

IN THE HIGH COURT OF LAGOS STATE
IN THE LAGOS JUDICIAL DIVISION
HOLDEN AT COURT 15 (FAMILY AND PROBATE DIVISION)
BEFORE HONOURABLE JUSTICE M. O. OBADINA (MRS.)

TODAY MONDAY THE 10TH DAY OF DECEMBER, 2018.

SUIT NO: LD/ADR/367/2015

BETWEEN:

SAHARA ENERGY RESOURCES LIMITED ... CLAIMANT

AND

- 1. MR. JACKSON UDE**
- 2. MR. BEN YOUNG**
- 3. UDUMA MBA**
- 4. POINT BLANK NEWS** **... DEFENDANTS**

JUDGMENT

PROCEDURAL HISTORY.

The Claimant instituted this action by Writ of Summons and Statement of Claim dated 15th October 2015. Pursuant to the leave granted on the 24th of November 2015, the Claimant filed an amended writ of summons and statement of claim dated 30th day of November 2015 and filed on the 7th day of December 2015 claiming against the defendants jointly and severally as follows:-

1. The sum of N1, 000, 000,000.00 (One Billion Naira) as damages for the publication and circulation of libel contained in an article maliciously written and published by the defendants of and concerning the Claimant on the defendants' website www.pointblanknews.com on 4th October, 2015 captioned: \$50 Billion Oil Fraud: Diezani, Aluko, Aiteo, Sahara Energy, Omokore, Waghbatsoma for trial.

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2. The sum of N1,500,000,000 .00 (One Billion Five Hundred Million Naira) as damages for the publication and circulation of libel contained in an article maliciously written and published by the defendants of and concerning the claimant on the defendants' website www.pointblanknews.com on 6th October, 2015 captioned: "How Sahara Energy fraudulently acquired Egbin Power Plant."
3. AN ORDER directing the defendants to expunge forthwith the defamatory/libelous words contained in the publication dated October 4, 2015 and captioned: "\$50 Billion Oil Fraud: Diezani, Aluko, Aiteo, Sahara Energy, Omokore, Wagbatsoma for Trial" written, published and disseminated/transmitted on the defendants' website www.pointblanknews.com at the following URL: <http://pointblanknews.com/pbn/exclusive/50billion-oil-fraud-diezani-aluko-omokore-aiteo-sahara-energy-omokore-wagbatsoma-for-trial/> OR IN THE ALTERNATIVE, to remove and take down the entire publication, same being libelous of the claimant.
4. AN ORDER directing the defendants to expunge forthwith the defamatory/libelous words contained in the publication dated October 6, 2015 and captioned: "How Sahara Energy fraudulently acquired Egbin Power Plant" written, published and disseminated/transmitted on the defendants' website www.pointblanknews.com at the following URL: <http://pointblanknews.com/pbn/exclusive/how-sahara-energy-fraudulently-acquired-egbin-power-plant/> OR IN THE ALTERNATE, to remove and take down the entire publication, same being libelous of the claimant.
5. AN ORDER OF PERPETUAL INJUNCTION restraining the defendants whether by themselves, agents, servants, privies or otherwise from publishing or causing to be published, the said words or any words similarly defamatory of the claimant.
6. Cost of this action on full indemnity basis.

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The defendants were served the Originating Processes and subsequent processes including hearing notices by substituted means by emailing same to Jackson@pointblanknews.com, bengandyblow@gmail.com, fidel947@yahoo.co.uk and editor@pointblanknews.com pursuant to the leave granted by this Court on the 17th of February 2016. The Court had earlier granted leave to serve them by courier on the 24th of November 2015 but the processes were returned un-delivered because the address of the defendants on their website at 224 W.35th Street, New York, NY 10001, U.S.A was found invalid by DHL Courier Service.

The defendants did not defend the action. The case was accordingly set down for trial.

TRIAL

Trial commenced on the 8th day of February, 2018. CW1 was Emmanuel Gbahabo, General Manager of the Claimant. He adopted his Statement on oath sworn on 15th of October 2015. Same was accepted as his evidence.

I hereby reproduce excerpts of his testimony-

“I am Emmanuel Gbahabo. I live at Victoria Garden City, House 24, Road 13. I am a General Manager in the employment of Sahara Energy Resources Limited the claimant on record and Head of the Legal Department of the Claimant company. The claimant is a privately owned company incorporated under the Laws of the Federal Republic of Nigeria, and having its registered office at No. 7 Oluwa Road, Ikoyi, Lagos. The claimant is a leading oil trading company and an affiliate of the Sahara Group of companies, a conglomerate with substantial interests in Power, Energy, Gas and infrastructure and actively operating in the downstream, midstream, upstream, infrastructure and power sectors. The claimant has offices overseas and customers in Nigeria, Ghana, Cote D’Ivoire, United Arab Emirates, United Kingdom, Switzerland and Singapore, as well as substantial business interests and contracts in the United States of America.

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The 1st, 2nd and 3rd defendants are journalists and respectively hold positions of "Publisher", "Senior Editor, Africa" and "Editor, Nigeria" in the publication of contents hosted on the URL www.pointsblanknews.com. The 1st, 2nd and 3rd defendants jointly and severally manage, control, edit, and transmit/disseminate all contents found on the website.

The 4th defendant owns and hosts the website www.pointsblanknews.com an online news and information resource center, with its head office at 224 W.35th Street New York, NY 10001, USA.

On October 4, 2015, the defendants published and disseminated on the website - www.pointsblanknews.com a publication captioned: "\$ 50 Billion Oil Fraud: Diezani, Aluko, Aiteo, Sahara Energy, Omokore, Wagbatsoma for Trial", which contains several false, defamatory, and injurious statements in connection with an alleged impending trial of a former Minister of Petroleum Resources, Mrs. Dieziani Allison Madueke, for fraud and money laundering.

In the said publication, the defendants wrote, published and disseminated of and concerning the claimant, on the website www.pointsblanknews.com, particularly on the URL: <http://pointsblanknews.com/pbn/exclusive/50billion-oil-frfraud-diezani-aluko-omokore-aiteo-sahara-energy-omokore-wagbatsoma-for-trial/> the following false, defamatory and injurious words:

"\$50 Billion Oil Fraud: Diezani, Aluko, Aiteo, Sahara Energy, Omokore, Wagbatsoma for Trial"

" ... others slated to face trial for varying degrees of fraud and money laundering are: Transfigura which is unable to account for \$80million, Ontario Oil which defrauded the oil sector of \$135 million, Aiteo \$150million, Sahara Energy \$120 million and Ocean Marines, PPP Fluid Mechanics. Those linked to the companies are: Tonye Cole, Tope Osinubi, Ade Odunsi, Tunde Ayeni, Idahosa Wells Okunbo, Walter Wagbatsoma, Benny Peters".

That the words complained of at <http://pointsblanknews.com/pbn/exclusive/50billion-oil-fraud-diezani-aluko-omokore-aiteo-sahara-energy-omokore-wagbatsoma-for->

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trial/ were in their natural and ordinary meaning, meant and were understood to mean that the claimant and its directors were slated to face trial for varying degrees of fraud and money laundering and particularly for defrauding the oil sector to the tune of \$120million connected with a \$50 billion of fraud alongside Diezani, Aluko, Aiteo, Omokore, Wagbatsoma.

Curiously, on October 6, 2015, barely 48 hours after its initial publication, the defendants launched another scathing and malicious attack against the person and good will of the claimant on the website. By a publication captioned: "How Sahara Energy fraudulently acquired Egbin Power Plant", the defendants wrote, published and disseminated of and concerning the claimant, the following false, defamatory and injurious words on the website www.pointsblanknews.com particularly on the URL: <http://pointblanknews.com/pbn/exclusive/how-sahara-energy-fraudulently-acquired-egbin-power-plant/>

"Fresh facts have emerged as to how Sahara Energy, an oil services company, fraudulently acquired the biggest power plant in Nigeria at Egbin, Ijede, in Lagos State. Sahara Energy, owned by Tope Shonubi, Tonye Cole, and Ade Odunsi, is one of the big players neck deep in the large scale fraud in the oil sector. The trio benefited immensely from former petroleum minister, Diezani Alison-Madueke's sleazy administration. Pointblanknews.com learnt that the \$1.2 Billion asset was purchased for a paltry sum of \$470 million with the connivance of some rogue officials...

NNPC had requested Sahara Energy, with its Switzerland subsidiary, Sahara International Pte Limited at 7, Quai du Mont-Blanc, Geneva to refund N6.034 billion (\$37.55 million) of subsidies unless a 'credible explanation' can be provided on the subject it oil swap transactions. They never did.

A Swiss report stated that Sahara Energy is entirely unable to justify a bank statement showing another \$33.7million while it is among the companies that have not imported the quantities that they should have but who have nevertheless been able to continue their importing activities with flagrant impunity...

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The Egbin Power Plant was sold on the basis of a willing buyer and willing seller basis while all the other power plants were sold via bids from various investors. The intended sale was not announced to the potential investors thereby making the transaction less than transparent.

Also, the NERC rule specifically dictates that no distribution company should own more than 20MWs of generation.

The Sahara group via KEPCO Energy Limited owns majority shares of both the Egbin Power Plant and Ikeja Distribution Company. Do understand that these rules were put in place to protect the country.

Owning the largest power plant and distribution company in the country definitely poses a national security risk and could be used as economic sabotage if and when the company is negotiating with the Government. This is evident with the numerous threats made by Sahara to NERC that it will refuse to pay the Bulk Trader collections from its Ikeja Disco if Egbin is not paid in full. Actions like this could severely hamper the privatization process. This transaction submitted to the EFCC in December 2007 but never followed up upon..."

CW1 testified that the words complained of at <http://pointblanknews.com/pbn/exclusive/how-sahara-energy-fraudulently-acquired-egbin-power-plant/> were in their natural and ordinary meaning, meant and were understood to mean as follows:-

- i. The claimant acquired Egbin power plant, Ijede in Lagos State by means of fraud;
- ii. The claimant is neck deep in the large scale fraud in the oil sector;
- iii. The directors of the claimant benefited immensely from former petroleum minister; Diezani Alison-Madueke's sleazy administration;

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- iv. Egbin power plant was purchased with the connivance of some rogue officials;
- v. NNPC had requested the claimant, with its Switzerland subsidiary, Sahara International Pte Limited at 7 Quai du Mont-Blanc, Geneva to refund N6.034 billion (\$37.55 million) of subsidies and they never did;
- vi. The claimant is entirely unable to justify a bank statement showing another \$33.7 million.
- vii. The claimant is among the companies that have not imported the quantities of petroleum products that they should but who have nevertheless been able to continue their importing activities with flagrant impunity;
- viii. The claimant and its affiliated companies via KEPCO Energy Limited owns majority shares of both the Egbin Power Plant and Ikeja Distribution Company;
- ix. The claimant poses a national security risk and is capable of economic sabotage against the Government of Nigeria;
- x. The claimant is in the habit of threatening NERC and has made numerous threats to the industry Regulator NERC that it would refuse to pay legitimate collections to the Bulk Trader;
- xi. The claimant's actions threaten the privatization process in Nigeria;
- xii. This transaction has been on the fore front of many allegations including a petition to the EFCC in December, 2007 but was never followed up upon by the EFCC.

He testified that at all material times, the website was open to general access by any user of the World Wide Web and attracts a wide range of viewers from all over the globe. At all relevant times the World Wide Web had millions of users all of whom had free and open access to the words complained of. It can be inferred that a large but unquantifiable

number of users read the publications. In particular the defendant transmitted and published or caused to be transmitted and published the articles captioned "\$50 billion oil fraud: Diezani, Aluko, Aiteo, Sahara Energy, Omokore, Wagbatsoma for Trial" and "How Sahara Energy fraudulently acquired Egbin Power Plant" to the claimants Business partners, bankers, and employees and their families and friends in Lagos within the jurisdiction of this Honourable court.

By the defendant's own account, the website can be assessed by a "minimum (of) half a million page views from fifty thousand unique visitors daily". The words set out in paragraphs 8 and 10 above were transmitted and/or caused to be transmitted and published by the defendants at terminals on the World Wide Web from the date of their publication till date.

Further or alternatively as the defendants well knew, once the articles were published on the World Wide Web, they could and would be accessed by a substantial but unquantifiable number of subscribers to the following other online news websites in Nigeria and around the world: www.nairaland.com, www.abusidiqu.com; www.news247.com.ng, www.nigerianewspapers.com and www.naijadailies.com, all of which have equally republished the words complained of at the following URLs:

- i. <http://www.nairaland.com/2641269/50billion-oil-fraud-diezani-aluko>;
- ii. <http://abusidiqu.com/50billion-oil-fraud-diezani-5-others-to-face-trial/>;
- iii. <http://www.news247.com.ng/news/50billion-oil-fraud-embattled-diezani-in-soup/>;
- iv. <https://nigerianewspapers.com.ng/how-sahara-energy-fraudulently-acquired-egbin-plant/> and
- v. <http://naijadailies.com/How-Sahara-Energy-fraudulently-acquired-Egbin-plant/>

The defendants knew and intended that the said articles should be so republished and/or such republications were the natural and probable consequences of the defendants' publications of the articles on the World Wide Web.

The claimant limits its claims for foreign publication to the foreign countries set out above where the offending publications are also actionable.

Without verification as to the genuineness, veracity or authenticity of the material facts contained in the above publication, the defendants recklessly and maliciously published and disseminated the above false and injurious statements against the business reputation of the claimants.

Upon the publication of the erroneous and the injurious contents, the claimant promptly wrote letters to the defendants dated 5th and 8th October 2015, respectively demanding that the libelous words be expunged or the entire publications be taken down, in order to curtail the already spiraling damage to the Claimant's goodwill being caused by the publication. The claimant's letters were sent via email to the 1st defendant's official email address: jackson@pointblanknews.com on the 7th and 8th October, 2015 respectively, and the said letters were duly acknowledged on the same date. Regrettably, the defendants have failed, refused and/or neglected to comply with the claimant's reasonable and noble request. At all material times prior to the institution of this action, the defendants have published and continue to publish and disseminate the said libelous publication to the injury of the claimant's business.

PARTICULARS OF LIBEL

None of the above inferences from the defendant's publications about the claimant is true. The defendants recklessly and maliciously published and disseminated the said publications without recourse to the claimant in order to confirm the veracity or authenticity of the contents of the publication.

Tonye Cole, Tope Osinubi (referred to as "Tope Shonubi" in the second publication), and Ade Odunsi all referenced and highlighted in the above excerpts from both publication, are the founding partners/proprietors; and remain the alter-ego of the claimant. The defendants' know, or at least is expected to know, that any disparaging comments addressed to them will injuriously impact on the business interest and goodwill of the claimant.

The claimant reasonably believes that both publications by the defendant's were deliberately designed to damage its reputation and that of its affiliated companies in the market place as well as divert business away from it and its affiliated companies.

The defendants made no attempts to verify the authenticity of the material facts prior to their publication and circulation knowing fully well that the statements will tarnish the reputation of the claimant.

By uploading the said libelous publications on its website, the defendants knew, or at least is reasonably expected to know, that the publications could be, and would be assessed by a large but unquantifiable number of subscribers to the World Wide Web with millions of users, all of whom have access to the words complained of. The publications were accessed and downloaded by a large but unquantifiable number of subscribers to the World Wide Web with millions of users, all of whom have access to the words complained of.

The publications were accessed and downloaded by a large but unquantifiable number of people from all over the globe and particularly in Lagos, within the jurisdiction of this Honourable court.

Given the large number of Media Partners associated with the defendants, and the high traffic and visits to its website by the public, the defendants knew and intended that the libelous publications would be republished and/or such republication was the natural consequence of the defendants' upload of the publication on its website. As at the time of institution of this action, the publication has been republished on the aforementioned websites, each of which has its own wide spread outreach.

The publications were, by their ordinary and natural meaning calculated to undermine and lower the claimant in the estimation of every right-thinking member of the society. The said publications were recklessly published and disseminated to third parties and are highly defamatory/libelous of the claimant.

In the consequence, the claimant's reputation has been seriously damaged. Since the publications were uploaded on the website, the

claimant's proprietors, executives and staff have received calls and enquiries from friends, relatives and business partners all over the globe, especially in Lagos, Nigeria.

The claimant reasonably believes that unless the defendants are restrained by the court, the court will further publish or cause to be published the said or similar words defamatory of the claimant."

The following documents were tendered and admitted in evidence-

1. Pointblank News publication of 4th October (Exhibit C1).
2. Point Blank News publication of 6th October, 2015 (Exhibit C2).
3. Point Blank news document titled "About us" (Exhibit C3)
4. Email correspondence dated 7/10/15 (Exhibit C4)
5. Email correspondence of 8/10/15 and attachments (Exhibit C5)
6. Email correspondence of 7/10/15 (Exhibit C6)
7. Email correspondence of 8/10/15 (Exhibit C7)
8. Email correspondence of 9/10/15 and attachments (Exhibit C8)
9. Certificate accompanying computer generated evidence. (Exhibit C9).

At the conclusion of trial, Claimant counsel filed and served his final written address. It is dated the 25th day of May, 2018. Two issues were formulated for determination to wit:-

- a. Whether the claimant has established a case of libel for which the defendants are liable.
- b. Whether the claimant is entitled to an award of damages.

On the first issue, claimant counsel relied on several cases on what a claimant must prove to succeed in an action for libel. He relied particularly on **EKONG v OTOP (2014) 11 NWLR (Pt. 1419) Page 568** where it was held:-

“ In an action for libel, the plaintiff must prove that the defendant published in a permanent form a statement, the statement referred to the plaintiff, the statement conveys defamatory meaning to those to whom it was published, that the statement was defamatory of the plaintiff in the sense that- it lowered him in the estimation of right-thinking members of the society; it exposed him to hatred, ridicule or contempt; it injured his reputation in his office, trade or profession; or it injured his financial credit”

Counsel submitted that there is no doubt that the contents of Exhibits C1 and C2 which are in writing in permanent form and which referred directly to the claimant and its proprietors are in their natural, literal and ordinary meaning capable of and indeed intended to make or portray the claimant as being fraudulent thereby lowering its estimation in the eyes of every right - thinking members of the society.

The natural conclusions that any reasonable person will make from the statements in Exhibits C1 and C2 is that the claimant is a dishonest entity that cannot be trusted and that the claimant carries on its activities in a fraudulent manner which was why it fraudulently procured its acquisition of the Egbin power plant, Ijede in Lagos State.

Learned counsel submitted further that the claimant led incontrovertible evidence to prove that Exhibits C1 and C2 were published to an unquantifiable number of people via the website and that CW1 gave evidence that claimant's proprietors, executives and staff received calls and enquiries from friends, relatives and business partners all over the globe regarding the accusations leveled against the claimant in the said articles.

On the second issue, learned counsel submitted that in an action for libel the claimant needed not prove damages but only needs to prove that the statement complained of is libelous. In the instant case, where a defamatory statement is made against a company suggesting that the company conducted its business in a dishonest or improper manner such a company can successfully maintain an action for damages without proof of special damages.

In claimant's case, the harm done to the claimant was compounded by the fact the claimant is a global brand with offices in other parts of the

world as well as substantial business interests and contracts in the United States of America. The defendants showed no atom of repentance after publishing the defamatory articles in the Exhibits C1.

Learned counsel urged the court to hold that: -

1. The claimant has made out a case of libelous publication against the defendants; and accordingly,
2. The claimant is entitled to damages against the defendants jointly and severally.

The sole issue for my determination is whether the Claimant is entitled to the reliefs claimed in this action.

Libel was defined in the case of **Guardian Newspaper Limited vs. Ajeh (2011) Vol. 3 and 4 MJSC 104** as at 140 per Fabiyi JSC at page 140-

"as a method of defamation expressed by print, writing, pictures or signs; any publication that is injurious to the reputation of another, a false and unprivileged publication in writing of a defamatory material; a malicious written or printed publication which tends to blacken a person's reputation or to expose him to public hatred, or ridicule, contempt or to injure him in his business."

In **OLAJOGUN & ORS v. AGORO (2014) LPELR-24040**, the Court of Appeal per Olagunju JCA held: -

"The case at hand is that of libel. Libel is defamation in writing or some other permanent form such as a tape or video recording, radio or television. Broadcast and computer generated transmission are also in the category of libel. Libel is actionable per se, that is without the need to prove special or actual damage - see the case of Labati v. Badmus (2007) 1 NWLR (PT. 1014) 199."

The publications complained about by the Claimant are by defendant's world wide web transmission at:-

<http://pointsblanknews.com/pbn/exclusive/50billion-oil-fraud-diezani-aluko-omokore-aiteo-sahara-energy-omokore-wagbatsoma-for-trial/>

<http://pointblanknews.com/pbn/exclusive/how-sahara-energy-fraudulently-acquired-egbin-power-plant/>

The publications were downloaded and printed and were tendered at the trial by CW1 as exhibits C1 and C2. Certificate accompanying computer generated evidence pursuant to Section 84 of the Evidence Act 2011 is Exhibit C9.

The Supreme Court have stated in several cases that it is of necessity in an action for defamation either in libel or slander, that the actual words complained of and not merely their substance must be set out verbatim in the statement of claim for it is on the perusal of the actual words complained of as pleaded that the court will determine whether or not the words convey defamatory meaning.

See *Akin Olaifa v Gabriel Adedeji Aina* (1993) 4 NWLR (Part 286) Page 192 at 200, *Sketch Publishing Company Limited v Ajagbemokeferi* (1989) 1 NWLR (Pt. 100) 678 at 695.

See also *Olaniyi v Elero* (2007) 8 NWLR (Pt.1037) 517, *Guardian Newspapers Ltd & Anor v. Ajeh* (2011) 4 S.C (Pt. II) 69.

The Claimant pleaded the words said to be libelous in the statement of claim and CW1 gave evidence on same as reproduced earlier.

I refer to paragraphs 5 and 8 of the Amended statement of claim.

The 1st to 3rd defendants are the Publisher, Senior Editor Africa and Editor Africa of the 4th defendant which is an online news media. I refer to 4th defendants publication titled "About us" tendered as exhibit C3. In the publication, the defendants stated: -

"PointBlank News.com is an independent online news magazine created to bring about more professionalism in online journalism. It has no affiliation with any political party, ethnic groups, religious or social groups within the United States or anywhere in

the world. PointBlankNews.com is primarily committed to the freedom of speech, the fundamental human rights and the journalism ethical responsibility of balance reporting.

Basically, we are out to promote developmental journalism and create an enabling environment for people to be able to interact, share opinions and proffer solutions to the many political, social and economic problems facing Nigeria and Africa at large. "

The claimant sent emails and letters to the 1st and 4th defendants to take down and expunge the libelous publication from their website and retract the publication in at least two national newspapers failing which legal proceedings will be instituted in New York and in Nigeria. I refer to exhibits C4, C5 and C8.

The 1st defendant received the correspondence and in Exhibits C6 and C7 replied CW1 stating that he is not at his desk and will reply as soon as he returns to his desk. He never did.

CW1 testified that the Claimant is a leading oil trading company and an affiliate of the Sahara Group of companies and has offices overseas and customers in Nigeria, Cote D Ivoire, United Arab Emirates, United Kingdom, Switzerland and Singapore as well as substantial business interest and contracts in the United States of America.

He stated that on account of the publications, the claimant's proprietors, executives and staff have constantly received calls and enquiries from all over the globe expressing serious concerns which have impacted negatively on the goodwill of the Claimant.

Beyond the mere ipse dixit of CW1, there is no evidence of the alleged serious concerns from all over the globe by Claimant's business associates before this Court.

In **ACCESS BANK PLC v. MRS CECILIA AJAYI (2018) LPELR-43813**, an appeal against the decision of this Court which was upheld by the Court of Appeal Lagos Division, the Court of Appeal held that there must be proof by way of evidence that a third party read the publication and the publication made him have less respect for the claimant.

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The case of **CHIEF SEN. LUKA GWOM & ANOR V PRINCE S.A. OROKOYO (2015) LPELR-24823(CA)** was referred to.

The Court of Appeal held that since the Respondent in that case did not call anybody or a third party to show that the defamatory publication was read, that omission is fatal to the case of the Respondent. The opinion of the damaging effect of the publication cannot come from the Respondent alone. Reputation damaged is naturally the opinion of third parties and not the person affected.

The Court of Appeal referred to **OGBONNAYA V FIRST BANK NIGERIA PLC (2015) LPELR 24731 (CA)** where **OBASEKI-ADEJUMO, JCA** held thus:-

"Let me hasten to say here again that it is the impression a third party forms of the Plaintiff allegedly defamed that is relevant and not that which the Plaintiff forms of himself. Therefore, unless and until it is shown that a third party expresses his impression in relation to the alleged defamatory material, there cannot be any defamation in the legal sense"

I am properly guided by these pronouncements of the Court of Appeal.

In **AROMOLARAN v. AGORO (2014) LPELR-24037**, the Supreme Court while restating the essential ingredients that must be proved by a plaintiff before he can succeed in a claim for libel, His Lordship Peter Odili JSC held thus on the point:-

"In this I seek refuge in the case of **Iwueke v I. B. C. (2005) 17 NWLR (Pt.955) 447 at 482** wherein this court held thus: -

"For a plaintiff to succeed in libel, there must be proof by evidence of a third party of the effect of the alleged publication on him, i.e. the reaction of a third party to the publication"

The Claimant exhibited the reactions of some unknown and unnamed Nigerians who read the publications. I refer to portions of exhibits C1 and C2 showing the comments of the readers. The reactions appear to be by ordinary Nigerians not by people in the industry where the Claimant is a key player. Nevertheless, publication and reaction by third parties

who commented that all thieves must be brought to book and so on, have been established.

Courts are entitled to consider what damages that would adequately compensate a successful plaintiff who has been libeled. The assessment of damages that will be awarded does not depend on any legal rules rather it is governed by all the circumstances of the particular case. See **Atoyebi v Odudu (1990) 6 NWLR (Pt. 157) 384.** referred to by Aderemi J.C.A in **Basorun v Ogunlewe (2000) 1 NWLR (Pt.640) Page 221 @ 236.**

In defamation cases, general damages is inferred. It need not be specifically proved.

The particulars of what the Courts are to take into account the assessment of damages are set out in **BENUE PRINTING & PUBLISHING CORPORATION V ALHAJI UMARU GWAGWADA (1989) 4 NWLR (Pt. 116) 439 at 454** as follows:-

1. Recklessness of the publication
2. Plaintiff standing in the society
3. Failure of the defendant to amend
4. The whole conduct of the defendant from the time the libel was published down to the moment of the Court's verdict
5. An anticipatory pecuniary loss or social disadvantage and natural injury to the feelings of the plaintiff.
6. The decline in the purchasing value of the naira.

See also **Oduwole v. West (2010) 10 NWLR (Pt. 1203) 598 S.C**

I have considered these principles. Despite being served emails asking for retraction of the publications and acknowledging receipt, the defendants did not retract the stories and did not defend this action.

It is trite that where evidence given by a party to any proceedings or by his witness is not challenged by the opposite party who had the opportunity to do so, it is always open to the Court seised of the

proceedings to act on the unchallenged evidence before it. The onus of proof in such a case is naturally discharged on a minimal of proof. **Omoregbe v Lawani (1980) 3 - 4 SC 108 at 117, Asafa Foods Factory v. Alraine (Nigeria) Limited (2002) 5 S.C (Pt. I) 1**

In their ordinary and literal meaning, the publications are defamatory of the claimant and the claimant can maintain an action for damages. I refer to **Inland Bank (Nigeria) Plc v F & S Company Limited (2010) 15 NWLR (Pt. 1216) 410** referred to by Claimant counsel in his final address.


In the light of all the above and after considering the circumstances of this case, I hold that the publications of the defendants in PointBlank News.com on the 4th and 7th of October 2015 captioned "\$50 Billion Oil Fraud: Diezani, Aluko, Aiteo, Sahara Energy, Omokore, Wagbatsoma for Trial and "How Sahara Energy fraudulently acquired Egbin Power Plant" are defamatory of the claimant. The natural and literal meaning any reasonable man will give to the publications are as stated by CW1 in his evidence in chief. Being a publication on world wide web, an unidentifiable number of people apart from those who wrote their comments would have read the publication and formed their opinion of the Claimant.

I accordingly hold that the Claimant is entitled to judgment.

I give Judgment to the Claimant as follows-

1. I award the sum of N50m (Fifty Million Naira) as damages for the publication and circulation of libel contained in an article maliciously written and published by the defendants of and concerning the Claimant on the defendants' website www.pointblanknews.com on 4th October, 2015 captioned: \$50 Billion Oil Fraud: Diezani, Aluko, Aiteo, Sahara Energy, Omokore, Wagbatsoma for trial.
2. I award the sum of N50m (Fifty Million Naira) as damages for the publication and circulation of libel contained in an article maliciously written and published by the defendants of and concerning the claimant on the defendants' website www.pointblanknews.com on 6th October, 2015 captioned: "How Sahara Energy fraudulently acquired Egbin Power Plant".

3. I make an ORDER directing the defendants to expunge forthwith the defamatory/libelous words contained in the publication dated October 4, 2015 and captioned: "\$50 Billion Oil Fraud: Diezani, Aluko, Aiteo, Sahara Energy, Omokore, Wagbatsoma for Trial" written, published and disseminated/transmitted on the defendants' website www.pointblanknews.com at the following URL: <http://pointblanknews.com/pbn/exclusive/50billion-oil-fraud-diezani-aluko-omokore-aiteo-sahara-energy-omokore-wagbatsoma-for-trial/> OR IN THE ALTERNATIVE, to remove and take down the entire publication, same being libelous of the claimant.
4. I make an ORDER directing the defendants to expunge forthwith the defamatory/libelous words contained in the publication dated October 6, 2015 and captioned: "How Sahara Energy fraudulently acquired Egbin Power Plant" written, published and disseminated/transmitted on the defendants' website www.pointblanknews.com at the following URL: <http://pointblanknews.com/pbn/exclusive/how-sahara-energy-fraudulently-acquired-egbin-power-plant/> OR IN THE ALTERNATE, to remove and take down the entire publication, same being libelous of the claimant.
5. I make an ORDER OF PERPETUAL INJUNCTION restraining the defendants whether by themselves, agents, servants, privies or otherwise from publishing or causing to be published, the said words or any words similarly defamatory of the claimant.
6. N500,000.00 (Five Hundred Thousand Naira) cost of this action.


 Hon. Justice M. O. Obadina (Mrs.)
 Judge
 10/12/2018.

Counsel:

Sadiku Ilegieuno with C. C. Ogbu Esq, for the Claimant.

No other appearance.

CERTIFIED TRUE COPY



95 hours
 ADIO T. OLABISI
 Commissioner For Oaths
 Lagos High Court
 18/11/19
 3,800 Naira
 18-11-19