

FORM 1
WRIT OF SUMMONS

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

SUIT NO: FCT/HC/CV/2448/2017

BETWEEN

INNOSON NIGERIA LIMITED
INNOCENT CHUKWUMA, OFR (AKA INNOSON) }

PLAINTIFFS

AND

GUARANTY TRUST BANK PLC.

DEFENDANT

TO: GUARANTY TRUST BANK PLC. of No 635, Akin Adesola Street, Victoria Island, Lagos, Nigeria and Plot 1473, Ahmadu Bello Way, Garki, FCT-Abuja, Nigeria.

You are hereby commanded that within thirty (30) days after the service of this Writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in an action at the suit of **INNOSON NIGERIA LIMITED AND INNOCENT CHUKWUMA, OFR.**

AND TAKE NOTICE that in default of your so doing, the plaintiffs may proceed therein and judgment may be given in your absence.

DATED THIS 19 DAY OF JULY 2017

NB: This Writ is to be served within twelve (12) Calendar months from the date thereof, or, if renewed, within six (6) calendar months from the date of the last renewal, including the day of such date and not afterwards.

The defendants may enter appearance personally or by Legal Practitioner either by handing in the appropriate forms, duly completed, at the registry of the High Court of the Federal Capital Territory, Abuja in which the action is brought or by sending them to the Registrar by registered post.

The Plaintiffs claim against the Defendant as follows:

1. **₦100 Billion** exemplary damages;
2. **₦100 Billion** for injury to feelings –mental pains and anxiety;
3. **₦150 Billion** for injury to reputation;
4. **₦50 Billion** general damages;
5. **AN ORDER** that the published words complained of be retracted by the Defendant with an apology published in two National dailies;
6. **AN ORDER** of perpetual injunction restraining the Defendant from further maligning or otherwise defaming the Plaintiffs in the words or similar words, complained of in this action;
7. **AN ORDER** of perpetual injunction restraining the defendant, its agents, privies or whomsoever from further defaming the Plaintiffs;
8. **22%** interest on the said sums of money claimed in **sub-paragraphs 1 – 4** above commencing on **22nd January 2016** till the date of judgment and thereafter at the same rate of **22%** interest until the satisfaction of the judgment debt.

This Writ was issued by Prof. Joseph N. Mbadugha Esq, ✓**Emeka Stanley Ubah Esq.** (signed by ✓**Emeka Stanley Ubah Esq.**) of **McCarthy Mbadugha & Co.** whose address for service is **Pacific Court, 19, Johnvic Igboanugo Street, Lekki Peninsula Scheme 1, Lagos.** Legal Practitioner for the said Plaintiffs whose business address is **20, New Market Road Nnewi, Anambra State.**

This Writ was served by me at on the Defendant..... on the day of 2017.

Endorsed the..... day of 2017.

(Signed)
Address

THIS WRIT OF SUMMONS IS TO BE SERVED OUT OF ABUJA – OUT OF JURISDICTION – AND IN LAGOS STATE

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

SUIT NO: FCT/HC/CV/~~2448~~/2017

BETWEEN

INNOSON NIGERIA LIMITED
INNOCENT CHUKWUMA, OFR (AKA INNOSON) }

PLAINTIFFS

AND

GUARANTY TRUST BANK PLC.

.....

DEFENDANT

STATEMENT OF CLAIM

1. The 1st Plaintiff is a Limited Liability Company incorporated under the Companies and Allied Matters Act, 1990 and having its registered address at **20, New Market Road, Nnewi, Anambra State, Nigeria**. The Plaintiffs carries on the business of manufacturing and assemblage of vehicles and motorcycles.
2. The 2nd Plaintiff is the managing director and the alter ego of the 1st Plaintiff and is known as **Innoson**.
3. The Defendant is a Public Liability Company incorporated in Nigeria under Companies and Allied Matters Act and licensed by the appropriate government agency to carry on the business of commercial banking in Nigeria with its registered office at **Plot 635, Akin Adesola Street, Victoria Island, Lagos, Nigeria** and or principal place of business at **Plot 1473, Ahmadu Bello Way, Garki, FCT-Abuja, Nigeria**.
4. The Plaintiffs aver that:
 - a. in a motion on notice in **Suit No: SC/694/2014** dated the **22nd of January 2016** and filed at the Supreme Court on the **5th of February 2016**, with a **15 paragraph** affidavit in support the Defendant published at its ground 9 that the 1st Plaintiff obtained the judgment in **Appeal No. CA/I/258/2011** by fraud;
 - b. similarly, at **paragraphs 9 and 10** of the affidavit in support of the said motion on notice, deposed to by **Sarah Ugamah**, the Defendant said and or published that the 1st Plaintiff fraudulently suppressed that it was paid the sum of **₦1,406,515.845.98 (One Billion, Four Hundred and Six Million, Five Hundred and Fifteen Thousand, Eight Hundred and Forty-five naira, Ninety-Eight Kobo)** in liquidation of the judgment debt;
 - c. also, the Defendant published the aforesaid words in **paragraph 11(c)** of the said affidavit and **particulars (A) – (D)** of **Ground 12** of the schedule of amendment of Grounds of Appeal as well as in **particulars A – D** of

Ground 12 of the proposed amended notice of appeal attached to the said affidavit and in **particulars A – D** of **Ground 12** of its Amended Notice of Appeal filed at the Supreme Court in the same **Appeal No. SC 694/2014** on **5th February 2016**.

5. The Plaintiffs aver that:

- a. the Defendant dictated the published words to its Secretary or its solicitors and or the Defendant's solicitors dictated or handwrote the published words to their Secretary who typed the published words and these Secretaries read same in the circumstance;
- b. the Defendant's various solicitors which include but not limited to the ones stated in its aforesaid motion on notice of **22nd January 2016** read the said published words;
- c. the Defendant submitted the aforesaid published words for filing at the Supreme Court and the various registrars and or officers of the Supreme Court of Nigeria that same passed through read them;
- d. the Defendant and or its solicitors served the aforesaid published words to the Plaintiffs' solicitors which include but not limited to **Prof Joseph N. Mbadugha Esq, I. C. Okolo Esq, Nkemdilim D. Malizu Esq, Emeka S. Ubah Esq, Odinaka Anajemba Esq, Ernest Ofime Esq, Rita Nwaokenye Esq, Patience Udoh Esq.** and all of these solicitors read same;
- e. in a proceeding of **21st June 2016** at the Supreme Court the Defendant, through its Senior Counsel – **Kemi Pinheiro, SAN**, - read out and or said out loudly the words complained of to the hearing of everybody at the Supreme Court on that day including parties in other cases inclusive of their counsel/solicitors, observers, journalists, spectators and the Justices of the Supreme Court;
- f. the published words were filed at the Supreme Court and every process filed at Supreme Court is a public document including the said published words complained of and its certified or uncertified copies could have been obtained and read by persons unknown to the Plaintiffs;
- g. the decision of the Supreme Court in respect thereto has been published both electronically and through hard copies by various law report publishers which include but not limited to Law Pavilion, Nigerian Weekly Law Report, Nigerian Supreme Court cases, All Federation Weekly Law Report, All Nigerian Law Report and were read in and outside of Nigeria by several persons which may be over **200,000** including lawyers, non-lawyers, company executives and so on – who may not be known or identified by the Plaintiffs.

5.1 The Plaintiffs aver that:

- a. the 1st Plaintiff filed a counter affidavit on **6th April 2016** against the Defendant's application containing the aforesaid published words;

- b. consequently, the defendant filed a further affidavit on **17th June 2016** and the 1st Plaintiff as well filed a further counter affidavit on **21st June 2016**;
 - c. in its decision of **12th May 2017 (infra)** the Supreme Court held that the Defendant has no *locus* to attack the principal judgment and or to publish the words complained of.
6. The Plaintiffs aver that the aforesaid published words in their ordinary and natural signification and by innuendo mean that the Plaintiffs are:
- a. dubious, dishonest, dishonorable, untrustworthy, of questionable character;
 - b. fraudsters;
 - c. criminally deceptive;
 - d. obtaining money through false pretences;
 - e. cheats
- 6.1 The Plaintiffs further aver that the aforesaid words in their ordinary and natural meanings and by innuendo as well, carry or have the imputation of fraud and aspersions on the Plaintiffs' moral character and credibility.
- 6.2 The Plaintiffs aver that the 2nd Plaintiff is:
- a. the Managing Director and the alter ego of the 1st Plaintiff;
 - b. Centenary awardee – evidenced by a Certificate issued and presented to him by former President of the Federal Republic of Nigeria – Dr. Goodluck Ebele Jonathan – on **28th February, 2014**;
 - c. Chancellor, Imo State University of Nigeria – evidenced by Imo State University's letter of **1st March 2016** with **Ref No. IMSU/REG/174/IV/43**;
 - d. a holder of the following Honours:
 - i. National Honour of Officer of the Order of the Federal Republic (OFR) – evidenced by Certificate issued by former President of the Federal Republic of Nigeria - Dr. Goodluck Ebele Jonathan – on **14th November, 2011**.
 - ii. PhD (*Honorari Causa*) in Management Science, Nigerian Defence Academy – evidenced by Certificate issued by the Nigerian Defence Academy Council on **26th September 2016**;
 - iii. PhD (*Honorari Causa*) in Business Administration(ESUT) – evidenced by Enugu State University of Science and Technology's letter of **12th September 2011** with **Ref No. ESUT/VC/CONV/HD.3/14**;

- iv. Honorary Fellow of the Nigerian Society of Engineers - evidenced by a Certificate issued by the Nigerian Society of Engineers dated **10th September 2015**;
 - v. Honorary Life Vice President of Nigerian Association of Chambers of Commerce, Industry, Mines & Agriculture (NACCIMA) – evidenced by Nigerian Association of Chambers of Commerce, Industry, Mines & Agriculture (NACCIMA), letter of **10th June, 2013 with Ref No. NACC.7/Adm/Vol.**
 - e. Member of the Board of Nigerian Industrial Policy and Competitiveness Advisory Council – evidenced by State House Abuja, Nigeria, letter of **21st April, 2017 with Ref No. SH/OVP/DCOS/Misc./7**;
 - f. Managing Director and the alter ego of **Innoson Vehicle Manufacturing Company Ltd**;
 - g. Managing Director and the alter ego of **Innoson Industrial and Technical Ltd**;
 - h. all the documents, letters and or certificates in proof of the aforesaid are herein pleaded.
7. The Plaintiffs aver that:
- a. whenever the 1st Plaintiff is mentioned, that it is the 2nd Plaintiff that is referred to and comes to every one's mind;
 - b. the aforesaid published words in both their natural and ordinary meaning and or by innuendo point at or pointed at and or were pointed at and or refer or referred to the 2nd Plaintiff;
 - c. the aforesaid published words were, as well, reasonably identified with the 2nd Plaintiff personally by the readers of the published words and or at least people – readers of the said published words – would think that the 2nd Plaintiff must have known of the alleged fraud and so on;
 - d. the said published words would and were understood by members of the public particularly but not exclusively those who ever knew the 2nd Plaintiff, or by innuendo, to refer to the 2nd Plaintiff as well.
8. The Plaintiffs aver that in publishing the said words the Defendant was both malicious and mischievous.
9. The Plaintiffs further aver that the aforesaid published words did or caused the following:
- a. injured the Plaintiffs in their character, office, vocation and trade;
 - b. lowered the Plaintiffs' reputation and estimation in the eyes of every reasonable member of the society;

- c. brought the Plaintiffs and or caused the Plaintiffs to be treated with contempt, hatred, ridicule, opprobrium and to be shunned or avoided by people;
 - d. mental pains and anxiety;
 - e. loss of *consortium vicinorum*, loss of business, contacts, contracts and credit;
 - f. injured the Plaintiffs' reputation.
10. The Plaintiffs aver that in publishing the aforesaid words, the Defendant calculated and or would have calculated that it would profit from the publication, the particulars of the calculation and or the Defendants expected profit are:
- a. on **29th July 2011**, the Federal High Court, Ibadan Division, through a garnishee order absolute ordered the Defendant to pay the sum of **₦2,048,737,443.67k (Two Billion, Forty Eight Million, Seven Hundred and Thirty Seven Thousand, Four Hundred and Forty Three Naira, Sixty Seven Kobo)** to the 1st Plaintiff;
 - b. the Defendant appealed against the judgment to the Court of Appeal, Ibadan Division. In a unanimous judgment, delivered on **6th February 2014**, the Court of Appeal dismissed the appeal, affirmed the judgment of the trial Court and ordered the Defendant to pay the said sum of **₦2,048,737,443.67k (Two Billion, Forty Eight Million, Seven Hundred and Thirty Seven Thousand, Four Hundred and Forty Three Naira, Sixty Seven Kobo)** to the 1st Plaintiff;
 - c. still aggrieved, the Defendant appealed to the Supreme Court on **11 Grounds**;
 - d. subsequently, the Defendant sought to amend its notice of appeal – to adduce Fresh Evidence – to show that the 1st Plaintiff got Judgment of the Court of Appeal by fraud and fraudulent suppression of material facts with a view of using that to have the Supreme Court set aside the Judgment of the Court of Appeal and thus will not pay the judgment debt.
- 10.1 The Plaintiffs further aver that, however, in a unanimous decision of **12th May 2017**, the Supreme Court dismissed the Defendant's said motion on notice; and while dismissing the motion stated, *inter alia*, that the Defendant engaged in double speaking and in a frivolous frolic in bringing the application.
11. The Plaintiffs further aver that through their Solicitors' letter of **21st June 2017**, they requested the Defendant to retract the aforesaid published words and to as well pay them **₦400,000,000,000.000 (Four Hundred Billion Naira)** damages but the Defendant failed and ignored the request. At the trial the Plaintiffs will rely on the aforesaid letter, notice of which is herein given to the Defendant to produce.

12. By reason of the preceding averments the Plaintiffs claim against the Defendant as follows:

1. **₦100 Billion** exemplary damages;
2. **₦100 Billion** for injury to feelings –mental pains and anxiety;
3. **₦150 Billion** for injury to reputation;
4. **₦50 Billion** general damages;
5. **AN ORDER** that the published words complained of be retracted by the Defendant with an apology published in two National dailies;
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7. **AN ORDER** of perpetual injunction restraining the defendant, its agents, privies or whomsoever from further defaming the Plaintiffs;
8. **22% interest** on the said sums of money claimed in **sub – paragraphs 1 – 4** above commencing on **22nd January 2016** till the date of judgment and thereafter at the same rate of **22% interest** until the satisfaction of the judgment debt.

DATED THIS 3RD DAY OF JULY 2017




Prof. Joseph N. Mbadugha
✓ **Emeka Stanley Ubah**
Plaintiffs' Counsel
Pacific Court,
McCarthy Mbadugha & Co.,
No. 19, Johnvic Igboanugo Street,
Lekki Peninsula, Scheme 1, Zone A
Lagos State, Nigeria.
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mbadughaj@mccarthymbadugha.com

FOR SERVICE ON:

The Defendant
Guaranty Trust Bank Plc,
No 635, Akin Adesola Street,
Victoria Island,
Lagos, Nigeria.

OR

Guaranty Trust Bank Plc.
Plot 1473, Ahmadu Bello Way, Garki,
FCT Abuja,
Nigeria.