

IN THE HIGH COURT OF EKITI STATE
IN THE ADO EKITI JUDICIAL DIVISION

HOLDEN AT ADO EKITI

SUIT NO: *HAJ/168/22*

BETWEEN:

1. RT. HON. OLUGBOYEGA ARIBISOGAN - CLAIMANT

AND

1. EKITI STATE HOUSE OF ASSEMBLY - DEFENDANTS

2. THE CLERK, EKITI STATE HOUSE ASSEMBLY

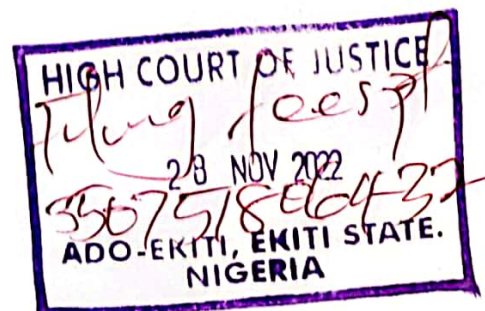
3. HON. OLUBUNMI ADELUGBA

ORIGINATING SUMMONS

LET (1) EKITI STATE HOUSE OF ASSEMBLY, (2) THE CLERK, EKITI STATE HOUSE OF ASSEMBLY and (3) HON. OLUBUNMI ADELUGBA, all of Ekiti State House of Assembly Complex, Ado-Ekiti, within eight days after service of this summons on them, inclusive of the day of such service, appearance(s) to be entered for them to this summons which is issued upon the application of the Claimants of the Ekiti State House of Assembly Complex, Ado-Ekiti who claim to be entitled to the determination of the questions hereinafter following and the reliefs/claims hereunder appearing:

QUESTIONS FOR DETERMINATION

1. Given the provision of Order V Rule 18 (1) of the House Rules, whether the purported plenary sitting of 7 Members of the Ekiti State House of Assembly on the 21st day of November, 2022 was not illegal, null and void?



2. Considering the provisions of Order V Rule 18 (1); Order II Rule 9 of the House Rules and Section 92 (2)(c) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) whether the purported impeachment of the Claimant as the Speaker of the Ekiti State House of Assembly by 7 members at their purported Plenary sitting without following the due process of law is not unconstitutional, illegal, null and void?

3. As a sequel to 2 supra, whether the alleged election of the 3rd Defendant as the Speaker of the Ekiti State House of Assembly at the purported plenary sitting of the 21st day of November, 2022 is not unconstitutional, illegal, null and void?

4. Arising from 2 and 3 supra, whether the 3rd Defendant should not be ordered to account for and refund to the coffers of Ekiti State Government all the salaries, emoluments, allowances and or whatever monetary benefits appurtenant to the office of the Speaker of the Ekiti State House of Assembly during the tenure of her purported election as the Speaker?

5. WHETHER by Sections 109, 110 and 117 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), the purported suspension of the Claimant at the purported plenary sitting by the 7 Members of the Ekiti State House of Assembly on the said 21st day of November, 2022 is not unconstitutional, illegal, null and void.

6. WHETHER on the footing of her brazen violation of and or blatant disregard for the aforementioned relevant constitutional and statutory provisions, the 3rd Defendant henceforth deserves to vie for, hold or continue to hold any State or National elective position and or whatever public office in Nigeria?

7. Given the State of the law with regards to time and venue of sittings of Parliament, whether the purported sittings of the seven members of the Ekiti State House of Assembly at an un-parliamentary hour of 6am on 21st November, 2022 is not unconstitutional, null and void.

WHEREUPON THE CLAIMANTS CLAIM AGAINST THE DEFENDANTS AS FOLLOWS:

1. **A DECLARATION** that the purported plenary sitting of 7 members of the 1st Defendant on the 21st day of November, 2022 was illegal, null and void.
2. **A DECLARATION** that by the provisions of Order V Rule 18 (1); Order II Rule 9 of the House Rules; Sections 92 (2)(c) and 109 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), the purported impeachment of the Claimant as the Speaker of the Ekiti State House of Assembly by 7 members at their purported plenary sitting without following the due process of law is unconstitutional, illegal, null and void.
3. **A DECLARATION** that the alleged election of the 3rd Defendant as the Speaker of the Ekiti State House of Assembly at the purported plenary sitting of the 21st day of November, 2022 is unconstitutional, illegal, null and void.
4. **A DECLARATION** that the 3rd Defendant ought to be ordered to account for and refund to the coffers of Ekiti State Government all the salaries, emoluments, allowances and or whatever monetary benefits appurtenant to the office of the Speaker of the Ekiti State House of Assembly during the tenure of her purported election as the Speaker.
5. **A DECLARATION** that by the provision of Section 109 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), inter alia, the purported suspension of the Claimant at the purported plenary sitting of by the 7 members of the Ekiti State House of Assembly on the said 21st day of November, 2022 is unconstitutional, illegal, null and void.
6. **A DECLARATION** that on the footing of her brazen violation of and or blatant disregard for the aforementioned relevant constitutional and statutory provisions, the 3rd Defendant henceforth deserves to be restrained from vying for, holding or continuing to hold any State or National elective position and or whatever public office in Nigeria.
7. **AN ORDER** of the Honourable Court reinstating the Claimant as the Speaker of the 2nd Defendant (Ekiti State House of Assembly), forthwith.

8. AN ORDER of Court rescinding the purported suspension of the Claimant as Honourable member of the Ekiti State House of Assembly.

9. AN ORDER directing the 2nd Defendant to ensure immediate payment of the salaries, emoluments, allowances and all entitlements due to the Claimant as the Speaker of the 1st Defendant from 21st day of November, 2022 till the date of final judgment in this suit or the termination of the 6th Assembly of the 1st Defendant.

10. AN ORDER compelling the 3rd Defendant to forthwith account for and refund to the coffers of Ekiti State Government all the salaries, emoluments, allowances and or whatever monetary benefits appurtenant to the office of the Speaker of the Ekiti State House of Assembly during her purported tenure of her as the Speaker.

11. AN ORDER compelling the 2nd Defendant to ensure that the 3rd Defendant duly accounts for and refunds to the coffers of Ekiti State Government all the salaries, emoluments, allowances and or whatever monetary benefits appurtenant to the office of the Speaker of the Ekiti State House of Assembly during the purported tenure of the 3rd Defendant as the Speaker and for the 2nd Defendant to file report of compliance or non-compliance at the Registry of this Honourable Court not later than thirty days after the date of the judgment in this suit.

12. AN ORDER OF PERPETUAL INJUNCTION restraining the 3rd Defendant, on the footing of her brazen violation of and or blatant disregard for the aforementioned relevant constitutional and statutory provisions, from henceforth vying for, holding or continuing to hold any State or National elective position and or whatever public office in Nigeria.

DATED THIS 28th DAY OF November, 2022

THIS SUMMONS was taken out by Sunday O. Olowolafe, ESQ. of Olowolafe Chambers, No. 40/42, Ajilosun Street, Ado Ekiti, Ekiti State, whose address for service is No. 40/42, Ajilosun Street, Ado Ekiti, Ekiti State. Legal Practitioners for the above named CLAIMANT.

The Defendants may appear here unto by entering appearance personally or by a legal practitioner either by filing the appropriate process in line with the Rules of this Honourable Court at the Registry of the Court where the summons was issued or by sending them to that office by any of the methods allowed by the Rules.

NOTE: If the Defendants do not respond within the time at the place above mentioned, such orders will be made and proceedings may be taken as the judge may think just and expedient.

.....

JUDGE



Abiodun Fasakin, Esq.
Sunday O. Olowolafe, Esq
Felix Adewumi, Esq.
Claimant's Counsel,
Olowolafe Chambers ,
No. 40/42, Ajilosun Street,
Ado Ekiti, Ekiti State
08066941551



ADDRESS FOR SERVICE WITHIN JURISDICTION

FOR SERVICE ON:

- 1. THE 1ST DEFENDANTS**
C/O Ekiti State House of Assembly
Sallu Adeoti Road,
GRA Ado Ekiti

2. 2ND DEFENDANTS

C/O Ekiti State House of Assembly
Saliu Adeoti Road,
GRA Ado Ekiti

3. 3RD DEFENDANTS

C/O Ekiti State House of Assembly
Saliu Adeoti Road,
GRA Ado Ekiti

**IN THE HIGH COURT OF EKITI STATE
IN THE ADO EKITI JUDICIAL DIVISION
HOLDEN AT ADO EKITI**

SUIT NO:.....

BETWEEN:

RT. HON. OLUGBOYEGA ARIBISOGAN - CLAIMANT

AND

1.EKITI STATE HOUSE OF ASSEMBLY - DEFENDANTS

2.THE CLERK, EKITI STATE HOUSE ASSEMBLY

3.HON. OLUBUNMI ADELUGBA

AFFIDAVIT IN SUPPORT OF ORIGINATING SUMMONS

I, Rt. HON. OLUGBOYEGA ARIBISOGAN, Male, Adult, Christian, Political Office Holder, Nigerian Citizen of plot 5, Road 23, Federal Housing Annex 2, Afao Road, Ado-Ekiti, do solemnly swear and state as follows:

1. That I am the Claimant in this suit and the Hon. Speaker of the 1st Defendant elected on the 15th November, 2022 upon the demise of the erstwhile Speaker, the late Hon. Funminiyi Afuye.
2. That by virtue of my stated position, I am conversant with the facts of this case and those herein deposed to are within my personal knowledge, except where otherwise stated.
3. That the other Claimants and I were elected by the people of Ekiti State to represent our various Constituencies In the Ekiti State House of Assembly (1st Defendant) for the electoral period of 2019-2023.

4. That the 2nd Defendant is the Administrative Head of the 1st Defendant and a creation of the Constitution of the Federal Republic of Nigeria.

5. That the 3rd Defendant was elected with us into the Ekiti State House of Assembly in 2019 and contested the office of the Speaker of the Ekiti State House of Assembly with me on 15th November but lost.

6. That on 19th October, 2022, the then Speaker of the Ekiti State House of Assembly, Honourable Funminiyi Afuye passed on leaving the post of the Speaker and his constituency vacant; making the total number of members of the 1st Defendant to be 25.

7. That on Tuesday, 25th October, 2022, all the 25 members of the 1st Defendant convened and agreed to postpone discussions about the election of a new Speaker till after the burial of the Rt. Hon. Funminiyi Afuye; and so the House adjourned plenary sitting to that effect.

8. That the late Speaker was eventually laid to rest on Friday, 11th November, 2022.

9. That legislative proceedings in the 1st Defendant resumed on Monday 14th November, 2022, during which the Deputy Speaker of the House, in his capacity as Acting Speaker, directed that a plenary sitting be scheduled for 10am on Tuesday 15th November 2022.

10. That on the 15th November 2015, the election of a new Speaker was scheduled as the first item on the Order of the day and a motion that Order II, Rule 10 (which was suspended at the plenary sitting of Tuesday, 25th October, 2022) be lifted in order to allow for the election of a new Speaker of the House to be conducted was moved and passed.

11. That the Deputy Speaker thereafter stepped down as the Chair of the House and the Clerk of the House (2nd Defendant) began to play the role of the election umpire as prescribed by Order II, Rule 4 of the House Standing Orders by calling for nomination for election into the office of the Speaker.

12. That Hon. Tajudeen Akingbolu, representing Ekiti West Constituency 1, upon being duly recognised by the Clerk, nominated me, the only ranking (returning) member In the Sixth Assembly, to take the Chair as Speaker of the

1st Defendant which nomination was seconded by the another member, Hon. Adegoke Olajide, representing Efon-Alaaye Constituency of the State.

13. That thereafter Hon. Oyekola Bode-Adeoye nominated Hon. Olubunmi Adelugba (3rd Defendant) for election as Speaker which motion was seconded by Hon. Ademola Ojo.

14. That in the ensuing election, conducted by the 2nd Defendant, I was declared elected as Speaker having scored 15 votes as against the 10 votes scored by the 3rd Defendant.

15. That I was thereafter sworn in as Speaker of the 1st Defendant; presided over the remaining business of the day's plenary and adjourned the sitting of the 1st Defendant sine die; but before the adjournment of the sitting, I announced that a parliamentary meeting would take place immediately after the plenary sitting.

16. That the House later adjourned plenary and all the Principal Officers thereof, including the 3rd Defendant, escorted me to the Speaker's office, congratulated me and wished me a successful tenure as the speaker of the 1st Defendant.

17. That all members of the 1st Defendant attended the parliamentary meeting where I was congratulated by all and issues bordering on the progress of the Sixth Assembly were discussed before we all dispersed.

18. That, surprisingly, as the staff of the 1st Defendant were resuming for work on Wednesday, 16th of November, 2022, a detachment of the Nigeria Police (Ekiti State Command) arrived at the Assembly Complex to intimidate, harass and chase the staff out of their offices without any explanation.

19. That I, as the newly elected Speaker, contacted the Commissioner of Police, Ekiti State Command, via telephone to inform him of the strange development and he said he was unaware of the presence of policemen at the Assembly Complex and immediately directed them to leave the place.

20. That surprisingly, about one hour later, the police officers came back in increased numbers to again intimidate and harass both Honourable members

and staff of the 1st Defendant before subsequently shutting down the Assembly Complex.

21. That the House of Assembly Complex remained under the siege of the Nigeria Police, Ekiti State Command, from Wednesday 16th November, 2022 until 6am on Monday 21st, November 2022 when the police and hired thugs escorted and opened the 1st Defendant for the 7 members including the Clerk, Mr. Tola Esan and Sergeant-at-Arm owing to which the 1st Defendant has been prevented from functioning under me as the duly elected Speaker.

22. That on Sunday 20th November, 2023, I started receiving calls from members of the 1st Defendant that the immediate past Governor of the State, Dr. Kayode Fayemi had started calling other members of the 1st Defendant and issued threats that if the members failed to align with the Deputy Speaker, Rt. Hon. Hakeem Jamiu to impeach me as the Speaker, he would ensure that they lost their seats.

23. That upon being so informed, I repeatedly rang the Commissioner of Police, Ekiti State Command, to wade in and forestall a breakdown of law and order in the State but the Commissioner of Police refused to answer all the telephone calls placed by me to him.

24. That at un-parliamentary hour of 6am on Monday, 21st November, 2022, seven members of the House were shepherded into the Assembly Chamber by policemen for a session that was not convened in compliance with the rules of the House.

25. That at the purported session of 21st November, 2022, aided by the police and fiercely looking thugs sponsored by some powers that be in the State, the 7 members who attended the session purportedly impeached me as the Speaker and elected the 3rd Defendant as Speaker; thereafter, myself and other six members, were said to have been suspended indefinitely from the 1st Defendant under the auspices of the 3rd Defendant.

26. That after I adjourned sitting of the 1st Defendant sine die on 15th November, 2022, I did not receive any representation for the sitting of the House to be held from whatever quarters; I also did not and could not have given any notice of sitting of the 1st Defendant either for 21st November 2022

or any other date, owing to the siege by the Police on the Assembly Complex at the instance of the 3rd Defendant and her cohorts.

27. That I know that only 7 members purportedly impeached me as the Speaker on the 21st day of November, 2022, whereas the 1st Defendant is made up of 25 members after the demise of the erstwhile Speaker.

28. That I was never served notice of allegation let alone being given not less than 72 hours to respond to any allegation of infraction or misconduct as the Speaker.

29. That I am also aware that neither of the other six suspended members (as members of the 1st Defendant) was given any notice of allegation of infraction or misconduct let alone being given to opportunity to respond thereto.

30. That I know that the 3rd Defendant chose to act with impunity by directing or masterminding my purported impeachment and suspension of myself and the other six members from the 1st Defendant in the above mentioned circumstances.

31. That before my purported impeachment and suspension, I was not issued any query or allegations as I remain the only authority who could summon or convene any meeting or sitting of the 1st Defendant.

32. That upon realizing the their great error of suspending and impeaching me without due process on 21st November 2022, the 1st Defendant hurriedly wrote a letter of suspension dated 22nd November, 2022 and passed to me on 23rd November 2022. A copy of the letter is attached as Exhibit 1.

33. I know as a fact, that under the rules of the 1st Defendant, a speaker cannot be impeached unless and until a notice of allegation and impeachment is served on him and he would within a period of 72 hours, three-clear days to respond and defend the allegation before any sitting for impeachment can commence or take place.

34. That in the instant case, the 1st Defendant had suspended me since 21st November, 2022 before issuing the notice of suspension and impeachment dated 22nd November, 2022 but served on me on 23rd November, 2022.

35. That the action of the 1st Defendant has since thrown the entire State into serious confusion and chaos and this made some notable Lawyers and indigenes of the State to write a strong letter of caution to the authorities in the State, warning them of the great consequences of such act. A copy of the letter herewith attached as Exhibit 2.

36. That since then, they have withdrawn all my Aides and other paraphernalia of office including my salary and other emoluments.

37. That I also know as of fact that the 3rd Defendant deliberately abused public office and deserves to be appropriately dealt with by this Honourable Court to serve as a deterrent to other would-be abusers of public office in the State and whole country at large.

38. That it is in the interest of justice to grant all the reliefs sought by us, Claimants, in this suit.

39. That I depose to this affidavit in good faith, conscientiously believing its contents to be true and in accordance with the Oaths Act.

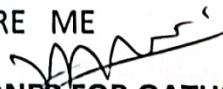


DEPONENT

SWORN TO at the High Court of Ekiti State Registry

This 28th day of Nov 2022.

BEFORE ME



COMMISSIONER FOR OATHS



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Ilé Iyá, Ilé Iyá

EKITI STATE HOUSE OF ASSEMBLY

TELEGRAMS: Private Mail Bag 5384, Ado-Ekiti, Nigeria
Tel: 2348032423372 | E-mail:ekitihouseofassembly@yahoo.co.uk

EKHA/HR/2020/6/88

22nd November, 2022

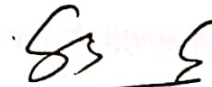
Rt. Hon. Olugboyega Aribisogan.

RESOLUTION

SIXTH ASSEMBLY: FOURTH SESSION

Please, find attached the resolution of the House passed at its Plenary Session on Monday 21st November, 2022 for your information and further necessary action.

2. Kindly accept the assurances of my highest regards.



Tola Esan
Clerk of the House

This is the document referred
to as Exhibit 1 in Para 32
before me
~~AAAS~~
Commissioner for OASUS
28/11/2022



Ilẹ̀ Iyì, Ilẹ̀ Èyẹ

EKITI STATE HOUSE OF ASSEMBLY

TELEGRAMS: Private Mail Bag 5384, Ado-Ekiti, Nigeria
Tel: 2348032423372 | E-mail:ekitihouseofassembly@yahoo.co.uk

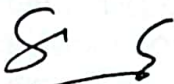
22nd November, 2022

At the Plenary Sitting of the Ekiti State House of Assembly on Monday 21st November 2022, the House unanimously RESOLVED as follows:

FOURTH SESSION

- H. R. 79**
- (i) That Mr. Speaker, Rt. Hon. Olugboyega Aribisogan and six other Honourable Members were found culpable as a result of their involvement in unparliamentary acts that led to non-passage of the 2022 Supplementary Appropriation Bill;
 - (ii) That as a result of this, the Speaker, Rt. Hon. Olugboyega Aribisogan be impeached;
 - (iii) That the Rt. Hon. Speaker be placed on indefinite suspension without pay;
 - (iv) That the underlisted Honourable Members be placed on indefinite suspension without pay for their unparliamentary and unparliamentary conduct capable of threatening the peace of the state:
 - (1) Hon. Tajudeen Akingbolu (Ekiti West I)
 - (2) Hon. Tope Ogunleye (Ilejemeje)
 - (3) Hon. Raphael Ajibade Adeyemi (Moba I)
 - (4) Hon. Adekemi Balogun (Ado II)
 - (5) Hon. Yemisi Ayokunle (Ekiti South West I)
 - (6) Hon. Adegoke Olajide (Efon)
 - (v) That the Speaker and the six (6) affected Honourable Members mentioned in the act are to be barred from the vicinity of the House of Assembly within the radius of 1.5 kilometers.

- (vi) That any of the suspended Members who wishes to be Reabsorbed should write a public apology letter and submit same to the House of Assembly for consideration.
- (vii) That the suspended Members should submit all government properties in their possession to the Clerk of the House immediately.



Tola Esan
Clerk of the House



Rt. Hon. Olubunmi Adelugba
Speaker

**EKITI STATE HOUSE OF ASSEMBLY IMPEACHMENT SAGA:
THIS CONSTITUTIONAL AND DEMOCRATIC RASCALITY MUST STOP
HENCEFORTH!!!**

Ekiti State is globally known as ile iyi, ile eye (land of honour, land of dignity). By all standards, and especially on account of the excellent virtues and priceless values that Ekiti people are primordially known for, it is simply beyond disputation that the sobriquet of ile iyi, ile eye is superbly earned by the State. Credence is, doubtless, lent to this inviolate position by the surfeit of elite, highly distinguished and most exemplary personalities that the State parades as indigenes. Against the backdrop of the salutary status of Ekiti people and State as people and land of honour and dignity respectively, it easily becomes a tragic irony and downright sacrilege whenever the State is in the news for less than honourable and dignifying reason(s). This has disturbingly and disquietingly been the situation in the past few days on the standpoint of the socio-political debacle and shenanigans going on in the State House of Assembly.

By way of a somewhat pedantic proem, it is common knowledge that the erstwhile Speaker of the State House of Assembly, the Rt. Hon. Funminiyi Afuye, transited to eternity on the 19th day of October, 2022. As a sequel to that unfortunate development, a new Speaker for the State legislature had to be elected. The election to produce a new speaker, incontrovertibly, took place on Tuesday, the 15th day of November, 2022. As widely reported in the media, two members of the House contested for the Speakership and at the end of the election, one of the duo, Hon. Gboyega Aribisogan, was declared the winner of the election, having polled 15 votes as against the 10 votes garnered by the other contestant, Hon. Olubunmi Adelugba. The winner of that electoral contest, Hon. Gboyega Aribisogan was promptly and duly sworn in as the new Speaker by the Clerk of the State House of Assembly. Thereafter, it was brought to the notice of the general public that a new Speaker of the Ekiti State House of Assembly had emerged.

In a strange twist to the tale, however, news filtered out in the morning of the very next day, 16th November, 2022, that the Ekiti State House of Assembly Complex had been sealed off by the Police. By the evening of that day, the new Speaker, Gboyega Aribisogan was heard on Channels Television saying that he was not privy to the decision to seal off the Complex by the Police and that when he reached out to the Commissioner of Police, Ekiti State Command, he was informed that the step was taken to avert an intended attack by hoodlums on the State House of Assembly. According to the Speaker, the Police Commissioner had assured him that the situation would be speedily brought under

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EXHIBIT 2
BEFORE ME
[Signature]
COMMISSIONER
20/11/2022 FOR DATES

control and normalcy would be restored to enable the House resume its constitutional and legislative functions.

However, to the dismay and discomfort of all peace-loving indigenes of the State, the State House of Assembly Complex remained under lock and key for the rest of that week. What followed was a visibly flustered Hon. Gboyega Aribisogan, the elected Speaker, appearing on Channels Television in the evening of Sunday, 20th November, 2022, to inform the whole world that there were plans to either impeach him as the Speaker or, failing that, assassinate him the following day. Hardly, had the next day broken than the media space became awash with the news that Hon. Gboyega Aribisogan had been impeached and, added to that, himself and six other members of the House suspended. Hon. Olubunmi Adelugba, who had previously contested and lost the Speakership to Hon. Gboyega Aribisogan, was announced as the newly elected Speaker. One may ask a few stunning questions, that is, who supervised the 'election' of Hon. Olubunmi Adelugba as the Speaker? Was it the same Clerk of the House who presided over the election of Hon. Gboyega Aribisogan a few days earlier, publicly announced the results and declared him as the winner? Be it noted that under the Constitution and any parliamentary practice, the Clerk is the Chief Executive of any Parliament and presides over the conduct of election for the presiding officers. If it was the same Clerk, who mandated him to conduct another election that foisted Hon. Olubunmi Adelugba on the House, in a spectacularly unconstitutional and ridiculous manner? Who are the actual masquerades that prompted the Clerk to act in such an absurd manner? Are they from within or without the House? Was the Clerk aware of the age-long principle of separation of powers, as between the Executive, Legislature and the Judiciary, as now enshrined in the Constitution? Or, were/are the sponsors of this debacle aware of or have scant respect for this sacred principle which sustains democratic governance and governments in the free world? To say the very least, the situation in the Ekiti State House of Assembly should be of extremely grave concern to every decent and discerning mind.

Before going further, it is pertinent to underscore the prime importance of the State House of Assembly in the affairs of any State in the country. It is provided in Section 4(6) and (7) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) that the legislative powers of a State of the Federation shall be vested in the House of Assembly of the State and that the House of Assembly shall have power to make laws for the peace, order and good government of the State or any part thereof with respect to matters within the ambit of the legislative competence of the State legislature. Apparently enough, therefore, the imbroglio that is presently ravaging the Ekiti State House of Assembly has effectively

denied the State of the benefit of the constitutional responsibilities of the Legislative House and the consequences cannot but be dire on the security and welfare of the people, as well as the general wellbeing of the State and its indigenes.

Meanwhile, under and by virtue of Section 92 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), once elected by the members of the House, as done in the case of Aribisogan, the Speaker shall continue to be in office during the lifespan of the particular House except, inter alia, removed from office by a resolution of the House of Assembly by the votes of not less than two-third majority of the House. From the short background above, it is plain as day that the elected Speaker was not allowed to function in office for the space of one day before the sealing off of the Complex. Pray, therefore, at what point in time could he have committed any infraction of the constitution, any other law or the Rules of the House to warrant his supposed removal? Assuming without conceding that the Speaker had committed any infraction, was he not entitled to be confronted with the allegation in that respect and given reasonable opportunity to defend himself? If so, when was he accorded that? Incontestably, election into such an exalted position as the Speaker of the House dictates that a holder of the office must be accorded fair hearing before being removed from the office. The alleged suspension and stoppage of the salaries of the Speaker and six other members of the House are no less misplaced, illegal, illegitimate, null and void. If care is not taken, and if all of us seal our lips, fold our arms and get relaxed on our seats and allow this rascality and impunity to go unchecked, in no distant future, the Governor of the State would be impeached and forced out of office in like manner.

Instructively, or with the benefit of hindsight, one would have expected the dramatis personae in this very constitutionally dastardly act to peep into history, at least momentarily, to learn therefrom, more particularly so that under a certain regime in the State, the then Speaker of the House was purportedly impeached, in a manner not as abrasive and audacious as the one under discussion, and the aggrieved Speaker, with some suspended members of the House, instituted an action against the constitutional aberration, and without much ado, the entire action was declared null and void by the High Court of Ekiti State, presided over by Hon. Justice Abiodun Adesodun, who decreed the reinstatement of the impeached Speaker and suspended members, as well as payment of all their accrued salaries and emoluments.

Taking cognisance of this precedent, the natural deduction to be made from the flagrant actions of the current political gladiators in Ekiti State House of Assembly and their instigator(s) is that they have no respect for

the rule of law. By their actions, they have demonstrated a penchant for political rascality, impunity, brazenness and recklessness of no mean measure. Let it be mentioned and registered, posthaste, without any modicum of equivocation, that the purported impeachment of Hon. Gboyega Aribisogan as well as the announced suspension of seven members of the House is an exercise in utmost futility and, unquestionably, null and void. The situation is highly condemnable. This is particularly by reason of the fact that the members of the House of Assembly said to have been suspended represent their constituencies in the legislative affairs of the State. When regard is had to the fact that the House is made up of 26 members (now 25, with the demise of Hon. Funminiyi Afuye), the purported suspension of seven members simply implies that more than a quarter of the membership of the House and the constituencies represented by them are now rendered impotent and unfunctional. This is absolutely unwarranted, unjustified and condemnable. By way of argument, the sponsors of the charade and their cohorts in the House have foisted on the entire State, a coup d'etat, in the sense that the suspension of more than one quarter of the members of the House equally translates to the fact that members of their constituencies have also been suspended from the State. Going by the clear provision of Section 179 (2) (b) of the Constitution, the Governor, before being declared as the winner of an election to the office of the Chief Executive of the State was expected to have scored/pollled not less than one quarter of the votes cast in not less than two-thirds of the Local Governments in the State. Excising over one-quarter of the Local Governments represented by the suspended legislators from the State, as it were, means that the Governor may no longer be presiding over the Ekiti State on which election that brought him to office was conducted, and/or that the Ekiti State which the constitutionally delineated constituencies from where the suspended legislators were/are produced is not the State now being governed by the Governor.

Without being immodest, Ekiti State parades a good number of the leading lights and icons of the legal profession in Nigeria such as **Aare Afe Babalola, OFR, CON, SAN, Founder & Chancellor of Afe Babalola University, Ado-Ekiti, ABUAD and former Pro-Chancellor and Chairman of Council of the University of Lagos; Chief Wole Olanipekun, CFR, OFR, SAN, former Attorney-General of the old Ondo State, past President of the Nigerian Bar Association (NBA), former Pro-Chancellor and Chairman of Council of the University of Ibadan; Dele Adesina, SAN, past General-Secretary of the NBA; Olu Daramola, SAN, Femi Falana, SAN, past President of the West African Bar Association (WABA); Dayo Akinlaja, SAN, past Attorney-General of Ekiti State and Gboyega Oyewole, SAN, past Attorney-General of Ekiti State, among several others, under whose auspices this statement is being issued.**

In light of this position, it is nothing short of downright insensitivity, unmitigated disrespect, unalloyed affront and deep infra dig for the unconstitutionality and illegality that have emerged from the activities of the concerned political functionaries in the State and their masterminds to be contemplated, let alone so brazenly executed, knowing full well that the message unwittingly sent out therefrom is that there are no legally discerning indigenes of the State that could decipher the illegitimacy and illegality of the purported impeachment and suspension.

Significantly, it is exceedingly unfathomable and difficult to rationalise the basis for the roiling crisis in the Ekiti State House of Assembly on the strength of the fact that the entire members of the Ekiti State House of Assembly belong to one political party (APC). Noteworthy, in 2007 or thereabout, the same State House of Assembly was polarised between two political parties (in equal proportion); this notwithstanding, the House was at peace and not beset by the crisis of the sort being witnessed today. Without any speck of doubt, every person with a sense of justice, fairness and political decency must be scandalised by what is currently going on in our dear State. As lawyers, we do not want to swallow hook, line and sinker the grapevine information and tales being peddled about for the reasons underscoring the crisis at hand, among the political gladiators in the State, and we do not want to elaborate on the narration given by Hon. Gboyega Aribisogan on Channels Television on 20th November, 2022. Be that as it may, we plead with our humble and respected Governor to appreciate the fact that having been sworn in as the Governor of the State, he automatically translates to the Chief Executive Officer of the State, and by extension, the buck stops at his table. His silence in the face of the apparent threat to peace, order, good governance and harmony in the State is not the best, to put it mildly and respectfully. Truth be told, he is the one, rather than the political marauders that will be held responsible for any breakdown of law and order in the State. Hon. Gboyega Aribisogan informed the entire world in one of his Channels Television appearances that apart from his planned kangaroo impeachment, himself and some marked members of the House were/are to be assassinated. Now, within a week, the State has purportedly produced two Speakers of the House of Assembly, and both of them were also purportedly sworn in by the Clerk of the House. The Police had placed the premises of the House under lock and key, and we have not been informed under whose authority the Police so acted. Let it be put clearly that the Police has no jurisdiction or power to take any instruction or order in matters relating to the security of the State from any other person or power apart from the Governor of the State.

In light of this position, it is nothing short of downright insensitivity, unmitigated disrespect, unalloyed affront and deep infra dig for the unconstitutionality and illegality that have emerged from the activities of the concerned political functionaries in the State and their masterminds to be contemplated, let alone so brazenly executed, knowing full well that the message unwittingly sent out therefrom is that there are no legally discerning indigenes of the State that could decipher the illegitimacy and illegality of the purported impeachment and suspension.

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All said, we unreservedly, unambiguously and unequivocally condemn what is presently at play in the Ekiti State House of Assembly. It is legally and morally unjustified and must be deprecated by anyone with a sense of fairness and decency. In light of this position, we hereby call on all members of the Ekiti State House of Assembly to return to the path of peace, honour and dignity by allowing the elected Speaker, Hon. Gboyega Aribisogan, to continue in office without let or hindrance. Anything short of this would amount to persevering in constitutional error and political rascality. May it be emphasized that the Assembly cannot transact any legitimate or legal business under the contrived speakership of Hon. Olubunmi Adelugba. As often said in legal parlance, one cannot put something on nothing and expect it to stand. From the biblical prism, if the foundation is destroyed, there is nothing the righteous can do. It must be borne in mind that Ekiti State is not all about politics; it is about honour, decency, integrity, diligence, kindness, soberness, pursuit of all that is good and lofty, hard work, fear of God, man's humanity to man, etc. Put differently, Ekiti State is greater than politics and politicians. The State is also sovereign in her own right, and not an appendage or chattel of any person or persons. On the premise of this position, no one or group of persons or politicians can be allowed to bring Ekiti State to dishonour and disrepute by whatever contrivance and for any ambition howsoever.

Pointedly and succinctly asserted, Hon. Olubunmi Adelugba cannot continue in office as Speaker of the Ekiti State House of Assembly, and we plead with her to honourably stop parading, presenting or holding herself out as the Speaker of the State, as her so-doing constitutes not just an illegality and unconstitutionality, but also a perseverance in such an unlawful enterprise. In like manner, we plead with the members of the House of Assembly to allow all Principal Officers of the House, including the Deputy Speaker, the Chief Whip, the Majority Leader etc., continue in office, without making any attempt to impeach or replace any of them. May we remind the legislators and their patrons that come May/June, 2023, the life span of the present session of the House of Assembly will constitutionally terminate. Therefore, they should exercise some modicum of patience and wait for the next election, whereby they can sponsor their candidates to the House. Even at that, the Legislators should appreciate the inviolate nature of the sovereignty of the Legislative House, and stop hobnobbing with outsiders or powers-that-be to usurp the powers and jurisdiction, rights and privileges, constitutionally and democratically conferred on them. And to the Ekiti people generally, and more particularly the political godfathers, we want to admonish that we should do away with the overbearing, ruthless and negatively audacious attitude and disposition of deliberately embarking on any illegal and unconstitutional means or method of

IN THE HIGH COURT OF EKITI STATE
IN THE ADO EKITI JUDICIAL DIVISION

HOLDEN AT ADO EKITI

SUIT NO:.....

BETWEEN:

1. Rt. Hon. OLUGBOYEGA ARIBISOGAN
 2. HON. TAJUDEEN AKINGBOLU
 3. HON. ADEGOKE OLAJIDE - CLAIMANTS
- AND
- 1.EKITI STATE HOUSE OF ASSEMBLY - DEFENDANTS
 - 2.THE CLERK, EKITI STATE HOUSE ASSEMBLY
 - 3.HON. OLUBUNMI ADELUGBA

CLAIMANT'S WRITTEN ADDRESS IN SUPPORT OF THE ORIGINATING SUMMONS

INTRODUCTION

The Claimant has taken out the instant Originating Summons, seeking the following reliefs upon affirmative resolutions of the questions for determination contained in the Originating Summons:

1. A **DECLARATION** that the purported plenary sitting of 7 members of the 1st Defendant on the 21st day of November, 2022 was illegal, null and void.
2. A **DECLARATION** that by the provisions of Order V Rule 18 (1); Order II Rule 9 of the House Rules; Sections 92 (2)(c) and 109 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), the purported impeachment of the Claimant as the Speaker of the Ekiti State House of Assembly by 7 members at their purported plenary sitting without following the due process of law is unconstitutional, illegal, null and void.
3. A **DECLARATION** that the alleged election of the 3rd Defendant as the Speaker of the Ekiti State House of Assembly at the purported plenary sitting of the 21st day of November, 2022 is unconstitutional, illegal, null and void.

4. A **DECLARATION** that the 3rd Defendant ought to be ordered to account for and refund to the coffers of Ekiti State Government all the salaries, emoluments, allowances and or whatever monetary benefits appurtenant to the office of the Speaker of the Ekiti State House of Assembly during the tenure of her purported election as the Speaker.

5. A **DECLARATION** that by the provision of Section 109 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), inter alia, the purported suspension of the Claimant at the purported plenary sitting of by the 7 members of the Ekiti State House of Assembly on the said 21st day of November, 2022 is unconstitutional, illegal, null and void.

6. A **DECLARATION** that on the footing of her brazen violation of and or blatant disregard for the aforementioned relevant constitutional and statutory provisions, the 3rd Defendant henceforth deserves to be restrained from vying for, holding or continuing to hold any State or National elective position and or whatever public office in Nigeria.

7. AN **ORDER** of the Honourable Court reinstating the Claimant as the Speaker of the 2nd Defendant (Ekiti State House of Assembly), forthwith.

8. AN **ORDER** of Court rescinding the purported suspension of the Claimant as Honourable member of the Ekiti State House of Assembly.

9. AN **ORDER** directing the 2nd Defendant to ensure immediate payment of the salaries, emoluments, allowances and all entitlements due to the Claimant as the Speaker of the 1st Defendant from 21st day of November, 2022 till the date of final judgment in this suit or the termination of the 6th Assembly of the 1st Defendant.

10. AN **ORDER** compelling the 3rd Defendant to forthwith account for and refund to the coffers of Ekiti State Government all the salaries, emoluments, allowances and or whatever monetary benefits appurtenant to the office of the Speaker of the Ekiti State House of Assembly during her purported tenure of her as the Speaker.

11. AN **ORDER** compelling the 2nd Defendant to ensure that the 3rd Defendant duly accounts for and refunds to the coffers of Ekiti State Government all the salaries, emoluments, allowances and or whatever monetary benefits

appurtenant to the office of the Speaker of the Ekiti State House of Assembly during the purported tenure of the 3rd Defendant as the Speaker and for the 2nd Defendant to file report of compliance or non-compliance at the Registry of this Honourable Court not later than thirty days after the date of the judgment in this suit.

12. AN ORDER OF PERPETUAL INJUNCTION restraining the 3rd Defendant, on the footing of her brazen violation of and or blatant disregard for the aforementioned relevant constitutional and statutory provisions, from henceforth vying for, holding or continuing to hold any State or National elective position and or whatever public office in Nigeria.

ISSUES FOR DETERMINATION

It will enhance lucidity of presentation if the questions formulated in the originating summons are adopted as the issues for determination in this address. The kind indulgence of your lordship is respectfully craved for this purpose. For ease of reference, the questions are as follows:

1. Given the provision of Order V Rule 18 (1) of the House Rules, whether the purported plenary sitting of 7 Members of the Ekiti State House of Assembly on the 21st day of November, 2022 was not illegal, null and void?
2. Considering the provisions of Order V Rule 18 (1); Order II Rule 9 of the House Rules; and Section 92 (2)(c) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) whether the purported impeachment of the 1st Claimant as the Speaker of the Ekiti State House of Assembly by 7 members at their purported Plenary sitting without following the due process of law is not unconstitutional, illegal, null and void?
3. As a sequel to 2 supra, whether the alleged election of the 3rd Defendant as the Speaker of the Ekiti State House of Assembly at the purported plenary sitting of the 21st day of November, 2022 is not unconstitutional, illegal, null and void?
4. Arising from 2 and 3 supra, whether the 3rd Defendant should not be ordered to account for and refund to the coffers of Ekiti State Government all

the salaries, emoluments, allowances and or whatever monetary benefits appurtenant to the office of the Speaker of the Ekiti State House of Assembly during the tenure of her purported election as the Speaker?

5. WHETHER by Sections 109, 110 and 117 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), the purported suspension of the Claimants at the purported plenary sitting by the 7 Members of the Ekiti State House of Assembly on the said 21st day of November, 2022 is not unconstitutional, illegal, null and void.

6. WHETHER on the footing of her brazen violation of and or blatant disregard for the aforementioned relevant constitutional and statutory provisions, the 3rd Defendant henceforth deserves to vie for, hold or continue to hold any State or National elective position and or whatever public office in Nigeria?

SUBMISSIONS ON THE ISSUES FORMULATED ABOVE

ISSUE ONE

Given the provision of Order V Rule 18 (1) of the House Rules, whether the purported plenary sitting of 7 Members of the Ekiti State House of Assembly on the 21st day of November, 2022 was not illegal, null and void?

Section 90 of the 1999 Constitution, as amended, provides that there shall be House of Assembly for each of the States of the Federation. By Section 101 of the same Constitution, it is provided as follows:

‘Subject to the provisions of this Constitution, a House of Assembly shall have power to regulate its own procedure, including the procedure for summoning or recess of the House’

By the above provision of the Constitution, a House of Assembly is empowered to enact **STANDING ORDERS** i.e. House Rules for purposes of conducting its proceedings and generally regulating its own procedure.

Pursuant thereto, the 1st Defendant enacted Rules for the regulation of its procedure. It is humbly submitted that the Defendants breached the provision of **ORDER V RULE 18(1) OF THE RULES** of the 1st Defendant when 7 members of the 1st Defendant purportedly met to Impeach the Claimant as Speaker and

suspend him and 6 OTHER MEMBERS, inter alia, on the 21st of November, 2022. For ease of reference the Order in question provides thus:

'Whenever the House shall stand adjourned to a date not fixed and it is represented to the Speaker by the Leaders of the Political Parties in the House that the House shall meet on a certain day at a certain time, the Speaker shall give notice accordingly and the House shall meet on the date and at the time stated in the notice'

As to be seen from the affidavit in support, the sitting of the 1st Defendant was adjourned sine die on 15th November, 2022 after the election of the Claimant as the Speaker. Flowing from this position, before another sitting of the 1st Defendant could take place, there must be representation from the leaders of the political party in the House to the Speaker as to the day and time the House would meet and the Speaker (THE Claimant) must give notice to that effect accordingly. It is explicit from the affidavit in support that the Claimant did not receive any representation from whatever quarters and he did not give any notice for the sitting of the 1st Defendant.

On the strength of the foregoing, it is beyond disputation that the plenary meeting of the 1st Defendant purportedly held on 21st November, 2022 by 14 members was/is against the unequivocal provision of ORDER V RULE 18(1) OF THE STANDING RULES of the House and amounts to a nullity in law. It is trite that when a statute has prescribed the procedure for carrying out a statutory function, failure to follow the prescribed procedure is fatal. See: AMAECHI v. INEC (2008) 5 NWLR (PT. 1080) 227 at 437 - 438; ISAAC OGUNLAJA v. A.G. RIVERS STATE & ORS. (1999) 6 NWLR (PT. 508) 209.

Moreover, before a person can be validly removed from a public office, the statutory procedures provided therefor must be strictly followed. See U.N.T.H.M.B. v. NNOLI (1994) 8 NWLR (PT. 363) 376 at 404, 407- 408 412 - 413, 419; ALHASSAN v. A.B.U. ZARIA (2010) ALL FWLR (PT. 538) 962 at 1002. It is also settled that a court of law would always enforce compliance with the provisions of the law as even the court cannot deviate from the provisions of the law. See: ASTRACO CO. LTD. V. TRADE BANK LTD. (2003) FWLR (PT. 163) 97 at 109.

Without much ado, your lordship is humbly urged to answer this issue in the affirmative.

ISSUE TWO

Considering the provisions of Order V Rule 18 (1); Order II Rule 9 of the House Rules; and Section 92 (2)(c) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) whether the purported impeachment of the Claimant as the Speaker of the Ekiti State House of Assembly by 7 members at their purported Plenary sitting without following the due process of law is not unconstitutional, illegal, null and void?

It is our humble submission that the purported removal of the Claimant as the Speaker of the 1st Defendant is manifestly unconstitutional and unlawful. As to be seen from the affidavit in support, with the demise of the erstwhile Speaker of the House, membership of the 1st Defendant came to 25. By virtue of Section 92(2)(c) of the Constitution, a Speaker can only be removed by a resolution of the House by the votes of not less than two-thirds majority of the members of the House. It is also to be seen from the affidavit in support that 7 members of the 1st Defendant purported to remove the Claimant as the Speaker on 21st November, 2022. Elementary arithmetic would show that 7 cannot translate to two thirds of 25. In the circumstance, the purported impeachment of the 1st Claimant as the Speaker is, doubtless, unconstitutional, null and void.

As earlier mentioned, the law is well settled that the Constitution is the fons et origo and where the Constitution has prescribed a way of doing an act, nothing short of the way prescribed by the law will be accepted. See: AMAECHI v. INEC *supra* at 437 - 438.

Taken from another purview, the purported Impeachment cannot withstand the litmus test of legality on the standpoint of non-compliance with the provision of Order II Rule 9 of the STANDING ORDERS of the House. Going by this provision, before a Speaker could be impeached, he must have been served a formal notice of allegations and afforded room of response within 72 hours of the service of the notice of allegations on him. The response provided by the Speaker must be reviewed by the House ad hoc Committee set up for that purpose. These are conditions precedent to voting on the Impeachment at

the floor of the House by not less than two-thirds majority before the Speaker could be impeached.

In the instant case, it is clearly stated in the affidavit evidence in support of the originating summons that there was no service of allegation of infraction or misconduct on the Claimant, let alone his being given the opportunity to respond. Of course, there is a surfeit of judicial decisions putting it beyond peradventure that the Claimant must be accorded fair hearing before he could be removed from his office as the Speaker. See, for instance, ADIGUN & ORS. v. A.G. OYO STATE (1987) 1 NSCC 346 at 401, where it was held by the Supreme Court thus:

"It is well established common law that an implied duty to observe the rules of natural justice can arise even in the discharge of administrative functions where such functions directly encroach on individual interest. See: Kanda v. Government of Malaya (1962) A.C 322; LPDC v. FAWEHINMI (1985) 2 N.W.L.R. (PT.9) 300."

See also: OLORUNTOBA-OJU v. ABDUL-RAHEEM (2009) ALL FWLR (PT. 497) 1 at 47 where Adekeye, J., further espoused thus:

"There is a presumption that when the legislature confers a power on an authority to make a determination, it intends that the power shall be exercised judicially in accordance with the rules of natural justice ... The nature of fair hearing to be observed in this context is as entrenched in section 36(1) of the Constitution of the Federal Republic of Nigeria, 1999....It is equally a common law doctrine that in the determination of his civil rights and obligations, a person is entitled to a fair hearing within a reasonable time by a court or tribunal established by law."

See further BABA v. N.C.A.T.C. (1991) 7 SC (PT. I) 58 at 68.

Without any scintilla of doubt, the Defendants brazenly failed to observe the principle of audi alteram partem in purporting to impeach the Claimant as the Speaker. On account of this too, the vaunted Impeachment is unconstitutional and amounts to a nullity in law. It is trite that any decision taken in breach of the rule of fair hearing cannot stand. See: OGLI MEMORIAL FARMS LTD. v. NACB LTD. (2008) ALL FWLR (PT. 419) 400 at 420 - 424; TSOKWA MOTORS

(NIG.) LTD. V. UBA PLC (2008) ALL FWLR (PT. 403) 1240 at 1255; OMONIYI v. ALABI (2015) 6 NWLR (PT. 1456) 572 at 595.

Your lordship is urged to peremptorily resolve this issue in the affirmative on the premise of the foregoing.

ISSUE THREE

As a sequel to 2 supra, whether the alleged election of the 3rd Defendant as the Speaker of the Ekiti State House of Assembly at the purported plenary sitting of the 21st day of November, 2022 is not unconstitutional, illegal, null and void?

Having established from above that the sitting of the 21st day of November, 2022 is unconstitutional, unlawful, null and void, it follows as a matter of necessity that no lawful business could have been transacted at the sitting. It is a pure case of ex nihilo nihil fit. A nullity, in law, is a void act, an act which has no legal consequence. See: ODEDO v. OGUEBEEGO (2015) 13 NWLR (PT. 1476) 229 at 267; LABOUR PARTY v. INEC (2009) 6 NWLR (PT. 1137) 315 at 336-337; ROMAINE v. ROMAINE (1992) 4 NWLR (PT. 238) 650 at 665-666. The situation here is reminiscent of the following evergreen dictum of Lord Denning, M.R., in the case of Macfoy v United Africa Company Limited (1961) 3 All ER 1169 (PC) at 1172:

"If an act is void, then it is in law a nullity. It is not only bad, but incurably bad. There is no need for an order of Court to set it aside. It is automatically null and void without more ado, though, it is sometimes convenient to have the Court to declare it to be so bad and incurably bad. You cannot put something on nothing and expect it to stay there, it will collapse'.

Again, your lordship is urged to resolve this issue in the affirmative.

ISSUE FOUR

Arising from 2 and 3 supra, whether the 3rd Defendant should not be ordered to account for and refund to the coffers of Ekiti State Government all the salaries, emoluments, allowances and or whatever monetary benefits

appurtenant to the office of the Speaker of the Ekiti State House of Assembly during the tenure of her purported election as the Speaker?

It also follows from the foregoing analysis and submissions, as day follows night, that the 3rd Defendant should, ab initio, not have assumed the office of the Speaker. Incontestably, it would amount to attempting to put something on nothing to contend that she is entitled to the benefits of the office of the Speaker that she was not entitled to assume in the first place. Besides, allowing her to keep the benefits that would have accrued to her in that office would be tantamount to allowing her to benefit from her wrong. This is forbidden in law on the crest of the Latin maxim of *ex turpi causa non oritur actio*.

The submissions and authorities of the effect of nullity is adopted for this purpose as well. In all, your lordship is humbly urged to answer this issue in the affirmative.

ISSUE FIVE

WHETHER by Sections 109, 110 and 117 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), the purported suspension of the Claimants at the purported plenary sitting by the 7 Members of the Ekiti State House of Assembly on the said 21st day of November, 2022 is not unconstitutional, illegal, null and void.

A good starting point is Section 117 CFRN 1999 as amended which provides, inter alia, as follows:

'Subject to the provisions of this constitution, every state constituency established in accordance with the provisions of this part of this chapters shall return one member who shall be directly elected to the House of Assembly in such manner as may be prescribed by an Act of the National Assembly'

By this provision, it is evident that each constituency must have a member representing them in the House of Assembly for a period of four years. We therefore submit that any attempt to shorten or curtail the period given to them by the Constitution will amount to tyranny upon mandate given to the Claimants in this case by their people to represent them in the House of Assembly. The only ways through which a member of the House of Assembly

could vacate his seat or be removed from the House are as provided for in Sections 109 and 110 of the CFRN 1999 as amended. Instructively, suspension by some oppressive and despotic members of the House of Assembly is not one of the ways envisioned by the Constitution. In light of this position, the purported suspension of the Claimants is unconstitutional, wrongful and null and void, not being within the ambit of the Constitution. See: INEC v. MUSA (2003) 3 NWLR (PT. 806) 72 at 200.

Moreover, in the case of THE SPEAKER BAUCHI STATE HOUSE OF ASSEMBLY V. HON. RIFKATU SAMSON DANNA (2017) 49 W.R.N P.95 the Court of Appeal states that the law maker not being an employee of the House can neither be suspended nor denied of his entitlements i.e. salary and other allowances. In that case, the respondent who was an elected member of the Bauchi State House of Assembly was indefinitely suspended by the House of Assembly and consequently she filed an action at the Bauchi State High Court to challenge the unconstitutional suspension. The Court of Appeal while condemning the action of suspension for being unconstitutional held as follows:

'Any member of the Bagoro Constituency could have timeously challenged the indefinite suspension of their choice representative in the Bauchi State House of Assembly on the grounds that their accrued rights had been violated or breached by the appellants. The conduct of the appellants is the tyranny of the majority against an elected minority of the Bauchi State House of Assembly'

The above cited case is *impari materia* with the case at hand. The law is clear that constitutionally, no House of Assembly has the power to suspend any members because that would have amounted to denying the people of the constituency they represent right to be adequately represented. We therefore submit that the supposed suspension of the Plaintiffs by the 7 members on the 21st of November, 2022 is unconstitutional.

Assuming though not conceding that the 14 members have the power to suspend under the House Standing Orders, we submit that such power is unenforceable as it is inconsistent with the provision of the constitution. See: INEC v. MUSA *supra*. Where the provision of any law whatsoever is inconsistent with the provision of the Constitution, such law is null and void to the extent of its inconsistency. See section 1 (3) of the 1999 constitution.

It is submitted that an elected member of a legislative house cannot be suspended or removed by the House except through the process of recall by the people of the constituency who elected him or her or the where the situations set out in section 109 have arisen. Indisputably, neither section 109 nor 110 of the Constitution comes into play in our present case. Thus, by suspending the Claimants indefinitely from the House, the Defendants usurped the right of the people of their Constituency to be represented in the House for an uninterrupted period of four years. Since the people of their constituency have not recalled the Claimants, their purported indefinite suspension is a clear infringement of section 109 and 110 of the Constitution.

In *Akomolafe v. Speaker, Ondo State House of Assembly* (1984) 5 NCLR 355 at 366 Ogundare Ag. C.J. (as he then was) held:

“It is my view that Resolution 1264 is not only in breach of section 33(4) of the 1979 Constitution but also of sections 24(3), 29(1), 30(2) and 34 of the Legislative Houses (Powers and Privileges) Law. The alleged misconduct, subject matter of the said Resolution is not one for which the House can exercise its power to punish since the alleged misconduct is not covered by Part B of the Schedule to the Law.”

The Court then proceeded to order the Clerk of the Ondo State House of Assembly to “pay to the Plaintiff forthwith the balance of his remunerations denied him during the period 14/8/81 to 2/5/82”.

The *Akomolafe’s* case was adopted and relied upon by Adah J. (as he then was) in *Chief Nzeribe v. Senate President* (unreported) Suit No: FHC/ABJ/CS/380/2002 of 5th May, 2003 when he said:

“An indefinite suspension of the Plaintiff therefore is nothing but an arbitrary show of power and a tyranny of the majority... The indefinite suspension of the Plaintiff therefore cannot be justified in this situation. It is therefore void and I so hold.”

In the recent case of *Honourable Dino Melaye & Ors. v. The Speaker, House of Representatives* (unreported) Suit No: FHC/ABJ/CS/460/2010 of December 2, 2011) Adamu Bello J. relied on the cases of *Akomolafe v. Speaker, Ondo State*

House of Assembly (supra) and Chief Nzeribe v. Senate President (supra) in setting aside the suspension of the Plaintiffs for the remainder of the legislative session. According to his lordship:

"I hold that the initial suspension of the Plaintiff's indefinitely beyond 14 days is clearly wrongful, illegal, null and void. This means that there was no valid and subsisting suspension when the 1st Defendant purported to invoke Order X, Rule 5(6) to suspend the Plaintiffs for the remainder of the session. This has the legal effect of rendering the subsequent suspension of the Plaintiffs by the Speaker also wrongful, illegal, null and void and I so hold. Ex Nihilo Ni hill fit, from nothing, nothing comes. And put another way, you cannot put something on nothing and expect the thing to stand."

In urging Your Lordship to rely on the decisions of your lordship's learned brothers in the cases of Akomolafe, Nzeribe and Melaye, we submit that the indefinite suspension of the Claimants in this case is worse in that it was carried out in/during an illegal plenary session because the session of 21st November, 2022 was not convened in compliance with the STANDING ORDERS of the house and the required majority for removal was not in place. We, therefore, urge your lordship to this resolve this issue in the affirmative.

ISSUE SIX

WHETHER on the footing of her brazen violation of and or blatant disregard for the aforementioned relevant constitutional and statutory provisions, the 3rd Defendant henceforth deserves to vie for, hold or continue to hold any State or National elective position and or whatever public office in Nigeria?

That the 3rd Defendant engaged in a brazen violation of and or a blatant disregard of the aforementioned constitutional and statutory provisions is simply indubitable. Put succinctly, the 3rd Defendant and her supporters simply took impunity in public office to an all time high level. Obviously, the Claimants herein have all suffered one deprivation or the other verging on the deprivation of their sundry rights and privileges. However, the dire consequences of the unconstitutional, despotic and oppressive actions of the 3rd Defendant go beyond the Claimants herein and extend to the generality of

Ekiti People and the entirety of the Federal Republic of Nigeria. What the 3rd Defendant has done is a national affront, an unmitigated assault and onslaught against the Constitution as well as a denigration of our constitutional democracy.

On the premise of the gravity and enormity of the situation at hand, it goes without saying that the clarion dictate of justice is for the Honourable Court to step in and do whatever it takes to deter the 3rd Defendant and other would-be abusers of public office. Remarkably, there is nothing to impede the exercise of judicial authority under our constitutional democracy. By virtue of Section 6(6)(a), the judicial powers vested in our courts is not in anyway limited; it is stated to extend "to all inherent powers and sanctions of a court of law". That being so, it is easily within the confines of the authority of this Honourable Court to declare that the 3rd Defendant does not deserve to vie for, hold or continue to hold any State or National elective position and or whatever public office in Nigeria. Credence is lent to this position by the decision of the Supreme Court in the locus classicus case of AMAECHI v. INEC *supra* at 315 - 316.

With due humility, the following dictum of Lord Denning at pages 177-179 of his *The Family Story* is considered apt to the circumstances of this case and worthy of commendation to your lordship:

"... Let justice be done. The judges should so handle precedent - and should so interpret statutes as to do justice in a way fitted for the needs of the times in which we live... Where there is any conflict between the freedom of the individual and any other rights or interests, then no matter how great or powerful those others maybe, the freedom of the humblest citizen shall prevail over it... Power must not be abused or misused it is up to the court to give remedy when such happens."

CONCLUSION

On the footing of the foregoing humble submissions, this Honourable Court is respectfully prayed to answer all the questions in the originating summons in the affirmative and, *ipso facto*, grant all the reliefs sought via the originating