



# SECURITIES AND EXCHANGE COMMISSION

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY, ABUJA  
IN THE BWARI JUDICIAL DIVISION  
HOLDEN AT BWARI, ABUJA  
SUIT NO: FCT/HC/BW/CV/347/2020  
MOTION NO. 19/3-254/2021

BETWEEN  
ENGR. PATRICK AJUDUA .... APPLICANT/RESPONDENT  
AND  
1. SECURITIES AND EXCHANGE COMMISSION .... 1<sup>ST</sup> RESPONDENT/APPLICANT  
2. OANDO PLC ... 2<sup>ND</sup> RESPONDENT

## MOTION ON NOTICE

**BROUGHT PURSUANT TO SECTION 36(1) OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999 (AS AMENDED); ORDER 61 RULE 1 OF THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY, ABUJA (CIVIL PROCEDURE) RULES 2018 AND UNDER THE INHERENT JURISDICTION OF THIS HONOURABLE COURT**

**TAKE NOTICE** that this Honourable Court will be moved on.....day of..... 2021 at the hour of 9 O' clock in the forenoon or so soon thereafter as Counsel may be heard on behalf of the 1<sup>st</sup> Respondent/Applicant herein praying this Honourable Court for the following reliefs:

1. **AN ORDER OF INJUNCTION** restraining the Applicant/Respondent and the 2<sup>nd</sup> Respondent from giving effect to the judgment of this Honourable Court delivered on the 23<sup>rd</sup> day of February 2021 in anyway whatsoever pending the hearing and determination of the Motion on Notice dated and filed on 10<sup>th</sup> March 2021 by the 1<sup>st</sup> Respondent seeking to set aside the judgment of this Honourable Court delivered on 23<sup>rd</sup> February 2021.

2. **AN ORDER OF INJUNCTION** restraining the Applicant/Respondent, the 2<sup>nd</sup> Respondent or any other persons acting on their behalf from holding the Annual General Meeting of the 2<sup>nd</sup> Respondent pending the hearing and determination of the Motion on Notice dated and filed on 10<sup>th</sup> March 2021 by the 1<sup>st</sup> Respondent seeking to set aside the judgment of this Honourable Court delivered on 23<sup>rd</sup> February 2021.

3. **AN ORDER STAYING EXECUTION** of the judgment and orders of this Honourable Court delivered on the 23<sup>rd</sup> day of February 2021 pending the hearing and determination of the Motion on Notice dated and filed on 10<sup>th</sup> March 2021 by the 1<sup>st</sup> Respondent seeking to set aside the judgment of this Honourable Court delivered on 23<sup>rd</sup> February 2021.

4. **AN ORDER** granting accelerated hearing of the 1<sup>st</sup> Respondent's Motion on Notice dated and filed on 10<sup>th</sup> March 2021 seeking to set aside the judgment of this Honourable Court delivered on 23<sup>rd</sup> February 2021.

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2. OANDO PLC ... 2<sup>ND</sup> RESPONDENT

## AFFIDAVIT IN SUPPORT OF MOTION FOR INJUNCTION/STAY OF EXECUTION

I, **DARE OJUBOLAMO**, Adult, Male, Christian, Nigerian Citizen, Legal Officer in the Legal Department of the Securities and Exchange Commission of Plot 272, Samuel Adesujo Ademulegun Street, Central Business District, Abuja do hereby make oath and state as follows:

- That I am a Legal Officer in the Legal Department of the Securities and Exchange Commission, the 1<sup>st</sup> Respondent/Applicant herein.
- That by virtue of my aforesaid position, I am conversant with the facts of this case.
- That I have the consent and authority of the management of the 1<sup>st</sup> Respondent/Applicant to depose to this affidavit.
- That the facts deposed herein are facts within my personal knowledge except as otherwise stated.

creditors, and the public in order to preserve the integrity of the capital market and by extension the economy of Nigeria.

- That I know that the 2<sup>nd</sup> Respondent is a public limited company registered with the Securities and Exchange Commission, the 1<sup>st</sup> Respondent herein as a Capital Market Operator in the Nigerian Capital Market.
- That the suit filed by the Applicant/Respondent was done in bad faith and intended to arm-twist the 1<sup>st</sup> Respondent in the exercise of its statutory powers under the Investment and Securities Act; and the originating processes were never served on the 1<sup>st</sup> Respondent.
- I am aware that the directives of the 1<sup>st</sup> Respondent contained in its letter of 31<sup>st</sup> May 2019 was made against the 2<sup>nd</sup> Respondent and some of the Board members who are subject to the regulatory authority of the 1<sup>st</sup> Respondent.
- I am aware that both the 2<sup>nd</sup> Respondent and some individuals affected by the directives of the 1<sup>st</sup> Respondent have commenced several actions against the 1<sup>st</sup> Respondent at the Federal High Court part of which have been struck out for want of jurisdiction.
- I am aware that the 2<sup>nd</sup> Respondent and the affected individuals have also filed an appeal and an injunction pending the determination of the appeal. The Notices of Appeal and Injunction pending appeal filed by the 2<sup>nd</sup> Respondent/affected individuals is hereby attached as **Exhibit C1, C2, C3** and **C4** respectively.
- I am equally aware that some members of the Board of Oando Plc have complied with the directive of the 1<sup>st</sup> Respondent and discontinued the action against the 1<sup>st</sup> Respondent. A copy of the Notice of Discontinuance filed by a member of the Board is hereby attached and marked as **Exhibit D**.

AND FOR SUCH FURTHER ORDER(S) as this Honourable Court may deem fit to make in the circumstances.

**TAKE FURTHER NOTICE** that the grounds for bringing this application are as follows:

- This Honourable Court delivered judgment in this matter on the 23<sup>rd</sup> day of February 2021.
- The 1<sup>st</sup> Respondent filed an application dated 10<sup>th</sup> March 2021 seeking to set aside the judgement of this Honourable Court on the ground that the Originating processes were never served by the Bailiff of the Court on the 1<sup>st</sup> Respondent/Applicant amongst others.
- Hearing Notices were never served by the Bailiff of the Court on the 1<sup>st</sup> Respondent/Applicant.
- The 1<sup>st</sup> Respondent/Applicant was never aware of the pendency of the suit as it was never served with any notice of same.
- That the application to set aside the judgment filed by the 1<sup>st</sup> Respondent would be rendered nugatory if this application is not granted.
- That it would be in the interest of justice to grant this application

Dated this 19<sup>th</sup> day of March 2021



Chief Anthony Idigbe, SAN  
Nnamdi Oragwu  
Eric Otojahi  
Tobenna Nnamani  
Adeyinka Abdulsalam  
Omolade Sanni  
1<sup>st</sup> Respondent/Applicant's Counsel  
PUNUKA Attorneys & Solicitors  
No. 9, Freetown Street, Wuse 2, Abuja  
Mobile: 08104615115; Email: info@punuka.com  
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## FOR SERVICE ON

1. **THE APPLICANT/RESPONDENT**  
ENGR. PATRICK AJUDUA  
3. **THE DEPUTY SHERIFF**  
FCT High Court  
Maitama, Abuja  
08033572007  
Bolaolotu\_chambers@yahoo.com

2. **THE 2<sup>ND</sup> RESPONDENT**  
OANDO PLC  
1<sup>st</sup> Floor Right Wing  
CLAN Place  
Plot 1386, Tigris Crescent  
Off Aguiyi Ironsi Street  
Maitama, Abuja

- That on 24<sup>th</sup> February 2021, the 1<sup>st</sup> Respondent/Applicant herein, woke up to publications in several Newspapers regarding a purported judgment given against it by an FCT High Court sitting in Bwari, Abuja on 23<sup>rd</sup> February 2021.
- That since the 1<sup>st</sup> Respondent/Applicant was not aware of the suit and was never served any processes or hearing notices, the 1<sup>st</sup> Respondent directed the legal department to conduct a search in the Court to confirm the genuineness of the Newspaper publications regarding the purported judgment.
- That I proceeded to the High Court of the Federal Capital Territory, Bwari, Abuja to conduct a search in the Court, and to my surprise, I found out that there was indeed a judgment delivered on 23<sup>rd</sup> February 2021 against the 1<sup>st</sup> Respondent/Applicant. A copy of the Certified True Copy of the judgment is hereby attached and marked as **Exhibit A**.
- That I know as a fact that the Applicant/Respondent's originating processes were never served by the Bailiff of the Court on the 1<sup>st</sup> Respondent/Applicant.
- That I know as a fact that no hearing Notices were ever served by the Bailiff of the Court on the 1<sup>st</sup> Respondent/Applicant.
- That the 1<sup>st</sup> Respondent thereafter filed an application dated 10<sup>th</sup> day of March 2021 seeking to set aside the Judgment of this Honourable Court delivered on the 23<sup>rd</sup> day of February 2021. The Motion seeking to set aside is hereby attached and marked as **Exhibit B**.
- That I know as a fact that the directive of the 1<sup>st</sup> Respondent/Applicant contained in its letter of 31<sup>st</sup> May 2019 was made pursuant to the 1<sup>st</sup> Respondent's status as the apex regulator of the Nigerian Capital Market to protect investors of the 2<sup>nd</sup> Respondent.
- That I know that the 1<sup>st</sup> Respondent/Applicant is the statutory regulatory body for the Capital and Securities Market in Nigeria and a body charged with the responsibility of safeguarding the interest of the shareholders, investors,

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any order made in favour of the 1<sup>st</sup> Respondent by this Honourable Court would be rendered nugatory.

- That the 1<sup>st</sup> Respondent's application seeking to set aside the judgment delivered on 23<sup>rd</sup> February 2021 has a high chance of success as it is predicated on grounds relating to issue of jurisdiction and breach of right of fair hearing.
- That the 1<sup>st</sup> Respondent has a legal right to be protected by this Honourable Court.
- That there are serious and substantial issues to be tried at the hearing of the 1<sup>st</sup> Respondent's application dated and filed on 10<sup>th</sup> March 2021.
- That the balance of convenience is on the side of the 1<sup>st</sup> Respondent and there is need to preserve/maintain the res in this matter i. e. the holding of the Annual General Meeting pending the hearing and determination of the 1<sup>st</sup> Respondent's application.
- That the Applicant/Respondent and the 2<sup>nd</sup> Respondent will not be prejudiced in any way if this application is granted as the res will be preserved pending the determination of the motion to set aside the judgment delivered on 23<sup>rd</sup> February 2021.
- That damages would not assuage the complaint of the 1<sup>st</sup> Respondent mandated to protect the interest of the Nigerian capital market in the event that the application is granted.
- That the 1<sup>st</sup> Respondent undertakes to pay damages to the Applicant/Respondent and the 2<sup>nd</sup> Respondent in the event that this Court discovers that it ought not to have made the orders as sought in the 1<sup>st</sup> Respondent's application.
- That the interest of justice would be better served if this application is granted.

28. That I depose to this affidavit in good faith conscientiously believing its content to be true and in accordance with the Oaths Act.

SWORN TO at the Registry of the FCT High Court, Abuja  
This 19<sup>th</sup> day of March 2021

BEFORE ME  
COMMISSIONER FOR OATH