

IN THE SMALL CLAIMS COURT OF BAUCHI STATE OF NIGERIA
IN THE SMALL CLAIMS COURT NO. 1 OF BAUCHI STATE
HOLDEN AT BAUCHI.

ON THURSDAY THE 27TH DAY OF NOVEMBER, 2025

BEFORE HIS HONOUR
ABDULMUMINI ADAMU ESQ.

COURT CLEARK:

ABDULSALAM ABDULLAHI

CLAIM NO: SCCBH/121/2025

BETWEEN:

UMAR ABDULRAZAQ CLAIMANT

AND

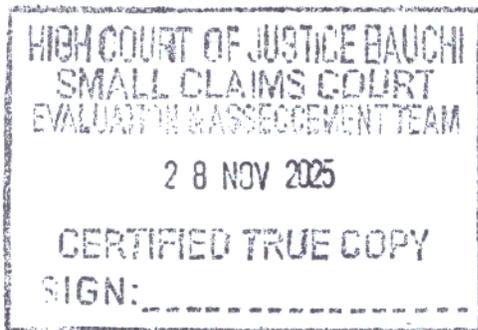
UNITED PARCEL SERVICE NIG. LDT (UPS) DEFENDANT

Both parties: absent.

Appearance:

M.M. Ibrahim Esq. : for the claimant.

M.U. Hamid Esq. : for the defendant.



JUDGMENT

BRIEF FACTS OF THE CASE

The claimant in this suit is a medical practitioner and research consultant. He engaged the services of the defendant to shift the collection of kits to Eye Process Global Research Company at Mozambique. The claimant paid the sum **One Hundred and Thirty Seven Thousand, Three Hundred and Thirty Four Naira (N 137,334) only** on the 04th day of June, 2025. The defendant failed to deliver the kits as agreed by the parties but returned the kits to the claimant at Bauchi after the period of two weeks for the expected delivery. The claimant through his learned counsel issued out a letter of demand against the defendant dated the 28th day of July, 2025 which was duly served on the defendant on the same date as a prerequisite for the commencement of this action. The claimant demanded for the payment of the sum of **One Hundred and Thirty Seven Thousand, Three Hundred and Thirty Four Naira (N 137,334) only**. There was no compliance with the letter of demand which led to the service of the Complaint Form and summons on the defendant as provided in **Form SCA 2 and SCA 3** respectively. The said processes were duly served on the defendant by the order of this Honourable Court via substituted means on the 09th day of October, 2025 as deposed in the affidavit of service by the court's official in person of Abdulsalam Abdullahi as provided in **Form SCA 6**. The defendant was not in court on the date fixed for the hearing and the claimant testified as the sole witness. This Honourable Court adjourned the matter for the defendant to cross examine the witness. A fresh hearing notice was duly served on the defendant on the 16th day of October, 2025 requiring the defendant to appear before this Honourable Court on the 22nd day of October, 2025 for the purpose of cross examination. The defendant was not in the court as required. The learned counsel for the claimant applied that the defendant's right for the cross examination be foreclosed and the application was granted by

this Honourable Court. The learned counsel for the claimant applied that the matter be adjourns for defence. A fresh hearing notice was duly served on the defendant on the 26th day of October, 2025 requiring the defendant to appear before this Honourable Court on the 28th day of October, 2025 for the purpose of its defence. The defendant was not in the court as required. The learned counsel for the claimant applied that the defendant's right for the defence be foreclosed and the application was granted by this Honourable Court. The learned counsel for the claimant applied that the matter be adjourns for final written address. A fresh hearing notice was duly served on the defendant on the 11th day of November, 2025 requiring the defendant to appear before this Honourable Court on the 13th day of November, 2025. The defendant was not in the court as required. The learned counsel for the claimant applied that the defendant's right for the final written address be foreclosed and the application was granted by this Honourable Court. The learned counsel for the claimant adopted his final written address hence this judgment.

THE EVIDENCE AND SUBMISSION OF THE LEARNED COUNSEL.

The learned counsel for the claimant *M.M. Ibrahim Esq.*, led the claimant who testified as the sole witness in this matter.

I have gone through all the relevant court's processes filed by the claimant in this suit which were duly served on the defendant. The learned counsel for the claimant submitted a sole issue for determination in this suit as follow:

“Whether or not the claimant succeeded in discharging the burden of proof placed on him to enable this Honourable give judgment in his favour.”

The learned counsel for the claimant submitted that the claimant has discharged the burden of proof placed on him by the law. The claimant has proved his case on the balance of probability and as such he is entitled to the judgment of this Honourable Court. He referred this Honourable Court to the case of *Egbo v*

Anauche (2020)4 NWLR (Part 1713) 82 SC. The learned counsel for the claimant further argued and submitted that the claimant presented un-challenged and un-contradicted evidence. It is duty of this Honourable Court to accept and act on such un-contradicted evidence. In the instant case the claimant's testimony as Pw 1 and tendered four (4) exhibits which were not challenged in any way established the claimant's case against the defendant. The learned counsel for the claimant argued and submitted that the claimant suffered lost for the defendant's in ability to deliver the kits to the Mozambique Company. He referred this Honourable Court to the case of *Multichoice (Nig.) LTD V Azeez* (2010) 15 NNR (Part 1215) 40 CA. The learned counsel for the claimant urged this Honourable Court to order the defendant to pay the sum of \$ 223 for failed contract which was resulted by the defendant's failure to deliver the kits. The learned counsel for the claimant also urged this Honourable Court to order the defendant to pay the professional fees paid by the defendant as contained in exhibit "D".

The provision of **Sections 131, 132 and 133 of the Evidence Act, 2011**, Provided for on whom the burden of proof lies and the standard of proof in civil matters. The Supreme Court of Nigeria defined the term "liquidated money demand or liquidated sum" in the case of *Akpan v Akwa Ibom Property & Investment Company Ltd.*, (2013) LPELR-20753 (SC), (2013) 12 NWLR (Part 1368) 377 at 400 as follows:

Liquidated money demand or liquidated sum means a debt or other specific sum of money usually due and payable, which amount must have already been as ascertain or capable of being ascertained as a mere matter of arithmetic without any other further investigation. Therefore, whenever the amount being claimed by the claimant can be ascertained by calculation or fixed by any scale of charges or other positive data, it is said to be liquidated.

Let me now consider the evidence presented by the claimant in support of his claim before this Honourable Court as follows:

Pw 1 gave his name as Umar Abdulrazaq who gave his testimony on affirmation. He testified to the effect that he engaged the service of the defendant to deliver kits at the sum of **One Hundred and Thirty Seven Thousand, Three Hundred and Thirty Four Naira (N 137,334)**. He also led evidence for the sum of **Three Hundred and Fifty Thousand Naira (N 350,000) only** as a professional fee while the sum of **\$ 55,000 Dollars** as damages for the loss of the contract. The witness also tendered four set of documents which were received in evidence and marked as exhibit "A", "B", "C" and "D". Exhibit "A" is a letter of demand, exhibit "B" is the copy of the receipt issued by the defendant to the claimant evidencing the transaction between the parties, exhibit "C" is the bill tracking number while exhibit "D" is the official receipt issued by the law firm engaged by the claimant.

The learned counsel for the claimant submitted that since the defendant failed to participate throughout this case, he urged this Honourable Court to accept the entire evidence adduced by the claimant and enter judgment in favour of the claimant.

APPLICABLE LAW

I have carefully considered the content of the letter of demand, the complaint and summons filed in this suit as provided in Form SCA 2 and SCA 3 respectively. I also considered the evidence adduced by the claimant as the sole witness in this matter. The law is settled that a defendant that was accorded notices to defend a suit against him but failed to utilise the ample opportunities accorded to him cannot turn around to alleged denial of fair hearing after hearing notices were duly served on him as in the instant suit. The Supreme Court held that, fair hearing in essence, means giving equal opportunity to the parties to be heard in the litigation process before the court. Where parties are given opportunity to be heard, they cannot complain of breach of the fair

hearing principles as held in the case of *Ojo v Abdulazeez* (2024) 6 NWLR (Part1934) at 363, E-H. The failure of the defendant throughout this case to cross examine the sole witness presented by claimant and or to produce contrary evidence make this Honourable Court to accept the only evidence presented before this Honourable Court as truth of the matter. The position of the law is trite that where the evidence before the court on material fact was not challenge or controverted or discredited by the adverse party in the process of cross examination, the court is bound to accept such testimony as true. This position of the law was established in the plethora of cases, *Airtel Network Ltd., v Plus Ltd.*, (2020) 15 NWLR (Part1747) 235, *SPDCN Ltd., v Esowe* (2008) 4 NWLR (Part 1076) 72 at 88.

The learned counsel for the claimant rightly submitted that civil matters are generally decided on the preponderance of evidence. However, the position of law is not without exception, civil matters of this nature as in the instance suit fall within the exceptional situation. The claimant in this suit produced unchallenged or uncontroverted evidence. The unchallenged or uncontroverted evidence might be worthless or might fall far short of tilting the imaginary scale of justice in favour of a party relying on such unchallenged or uncontroverted evidence. The authorities to this effect are among other cases include, *Maidara v Halilu* (2000) 13 NWLR (Part 684) 257 at 268 F-F, *Lufthansa Airlines v Odiese* (2006) 7 NWLR (Part978) 34, *Consolidated Res., Ltd., v Abofar Ven. (Nig) Ltd.*, (2007) 6 NWLR (Part 1030) 221 at236.

The burden of proof on a party whose evidence is unchallenged is to establish on minimal proof if such evidence is accepted and believed by the trial court as it was held in the case of *Intl. Offshore Const. Ltd., v S.L.N Ltd.*, (2003) 16 NWLR (Part 845) 157 at Pp. 180-181, H-A. In the instant suit, there was no evidence on the defendant's scale for the court to weight and determine the preponderance of evidence. This Honourable Court would only determine whether the claimant adduce minimal evidence in support of his claim. This is

because the claimant shall only succeed on the strength of his case and not on the weakness of the defendant's case. Therefore, the defendant's failure to participate throughout the hearing of this case would only be regarded as a defendant's weakness. The claimant has a duty to proof his claim by credible evidence for him to succeed as decided in the case of *Mr. Muhammed Dungus & Ors v ENL Consortium Ltd.*, (2015) NLLR (Part208) 39.

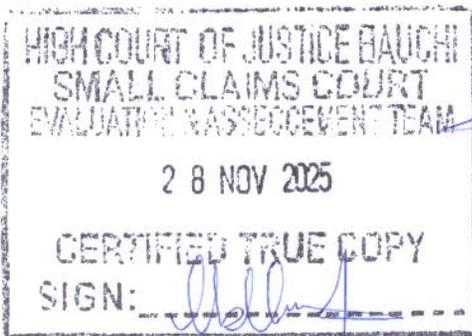
FINDINGS AND DECISION

On the whole, it is the finding of this Honourable Court that the claimant's main claim in this suit is for liquidated money demand. The claimant produced unchallenged or uncontroverted evidence. The claimant in this suit established his main claim as captured in the letter of demand, the complaint as well as the summons by way of minimal proof as required by the law and he is therefore entitled to the relief sought in that regard from this Honourable Court. This Honourable Court hereby entered judgment in favour of the claimant on the merit of his case. I hereby ordered the defendant to pay the claimant the sum of **One Hundred and Thirty Seven Thousand, Three Hundred and Thirty Four Naira (N 137,334:00)** only being the money he paid to the defendant for the delivery of the kits which were not delivered as agreed by the parties. I also ordered the defendant to pay the claimant the sum of **Three Hundred and Fifty Thousand Naira (N 350,000)** only as a professional fee for which the claimant engaged the services of a law firm as established in exhibit "D".

However, the claimant only led evidence as to the sum **\$ 55,000 Dollars** which was not in any way part of his claims in all the processes filed in this suit. It is the elementary position of the law that evidence in support to a fact not pleaded goes to no issue. There was no evidence at all that failure of the defendant to deliver the kits frustrated the whole contract between the claimant and the company in Mozambique. The claimant even if he pleaded such fact he must proof same by way of credible evidence as to the exact figure in the letter of

contract or agreement. The claimant must also present the letter for revoking the agreement due to the failure to deliver the kits within the earliest expected date for the delivery due to the defendant's failure. These and more are required to be established to justify that the claimant was indeed at loss for the said sum of \$55,000 Dollars but the claimant failed to present credible evidence in that regard. It was only the learned counsel for the claimant smartly incorporated some points in his final written address. The law is settled that arguments and submissions of counsel no matter how brilliant or persuasive cannot metamorphose into evidence. The reason is simple that learned counsel never announced appearance as a witness to enable him to adduce evidence in any matter. The claimant is therefore not entitled to the judgment of this Honourable Court as per the sum of **Fifty Five Thousand Dollars (\$ 55,000) only.**

There is right to appeal to High Court of Justice of Bauchi State within 14 days by any of the aggrieved party as provided in **Article 14 (2) of the Practice Direction on Small Claims Court No. 2 of Bauchi State, 2022.**



Abdulumuni Adamu Esq.,
Principal District Judge II.
Small Claims Court I, Bauchi.
Bauchi State.
27/11/ 2025.