

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ADO-EKITI JUDICIAL DIVISION
HOLDEN AT ADO-EKITI
SUIT NO: FHC/AD/CS/B/2026

BETWEEN:

1. OGUNDIPE ADEMOLA VICTOR
2. BABATUNDE DANIEL OGUNDANA
(Suing for themselves and on behalf of other Local Government
Chairmanship & Councillorship Candidates of ADC
in the 16 Local Governments of Ekiti-State)

3. AFRICAN DEMOCRATIC CONGRESS (ADC)

PLAINTIFFS

AND

1. RTD JUSTICE CORNELIUS AKINTAYO
(Chairman, Ekiti-State State independent Electoral Commission)
2. EKITI-STATE INDEPENDENT
ELECTORAL COMMISSION.

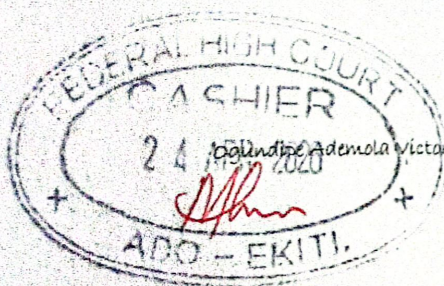
DEFENDANTS

ORIGINATING SUMMONS

BROUGHT PURSUANT TO SECTION 6(6), 40 OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999 AS AMENDED, SECTION 153 ELECTORAL ACT, 2026, ORDER 3 RULE 9 RULES OF THE FEDERAL HIGH COURT (CIVIL PROCEDURE) RULES 2019 AND UNDER THE INHERENT JURISDICTION OF THIS HONOURABLE COURT.

Let (1) *Rtd. Justice Cornelius Akintayo (Chairman, Ekiti-State Independent Electoral Commission)* (2) *Ekiti-State Independent Electoral Commission* within 7 (Seven) days after service of this Summons on them, inclusive of the day of such service, cause an appearance to be entered for them to this Summons which is issued upon the application of the Plaintiffs *Ogundipe Ademola Victor, Babatunde Daniel Ogundana* (for themselves and on behalf of other Local Government Chairmanship & Councillorship Candidates of ADC in the 16 Local Governments of Ekiti-State) & *African Democratic Congress, Ekiti-State*;

Registrar



24/09/2020 Ogundipe Ademola Victor & 2 Ors v Rtd. Hon. Justice Cornelius Akintayo & Anor.

For the determination of the following questions:

1. Whether the 1st Defendant on behalf of the 2nd Defendant can unilaterally amend the Provision of Electoral Act which is the Act of the National Assembly for the conduct of Local Government Election in Ekiti-State?
2. Whether by the Community Reading of Section 1 (1) &(3), 4 (1)-(5) of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) (1st-5th Alteration) the extraneous insertion made by the 1st Defendant on behalf of the 2nd Defendant in the Guidelines for the conduct of Local Government Election in Ekiti-State in 2026 which is in inconsistent and gross violation of Section 102, 105, 106 & 153 of the Electoral Act, 2026 would not be struck-out by the Honourable Court?
3. Whether any action taken by the 1st Defendant on behalf of the 2nd Defendant using the purported extraneous insertion in the altered Guideline for the conduct of Local Government Election in Ekiti-State in 2026 to disenfranchise the Plaintiffs herein and other contestants would not be a nullity and be voided by the Honourable Court?

And upon the determination of the questions set out above in favour of the Plaintiffs, for the following reliefs:

1. **A DECLARATION** that the Extant Law for the Conduct of the Local Government Election in Ekiti-State which is a Federating Unit in Nigeria is the Provision of Electoral Act, 2026.
2. **A DECLARATION** that 1st Defendant acting for and on behalf of the 2nd Defendant cannot unilateral alter the Provision of Electoral Act, 2026 in particular the requirements for qualification to contest the Chairmanship and Councillorship positions in the 2026 Local Government Elections in Ekiti-State.
3. **A DECLARATION** that the Provision of Section of the Guidelines for the conduct of Local Government Election in Ekiti-State 2026 is in inconsistent and gross violation of Section 105 of the Electoral Act, 2026.

4. **AN ORDER OF HONOURABLE COURT** of the Honourable Court striking out the Provision of Section of the Guidelines for the conduct of Local Government Election in Ekiti-State 2026 being inconsistent and gross violation of Section 105 of the Electoral Act, 2026.
5. **AN ORDER OF HONOURABLE COURT** of the Honourable Court setting aside all decision made by the 1st Defendant for and on behalf of the 2nd Defendant using the offending the Provision of Section of the Guidelines for the conduct of Local Government Election in Ekiti-State 2026 which is inconsistent and gross violation of Section 105 of the Electoral Act, 2026.
6. **AN ORDER OF PERPETUAL INJUNCTION** restraining the Defendants including their heirs, privies, agents, successors in title jointly and severally from further use of the offending Section 2 (5) of the Ekiti-State Independent Electoral Commission Ado-Ekiti Guidelines for Local Government Councils and Local Development Area Elections 2026 which is inconsistent and gross violation of Section 105 of the Electoral Act, 2026.

This Summon was taken out by I.M. Ebigbo, Km2, Iyin Road, Near High Court, Ado-Ekiti, Ekiti State.

DATED THIS ^{28th} DAY OF APRIL, 2026





TIMOTHY O. SHOBIYE, ESQ

I.M. EBIGBO ESQ 

PLAINTIFF'S COUNSEL.

KM 2, IYIN ROAD,

NEAR HIGH COURT,

FAJUYI AREA,

ADO-EKITI, EKITI STATE

+234703 784 5317

FOR SERVICE:

1. **THE 1ST DEFENDANT**
RTD, HONOURABLE JUSTICE CORNELIOUS AKINTAYO
CHAIRMAN, EKITI-STATE INDEPENDENT ELECTORAL COMMISSION
ADO-EKITI, EKITI-STATE.
2. **THE 2ND DEFENDANT**
EKITI-STATE INDEPENDENT ELECTORAL COMMISSION, ADO-EKITI, EKITI-STATE.

**IN THE FEDERAL HIGH COURT OF NIGERIA
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BETWEEN:

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- 2. BABATUNDE DANIEL OGUNDANA**
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PLAINTIFFS

AND

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(Chairman, Ekiti-State State Independent Electoral Commission)
- 2. EKITI-STATE INDEPENDENT
ELECTORAL COMMISSION.**

DEFENDANTS

AFFIDAVIT IN SUPPORT OF ORIGINATING SUMMONS

I, **OGUNDIPE ADEMOLA VICTOR**, Male, Farmer, Christian and a Nigeria Citizen of Ademiluyi Camp, Oke Aso, Ado-Ekiti, Ekiti-State do hereby make oath and state as follows:

1. That I am the deponent herein.
2. That I am a Nigerian and Member of African Democratic Congress, Ekiti-State Chapter, Ado-Ekiti, Ekiti-State. My Voter's Card and Membership Card of African Democratic Congress is hereby attached and marked EXHIBIT A1 & A2.
3. That the 2nd Plaintiff, Babatunde Daniel Ogundana is as a Nigerian, and Member of African Democratic Congress, Ekiti State Chapter from Ekiti-East Local Government, Omuo-Ekiti, Ekiti-State. I hereby attached and marked the NIN and Membership Card of Babatunde Daniel Ogundana as EXHIBIT B1 & B2.

4. That from EXHIBIT A1 & A2 and B1 & B2, I and the 2nd Plaintiff are above 30 Years of Age and we are both read above School Certificate Level which are important to possess for me to qualify as candidate for Chairmanship Election in Ekiti-State.
5. That I and Babatunde Daniel Ogundana are Chairmanship Candidates of African Democratic Congress In Ado-Ekiti Local Government, and Ekiti-East Local Government, Ekiti-State respectively.
6. That we have a Platform for all the Candidates of African Democratic Congress for the Chairmanship and Councillorship for the 2026 Local Government Election in Ekiti-State under the umbrella of African Democratic Congress.
7. That the 3rd Plaintiff is one of the Registered Political Party in Nigeria and as such, the 3rd Plaintiff have the right to present candidates both for the forthcoming Chairmanship and Councillorship Election in Ekiti-State like other Registered Political Parties in Ekiti-State, Nigeria.
8. That I have the consent, concurrence and authority of the following all the Candidates of African Democratic Congress for the Chairmanship and Councillorship for the 2026 Local Government Election in Ekiti-State under the umbrella of African Democratic Congress which I and the 2nd Plaintiff represent and African Democratic Congress as a Registered Political Party to depose to this Affidavit in support of Originating Summons.
9. That the 1st Defendant is the Chairman of State Independent Electoral Commission and coordinates the affairs of the State Independent Electoral Commission including the Guidelines for the Election.
10. That the 2nd Defendant is an Agency of the State Government with the statutory duty for conduct of Elections of the Councilors to the 177 Wards and Chairmen to the 16 Local Government of Ekiti-State.
11. That the 2nd Defendant under the guidance of the 1st Defendant had released Time Table for the conduct of the 2026 Local Government Elections in Ekiti-State to the general public including the Political Parties in which African Democratic Congress is one of them.

12. That in line with the provision of Electoral Act, myself and others being represented in this Suit had emerged as Candidates of the African Democratic Congress in Ekiti-State for the 2026 Local Government Elections in Ekiti-State.
13. That the 2nd Defendant through the office of the 1st Defendant had invited us for clearance for the Election, and we were turned back because of Tax Clearance.
14. That I and others being represented in this suit were disallowed to participate in the Clearance conducted on Tuesday, 20th Day of April, 2026 at the 2nd Defendant's Office.
15. That at the 2nd Defendant's Office, we were shown the Provision of Section 2 (5) of the Guidelines for Local Government Councils and Local Area Development Areas Elections 2026. A Copy of the Guidelines for Local Government Councils and Local Area Development Areas Elections 2026 is hereby attached and marked **EXHIBIT C**.
16. That as a law abiding Citizens, as we compare between the Provision of the Electoral Act for the conduct of Elections and the said Guidelines for Local Government Councils and Local Area Development Areas Elections 2026, it was obvious that attempt is being made to deliberately disenfranchise us from participating in the forth-coming Local Government Council Elections.
17. That I was further informed in Chambers I.M. Ebigbo Esq. in his Chambers at Km2, Iyin Road, Ayo Agbebi Compound, Near High Court Complex, Fajuyi Area, Ado-Ekiti, Ekiti-State on the 22nd Day of April, 2026 at about 4:30 pm as follows:
 - (a). That the Electoral Act is the Extant Law for the conduct of all Elections in Nigeria at all levels.
 - (b). That the Provision of Electoral Act is sacrosanct and mandatory same cannot be altered in any form either by way of addition or subtraction.
 - ©. That from the Voter's Card and relative documents attached and marked as EXHIBITS, the 1st and 2nd Plaintiffs are Nigerians, above 30 Years of Age qualifying them for the Chairmanship position in Ekiti-State, and 3rd Plaintiff is a Registered Political Party as their sponsor and other

Chairmanship and Councillorship Candidates they represent in this Suit.

- (d). That any extraneous additions whatsoever made like in the present circumstance must be struck out completely.
- (e). That the Plaintiffs and the People being represented cannot be disenfranchise as a Nigerian since they are qualify and the statutory requirement of the Electoral Act have been duly comply with.
- (f). That the 1st Defendant on behalf of the 2nd Defendant cannot altered, rewrite or moderate the Provision of Electoral Act which is an Act of the National Assembly alone.
- (g). That there is no Provision for Tax Clearance in the Electoral Act which is Applicable Law in the instance case and as such the said clause in the Guidelines for Local Government Councils and Local Area Development Areas Elections 2026 would and should be struck out.
- (h). That the Section is inconsistent with the Provision of Electoral Act, 2026 and as such it should deleted from the Guidelines for Local Government Councils and Local Area Development Areas Elections 2026.

18. That it is in the interest of justice to grant the reliefs sought in this suit.

19. That I solemnly and conscientiously swear to this Affidavit in good faith believing the contents to be true, correct and in accordance with the Oaths Law of Ekiti-State.


Deponent

**Sworn to at the Registry of the
Federal High Court of Nigeria,
Ado-Ekiti Judicial Division,
Ado-Ekiti, Ekiti-State.**

This 24th day of DECEMBER, 2026



Ogundipe Ademola Victor & 2 Ors V Etd. Jgns & Consellious Akintayo & Anor.

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(Chairman, Ekiti-State State Independent Electoral Commission)
- 2. EKITI-STATE INDEPENDENT
ELECTORAL COMMISSION.**

DEFENDANTS

**WRITTEN ADDRESS IN SUPPORT OF ORIGINATING
SUMMONS**

1.00 INTRODUCTION

1.01 This Originating Summons is brought by the Plaintiffs with a 19 Paragraphs Affidavit depose to herein by the 1st Claimant, for himself and on behalf of other Chairmanships and Councillorships Candidates of the African Democratic Congress, Ekiti-State Branch, Ekiti-State under the relevant laws and inherent jurisdiction of this Honourable Court for the interpretation and determination of the following questions of law to wit:

- 1. Whether the 1st Defendant on behalf of the 2nd Defendant can unilaterally amend the Provision of Electoral Act which is the Act**

of the National Assembly for the conduct of Local Government Election in Ekiti-State?

2. Whether by the Community Reading of Section 1 (1) &(3), 4 (1)-(5) of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended) (1st-5th Alteration) the extraneous insertion made by the 1st Defendant on behalf of the 2nd Defendant in the Guidelines for the conduct of Local Government Election in Ekiti-State in 2026 which is in inconsistent and gross violation of Section 102, 105, 106 & 153 of the Electoral Act, 2026 would not be struck-out by the Honourable Court?
3. Whether any action taken by the 1st Defendant on behalf of the 2nd Defendant using the purported extraneous insertion in the altered Guideline for the conduct of Local Government Election in Ekiti-State in 2026 to disenfranchise the Plaintiffs herein and other contestants would not be a nullity and be voided by the Honourable Court? Whereof the Plaintiffs seeks the following reliefs:
 1. **A DECLARATION** that the Extant Law for the Conduct of the Local Government Election in Ekiti-State which is a Federating Unit in Nigeria is the Provision of Electoral Act, 2026.
 2. **A DECLARATION** that 1st Defendant acting for and on behalf of the 2nd Defendant cannot unilateral alter the Provision of Electoral Act, 2026 in particular the requirements for qualification to contest the Chairmanship and Councillorship positions in the 2026 Local Government Elections in Ekiti-State.

3. **A DECLARATION** that the Provision of Section of the Guidelines for the conduct of Local Government Election in Ekiti-State 2026 is in inconsistent and gross violation of Section 105 of the Electoral Act, 2026.
4. **AN ORDER OF HONOURABLE COURT** of the Honourable Court striking out the Provision of Section of the Guidelines for the conduct of Local Government Election in Ekiti-State 2026 being inconsistent and gross violation of Section 105 of the Electoral Act, 2026.
5. **AN ORDER OF HONOURABLE COURT** of the Honourable Court setting aside all decision made by the 1st Defendant for and on behalf of the 2nd Defendant using the offending the Provision of Section of the Guidelines for the conduct of Local Government Election in Ekiti-State 2026 which is inconsistent and gross violation of Section 105 of the Electoral Act, 2026.
6. **AN ORDER OF PERPETUAL INJUNCTION** restraining the Defendants including their heirs, privies, agents, successors in title jointly and severally from further use of the offending Section 2 (5) of the Ekiti-State Independent Electoral Commission Ado-Ekiti Guidelines for Local Government Councils and Local Development Area Elections 2026 which is inconsistent and gross violation of Section 105 of the Electoral Act, 2026.

3.00 ISSUES FOR DETERMINATION:

- 3.01 **SOLE ISSUE:** Whether in the circumstances of this case, Section 2 (5) of the Ekiti-State Independent Electoral Commission Ado-Ekiti Guidelines for Local Government Councils and Local Development Area Elections would not be struck out and be deleted from the Guidelines, same being inconsistent and gross violation of the provision of the Electoral Act; and all decisions reached based on the application of the offensive Section would be set aside being null and void.

4:00 ARGUMENT ON SOLE ISSUE:

4.01 SOLE ISSUE:

Whether in the circumstances of this case, Section 2 (5) of the Ekiti-State Independent Electoral Commission Ado-Ekiti Guidelines for Local Government Councils and Local Development Area Elections would not be struck out and be deleted from the Guidelines, same being inconsistent and gross violation of the provision of the Electoral Act; and all decisions reached based on the application of the offensive Section would be set aside being null and void.

4.02 The Combine Reading of Section 105 & 153 of the Electoral Act, 2026 highlighted the requirements for Chairmanship and Councillorship Candidates. This conditions are all in line with the Extant Constitutional Provision for other electives position as specified by the 1999 Constitution (As Amended).

4.03 Respectfully Milord, Section 65 & 66 of the Constitution gave express requirements aspirants aspiring to the Senate, Section 106 to the House of Assembly, Section 176 for the Governorship, and Section 177 for President.

4.04 Flowing from the above, the requirement were as spell out of the provisions of the Electoral Act, 2026, and the Constitution of Federal Republic of Nigeria, 1999 (As Amended) and which specifically provides that;

A person shall be qualified for election under this Part of this Act if he or she,

- i. A citizen of Nigeria
- ii. Is registered as a voter
- iii. Has attained age of 25 years for Councillor and 30 years for Chairman and Vice-Chairman
- iv. Is educated up to at least School Certificate Level or its equivalent
- v. Is a member of a political party and is sponsored by that party.

4.05 Further to the above, Section 153 of the Electoral Act states as follows;

"In compliance with the provision of paragraph 11 of Part II of the Second Schedule of the Constitution, the procedure regulating elections conducted by the Commission to Area Councils in the Federal Capital Territory under this Act shall be the same and apply with equal force as the procedure regulating elections conducted to Local Government Areas by the State Commission.

4.06 The conduct of Local Government Elections by the 2nd Defendant as in this case does not lie in the whim and caprices of the 2nd Defendant and its agents to do as they so wish, it must be conducted in line with the rules laid down by the Provisions of Sections 103 and 157 of the Electoral Act, 2026.

AG ABIA STATE v A.G FEDERATIONVS (2003)

4.07 In the instant case the provision of Sections 103 and 157 of the Electoral Act, 2026; become relevant in the screening and clearance of the Candidates by the 2nd Defendant through the Office of the 1st Defendant and not anything to the contrary. The Purported

Guideline is void since Electoral Act, 2026 is covering the field. **SEE: A.G OGUN-STATE v A.G FEDERATION (1982) 1-2 SC; (1982) JELR 44485 SC.**

4.08 In **INEC & ANOR v MUSA & ORS (2003) LPELR 24927 SC** the Apex Court affirmed the position that where Federal Law is covering the field on a matter like the Electoral Conduct (as been seen in the present circumstance) the Federal Law is held to be paramount, the Inconsistent in State Law is void and of no importance.

We urge the Court to so hold.

4.09 It is settled law that where a provision is clear and unambiguous, the clear interpretation of the said provision would be applied. We rely in this respect to the case of **A.G. Kwara State v. Adeyemo [2017] All FWLR (Pt. 868) 616 at 645 A**, where the Supreme Court held that;

"It is long settled that words, provisions in a statute that are clear and free from ambiguity should be construed as they are and given their ordinary meaning without any embellishments."

4.10 Honourable Justice Uwais CJN (as he then was) in the case of **Knight Frank & Rutley (Nig) & Anor v. AG Kano State (1998) LPELR-1694(SC) page 18 para C**, held that;

"It is elementary that where a party acted contrary to, infringes or violates any of the provision of the Constitution, such action is null and void and of no effect whatsoever."

4.11 Submit that where a provision regulating an exercise such as in this case has been breached by a party, consequences would have to follow. We

rely on the decision of *Adesanoye v. Adewole* (2006) All FWLR pt 340 pg. 1000 at 1020 pg. D-E, where the Supreme Court held that;

"Where a statute clearly provided for a particular act to be performed, failure to perform the act on the part of the party will not only be interpreted as a delinquent conduct but will be interpreted as non-complying with the statutory provision. In such a situation, the consequence of non-compliance with the statutory provision follows notwithstanding that the statute did not specifically provide for sanction. The court can, by the invocation of its interpretative jurisdiction, come to the conclusion that failure to comply with the statutory provision is against the party in default."

We urge this Honourable Court not to allow this wrong to go without a remedy.

4.12 It is the further submission of the Plaintiff that the failure to follow laid down provision of Electoral Act by the 1st and 2nd Defendants is not one of mere irregularity, but an issue which goes to the root of the whole transparency and fairness which is constitutionally provided for in Sections 103 and 157 of the Electoral Act, 2026.

4.13 We commend to this Honourable Court the decision of the Court in *Nigercare Development Company Ltd. V. Adamawa State Water Board & Ors* (2008) 9 NWLR (PT.1093) 498 @ 524, where the Court held that;

"Where there is fundamental failure to comply with the requirement of a statute the issue is not of irregularity, but a nullity."

4.14 The legal maxim by which the legal professions stands on, and which has become notorious is *ubi jus ibi remedium*, that is a wrong will not go without remedy. This doctrine was pronounced upon by the Court of Appeal in the case of **AKPAN v. OGULI (2021) LPELR-56648(CA)** Pp 55 - 56 Paras B - A, where the Court of Appeal held that;

"Generally, equity will not suffer a wrong to be without a remedy as enunciated in the principles of *ubi jus ibi remedium*, namely, where there is a wrong there is a remedy. The reason for this Latin maxim was explained by R.E. Meggarry in Snell's Principles of Equity, 26th edition, page 31 as follows: "1. Equity will not suffer a wrong to be without a remedy: The idea expressed in this maxim is that no wrong should be allowed to go un-redressed if it is capable of being remedied by Courts of justice, and this really underlies the whole jurisdiction of equity. As already explained, the common law Courts failed to remedy many undoubted wrongs, and this failure led to the establishment of the Court of Chancery. But it must not be supposed that every moral wrong was redressed by the Court of Chancery. The maxim must be taken as referring to rights which are suitable for judicial enforcement, but were not enforced at common law owing to some technical defect. Its meaning can be best explained by taking a few examples of the cases in which the Court has acted upon it."

4.15 We urge this Honourable Court to so hold and to resolve this issue in favour of the Plaintiff, and to strike out Section 2 (5) of the Ekiti State Independent Electoral Commission Guidelines for Local Government Council and Local Development Area Elections 2026.

1.1 CONCLUSION

1.1 The gravamen of the argument of the Plaintiff is that:

1. **A DECLARATION** that the Extant Law for the Conduct of the Local Government Election in Ekiti-State which is a Federating Unit in Nigeria is the Provision of Electoral Act, 2026.
2. **A DECLARATION** that 1st Defendant acting for and on behalf of the 2nd Defendant cannot unilateral alter the Provision of Electoral Act, 2026 in particular the requirements for qualification to contest the Chairmanship and Councillorship positions in the 2026 Local Government Elections in Ekiti-State.
3. **A DECLARATION** that the Provision of Section of the Guidelines for the conduct of Local Government Election in Ekiti-State 2026 is in inconsistent and gross violation of Section 105 of the Electoral Act, 2026.
4. **AN ORDER OF HONOURABLE COURT** of the Honourable Court striking out the Provision of Section of the Guidelines for the conduct of Local Government Election in Ekiti-State 2026 being inconsistent and gross violation of Section 105 of the Electoral Act, 2026.
5. **AN ORDER OF HONOURABLE COURT** of the Honourable Court setting aside all decision made by the 1st Defendant for and on behalf of the 2nd Defendant using the offending the Provision of Section of the Guidelines for the conduct of Local Government Election in Ekiti-State 2026 which is inconsistent and gross violation of Section 105 of the Electoral Act, 2026.

AN ORDER OF PERPETUAL INJUNCTION restraining Defendants including their heirs, privies, agents, successors title jointly and severally from further use of the offence under Section 2 (5) of the Ekiti-State Independent Electoral Commission (EKSIEC) Guidelines for Local Government Councils and Local Development Area Elections 2026 which is inconsistent and gross violation of Section 105 of the Electoral Act, 2026.

5.02 Finally, we humbly urge your Lordship to resolve the Sole Issue in favour of the Plaintiffs against the Defendants.

DATED THIS 23rd DAY OF APRIL, 2026



[Signature]

TIMOTHY O. SHOBIYE, ESQ.

I.M. EBIGBO ESQ.
PLAINTIFF'S COUNSEL

KM 2, IYIN ROAD,
NEAR HIGH COURT,
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