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IN THE MAGISTRATE COURT: DELTA STATE OF NIGERIA
IN THE EFFURUN SMALL CLAIMS DISTRICT
HOLDEN AT EFFURUN

BEFORE HIS WORSHIP T.R. EWHERIDO (MRS.) CHIEF MAGISTRATE GRADE I
ON WEDNESDAY THE 8TH DAY OF JANUARY 2025.

BETWEEN:

CLAIM NO: SCC/E/30/2024

OSTEEN IGBAPIKE

...

.... **PLAINTIFF**

AND

AFRICAN WORLD AIRLINES

...

... **DEFENDANT**

JUDGMENT

This is a Small Claims matter filed vide Form SCC2 and Form SCC3 dated 11th of October, 2024. . Plaintiff claims against the Defendant the following:

- i. The sum of N241,269.60k (Two Hundred and Forty-one Thousand, Two Hundred and Sixty-nine Naira, Sixty Kobo).
- ii. The sum of N300,000.00 (Three Hundred Thousand Naira) being legal charges for this action.
- iii. The sum of N500,000.00 (Five Hundred Thousand Naira) as general damages.

Amounting to N1,041,269.60k (One Million, Forty-one Thousand, Two Hundred and Sixty Nine Naira, sixty Kobo).

In proof of his claim thereof, Plaintiff testified in person and opened his case on the 18th of October, 2024.

His evidence is as follows: On the 21st of August, 2022, he paid for a flight ticket to Ghana and back. The Defendant issued him with a flight ticket of N241,000.00 (Two Hundred and Forty-one Thousand Naira) round trip. On the 28th of August, 2022 was the date of the flight and while at Murtala Mohammed Airport, he was refused boarding because he did not have his Covid card. When he went to the flight desk, he was informed that the ticket is valid for a year. On the 17th of August, 2023, he applied for a refund within the year. He wrote to the Defendant through the same email he used in paying for the ticket. The Defendant did not respond.

This prompted Plaintiff to issue a demand notice through the same email address.

Despite service of the Demand Notice, he was ignored.

Plaintiff tendered the following documents which were admitted as:

Exhibit A – Letter of demand dated 17th August, 2023

Exhibit B – Form SCC1 (Letter of Demand) dated 26th October, 2023.

Exhibit C - The letter of correspondence, and certificate of compliance to section 84 of the Evidence Act.

At the close of Plaintiff's case the Defendant did not come to defend his action despite proof of service and hearing Notice issued and served, as seen in the Court's file.

Learned Counsel addressed Court on the 19th of December, 2024.

Counsel submitted that the Defendants were given opportunity to cross examine but failed and can thus no longer return to Court to complain of fair hearing.

Counsel relied on NDIC Vs. Sheriff (2004) 1 NWLR (Pt. 855) page 563 at 595 para a – c.

Counsel submitted further that the evidence of Plaintiff remained unchallenged and he is deemed to have proved his case on the balance of probabilities.

I have gone through evidence of the sole witness and the Exhibits tendered herein as well as address of Counsel.

Failure of the Defendant to come to Court to defend his case leaves Plaintiff's case unchallenged and uncontroverted.

The Law, however is settled, that the Court still has a duty to access the unchallenged evidence along with the claim in respect of which it was given and to be satisfied of its credibility and sufficiency to sustain the claim.

I place reliance on Archibong V. Utin (2012) LPELR 7907 C.A.

One way the Court can achieve this is through looking at documents tendered as Exhibits. The law provides that documentary evidence is the best form of evidence. See Gben & Anor V. Nseyen (2016) LPELR 40122 C.A.

I have carefully accessed Exhibits A, B and C and I am of the view that these Exhibits are credible and have established Plaintiff's claim.

This Honourable Court is therefore bound to rely on the uncontroverted evidence of Plaintiff.

See Iyeri V. Bendel Filed & Flower Mills Ltd. (2008) Vol. 7 – 12 S.C. p. 151.

I hereby enter Judgment as follows

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1. The Defendant is to pay to the Plaintiff the sum of N241,269.60 (Two Hundred and Forty-one Thousand, Two Hundred and Sixty-nine Naira, Sixty Kobo.
2. The sum of N50,000.00 (Fifty Thousand Naira) as legal charges for this action.
3. The sum of N100,000.00 (One Hundred Thousand Naira) as general damages.

This is the Judgment of this Honourable Court.

Dated at Effurun, this87th.....day of January. 2025.



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to the **T.R. EWHERIDO (MRS.)**
CHIEF MAGISTRATE GD. I

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and Sixty

and Nine

T.R. Ewherido
Chief Magistrate