



The Legal Luminary

In-house E-Newsletter of the Legal Department

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REGISTERED TRUSTEES OF FAITH LIBERATION HOUR MINISTRIES INC. Vs NDIC, FHA & LSMPPUD

“I can tell you the Secretary of State tells me your hats are always cool. And I envy your name. If I had a name like Goodluck, I might still be in office”
Former US President Bill Clinton addressing President Goodluck Jonathan at a UN Aids meeting in

NEWS

Bomb blast rocks Louis Edet House, Abuja.

Anyim Pius Anyim has been sworn in as the SGF

Former Speaker Hon. Dimeji Bankole in court to defend 16 count charge filed against him by EFCC.

Mr. Tayo Aderinokun of GTBank died after protracted illness on 14th June 2011

NBA Abuja meetings hold on the third Friday of every month by 4pm at Yaradua Centre, Abuja.

From the Editor!

Wow! How time flies, it seems hard to believe that we are already half way through the year of 2011. The year 2011 in the Corporation has been quite eventful so far, from the appointment of a new ED to the introduction of the biometric system of attendance monitoring. In this 7th mid-year edition of our e-newsletter “The Legal Luminary” we will look at a case handled by one of our legal Officers in our Lagos Office, Mrs. Oyindamola Brown. This will practically answer the question raised in the last edition as to whether in-house lawyers can represent the Corporation in court. This edition promises to be just as interesting as always. Your legal questions, general comments and contributions are welcome.

Q Am I entitled to maternity leave with full pay as a newly recruited staff of the corporation?

A Maternity leave is a form of parental leave offered to the mother of a new child so that they can bond.

Female staff of the Corporation are entitled to maternal leave of up to 90 working days .

The conditions of service for the Corporation states that ‘*all female staff who have taken in are entitled to 3 months maternity leave including full pay within a calendar year. Half of the annual leave for that year is also granted but this will not be regarded as part of the maternity leave. However where the annual leave has already been taken before the maternity leave is due that part of the maternity leave equivalent to half of the annual leave shall be with half pay*’.

This means that once maternity leave has been taken the staff can only take half of her annual leave for the year. However, In a situation where the staff has already taken her full annual leave before proceeding on maternity leave, then a period of her maternity leave equal to half of her annual leave will be taken with only half of her salary.

However, the Human Resource practice in the Corporation is for newly recruited staff not to take full maternity leave. A staff that has worked for a period less than a year but more than 6 months is entitled to 3 months maternity leave but with half pay.

Where the staff has worked for less than 6 months she is entitled to 1 month maternity leave without pay.

REGISTERED TRUSTEES OF FAITH LIBERATION HOUR MINISTRIES INC. Vs NDIC, FHA & LSMPPUD

In the last edition a query was raised as to whether in house lawyers (staff of the corporation) could defend the Corporation in court. In this section we have the facts of a case where one of our in house lawyers. (Mrs Oyindamola S. Brown) defended the Corporation in a suit. Read on for the facts of the suit and what was subsequently held.

In this suit the Plaintiff took out an Originating Summons against the defendants seeking inter alia the determination of the question whether the payment of the sum of N 1.5 million by the plaintiff to the 1st defendant (NDIC) being provisional Liquidator of both M&E and METRO FINANCE LTD shall not be deemed as payment by M&E to METRO FINANCE LTD in settlement of the loan transaction involving the Gowon Estate property.

The Plaintiff also claimed inter alia the following relief:

“an order that the first defendant being provisional liquidator of METRO FINANCE LTD and MANHATTAN EXTRACO (M&E) FINANCE LTD, the 1st defendant is statutorily empowered to act for both financial institutions in the matter of loan transaction relating or pertaining to plot of land along 2nd Avenue 21 Road, Ipaja New Town Lagos measuring 11,094.54 square meters in plan FHA/IPJOMPLEX1/8LKS, and referred to herein as Gowon Estate Property”.

The 1st defendant filed conditional appearance and a Preliminary Objection challenging the jurisdiction of the court on the grounds that there was no Pre-Action Notice served on the 1st defendant prior to the institution of the suit against it contrary to Section 55 of the NDIC Act 2006 therefore robbing the

honourable court of jurisdiction to hear the Originating application; that the 1st defendant is not and cannot be deemed provisional liquidator of METRO FINANCE LTD or MANHATTAN EXTRACO FINANCE LTD since there was no publication in a gazette to the effect that the two Finance Houses licences were revoked by the Central Bank of Nigeria in accordance with Section 40 of the NDIC Act 2006 hence the 1st defendant was not a necessary party to the action and that the suit disclosed no reasonable cause of action against the 1st defendant.

In reply, the Plaintiff argued that no pre-action notice was required. That S.55 of the Act does not apply when NDIC is sued not for claims against it per se but was sued by virtue of its statutory functions under section 2(1)(e) of the NDIC Act. That S.55 does not apply since the suit is not for any action, claim or demand or liability against NDIC in respect of anything done or omitted to be done in the execution of its statutory functions.

The court after a consideration of the submission of counsel held that since no Pre-action notice was issued by the Plaintiff before rushing to court, the Preliminary objection succeeds and therefore the suit is incompetent citing the case of **Madukolu V Nkemdilim(1962) All NLR 581.**

The suit was consequently struck out on the ground of the non issuance of a Pre-action notice by the Plaintiff and also as the suit does not disclose any relief against the 2nd and 3rd defendants.



Mrs. Oyindamola Seun Brown

SOCIAL DIARY

The promotion examinations into the various cadres of the Corporation held on the 6th of June, 2011 after a very tense preparatory period and postponement. We wish success to all those that took part in the exams . The Legal Luminary heartily congratulates Mrs. C.O. Omobo, who celebrated her birthday on the 1st of June, 2011. The biometric attendance monitoring system has commenced fully after test-running for a period of 2 weeks. We say a very big Congratulations to NDIC for upgrading from manual attendance to biometrics.

Reply Brief

The publication and distribution of the Legal Luminary is a welcome development. It is educative, informative and entertaining. More grease to your elbows, OUR LEARNED!

Dalhatu Ibrahim

NDIC