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IN THE FEDERAL HIGH COURT
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

SUIT NO. FHC/ABJ/CS/567/2017

BETWEEN

SENATOR DINO MELAYE - - - - - PLAINTIFF/RESPONDENT
AND

INDEPENDENT NATIONAL ELECTORAL COMMISSION - DEFENDANT/APPLICANT

MOTION ON NOTICE BROUGHT PURSUANT TO SECTIONS 1(1), 6, 6(A&B) 36, 68 AND 69 OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED); ORDER 26 RULES 1, 3 AND 11 AND ORDER 51 (1)&(2) OF THE FEDERAL HIGH COURT (CIVIL PROCEDURE) RULES 2009 AND UNDER THE INHERENT JURISDICTION OF THIS HONOURABLE COURT.

TAKE NOTICE that this Honourable Court shall be moved on the ____ day of _____ 2017 on behalf of the Defendant/Applicant for the following orders:

- i. An order discharging or setting aside the ex-parte interim order to maintain status quo made by this Honourable Court on the 6th day of July, 2017 in this case;
- ii. AND FOR SUCH further order(s) as this Honourable Court may deem fit to make in the circumstance.

TAKE FURTHER NOTICE that the grounds upon which this application is predicated are set out as follows:

- i. The ex-parte interim Order of injunction of this Honourable Court made on the 6th day of July, 2017 violates the right to fair hearing of the Defendant/Applicant as enshrined in the Section 36(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended);

Official
FEDERAL HIGH COURT
ABUJA
CASHIER
Signature.....
Date..... 14/7/17


The ex-parte Order of interim injunction made on 6th day of July, 2017 for parties to maintain status quo is against the time-bound Constitutional duty of the Defendant/Applicant as enshrined in Section 69(a) & (b) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and the binding decision of the Court of Appeal in Peter vs. Okoye (2002) 3 NWLR (Part 755) 529.

- i. The balance of convenience was in favour of refusing the application for ex-parte Order of interim injunction of this Honourable Court made on the 6th July, 2017.

ND TAKE FURTHER NOTICE that at the hearing of this application, the Defendant/Applicant shall rely on the Record of this Honourable Court and all the processes already filed in this Suit.

Dated this 13th day of July, 2017




✓ S.O. Ibrahim Esq.
Joan M. Arabs (Mrs.)
Oluwafemi Adeyemi Esq.
Nelson Anih Esq.
Wendy Kuku (Mrs.)
Abdulaziz Sani Esq.
Okeke Okechukwu Esq.
Esther T. Agbaje (Mrs.)
Oluwabukunnola Bada (Mrs.)
Adenike J. Adedeji (Mrs.)
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IN THE FEDERAL HIGH COURT
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

SUIT NO. FHC/ABJ/CS/567/2017

BETWEEN

SENATOR DINO MELAYE -

PLAINTIFF/RESPONDENT

AND

INDEPENDENT NATIONAL ELECTORAL COMMISSION -

DEFENDANT/APPLICANT

DEFENDANT/APPLICANT AFFIDAVIT IN SUPPORT OF MOTION ON
NOTICE DATED 13TH DAY OF JULY, 2017

I, Paave Yimoar Demenongo, male, adult, Christian and Nigerian citizen of Independent National Electoral Commission, Plot 436, Zambezi Crescent, Maitama District, Abuja do hereby make Oath and state as follows:

1. I am a Senior Executive Officer in the Legal Services Department of the Defendant/Applicant by virtue of which I am familiar with the facts of this case.
2. I have the consent and authority of the Defendant/Applicant to depose to this affidavit.
3. That I depose to this affidavit from facts within my personal knowledge except otherwise stated.
4. I have read the ex-parte interim Order of injunction made by this Honourable Court on the 6th July, 2017 and I fully understand the

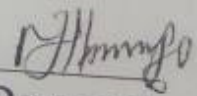
- essence of the said order. Attached hereto is a Certified True Copy of the said Order marked **Exhibit INEC 1**.
5. That the aforesaid Order was made against all parties in the action to *"maintain the status quo as it stand today, July, 6th, 2017 pending the determination of the Plaintiff's Motion on Notice."*
 6. That this Honourable Court having made the said Ex-parte Order adjourned the Suit *"to the 29th day of September, 2017 for hearing of the Plaintiff's Motion on Notice and the application for joinder."*
 7. I know as a fact that the Defendant/Applicant was not heard before the Order was made.
 8. That the Plaintiff misrepresented and suppressed material facts in misleading the Honourable Court to grant the ex-parte order.
 9. That the balance of convenience was in favour of refusing the ex-parte application for interim injunction granted by this Honourable Court on the 6th July, 2017.
 10. I know as a fact that the Defendant/Applicant received a petition dated 19th June, 2017 on 21st June, 2017 for the recall of the Plaintiff/Respondent herein, Mr. Dino Melaye, Senator representing Kogi West Senatorial District of Kogi State by the people of the Constituency. The said petition is humbly attached and marked **Exhibit INEC 2**.
 11. The Defendant/Applicant has also published the Time Table and Schedule of Activities for the recall process and the said Time Table is attached hereto and marked **Exhibit INEC 3**.
 12. That since the ex-parte interim Order of injunction to maintain status quo was served on the Defendant/Applicant on 10th July, 2017, the said order of this Honourable Court has hindered the Defendant/Applicant

from further action on the recall process notwithstanding the fact that time is of essence in carrying out its duties.

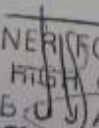
13. The Defendant/Applicant has 90 days from 21st June, 2017 to conduct referendum in line with the approved Time Table and Schedule of Activities (Exhibit INEC 3) for the recall of the Senator representing Kogi West Senatorial District of Kogi State and the period of 90 days will lapse on 18th September, 2017.
14. The last day for submission of application by interested observers, last day for submission of names of verification agents for the member sought to be recalled and the petitioners, Stakeholders meeting, conduct of verification and declaration of the outcome of verification have been slated to hold on 31st July, 2017, 10th August, 2017, 15th August, 2017 and 19th August, 2017 respectively.
15. The Plaintiff/Respondent will not be prejudiced if this application is granted as it is in the interest of justice to grant same.
16. I depose to this affidavit in good faith believing same to be true, correct and in accordance with the Oaths Act.

Sworn to at the Registry of Federal High Court
Abuja Division

This 15th day of July, 2017


Deponent

BEFORE ME


COMMISSIONER FOR OATHS
FEDERAL HIGH COURT
ABUJA
COMMISSIONER FOR OATHS

IN THE FEDERAL HIGH COURT
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

SUIT NO. FHC/ABJ/CS/567/2017

BETWEEN

SENATOR DINO MELAYE -

PLAINTIFF/RESPONDENT

AND

INDEPENDENT NATIONAL ELECTORAL COMMISSION -

DEFENDANT/APPLICANT

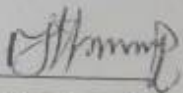
AFFIDAVIT OF URGENCY

I, Paave Yimoar Demenongo, male, adult, Christian and Nigerian citizen of Independent National Electoral Commission, Plot 436, Zambezi Crescent, Maitama District, Abuja do hereby make Oath and state as follows:

1. I am a Senior Executive Officer in the Legal Services Department of the Defendant/Applicant by virtue of which I am familiar with the facts of this case.
2. I have the consent and authority of the Defendant/Applicant to depose to this affidavit.
3. That I depose to this affidavit from facts within my personal knowledge except otherwise stated.
4. The Defendant/Applicant was served on the 10th of July, 2017 with an Order of interim injunction in this Suit on 24th June, 2017 made by this Honourable Court on the 6th July, 2017. The said order is attached and marked Exhibit INEC 1.

5. That the aforesaid Order was made against all parties in the action to *"maintain the status quo as it stand today, July, 6th, 2017 pending the determination of the Plaintiff's Motion on Notice."*
6. That this Honourable Court having made the said Ex-parte Order adjourned the Suit *"to the 29th day of September, 2017 for hearing of the Plaintiff's Motion on Notice and the application for joinder."*
7. I know as a fact that the Defendant/Applicant was not heard before the Order was made.
8. I know as a fact that the Defendant/Applicant received a petition dated 19th June, 2017 on 21st June, 2017 for the recall of the Plaintiff/Respondent herein, Mr. Dino Melaye, Senator representing Kogi West Senatorial District of Kogi State by the people of the Constituency. The said petition is humbly attached and marked **Exhibit INEC 2**.
9. The Defendant/Applicant has also published the Time Table and Schedule of Activities for the recall process and the said Time Table is attached hereto and marked **Exhibit INEC 3**.
10. That since the ex-parte interim Order of injunction to maintain status quo was served on the Defendant/Applicant on 10th July, 2017, the said order of this Honourable Court has hindered the Defendant/Applicant from further action on the recall process notwithstanding the fact that time is of essence in carrying out its duties.
11. The Defendant/Applicant has 90 days from 21st June, 2017 to conduct referendum in line with the approved Time Table and Schedule of Activities (Exhibit INEC 3) for the recall of the Senator representing Kogi West Senatorial District of Kogi State and the period of 90 days will lapse on 18th September, 2017.

12. The last day for submission of application by interested observers, last day for submission of names of verification agents for the member sought to be recalled and the petitioners, Stakeholders meeting, conduct of verification and declaration of the outcome of verification have been slated to hold on 31st July, 2017, 10th August, 2017, 15th August, 2017 and 19th August, 2017 respectively.
13. That time is of the essence in determination of this application and indeed the Suit filed by the Plaintiff/Respondent herein.
14. The Plaintiff/Respondent will not be prejudiced if this application is granted as it is in the interest of justice to grant same.
15. I depose to this affidavit in good faith believing same to be true, correct and in accordance with the Oaths Act.


Deponent

Sworn to at the Registry of Federal High Court
Abuja Division

This 14th day of July, 2017

BEFORE ME
COMMISSIONER FOR OATHS
FEDERAL HIGH COURT
ABUJA
COMMISSIONER FOR OATHS

JR SERVICE ON:

he Plaintiff/Respondent
/o Chief Mike A.A. Ozekhome SAN
ady Josephine Mike Ozekhome
Nkem Okoro Esq.
Godwin Iyinbor Esq.
Akpomiemie M. Akpomiemie Esq.
Justin O. Omogbemeh Esq.
Oranugo Kasiemobi Esq.
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Mike Ozekhome's Chambers
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IN THE FEDERAL HIGH COURT
IN THE ABUJA JUDICIAL DIVISION
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SUIT NO. FHC/ABJ/CS/567/2017

BETWEEN

SENATOR DINO MELAYE -

PLAINTIFF/RESPONDENT

AND

INDEPENDENT NATIONAL ELECTORAL COMMISSION -

DEFENDANT/APPLICANT

SUMMONS BROUGHT PURSUANT TO ORDER 46 (1) RULES 1 AND 5 (1) & (2) OF THE FEDERAL HIGH COURT (CIVIL PROCEDURE) RULES 2009 AND UNDER THE INHERENT JURISDICTION OF THIS HONOURABLE COURT.

LET ALL PERSONS concerned attend this Honourable Court on the ____ day of ____ 2017 at the hour of 9 o'clock in the forenoon or so soon afterwards as counsel on behalf of the Defendant/Applicant may be heard praying this Honourable Court for the following orders:

- i. AN ORDER for accelerated hearing of the Substantive suit and all other filed processes incidental thereto during the Court's vacation.
- ii. AND FOR SUCH further order(s) as this Honourable Court may deem fit to make in the circumstance.

TAKE FURTHER NOTICE that the grounds upon which this application is predicated are set out as follows:

- i. The subject matter of the substantive Suit is predicated on the Constitutional duty of the Defendant/Applicant as provided by Section 69 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended);

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ABUJA
CASHIER
5/2
19/17

- ii. Time is of essence in hearing and the determination of the substantive Suit and all other processes filed in this suit.

Dated this 13th day of July, 2017



- ✓ S.O. Ibrahim Esq.
Joan M. Arabs (Mrs.)
Oluwafemi Adeyemi Esq.
Nelson Anih Esq.
Wendy Kuku (Mrs.)
Abdulaziz Sani Esq.
Okeke Okechukwu Esq.
Esther T. Agbaje (Mrs.)
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Ibrahim Mohamed Sani Esq.
Bashir M. Abubakar Esq.
Olawale Dawodu Esq.
Chidinma C. Nnamah Miss.
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FOR SERVICE ON:

The Plaintiff/Respondent
C/o Chief Mike A.A. Ozekhome SAN
Lady Josephine Mike Ozekhome
Nkem Okoro Esq.
Godwin Iyinbor Esq.
Akpomiemie M. Akpomiemie Esq.
Justin O. Omogbemeh Esq.
Oranugo Kasiemobi Esq.
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SUIT NO. FHC/ABJ/CS/567/2017

BETWEEN

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AND

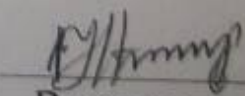
INDEPENDENT NATIONAL ELECTORAL COMMISSION - DEFENDANT/APPLICANT

AFFIDAVIT IN SUPPORT OF SUMMONS

I, Paave Yimoar Demenongo, male, adult, Christian and Nigerian citizen of Independent National Electoral Commission, Plot 436, Zambezi Crescent, Maitama District, Abuja do hereby make Oath and state as follows:

1. I am a Senior Executive Officer in the Legal Services Department of the Defendant/Applicant by virtue of which I am familiar with the facts of this case.
2. I have the consent and authority of the Defendant/Applicant to depose to this affidavit.
3. That I depose to this affidavit from facts within my personal knowledge except otherwise stated.
4. The Plaintiff/Respondent filed an Originating Summons in this suit on the 23rd June, 2017 and served same on the Defendant/Applicant on the 28th June, 2017

5. The said suit is predicated on questions bordering on propriety or otherwise of the petition for the recall of the Plaintiff/Respondent received by the Defendant/Applicant from the registered voters in Kogi West Senatorial District whose signatures appear in said petition. The said petition dated 19th June, 2017 and received by the Defendant/Applicant on 21st June, 2017 is attached and marked as **Exhibit INEC P1**.
6. The Defendant/Applicant has 90 days from the date of the receipt of INEC P1 to conduct a referendum in Kogi West Senatorial District.
7. That time is of the essence for the Defendant/Applicant to fulfill its mandates and sequel to this the Time Table and Schedule of Activities for the recall of the Plaintiff/Respondent as the Senator representing Kogi West Senatorial District was issued on the 3rd of July, 2017. The said Time Table is hereto attached and marked as **Exhibit INEC P2**.
8. That it is in the interest of Justice to grant accelerated hearing in this suit.
9. I know as a fact that the Defendant/Applicant was not heard before the Order was made.
10. That the Plaintiff misrepresented and suppressed material facts in misleading the Honourable Court to grant the Ex-parte Order.
11. That in view of the forgoing circumstances, it is extremely urgent, the matter be heard during vacation.
12. I depose to this affidavit in good faith, believing the contents to be true, correct and in accordance with the Oaths Act.


Deponent

Sworn to at the Registry of Federal High Court
Abuja Division

This 14th day of July, 2017

BEFORE ME
COMMISSIONER FOR OATHS
FEDERAL HIGH COURT
ABUJA
COMMISSIONER FOR OATHS