

IN THE SUPREME COURT OF NIGERIA
HOLDEN AT ABUJA

ON FRIDAY THE 20TH DAY OF FEBRUARY, 2026

BEFORE THEIR LORDSHIPS

KUDIRAT M.O. KEKERE-EKUN
JOHN INYANG OKORO
HELEN MORONKEJI OGUNWUMIJU
ADAMU JAURO
JUMMAI HANNATU SANKEY
OBANDE FESTUS OGBUINYA
STEPHEN JONAH ADAH

CHIEF JUSTICE OF NIGERIA
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT

SC/CV/899/2025

BETWEEN:

1. EMMA ELEGBE
2. LOLU ELEGBE

=== APPELLANTS

AND

1. HP INTERNATIONAL SCHOOLS LIMITED
2. KEMI BALOGUN
3. LINDA ADEYEMI-HASTRUP
4. IYEFÉ OLUDOI

==RESPONDENTS

DECISION
[DELIVERED BY STEPHEN JONAH ADAH, JSC]

The lower court, being the Court of Appeal, Lagos Judicial Division, in its ruling delivered on the 4th day of August, 2025, granted the Motion on Notice brought pursuant to Section 295(3) of the Constitution of the Federal Republic of Nigeria,

1999 (as amended) and Order 6 Rule 1 of the Court of Appeal Rules, 2021, filed by the applicants/appellants, and consequently referred certain questions to this Court for determination.

The reference was made in exercise of the powers conferred by Section 295(3) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), which provides as follows:

(3) Where any question as to the interpretation or application of this Constitution arises in any proceedings in the Court of Appeal and the court is of opinion that the question involves a substantial question of law, the court may, and shall if any party to the proceedings so request, refer the question to the Supreme Court which shall give its decision upon the question and give such directions to the Court of Appeal as it deems appropriate.

The questions so referred are three in number and are framed as follows:

- 1. Whether, by virtue of Section 254(c) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), the jurisdiction of the High Court of Lagos State is affected or excluded in respect of a claim in defamation arising from, relating to,**

or connected with labour and employment.

2. Whether, having regard to Section 254(c) of the Constitution, the mere termination of an employment relationship is sufficient to vest the High Court of Lagos State with jurisdiction to entertain a claim in defamation arising from or connected with labour and employment.
3. Whether an alleged defamatory publication emanating from an employee's work relationship, but made by a person who is not an employee, can properly be entertained by the High Court of Lagos State, having regard to Section 254(c) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

The reference was anchored on the following grounds:

GROUND:

- i. The applicants herein are defendants in Suit No: LD/ADR/5052/2020 before the High Court of Lagos State sitting at Osborne, Ikoyi, Lagos State (the High Court, Lower court or Trial Court).
- ii. The applicants had challenged the jurisdiction of the High Court on the ground that the matter as constituted is one preserved for the exclusive jurisdiction of the National Industrial Court by the virtue of Section 254C of the Constitution, the subject matter being related

or connected to labour and employment of the 1st appellant/applicant.

- iii. The High Court had ruled in favour of the respondents herein, and in so doing, found that it had the jurisdiction to determine the matter.
- iv. The applicants, dissatisfied with the ruling of the High Court, have appealed the decision which has been entered as Appeal No: CA/LAG/CV/1070/2024, before this Honourable Court.
- v. The High Court, in deciding the applicants' application in Suit No: LD/ADR/5052/2020, had to wade through several conflicting decisions of the Court of Appeal on similar facts and circumstances as regards the interpretation and the application of Section 254(c) of the Constitution.
- vi. There is no definite pronouncement by the Supreme Court on the questions sought to be referred.
- vii. As a result of (vi), supra, the lower court selected from the myriad of decisions by this Honourable Court in deciding the application before it.
- viii. Further to (vii), Supra, the lower court still handed down a judgment which the applicants herein conscientiously believe does not represent the position of the law, and have now appealed against it.
- ix. Since there is no conclusive position of the substantial questions of law contained in the application's relief, it is important that the opinion of the Supreme Court is sought and

received, before any determination of the instant appeal.

- x. This Honourable Court has the power to state a case for reference in respect of a substantial point of law under Section 295 of the Constitution, for the apex court to deliver a conclusive decision on the subject.
- xi. The questions now submitted for constitutional reference to the Supreme Court arise from Appeal No: CA/LAG/CV/1070/2024 already submitted before this court and written arguments presented.
- xii. Questions submitted for constitutional reference if answered by the Supreme Court, will aid the Court of Appeal in effectively deciding the appeal.
- xiii. It is in the interest of justice to grant this application.

The background to this constitutional reference, as disclosed by the record before this Court, may be stated briefly.

The 1st appellant was employed by the 1st respondent and served as the Head of School until the termination of her appointment on 1st May, 2020. The 2^{nc} appellant is her spouse. The 1st respondent is a limited liability company incorporated under Nigerian law and engaged in the provision of educational services under the name Hampton Preparatory School, with its registered office at No. 25, Crown Jubilee, Mojisola Onikoyi Street, Ikoyi, Lagos. The 2nd to 4th

respondents are members of the Board of Directors of the 1st respondent.

Following the termination of her employment, the 1st appellant, by an email dated 4th May, 2020, wrote to parents of pupils enrolled in the 1st respondent's school, explaining the circumstances surrounding her exit and offering clarification in respect of an email earlier circulated by the 1st respondent to the same parents on 2nd May, 2020.

The 2nd appellant was never in the employment of the 1st respondent. He is the spouse of the 1st appellant, and their children attend the 1st respondent's school. On 2nd May, 2020, the 2nd appellant communicated with some parents of pupils of the 1st respondent via WhatsApp in response to enquiries arising from the email circulated by the 1st respondent on the same date.

Consequent upon these events, the respondents commenced Suit No. LD/ADR/5052/2020 at the High Court of Lagos State ("the trial court") by a Writ of Summons and Statement of Claim filed on 26th May, 2020. (See pages 10–20 of the Record of Appeal.)

In the Statement of Claim, the respondents sought the following reliefs before the trial court:

1. A declaration that the letter dated 4th May, 2020 issued by the 1st defendant is defamatory of the claimants.
2. A declaration that the WhatsApp message published by the 2nd defendant on 2nd May, 2020 is defamatory of the claimants.
3. An order directing the defendants to immediately retract the said letter and WhatsApp publication and to publish the retraction in The Guardian Newspaper, This day Newspaper, or any other newspaper with nationwide circulation.
4. An order of perpetual injunction restraining the defendants, their servants, agents, assigns, or any person acting on their behalf from further publishing or causing to be published any defamatory material concerning the claimants.
5. Costs of the action. (See page 19 of the Record.)

Upon being served with the originating processes, the appellants challenged the jurisdiction of the trial court, contending that the suit ought to have been commenced before the National Industrial Court. Issues were joined, and the parties exchanged written addresses on the jurisdictional objection.

In a considered ruling delivered on 24th September, 2024, the trial court dismissed the appellants' objection and assumed jurisdiction to hear the matter. (See pages 312–332 of the Record.)

Aggrieved by the ruling, the appellants appealed to the Court of Appeal. At the lower court, the parties filed and exchanged their respective briefs of argument. Thereafter, having regard to the submissions of counsel, particularly in view of the conflicting decisions of the Court of Appeal on whether the National Industrial Court has jurisdiction over defamation claims, the appellants invited the lower court to refer the constitutional question to this Court for authoritative determination.

Consequently, this constitutional reference was initiated to enable this Court resolve the conflicting judicial decisions and provide definitive guidance on the appropriate forum for the determination of the substantive action.

To facilitate the resolution of the questions referred, counsel for the parties filed and exchanged their respective written arguments.

Olajide Salami, Esq., learned counsel for the appellants, filed the Appellants' Brief of Argument on 13th October, 2025,

wherein he adopted the questions/issues referred to this Court by the lower court for determination.

Olabisi Makanjuola, Esq, Counsel for the 1st to 3rd Respondents, equally adopted the three questions/issues referred to this Court for determination in their Brief of Argument filed on the 7th day of October, 2025.

Learned counsel for the 4th Respondent, Mustapha Olayinka Ajenifuja Esq., also adopted the three (3) questions/issues referred to this court for determination in the 4th Respondent's Brief of Argument filed on the 27th day of October, 2025.

This court equally reached-out to four (4) Amicis Curiae, for their views on the said questions.

Having regards to the fact that this is not an appeal but a reference from the lower court, it is very necessary to bear in mind the protocol of a constitutional reference as different from the considerations of an appeal.

The principles of constitutional reference was elucidated by this court in the case of **The Miscellaneous Offences Tribunal & Anor v. Nwammiri Ekpe Okoroafor & Anor (2001)18NWLR (Pt745) 295**, where this court per Karibi Whyte, JSC held thus:

“The principles applicable to constitutional reference is completely different from that of interlocutory appeals. Hence a reference is sui generis and peculiar. The same

principles do not apply. A reference is *stricto sensu* not an interlocutory appeal. It is important to observe that the question of law referred to the higher Court for interpretation must be a substantial question of law that has arisen from the proceedings see S.259(1). The Court to which the question is referred must give its decision upon the question and the Court in which the question arose shall dispose of the case in accordance with the decision - see S.259 2), *Bamayi v. A. G., Federation* (2001) 12 NWLR (Pt.727) 468, *African Newspapers v. Federal Republic of Nigeria* (1985) 2 NWLR (Pt.6) 137 SC., *UBA Trustees v. Nigergrob Ceramic Ltd.* (1987) 3 NWLR (Pt.62) 600; *Gamioba v. Ezezi II* (1961) 1All NLR 584; 2 SCNLR 237, *Ifegwu v. FRN* (2001) 13 NWLR (Pt.729) 103. In answering the question or questions referred to it, the Court to which the question is referred will inevitably apply the facts of the case which are usually undisputed to their interpretation of the Constitution."

My lords, let us now consider the arguments of the parties and the *amici* on the questions referred.

Question One:

On this question, the learned counsel for the appellants contended that jurisdiction in any matter is determined by the originating processes. In support, he relied on *Adeyemi v. Opeyori* (1976) 9-10 SC 31 at 49; *Obiwuebi v. CBN* (2011) 2-3 SC (Pt. I) 46 at 85; and *A.G. Federation v. A.G.*

Lagos State (2017) 8 NWLR (Pt. 1566) 20 at 36. Counsel further argued that where a Statement of Claim fails to properly vest jurisdiction in a court, such court is thereby deprived of jurisdiction, jurisdiction being the very lifeblood of adjudication. He cited **Okoro v. Eguoh (2006) 15 NWLR (Pt. 1001) 1 at 23** in support of this proposition.

Learned counsel for the appellants drew the attention of the Court to the originating processes which gave rise to the present suit, as contained at pages 14 and 15 of the Record of Appeal. He further invited the Court to consider pages 13 to 19 of the Record, which embody the respondents' Statement of Claim. Counsel explained that paragraphs 1, 3, 4 and 6 of the Statement of Claim set out the locus standi of the respective parties.

He submitted that, even from the respondents' own description of the parties, it is evident that the 1st appellant, being a former employee of the 1st respondent, constitutes the central link between the parties. Counsel argued that the employment status of the 1st appellant is determinative, not only of the respondents' substantive claims, but also of the present constitutional reference. He urged the Court to observe that paragraphs 4 and 5 of the Statement of Claim

encapsulate the entirety of the grievance allegedly suffered by the respondents.

Counsel further reproduced the alleged defamatory statements attributed to the 1st appellant and maintained that the said statements are wholly rooted in, and inseparable from, the 1st appellant's employment relationship with the 1st respondent.

Learned counsel therefore contended that the respondents' entire claim is confined within the four walls of the 1st appellant's employment. He also noted that, in accordance with the rules of the trial court, the appellants entered a Memorandum of Conditional Appearance, thereby clearly signifying their intention to challenge the jurisdiction of the trial court.

Relying on the cases of **Zakari v. Muhammad (2017) 17 NWLR (Pt. 1594) 181 @ 230-231** and **MHWUN v. Ehigiegba (2018) LPELR-44972(CA)**, counsel submitted that the trial court acted within its interpretative bounds by adopting a literal construction of Section 254C(1)(a) of the Constitution in resolving the jurisdictional question. Advancing his argument on the proper interpretation of Section 254C of the Constitution, learned counsel for the appellants submitted

that the National Industrial Court enjoys exclusive jurisdiction over matters specified in Section 254C(1)(a)–(m) and (2) of the Constitution. He reproduced the relevant portions of Section 254(c) and contended that any cause or matter arising from, relating to, or connected with labour, employment, trade unions, industrial relations, and workplace matters, including conditions of service, health, safety, and the welfare of workers and employees, together with matters incidental thereto, falls squarely within the exclusive jurisdiction of the National Industrial Court.

In support of this position, counsel relied on decided authorities, submitting that the interpretative approach to constitutional provisions on jurisdiction must be literal and organic. He further argued that workplace injuries, though ordinarily framed under the tort of negligence, are nonetheless within the exclusive province of the National Industrial Court. According to counsel, negligence is a common feature of the jurisdiction of that specialized court.

He posited that defamation arising from an employment relationship constitutes a distinct species of tort rooted in the workplace context. Counsel maintained that defamatory statements published in the course of employment attract special consideration, having regard to the gradation and

peculiarities of labour and employment relations, where statements made about individuals or organizations are capable of assuming defamatory character.

Counsel further cited comparative authorities to demonstrate that employment-related defamation is recognized as falling within the employment nexus and is therefore justiciable within a specialized labour forum.

In his final submission on the issue, learned counsel urged the Court to resolve Issue One in favour of the appellants, not as a matter of discretion, but as a necessary consequence of the clear and express wording of Section 254C(1) of the Constitution. He argued that the provision vests exclusive jurisdiction in the National Industrial Court and, by necessary implication, excludes the jurisdiction of the State High Court.

He further contended that Section 254C(1) preserves all civil causes, whether founded in tort or otherwise, for determination by the specialized labour court. Counsel added that the duty of care owed by employers to employees further reinforces the conclusion that the National Industrial Court possesses jurisdiction over tortious claims arising from employment. He finally referred the Court to Order 20 Rule 1 of the National Industrial Court (Civil Procedure) Rules, 2017.

Learned counsel for the 1st to 3rd respondents submitted that a literal construction of Section 254C of the Constitution would introduce ambiguity and distortion into the allocation of judicial powers, thereby undermining the carefully demarcated jurisdiction of the superior courts. Counsel argued that such an approach would engender doctrinal uncertainty, as litigants and counsel could deliberately cloak ordinary tortious claims with the veneer of employment in order to divest the State High Courts of jurisdiction.

He contended that a rigid literal interpretation would inevitably result in an influx of general civil claims into the National Industrial Court, thereby diluting its specialized character as a court established to determine labour and employment disputes, and effectively converting it into a forum for general civil causes. Counsel maintained that the jurisdiction of the High Court of a State should not be displaced merely because a dispute bears some incidental or tangential connection with employment.

In support of this position, counsel relied on **SPDCN Ltd v. Oruambo (2023) 1 NWLR (Pt. 1866) 433 at 456 (paras F–H)** and **Britannia-U (Nig.) Ltd v. Chevron (Nig.) Ltd (2025) 3 NWLR (Pt. 1979) 179**. He argued that tortious claims do not fall within the scope of labour matters and are properly

justiciable by the regular courts through an examination of the alleged defamatory publications.

Counsel further submitted that the matters which the legislature intended to vest exclusively in the National Industrial Court are labour and employment disputes strictly so called, and not tortious causes of action.

Learned counsel for the 4th respondent submitted that the question of jurisdiction is to be determined from the plaintiff's claim as disclosed in the Writ of Summons and the Statement of Claim. In support, he relied on established authorities to the effect that it is the claimant's case, and not the defence, that determines jurisdiction.

Counsel contended that the respondents' claim is one founded in defamation, a tort injurious to reputation, and not a claim arising from any contract or condition of employment. He argued that the mere fact that the alleged defamatory publication made reference to the respondent's resignation from employment does not convert the tortious claim into an employment or labour matter.

He maintained that what is decisive in determining jurisdiction is the substance of the claim and the reliefs sought, rather than any attempt by a defendant to colour the claim with

employment-related considerations. In that regard, he relied on judicial authority affirming that courts must look at the real nature of the action.

Counsel further submitted that the wording of Section 254C of the Constitution is clear and unambiguous. He referred the Court to decided cases on the proper approach to constitutional interpretation, arguing that a close reading of Section 254C(1) shows that the jurisdiction of the National Industrial Court is confined strictly to labour and employment relations.

Proceeding to define industrial relations and employment, counsel submitted that the claim in the present case is not predicated on any condition of employment. Rather, it constitutes a distinct and independent cause of action in defamation which arose after the termination of the employer–employee relationship. He concluded that there was no evidence of any subsisting employment relationship between the parties at the material time.

Learned counsel for the 4th respondent further contended that the appellants failed to establish any credible basis for invoking the jurisdiction of the National Industrial Court in respect of a claim wholly unconnected with labour or

employment relations. He submitted that the respondents' cause of action, being one in defamation, falls squarely within the jurisdiction of the State High Court and not that of the National Industrial Court, and that the trial court was therefore correct in assuming jurisdiction over the matter.

Counsel argued that even where a court is vested with subject-matter jurisdiction by the Constitution or statute, such jurisdiction cannot be validly activated unless the action is initiated by due process and all conditions precedent are fulfilled. In support, he relied on the authorities of **Tukur v. Government of Gongola State (1989) 4 NWLR (Pt. 117) 517**; **Okafor v. A.G. Anambra State (1991) 6 NWLR (Pt. 200) 659**; and **SLB Consortium Ltd v. NNPC (2011) 9 NWLR (Pt. 1252) 317**.

He maintained that the appellants failed to demonstrate that any of the conditions precedent necessary to activate the jurisdiction of the National Industrial Court were satisfied. Counsel further observed that there was no subsisting employment relationship between the parties at the time the cause of action arose, and that the alleged tort was committed after the cessation of the employer–employee relationship.

Counsel also submitted that the tort complained of does not fall within any of the matters expressly enumerated under Section 254C(1)(a)–(m) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). He aligned himself with the submissions of the 1st to 3rd respondents on the existence of conflicting decisions of the lower court on the issue.

Finally, counsel emphasized that the National Industrial Court is a specialized court of limited jurisdiction, strictly circumscribed by the language of Section 254C of the Constitution. Relying on **N.U.E.F v. B.P.E (2010) 7 NWLR (Pt. 1194) 538 at 565 (paras E–G)**, he submitted that the proper and competent forum for the determination of the dispute remains the High Court of Lagos State.

Professor Emmanuel Ayangurum Kenen, appearing as *amicus curiae*, in his brief filed on 21st November, 2025, submitted on the first issue that none of the matters expressly listed under Section 254C(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), over which the National Industrial Court (NIC) is vested with jurisdiction, includes defamation. He contended that the general expressions such as “relating to,” “connected with,” “pertaining to,” “matters arising from workplace,” and “matters

incidental thereto or connected therewith” ought to be construed ejusdem generis, so as to confine their scope to core labour and employment matters which cannot be resolved without reference to labour-related rights, duties, or principles.

He accordingly submitted that the jurisdiction of the High Court of Lagos State is neither ousted nor excluded by Section 254C of the Constitution in respect of claims for defamation, even where such claims arise from circumstances connected with labour or employment. He maintained that the High Court of Lagos State is therefore competent to assume and exercise jurisdiction over such claims.

Inam Wilson, SAN, in his *Amicus* Brief filed on 20th November, 2025, aligned himself with the views expressed by the first amicus curiae.

Addressing the first issue, learned senior counsel submitted that the mere existence of an employment relationship does not vest the National Industrial Court with jurisdiction over a claim in defamation. He argued that jurisdiction under Section 254C of the Constitution is triggered only where the cause of action arises directly from the exercise of rights and

obligations under a contract of employment, or relates to the protection of labour interests and working conditions. He contended that an examination of the reliefs sought in the Writ of Summons and Statement of Claim reveals that the claims are wholly grounded in defamation and bear no labour-related character. Accordingly, he submitted that the jurisdiction of the National Industrial Court cannot be extended to accommodate the present claim.

Abimbola Akeredolu, SAN, appearing as *amicus curiae*, filed his brief on 20th November, 2025 and expressed concurrence with the views advanced by the first two *amici*.

On the first issue, learned Senior Advocate submitted that although the jurisdiction of the National Industrial Court (NICN) is exclusive within its constitutional remit, it is not a “catch-all” jurisdiction capable of accommodating every claim merely because it arises from, or is connected with, labour or employment. He contended that Section 254C of the Constitution does not exclude the jurisdiction of the High Court of Lagos State in respect of defamation claims such as the one in the present suit.

Dr. Oladapo Olanipkun, SAN, who filed an *Amicus Curiae* Brief on 20th November, 2025, expressed a view that diverges from those of the preceding three *amici*.

On the first issue, learned amicus submitted that where there is a jurisdictional overlap between two courts, one having jurisdiction over the entirety of a claim and the other having jurisdiction over only an aspect thereof, the proper forum is the court vested with jurisdiction over the whole claim. Relying on **FBN Plc v. Ben Sugba Tech. Serv. Ltd (2024) 16 NWLR (Pt. 1963) 1 at 28–29 (SC)** and **Dagazau v. Bakir Int'l Co. Ltd (2011) 14 NWLR (Pt. 1267) 261 at 318–321 (CA)**, he submitted that the National Industrial Court ought to be regarded as the court with exclusive jurisdiction over defamation claims that are connected with, incidental to, or arise from labour, employment, or workplace relations.

The crux of the issues submitted for determination turns on the proper interpretation of Section 254C of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and whether claims founded on defamation, though arising in an employment setting, fall within the exclusive jurisdiction of the National Industrial Court of Nigeria.

Section 254C of the 1999 Constitution (as amended) deals with the jurisdiction of the National Industrial Court. It is trite law and indeed, a cardinal principle of constitutional interpretation that we must adopt a liberal approach to the interpretation of the Constitution so as to ensure that where words used in the Constitution are clear and unambiguous, they must be given their natural and ordinary meaning, unless to do so would lead to absurdity. The interpretation would be such as would serve the interest of the Constitution and amplify its objective, purpose and side with the true intention of the makers of the constitution.

The provision of Section 254C of the Constitution is laid out in parts as follows:

254C. Jurisdiction

(1) Notwithstanding the provisions of sections 251, 257, 272 and anything contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the National Industrial Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters -

(a) relating to or connected with any labour, employment, trade unions, industrial relations and matters arising from workplace. the conditions of service, including health, safety, welfare of labour,

employee, worker and matters incidental thereto or connected therewith;

(b) relating to, connected with or arising from Factories Act, Trade Disputes Act, Trade Unions Act, Labour Act, Employees' Compensation Act or any other Act or Law relating to labour, employment, industrial relations, workplace or any other enactment replacing the Acts or Laws;

.....
(f) relating to or connected with unfair labour practice or international best practices in labour, employment and industrial relation matters;

.....
(g) relating to or connected with any dispute arising from discrimination or sexual harassment at workplace;

(h) relating to, connected with or pertaining to the application or interpretation of international labour standards.

On a firm and purposive consideration of the constitutional provision, it is evident that the jurisdiction conferred on the National Industrial Court is circumscribed to causes and matters arising from, connected with, or incidental to labour, employment, trade unions, industrial relations, workplace conditions, and the welfare of employees and employers. The provision must be construed literally but organically, bearing in mind the constitutional intent behind the establishment of a specialized labour court.

Defamation, it should be noted remains a distinct tortious cause of action, historically and jurisprudentially rooted in the general law of tort. The mere fact that an allegedly defamatory statement is made in the context of employment ordinarily, does not without more transmute such a claim into a labour or employment dispute within the contemplation of Section 254C of the Constitution. The only bent is if defamation comes as an ancillary claim to labour or employment matters and the court from the facts assesses it to be inextricably tied or bound up with the main claims before the court, the court can accommodate it under Section 254C1(a) as a cause or claim connected with labour matters.

I am guided on this issue by the decision of this Court in **Egbuonu v. Bornu Radio Television Corporation (1997) LPELR – 1040 (SC)**, where Iguh, JSC, held thus:

“The law is now settled that where ancillary or incidental claim or claims are so inextricably tied to or bound up with the main claims before the court in a suit, a court of law cannot adjudicate over them where it has no jurisdiction to entertain the main claims if such incidental or ancillary claims cannot be determined without a determination at the same time of the main claims or where the determination of such incidental or ancillary claims must necessarily involve a consideration or determination of the main claims. See Alhaji Umaru Abba Tukur v.

Government of Gongola State (1989) 4 NWLR (Pt. 117) 517 at 548; Alhaji Umaru Tukur v. The Government of Taraba State and Others (1997) 6 NWLR (Pt. 510) at 549”.

A further guide can be scooped from this court’s decision in **Adenuga & Ors. v. Odumeru & Ors. (2001) 2 NWLR (Pt. 696) 184**, where Karibi-Whyte, JSC, held thus:

“Hence in an ancillary relief which the application subject-matter of this preliminary objection, is, the relief must fall within the purview of the claim. This is because the remedy is for the protection of the claim, that is an injury which may be occasioned by the violation of applicant’s right in respect of which he will not be adequately compensated in damages. See **Daniel Ogbonna & Ors. v. Adapalm Nigeria Ltd. (1993) 5 NWLR (Pt. 292) 147**. The remedy is certain not available to parties in respect of issues not raised in the action or matters not directly related to the issues raised. See **Akibu & Ors. v. Munirat Oduntan (1991) 2 NWLR (Pt. 171) at 10**. The application by the plaintiffs/appellants seeking for injunctive orders is clearly not within the claim and not directly related to the claim. The application therefore cannot be for the protection of a right before the court, which may be violated, unless the application was granted. Furthermore, since the reliefs sought are not in respect of or directly related to a claim before the court, the court is without competence and jurisdiction to hear it, since is not in respect of a claim before it. See **Madukolu & Ors. v. Nkemdilim & Ors. (1962) 2 SCNLR, 341 (1962) 1 All NLR 587**. It is

therefore, in such a circumstance unnecessary to inquire into the existence of a legal right enabling the grant of the relief”.

It is therefore, understandably certain that it is within our adjudicatory norm and procedural culture to entertain only ancillary claims that are inextricably connected to the main claim.

The combined effect of Section 254C(1) is that once a dispute is labour-centred or employment-related in substance, jurisdiction is exclusively reserved for the National Industrial Court, irrespective of how the claim is framed. No other court may validly assume jurisdiction over such matters, and any proceedings commenced elsewhere are constitutionally incompetent.

The jurisdiction conferred is both substantive and expansive, covering not only disputes strictly arising from labour or employment, but also all matters relating to, connected with, incidental to, or arising from employment relationship and workplace. The law does not allow any interpretation that would introduce ambiguity and distort the careful constitutional allocation of judicial powers, with the attendant risk of undermining the clearly demarcated jurisdictions of the superior courts of record. Such an approach would also engender doctrinal uncertainty, as litigants may deliberately

camouflage ordinary civil claims with the veneer of employment relations in order to improperly invoke the jurisdiction of the National Industrial Court.

We are therefore, persuaded that, to subsume general tortious claims, particularly defamation, under the exclusive jurisdiction of the National Industrial Court would occasion an unwarranted influx of civil causes into a specialized labour forum, thereby, diluting its character and converting it into a court of general civil jurisdiction, contrary to the constitutional design.

Accordingly, it is resolved that tortious claims, including defamation, do not fall within the scope of labour and employment matters contemplated by Section 254C of the Constitution and are properly justiciable before the regular courts, upon a substantive examination of the alleged defamatory publications. The matters intended by the legislature to be vested exclusively in the National Industrial Court are labour and employment disputes strictly so called, and not tortious causes of action merely arising in an employment setting.

It is settled law that jurisdiction is determined solely by the claimant's claim as disclosed on the Writ of Summons and

the Statement of Claim, and not by the defence. In the instant case, a careful examination of the originating processes reveals that the respondent's cause of action is founded squarely on defamation, a tort injurious to reputation. The claim is neither predicated on any contract of employment nor on the enforcement of any condition of service.

The mere fact that the alleged defamatory publication made reference to the respondent's resignation from employment does not, without more, transmute the claim into a labour or employment dispute. What is decisive in the determination of jurisdiction is the substance of the claim and the nature of the reliefs sought, and not any attempt by a party to colour a purely tortious claim with employment-related considerations.

The defamation complained of arose after the cessation of the employer–employee relationship, and there is no evidence of any subsisting employment relationship between the parties at the material time. The appellants consequently failed to establish any credible basis for invoking the jurisdiction of the National Industrial Court in respect of a claim wholly unconnected with labour or employment relations.

Accordingly, the respondent's cause of action, being one in defamation, falls squarely within the jurisdiction of the State High Court and not that of the National Industrial Court.

It should be noted further that even where a court is vested with subject-matter jurisdiction by the Constitution or statute, such jurisdiction cannot be validly activated unless the action is initiated by due process and all conditions precedent are fulfilled.

This question one is therefore, answered in the negative.

Question Two:

On the second question, learned counsel for the appellants adopted his earlier submissions on the first issue and argued that the National Industrial Court possesses jurisdiction even where the employment relationship is no longer subsisting. He contended that the decisive requirement for the activation of the Court's jurisdiction is that the cause or matter must be connected with employment. According to counsel, whether the employment relationship is extant or has been terminated is immaterial to the determination of jurisdiction.

He submitted that the Constitution makes no provision tying jurisdiction to the pendency of an employment relationship, and that disputes relating to matters listed under Section

254C of the Constitution are not confined to situations where the employment relationship remains in force. He therefore urged the Court to resolve the second issue in the negative.

Counsel further argued that the mere termination of a work relationship does not, of itself, deprive the National Industrial Court of jurisdiction. He referred the Court to the respondents' Statement of Claim, submitting that in virtually every paragraph the respondents placed the 1st appellant's employment contract in issue. He maintained that the allegations made by the respondents are rooted in, and arise directly from, the 1st appellant's contract of employment.

Learned counsel submitted that for the respondents' case to be properly examined and determined, the respondents must establish the element of falsity, which is a fundamental ingredient of defamation. He relied on **Abalaka v. Akinsete (2023) 13 NWLR (Pt. 1901) 343 at 368** in support of this proposition.

He further contended that the State High Court lacks jurisdiction to examine or interrogate the 1st appellant's letter of employment for the purpose of comparing its terms with the alleged defamatory publications in order to ascertain their truth or falsity. Counsel emphasized that the respondents'

claim before the lower court is one of defamation arising from employment, and that before any determination can be made on the veracity of the alleged defamatory statements, the requirement that such statements must be false must be satisfied within the context of the employment relationship in which they were made.

Counsel argued that a court vested with jurisdiction over a matter is competent to entertain all aspects incidental to that claim. In that regard, he relied on **Emejuru v. Abraham (2019) 4 NWLR (Pt. 1663) 541 at 560**. He concluded by maintaining that the State High Court cannot delve into employment-related matters in order to determine issues of veracity or otherwise, and urged the Court to answer the second issue in the negative.

In response to this question, learned counsel for the 1st to 3rd respondents submitted that the existence or termination of an employment relationship is not determinative of the High Court's jurisdiction to entertain a claim in defamation connected with employment. Counsel argued that defamation does not fall within the exclusive jurisdiction of the National Industrial Court and that the jurisdiction of the State High Court over defamation remains unaffected, regardless

of whether the alleged defamatory act bears any link to employment.

He further contended that the High Court is not required to await the termination of an employment relationship before assuming jurisdiction over a tortious claim arising from employment. According to counsel, the alleged defamatory publication in the present case was made after the termination of employment and bore no nexus to the 1st appellant's conditions of service, but was motivated purely by malice with the intention of disparaging the respondents in their trade. He therefore posited that the National Industrial Court lacks jurisdiction over a defamation claim where the cause of action arises after the cessation of employment.

On his part, learned counsel for the 4th respondent, in addressing the second question, submitted that neither the subsistence nor the termination of an employment relationship determines jurisdiction over a defamation claim. He argued that a defamatory publication does not automatically fall within the jurisdiction of the National Industrial Court merely because it references a person's former employment, unless the publication arose directly from an employment dispute.

Relying on the case of **Akpan v. UNICAL (2016) LPELR-41242**, counsel maintained that the High Court was seised with jurisdiction from the outset and urged the Court to so hold.

On the second question, learned amicus, Prof. Emmanuel Ayangurum Kenen, submitted that if a matter is within the jurisdiction of the NIC as provided for under Section 254(5)C of the Constitution of the FRN 1999 (as amended), the NIC will exercise jurisdiction over same notwithstanding that the employment relationship is terminated. He adopted his arguments on the first issue and maintained the position that the subject matter in the instant case is defamation. That whether there is a subsisting employment or there is termination of employment relationship, it is the High Court that has jurisdiction with respect to defamation. That having regard to Section 254(5)C of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), whether there is a subsisting employment or termination of employment relationship, the High Court of Lagos State has jurisdiction to entertain a claim in defamation in circumstances related or connected with labour and employment.

On the second question, learned amicus, Wilson, SAN, adopted his arguments on issues one and submitted that

whether there has been termination of employment relationship or not, what confers jurisdiction on the High Court or the NIC, is the characterization and the nature of claim.

The amicus curiae submitted that, the mere termination of an employment relationship, simpliciter, will not vest the High Court of Lagos State with the jurisdiction to entertain a claim in defamation in circumstances related or connected with labour employment, where the facts arise in the context of employment. That the fact of termination or the absence thereof, should not be the decisive criterion in determining whether the State High Court is competent to hear such a claim. Rather, that the proper and controlling inquiry is whether the cause of action itself arises directly from the exercise of rights and obligations under the contract of employment or whether it pertains to the protection of labour interests and working conditions. That only where the claim does not fall within that narrow and constitutionally defined scope in Section 254C of the Constitution, would the jurisdiction be vested in the State High Court.

On the second question, learned amicus, Akeredolu, SAN, submitted that the termination of employment relationship is immaterial to the jurisdiction of the High Court of Lagos State over defamatory claims. That in the absence of any

employment issue, such as the interpretation of any employment contract, the enforcement of any employment rights or conditions of service, the High Court of Lagos State is properly seised of jurisdiction over such defamatory claims.

On question 2, learned amicus, Oladapo Olanipekun, submitted that the termination of an employment simpliciter, would not vest the High Court of Lagos State with jurisdiction to entertain a claim in defamation in circumstances related and connected with labour and employment. He contended that the jurisdiction of the court cannot be invoked except there is a justiciable dispute between parties. He cited **Badejo v. Federal Ministry of Education (1996) 8 NWLR (Pt. 464) 15, 41, (SC); Attorney General of Kano State v. Attorney General of the Federation (2007) 3 SC, 59, 80.** He added that it is always the termination of an employment relationship that triggers a dispute which parties present to the NICN for determination. He relied on the case of **Shell Pet. Dev. Co. v. Lawson-Jack (1998) 4 NWLR (Pt. 545) 249, 274 (CA).**

Considering the fact that this question and the third question are closely inter-related, I will answer them together. Let me first look into the submissions and arguments on question three.

Question Three:

On question three, learned counsel for the appellants submitted that jurisdiction under Section 254C of the Constitution is a matter of subject-matter competence. He argued that it is the nature of the dispute that confers jurisdiction on a court, and that no court is competent to entertain a matter over which it lacks subject-matter jurisdiction. Counsel contended that the plaintiff's claim is the sole determinant of jurisdiction, and where the subject matter falls outside the court's competence, there is nothing to adjudicate upon and any decision so reached is a nullity.

He further submitted that, having regard to the items enumerated in Section 254C of the Constitution, the class of claims contemplated therein includes defamation arising from employment, and that no "indeterminate class" exists in that regard. According to counsel, such claims remain within the exclusive jurisdiction of the National Industrial Court, even where they involve persons without a direct employment relationship, including the 2nd appellant.

In conclusion, learned counsel maintained that the subject matter of the dispute, being inextricably linked to the 1st appellant's employment, falls squarely within the exclusive

purview of the National Industrial Court. He argued that statements attributed to the 2nd appellant, though made in the context of communications with the 1st respondent's clients, do not alter the jurisdictional position, since jurisdiction is determined by the subject matter and not by the status of the speaker. He accordingly urged the Court to affirm the exclusive jurisdiction of the National Industrial Court over the respondents' claim.

In response, learned counsel for the 1st to 3rd respondents submitted that a claim founded on an alleged defamatory publication made by a third party who is not, and has never been, in an employment relationship with the appellant cannot properly be characterized as a labour or employment matter capable of invoking the jurisdiction of the National Industrial Court. He argued that such a claim falls outside the remit of the specialized labour court, as there is no nexus between the third party and the respondents capable of triggering the National Industrial Court's competence.

Counsel further contended that to suggest that the National Industrial Court could assume jurisdiction over a defamation claim against a third party who has never stood in an employment relationship with the claimant is both doctrinally unsound and constitutionally untenable.

In the final analysis, counsel submitted that it was never the intention of the framers of the Constitution to vest exclusive jurisdiction in the National Industrial Court over disputes involving parties who do not share an employer, employee relationship, particularly where the subject matter is defamation. He urged the Court to hold that, in the absence of any master–servant nexus, whether past or present, disputes between parties, even if tangentially related to employment, remain within the exclusive jurisdiction of the High Court.

Learned counsel for the 4th respondent submitted that, even if the appellants' construction of Section 254C of the Constitution were accepted, the National Industrial Court would nonetheless lack jurisdiction over the 2nd appellant, who was never in an employment relationship with the respondents. Counsel argued that the jurisdiction of the National Industrial Court is activated only where there exists an employment nexus between the disputing parties.

In support of this contention, counsel relied on **NUEE v. BPE (2010) 7 NWLR (Pt. 1194) 534 at 565 (paras E–G)**, submitting that any contrary position would permit claimants to haul before the National Industrial Court third parties who have no employment connection whatsoever, thereby

impermissibly expanding the court's jurisdiction beyond its constitutional limits.

Counsel further maintained that it was never the intention of the framers of the Constitution to vest exclusive jurisdiction in the National Industrial Court over defamation or other tortious claims, particularly where the parties do not share an employer–employee relationship. He argued that, in the absence of an employment or contractual nexus, jurisdiction properly resides in the High Court of Lagos State. Counsel accordingly urged the Court to so hold.

On this question, learned amicus, Prof. Kenen, adopted his submissions on issues one and two and submitted that a purportedly defamatory material arising from an employee's work relationship but made by a non-employee can be countenanced by the High Court of Lagos State having regard to Section 254C of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). He stated that it was not the intention of the drafters of the Section 2545C of the Constitution of the FRN 1999 (as amended) that a third party should activate the jurisdiction of the National Industrial Court.

On his own part, on question three, learned amicus, Wilson, SAN, also, adopted his earlier submissions on issue one and two and submitted that it is the reliefs sought that would determine which court has jurisdiction to countenance the purportedly defamatory material arising from an employee's work relationship and the preferred court that can entertain all aspects of the claim concerned. As per where the purportedly defamatory material was made by a non-employee, learned Amicus referred this court to the case of **Rebold Industries Ltd v. Magreola (2015) 8 NWLR (Pt. 1460) 210 (SC) Pp. 227 Paras A – G**, for proper guidance.

He submitted that the where the purportedly defamatory material was made by a non-employee, the cause of action cannot be said to have arisen from the exercise of rights and obligations under the contract of employment or related to the protection of labour interest and working conditions. That in the absence of any contract of employment, there is no privity of employment contract with the non-employee. That such a purportedly defamatory material arising from an employee work relationship but made by a non-employee can and ought to be countenanced by the High Court of Lagos State having regard to Section 254C of the Constitution.

Learned *amicus*, Akeredolu, SAN, on this question, submitted that in the event that questions one and two are resolved in the negative, that question three becomes moot. He argued that a claim founded on a defamatory publication outside of the ramification of labour relations (i.e employer-employee relations, or employee-employee relations), cannot be properly characterized as a labour or employment matter as to invoke the jurisdiction of the NICN.

Reacting to this question, learned *amicus*, Olanipekun, SAN, argued that same involves an entirely fact-dependent question. He contended that a purportedly defamatory material arising from a work relationship but made by a non-employee, may be countenanced by the State High Court, if, in the peculiar factual circumstances, the cause of action is not related to, connected with, incidental to, or arising from labour, employment, the workplace etc. He is of the view that the claimants' statement of claim is critical to determining this question of fact. He referred the court to cases of **Skypower Exp. Airways Ltd. v. UBA Plc (2022) 6 NWLR (Pt. 1826) 203, 242 (SC)**; **Radiographers Reg. Board, Nig. v. M.&H.W.U.N. (2021) 8 NWLR (Pt. 1777) 149, 203 (SC)**.

He urged the court to resolve all the questions as deemed appropriate.

Resolution of Questions Two and Three:

In addressing questions two and three together, learned counsel on both sides, as well as the learned *amici curiae*, made extensive submissions on the proper court vested with jurisdiction to entertain a claim in defamation arising in circumstances connected with employment, particularly where the employment relationship has been terminated or where the alleged defamatory publication is attributed to a third party.

On the one hand, learned counsel for the appellants contended that jurisdiction under section 254C of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), is determined by the nature of the dispute and not by the subsistence or otherwise of the employment relationship, nor by the status of the parties involved. Counsel argued that once the cause of action is rooted in, connected with, or arises from an employment relationship, the exclusive jurisdiction of the National Industrial Court is properly invoked, notwithstanding the termination of employment. He further submitted that defamation arising from employment is one of the classes of claims contemplated under section 254C and that there is no constitutionally recognised intermediate category of

defamation claims excluded from the competence of the National Industrial Court. According to counsel, the fact that an alleged defamatory statement is attributed to a person who is not in a direct employment relationship with the claimant does not alter the jurisdictional position, since jurisdiction is determined by the subject matter of the dispute and not by the identity or status of the speaker.

Conversely, learned counsel for the respondents submitted that defamation, being a tort, does not fall within the exclusive jurisdiction of the National Industrial Court merely because it bears some factual connection to employment. Counsel argued that neither the subsistence nor the termination of an employment relationship is determinative of jurisdiction and that where a defamation claim does not require the interpretation, enforcement, or adjudication of rights and obligations under a contract of employment, jurisdiction properly vests in the State High Court. It was further contended that a claim founded on an alleged defamatory publication made by a third party who is not, and has never been, in an employment relationship with the claimant cannot properly be characterized as a labour or employment dispute capable of invoking the jurisdiction of the National Industrial Court. According to counsel, to hold otherwise would amount

to extending the jurisdiction of the specialized labour court beyond its constitutional remit and would be both doctrinally unsound and constitutionally untenable.

The learned *amici curiae*, while approaching the issue from slightly differing perspectives, were largely *ad idem* that the decisive consideration in determining jurisdiction is the proper characterization of the cause of action. They submitted that the mere fact of termination of employment, or the absence thereof, is not conclusive. Rather, the controlling inquiry is whether the claim arises directly from the exercise of rights and obligations under a contract of employment or pertains to matters within the narrowly defined scope of labour relations, employment rights, and working conditions as envisaged under section 254C of the Constitution. Where a claim in defamation is merely incidental to, or arises squarely from, an employment dispute, jurisdiction would vest in the National Industrial Court. However, where the claim stands independently as a tortious cause of action, does not implicate employment rights or obligations, or is directed against a third party with no employer–employee nexus, jurisdiction would properly lie with the State High Court.

In essence, the competing submissions converge on the principle that jurisdiction in cases of defamation alleged to

arise in an employment setting does not turn solely on the existence or termination of an employment relationship, nor on the identity of the alleged tortfeasor, but on a careful and principled examination of the substance of the claim. The determinative question is whether, having regard to the pleadings, the cause of action is fundamentally anchored in employment rights and obligations within the contemplation of section 254C of the Constitution, or whether it constitutes an independent tort of defamation falling outside the exclusive jurisdiction of the National Industrial Court.

Having carefully considered the rival submissions of learned counsel on both sides, together with the illuminating interventions of the learned *amici curiae*, the jurisdictional controversy distills into a narrow and determinative inquiry: whether the respondents' claim, as disclosed by the originating processes, is fundamentally grounded in employment and labour relations within the contemplation of section 254C of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), or whether it constitutes an independent claim in defamation falling outside the exclusive jurisdiction of the National Industrial Court.

It is settled law that jurisdiction is determined by the plaintiff's claim as revealed on the face of the pleadings, and not by the

status of the parties or the ultimate success or failure of the claim. What is tangentially paramount is the substance and true character of the cause of action.

It follows therefore, that where a claim for defamation is alleged to have arisen in circumstances connected with employment, the Court must inquire whether the determination of the claim necessarily involves the construction, enforcement, or adjudication of rights and obligations arising from a contract of employment, or relates to matters of labour relations, employment rights, or working conditions as constitutionally circumscribed under section 254C. Where the alleged defamatory statements are so inextricably intertwined with the employment relationship that their truth or falsity cannot be determined without recourse to the terms of employment or the duties and obligations flowing therefrom, jurisdiction properly vests in the National Industrial Court.

Conversely, where a claim in defamation exists independently as a tortious cause of action, does not require the interpretation or enforcement of an employment contract, and is directed against a party who does not stand in any employer–employee relationship with the claimant, such a claim falls outside the exclusive jurisdiction of the National

Industrial Court and within the general jurisdiction of the State High Court.

In conclusion therefore, the jurisdictional question in cases of defamation alleged to arise in an employment context must be resolved upon a careful examination of the pleadings to ascertain the true nature of the dispute. Where, upon such examination, the cause of action is found to be fundamentally rooted in employment within the purview of section 254C of the Constitution, jurisdiction lies with the National Industrial Court. Where it is not, jurisdiction lies with the State High Court.

In the final analysis, and in answer to Question Two, I hold that a claim for termination of employment constitutes a principal claim. Where such a claim is properly before the National Industrial Court, any ancillary claim for defamation arising from or connected with the termination may validly fall within its jurisdiction. However, in the present case, no claim relating to the termination of employment was brought before the Lagos State High Court. Consequently, the National Industrial Court lacked the vires to entertain the allegation of defamation said to have been committed by the former employee and her spouse. Question Two is accordingly answered in the negative.

Flowing from the foregoing, Question Three is answered in the affirmative.

From the foregoing therefore, my firm conclusion as captured in the judgment is as follows:

Question 1. Whether, by virtue of Section 254(c) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), the jurisdiction of the High Court of Lagos State is affected or excluded in respect of a claim in defamation arising from, relating to, or connected with labour and employment.

ANSWER - NO.

Question 2. Whether, having regard to Section 254C of the Constitution, the mere termination of an employment relationship is sufficient to vest the High Court of Lagos State with jurisdiction to entertain a claim in defamation arising from or connected with labour and employment.

ANSWER - NO.

Question 3. Whether an alleged defamatory publication emanating from an employee's work relationship, but made by a person who is not an employee, can properly be entertained by the High Court of Lagos State, having regard to Section 254C of the Constitution of the

Federal Republic of Nigeria, 1999 (as amended).

ANSWER – YES.

Before concluding this judgment, I place on record my appreciation to learned *amici curiae*, Messrs. Abimbola Akeredolu, SAN; Dr. Oladapo Olanipekun, SAN; Inam Wilson, SAN; Professor Emmanuel A. Kenen, Esq; and their respective teams of counsel, for their industry and the quality of the submissions placed before this Court. Their contributions have been of considerable and immense assistance to the Court in the just determination of the issues arising in this matter.

The parties are to bear their respective costs.


STEPHEN JONAH ADAH
JUSTICE, SUPREME COURT

COUNSEL:

Olajide Salami, Esq., with T.A. Bamisaye, Esq., Emeka Ananyi, Esq., and Adedeji O., Esq., **for the Appellants.**

Olabisi Mankonjuola, Esq., with Daniel Peter, Esq., Obed Soludo, Esq., and Omony E. Esq., **for the 1st – 3rd Respondents.**

Mustapha D. Ajenifuja, Esq., with Idris Ishola, Esq., O. Muritala, Esq., and Ibrahim Abubakar, Esq., **for the 4th Respondent.**

AMICI CURIAE:

Abimbola Akeredolu, SAN, with Johap Agbo, Esq., and Samson Obiora, Esq., **as Amicus.**

Dr. Oladapo Olanipekun, SAN, with Michael Akinleye, Esq., Chika Ikeh, Esq., and Ebube A., Esq., **as Amicus.**

Inam Wilson, SAN, with I. Adekunle, Esq., and I.O. Uwaifo, Esq., **as Amicus.**

Prof. Emmanuel A. Kenen, Esq., with Dr. Matthew Afonko, Esq., **as Amicus.**

IN THE SUPREME COURT OF NIGERIA
HOLDEN AT ABUJA
ON FRIDAY, THE 20TH DAY OF FEBRUARY, 2026
BEFORE THEIR LORDSHIPS

<u>KUDIRAT M. OLATOKUNBO KEKERE-EKUN,</u>	<u>CHIEF JUSTICE OF NIGERIA</u>
<u>JOHN INYANG OKORO,</u>	<u>JUSTICE, SUPREME COURT</u>
<u>HELEN MORONKEJI OGUNWUMIJU,</u>	<u>JUSTICE, SUPREME COURT</u>
<u>ADAMU JAURO,</u>	<u>JUSTICE, SUPREME COURT</u>
<u>JUMMAI HANNATU SANKEY,</u>	<u>JUSTICE, SUPREME COURT</u>
<u>OBANDE FESTUS OGBUINYA,</u>	<u>JUSTICE, SUPREME COURT</u>
<u>STEPHEN JONAH ADAH</u>	<u>JUSTICE, SUPREME COURT</u>

SC/CV/899/2025

BETWEEN:

1. EMMA ELEGBE
2. LOLU ELEGBE

} APPELLANT

AND

1. HP INTERNATIONAL SCHOOLS LIMITED
2. KEMI BALOGUN
3. LINDA ADEYEMI-HASTRUP
4. IYEFÉ OLUDOI

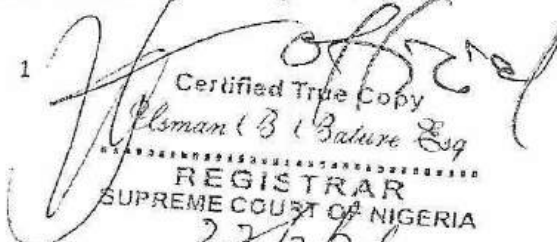
} RESPONDENT

JUDGMENT

(DELIVERED by JOHN INYANG OKORO, JSC.)

My learned brother, Stephen Jonah Adah, JSC obliged me in advance with a draft of the lead decision just delivered.

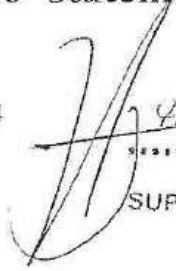
Having read it before now, I am entirely in agreement with his

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precedent to the exercise of jurisdiction. See Madukolu Vs. Nkemdilim (1962)2 SCNLR 341; Rossek Vs. A. C. B. Limited (1993)8 NWLR (Pt.312)352.

It is equally well settled that the jurisdiction of the court is determined by the plaintiff's claims as endorsed in the writ of summons and statement of claim, and to that extent whether every requisite feature necessary for the court exercising its jurisdiction is satisfied. See *Goldmark (Nig.) Limited Vs. Ibafor Company Limited (2012)10 NWLR (Pt. 1308) 291; Abia State Transport Corporation & Ors. Vs. Quorum Consortium Limited (2009)9 NWLR (Pt.1145)1; Jev Vs. Iyortom & Ors. (2014) NWLR (Pt.1428) 575; Benilux (Nig.) Limited (2003)9 NWLR (Pt.825)416.*

That said, the question which must be addressed at this juncture is, from the totality of the pleadings filed at the trial court, what really is the core of the Respondents' claim. The answer as can be seen in the statement of claim is for a

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declaration that the publications made by these Appellants on 2nd and 4th day of May, 2020 vide email and whatsapp platforms were defamatory of the Respondents and an order directing the Appellants to retract the said publications on pages of newspapers with nationwide circulation.

The jurisdiction of State High Courts to hear and determine cases such as the instant suit is donated by section 272(I) of the 1999 constitution (as amended). The section provides that:

"subject to the provision of section 251 and other provisions of this constitution the High Court of a State shall have jurisdiction to hear and determine any civil proceedings in which the existence or extent of a legal right, power, duty, liability, privilege, interest, obligation or claim is in issue or to hear and determine any criminal proceeding involving or relating to any penalty, forfeiture, punishment or other liability in respect of an offence committed by any person".

Conversely, section 254C of the 1999 constitution (as amended) vests in the National Industrial Court the exclusive jurisdiction to

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SUPREME COURT OF NIGERIA
7/2/25

plaintiff that determines jurisdiction, reveals that the cause of action is rooted exclusively in defamation and not labour or employment related grievance. I also need to state at this juncture that the jurisdiction of the State High Court donated pursuant to section 272 (i) of the 1999 constitution is clearly wider than the jurisdiction of the National Industrial Court. That is to say, that the State High Court would most often be the *forum conveniens* for a plaintiff to commence an action predicated on the tort of defamation, especially as in this case, where the cause of action is not directly related to or connected with labour or employment or any of the items covered by section 254 C (i) (a). See *Society BIC S.A. Vs. Charzin Industries Limited (2014)4 NWLR (Pt.1398) 497 at 541.*

Putting it plainly, section 254C (i) vests exclusive jurisdiction on the National Industrial Court over matters:

“(a)- relating to or connected with any labour, employment, trade unions, industrial relations and

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matters arising from workplace, the condition of service, including health, safety, welfare of labour, employee, worker and matters incidental thereto or connected therewith."

The list goes all the way to paragraph (m) without any mention of defamation. Nonetheless I agree with the views of the learned Amicus curiae, Oladapo Olanipekun, SAN that where defamation arises squarely from, connected with, incidental to labour, employment or workplace relations, jurisdiction should vest in the National Industrial Court.

I need to state that the justiciability of defamatory matters at the State High Court is not actionable Willy-nilly. It cannot be a straitjacket cause of action only justiciable at the State High Court due to its wide jurisdiction. By the clear wording of section 254C of the 1999 constitution, defamatory claims which arises squarely from labour or employment dispute, such that it cannot by any wit be divorced from other heads of claim, can be actionable before the National Industrial Court.

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Nonetheless, in the instant suit, I have stated earlier that the claims of the Respondents at the trial court were predicated independently on defamation without any connection whatsoever with the contract of employment between the 1st Appellant and the 1st Respondent, which had ceased to exist at the time of publication of the alleged defamatory material. The three (3) questions therefore referred to this court are rightly resolved in favour of the Respondents. In a nutshell, the High Court of Lagos State is properly seized of jurisdiction to entertain the matter.

In conclusion, I wish to state that I am in total agreement with both the reasoning and conclusion reached in the lead decision of my learned brother, **Stephen Jonah Adah, JSC**. I adopt the said lead decision as mine and abide by all the resolutions therein.



JOHN INYANG OKORO
JUSTICE, SUPREME COURT

APPEARANCES:

Olajide Salami, Esq. with Tooni Augustine Bamisaye Esq., Emeka Ananyti Esq. and Adedeji Obadofin Esq. for the Appellants.

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7/2/20

Olabisi Makanjuola Esq. with Daniel Peter Esq., Obed Soludo Esq. and Omonye Egboja Esq. for the 1st – 3rd Respondents.

Mustapha O. Ajenifuja Esq. with Julius Ishola Esq., Olakunle Muritala Esq. and Ibrahim Abubakar Esq. for the 4th Respondent.

Abimbola Akeredolu, SAN with Johap Agbo Esq. and Samson Obiora Esq. as (Amicus curiae).

Dr. Oladapo Olanipekun, SAN with Michael Akinleye Esq. Chika Ikeh Esq. and Ebube Abasili Esq. as (Amicus curiae).

Inam Wilson, SAN with Igonikan Adekunle Esq. and I. O. Uwaifo Esq. as (Amicus curiae).

Prof. Emmanuel A. Kenen Esq. with Dr. Mathew Atonko Esq. as (Amicus curiae).


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was an employee of the 1st Respondent from 2nd January, 2017 to 1st May, 2020 as Head of school. The 2nd Appellant is the husband of the 1st Appellant and their children attend the 1st Respondent's school. The 1st Appellant resigned from the employment of the 1st Respondent on the 1st May, 2020. Upon resignation of the 1st Appellant, the 2nd to 4th Respondents as directors of the 1st Respondent (the school) circulated a message to the parents of the children that the 1st appellant resigned while under investigation.


Based upon the information circulated by the 2nd to 4th Respondents to the parents of the students, the 1st Appellant also circulated some information to the same parents via email on the 4th May, 2020, which the Respondents felt were defamatory and not verifiable. The 2nd Appellant also circulated some whatsapp messages on the 2nd May, 2020, which were considered defamatory by the Respondents.

Consequent upon the foregoing, Hampton Preparatory International Schools Limited and its 3 directors (now respondents) instituted a suit for defamation in the High Court of Lagos State against the appellants. In response to the Suit, the appellants challenged the jurisdiction of the High Court of Lagos State contending that the defamation related to workplace and relying on Section 254C of the Constitution, that it is the National Industrial Court that has jurisdiction.

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In its ruling the High Court of Lagos State held that it had jurisdiction to try the Suit, hence the appellants appealed against the ruling to the Court of Appeal Lagos Division. While the appeal was pending the appellants filed a motion on notice before the lower Court, for a referral of some questions by way of case stated, in view of the conflicting decisions of the lower Court as to the jurisdiction of the National Industrial Court. The application was granted pursuant to Section 295(3) of the Constitution and Order 10 of the Rules of Court. Consequently three questions were referred to this court as follows:

- "1. Whether the jurisdiction of the High Court of Lagos State is impacted and excluded by Section 254(c) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) in respect of a claim in defamation in this suit?**
- 2. Having regard to Section 254(c) of the Constitution, whether the termination of an employment relationship simpliciter, will vest the High Court of Lagos State with the jurisdiction to entertain a claim in defamation in circumstances related or connected with labour and employment?**


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3. Whether a purportedly defamatory material arising from an employee's work relationship but made by a non-employee can be countenanced by the High Court of Lagos State, having regard to Section 254(c) of the Constitution"?

The Appellants and the Respondents filed their respective briefs, while the three learned Senior Advocates and a Professor of Law invited as amici curiae also filed their briefs of argument.

The issues referred to this court for interpretation are clearly on the jurisdiction of the High Court or National Industrial Court vis a vis the claims of the Respondent. The essential requirements that constitute jurisdiction of a court have been spelt out in the famous case of **MADUKOLU VS. NKEMDILIM (1961) NSCC (Vol.2) 314 at 379** per Bairamian F. J. where his lordship stated.

"Put briefly, a court is competent when -

1. it is properly constituted as regards numbers and qualifications of the members of the bench, and no member is disqualified for one reason or another; and
2. the subject matter of the case is within its jurisdiction, and there is no feature in the case


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which prevents the court from exercising its jurisdiction; and

3. the case comes before the court initiated by due process of law, and upon fulfilment of any condition precedent to the exercise of jurisdiction.

Any defect in competence is fatal, for the proceedings are a nullity however well conducted and decided: the defect is extrinsic to the adjudication. If the court is competent, the proceedings are not a nullity."

See also **TUKUR VS TARABA STATE (1997) 6 SCNJ 81, ZARANDA VS TILDE (2008) 10 NWLR (PT.1094) 184, YONGO & ORS VS HAANONGON & ORS. (2022) LCER 46535 (SC).**


As earlier stated in this judgment, the quarrel of the two contending parties is as to which court is seized with jurisdiction over the claim of the Respondents. The claim of the respondents is based on defamation. See pages 10 to 20 of the record of appeal. The appellants are of the view that it is the National Industrial Court that has jurisdiction and anchored their arguments on Section 254(C) of the 1999 Constitution to the effect that the defamatory publications are related to the termination of the 1st


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Appellant's employment. The respondents on the other side of the divide, are of the view that it is the state High Court that has jurisdiction over suit by dint of Section 272(C) of the 1999 Constitution (as amended).


A consideration of the provisions of the Constitution will be made, in order to determine which of the two courts is seized with jurisdiction. A careful perusal of Section 254C (1) of the constitution, is to the effect that for NICN to validly assume jurisdiction over a subject matter, the main claim must fall within the subject matters listed under the section or must be determinable by reference to any of the Acts or Laws specified in Section 254(C) (1) (b) of the same Constitution. Consequently, where the main claim falls within the subject matter jurisdiction of NICN as contained in Section 254C (1), the court may assume jurisdiction over the ancillary claim to the extent that they are connected to the main claim. Conversely where the main claim does not fall within the subject matter jurisdiction of NICN, the mere fact that it arises or is connected to workplace cannot confer jurisdiction.

In view of the foregoing the main claim in this suit being defamation, does not fall within the subject matter jurisdiction of NICN under Section 254(C) (1) and is not a claim determinable by reference to any of the Acts or Laws under Section 254(1)(b). Consequently the National Industrial Court has no jurisdiction over


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the instant suit. Accordingly I answer questions 1 and 2 in the negative and question 3 in the affirmative.

I adopt the lead Judgment as mine and abide by all resolutions made therein.



ADAMU JAURO,
JUSTICE, SUPREME COURT

APPEARANCES:

Olajide Salami, Esq, with T. A. Bamisaye, Esq, Emeka Ananyi, Esq, and Adedeji O, Esq, for the Appellants.

Olabisi Mankonjuola, Esq, with Daniel Peter Esq, Obed Soludo, Esq, and Omony E. Esq, for the 1st – 3rd Respondents.

Mustapha D. Ajenifuja, Esq, with Idris Ishola, Esq, O. Muritala, Esq, and Ibrahim Abubakar, Esq, for the 4th Respondent.


AMICI CURIAE:

Abimbola Akeredolu, (SAN), with Johap Agbo, Esq, and Samson Obiora, Esq, as **Amicus.**

Dr. Oladipo Olanipekun, (SAN), with Michael Akinleye, Esq, Chika Ikeh, Esq, and Ebube A., Esq, as **Amicus.**

Inam Wilson, (SAN), with I. Adekunle, Esq, and I. O. Uwaifo, Esq, as **Amicus.**

Prof. Emmanuel A. Kenen, Esq., with Dr. Matthew Afonko, Esq, as **Amicus.**



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IN THE SUPREME COURT OF NIGERIA
HOLDEN AT ABUJA
ON FRIDAY THE 20TH DAY OF FEBRUARY, 2026

BEFORE THEIR LORDSHIPS:

KUDIRAT M. O. KEKERE-EKUN
JOHN INYANG OKORO
HELEN MORONKEJI OGUNWUMIJU
ADAMU JAURO
JUMMAI HANNATU SANKEY
OBANDE FESTUS OGBUINYA
STEPHEN JONAH ADAH

CHIEF JUSTICE OF NIGERIA
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT

SC/CV/899/2025

BETWEEN:

- 1. EMMA ELEGBE**
- 2. LOLU ELEGBE**

APPELLANTS

AND

- 1. HP INTERNATIONAL SCHOOLS LIMITED RESPONDENTS**
- 2. KEMI BALOGUN**
- 3. LINDA ADEYEMI-HASTRUP**
- 4. IYEFÉ OLUDOYI**

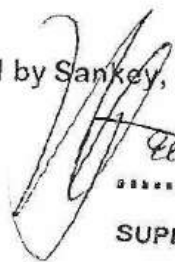
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JUDGMENT

(DELIVERED BY JUMMAI HANNATU SANKEY, J.S.C.)

I had the privilege of reading before now the judgment in respect of the constitutional reference set out in the 'Case Stated' just delivered by my learned brother **Stephen Jonah Adah, J.S.C.** I align myself with his lordship's adroit reasoning and the conclusion arrived at.

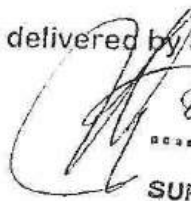
The facts leading to the appeal has been aptly captured in the lead judgment, and so does not bear repeating here. Suffice is to state that the Plaintiffs, now Respondents in this Court, commenced civil proceedings at the High Court of Lagos State claiming five reliefs from the Appellants/Defendants. The first and second reliefs were for declarations stating that the Respondents published defamatory material against the appellant; while the third, fourth and fifth reliefs sought for orders mandating the Respondents to publish retractions of the defamatory materials and a perpetual injunction against


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publishing the defamation, as well as the costs of the action. In the appellants' statement of claim, the averments therein disclosed a prior underlying employment relationship between the 1st Appellant and the 1st Respondent School. However, at the time the action was filed, the employment had been terminated by the 1st Appellant *vide* her resignation letter to the 1st Respondent School.

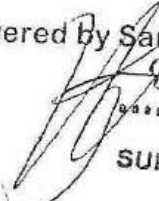
The Respondents contended that after the 1st Appellant's employment had ceased, the 1st Appellant sent a letter *via* an Email and the 2nd Appellant, (being the husband of the 1st Appellant), posted a WhatsApp message to the Platform of the Parents and Teachers of the 1st Respondent wherein they made the defamatory statements complained of.

Aggrieved by the contents of the Appellants' correspondences, the Respondents filed the action at the Lagos State High Court contending that they contained materials that were defamatory and harmful to the reputation


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of the 1st Respondent School. However, before the matter could proceed to hearing, the Appellants' Counsel filed a motion on notice dated 27th July, 2020 wherein the jurisdiction of the State High Court to entertain the claim was challenged. The crux of the objection to the hearing of the case by the State High Court was that Section 254C of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) (Third Alteration), vests jurisdiction of matters in respect of claims related or connected with labour and employment exclusively on the National Industrial Court of Nigeria (NICN). Therefore, that the jurisdiction of the Lagos State High Court was ousted and hence, it could not entertain or proceed with the hearing of the case.

After taking arguments from learned Counsel for the two sets of parties on this threshold issue of jurisdiction, the learned trial Judge in a considered ruling, dismissed the jurisdictional challenge, and affirmed the jurisdiction of the


Hon. Justice Sankey (Signature Esq)
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Lagos State High Court to entertain the suit. The issue for determination considered by the learned trial Judge in determining the crucial issue of jurisdiction he was confronted with, is contained at page 128 of the record of appeal, thus:

“The question now is whether an alleged defamation made in the course of or after the resignation of employment qualifies as labour and employment matters within the exclusive jurisdictional competence of the NIC?”

In resolving this issue, the trial Judge considered an array of decisions of the Court of Appeal which he identified as conflicting. At pages 128-132 of the record, the learned trial Judge went to great lengths to considered the following decisions emanating from the Court of appeal which adopted a restrictive approach to interpreting Section 254(C) of the Constitution (supra), to wit: that the NICN being a court of limited jurisdiction, it lacked the jurisdiction to entertain a

claim in tort, such as the tort of defamation. The decisions are as contained in the following cases -

1. Akpan V UniCal (2016) LPELR-41242(CA);
2. Ecobank Nig. Ltd V Osu (2020) (Unreported) CA/L/963/2016 delivered on 24/02/2020;
3. Olushola & Anor. C Andrew (2021) LPELR-5601(CA);
Olushola & Anor. V Saliu (2021) LPELR-56027(CA);
4. UBA & Ors. V Oladejo (2021) LPELR-5530(CA);
5. Ecobank Nig. Ltd & Ors V Idris (2021) LPELR-52806(CA).

The trial Court also considered other decisions which emanated from the Court of Appeal wherein it adopted a liberal approach of interpretation and basically held that claims factually arising from or connected to the workplace falls within the jurisdiction of the NICN, regardless of whether the claim is founded in tort or contract. The decisions referred to are -


1. MHWUN V Ehigiegba (2018) LPELR-44972(CA);
2. Nwagbo & Ors V National Intelligence Agency (NIA) (2018) LPELR-4620(CA);

3. **Nasarawa State Specialist Hospital Management Board & Ors V Mohammed (2018) LPELR-44551(CA);**
4. **Omang V NSA (2021) 10 NWLR (Pt. 1783) 55;**
5. **Okporo V Ecobank Nig. Ltd (Unreported) Appeal No: CA/C/07/2016 delivered on 16/07/2021.**

Thereafter, the learned trial Judge drew the following cautious conclusion:

“The foregoing wide interpretation of Section 254C by the Court of Appeal makes no distinction between acts done while the employment was on and after the termination of the employment, provided the act in question was related to or incidental to or connected with employment. Furthermore, this reasoning is applicable whether or not, the act, subject of the suit, is a tort or a contract, as in this case.”

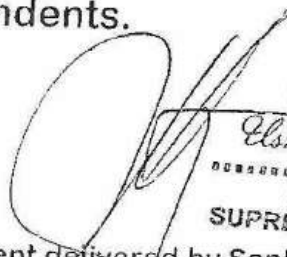
This conclusion suggests that the relevant question is one that turns on the peculiar facts of each case. Relying in particular on **SCC (Nig.) Ltd & Anor V Joseph & Anor (2020) LPELR-49764(CA)** on the importance of considering the facts


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of each case in determining jurisdiction, the trial Judge further held (at page 135 of the printed record) as follows –

“Furthermore, it must be noted here that the alleged defamation complained of by the claimants in this case against the defendants even occurred after the 1st defendant had resigned her employment with the 1st claimant, and therefore the cause of action cannot be said to have accrued in the course of employment or is related or incidental to or connected with the employment of the 1st defendant in the 1st claimant.”

The trial Judge thus dismissed the appellant’s motion challenging the jurisdiction of the Lagos State High Court to entertain the claim, and held that the Court is vested with jurisdiction, the case not being one that was squarely in respect of, connected with or incidental to labour and employment matters. Rather, the complaint was principally centred on the complaint of defamation by the Appellants against the Respondents.



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Dissatisfied with the ruling of the trial Court the Appellants approached the Court of Appeal, Lagos Division with a motion on notice dated 30-12-2024, seeking the reference of certain constitutional questions to this Court pursuant to **Section 295(3) of the Constitution**. Upon hearing the motion the Court below, in its ruling delivered on 04-08-2025, granted the application and referred the following questions to this Court for interpretation:

1. "Whether the jurisdiction of the High Court of Lagos State is impacted and excluded by Section 254C of the Constitution of the FRN, 1999 (as amended) (the Constitution) in respect of a claim in defamation in circumstances related or connected with labour and employment.
2. Having regard to Section 254C of the Constitution, whether the termination of an employment relationship, *simpliciter*, will vest the High Court of Lagos State with the jurisdiction to entertain a claim in defamation in circumstances related or connected with labour and employment.

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3. Whether a purportedly defamatory material arising from an employees' work relationship but made by a non-employee can be countenanced by the High Court of Lagos State having regard to Section 254C of the Constitution."

Question one

1. Whether the jurisdiction of the High Court of Lagos State is impacted and excluded by Section 254C of the Constitution of the FRN, 1999 (as amended) (the Constitution) in respect of a claim in defamation in circumstances related or connected with labour and employment.

The first question calls for a deliberation in respect of the interpretation of Section 254C of the Constitution as it pertains to the jurisdiction of the NICN *vis-à-vis* that of the State High Court (SHC). On the one hand, the appellants urged a liberal/expansive interpretation of the provision, while on the other hand, the respondents pushed for a purposive/restrictive construction. Their extensive

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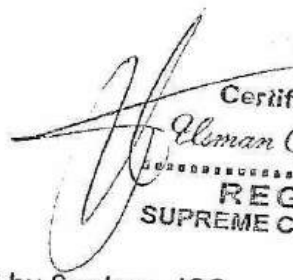
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submissions have been aptly captured in the lead judgment, and so it would be superfluous to repeat them here.

In addition to the submissions of learned Counsel for the respective parties, the Court is indebted to learned *Amici curiae*, namely, Messrs Abimbola Akeredolu, SAN; Dr. Oladapo Olanipekun, SAN; Inam Wilson, SAN; Professor Emmanuel A. Kenen, Esq., and their separate teams of Counsel who devoted their time and resources to address the Court *vide* their well-researched written and oral addresses for their in-depth and insightful submissions into this crucial Constitutional provision that is key to defining/interpreting the extent and/or scope of the jurisdiction of the NICN *vis-à-vis* the jurisdiction of the State High Court, in particular the High Court of Lagos State.

Section 254(C) of the Constitution (Third Alteration) provides *inter alia* thus –

"254(C). Jurisdiction


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(1) Notwithstanding the provisions of sections 251, 257, 272 and anything contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the National Industrial Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters –

(a) relating to or connected with any labour, employment, trade unions, industrial relations and matters arising from the workplace, the conditions of service, including health, safety, welfare of labour, employee, worker and matters incidental thereto or connected therewith;

(b) relating to, connected with or arising from Factories Act, Trade Disputes Act, Trade Unions Act, Labour Act, Employees' Compensation Act or any other Act or Law relating to labour, employment, industrial relations, workplace or any other enactment replacing the Acts or Laws;

... ..

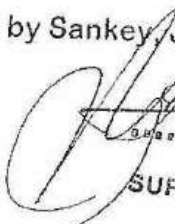
(f) relating to or connected with unfair labour practice or international best practices in labour, employment and industrial relation matters;

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-
- (g) relating to or connected with any dispute arising from discrimination or sexual harassment at workplace;
 - (h) relating to, connected with or pertaining to the application or interpretation of international labour standards.”


The constitutional reference of this matter to this Court as a case-stated, seeks the proper interpretation of the above provision of the Constitution, to wit: Section 254(C) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). This is against the backdrop of the pleadings of the Respondents (as Claimants before the trial High Court) where the Court is called upon to determine whether claims founded on defamation, which arose in an employment setting, falls within the exclusive jurisdiction of the National Industrial Court of Nigeria.

The law is settled that jurisdiction is determined solely by the claimant's claim as disclosed in the writ of summons and statement of claim, and not by any defence raised in the


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statement of defence. From a close scrutiny of the Respondents' claim, it is self-evident that their cause of action at the High Court of Lagos State is directly founded on the tort of defamation, and not based on labour, employment, collective agreement or conditions of service, and the like, notwithstanding the fact that the alleged defamatory publication contained references to the 1st Appellant's resignation from the 1st Respondent's employment. As afore-stated, of the five reliefs sought by the Respondents in their Statement of Claim, the first two reliefs sought declarations from the trial Court that the Respondents published defamatory material against the appellant; while the third, fourth and fifth reliefs sought a published retraction of the alleged defamatory material, a perpetual injunction against publishing the alleged defamation and the costs of the action.

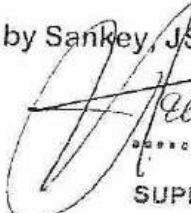
It is thus apparent that the principal claims of the


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Respondents/Claimants rested on the publication of defamatory material against them by the Appellants.


The law is long settled that it is the Court that is vested with jurisdiction to entertain the principal claim(s), as against the ancillary claim(s), that will rightly determine the matter. Thus, a court of law cannot adjudicate over a claim where the ancillary claims are inextricably bound to the principal claims, if it lacks the jurisdiction to entertain the principal claims. See **Egbonu V Bornu Radio Television Corp. (1997) LPELR-1041(SC) per Iguh, JSC; Adenuga & Ors. V Odumeru & Ors (2001) 2 NWLR (Pt. 696) 184, per Karibi-Whyte, JSC.**

I am of the view that it is neither the intendment of the draftsman of the Third Alteration Act of the Constitution (supra) nor is it within his contemplation that the elevation of the National Industrial Court (NIC) to a superior court of record enlarges its jurisdiction such as to oust the jurisdiction of the High Court of a State over tortious claims.


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Rather, it is plain that the intendment of the draftsman is that, where the principal or primary claim falls squarely within the subject matter jurisdiction of the NICN as circumscribed in Section 254C(1) of the Constitution, then the NICN would assume jurisdiction over both the principal/primary claim which falls directly within the jurisdiction of the NICN, as well as any other ancillary claims therein, such as defamation, a claim of a tortious nature, in circumstances related or connected with labour and employment. Where the primary claim does not fall fully within the subject-matter jurisdiction of the NICN, the mere fact that it arises from or is connected with a workplace or labour matrix, does not suffice to confer jurisdiction on the NICN.

An objective assessment that can be carried out by courts faced with such a dilemma as to which court is vested with jurisdiction to entertain a matter by virtue of Section 254(C)


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of the Constitution (supra), is to examine the facts on a case-by-case basis, and apply the following tests:

- a) What is the dominant or substantive cause of action?
- b) Do the averments in the Statement of Claim and the Reliefs sought by the Claimant substantially relate to defamation, contract or any other cause of action, independent of any employment right or obligation?
- c) If so, then it goes without saying that the claim falls within the general jurisdiction of the regular High Court.

It is only where the alleged defamation or other cause of action is inseparably intertwined with the interpretation, enforcement, or violation of the claimant's employment rights, such that the tort cannot be adjudicated upon without first determining core employment issues as enumerated in Section 254C of the Constitution, that the NICN may assume jurisdiction.

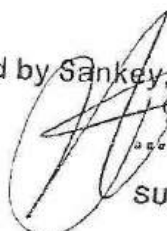
Thus, for the application or otherwise of Section 254C of the Constitution (supra) to the case under consideration, a dispassionate fact-finding test must be carried out by the

court to discover whether or not the allegation of the tort of defamation or other such complaint, is connected with, incidental to, related to, or has arisen from employment or the workplace. This is a question of fact to be determined on a case-by-case basis. This underscores and accentuates the principle espoused by this Court that questions of jurisdiction must be determined by juxtaposing the relevant provisions of the Constitution with the averments contained in the Statement of Claim – **FBN Plc V Abraham (2008) 18 NWLR (Pt. 1118) 172, 189 (SC); Adeyemi V Opeyori (1976) 9-10 SC 18, 31.**

That is to say, if upon a proper evaluation of the statement of claim it is shown that the dispute is labour-centred and/or employment-related in substance, jurisdiction is solely reserved for the National Industrial Court to the exclusion of other courts. However, where the dispute does not have as its crux, heart or core, issues relating to or connected with

labour or employment matters as circumscribed or bounded by Section 254C of the Constitution (supra), then the relevant High Court, other than the NIC, will be seised with jurisdiction to entertain the matter.


The basis or rationale behind this is simple. If the argument is to be extended to include any and all matters (such as contract or tort), which merely make an allusion to labour or employment matters ancillary to the primary or principal complaint, as matters which fall under the jurisdiction of the NIC, it will inevitably lead to the over-burdening of the NICN, a specialised court, and thus, will defeat the very purpose for which the court was created by the Constitution. If the liberal interpretation is accepted, as advocated by the appellants, as opposed to the restrictive interpretation, the NIC will undoubtedly be inundated, swamped and even overwhelmed by an unwarranted and needless flood of all manner of civil causes that should rightly be handled by State High Courts


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by virtue of the jurisdiction vested in them by Section 272 of the Constitution (supra); thereby diluting the character of the NIC and converting it into a court of general civil jurisdiction, contrary to the intendment and purpose for its establishment.

In consequence of this calm reasoning and introspection, I take the view that, in view of the fact that the principal claim and reliefs sought in the Respondents'/Claimants' Statement of Claim is defamation, the jurisdiction of the High Court of Lagos State is neither negatively impacted nor excluded by the provision of Section 254C of the Constitution. The State High Court still retains its jurisdiction to handle matters such as those disclosed in this case, whose principal claim is the tort of defamation, as opposed to a claim principally involving labour and employment, etc., as enumerated under Section 254C of the Constitution. In consequence, I answer question one in the negative.

Questions two & three together


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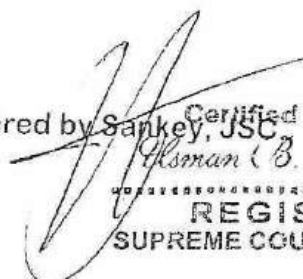
2. Having regard to Section 254C of the Constitution, whether the termination of an employment relationship, *simpliciter*, will vest the High Court of Lagos State with the jurisdiction to entertain a claim in defamation in circumstances related or connected with labour and employment.

AND

3. Whether a purportedly defamatory material arising from an employees (sic) work relationship but made by a non-employee can be countenanced by the High Court of Lagos State having regard to Section 254C of the Constitution.

As a natural progression from my view expressed in respect of question one referenced to this Court, the termination of an employment *simpliciter* will not, without more, vest the High Court of Lagos State with jurisdiction to entertain a claim in defamation in circumstances related to and connected with labour and employment. The fact that an employment has been terminated should not negatively impact the exclusive jurisdiction of the NICN. This is evidently

because, in many instances, it is actually the termination of an employment relationship that triggers a dispute which leads aggrieved parties to approach the NICN for redress. To therefore suggest that upon the termination of an employment relationship, the jurisdiction of the NICN is automatically revoked, would be absurd, given the express provision of Section 254C of the Constitution. If this were to be the case, it would suggest that the NIC was set up to entertain disputes that arise only in the course of a subsisting employment relationship. However, by the express wordings of Section 254C, the Constitution vests on the NICN exclusive jurisdiction even where the cause of action is **incidental** to an employment contract. The word '**incidental**' is analogous to the phrase '**linked to**'. Thus, it is immaterial that the employment has been terminated. Rather, the emphasis is on whether the cause of action is related to, connected with, incidental to or has arisen from employment or the


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workplace. This is a question of fact that is not necessarily dependent on the subsistence of an employment relationship. Based on these, I take the considered view that issue two is also answered in the negative.

For the sake of clarity, the mere termination of an employment relationship will not automatically divest the NICN of jurisdiction and vest jurisdiction in the State High Court to entertain a claim except it is shown, as in this case, that the principal claim is in respect of a subject matter other than a labour and employment matter, (which in the instant case is firmly and unquestionably defamation), while the issue of labour/employment is merely be ancillary to it. This is indubitably the purport, import and meaning of Section 254C of the Constitution.

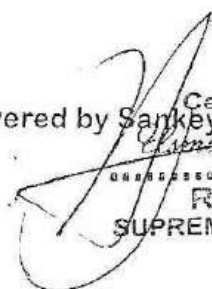
On issue three, at the risk of repetition, it is my considered opinion that this question is also a fact-dependent determination. An allegedly defamatory material arising from

a work relationship but made by a non-employee, may be countenanced by the State High Court if, in the peculiar factual circumstances, the cause of action is not related to, connected with, incidental to, or arising from labour, employment, the workplace, etc. See **Skypower Exp. Airways Ltd V UBA Plc (2022) 6 NWLR (Pt. 1826) 203, 242 (SC); Radiographers Reg'd, Bd, Nig. V M. & HWUN (2021) 8 NWLR (Pt. 1777) 149, 203 (SC)**. Thus, for the State High Court to be vested jurisdiction, an inspection of the claim must reveal a complete disconnection from the jurisdictional field and/or range covered by Section 254C of the Constitution.

An inspection of the claim herein reveals a complete schism from the jurisdictional sphere or domain covered by Section 254C of the Constitution. Consequently, the answer to the third question relating to the facts of this case, is in the affirmative.

I endorse the order on costs in the lead judgment.

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IN THE SUPREME COURT OF NIGERIA
HOLDEN AT ABUJA

ON FRIDAY, THE 20TH DAY OF FEBRUARY, 2026

BEFORE THEIR LORDSHIPS

<u>KUDIRAT M. O. KEKERE-EKUN</u>	<u>CHIEF JUSTICE OF NIGERIA</u>
<u>JOHN INYANG OKORO</u>	<u>JUSTICE, SUPREME COURT</u>
<u>HELEN MORONKEJI OGUNWUMIJU</u>	<u>JUSTICE, SUPREME COURT</u>
<u>ADAMU JAURO</u>	<u>JUSTICE, SUPREME COURT</u>
<u>JUMMAI HANNATU SANKEY</u>	<u>JUSTICE, SUPREME COURT</u>
<u>OBANDE FESTUS OGBUINYA</u>	<u>JUSTICE, SUPREME COURT</u>
<u>STEPHEN JONAH ADAH</u>	<u>JUSTICE, SUPREME COURT</u>
	<u>SC/CV/899/2025</u>

BETWEEN:

- 1. EMMA ELEGBE
- 2. LOLU ELEGBE

APPELLANTS

VS.

- 1. HP INTERNATIONAL SCHOOLS LTD.
- 2. KEMI BALOGUN
- 3. LINDA ADEYEMI-HASTRUP
- 4. IYEFÉ OLUDOYI

RESPONDENTS

JUDGMENT

[DELIVERED BY OBANDE FESTUS OGBUINYA, JSC]

I had, in advance, the singular opportunity to preview the leading decision delivered by my learned brother: **Stephen Jonah**

SC/CV/899/2025

Obande Festus Ogbuinya, JSC

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meaning. Put simply, the moment a word or phrase has received a judicial explanation or definition, a *fortiori* from the apex court, the courts are bound to kowtow to that meaning in subsequent proceedings, see *Dapianlong v. Dariye* (2007)8 NWLR (Pt. 1036) 332; *Shettima v. Goni* (2011) 8 NWLR (Pt. 1279)413; *Ardo v. Nyako* (2014) 10 NWLR (pt. 1416) 591; *A.-G., Lagos State* (2013) 16 NWLR (Pt.1380)249; *Utomudo v. Mil. Gov., Bendel State* (2014) 11 NWLR (Pt. 1417) 97.

In order to actualise the intendment of this provision, under the canopy of this all-important constitutional reference, I will be compelled to patronise the purposive canon of interpretation of statutes, *videlicet*: that the law tasks the court not to construe a constitutional provision in a manner that will defeat its evident purpose. The import of it is that, the court, nay, the apex court, in interpreting a constitutional provision must bear in mind, like an emblem on its judicial shoulder, that its goals are conserved and accomplished for the benefit of the citizenry. In other words, a court, whilst exercising its interpretative jurisdiction over a constitutional provision, must distance itself from any act that owns the potency to castrate its clearly tailored purpose. This is moulded in the Latin maxim: *Ut res magis valeat quam valeat*- that a matter may have effect rather than fail, see *F.C.S.C. v. Laoye* (1989) 2 NWLR (Pt. 106) 652; *Onochie v. Odogwu* (2006) 6 NWLR (Pt. 106) 652; *Onochie v. C.*

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975) 65; *Elebanjo v. Dawodu* (2006) 15 NWLR (Pt. 1001) 76; *Olalomi Ind. Ltd. v. N.I.D.B. Ltd.* (2009) 16 NWLR (Pt. 1167) 266; *A.- G., Fed., v. A-G, Lagos* (2013) 16 NWLR (Pt. 1380) 249; *A.- G., Nasarawa State v. A.-G., Plateau State* (2012) 10 NWLR (Pt. 1309) 419; *Abegunde v. O.S.H.A* (supra); *Gov., Kwara State v. Dada* (2011) 14 NWLR (Pt. 1267) 384; *Amadi v. INEC* (2013) 4 NWLR (Pt. 1345) 595; *Dickson v. Sylva* (2017) 8 NWLR (Pt. 1567) 167; *Skye Bank Plc v. Iwu* (2017) 16 NWLR (Pt. 1590) 24. In *Nafiu Rabiu v. Kano State* (1989) 8 – 11 SC 130, at 148 – 149, Udo Udoma, JSC, proclaimed incisively:

I do not conceive it to be the duty of this court so to construe any of the provision of the Constitution as to defeat the obvious ends the Constitution was designed to serve where another construction equally in accord and consistent with the words and sense of such provision will serve to enforce and protect such ends.

I will honour this canon of interpretation *in solidum*.

It is the rudimentary law, in the days of the yore, that the case law has endorsed a statement of claim as a major/macro process that serves as the judicial thermometer for the measurement of the presence or absence of jurisdiction of the courts, see *F. U. T., Minna v. Olutayo* (2018) 7 NWLR (Pt. 1617) 176; *A. G., Lagos*

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for the reliefs attendant thereto. At once, where a defamatory act is incidental or linked to a cause of action that is founded on employment, the NICN will still be vested with the jurisdiction to entertain the suit. That is to say, where the alleged defamatory act in a suit is dependent on a party's employment such that it is inextricably tied to the apron strings of his employment and appurtenant thereto, the NICN will be invested with the *vires* to entertain it. This second arm is analogous to the hallowed principle of law on main and ancillary claims. The inelastic posture of the law is that a court which is equipped with the jurisdiction to hear a main/principal claim is bestowed with the *vires* to try an auxiliary/tributary claim that is parasitic thereon. This must be so as there is no half jurisdiction in our *corpus juris*. Jurisdiction of a court to entertain a matter is either present or absent. It is either total or none at all, see *Oni v. Cadbury Nig. Plc.* (2016) 9 NWLR (Pt. 1516) 80. This cardinal principle of law owes its pedigree to the Latin maxim: *Accesorium nonducit, sed sequitur suum principale, id est*, an accessory does not lead, but follows, its principal, see *Tukur v. Govt of Gongola State* (1989) 4 NWLR (Pt. 117) 517.

By the same token, where a party's claim solely orbits around the universe of tort of defamation, then the High court is armed with the jurisdiction to entertain the suit that hosts it. In that wise, it will be the *forum competens* for the determination of the suit. In the


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premises of the foregoing, this brief juridical survey of the provision, the nomenclature of claim and the reliefs, as disclosed in a statement of claim, will constitute the paramount parameter that will guide a party, a plaintiff/claimant, on the appropriate court, the High Court of a State or the NICN, to beseech and ventilate his nursed and perceived grievances against his adversary in an action erected on the tort of defamation. This lean legal exposition, to my mind, aligns with the intention and purpose of the provision the drafter of the of section 254C-(1) of the Constitution, as amended.

Flowing from this brief *addendum*, coupled with the legal dissections assembled in the leading decision, I, too, return negative, negative and affirmative answers to questions 1, 2 and 3 respectively. Similarly, I commend all the learned counsel in this constitutional reference, especially the learned *amici curiae*: Abimbola Akeredolu, SAN, Dr. Oladapo Olan'peku, SAN, Inam Wilson, SAN and Prof. Emmanuel A. Kenem, alongside a galaxy of learned counsel in their teams, for the great diligence and dexterity invested in their dazzling submissions which demystified the thorny questions housed in the constitutional reference. I abide by the consequential order on costs as decreed in the leading decision.

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OBANDE FESTUS OGBUINYA,
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COUNSEL:

Olajide Salami Esq., for the appellant (with him, Tooni Augustine Bamisaye Esq., Emeka Ananyi Esq., and Adedeji Obadofin Esq.) for the appellant.

Olabisi Makanjuola, Esq., (with him Daniel Peter Esq., Obed Soludo Esq., and Omonyegboja Esq. for the first – third respondents.

Mustapha O. Ajenifuja Esq. (with him, Julius Ishola Esq., Olakunle Muritala Esq., and Ibrahim Abubakar Esq., for the fourth respondents

AMICI CURIAE

Mrs. Abimbola Akèredolu, SAN with her, Johap Agbo Esq., and Samson Obiora Esq) as friends of the court.

Dr. Oladapo Olanipekun, SAN (with him, Michael Akinleye Esq., Chika Ikeh Esqs., and Ebube Abasili Esq.) as friend of the court

Inam Wilson, SAN (with him, Igonikan Adekunle Esq, and I. O. Uwaifo, Esq.) as friends of the court.

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IN THE SUPREME COURT OF NIGERIA
HOLDEN AT ABUJA
ON FRIDAY, THE 20TH DAY OF FEBRUARY, 2026
BEFORE THEIR LORDSHIPS

KUDIRAT M. O. KEKERE-EKUN
JOHN INYANG OKORO
HELEN MORONKEJI OGUNWUMIJU
ADAMU JAURO
JUMMAI HANNATU SANKEY
OBANDE FESTUS OGBUINYA
STEPHEN JONAH ADAH

CHIEF JUSTICE OF NIGERIA
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
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JUSTICE, SUPREME COURT
SC/CV/899/2025

BETWEEN:

- 1. EMMA ELEGBE
- 2. LOLU ELEGBE

} APPELLANTS

AND

- 1. HP INTERNATIONAL SCHOOLS LIMITED
- 2. KEMI BALOGUN
- 3. LINDA ADEYEMI-HASTRUP
- 4. IYEFÉ OLUDOYI

} RESPONDENTS

JUDGMENT

(DELIVERED BY HELEN MORONKEJI OGUNWUMIJU, JSC)

I have read the record of appeal, the briefs of counsel and the erudite judgment of my learned brother **STEPHEN JONAH ADAH, JSC**. I will add a few words. Constitutional reference was made to this Court by the Court below pursuant to Section 295(3) of the 1999 Constitution and Order 10 of the Supreme Court Rules 2024. Three questions were referred to this Court for resolution and couched as follows:

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- a. Whether the jurisdiction of the High Court of Lagos State is impacted and excluded by Section 254C of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) (the Constitution) in respect of a claim in defamation in circumstances related or connected with labour and employment?
- b. Having regard to Section 254C of the Constitution, whether the termination of an employment relationship, simpliciter, will vest the High Court of Lagos State with the jurisdiction to entertain a claim in defamation in circumstances related or connected with labour and employment?
- c. Whether a purportedly defamatory material arising from an employee's work relationship but made by a non-employee can be countenanced by the High Court of Lagos State having regard to Section 254C of the Constitution?

The background facts to this constitutional question is a claim in the tort of defamation preferred by the 1st – 4th Respondents against the Appellants at the High Court of Lagos State. The 1st Appellant was an employee of the 1st Respondent, while the 2nd Appellant is the husband of the 1st Appellant who was never in the employment of any of the Respondents. The 1st Respondent is a body corporate and an educational institution, while the 2nd – 4th Respondents are directors of the 1st Respondent. The 1st Appellant had written an email to parents whose children enrolled in the 1st Respondent's school explaining the

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- d) NASARAWA STATE SPECIALIST HOSPITAL MANAGEMENT BOARD & ORS v. MOHAMMED (2018) LPELR-44551 (CA).
- e) OMANG v. NSA (2021) 10 NWLR (Pt. 1783) 55.
- f) CA/C/07/2016 - OKORO v. ECOBANK NIG. LTD (2021) delivered 16th July, 2021 (unreported).

Section 254C of the 1999 Constitution provide as follows:

(1) Notwithstanding the provisions of sections 251, 257, 272 and anything contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the National Industrial Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters-

(a) relating to or connected with any labour, employment, trade unions, industrial relations and matters arising from workplace, the conditions of service, including health, safety, welfare of labour, employee, worker and matters incidental thereto or connected therewith;

(b) relating to, connected with or arising from Factories Act, Trade Disputes Act, Trade Unions Act, Labour Act, Employees' Compensation Act or any other Act or Law relating to labour, employment, industrial relations,

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vii. *dispute relating to or connected with any personnel matter arising from any free trade zone in the Federation or any part thereof;*

(k) *relating to or connected with disputes arising from payment or non payment of salaries, wages, pensions, gratuities, allowances, benefits and any other entitlement of any employee, worker, political or public office holder, judicial officer or any civil or public servant in any part of the Federation and matters incidental thereto;*

(l) *relating to-*

(i) *appeals from the decisions of the Registrar of Trade Unions, or matters relating thereto or connected therewith,*

(ii) *appeals from the decisions or recommendations of any administrative body or commission of enquiry, arising from or connected with employment, labour, trade unions or industrial relations, and*

(iii) *such other jurisdiction, civil or criminal and whether to the exclusion of any other court or not, as may be conferred upon it by an Act of the National Assembly;*

(m) *relating to or connected with the registration of collective agreements.*

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There is no doubt that the National Industrial Court (the NIC) is a special Court created to determine master servant, employment and trade disputes. From the provisions of the Constitution it is obvious that the NIC is a Court with specific and exclusive jurisdiction in the special fields of all aspects of Labour law. In other words, the NIC is a specialized Court in relation to its subject matter jurisdiction and the subject matter expertise of its judges.

A foray into the history of the Court is germane at this point. The first attempt at specializing Trade Disputes came with the Trade Disputes Decree No. 7 of 1976, Cap 432 of the Laws of the Federation of Nigeria, 1990.

In Section 19 of the Decree, the National Industrial Court (NIC) was vested with powers regarding the settlement of trade disputes, interpretation of collective agreements and matters connected therewith. Section 20 of the Act delineated the National Industrial Court's jurisdiction, to the extent that it was given powers to the exclusion of any other Court to make award for the purpose of settling trade dispute and to determine questions as to the interpretation of any collective agreement, any award made by an arbitration tribunal or Court, terms of settlement of any trade dispute, *et al.*

In other words, there was a firm attempt by the powers that, by the promulgation of the Act, to derobe all other Courts of the subject-matter jurisdiction to deal with matters identified in the Act. Simply, the intention was that all such jurisdiction was automatically transferred to the NIC.

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The National Assembly attempted to resolve the problems faced by the National Industrial Court of Nigeria when it passed the National Industrial Court Act, 2006, and raised it to a superior Court of record with exclusive jurisdiction over issues relating to labour, trade unions and industrial relations and matters incidental thereto.

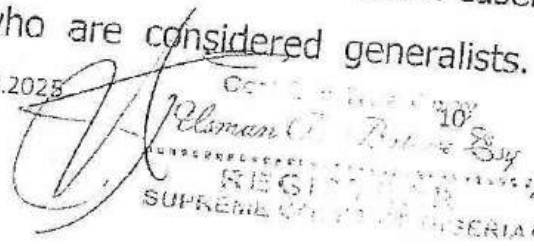
The Constitution of the Federal Republic of Nigeria (Third Alteration) Act No. 3 in 2010 added Sections 254A – 254F to the Constitution.

Under Section 254C (1) of the said Constitution, exclusive jurisdiction is conferred on the NIC with respect to all civil matters bordering on labour and employment, thereby elevating the NIC to the position of a specialized Court in respect of labour and employment matters. It is the interpretation of the nature and extent of the exclusive jurisdiction conferred on the NIC under Section 254C of the Constitution of the Federal Republic of Nigeria (CFRN) (as altered) that is the subject of this Constitutional reference.

The history of the Court and a holistic reading of all these legal instruments would disclose the legislative intent to have a specialized Court dedicated to the handling of labour and employment matters, *stricto sensu*.

My Lords, specialized Courts are defined as tribunals of narrowly focused jurisdiction to which all cases that fall within that jurisdiction are routed. Judges who serve in a specialized Court are considered specialists, even experts, in the fields of the law that fall within the Court's jurisdiction. Such specialized Court judges are to be contrasted with judges in general jurisdiction Courts whose caseloads span broad areas of the law and who are considered generalists. Three of the primary benefits

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(2003) LPELR-812(SC), OJUKWU v. OBASANJO & ORS (2004) LPELR-2400(SC), KABIRIKIM & ANOR v. EMEFOR & ORS (2009) LPELR-902(SC).

My Lords, while a literal interpretation has been urged on the one hand, a purposive interpretation is being urged on the other. The literal interpretation has been presented as the expansive view, while the purposive interpretation is urged as a restrictive view by most of the amici curiae in this matter. Indeed, the purposive approach, properly-so-called, is only an expansive approach to the literal canon of interpretation. The purposive approach to interpretation necessarily involves advertence to the precise words used vis a vis the context and the purpose the enactment is meant to serve. Put simply, the objective of the purposive approach is to give effect to the legislative purpose expressed through the words of the Constitution. The purposive approach cannot be applied to defeat the express words of the Constitution, particularly where the words are unequivocal and unambiguous. See **ATTORNEY-GENERAL OF LAGOS STATE v. EKO HOTELS (2006) 18 NWLR Pt. 1011 Pg. 378, 453 (SC)**.

The purposive approach does not involve a supplanting of otherwise clear words in the Constitution, it is pertinent to note that the duty of the Court under Section 6 of the 1999 Constitution is the interpretation of statutes made by the legislature pursuant to Section 4 (2) of the Constitution. The judicial power conferred on the Court is *jus dicere* and not *jus dere* – to interpret law and not to make law or give law. See **GLOBAL EXCELLENCE COMM. LTD v. DUKE (2007) 16 NWLR Pt. 1059 Pg. 22, 42 – 43 (SC)**.

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The law is trite that words used in a statute are not mere surplusage. Every word is deemed to have been employed/deployed deliberately. See **TUKUR v. GOVT. OF GONGOLA STATE (1989) 4 NWLR Pt. 117 Pg. 517, 579 (SC); ORUBU v. N.E.C. (1988) 5 NWLR Pt. 94 Pg. 323, 382 (SC).**

My Lords are referred to Daniel Greenberg (ed), *Stroud's Judicial Dictionary of Words and Phrases*, Vol. 1 (9th edn, Sweet & Maxwell 2016) 478:

"The words "connected with" are to be interpreted in the normal sense as synonymous with "ancillary to."

"The phrase 'connected with', like 'in connection with', may be apt to denote things that are ancillary etc..."

In Vol. 3, at page 2180;

*"There is no doubt that the phrase 'relating to' is flexible in its meaning. In *Tooheys Ltd v. Commissioner of Stamp Duties (NSW)* (1961) 105 CLR 602, Kitto J. reviewed a number of English authorities which considered the phrase 'relating to'. Some adopted a narrow, others a wider view, each approach dictated by the purpose of the provision (at 617-8). Taylor J referred to the contract in which the phrase was used, and in the context there before the Court, it was clear that 'relating to' was not the equivalent to 'referring to'; the relationship had to be based on some more substantial ground....."*

Daniel Greenberg's (ed), *Stroud's Judicial Dictionary of Words and Phrases*, Vol 2 (supra) 1221:

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"A thing is "incident" to another when it appertains to, or follows on, that other which is more worthy, or principal (Co. Litt 151B), e.g. a court baron is incident to a manor, rent to a reversion, distress to rent, timber trees to the freehold, title deeds to an estate, etc..."

The question I am laboring to answer is whether the tort of defamation can be connected with, incidental to or arise from employment or the workplace.

There is no doubt that it was the intendment of the draftsmen that where the main claim falls squarely within the subject matter jurisdiction of the NIC as set out in Section 254C (1) of the Constitution, the NIC may assume jurisdiction over ancillary claims to the extent that they arise from, relate to, or connected with the main claim in a way that the ancillary claims are inextricably linked to the principal claim. Where the main claim does not fall within the subject matter jurisdiction of the NIC, the mere fact that it arises from or is connected with a workplace or labour matter is insufficient to confer jurisdiction on the NIC.

It is within this context that the phrases "arising from", "related to", "connected therewith" or "incidental thereto" must be construed, interpreted and applied. As previously stated, the draftsmen did not intend to transform the NIC into a parallel High Court with unlimited jurisdiction over all civil cases arising from or connected with workplace or industrial relations. Rather, the invocation of the NIC's jurisdiction must be tethered to the nature of the main claim, thereby ensuring coherence and preventing jurisdictional overreach.

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Premised on the foregoing, where a tortious claim - such as defamation, which is the subject-matter of the suit that underlies this reference, constitutes the main claim of a case, the NIC is bereft of jurisdiction. The proper forum seised of jurisdiction in such circumstances is the High Court of a State.

Notably, defamation is neither one of the subject matter items enumerated in Section 254C (1) of the Constitution nor is it a claim determinable by reference to any of the Acts or Laws contemplated under Section 254C (1) (b). As such, the fact that the alleged defamation arose from, is related to, or connected with the workplace is, without more, not sufficient to confer jurisdiction on the NIC.

Put differently, the fact that a defamatory publication was made within the context of an employment relationship does not transform such a claim into a labour or employment matter. While the employment relationship may constitute the factual background against which the tort occurred, to characterize every defamatory publication made in an employment context as "employment-related" would defeat the purpose for which the NIC was established.

My Lords, questions one and two want us to determine the exclusiveness of either Court when there appears an overlap of causes of action. On Question One, and on the strength of the foregoing analysis that a liberal or expansive construction of Section 254C would yield ambiguity and distortion in the allocation of judicial powers, thereby muddling the carefully earmarked provinces of the superior Courts. Such an interpretation would suggest that the High Court's well-established jurisdiction over tortious claims could be curtailed, indeed ousted, merely

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because a defamation claim is alleged to have some nexus with employment.

Further, to adopt the liberal and expansive approach would generate a state of doctrinal uncertainty, whereby litigants and counsel could deliberately dress up ordinary tortious causes of action with the colouration of employment in order to divest the High Courts of jurisdiction. This would foster a climate of uncertainty in the administration of justice and incentivize jurisdictional gamesmanship rather than substantive adjudication. The consequence would be that parties and their counsel are compelled to wage preliminary jurisdictional battles on whether a claim "relates to" employment before reaching the merits, thereby occasioning needless delay and privileging form over substance. It is important to state that the state and level of legal practice in Nigeria cannot permit the adoption of certain interpretations which are viewed as more progressive in other jurisdictions. In other jurisdictions, where the main claim is a labour matter but the ancillary claim is in contract or tort, the labour Court would assume jurisdiction. However, where the main claim is in tort or contract and the ancillary claim or the facts show that labour issues are only a minor issue not calling for the extensive interpretation of the labour law, the High Court would assume jurisdiction. The history of legal jurisprudence in Nigeria has shown that any attempt by this Court or by statute to give concurrent jurisdiction to two Courts of coordinate jurisdiction over any subject matter or cause of action is a recipe for unbridled forum shopping and confusion. The policy decision of this Court has to be a case of all or nothing.

Finally, a liberal interpretation would inevitably precipitate a floodgate of claims into the NIC, eroding its specialized status as a Court

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designed to resolve labour and employment disputes, and transforming it into a forum for general civil causes, an area constitutionally preserved for the High Courts of the States. Such an outcome would not only distort the federal judicial architecture but would also impose an unsustainable burden on the NIC.

My Lords, there is no attempt here to close ranks to perpetuate the old order. The important intention or policy of this Court would be to come up with an interpretation that fulfils the ends of speedy, efficient and learned dispensation of justice. If the flood gates of all manner of litigation were allowed into the NIC, it would defeat the specialist nature of the Court, it would encourage litigants to sue employees in vicarious liability for causes that did not arise directly from the terms of employment and dismissal. It would defeat the purpose of the enactment of Section 254C of the CFRN.

Therefore, it should not be the case that the jurisdiction of the High Court of States should be ousted by the mere fact that there is some link of a case to employment; the deciding factor should be whether the claims are subject matter of labour or not and whether the case could be decided without reference to labour statutes or principles. This Court had hitherto in general consistently applied the Proximate Jurisdictional Rule which postulates that the Court with the jurisdiction over the entirety of the claim rather than with just a part of the claim should assume jurisdiction. See **FBN PLC v. BEN SEGBA TECH. SERV. LTD (2024) 16 NWLR Pt. 1963 Pg. 1, 28, 29 (SC)**, **DAGAZAU v. BOKIR INTL CO. LTD (2011) 14 NWLR Pt. 1267 Pg. 261, 318-319, 319-320, 320 – 321 (CA)**.

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It is evident that tortious claims do not fall within the scope of labour matters and can be appropriately adjudicated by determining the alleged defamatory publication independently of labour statutes or principles.

Indeed, once the matters expressly assigned to the Federal High Court and the National Industrial Court under Sections 251(1) and 254C (1) of the Constitution (as amended) are excluded, all remaining matters not listed therein would fall within the jurisdiction of the State High Court. Thus, as between the NIC and the State High Court, where a Plaintiff's claim is not strictly related to labour or employment matters, it should not fall within the exclusive jurisdiction of the NIC.

Accordingly, the High Court does not need to await the termination of employment before assuming jurisdiction over a mainly tortious claim arising in that context. For example, where in escorting an employee who had just been dismissed from the company off the premises, the security personnel assaults the employee, that is a claim of damages for assault and the High Court would have jurisdiction independent of whatever claim at the NIC for wrongful termination. Where a manager assaults a former employee or vice versa when they met at a supermarket outside the company after the manager or employee's appointment had been terminated, that is also a matter for the High Court even though the remote cause of the incident may be related to the employment. While the employer might be vicariously liable in the first instance, for damages in assault, the employer is not liable in the second instance both cases having nothing to do with labour law and triable by the High Court.

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For instance where the employee's letter of dismissal contains flagrantly false and defamatory material, it cannot be part of the causes of action for damages in wrongful or unlawful dismissal and damages in tort so long as the defamatory letter was published only to the employee. The only occasion in which it can be relevant is when the employee claims that it would be impossible for him to get a job in view of the flagrantly false claims contained in the letter of termination. The defamatory description of the employee in the letter of termination would be a claim that would be inextricably linked to the terms of employment and the wrongdoing of the employee. The NIC in such a case can assume jurisdiction over the claim for wrongful dismissal and the deliberate besmirching of the employee's reputation capable of denying him the chance of future employment. There is no doubt that in such a case, the principal claim would be the wrongful or illegal termination of employment to which employment statutes would be applicable, and the secondary claim would be one of defamation of character, both being triable by the NIC.

However, if for any reason, after the termination of employment, the defamatory material is published by the former employer to a prospective employee, it becomes actionable for damages before the State High Court even though the defamatory letter was written in the process of disengaging the employee. We must understand that the tort of defamation has its own constraints, in that the most actionable ingredient of defamation is the communication of the defamatory words (libel or slander) to a third party outside the employer's orbit. That is what makes the question put to us particularly constricting and

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which can only be interpreted in the context of the facts of the case put forward by the parties.

The Courts can adopt an all or nothing approach in interpreting the provisions of Section 254C as the general jurisdiction of the High Court is primary and not residual in the case of matters outside the specific jurisdiction of the NIC and Federal High Court as enumerated in the CFRN. A cause of action in defamation arising after the termination of an employment relationship but not connected directly to the period of employment or terms of employment cannot properly be said to be connected with, or related to, the prior employment for purposes of invoking the NIC's exclusive jurisdiction.

In **COCA-COLA NIG. LTD v. AKINSANYA (2017) 17 NWLR Pt. 1593 Pg. 74**, although the employment relationship had ended by the time the suit was filed, the cause of action, being a claim for reimbursement, arose directly from expenses incurred during the subsistence of employment. The NIC's jurisdiction was therefore uncontentious.

By contrast, in the present case, the defamatory publication was made after the termination of employment and bears no connection with the 1st Appellant's conditions of service. Rather, it is claimed to be actuated purely by malice intended to discredit the Respondents in their trade. Consequently, the NIC lacks jurisdiction over a defamation claim where the cause of action arises post-termination, even if it references a prior employment.

On Question Three, a claim founded on a defamatory publication made by a third party, who is or was not in any employment relationship with the Appellant, cannot properly be characterized as a

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labour or employment matter so as to invoke the NIC's jurisdiction. Such a claim falls squarely outside the jurisdiction of the NIC. The claimant would have recourse to only the High Court.

In addition to the principle that jurisdiction is activated by the subject matter of the dispute, there is here no nexus between the third party and the Respondents that could trigger the NIC's competence. Save where public policy expressly intervenes, a third party who gratuitously tarnishes another's reputation, particularly where the subject matter concerns employment conditions but the parties share no employment relationship, cannot fall within the contemplation of employment disputes under the Constitution.

It is noteworthy that I commend the learned amici curiae, Messrs. Abimbola Akeredolu, SAN; Dr. Oladapo Olanipekun, SAN, Inam Wilson, SAN; Professor Emmanuel A. Kenen, Esq; and their teams of counsel. Their diligent efforts and contributions were enlightening and it has greatly assisted the Court in reaching a fair resolution of the issues canvassed in this matter.

It is my view that the questions posed were poorly couched and a direct answer or one word answer would not in the light of the question convey my opinion. I hold that by virtue of Section 254C of the CFRN, in respect of question one, the jurisdiction of the High Court of Lagos State is not excluded in respect of a principal claim in defamation even though arising from a place of employment. Question two is superfluous after an answer to question one. Question three is answered in the affirmative.

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For the above and fuller reasons well articulated in the lead judgment, I answer the questions put to this Court as stated above. I abide by the order as to costs in the lead judgment.

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JUSTICE, SUPREME COURT.

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APPEARANCES:

Olajide Salami, Esq., with him Tooni Augustine Bamisaye, Esq., Emeka Ananyi, Esq., and Adedeji Obadofin, Esq., **for the Appellants**

Olabisi Makanjuola, Esq., with him Daniel Peter, Esq., Obed Soludo, Esq., and Omonyegboja, Esq., **for the 1st – 3rd Respondents**

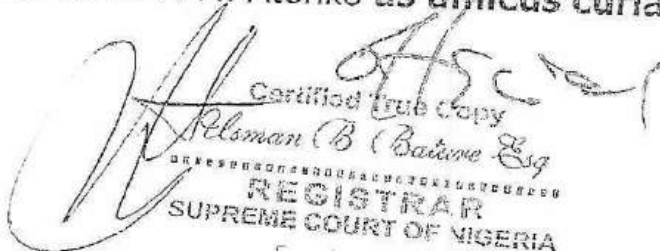
Mustapha O. Ajenifuja, Esq., with him Julius Ishola, Esq., Olakunle Muritala, Esq., and Ibrahim Abubakar, Esq., **for the 4th Respondent**

Abimbola Akeredolu, SAN with her Johap Agbo, Esq., and Samson Obiora, Esq., **as amicus curiae**

Dr. Oladapo Olanipekun, SAN with him Michael Akinleye, Esq., Chika Ikeh, Esq., and Ebube Abasili, Esq., **as amicus curiae**

Inam Wilson, SAN with him Igonikan Adekunle and I. O. Uwaifo, Esq., **as amicus curiae**

Prof. E. A. Kenen, Esq., with him Dr. M. Atonko **as amicus curiae**


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IN THE SUPREME COURT OF NIGERIA
HOLDEN AT ABUJA
ON FRIDAY THE 20TH DAY OF FEBRUARY 2026
BEFORE THEIR LORDSHIPS

KUDIRAT MOTONMORI OLATOKUNBO KEKERE-EKUN
JOHN INYANG OKORO
HELEN MORONKEJI OGUNWUMIJU
ADAMU JAURO
HANNATU JUMMAI SANKEY
FESTUS OBANDE OGBUINYA
STEPHEN JONAH ADAH

CHIEF JUSTICE OF NIGERIA
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
JUSTICE, SUPREME COURT
SC/CV/899/2025

BETWEEN

1. EMMANUEL ELEGBE
2. LOLU ELEGBE

APPELLANTS

AND

1. HP INTERNATIONAL SCHOOLS LTD
2. KEMI BALOGUN
3. LINDA ADEYEMI-HASTRUP
4. IYEFÉ OLUDOYI

RESPONDENTS

JUDGMENT
(DELIVERED BY KUDIRAT MOTONMORI
OLATOKUNBO KEKERE-EKUN, CJN)

This is a constitutional reference of a case stated from the Court of Appeal to this court pursuant to Section 295(3) of the Constitution of the Federal Republic of Nigeria 1999,

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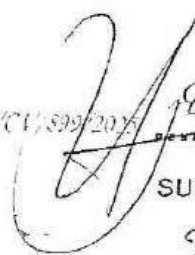
as amended, (hereafter referred to as the Constitution)
which provides thus:

"Where any question as to the interpretation of application of this Constitution arises in any proceedings in the Court of Appeal and the court is of the opinion that the question involves a substantial question of law, the court may, and shall if any party to the proceedings so requests, refer the question to the Supreme Court, which shall give its decision upon the question and give such directions to the Court of Appeal as it deems appropriate."

The requirement for a reference to the Supreme Court is that the question must raise a substantial question of law and must have arisen from proceedings before the Court of Appeal. The question of law must also relate to the interpretation or application of the Constitution. In other words, a substantial issue of law without more will not suffice to warrant a reference to this court. The substantial issue of law must relate to the interpretation of the Constitution. See: Justice F.O.M. Atake Vs Chief Nelson Asiqboro Afejuku (1994) 9 NWLR (Pt. 368); (1994)

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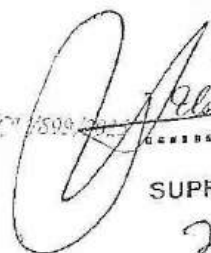
LPELR - 585 (SC) @ 17 - 18 G - E; Gamioba Vs Ezezi
II (1961) 2 SCNLR 237.

It is also settled that the court to which the substantial question of law is referred will apply the facts of the case which are usually undisputed to their interpretation of the Constitution. See: The Miscellaneous Offences Tribunal & Anor. Vs Okoroafor & Anor. (2001) LPELR - 3190 (SC) @ 69 - 70 E - E.

The facts that gave rise to the dispute before the High Court of Lagos State are uncontroverted. The 1st appellant was employed as the Head of School of the 1st Respondent while the 2nd appellant is her husband. Their children attended the 1st Respondent's school. The 2nd - 4th Respondents are members of the Board of Directors of the 1st appellant. The employment relationship between the 1st appellant and the 1st respondent deteriorated irretrievably. The 1st appellant eventually resigned her appointment. The 1st respondent, in a letter sent to parents to inform them of the resignation alleged that she hurriedly resigned as a

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result of an ongoing investigation. The 1st appellant was aggrieved by what she considered to be a damaging insinuation against her character and proceeded to send an email to the parents explaining the circumstances of her resignation. The 2nd appellant being a parent, responded to inquiries from other parents via a WhatsApp message. The respondents equally felt aggrieved by the content of the email and WhatsApp message.

The respondents instituted an action before the High Court of Lagos State seeking among other reliefs, a declaration that the 1st appellant's letter (shared via email) and the 2nd appellant's WhatsApp message were defamatory. Upon being served, the appellants challenged the jurisdiction of the trial court on the ground that the entirety of the respondent's claim was rooted in and inseparable from the 1st appellant's employment relationship with the 1st respondent and therefore fell exclusively within the purview of Section 254C (1) of the Constitution. In its ruling delivered on 24th September 2024,

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the High Court dismissed the objection and assumed jurisdiction.

The appellants were dissatisfied with the ruling and appealed to the lower court. The lower court found itself in a quandary, as its attention was drawn to decisions of various Divisions of the Court in no less than 13 appeals on the issue as to whether the National Industrial Court (NIC) had jurisdiction to try the tort of defamation. In the following decisions: Akpan Vs UNICAL (2016) LPELR – 41242 (CA); Ecobank Nig. Ltd Vs Osu (2020) (unreported) CA/L/963/2016 delivered on 24/2/2020; Olushola & Anor Vs Andrew (2021) LPELR – 5601 (CA); Olushola & Anor. Vs Yakubu (2021) LPELR – 56015 (CA); Olushola & Anor. Vs Saliu (2021) LPELR – 56027 (CA); UBA & Ors. Vs Oladejo (2021) LPELR – 55320 (CA) and Ecobank Nig Ltd & Ors. Vs Idris (2021) LPELR – 52806 (CA), the court adopted a restrictive approach and held that being a court of limited jurisdiction, the National Industrial Court

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lacked jurisdiction to entertain a claim in tort. It held that the tort of defamation stands on its own.

In the second line of decisions in: (i) MHWUN Vs Ehigiegba (2018) LPELR – 44972 (CA); (ii) Nwagbo & Ors. Vs National Intelligence Agency (NIA) (2018) LPELR – 4620 (CA); (iii) Nassarawa State Specialist Hospital Management Board & Ors. Vs Mohammed (2018) LPERL – 44551 (CA) (iv) Omang Vs NSA (2021) 10 NWLR (Pt. 1783) 55; (v) CA/C/07/2016; and Okoro Vs Ecobank Nig. Ltd (unreported) delivered on 16/7/21, the court adopted a liberal approach of interpretation and held that any claim factually arising from or connected to the workplace falls within the jurisdiction of the NIC, irrespective of its tortious or contractual character.

In view of these conflicting decisions, the appellant invoked Section 295(3) of the Constitution and applied to the lower court to refer the substantial question of law to this court in order to lay the controversy to rest and for the

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guidance of the courts. The lower court granted the application.

The questions submitted for determination are:

- (1) *Whether the jurisdiction of the High Court of Lagos State is impacted and excluded by Section 254C of the Constitution of the Federal Republic of Nigeria 1999 (as amended) in respect of a claim in defamation in circumstances related or connected with labour and employment.*
- (2) *Having regard to Section 254C of the Constitution, whether the termination of an employment relationship simpliciter will vest the High Court of Lagos State with the jurisdiction to entertain a claim in defamation in circumstances related or connected with labour and employment.*
- (3) *Whether a purportedly defamatory material arising from an employee's work relationship but made by non-employee can be countenanced by the High Court of Lagos State having regard to Section 254(c) of the Constitution.*

The respective parties duly filed their briefs of argument before this court. Four *amici curae* were also invited by the court to submit briefs of argument. The four *amici* are: Abimbola Akeredolu, SAN, Dr. Oladapo Olanipekun, SAN, Inam Wilson, SAN and Prof. Emmanuel Ayangarumun Kenen.

Hon. Justice R.M.O. Fajana-Ekun, CJN

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The appellants maintained their position that the High Court lacked jurisdiction to entertain the claim. Their contentions found support with Dr. Oladapo Olanipekun, SAN.

The 1st – 3rd and 4th respondents as well as Mrs. Akeredolu, SAN, Inam Wilson, SAN and Prof. Kenen were of the view that the NIC lacked jurisdiction to entertain the claim.

His Lordship, Hon. Justice Stephen Jonah Adah, JSC availed me with a copy of his lead judgment before now. I agree with the detailed reasoning and conclusion reached therein and concur with the resolution of the questions referred to this court. His Lordship has reproduced the submissions of the various learned counsel and the *amici curae in extenso*. I do not intend to repeat the exercise save where necessary in the process of adding a few words in support.

The law is quite well settled that the jurisdiction of a court is determined by the claim as encorsed on the

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Originating Process i.e. the Writ of Summons and Statement of Claim or Originating Summons and supporting affidavit. See: Tukur Vs Gov. Gongola State (1989) 4 NWLR (Pt. 117) 517; Onuorah Vs KPRC (2005) 6 NWLR (Pt. 921) 393; Inakoju Vs Adeleke (2007) 4 NWLR (Pt. 1025) 427; PDP & Anor. Vs Lawal & Anr. (2022) LPELR – 59169 (SC) @ 39 – 40 E – A.

The courts are creations of the Constitution or Statutes and their jurisdiction is circumscribed by the laws that created them. See: Obiweubi Vs CBN (2011) 7 NWLR (Pt. 1247) 465; Onuorah Vs KRPC (supra); Skye Bank Vs Iwu (2017) LPELR – 4259 (SC) @ 163 – 164 G – A.

By virtue of Section 6(5) (cc) and (e) of the Constitution, the National Industrial Court and the High Court of a State are among the superior courts of record in which the judicial powers of the Federation are vested.

Section 272 (1) of the Constitution provides thus:

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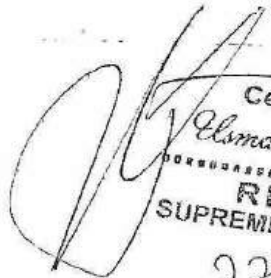
"Subject to the provisions of section 251 and other provisions of this Constitution, the High Court of a State shall have jurisdiction to hear and determine any civil proceedings in which the existence or extent of a legal right, power, duty, liability, privilege, interest, obligation or claim is in issue or to hear and determine any criminal proceedings involving or relating to any penalty, forfeiture, punishment or other liability in respect of an offence committed by any person"

Section 254C (1) (a) provides:

(1) Notwithstanding the provisions of sections 251, 257, 272 and anything contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the National Industrial Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters—

(a) relating to or connected with any labour, employment, trade unions, industrial relations and matters arising from workplace, the conditions of service, including health, safety, welfare of labour, employee, worker and matters incidental thereto or connected therewith;

Section 254C (1)(b) – (m) further expatiate on the jurisdiction of the NIC.


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The High Court of a State is generally described as court of unlimited jurisdiction. However, the Constitution itself places limitations on the said jurisdiction by the creation of certain courts with distinct areas of specialization. For instance, Section 251 provides for the exclusive jurisdiction of the Federal High Court in respect of matters set out in sub-paragraph (1) (a) – (s); Section 254 C provides for the jurisdiction of the National Industrial Court while Sections 275 and 280 provide for the establishment of the Sharia Court of Appeal of a State and the Customary Court of Appeal of a State respectively.

In spite of presumably clear constitutional provisions, the vexed questions as to which court has jurisdiction to entertain a particular cause or matter, continues to rear its head resulting in situations such as the instant reference where different divisions of the Court of Appeal have rendered divergent opinions. The resolution of the issue is paramount as it is well-settled that where a court acts without jurisdiction, the entire proceedings and any

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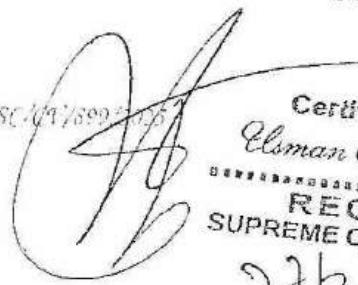
decision reached therein will amount to a nullity. See: Madukolu Vs Nkemdilim (1962) SCNLR 341; APGA & Anor. Vs Oye & Ors. (2024) LPELR – 63086(SC); SPDC (Nig) Ltd Vs Isaiah & Ors. (2001) LPELR – 3205(SC).

It is pertinent to state that the rules that guide the interpretation of statutes are not the same as the rules that guide the interpretation of the Constitution. It has been held by this court that the Constitution, being the grundnorm is *sui generis* owing to the fact that it is the supreme law of the land. In the recent decision of this court in FRN Vs Nganjiwa (2022) LPELR – 58066(SC) @ 64 – 67 E – D, per Agim, JSC, it was held that the Constitution must be interpreted in line with principles suitable to its spirit and character and not necessarily according to the general rules of interpretation of statutes and documents.

The general rule of constitutional interpretation is that the court should adopt a wide and liberal approach, giving words their ordinary grammatical meaning, unless there is

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Section 2 of the Act conferred exclusive jurisdiction on the court in respect of any trade dispute or any intra union dispute. The court was, at the time an inferior court established for a restricted and specialized function, as rightly observed by learned counsel to the 1st – 3rd respondents. See: Skye Bank Vs Iwu (supra). The Trade Disputes (Amendment) Decree No. 47 of 1992 retained the exclusive jurisdiction of the court to hear and determine trade disputes. In Udoh Vs OHMB (1993) 7 NWLR (Pt. 304) 139 @ 148 A – B, the Supreme Court held that the exclusive jurisdiction of the National Industrial Court is to hear and entertain trade disputes, whether inter or intra union disputes. The jurisdiction of the court was somewhat enhanced by Section 7 of the National Industrial Court Act 2006 but still restricted to labour and employment matters. The said Act also sought to confer on the court the status of a superior court of record.

– The attempt by the National Industrial Court Act to raise the status of the court to that of a superior court of

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record was not successful. In the case of N.U.E.E Vs BPE (2010) 7 NWLR (Pt. 1194) 538, this court held that without the inclusion of the National Industrial Court as one of the courts listed in Section 6 of the Constitution, it retained its status as an inferior court. Consequently, the court was designated a superior court of record by virtue of the Constitution of the Federal Republic of Nigeria (Third Alteration) Act No. 3 of 2010.

Learned counsel for the appellants and the learned *amicus* Oladapo Olanipekun, SAN have made reference to what obtains in other jurisdictions as regards a global trend towards employment related defamation. Such examples would only be of assistance where it is not possible to determine the mind of the Legislature. This is why the history of the NIC is of considerable importance. It was never in doubt that its jurisdiction was restricted to trade union, employment and labour related disputes. The effect of the Third Alteration to the Constitution was to properly situate the NIC as a superior court of record. It was not the

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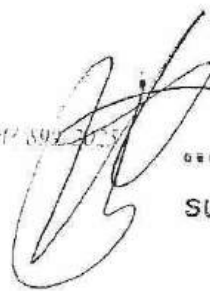
intention of the legislature to expand its jurisdiction to include any civil wrong that can, however remotely, be related to or connected with labour, employment, industrial relations, trade unions, workplace discrimination or wages and associated rights.

At this stage it is pertinent to reproduce the entire provisions of Section 254C (1) (a) – (m) and (2) of the Constitution.

- (1) *Notwithstanding the provisions of sections 251, 257, 272 and anything contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the National Industrial Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters—*
- (a) *relating to or connected with any labour, employment, trade unions, industrial relations and matters arising from workplace, the conditions of service, including health, safety, welfare of labour, employee, worker and matters incidental thereto or connected therewith;*
 - (b) *relating to, connected with or arising from the Factories Act, Trade Disputes Act, Trade Unions Act, Labour Act, Employees' Compensation Act or any other Act or Law relating to labour, employment, industrial relations, workplace or any other enactment replacing the Acts or Laws;*
 - (c) *relating to or connected with the grant of any order to restraining any person or body from taking part in any strike, lock-out or any industrial action, or any conduct in contemplation or in furtherance of a strike, lock-out or any industrial action and matters connected therewith or related thereto;*

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- (d) relating to or connected with any dispute over the interpretation and application of the provisions of Chapter IV of this Constitution as it relates to any employment, labour, industrial relations, trade unionism, employer's association or any other matter which the Court has jurisdiction to hear and determine;
- (e) relating to or connected with any dispute arising from national minimum wage for the Federation or any part thereof and matters connected therewith or arising therefrom;
- (f) relating to or connected with unfair labour practice or international best practices in labour, employment and industrial relation matters;
- (g) relating to or connected with any dispute arising from discrimination or sexual harassment at workplace;
- (h) relating to, connected with or pertaining to the application or interpretation of international labour standards;
- (i) connected with or related to child labour, child abuse, human trafficking or any matter connected therewith or related thereto;
- (j) relating to the determination of any question as to the interpretation and application of any-
 - (i) collective agreement,
 - (ii) award or order made by an arbitral tribunal in respect of a trade dispute or a trade union dispute,
 - (iii) award or judgment of the Court,
 - (iv) term of settlement of any trade dispute,
 - (v) trade union dispute or employment dispute as may be recorded in a memorandum of settlement,
 - (vi) trade union constitution, the constitution of an association of employers or any association relating to employment, labour, industrial relations or work place, or
 - (vii) dispute relating to or connected with any personnel matter arising from any free trade zone in the Federation or any part thereof;
- (k) relating to or connected with disputes arising from payment or non-payment of salaries, wages, pensions, gratuities, allowances, benefits and any other entitlement of any employee, worker, political or public

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office holder, judicial officer or any civil or public servant in any part of the Federation and matters incidental thereto;

(l) relating to-

(i) appeals from the decisions of the Registrar of Trade Unions, or matters relating thereto or connected therewith,

(ii) appeals from the decisions or recommendations of any administrative body or commission of enquiry, arising from or connected with employment, labour, trade unions or industrial relations, and

(iii) such other jurisdiction, civil or criminal and whether to the exclusion of any other court or not, as may be conferred upon it by an Act of the National Assembly;

(m) relating to or connected with the registration of collective agreements.

(2) Notwithstanding anything to the contrary in this Constitution, the National Industrial Court shall have the jurisdiction and power to deal with any matter connected with or pertaining to the application of any international convention, treaty or protocol of which Nigeria has ratified relating to labour, employment, workplace, industrial relations or matters connected therewith.

Learned counsel for the appellants placed considerable emphasis on the phrase "*notwithstanding the provisions of Section 251, 257, 272 and anything contained in this Constitution...*" and submitted that the intention of the lawmakers is to subject the individual and collective jurisdictions of the Federal High Court, High Court of the FCT and State High Courts to the jurisdiction of the National Industrial Court in so far as it pertains to civil causes and

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matters enumerated in Section 254C (1) (a) – (m) and (2) of the Constitution.

The learned *amicus*, Olabode Olanibekun, SAN is of a similar view and posits that the words "*relating to*" or "*connected with*" show a clear intention for an expansive jurisdiction.

The 1st - 3rd & 4th respondents argue that a literal interpretation of the provision would generate uncertainty and precipitate a floodgate of claims into the National Industrial Court.

Learned *amici* Abimbola Akeredolu, SAN, Inam Wilson, SAN and Prof. Kenen align with the position taken by the respondents. They all advocate for a purposive interpretation. Abimbola Akeredolu, SAN argues that the literal interpretation would vest very wide and almost limitless jurisdiction on the National Industrial Court in relation to any civil matter arising from the workplace, which would lead to severance of claims. It was also contended that the jurisdiction of the court is not a "catch

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all" net. It was further contended that for the National Industrial Court to assume jurisdiction over a subject matter, the main claim must fall within the matters expressly listed under Section 254C(1), or by reference to any international convention, treaty or protocol relating to labour, employment, workplace or industrial relations that Nigeria has ratified as contained in Section 254C (2) of the Constitution.

Learned *amicus*, Inam Wilson, SAN urges the court to employ the *ejusdem generis* rule, which requires the consideration of the entirety of the Section and not a restriction to sub paragraph 1 (a). He contends that sub paragraph (1) (b) – (m), (4), (5) and (6) amplify the general words used in sub paragraph 1 (a). He submitted that the mere existence of an employment relationship does not, without more, vest the National Industrial Court with jurisdiction over a claim in defamation.

Learned *amicus* Prof. Kenen contended that the historical background of the NIC gives an insight into the

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intention of the legislature, noting that the National Industrial Court is a specialized court on labour and employment matters. He also advocates the employment of the *eiusdem generis* rule in interpreting the provision to align with core labour and employment matters, which cannot be determined without recourse to one or more labour or employment related statutes and/or principles.

As stated earlier, when construing constitutional provisions, they must be considered as a whole and with regard to the legislative intent. While at first glance it would appear that the words used in Section 254C (1) (a) are clear and unambiguous and deserve to be given their natural meaning, the conflict that has arisen from two opposing lines of decisions of the Court of Appeal suggests otherwise.

In order to distil the true meaning of Section 254C, subsection (1) (a) cannot be construed in isolation. I agree with the submissions on the application of the *eiusdem generis* rule of interpretation in the present circumstances.

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The *eiusdem generis* rule is applied where, in an Act, there are strong reasons

- (a) from the history and circumstance connected with its passing; and
- (b) from the structure of the Act itself, to indicate the real intentions of the Legislature, that the rule is one which, not only can, but ought to be applied.

See: Nwobike Vs FRN (2022) 6 NWLR (Pt. 1826) 293 @ 342 B – E; 343 B – D; See also: Onasile Vs Sani & Anor (1962) LPELR – 25040(SC); (1962) 1 SCNLR 415, where this court held, *inter alia*, that the rule cannot be applied unless there is a category or class into which things of "the same kind as those specified" can be fitted. The rule is applied to confine the scope of general words which follow special words used in a statute, document or the Constitution within the genus of those general words.

Section 254C (1) (a) – (m) has been reproduced fully in the course of this opinion. In each sub-paragraph, the words "relating to" or "connected with" are followed by

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specific items and conclude with words such as "and matters incidental thereto or connected therewith" "or any other enactment replacing the Act or Laws" "or any industrial action and matters connected therewith or related thereto"; "or any part thereof and matters connected therewith or arising therefrom" and so on.

I am in complete agreement with learned *amici* Inam Wilson, SAN and Prof. Kenen that the comprehensive list of items set out in sub-paragraphs (1)(b) – (m) as well as sub paragraphs (2), (3), (4), (5) and (6) provide the specifics of the jurisdiction of the National Industrial Court. The words in subsection (1) (a), to wit: labour, employment, trade unions, industrial relations and matters arising from workplace should be interpreted in the context of the entire provisions of the section. I also agree with the learned *amici* that the construction of these words should be limited to core labour and employment matters which can only be resolved by having recourse to labour or employment related statutes or principles.

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The comprehensive nature of the varied subject matter set out in Section 254C, which includes issues of fundamental rights relating to employment, discrimination or sexual harassment at the workplace, child labour, child abuse, human trafficking, to name a few, suggests, as contended by Prof. Kenen, that if the legislature intended to include the tort of defamation as a distinct issue for the exercise of jurisdiction by the court, it would have done so.

The claim before the trial High Court is strictly premised on the tort of defamation. The essence of a claim in defamation is to protect an individual's reputation from false and injurious statement. See: Odikanwa Vs Ihenacho (2025) LPELR – 81165 (SC) Guardian Newspapers Ltd & Anor. Vs Ajeh (2011) LPELR – 13431(SC).

The learned *amicus*, Akeredolu, SAN, has argued in paragraph 3.25 of her brief and I agree, that it was the intendment of the draftsmen that where the main claim falls squarely within the subject matter jurisdiction of the

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National Industrial Court as set out in Section 254C(1), the court may assume jurisdiction over ancillary claims to the extent that they arise from, relate to or are connected with the main claim in a way that the ancillary claims are inextricably linked to the main claim. I also concur with the view that where the main claim does not fall within the subject matter jurisdiction of the National Industrial Court, the mere fact that it arises from or is connected with an employment or labour related matter is insufficient to confer jurisdiction on the National Industrial Court. See: Tukur Vs Govt. of Gongola State (1989) 4 NWLR (Pt. 117) 517@ 548; FGN Plc & Anor. Vs Ben-Segba Tech. Services Ltd & Anor. (2024) LPELR – 62998 (SC) @ 38 – 41 B – B; Egbuonu Vs Bornu Radio Television Corporation (1997) LPELR – 1040 (SC).

It must be reiterated that the National Industrial Court is a specialised court. It cannot be the intention of the legislature to transform the court into an all purpose court and to strip the High Courts of their unlimited jurisdiction in

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every case where a dispute may be however remotely, traceable to the workplace. That would lead to absurdity. It would also lead to uncertainty and forum shopping.

In the case under reference, the alleged publications had nothing to do with employment rights, the enforcement of any labour remedy nor international best practices. It is a claim for defamation *simpliciter* and does not fall within the specialised jurisdiction of the National Industrial Court.

For these and the more detailed reasoning in the lead judgment, I fully adopt the resolution of the questions under reference by my learned brother, Stephen Jonah Adah, JSC as follows:

- Question 1 - Answered in the negative.
- Question 2 - Answered in the negative.
- Question 3 - Answered in the affirmative.

The parties shall bear their respective costs.

I thank the *amici curae* and their teams for their well researched and well articulated contributions to this

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Constitutional reference which have been of great assistance to the court. I also commend the industry exhibited and ably marshalled submissions of learned counsel to the parties.

Kudirat Motonmori Olatokunbo Kekere-Ekun, GCON
Chief Justice of Nigeria

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- Mustapha O. Ajenifuja Esq for the 4th Respondent with Julius Ishola Esq., Olakunle Muritala Esq and Ibrahim Abubakar Esq.

AMICI CURAE

- Mrs. Abimbola Akeredolu, SAN with Johap Agbo Esq and Samson Obiora Esq.
- Dr. Oladapo Olanipekun, SAN with Michael Akinleye Esq., Chika Ikeh Esq., and Ebube Abasili Esq.
- Inam Wilson, SAN with Igonikan Adekunle Esq. and I.O. Uwaifo Esq.
- Prof. E.A. Kenen with Dr. Mathew Atonko


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