

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**

BETWEEN

FHT MEGA EXPRESS LIMITED

AND

SUIT NO: CV/4737/25

}...CLAIMANT/RESPONDENT

1. PARALLEX BANK LIMITED

}...DEFENDANT/ APPLICANT

2. CENTRAL BANK OF NIGERIA (CBN) }

**3. NIGERIA DEPOSIT INSURANCE }...DEFENDANTS/
CORPORATION (NDIC) } RESPONDENTS**

MOTION ON NOTICE

**BROUGHT PURSUANT TO SECTION 6(6) OF THE 1999 CONSTITUTION
OF THE FEDERAL REPUBLIC OF NIGERIA (AS AMENDED), ORDER 38
RULE 5(3), ORDER 30 RULE 1 AND ORDER 50 RULE 4 OF THE HIGH
COURT OF THE FEDERAL CAPITAL TERRITORY (CIVIL PROCEDURE)
RULES 2025 AND UNDER THE INHERENT JURISDICTION OF THIS
HONOURABLE COURT**

TAKE NOTICE that this Honourable Court will be moved on the _____ day of _____ 2026 at the hour of 9'0 clock in the forenoon or so soon thereafter as counsel may be heard on behalf of the 1st Defendant/Applicant ('Applicant') praying the Honourable Court for the following orders:

1. **AN ORDER** of this Honourable Court staying proceedings or further proceedings and/ or the hearing of all pending applications or processes filed and/ or that may be filed by the Claimant/ 1st Respondent in this suit, pending the hearing and determination of the instant application.
2. **AN ORDER** of this Honourable Court discharging, vacating and/ or setting aside the *ex-parte* order made by this Honourable Court on the 18th day of December, 2025 pursuant to the Claimant/ 1st Respondent's motion *ex parte* dated 20th November, 2025 and filed on the 20th day of November, 2025.

Fee N 6,650
R/W 03445915
Date 14/1/26

3. **AN ORDER** of this Honourable Court staying execution or further execution of and/ or suspending compliance or further compliance with the *ex parte* orders or all steps, actions or activities relating to the *ex parte* orders of this Honourable Court made in this suit on the 18th day of December, 2025, pursuant to the Claimant/ 1st Respondent's motion *ex parte* dated 20th November, 2025 and filed on the 20th day of November, 2025, by or through any means, howsoever described, pending the hearing and determination of the instant application.
4. **AND FOR SUCH FURTHER ORDER(S)** as this Honourable Court may deem fit to make in the circumstances.

TAKE FURTHER NOTICE THAT the grounds upon which this application is predicated are as follows:

- (1.) The *ex parte* orders of this Honourable Court granted on the 18th day of December, 2025, pursuant to the Claimant/ 1st Respondent's (1st Respondent) motion *ex parte* dated 20th November, 2025 and filed on the 20th day of November, 2025, were obtained by the 1st Respondent upon gross and deliberate misrepresentation, suppression and concealment of material facts by the Claimant/ 1st Respondent.
- (2.) The subject of this suit is already subject of multiple suits or proceedings in different Courts (mostly before different judges of the Federal High Court), including but not limited to:
 - (a.) **Suit No: FHC/L/CS/1774/2025, between Paralex Bank Limited v FHT Mega Express Limited & 4 Ors;** pending before Honourable Justice Lewis-Allagoa (recently transferred to Honourable Justice Owwoeye) of the Federal High Court, Lagos.
 - (b.) **Suit No: MCL/392/MISC/2025; between Mr. Abubakar Dabo Ibrahim (trading under the name and style of Quantic Axelle Trading Company) & 2 Ors. v. Grimaldi Agency Limited,** pending at the Magistrate Court, Tinubu, Lagos.
 - (c.) **Suit No: FHC/L/MISC/519/2025; In the matter of Condemnation Proceedings by the Nigeria Customs Service,** pending before Honourable Justice Ibrahim Ahmed Kala of the Federal High Court, Lagos;

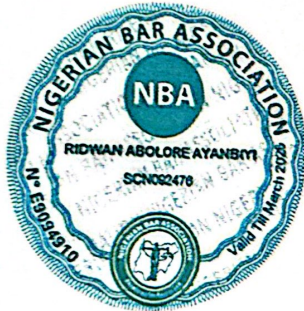
(d.) Suit No: FHC/L/CS/2149/2025; Mr. Abubakar Dabo Ibrahim V. Nigeria Customs Services, pending before Honourable Justice Owoeye (being basically tied to Suit No: FHC/L/CS/1774/2025 and pending before any judge to which Suit No: FHC/L/CS/1774/2025 is assigned) of the Federal High Court, Lagos.

(e.) Suit No: FHC/L/CS/2149/2025; between Mr. Abubakar Dabo Ibrahim & 2 Ors v. Nigeria Customs Services & 3 Ors, pending before Honourable Justice Ibrahim Ahmed Kala of the Federal High Court, Lagos (but now transferred to the Court siesed of Suit No: FHC/L/CS/1774/2025.

- (3.) Having regard to the pendency of the suits listed in paragraph (2) above, the instant suit constitutes an abuse of Court process and amounts to a multiplicity of actions, as it borders on the same subject matter, between the same or substantially similar parties and on the same or substantially similar issues already submitted for adjudication before Courts of competent jurisdiction.
- (4.) By reason of the abusive nature of this suit, this Honourable Court lacks the jurisdiction to entertain or adjudicate upon this suit, or to hear and determine the Claimant/ 1st Respondent's motion *ex parte* dated 20th November, 2025 and filed on the 20th day of November, 2025, or to grant the *ex parte* orders made on the 18th day of December, 2025.
- (5.) The *ex parte* orders of this Honourable Court made on the 18th day of December, 2025 were made in violation of the Defendants/ Respondents and Applicant's right to fair hearing, with respect to the subject matter of this suit.
- (6.) Having filed the motion *ex parte* (dated 20th November, 2025 and filed on the same day), pursuant to which the *ex parte* orders of this Honourable Court were granted, **there was no real urgency or evidence of threat of dissipation**, necessitating the grant of the said application without notice to particularly the Applicant, and other Defendants/ Respondents or other interested parties.
- (7.) This Honourable Court lacks the territorial jurisdiction to entertain the instant suit and make the orders *ex parte* orders made on the 18th day of December, 2025.

- (8.) Assuming but not conceding that this Court has territorial jurisdiction, the instant suit is also incompetent (the originating processes having not been endorsed for service out of jurisdiction), by reason of which this Honourable Court is robbed of jurisdiction to entertain this suit or make the orders *ex parte* orders made on the 18th day of December, 2025.
- (9.) This Honourable Court possesses the inherent powers to discharge, vacate or set aside its *ex parte* orders made on the 18th day of December, 2025, particularly as such orders were obtained by suppression of material facts, in abuse of Court process, made without jurisdiction and in violation of the Applicant's right to fair hearing.

Dated this 7th day of January, 2026



Prof. 'Kemi Pinheiro, OFR, SAN, LLD, FCI Arb.,
Chukwudi Enebeli, SAN.,

SIGNED BY: Ridwan Ayanbiyi, Esq.,

Prince Elebor, Esq.,
Nunu Omoruyi, Esq.,
Akinloluwa Tokede, Esq.,

PINHEIRO LP,

Applicant's Counsel

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FOR SERVICE ON:

1. The Claimant,
C/o their counsel,
Tolu Babaleye, Esq.,
Akinola Apanisile, Esq.,
Tolu Babaleye & Co.,
Plot 69, BraveRoack IV,
Beside Gold Court Estate,
Katampe - Abuja.
08036014473; tbabaleye@gmail.com

2. **The 2nd Defendant/ Respondent**
Plot 33, Abubakar Tafawa Balewa Way,
Central Business District,
FCT-Abuja.
3. **The 3rd Defendant/ Respondent**
Plot 447/448 Constitution Avenue,
Central Business District,
FCT-Abuja.

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1. PARALLEX BANK LIMITED

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2. CENTRAL BANK OF NIGERIA (CBN) }

3. NIGERIA DEPOSIT INSURANCE CORPORATION (NDIC) }

**}]...DEFENDANTS/
} RESPONDENTS**

**AFFIDAVIT IN SUPPORT OF MOTION ON NOTICE (RE: APPLICATION
TO SET ASIDE, DISCHARGE AND/ OR VACATE EX PARTE ORDERS)**

I, Mrs Cynthia Akunaeziri, Female, Christian, Nigerian Citizen of Plot 1261, Adeola Hopewell Street, Victoria Island, Lagos, do hereby make oath and state as follow:

Introduction

1. I am a Manager in the 1st Defendant / Applicant ('Applicant') bank, by virtue of which position I am conversant with the facts deposed hereto.
2. I have the consent and authority of the Applicant to depose to this Affidavit.
3. Except otherwise stated, the facts herein deposed are within my knowledge, information and belief.
4. The Claimant/ 1st Respondent (1st Respondent) commenced this suit vide originating processes dated 20th November, 2025 and filed on the 20th day of November, 2025, for declaratory and other reliefs against the Applicant and other Defendants/ Respondents.

Ex parte orders granted on the 18th day of November, 2025

5. The reliefs sought and endorsed on the originating processes filed by the 1st Respondent seek to realize, recover and/ or confer on the 1st Respondent the value of the Letters of Credit opened by the Applicant on behalf of the 1st Respondent, for the purchase and importation of goods, equipment and machinery, and forming the subject matter of multiple pending suits including but not limited to the following suits:

- (a.) Suit No: FHC/L/CS/1774/2025, between Paralex Bank Limited v FHT Mega Express Limited & 4 Ors; pending before Honourable Justice Lewis-Allagoa (recently transferred to Honourable Justice Owoeye) of the Federal High Court, Lagos.
 - (b.) Suit No: MCL/392/MISC/2025; between Mr. Abubakar Dabo Ibrahim (trading under the name and style of Quantic Axelle Trading Company) & 2 Ors. v. Grimaldi Agency Limited, pending at the Magistrate Court, Tinubu, Lagos.
 - (c.) Suit No: FHC/L/MISC/519/2025; In the matter of Condemnation Proceedings by the Nigeria Customs Service, pending before Honourable Justice Ibrahim Ahmed Kala of the Federal High Court, Lagos;
 - (d.) Suit No: FHC/L/CS/2149/2025; Mr. Abubakar Dabo Ibrahim v. Nigeria Customs Services, pending before Honourable Justice Owoeye (being basically tied to Suit No: FHC/L/CS/1774/2025 and pending before any judge to which Suit No: FHC/L/CS/1774/2025 is assigned) of the Federal High Court, Lagos.
6. On the 18th day of December, 2025, pursuant to the Claimant/ 1st Respondents' motion *ex parte* dated 20th November, 2025 (filed on the same day), this Honourable Court granted far-reaching *ex parte* orders against the Applicant and other Defendants/ Respondents directing the 2nd and 3rd Respondents to withhold monies standing to the credit of the Applicant and in custody and control of the 2nd and 3rd Respondents in the sum of N7,154,677,000.00 (Seven Billion, One Hundred and Fifty Four Million, Six Hundred and Seventy Seven Thousand Naira Only), pending the hearing determination of the 1st Respondent's motion on notice. The enrolled orders of this Honourable Court form part of the records of this Honourable Court.
 7. A perusal of the afore-referenced *ex parte* orders reveals, amongst other things, that the said orders were granted pursuant to the 1st Respondents' motion *ex parte* dated 20th November, 2025 (filed on the same day) and upon the 1st Respondent's misrepresentation of the facts of the contractual dispute between the 1st Respondent and the Applicant in respect of the Letters of Credit, suppression of the fact of the Applicant's exercise of its

right of lien over the shipping documents to the imported containers and goods subject matter of the LCs in the instant suit and pre-existence (and pendency) of the suits in 5(a), (b), (c) and (d).

Suit No: FHC/L/MISC/519/2025

8. Prior to the instant suit and grant of the *ex parte* orders of this Honourable Court, the Nigeria Customs Service equally filed a motion *ex parte* at the Federal High Court in **Suit No: FHC/L/MISC/519/2025; In the matter of Condemnation Proceedings by the Nigeria Customs Service** and obtained *ex parte* orders of Court, Coram: Ibrahim Ahmed Kala J, seeking leave to auction the cargoes subject matter of the Letters of Credit and which LCs are the subject matter of this suit and of the suits in 5(a), (b), (c) and (d). Now shown to me and herewith attached and marked as **Exhibit A** is a certified true copy of the said orders.
9. Upon discovery of the *ex parte* proceedings being conducted by the Nigeria Customs with respect to the cargoes subject matter of the LCs and which LCs are the subject matter of this suit, over which the Applicant herein has a right of lien, the Applicant filed a motion on notice seeking to set aside the said *ex parte* orders. Now shown to me and herewith attached and marked as **Exhibit B** is a copy of the said motion on notice.

Suit No: FHC/L/CS/1774/2025

10. Also, prior to the instant suit and grant of the *ex parte* orders of this Honourable Court, the Applicant had filed a suit at the Federal High Court against **FHT Mega Express Limited** in **Suit No: FHC/L/CS/1774/2025, between Paralex Bank Limited v FHT Mega Express Limited & 4 Ors.**
11. The above suit borders on the indebtedness of the 1st Respondent, **FHT Mega Express Limited** to the Applicant, which debt arose from the outstanding obligations of the 1st Respondent under the Letters of Credit opened in favour of the latter. The said Letters of Credit were opened in favour of the 1st Respondent for purchase and importation of the cargoes subject matter of the LCs and which LCs are the subject matter of this suit.
12. In addition to the claim for the debt owed the Applicant by the 1st Respondent, **FHT Mega Express Limited**, the Applicant also seeks the leave or order of the Court to sell the cargoes subject matter of the LCs, subject matter of this suit and apply proceeds of the said sale towards part-satisfaction of the debt, in exercise of its right of lien over the cargoes. Now shown to me and herewith attached and marked as **Exhibit C** is a copy of the Writ of Summons and Statement of Claim filed in **Suit No: FHC/L/CS/1774/2025.**

13. On the 14th day of October, 2025, the Federal High Court, Coram: Lewis-Allagoa J, made an order (*inter-parties*), directing parties to maintain *status quo* with respect to the cargoes subject matter of the LCs and which (recovery of the value of) LCs are the subject matter of this suit (which also form subject matter of **Suit No: FHC/L/CS/1774/2025**), pending the hearing and determination of applications which are pending before the Court. Now shown to me and herewith attached and marked as **Exhibit D** is a Certified True Copy of the said orders.
14. The above suit was subsequently transferred from Honourable Justice Lewis-Allagoa to Honourable Justice Owoeye, under questionable circumstances.
15. At the Federal High Court in **Suit No: FHC/L/CS/1774/2025**, the 1st Respondent is being represented by **Chukwudi Adiukwu SAN of Duke Licit Advocates.**

Suit No: MCL/392/MISC/2025

16. Meanwhile, during the pendency of the above suit, fronts and privies of the 1st Respondent herein filed **Suit No: MCL/392/MISC/2025; between Mr. Abubakar Dabo Ibrahim (trading under the name and style of Quantic Axelle Trading Company) & 2 Ors. v. Grimaldi Agency Limited** at the Magistrate Court against the Grimaldi Agency Nigeria Limited and obtained *ex parte* orders directing release of the cargoes subject matter of the LCs and which LCs are the subject matter of this suit (which also form subject matter of **Suit No: MCL/392/MISC/2025**. Now shown to me and herewith attached and marked as **Exhibit E** is a Certified True Copy of the said orders.
17. Following discovery of the *ex parte* proceedings being conducted by the fronts and privies of the Claimant/ 1st Respondent in **Suit No: MCL/392/MISC/2025**, the Applicant herein filed a motion on notice seeking to set aside the said orders, on multiple grounds of abuse of Court process and suppression of facts. Now shown to me and herewith attached and marked as **Exhibit F** is a copy of the said motion on notice.
18. At the Magistrate Court in **Suit No: MCL/392/MISC/2025**, the Applicants in the Magistrates' Court suit, being fronts and privies of the 1st Respondent herein, were represented by **Eric Ikwele, Egoh Wisdom and O.G. Ajanaku of Robert Clarke SAN & Ade Oshodi Partners.** Now shown to me and herewith attached as **Exhibit G** is a copy of a letter authored by the law firm of Robert Clarke SAN & Ade Oshodi Partners in respect of **Suit No: MCL/392/MISC/2025**.

Suit No: LD/ADR/6143/2025

19. While the above suits, proceedings and processes were pending, the 1st Respondent, **FHT Mega Express Limited**, filed another improper and abusive suit at the Lagos State High Court in **Suit No: LD/ADR/6143/2025; between FHT Mega Express Limited v. Paralex Bank Limited**, seeking reliefs touching on the Letters of Credit subject matter of **Suit No: FHC/L/CS/1774/2025**. Now shown to me and herewith attached and marked as **Exhibit H** is a copy of the Writ of Summons and Statement of Claim filed in the said suit.
20. The Writ of Summons, Statement of Claim and other accompanying processes in **Suit No: LD/ADR/6143/2025** were filed on behalf of the 1st Respondent herein by **Chukwudi Adiukwu SAN and Olasunkanmi A. Oladiran of Duke Licit Advocates**. However, proceedings in the said suit were undertaken by **Adedayo Oshodi SAN with Egoh Wisdom and O.G. Ajanaku of Robert Clarke SAN & Ade Oshodi Partners**. Now shown to me and herewith attached and marked as **Exhibit I** is a copy of the record of proceedings of the 6th day of November, 2025.
21. Upon failure to obtain *ex parte* orders in **Suit No: LD/ADR/6143/2025**, the suit was discontinued by the Claimant/ 1st Respondent, **FHT Mega Express Limited**, and the said suit was accordingly struck out. In the said suit, the Court, Coram: Muyideen J pronounced that **Adedayo Oshodi SAN, Egoh Wisdom and O.G. Ajanaku of Robert Clarke SAN & Ade Oshodi Partners** and the firm of **Duke Licit Advocates**, representing the 1st Respondent in **Suit No: MCL/ 392/MISC/2025** and **Suit No: LD/ADR/6143/2025** are the same team of lawyers. Now shown to me and herewith attached and marked as **Exhibit J and K** are the Notice of Discontinuance and record of proceedings in **Suit No: LD/ADR/6143/2025**.

Suit No: FHC/L/CS/2149/2025

22. Subsequent to the withdrawal of **Suit No: LD/ADR/6143/2025**, the 1st Respondent, through its fronts and privies, surreptitiously filed another suit (**Suit No: FHC/L/CS/2149/2025; between Mr. Abubakar Dabo Ibrahim & 2 Ors v. Nigeria Customs Services & 3 Ors**) at the Federal High Court, Lagos Judicial Division and the Court, Coram: Ibrahim Ahmed Kala J was misled into granting *ex parte* orders directing the release of the consignments in respect of which the Letters of Credit were opened. Now shown to me and herewith attached and marked as **Exhibit L1 and L2** are the originating process filed in **Suit No: FHC/L/CS/2149/2025** as well as the *ex parte* orders made.

23. Upon becoming aware of **Suit No: FHC/L/CS/2149/2025**, the Applicant filed an application to set aside the said *ex parte* orders on ground of abuse of Court process and the said orders having been obtained upon suppression and misrepresentation of facts. Now shown to me and herewith attached and marked as **Exhibit M** is the motion on notice filed by the Applicant in **Suit No: FHC/L/CS/2149/2025**.
24. At the proceedings of the 9th day of December, 2025 before the Federal High Court in **Suit No: FHC/L/CS/2149/2025**, the Applicant demonstrated the abusive nature of the suit vis-à-vis the pendency of **Suit No: FHC/L/CS/1774/2025** and the Court, Coram: Ahmed Kala J, varied the orders of the Court to abide by the pre-existing orders of the Court in **Suit No: FHC/L/CS/1774/2025** and transferred the case file of **Suit No: FHC/L/CS/2149/2025** to the Court siesed of **Suit No: FHC/L/CS/1774/2025**.
25. While the 1st Respondent, through its fronts and privies, obtained the orders in **Suit No: MISC/392/MISC/2025** and **Suit No: FHC/L/CS/2149/2025** (which orders have been varied) to secure the consignments financed by the Letters of Credit that form the subject matter of this suit as well as **Suit No: FHC/L/CS/1774/2025** and **Suit No: LD/ADR/6143/2025**, the same 1st Respondent has now approached this Honourable Court to secure the value of the same Letters of Credit, as it did in **Suit No: LD/ADR/6143/2025**. Now shown to me and previously marked above as **Exhibit E** is the enrolled order in **MISC/392/MISC/2025**.
26. Despite having full knowledge of the pendency of the above suits in 5(a), (b), (c) and (d) and having directly participated in proceedings in **Suit No: FHC/L/CS/1774/2025** and despite having knowledge of the order of *status quo* made by the Federal High Court in **Suit No: FHC/L/CS/1774/2025**, the 1st Respondent filed the instant suit and obtained the *ex parte* orders made by this Honourable Court on the 18th day of December, 2025 against the Applicant.
27. This suit is a further attempt or effort by the 1st Respondent to run parallel narratives in different fora, manipulate judicial processes to its advantage and ultimately defeat or dilute its clear contractual obligations under the Letters of Credit by securing inconsistent and mutually destructive reliefs in multiple proceedings.
28. I was informed by Prof. 'Kemi Pinheiro, OFR, SAN, FCI Arb., lead counsel for the Applicant, via telephone conversation on the 7th day of January, 2026 at about 3:30pm, during a review of the case file in respect of this case and I verily believe him as follows:

- (a.) That the *ex parte* orders of this Honourable Court granted on the 18th day of December, 2025, pursuant to the 1st Respondent's motion *ex parte* dated 20th November, 2025 and filed on the same day, were obtained by the 1st Respondent upon gross and deliberate misrepresentation, suppression and concealment of material facts by the Plaintiffs/ Applicants.
- (b.) That having regard to the pendency of **Suit No: FHC/L/MISC/519/2025**, **Suit No: FHC/L/CS/1774/2025** and **Suit No: MCL/392/MISC/2025** and **Suit No: FHC/L/CS/2149/2025**, the instant suit constitutes an abuse of Court process and amounts to a multiplicity of actions, as it borders on the same subject matter, between the same or substantially similar parties and on the same or substantially similar issues already submitted for adjudication before Courts of competent jurisdiction.
- (c.) That the instant suit was deliberately commenced by the 1st Respondent immediately after the withdrawal of **Suit No: LD/ADR/6143/2025** for the sole purpose of re-litigating the same issues and obtaining *ex parte* orders previously refused, thereby amounting to a gross abuse of court process.
- (d.) That by reason of the abusive nature of this suit, this Honourable Court lacks the jurisdiction to entertain or adjudicate upon this suit, or to hear and determine the 1st Respondent's motion *ex parte* dated 20th November, 2025 and filed on the same day, or to grant the *ex parte* orders made on the 18th day of December, 2025.
- (e.) That the *ex parte* orders granted on the 18th day of December, 2025 violated the fundamental right of the Defendants/Respondents and the Applicant to a fair hearing, particularly as it relates to the nature of the claims in this suit and orders sought and granted on the 18th day of December, 2025, and were issued without proper regard to procedural fairness or the principles of natural justice.
- (f.) That there was no genuine urgency or imminent risk justifying the *ex parte* motion dated 20th November, 2025, and no circumstances existed that warranted bypassing notice to the Applicant or the

Defendants/Respondents, thereby rendering the orders obtained procedurally improper, unjustifiable and unsustainable.

- (g.) That the factual and legal circumstances presented in the 1st Respondent's *ex parte* motion were entirely identical to those which existed since the commencement of Suit No: FHC/L/CS/1774/2025 and during the refusal of similar relief in Suit No: LD/ADR/6143/2025, removing any pretence of urgency or justification for the grant of the *ex parte* orders.
- (h.) That at the time the 1st Respondent's motion *ex parte* was presented, there was no imminent risk that the subject matter of the suit (including letters of credit or funds) would be dissipated, misapplied or otherwise compromised, and the balance of convenience and the principles governing *ex parte* orders therefore did not justify the grant of the orders.
- (i.) That the *ex parte* orders were sought and granted without proper notice to the Applicant, notwithstanding that the Applicant has a legitimate interest in the subject matter. The absence of notice prejudiced the Applicant's right to be heard and deprived the Court of the opportunity to consider its submissions before granting orders.
- (j.) That the 1st Respondent's conduct demonstrates a pattern of forum shopping and abuse of judicial process, having discontinued prior suits and immediately instituted this instant suit to re-litigate or re-seek previously rejected claims or orders, thereby attempting to secure the very orders that were refused in earlier proceedings. Such conduct undermines the integrity of the judicial process and should be viewed with the utmost seriousness by this Honourable Court.
- (k.) That the *ex parte* orders of the 18th day of December, 2025 have created conflicting claims and procedural confusion across multiple forums, including the Federal High Court and the Magistrate Court, thereby threatening the orderly administration of justice and potentially prejudicing the rights of parties who are otherwise acting in good faith.

- (l.) That granting *ex parte* orders in these circumstances sets a dangerous precedent, encouraging parties to bypass due process, misrepresent facts and multiply proceedings in order to obtain temporary or urgent orders, contrary to established principles of fairness, transparency and judicial economy.
- (m.) That the cumulative effect of the above demonstrates that the *ex parte* orders were obtained in circumstances lacking bona fides, urgency or necessity, and that the Court, if fully apprised of all material facts and the context of the prior proceedings, would not have considered the grant of such orders appropriate or justified.
- (n.) That, in any event, the Applicant is a regulated financial institution, and there was no imminent threat to the safety or dissipation of its funds, such that the *ex parte* orders of 18th December, 2025 were entirely unnecessary, disproportionate and should not have been granted.
- (o.) That the Applicant's funds, being held in the ordinary course of business and fully traceable within its regulated accounts, are readily available for any lawful purpose or enforcement of legitimate claims, further removing any basis for the purported urgency.
- (p.) That in seeking the orders of this Honourable Court, the 1st Respondent did not present any real or credible evidence to demonstrate any actual risk of loss, dissipation or misapplication of the Applicant's funds, in the absence of which shows that the *ex parte* orders of this Honourable Court were entirely disproportionate to the circumstances and represented an unwarranted interference with the lawful operations of the Applicant.
- (q.) That the orders of this Honourable Court have a disproportionate and prejudicial effect on the Applicant, including potential reputational and operational risks, as well as unnecessary disruption of its financial processes, and the orders were not only legally inappropriate but also unfair and inequitable to a party operating under regulated safeguards.

- (r.) That in circumstances where the Applicant's funds were secure, no immediate threat existed, and the prior related suits had been pending, any claim to urgency was illusory and manufactured.
- (s.) That this Honourable Court possesses the inherent powers to discharge, vacate or set aside its *ex parte* orders made on the 18th day of December, 2025, particularly as such orders were obtained by suppression of material facts, in the absence of urgency or evidence of threat of dissipation, in abuse of Court process, made without jurisdiction and in violation of the Defendants/ Respondents and Applicant's right to fair hearing.

Need for the grant of the Instant Application

29. The Applicant's funds in the custody of the 2nd and 3rd Respondents are depositors' funds, representing the savings, salaries, business proceeds and other financial resources of countless individuals and corporate clients, and any interference with these funds, including withholding or freezing, will directly affect the livelihood, financial planning and economic confidence of these depositors.
30. The justice of this case will be best served if the *ex parte* orders of this Honourable Court made on the 18th day of December, 2025 are set aside, discharged and/ or vacated.
31. Unless execution of the *ex parte* orders made in this suit on the 18th day of December, 2025 is stayed and the said orders are set aside, the 2nd and 3rd Respondents will, in compliance with the said orders, withhold the Applicant's funds, which constitute depositors' funds in the care and custody of the Applicant.
32. Unless execution of the *ex parte* orders made in this suit on the 18th day of December, 2025 is stayed and the said orders are set aside, the enforcement of the orders will inevitably create panic among the Applicant's depositors, many of whom maintain significant personal and business funds with the Applicant.
33. Unless execution of the *ex parte* orders made in this suit on the 18th day of December, 2025 is stayed and the said orders are set aside, public knowledge of the orders and the temporary withholding of funds will trigger a sudden rush to withdraw deposits, destabilizing the Applicant's operations and undermining confidence in its ability to

safeguard customer funds. Such a loss of confidence is likely to spread beyond the Applicant to other financial institutions, given the interconnected nature of the banking and financial sector in Nigeria.

34. The reputational damage to the Applicant resulting from the execution of the *ex parte* orders will be severe, immediate and potentially irreversible, threatening the trust of the Nigerian public in the Applicant as a regulated financial institution.
35. In addition to harming depositors and stakeholders, the disruption of the Applicant's operations can have broader economic consequences, including reduced liquidity in the market, diminished investor confidence and adverse effects on commerce and trade that rely on the Applicant's financial services.
36. It is expedient that the orders of this Honourable Court are set aside to prevent unnecessary systemic risk and safeguard both the Applicant's reputation and the wider Nigerian economy.
37. Unless execution of the *ex parte* orders made in this suit on the 18th day of December, 2025 is stayed and the said orders are set aside, the various Courts already seised of the subject matter in Suit No: FHC/L/MISC/519/2025, Suit No: FHC/L/CS/1774/2025 and Suit No: MCL/392/MISC/2025 may be confronted with a *fait accompli*, thereby undermining the due administration of justice.
38. Unless this application is granted and the said *ex parte* orders made on the 18th day of December, 2025 are immediately discharged, set aside and/ or vacated, the said *ex parte* orders has the effect of conferring the alleged value of the Lettes of Credit on the 1st Respondent, even without determination of the merits of the 1st Respondent's case.
39. Unless the *ex parte* orders made on the 18th day of December 2025 are immediately discharged, set aside and/ or vacated, severe injustice will be occasioned on the Applicant, having already (and fully) financed purchase and importation of the goods and cargoes (subject of the LCs) and incurred huge foreign exchange differentials, which the 1st Respondent undertook to absorb.
40. I was informed by Prof. 'Kemi Pinheiro, OFR, SAN, FCIArb., lead counsel for the Applicant, via telephone conversation on the 7th day of January, 2026 at about 3:37pm, during a review of the case file in respect of this case and I verily believe him having purchased and imported the goods and cargoes, financed by the Letters of Credit, which are subject matter of

this suit, the 1st Respondent's entitlement to the value of the Letters of Credit has been extinguished and the only legal right now pertains is to the goods, cargoes and consignments themselves, and such rights can only be exercised upon full satisfaction of all outstanding obligations under the Letters of Credit.

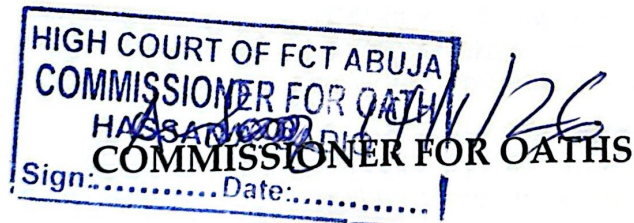
41. Unless execution of the *ex parte* orders made in this suit on the 18th day of December, 2025 is stayed and the said orders are set aside, the Applicant stands to suffer irreparable and substantial loss that cannot be adequately compensated by damages.
42. The balance of convenience is in the grant of the instant application and the setting aside of the *ex parte* orders made in this suit on the 18th day of December, 2025
43. I depose to this affidavit in good faith, conscientiously believing the contents to be true and correct and in accordance with the Oaths Act, 2004.


DEPONENT

SWORN to at the FCT High Court Registry, Abuja

this 14th day of January, 2026

BEFORE ME



**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**

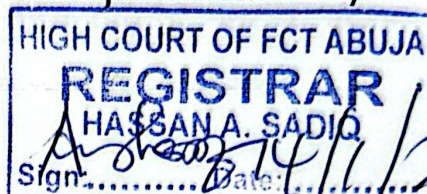
SUIT NO: CV/4737/25

BETWEEN

**FHT MEGA EXPRESS LIMITED
RESPONDENT**

}...CLAIMANT/

AND



1. PARALLEX BANK LIMITED

}...DEFENDANT/ APPLICANT

2. CENTRAL BANK OF NIGERIA (CBN) }

3. NIGERIA DEPOSIT INSURANCE CORPORATION (NDIC) }
RESPONDENTS

**WRITTEN ADDRESS IN SUPPORT OF THE MOTION ON NOTICE (RE:
APPLICATION TO SET ASIDE, DISCHARGE AND/ OR VACATE EX
PARTE ORDERS)**

1.0 INTRODUCTION

- 1.01 This written address is being delivered on behalf of the 1st Defendant/ Applicant ('Applicant') in support of the motion on notice filed herein ('the instant application').
- 1.02 The grounds upon which the instant application predicated are copiously stated on the face of the motion paper. Contemporaneously with the instant address, the Applicant has filed a 43-paragraph affidavit. Heavy reliance is placed on the paragraphs of the affidavit, together with the exhibit(s) attached thereto.
- 1.03 It is the contention of the Applicant that the instant application is meritorious and ought to be granted as prayed.

2.0 STATEMENT OF RELEVANT FACTS

- 2.01 The facts relevant for the just and effective determination of the instant application are contained in the affidavit in support of the application. We most respectfully commend same to the Court.

3.0 ISSUES FOR DETERMINATION

- 3.01 We respectfully submit that the sole issue that arises for determination in this application is:

"Whether in view of the facts and circumstances presented in the affidavit in support of the instant application and disclosed in the exhibits attached thereto, this Honourable Court ought not to grant the instant application"

4.0 ARGUMENTS:

- 4.01 The law is firmly settled that a Court can set aside and or discharge its own orders, whether ex-parte or otherwise; this is no longer in doubt. See the cases of *Vulcan Gases Ltd vs. G.F. Ind. A.G.* (2001) 9 NWLR (pt. 719) pg. 610; *Salman Abdulfatai & Anor. V. Aiyelabegan Kayode A. & Ors.* (2012) LPELR-14324; *Dana Impex Ltd. vs. Awukam* (2006) 3 NWLR pt. 968 pg. 544 at 555.

- 4.02 Further, the Rules of this Honourable Court specifically imbues the Court, with amplitude of judicial powers to set aside or discharge its own ex-parte Orders. Order 38 Rule 5(3) of the High Court of the Federal Capital Territory (Civil Procedure) Rules, 2025, provides that -

Order 38 Rule 5 (3):

"A party may file an application to relist a cause struck out or apply to set aside an order or judgment within six days after the order or judgment was delivered or such longer period the Court may direct."

- 4.03 In addition to the discretionary powers invested in the Court by the Rules of this Honourable Court, **Section 6(6) of the Constitution of the Federal Republic of Nigeria (as amended)** invests in this Honourable Court the inherent powers to do all such things which will ensure fair, just and economic dispensation of justice in every case before it. The Courts have made myriad of pronouncements to emphasize these inherent powers. It has been held that where the circumstances before the Court necessitate the issuance of orders which will better serve the justice of the case before the Court, no matter how extensive or far-reaching, the Court will take the gauntlet, stretch its judicial limbs as long as possible, to adopt the approach which best serves the justice of the case and delivers effective and economic dispensation of justice. In the case of *NSITF v. IYEN & ORS* (2014) LPELR-22438(CA), the Appellate Court held as follows:

"Every Court is equipped with inherent powers, inherent powers can be invoked in the interest of justice to supplement the statutory jurisdiction of the Court, where the exercise of such jurisdiction as it is may result in injustice, such exercise of inherent powers is what makes the Court feel sufficiently fulfilled that it can do substantial justice where necessary in a particular case; See: UNIVERSAL OIL LTD V. NDIC (2008) 6 NWLR PART 1083 ABACHA V. STATE (2001) 3 NWLR (PART 699) 35 AT 45."

- 4.04 Also, in OGWUEGBU v. AGOMUO & ORS (1999) LPELR-6686(CA), it was held thus:

"Now, the inherent power of the Court is that power which adheres to the Court just because it is a Court. And if I may diverge to Latin, the word "inherent" (adjective used to qualify the noun - "power") derives from latin "*inhaereo*" (verb) "*inharere - inhaesum*" meaning, "to stick in", "cling to", or, "cleaves to" a Court by the very reason only of its being such a Court. "Inherent power" of the Court needs not be legislated upon. No. Where, however, there be a legislation dealing with such "Inherent power", it is no longer, in my view, an "Inherent power" Why? Because it thenceforth, becomes a "statutory power" or, "constitutional power" as the case may be. But in that case too, in my view, the "statutory power" does not detract, or derogate from or, abridge the "inherent power of that Court. Why? Again, because it is inherent. In exercising any such power, the Court exercises a "statutory power" or, "Constitutional power" only."

- 4.05 The case of COVALENT OIL & GAS SERVICES LTD & ANOR v. ECOBANK (NIG) PLC & ANOR (2018) LPELR- 46021 (CA) instructively hands out the reason why the Court ought to creatively make orders that would meet the end of the justice of the case before it. It was held as follows:

"Now, inherent powers of the Court are those innate powers invoked by the Court to ensure the smooth running of the machinery of justice in order to curtail abuse, and stamp its authority where necessary. They have constitutional backing in Section 6(6) (a) of the 1999 Constitution, as amended. They are what one may call second nature powers. See ARUBO V. AIYELERU & amp; 5 ORS Supra."

4.06 My Lord, without more, we submit that this Honourable Court possesses the repertoire of judicial powers required to discharge, vacate and/ or set aside the *ex-parte* orders of the Court made in favour of the Claimant/1st Respondent on the 18th day of December, 2025.

4.07 The grounds upon which a Court may exercise its powers to discharge and/ or set aside *ex-parte* orders have been expounded in several cases, to the extent that the law is now settled. In the case of *U.T.B Ltd. vs. Dolmetsch Pharmacy (Nig.) Ltd* (2007) NWLR (Pt.1061) Pg. 520 the Supreme Court, per Onnoghen JSC, held unequivocally that -

"The Court that makes an *ex-parte* order... has the inherent power or jurisdiction in an appropriate case to vary or discharge same. The grounds on which the court will set aside, vary or discharge an order... made *ex-parte* include the following:

(a) If it was granted in a suppression or misrepresentation of material facts, even if the injunction is about to expire.

(b) If there is non-discharge of material facts.

It is no excuse for the Plaintiff or a party to say that he was not aware of the importance of the facts which have been suppressed or not brought to the attention of the court. The court will deal strictly with a party applying *ex-parte* and who had misrepresentation or suppressed material facts"

See also the case of *Odutola v. Lawal* (2002) 1 NWLR (Part 749) 633.

4.08 Flowing from the above, it is the contention of the Applicant that the orders of this Honourable Court made on the 18th day of December, 2025 ought to be discharged and/ or set aside by the Court, same having been procured by the Claimant/1st Respondent upon a gross suppression, concealment of material facts, deceit and the Claimant/1st Respondents having misled the Court into granting same. In addition, it has been established, vide the Affidavit in support of the instant application, that:

(a.) There was no real urgency or credible evidence of threat of dissipation of the funds standing to the credit of the Applicant, necessitating the grant of the orders of this Honourable Court made on the 18th day of December, 2025;

- (b.) That the factual and legal circumstances presented in the 1st Respondent's *ex parte* motion were entirely identical to those which existed since the commencement of Suit No: FHC/L/CS/1774/2025 and during the refusal of similar relief in Suit No: LD/ADR/6143/2025, removing any pretence of urgency or justification for the grant of the *ex parte* orders.
- (c.) That at the time the 1st Respondent's motion *ex parte* was presented, there was no imminent risk that the subject matter of the suit (including letters of credit or funds) would be dissipated, misapplied or otherwise compromised, and the balance of convenience and the principles governing *ex parte* orders therefore did not justify the grant of the orders.
- (d.) That the *ex parte* orders of the 18th day of December, 2025 have created conflicting claims and procedural confusion across multiple forums, including the Federal High Court and the Magistrate Court, thereby threatening the orderly administration of justice and potentially prejudicing the rights of parties who are otherwise acting in good faith.
- (e.) That, in any event, the Applicant is a regulated financial institution, and there was no imminent threat to the safety or dissipation of its funds, such that the *ex parte* orders of 18th December, 2025 were entirely unnecessary, disproportionate and should not have been granted.
- (f.) That the Applicant's funds, being held in the ordinary course of business and fully traceable within its regulated accounts, are readily available for any lawful purpose or enforcement of legitimate claims, further removing any basis for the purported urgency.
- (g.) That in seeking the orders of this Honourable Court, the 1st Respondent did not present any real or credible evidence to demonstrate any actual risk of loss, dissipation or misapplication of the Applicant's funds, in the absence of which shows that the *ex parte* orders of this Honourable Court were entirely disproportionate to the circumstances and represented an unwarranted interference with the lawful operations of the Applicant.

4.09 A careful review of the facts before this Honourable Court, as deposed to and demonstrated in the supporting affidavit, reveals that the 1st Respondent not only failed to disclose material facts to the Court at the time they sought the *ex parte* orders of the 18th day of December, 2025, but deliberately concealed multiple pending suits, prior proceedings, subsisting Court orders and the Applicant's proprietary interests in the cargoes/ Letters of Credit subject matter of this suit (as well as the orders made on the 18th day of December, 2025). This deliberate suppression was calculated to mislead the Court into granting far-reaching orders, which the Court would not have otherwise made, had the true facts been disclosed.

4.10 Firstly, the 1st Respondent concealed the existence of multiple pending proceedings relating to the same Letters of Credit (and the cargoes subject matter of the LCs), namely:

- (a.) **Suit No: FHC/L/MISC/519/2025**, where the Nigeria Customs Service had already obtained *ex parte* orders for auctioning the cargoes subject matter of the Letters of Credit;
- (b.) **Suit No: FHC/L/CS/1774/2025**, where the Applicant is actively exercising its right of lien and seeking judicial authorization to sell the cargoes subject matter of the LCs in part-satisfaction of an outstanding Letter of Credit indebtedness;
- (c.) **Suit No: MCL/392/MISC/2025**, where the fronts and privies of the Claimant/1st Respondent herein secured *ex parte* release orders from the Magistrate Court (**Exhibit E**); and
- (d.) **Suit No: LD/ADR/6143/2025**, filed by the Claimant/ 1st Respondent at the Lagos State High Court and discontinued after the Court uncovered the duplicity in legal representation and the attempt to secure *ex parte* orders;
- (e.) **Suit No: FHC/L/CS/2149/2025**; where the fronts and privies of the Claimant/1st Respondent herein secured *ex parte* release orders from the Federal Court.

- 4.11 It is settled law that an applicant for *ex parte* orders owes the Court the highest duty of candour and must disclose all material facts, whether favourable or unfavourable. By withholding these suits, orders and ongoing proceedings, the 1st Respondent acted in bad faith, violated the duty of full disclosure and thereby rendered the orders of the 18th day of December, 2025 liable to be set aside *ex debito justitiae*.
- 4.12 Secondly, the 1st Respondent failed to disclose the order of the Federal High Court (Coram: Lewis-Allagoa J.) directing parties to maintain *status quo* in Suit No: FHC/L/CS/1774/2025 (Exhibit D). The subsistence of this order goes to the heart of the subject matter and would have demonstrated to this Court that the Letters of Credit (and the cargoes subject matter of the LCs) were already under judicial preservation by a Court of competent jurisdiction. The omission was deliberate and intended to obtain inconsistent reliefs behind the back of both the Applicant and the Federal High Court.
- 4.13 Thirdly, the 1st Respondent also suppressed the pendency of the Applicant's motions on notice filed in Suit No: FHC/L/MISC/519/2025 and Suit No: MCL/392/MISC/2025, both seeking to set aside earlier *ex parte* orders obtained on the basis of similar misrepresentations. These motions, if disclosed, would have alerted this Honourable Court to clear evidence of serial abuse of Court process and multiple attempts to secure conflicting reliefs in different Courts over the same Letters of Credit/ cargoes.
- 4.14 Furthermore, the 1st Respondent concealed the fact that the Applicant is an indispensable party who must be heard in any proceedings before any order is made concerning the Letters of Credit/ cargoes, being the bank that financed the Letters of Credit and covered the differential occasioned by fluctuation in foreign exchange (which differentials the 1st Respondent contracted by Letters of Undertakings to cover/ absorb) and in whose favour the right of lien has crystallized. The 1st Respondent's failure to put the Applicant on notice to be heard before any order is sought or granted constitutes yet another instance of deliberate suppression.
- 4.15 Equally troubling is the deliberate concealment of the identity of counsel and the coordinated legal strategy deployed across multiple Courts. As revealed in Suit No: LD/ADR/6143/2025, the same legal team, including Robert Clarke SAN & Ade Oshodi Partners and Duke Licit Advocates, is behind the suits forming the web of abuse. Yet, this fact was not disclosed in the motion *ex parte* that led to the order of the 18th day of December, 2025. This further confirms the calculated intention to mislead this Court and obtain orders through deceit.

- 4.16 The law is trite that an *ex parte* order obtained through misrepresentation, suppression or concealment of material facts is a nullity, and the Court not only has the power but the duty to discharge or set aside such orders once the mischief is brought to its attention. The 1st Respondent, by withholding these material facts, denied this Court the opportunity to exercise its discretion/ jurisdiction fairly, and in the process, violated the Applicant's constitutionally guaranteed right to fair hearing.
- 4.17 In the case of *Gallagher Ltd & Anor v British Tobacco (Nigeria) Limited & Ors* (2014) LPELR-24333, the Court in considering what constitutes a material fact to be disclosed in obtaining an *ex-parte* order, held categorically as follows:

"...a material fact is not dependent on the court reaching a conclusion that had the undisclosed fact been disclosed, it would not have made the *ex-parte* order. Rather, a material fact is judged on the basis of whether, the non-disclosed fact is such that the court would have felt compelled to consider before taking a decision in the application..."

- 4.18 In the case of *UBA PLC v. DANA MOTORS LTD* (2018) LPELR-44101(CA), the Court, per GEORGEWILL, J.C.A., held that -

"However, where an *ex - parte* order would likely adversely affect the other party, then ordinarily it would be derogation from the provisions of Section 36(1) of the Constitution except it is issued in very urgent and deserving circumstances as permitted by law. **THUS, TO OBTAIN AN EX - PARTE ORDER THAT WOULD ADVERSELY AFFECT ANOTHER PARTY, FULL DISCLOSURE AS WELL AS BONA FIDE, ARE SINE QUA NON, FAILING WHICH IT OUGHT NOT TO BE GRANTED IN THE FIRST PLACE BUT IF GRANTED IT OUGHT TO BE DISCHARGED. This issue therefore, has nothing in my view to do with whether the Appellant's petition has merit or not if heard at a plenary trial but whether on the facts not disclosed, if disclosed, would the Court below had granted the *ex- parte* order for the advertisement of the Petition for winding of the Respondent? On the one hand, the Appellant thinks the Court would do so having in its view disclosed all relevant material necessary for the initiation of a**

winding up Petition. On the other hand, the Respondent thinks otherwise the Appellant having in its view failed to disclose relevant vital material facts of the pending of two suits touching on the indebtedness or otherwise of the Respondent to the Appellant. I have taken time to review the ruling of the Court below and considered the facts available to it both in the application for the ex - parte order and in the application to discharge same and it does appear to me that the fact of the pending two suits between the parties over the subject matter of the indebtedness or otherwise of the Respondent to the Appellant, for whatever such information may be worth in the consideration of the Court below, were not disclosed by the Appellant before it obtained the said ex - parte order.

The question then is whether those facts are material to a determination by the Court below of whether or not to grant the ex - parte order for advertisement of petition? The Court below thinks it does and I do think so too. Those facts may not be condition precedent to the institution of a winding up proceedings but in the circumstances and facts of this appeal in which the parties were already in two different Courts over the same indebtedness or otherwise of the Respondent to the Appellant, a disclosure of such facts is in my finding material since the Appellant was under a duty of full disclosure and bona fide. I therefore do not see the hue and cry over the correct finding by the Court below that the non-disclosure of material facts had indeed misled it to granting the ex - parte order sought."

- 4.19 The question is whether this Honourable Court would have been compelled to consider the multiple suits in the various Courts and the common subject matter in all such suits, before taking a decision on the 1st Respondent's *ex-parte* application in this suit. It is forcefully contended that had the Court's mind been adverted to the pendency of these suits or proceedings, the Court would have exercised its discretion to grant the orders sought in a different manner. This is obviously why the 1st Respondent suppressed and concealed this material fact from the Court and misled this Court, because it could have negatively impacted the exercise of discretion of the Court.

4.20 At worst, this Honourable Court would have directed that the Defendants/ Respondents and all other persons who may be interested in the subject matter of the suit and the *ex parte* application be put on notice, for the Court to hear the other side; and the characteristic of abuse would have been unearthed. Accordingly, the hurried hearing of the 1st Respondent's *ex parte* application dated 20th November, 2025, particularly as it deliberately and mischievously blind-sided the Defendant/Respondents and the Applicant, was therefore overreaching. This mischief is what the statutory and inherent powers of this Honourable Court have been invited to cure and undo. The inherent powers of this Court extend to dismissing the *ex parte* orders.

4.21 We therefore respectfully submit that the multiple suits highlighted above constitute a material fact which the Court would have felt compelled to consider before taking a decision on the Claimant's *ex-parte* application. The 1st Respondent however deprived the Court of this opportunity, by misleading this Court and grossly suppressing and concealing this material fact, the effect of which operates to empower your Lordship to discharge and/ or set aside the orders of the 18th day of December, 2025, the Claimant/1st Respondent having misled the Court into the grant of same.

4.22 Our submission above is further strengthened by the decision of the Court in the case of *Okeke vs. Okoli* (2000) 1 NWLR (Part 642) 641, where the Court, per Fabiyi JCA (as he then was), held that –

"Where an *ex-parte* order is based on important misstatement or concealment, the court should not hesitate to discharge the order at once. This is because, in an *ex-parte* application, the utmost good faith must be observed and the court must impress on parties the importance of dealing in good faith with the court. In the instant case, where there was a misstatement by the respondents in their *ex-parte* application as to the status of the appellant's union, the interim injunction ought to have been discharged by the trial court."

4.23 Fabiyi JCA went further at pages 652 to say that –

"The Respondent tried to hide behind one finger by saying that they knew of the registration of the Appellants' Union on 2-8-93 through an advert/publication in the Nigerian Mirror. Even if it was so, why did they not tell the court on 16-9-93 when

**application for discharge of the interim order was taken?
Why did they continue to press that the interim order
should not be discharged?**

4.24 In the circumstances, and in line with the established principles guiding the grant and discharge of *ex parte* orders, this Honourable Court is urged to discharge, vacate and set aside its *ex parte* orders made on the 18th day of December, 2025, as they were procured in breach of the duty of candour, through deceit and suppression of material facts, in abuse of Court process and without jurisdiction, given the pendency of multiple related suits already seised of the same *res*. This is *a fortiori* as, as has been demonstrated in the supporting affidavit, the instant suit is a gross abuse of Court process, robbing this Honourable Court the jurisdiction to entertain this suit or grant the *ex parte* orders. It is clear that the Claimant/1st Respondent's conduct constitutes a gross abuse of Court process, manifesting in:

- (a.) multiplicity of actions over the same subject matter,
- (b.) forum shopping in different Courts,
- (c.) inconsistent *ex parte* applications seeking contradictory reliefs,
- (d.) concealment of adverse orders, and
- (e.) attempt to evade outstanding obligations, which were undertaken by the 1st Respondent, and secure the value of the Letters of Credit, when the consignments financed by the said Letters of Credit have been purchased and imported.

No Real Urgency or Evidence of Threat of Dissipation

4.25 The law is trite that the grant of an *ex-parte* application can only be considered in situation of extreme urgency and most importantly, in situations where it is impossible to give notice to the adverse party. This must have formed the basis of the holding of Onnoghen JSC (as he then was) when he said -

"An application *ex parte* for an interim injunction can only be brought in cases of extreme urgency where it is not possible in reality to bring an application on notice."

See the case of Universal Trust Bank Ltd V. Dolmetsch Pharmacy (Nigeria) Ltd (Supra).

4.26 The above, is also why one of the most fundamental conditions precedent to the grant of *ex-parte* orders is that Applicant must show the existence of a real urgency and not a caricature of it. See the cases of E. S & C.S. Ltd vs. N.M.B. Ltd (2005) 7 NWLR pt. 924 pg. 215; Kotoye vs. C.B.N (1989) 1 NWLR pt. 98 pg. 419. In the instant suit, the records of this Honourable Court show that the 1st Respondent's motion *ex parte*, pursuant to which the *ex parte* orders of this Court were granted, was filed on the 20th day of November, 2025. There was enough time between the said date and the 18th day of December, 2025 (about a month) for the Claimant/1st Respondent to serve the Applicant, other Defendants/ Respondents and any other interested parties, but the 1st Respondent did not; therein lies the mischief!

4.27 It is submitted, and this Honourable Court is respectfully urged to hold, that there was no real urgency shown by the 1st Respondent to be in existence, but only a caricature of it. In the case of *Kotoye v CBN (1989) 1 NWLR (Pt. 98) 419*, the Apex Court, per Nnaemeka-Agu JSC, held that:

"It is now settled law that the time relevant in determining urgency justifying the grant of an *ex-parte* interim order of injunction is the time between the happening of the event which is sought to be restrained and the date the application for an injunction could be heard after due notice to the other side."

4.28 In addition to the above, the 1st Respondent did not also show credible evidence of threat of dissipation of the funds standing to the credit of the Applicant. The Applicant has demonstrated, vide the Affidavit filed in support of this suit, that the Applicant is a regulated financial institution, and there was no imminent threat to the safety or dissipation of its funds, such that the *ex parte* orders of 18th day of December, 2025 were entirely unnecessary, disproportionate and should not have been granted. The Applicant's funds, being held in the ordinary course of business and fully traceable within its regulated accounts, are readily available for any lawful purpose or enforcement of legitimate claims, further removing any basis for the purported urgency.

4.29 On the need to grant the instant application and set aside the orders of this Honourable Court made on the 18th day of December, 2025, the Applicant has demonstrated that:

- (a.) the Applicant's funds in the custody of the 2nd and 3rd Respondents are depositors' funds, representing the savings, salaries, business proceeds and other financial resources of countless individuals and corporate clients, and any interference with these funds, including withholding or freezing, will directly affect the livelihood, financial planning and economic confidence of these depositors.
- (b.) the enforcement of the orders will inevitably create panic among the Applicant's depositors, many of whom maintain significant personal and business funds with the Applicant.
- (c.) public knowledge of the orders and the temporary withholding of funds will trigger a sudden rush to withdraw deposits, destabilizing the Applicant's operations and undermining confidence in its ability to safeguard customer funds. Such a loss of confidence is likely to spread beyond the Applicant to other financial institutions, given the interconnected nature of the banking and financial sector in Nigeria.
- (d.) the reputational damage to the Applicant resulting from the execution of the *ex parte* orders will be severe, immediate and potentially irreversible, threatening the trust of the Nigerian public in the Applicant as a regulated financial institution.
- (e.) the disruption of the Applicant's operations can have broader economic consequences, including reduced liquidity in the market, diminished investor confidence and adverse effects on commerce and trade that rely on the Applicant's financial services.
- (f.) it is expedient that the orders of this Honourable Court are set aside to prevent unnecessary systemic risk and safeguard both the Applicant's reputation and the wider Nigerian economy.
- (g.) the various Courts already seised of the subject matter in Suit No: FHC/L/MISC/519/2025, Suit No: FHC/L/CS/1774/2025 and Suit No: MCL/392/MISC/2025 may be confronted with a *fait accompli*, thereby undermining the due administration of justice.

- (h.) the said *ex parte* orders has the effect of conferring the alleged value of the Lettes of Credit on the 1st Respondent, even without determination of the merits of the 1st Respondent's case.
- (i.) severe injustice will be occasioned on the Applicant, having already (and fully) financed purchase and importation of the goods and cargoes (subject of the LCs) and incurred huge foreign exchange differentials, which the 1st Respondent undertook to absorb.

4.30 It is respectfully submitted, and this Honourable Court is urged to hold, that the *ex-parte* orders made by this Honourable Court on 18th December, 2025, having been made in the absence of real urgency (which is a fundamental condition in the grant of such *ex-parte* orders), in abuse of Court process, without jurisdiction, upon an incompetent suit, and in the absence of evidence of threat of dissipation (particularly as the Applicant is a bank) ought to be discharged and set aside.

4.31 In view of the foregoing arguments and the Court decisions cited, this Honourable Court is most respectfully urged to grant the instant application.

5.0 CONCLUSION:

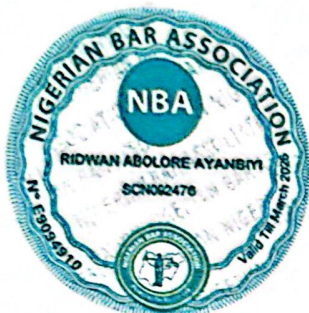
5.01 The Honourable Court is respectfully urged to resolve the issue for determination in favour of the Applicant and set aside the orders of this Honourable Court made on the 18th day of December, 2025, with substantial costs.

6.00 LIST OF AUTHORITIES

1. Constitution of the Federal Republic of Nigeria (2010, as amended)
2. Federal High Court (Civil Procedure) Rules 2019
3. Ajose & Ors V. IGP & Ors (2016) LPELR-40065(CA)
4. Nigeria Social Insurance Trust Fund V. Iyen & Ors (2014) LPELR-22438(CA).
5. Alhaji Mojeed Odutola V. Chief (Mrs.) Mosunmola Togun-Bickersteth & Ors. (2018) LPELR-44842(CA)

6. Mobil Oil Plc. vs. Drexel Energy & Natural Resources Ltd. (2004) 1 NWLR (Pt. 853) Pg. 142
7. Osun State Govt. vs. Chisore Eng. Plc. (2009) 16 NWLR (pt. 1168) pg. 502 at 507, paras. D - E.
8. Carrena & Ors v. Akinlase & Ors (2008) LPELR-833(SC).
9. Jegede & Anor v. INEC & Ors (2021) LPELR-55481(SC).
10. Kalu v. Uzor (2004) 12 NWLR (Pt. 886) Page 1 at 22 paras E-F
11. Vulcan Gases Ltd vs. G.F. Ind. A.G. (2001) 9 NWLR (pt. 719) pg. 610
12. Salman Abdulfatai & Anor. V. Aiyelabegan Kayode A. & Ors. (2012) LPELR-14324
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21. Okeke vs. Okoli (2000) 1 NWLR (Part 642)
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23. Kotoye v CBN (1989) 1 NWLR (Pt. 98) 419.

Dated this 7th day of January, 2026



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