell land and the conversation between him and Francisca Chukwudi and not with the Defendant. That in October 17, he did not send a message to the Defendant asking for forgiveness and for appointment. The CW1 reads the 2<sup>nd</sup> page of Exhibit E, that from what he read in Exhibit E, he is telling the Court the truth. That in his Exhibit G2 and G3, the complete printout shows the payment of N100,000.00 and N200,000.00. That he does not know if his lawyer filed a change of counsel in this matter. That Exhibit G1 is payment of N40,000 paid to Francisca Chukwudi to appear for him. That there is no bank stamps on the bank statement.

After the evidence of CW1, The Claimant closed his case and the matter was adjourned for defence.

On the 31<sup>st</sup> July, 2024, the DW1, who is also the defendant on record commenced his evidence and stated that he is adopting his written statement on oath as his evidence before the Court wherein he adopts his evidence and states that he is the Defendant on record and deposed that he knows the Claimant vide his junior in chambers, Francisca Chinenye Chukwudi who pleaded with him to represent the Defendant in a divorce matter, Suit No. PHC/3887/CS/2018, heard determined by Honourable Justice C. Nwogu of the High Court of Justice of Rivers State, wherein it dissolved the marriage between Claimant and his ex-wife and made several orders in favour of Claimant's wife with an order that Claimant be allowed to have right of visitation to see his children. The judgement of Honourable Justice C. Nwogu was not appealed by Claimant's former lawyer within the time permitted by law.

That Claimant subsequently visited him at his office and after exchange of pleasantries, I told him that the first step would be for him to retrieve the file from his former lawyer and enable me file notice of change of counsel and study the case file. That the notice of change of counsel is annexed to this his deposition. That on retrieval of the case file from Claimant's former counsel and same brought to him, He perused and studied the processes in the file, and found that claimant's former counsel sought to appeal out of time, wherein, he filed motion on notice seeking for the trinity prayers in Suit No. PHC/CA/164MISC/2022. He also found in the case file motion on notice for stay of execution of the judgement in Suit No. PHC/3887/2018, which was not served on claimant's ex-wife. That after going through the case as averred in paragraph 5 above. He invited the claimant to his office through his junior, Francisca Chinenye Chukwudi to brief him on the steps to take, that is, there was no pending appeal and that his former counsel filed application at the Court of Appeal seeking for leave to appeal as well as motion for stay of execution of the judgment, which was yet unserved and not fixed for hearing.

That he, thereafter told the Claimant that as a starting point, he should pay a deposit of N1,000,000.00 for the appeal and that there will be no need to file any process until the motion on notice is taken and same granted, which, we believe will be granted there being no objection. The claimant cried, pleaded and begged that he had no money with him that he should please be kind to him as he was still recovering from the injuries inflicted on him by thugs hired by his ex-wife. - stood his ground and insisted on the deposit. That his junior, Francisca Chinenye Chukwudi, Esq, intervened and asked that he accept whatever Claimant can offer as part payment with a view to paying the



balance of the deposit demanded. That it was on the strength of the intervention of his junior that Claimant paid the sum of N300,000.00 into his junior's account who transmitted same to me. On receipt of this sum of N300,000.00, they set out to serve the motion on notice for stay of execution of the judgement of Honourable Justice C. Nwogu, but was told by the claimant's ex-wife lawyer from Federation of International Women Lawyers that she was no longer in the case as the whereabouts of Claimant's ex-wife cannot be ascertained. Consequently, they filed an ex parte motion for leave to serve Claimant's ex-wife vide her WhatsApp on 17/7/2024, which said ex parte motion, Honourable Justice C. Nwogu refused to grant. The said motion ex parte is annexed to this deposition.

That the Claimant who was critical of Honourable Justice C. Nwogu and his former counsel tried hard to convince me to sue his former counsel for which I declined, perhaps, my refusal to pursue a frivolous law suit against claimant's former counsel is the reason for this suit.

That in his quest to move the pending motion on notice at the court of Appeal in Suit No. PHC/CS/164MISC/2022, I and my junior herein mentioned visited the office of Head of Department at the Court of Appeal, who graciously fixed 19/10/2022 for hearing of the motion. On 19/10/2022, we were in court but the court did not sit, a fact communicated to the claimant. That he did not sit and wait for a date but instead, wrote to the Deputy Chief Registrar of the Court of Appeal vide our letter of 27/3/2023, pursuant to which, 15/11/2023 was given to us for hearing of the motion on notice.

That on the 15/11/2023 the Court of Appeal did not sit as a result of the nationwide strike by Labour Union. Again, this fact was also communicated to the claimant, who being satisfied with our efforts paid a further N200,000.00 as deposit into my account, bringing it to N500,000.00, paid as deposit.

That the Claimant also paid the sum of N40,000.00 to his junior Francisca Chinenye Chukwudi to enable her get further date in the appeal matter CA/PHC/164M/2022 for which she went twice before registrar asked that she write down the suit number to enable them fix a date and inform us later.

That while Suit No. PHC/CS/164MISC/2022, was pending, Claimant's ex-wife through her counsel, M. O. Akuwesiobike, Esq. filed a garnishee proceeding against the Claimant and was granted Decree Nisi, by Honourable Justice C. Nwogu, pursuant to which his account with First Bank of Nigeria, Orne branch was blocked.

That the Claimant ran to his office, informed him about his account being blocked, in consequence, he asked for the address of his bank which he gave to me. I demanded that he pay N100,000.00 to enable me write to the Branch Manager of his bank, again, Claimant cried, begged and asked that I accept N50,000.00, which, out of the abundance of my benevolent, I accepted and wrote to the branch manager of his bank. The said letter dated 20/3/2023 is annexed to this my deposition. On receipt of the said letter, they were referred to their Area Office at Aba Road, which his junior, Francisca Chinenye Chukwudi, Esq visited and after stating her mission was told that they were bound by the Decree Nisi granted in Suit No. PHC/3670/CS/2022. That on becoming aware of the fact averred in paragraph 11 above, they filed a motion on notice, dated 18/5/2023 on 22/5/2023, and sought for two reliefs, the said motion on notice is annexed to his deposition.

That with this new suit, he asked the Claimant to pay the sum of N1,000,000.00, again, he pleaded, cried and begged that I accept N200,000.00 which, found insulting and wasted not in making it known to him. Finally, they settled for N500,000.00 out of which, Claimant paid only N300,000.00 leaving a balance of N200,000.00 till date. This suit was struck out on 26/10/2023 and his account blocked opened for him again. In this suit, they made a total appearance of six times at N15,000.00 as appearance fee. paying a total sum of N90,000.00, the dates of our appearances are stated below: 24/5/2023, 22/6/2023, 11/7/2023, 3/10/2023 and 26/10/2023, that of the Court of Appeal on two occasions, that is 19/10/2023 and 15/11/2023 paying a total sum of N40,000.00 at N20,000.00 per appearance. N50,000.00 was paid into the Defendant's account for letter to the bank to unfreeze the Claimants account.

That prior to his account being unblocked, his junior in chamber Francisca Chinenye Chukwudi made application for the certified copy of the order of striking out which was served by a bailiff to the first bank head office at Leventis Aba road for which he paid the sum of N30,000.00(Thirty Thousand Naira). That whilst Suit No. PHC/3670/CS/2022 was pending, Claimant's ex-wife through her counsel mentioned in paragraph 11 above filed forms 48 and 49 before Honorable Justice Green of the High Court of Justice of Rivers State preparatory to file contempt proceedings against Claimant, which said forms were served on Claimant vide pasting upon a motion exparte which gave birth to Suit N PHC/3666/CS/2022. Again, this was brought to his attention and in a meeting in his office, Claimant asked that he should sue his ex-wife who now makes it a habit of filing all manner of processes against him. That he advised him that there was no legal or factual basis on which to sue his ex-wife, however, that the new suit is an abuse of court process to which, they shall do the needful as soon as motion on notice for contempt is served on him.

That following an application by M. O. Akuwesioboike, Esq. to withdraw same. Further appearances were made on 18/12/2023, 22/1/2024 and 25/3/2024 in Suit No. PHC/3666/CS/2022, appearance fee of N20,000.00 being paid, in which, Claimant paid a total sum of N80,000.00 as appearance on the four occasions that I attended court. In all court days, Claimant never for one day attended any of the court sittings.

That the first appearance in Suit No. PHC/3666/CS/2022 was on 4/12/2023, on which date, Honorable Justice Green was informed by him that there was a pending suit before Honorable Justice C. Nwogu from whose court the present suit is filed. His Lordship frowned at the present suit being suit filed It was on that basis that on the last date that Suit No. PHC/3670/CS/2022 was struck out.

That following an application by M. O. Akuwesioboike, Esq. to withdraw same. Further appearances were made on 18/12/2023, 22/1/2024 and 25/3/2024 in Suit No. PHC/3666/CS/2022, appearance fee of N20,000.00 being paid, in which, Claimant paid a total sum of N80,000.00 as appearance on the four occasions that I attended court. In all court days, Claimant never for one day attended any of the court sittings.

That he bluntly told Claimant that his fee for the third suit, that is Suit No. PHC/3666/CS/2022 will be N1,000,000.00 and that he either agrees to pay or take his case to another lawyer. At this juncture Claimant got his employer Mr. Avina involved who personally came to my office, pleaded with me to go to court by accepting N100,000.00 as deposit with a full assurance that the issue of fees would be a settled

matter, I reluctantly accepted, went to court, came back and reported to Claimant's employer what transpired in court. Even the ₦100,000.00 was paid in two instalments

That on 25/3/2024, when Suit No. PHC/3666/CS/2024 came up, M. O. Akuwesioboike, Esq informed the Honorable Court that claimant has been served with the motion on notice for committal to correctional center vide his WhatsApp in line with the exparte order granted. He questioned why claimant should be served as such since he has been appearing for the claimant, a fact known to the lawyer. His Lordship, Honorable Justice Green, asked if counsel had an extra copy of the motion on notice to which he answered in the affirmative and was ordered to serve me in court and did in fact served me as ordered.

That at the close of the proceedings of 25/3/2024, he called claimant and told him what happened in court and that the Claimant in his usual act of hostility spoke rudely on phone and promised to come and see him in my office. He never did but instead demanded for his case file which was given to him vide his present counsel without setting the bill on the outstanding sum of ₦900,000.00 and others. That legally speaking, he is still the lawyer on the record as no notice of change of counsel has been filed and served on me by his present counsel.

That he was in my house and ready to go to my office when my junior, Theodora Ndamati, Esq. called me to tell me that Claimant came to the office to serve me a letter and he instructed her to receive same on my behalf, that I was on my way to the office. That on my arrival to my office, I saw Claimant's letter on my table and went through its contents which, I found laughable and funny.

That he responded to the said letter vide his letter of 10/5/2024 and served same on Claimant. That as can be gleaned from annexed documents of Claimant, the annexed document to his reply letter was not annexed along with the original letter.

That he is not indebted to the Claimant to a dime and urge the Honourable Court to dismiss the claim in its entirety. That by way of counterclaim, he claims against the claimant as follows: The sum of ₦2,000,000.00 being and representing Legal fees in respect of Suit Nos CA/PHC/164MISC/2022, PHC/3670/CS/2022 and PHC/3668/2022. The DW1 identifies notice of change of counsel, a motion exparte for leave to serve by substituted means, a motion on notice seeking to set aside the purported service of the order Nisi by the Claimant made by Hon. Justice Nwogu against the Claimant, letter dated 20<sup>th</sup> March, 2023, reply letter to the Claimants letter dated the 10<sup>th</sup> may, 2024. All documents were admitted in evidence and marked as Exhibits H, J, K, L and M respectively.

During the cross-examination of the DW1 on the same date, he stated that he knows the Claimant, through his junior in Chambers, Franscisca Chukwudi. That Exhibit E does not show that he is always at logger head with the Claimant because the text message came about as a result of his refusing to sue the Claimants ex-wife. That he even begged him on Exhibit E. That on the last page of Exhibit E, January 22<sup>nd</sup> 2024, he has collected only one Christmas bonus from the Claimant because he gave it to him because he delivered a bouncing baby boy. That he has handled 3 cases for the Claimant.



That in respect to CA/PH/164M/2022, he asked the Claimant to pay a deposit of N1,000,000.00 (One million Naira) to which he pleaded. Since he was recovering from the injuries inflicted on to his ex-wife who hired thugs to beat him up. That the Claimant initially paid a deposit of N300,000.00 and subsequently paid N200,000.00. So, in total, he paid N500,000.00

That with respect to the 2<sup>nd</sup> matter, PHC/1360/CS/2022, he asked the Claimant to pay 1 million Naira to set aside the Garnishee Nisi, he paid N300,000 and he agreed to this in Exhibit F. That the last case of PHC/366/CS/22, He again asked the Claimant to pay 1 million Naira or forget it and his employer Avuna intervened and begged him to go to Court with N100,000.00 and that the full fees will be paid. That the N100,000.00 was paid twice in N50,000.00 each and in total, he paid N900,000.00 for the three cases.

That PHC/3887/MC/2018 is not one of the cases he handled. That the suit, gave birth to the Court of Appeal matter. That it was handled by the Claimant's former lawyer. That yes, Exhibit H shows change of counsel in PHC/3887/MC/2018 because that Exhibit F was filed in relation to motion for stay of execution which has been served on the Claimant's ex-wife.

The motion for stay was refused and was abandoned to pursue the appeal matter. That yes, he also served a motion ex parte for substituted service in the matter and he said he did not handle it. That in respect of Exhibit H and J, they did not charge him money. That he only paid for the filing of same, no more no less. That for every filing which includes service through bailiff, they charge N50,000.00 and that filing fees are not professional fees.

The DW1 is shown Exhibit C4 TO C10 and states that he is not aware that N380,000 was paid into his junior's account. That he is only aware of N300,000. That Exhibit C4 TO C10 are all in his name but for different purposes. That he does not know the meaning of quantum merit. That it is true that he didn't file any process at the Court of Appeal because when the case file was finally brought to them and after seeing the casefile and they saw that what was on it is motion on Notice for extension of time to appeal out of time, they set about to see to the motion being taken and granted, there being no objection and then to file notice of appeal. That at this point, there is no need to file any process. That it is not true that he was paid N150,000.00 for the matter before Justice Green. That he only paid a N100,000.00 and it was made in two installments. That the N150,000.00 mentioned in Exhibit B was controverted in his deposition, that all monies paid were itemized. That in his Paragraph 17, he said that it is N100,000.00 paid in two installments. That there is no disjointed financial account in his chambers as regards the money received from Exhibit B and paragraph 17 of his deposition.

That in the matter pending at Justice green, he is not file any process because on the 25<sup>th</sup> march, that was the date, that Claimant ex-wife's lawyer served on him in court on the order of Justice Green, the notice of his committal to prison and that was the day that he was served.

At the close of the evidence of the DW1, the matter was adjourned for the adoption of final addresses and on the date slated for adoption of final addresses, Parties were not ready to go on with the adoption because of incomplete filing of processes and the



absence of the defendant counsel and parties were foreclosed from adopting their final addresses and the matter was adjourned for judgment.

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 and have also taken cognizance of the evidence of the claimant and the defendant and her witness before the court.

**ISSUE FOR DETERMINATION:**

**Whether the Claimant has proved his case to entitle him to his Claim for refund the Claimant, the sum of N1,100,000 which is the principal sum of the legal fees and N300,000.00 for cost of litigation**

In his adopted written deposition on oath, the Claimant testifying as CW1 stated that the first suit that the defendant handled for him is PHC/3666/CS/2022, a contempt proceeding pending before Hon Justice Green for which the defendant charged N150,000.00 (One Hundred and Fifty Thousand Naira) and he paid. Exhibits A and B were tendered by the CW1 as evidencing payment. Testifying further, the CW1 stated that the defendant did not file any process in PHC/3668/CS/2022 until the recruitment of his present lawyer and he also did not refund the sum of N150,000.00.

Further, the defendant testified that another brief that he gave the defendant to handle was his appeal matter for which Okwuego Ekene Esq had filed Notice of Appeal in Appeal NO:CA/PH/164/2022. That the defendant charged him N1,500,000 (One Million, Five Hundred Thousand Naira) as professional fee for the Appeal case and he paid over N700,000.00 to the Defendant in respect of the Appeal matter. That all the monies he paid to the Defendant was N1,600,000 (One Million, Six Hundred Thousand Naira) in total. the Claimants counsel tenders Exhibit C-C11 in proof. That the Defendant even sent him a WhatsApp message that he has converted the professional fees of N50,000.00 as Christmas Bonus. The said WhatsApp memo was admitted in evidence as Exhibit D and E.

That the Defendant knowing that a date was marked for NLC strike took N30,000.00 for appearance fee on that date and also sneakily took N40,000.00 from him in respect of getting a date for the appeal case and nothing to show at the end. That he wrote a letter of demand same is admitted in evidence as Exhibit F. That he gave the defendant, a total of N1,600,000.00 aside monies for contingencies and appearance fees. That out of the N1,900,000.00, he is entitled to a refund of N1,400,000.00 and magnanimously leaving out N500,000.00 for the Defendant. Transaction receipt from Access Bank is admitted in evidence as Exhibits G1-G3.

I have looked at Exhibits A-G3.

On the face of Exhibit B, the Claimant N30,000.00 for appearance fees for appeal matter. Please note that there is nothing on the face of Exhibit B to show that N150,000.00 was paid by the Claimant to the Defendant as alleged.

On Exhibit C, the following transfers were allegedly made to the defendant

N15,000.00 on the 22<sup>nd</sup> May, 2023.

N20,000.00 on the 16<sup>th</sup> July, 2023.

N15,000.00 on the 2<sup>nd</sup> of October, 2023.

N15,000.00 on the 19<sup>th</sup> of June 2023.

On Exhibit C1, following transfers were allegedly made to the defendant  
N30,000.00 tagged court fee on the 1<sup>st</sup> November 2023.

On Exhibit C2, following transfers were allegedly made to the defendant:  
N20,000.00 on the 14<sup>th</sup> of March, 2024.

N30,000.00 on the 14<sup>th</sup> of November, 2023.

On Exhibit C3, following transfers were allegedly made to the defendant  
N20,000.00 showing as transport from the Claimant.

N10,000.00 showing as transport from Stanley.

On Exhibit C4, following transfers were allegedly made to the defendant  
N100,000 narrated as court fee from the Claimant.

On Exhibit C5, following transfers were allegedly made to the defendant  
N100,000 narrated as part payment of court fee from the Claimant.

On Exhibit C6, following transfers were allegedly made to the defendant  
N350,000 narrated as Court fee payment.

On Exhibit C7, following transfers were allegedly made to the defendant  
N200,000 narrated as Part Payment for Court Case.

On Exhibit C8, following transfers were allegedly made to the defendant  
N150,000 as Court payment from Stanley Njoku.

On Exhibit C9, following transfers were allegedly made to the defendant  
N50,000 as New Court payment from Stanley.

On Exhibit C10, following transfers were allegedly made to the defendant  
N20,000 showing as transport to Court from the Claimant.

N50,000 showing as court fee from Stanley.

On Exhibit C11 following transfers were allegedly made to the defendant  
N20,000 showing as transport to Court appearance fee from the Claimant.

On Exhibit C12, following transfers were allegedly made to the defendant  
N30,000.00 showing as court fee from Stanley.

On Exhibit G1, following transfers were allegedly made to the defendant  
N40,000.00 showing as appearance fee and appeal Court sorting.

Total on this Exhibits is N1,315,000.00

The Claimant's claim is that he gave the defendant, a total of N1,600,000.00 aside monies for contingencies and appearance fees. but that he is forfeiting N500,000.00 and is claiming the sum of N1,100,000 which is the principal sum of the legal fees.



Now the question is: How did the Claimant arrive at the figure claimed, N1,600,000.00 when the evidence before the Court is in disparity with the aforesaid sum claimed.

Moreover, during the evidence of DW1, who is also the defendant as contained in his adopted deposition on oath; the defendant stated that he received the following: N300,000.00 into his Junior's account as installment payment for the appeal case. The Claimant paid a further N200, 000.00 as deposit into his account, bringing it to N500,000.00, paid as deposit for the appeal case.

That for the 3rd suit which arose before Justice Green in PHC/3666/CS/2022, while the 3rd suit was going on the Claimant paid him N100,000 out of the N1,000,000. (One million Naira) that was charged as installment.

That at N15,000.00 per each appearance fee. He was paid a total sum of N90,000.00, the dates of our appearances are stated below: 24/5/2023, 22/6/2023, 11/7/2023, 3/10/2023 and 26/10/2023, that of the Court of Appeal on two occasions, that is 19/10/2023 and 15/11/2023 paying a total sum of N40,000.00 at N20,000.00 per appearance. That N50,000 was received for letter to the bank to unfreeze the Claimants account. N300,000.00 was paid by the Claimant to the Defendant for the motion on notice filed before Justice Nwogu which said motion was granted and the Claimant's account was unfrozen and the order Nisi was struck out in this suit.

That prior to his account being unblocked, his Junior in chamber Francisca Chinenye Chukwudi made application for the certified copy of the order of striking out which was served by a bailiff to the first bank head office at Leventis Aba road for which he paid the sum of 30,000.00 (Thirty Thousand Naira).

Note that the total of the above, that the defendant admitted to as receiving is N1,080,000.00 out of which only N900,000.00 is professional fees. N50,000.00 is for writing letter to the bank to unfreeze account. N90,000.00 is appearance fees for 6 appearances in the matter before Justice Nwogu, N 40,000.00 as appearance fee for the Court of appeal matters, and N50,000.00 fee for letter to the bank. Total of non-professional fees allegedly received by the Claimant is N180,000.00.

I have taken a close look at the exhibits tendered by the Claimant and it is quite obvious that the Claimant lumped both appearance fees and professional fees together as Professional fees. For instance, the transfers on Exhibit C, C2 C3, C10 and G1 bears payment narrations like filing fees, appearance fees, transport etc.

The Claimant's claim is that the money paid to the defendant is N1,600,000.00 (One Million Naira) but that he is forfeiting N500,000.00 and is claiming the sum of N1,100,000.00 which is the principal sum of the legal fees.

Now the question is: How did the Claimant arrive at the figure claimed when his evidence before the Court is in disparity with the sum claimed.

It is the position of this court that the Claimant have failed to show on the preponderance of evidence that indeed he paid N1,600,000.00 to the defendant out of which he has forfeited N500,000.00. There is no evidence before the Court that shows the payment of the entire sum of N1,600,000.00 that will warrant the court to order that the Defendant should refund the sum of N1,100,000.00 as legal fee.

More so, the Defendant have admitted receiving only the sum of ₦1,080,000.00 out of which only ₦900,000.00 is professional fees. Out of the ₦900,000.00 received as professional fees, the Defendant have stated in evidence thus:

That he rendered legal services for the ₦500,000.00 received as professional fees for the appeal case by that they tried to serve the motion on the Claimants ex-wife but was told by FIDA Lawyer that the Claimants ex-wife address cannot be ascertained and that they went ahead to file a motion ex parte for leave to serve the Claimant's ex-wife vide her WhatsApp but the said motion was not granted by the Court presided by Justice Nwogu. The defendant counsel tendered Exhibit J to buttress this point.

That in his quest to move the pending motion on notice at the court of Appeal in Suit No. PHC/CS/164MISC/2022, himself and his junior herein mentioned visited the office of Head of Department at the Court of Appeal, who graciously fixed 19/10/2022 for hearing of the motion. On 19/10/2022, we were in court but the court did not sit, a fact communicated to the claimant. That he did not sit and wait for a date but instead, wrote to the Deputy Chief Registrar of the Court of Appeal vide our letter of 27/3/2023, pursuant to which, 15/11/2023 was given to us for hearing of the motion on notice.

That on the 15/11/2023 the Court of Appeal did not sit as a result of the nationwide strike by Labour Union. Again, this fact was also communicated to the claimant, who being satisfied with our efforts paid a further ₦200,000.00.

That for the suit before Justice Nwogu PHC/3670/CS/2022, ₦300,000.00 was paid by the Claimant to the Defendant for the motion on notice filed before Justice Nwogu which said motion was granted and the Claimant's account was unfrozen and the order Nisi was struck out in this suit.

That for the ₦100,000 paid for the 3<sup>rd</sup> suit, he made appearance in Court and upon his submission, that for the 3<sup>rd</sup> suit was an abuse of Court process. His Lordship on that basis on the last date that Suit No. PHC/3670/C6/2022 was struck out.

Please take important note that the defendant's testimony about the services rendered in all three suits was not denied or controverted in evidence by the Claimant and neither was the content of Exhibit J and K as on the professional services rendered by the defendant controverted in evidence by the Claimant. The Claimant without more have stated that the defendant knowing that a date was marked for NLC strike took ₦30,000.00 for appearance fee on that date and also sneakily took ₦40,000.00 from him in respect of getting a date for the appeal case and nothing to show at the end. The Defendant have denied this allegation of sneakily collecting appearance fees from the Claimant and there is nothing before the Court to substantiate these facts.

Furthermore, the court is quizzed to ask on what basis is the Claimant in this case asking for a refund of a whole sum of ₦1,100,000.00 when the defendant have admitted receiving ₦900,000.00 as professional fees and have substantiated the fact that he rendered services for the payment, which facts the defendant corroborated as can be seen in Exhibits J and K? It is the stance of this Court that the defendant have failed to prove on the preponderance of evidence that he is entitled to his claim before the court.

The first claim having failed, consequently the claim for recovery of cost of litigation also fails. It is not possible to place something on nothing.



**On the Counter Claim, Whether the Counterclaimant have Proven his Counterclaim to Warrant a Grant of N2,000,000.00 being and Representing Legal Fees in Respect of Suit Nos: CA/PHC/164MISC/2022 PHC/3670/CS/2022 and PHC/3666/CS/2023.**

It is trite that a legal practitioner has a right to be remunerated for his services which can either be paid in advance upon named fees or reliance on the terms of any agreement reached as for his fees. If the defendant, has not received his fees, he has to sue for his fees, however, he must comply with the procedure laid down by law under the **SECTION 16 OF LEGAL PRACTITIONERS ACT, CAP L.11, L.F.N 2004.**

In the case of **THOMPSON AND ANOR V. BARRISTER GBENGA AKINGBEHIN (2021) 16 NWLR (PT. 1802) 283 AT 303, 306, 322-322**, the Court held to the cumulative effect that the three conditions that must be met before a legal practitioner can commence an action for recovery of his fees are that, he must prepare a bill of charges or a bill for the charges which must particularize the principal items of his claim; he must serve his client with the bill; and he must allow a period of one month to elapse from the date the bill of charges was served under Section 16(2)(b) of the Legal Practitioners Act before filing the action, and that failure to comply with or fulfil these conditions precedent would render the entire action and the subsequent trial a nullity, no matter how well conducted, placing reliance on the cases of **First Bank of Nigeria Plc. V. Ndoma Egba (2006) All FWLR (Pt. 307) 1012 at 1034; MADUKOLU V. NKEMDILIM (1962) 2 SCNLR 341, SAUDE V. ABDULLAHI (1989) 4 NWLR (Pt. 116) 397, NIGERIA DEV. CO. LTD V. ADAMAWA STATE WATER BOARD (2008) 9 NWLR (PT. 1093) 498." PER IKYEGH, J.C.A.**

Furthermore, it must be noted that the action must be filed in a court of court of competent jurisdiction. The Legal Practitioners Act in section 19 defines a court of competent jurisdiction for this purpose as: the High Court of the State in which the legal practitioner in question usually carries on his practice or usually resides or in which the client in question usually resides or has his principal place of business or, in the case of a practitioner authorized to practice by warrant, the High Court of the State in which the proceedings specified in the application for the warrant were begun.

On the basis of all of the foregoing, this Court hereby holds that the condition precedent provided by the Law under the legal practitioners Act before filing an action for the recovery of professional fees have not been complied with and it is only the High Court that can hear such matter and hence this Court does not have the jurisdiction to hear this matter and the claim for professional fees by the Counterclaimant is hereby struck out.

GIFT G. AMADI, ESQ.  
CHIEF MAGISTRATE  
GO I  
SIGN.....DATE.....

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

