

**IN THE HIGH COURT OF JUSTICE**  
**OF EDO STATE OF NIGERIA**  
**IN THE BENIN JUDICIAL DIVISION**  
**HOLDEN AT BENIN CITY**  
**BEFORE HIS LORDSHIP, HON. JUSTICE P.A. AKHIHIRO**  
**ON THURSDAY**  
**THE 7<sup>TH</sup> DAY OF MAY, 2026.**

**BETWEEN:** **SUIT NO. B/316/2021**  
**RT. HON. MARCUS ONOBUN** ... .. **CLAIMANT**  
**AND**  
**1. PRINCE JOHN EWEKA** } ... .. **DEFENDANTS**  
**2. VINTAGE PRESS LTD** }

**JUDGMENT**

The Claimant instituted this suit by a Writ of Summons and Statement of Claim filed on the 16<sup>th</sup> of April, 2021 against the Defendants seeking the following reliefs:

- 1) The sum of N500,000,000.00 (Five Hundred Million Naira) being damages for libel contained at page 4 in ‘The Nation’s Newspaper of Wednesday 17<sup>th</sup> March, 2021 under the caption “Protesters Accuse Edo State Speaker of ‘Murder’” the full test of which is set out in paragraph 6 of the statement;**
- 2) AN ORDER directing the Defendants to publish an unreserved apology and retraction of the offensive publication in an edition of ‘The Nation’ Newspaper and in at least three (3) other National Newspaper;and**
- 3) AN ORDER of injunction restraining the Defendants from publishing any further libelous statement against the Claimant.**

Upon receipt of the originating processes, the 1<sup>st</sup> Defendant filed his Amended Statement of Defence vide a motion which was granted on the 24<sup>th</sup> February, 2022 and

the 2<sup>nd</sup> Defendant's filed its Statement of Defence vide a motion which was granted on the 8<sup>th</sup> of October, 2021.

In proof of his case, the Claimant testified for himself and called one Joseph Ohiafi (C.W.1) as his sole witness.

In defence of this suit, the 1<sup>st</sup> Defendant testified for himself, while the 2<sup>nd</sup> Defendant called just one witness.

From the evidence adduced at the hearing, the Claimant's case is that the 1<sup>st</sup> Defendant made a libelous statement against him and same was contained at page 4 in 'The Nation's Newspaper of Wednesday 17<sup>th</sup> March, 2021 under the caption **“Protesters Accuse Edo State Speaker of ‘Murder’**”, where the 1<sup>st</sup> Defendant said the following words concerning the Claimant:

*“The aggrieved protesters carried placards bearing inscriptions like ‘Marcus Onobun, the speaker, stop killing us’, ‘Marcus Onobun, stop killing the people of Obagie-Uwafiokiun’ and Marcus Onobun, carry your bulldozer away from Obagie-Uwafiokiun community’.*

*Their spokesman, Prince John Eweka, accused Onobun of sending assassins to kill Osadolor on March 13 at his mechanic workshop. According to him, Osadolor earlier had an encounter with Onobun over land. The speaker also threatened to kill Osadolor if he stood in his way while developing the land, and he had earlier abducted and tortured Osadolor twice. Eweka said, ‘on March 13, as Osadolor went back to his mechanic workshop, some persons came in a Toyota Camry and killed him. Osadolor was in charge of looking after boundaries between Obagie-Uwafiokiun and its neighbouring communities. Before his murder, Osadolor and some men of Obagie-Uwafiokiun went on patrol and saw some persons in Toyota Hilux and other vehicles driving into the community, and claiming to have 36 plots of land (100 by 100), with the leader later introducing himself as Marcus Onobun. The third day after the encounter, the same Onobun drove to the community, kidnapped Osadolor and took him to his house. He tortured him and threatened that Osadolor would either leave the land for him to develop or would die. The second time Osadolor was abducted, the community sent delegates to meet with Onobun. I was among the people who went to his house in Benin. He didn't grant us an audience. We went again to meet him, but he declared that nobody could stop him from developing the land”.*

The Claimant who was at that time the Speaker of the Edo State House of Assembly, alleged that the aforesaid words defamed his character.

At the hearing, he alleged that the 1<sup>st</sup> Defendant instigated the aforesaid publication and was quoted specifically in the said news story as follows:

***“On March 13, as Osadolor went back to his mechanic workshop, some persons came in a Toyota Camry and killed him. Osadolor was in charge of looking after boundaries between Obagie-Uwafiokiun and its neighbouring communities. Before his murder, Osadolor and some men of Obagie-Uwafiokiun went on patrol and saw some persons in Toyota Hilux and other vehicles driving into the community, and claiming to have 36 plots of land (100 by 100), with the leader later introducing himself as Marcus Onobun. The third day after the encounter, the same Onobun drove to the community, kidnapped Osadolor and took him to his house. He tortured him and threatened that Osadolor would either leave the land for him to develop or would die. The second time Osadolor was abducted, the community sent delegates to meet with Onobun. I was among the people who went to his house in Benin. He didn’t grant us an audience. We went again to meet him, but he declared that nobody could stop him from developing the land”.***

The Claimant stated that the defamatory words contained in the aforesaid news story at page 4 of The Nation Newspaper of Wednesday 17<sup>th</sup> March, 2021 under the caption **“PROTESTERS ACCUSE EDO STATE SPEAKER OF ‘MURDER”** was reported to have been supplied by the 1<sup>st</sup> Defendant to the 2<sup>nd</sup> Defendant’s Reporter.

The Claimant alleged that the aforesaid words referred to him and were understood to refer to him by those who read them because his name is Marcus Onobun and he is the current Speaker of the Edo State House of Assembly.

He said that the aforesaid words complained of published at page 4 of The Nation Newspaper of 17<sup>th</sup> March 2021 in their natural and ordinary meaning were meant and were understood by those who read them and/or were capable of being understood to mean:

- i. That the Claimant is a Murderer;
- ii. That the Claimant murdered one Osaheni Osadolor;
- iii. That the Claimant is a kidnapper; and
- iv. That the Claimant is a criminal who used his position as Speaker of the Edo State House of Assembly to seize parcels of land belonging to the 1<sup>st</sup> Defendant’s community.

He said that the allegation contained in the publication was false and was calculated to diminish his status as the current Speaker of the Edo State House of Assembly.

Furthermore, he said that the aforesaid publication was calculated to defame his character and to ridicule him before the members of the public who ordinarily hold him in high esteem.

He alleged that by reason of the publication of the aforesaid defamatory words complained of, his character has been greatly and severely damaged and his reputation has been brought to public scandal, odium, contempt and has suffered considerable distress and embarrassment.

He said that the trauma he suffered was aggravated by the fact that he received several telephone calls from members of the Edo State House of Assembly, top Government officials from Edo State, Leaders of his Political Party (PDP) and members of the public including pressmen drawing his attention to the publication and calling for his response.

He said that he wrote to the 1<sup>st</sup> Defendant to retract the offensive publication through his Solicitor.

The Claimant alleged that his attention was also drawn by a member of his Constituency to a broadcast by one VOS TV, Benin City (an online TV News Channel) where the 1<sup>st</sup> Defendant was interviewed and said the following words concerning him:

***“We know quite well that based on available information it is the speaker of the Edo State House of Assembly, Hon. Marcus Onobun that killed our son Osaheni Osadolor. That is what we stand out to say. It is as true as truth can be and we stand our ground”.***

He said that he searched online for the said news channel where he found the broadcast.

He said that he downloaded the aforesaid broadcast by VOS TV, Benin City from the internet via his HP Laptop and burned same into a Video CD. That unless restrained, the Defendants or each of them will further publish defamatory words been complained of.

He denied being a murderer nor a kidnapper. He said that he never kidnapped or murdered one Osaheni Osadolor or any other person.

He said that does not have any parcel of land in Obagie-Uwafiokun Community.

In support of his case, the Claimant called one Chief Ohiafi Joseph. He said that he read the alleged defamatory publication in the Nation Newspaper and that it gave him the impression that the Claimant is a murderer, that he murdered one Osaheni Osadolor and that he is a kidnapper. That he is a criminal who used who used his position as

Speaker of the Edo State House of Assembly to seize parcels of land belonging to the 1st Defendant's community.

He said that he drew the attention of the Claimant to the publication, and he denied committing the alleged offences.

In his evidence in defence of the suit, the 1<sup>st</sup> Defendant alleged that the Claimant is a person who used his position and the accompanying wealth to oppress the people he was meant to legislate to protect and the accompanying wealth to buy off their communal inheritance/land area from surrogates.

He said that he is one of the Elders and member of the council of Chiefs and Elders of Obagie-Uwafiokun Community and by virtue of his position, he is familiar with the activities of the community including the murder of Mr. Osaheni Osadolor and the activities that led to his murder.

He informed the Court that a place called Agor Ogboe (Ogboe Camp) which is presently referred to as Iguogboe by the inhabitants of the camp is a part of Obagie-Uwafiokun community as the camp was established on the authority of the Enogie of the community several years ago.

He alleged that the Benin City Development expanded into the community and people of different background showed interest in acquiring land in the community through the Enogie, his Elders and Chiefs in council. He said that a group of youths were also constituted under the leadership of the youth leader commonly called in Benin "Okaighele" to oversee the allocation and ward off intruders and that the youth Leader (Okaighele) at the material time was Osaheni Osadolor who was murdered in cold blood.

He narrated how, the Claimant allegedly acquired some parcels of land from their community under questionable circumstances which resulted in a conflict with the Enogie and his council of Chiefs and Elders who directed the community youth leader (Okaighele) to investigate and arrest any member of the public involved in the questionable allocation of land within the Community.

He said that the Claimant dared the community, used his position and hired armed thugs to attack the community leadership which subsequently led to the murder of their community youth leader Mr. Osaheni Osadolor.

The 1<sup>st</sup> Defendant alleged that the community promptly reported the murder of Mr. Osaheni Osadolor to the Police, but the Claimant used his position to suppress the police thereby frustrating all attempts to investigate the murder.

The 1<sup>st</sup> Defendant alleged that upon the murder of Mr. Osaheni Osadolor and the failure of the police to investigate the case, the Community membership, was constrained to stage a protest and they invited the Government House press who published the protest.

The 1<sup>st</sup> Defendant alleged that very recently the Claimant in a commando style caused the Police to arrest some members of their community on an ostensible allegation of Robbery. He said that the corpse of Mr. Osaheni Osadolor is still in mortuary while the conclusion of investigation and possible prosecution is being awaited.

The 1<sup>st</sup> Defendant alleged that the words published and contained in the statement of claim were not written and/or published by him and that he does not know the 2<sup>nd</sup> Defendant.

Under cross examination, the 1<sup>st</sup> Defendant stated that he led the protesters to protest the death of the said Osaheni Osadolor and that the protesters accused the Claimant of killing the said Osaheni Osadolor because of the threats to the life and the abduction of Osaheni Osadolor before the said date of his death.

He said that he still maintains that it was the Claimant who killed Osaheni Osadolor while he was the Speaker of the Edo State House of Assembly.

He said that they protested because the Claimant was not charged to court for the murder of Osaheni Osadolor.

In defence of the suit, the 2<sup>nd</sup> Defendant fielded one witness, one Dr. Bisi Olaniyi (D.W. 2), a journalist and the South South Bureau Chief of the Nation Newspaper.

In his testimony, the witness stated that on Tuesday March 16th 2021, there was a protest at the Edo State Government House and he went there to inquire what the protest was all about.

He said that the protesters carried placards bearing inscriptions like “Marcus Onobun, the Speaker, stop sponsoring thugs to kill us, Marcus Onobun stop killing the people of Obagie-Uwafiokun and Marcus Onobun carry your bulldozer away from Obagie-Uwafiokun Community”.

He alleged that he reported what he saw and that the reportage was a balanced one. He said that the views of the protesters including the 1st Defendant who was the spoke person for the protesters, the view of the Deputy Commissioner of Police (Operations), Miller Dantayawe who addressed the protesters by assuring them that justice would be served and the response by the Claimant denying the allegations were reported under the same caption; “Protesters accused Edo Speaker of “Murder” in the same publication of Wednesday, 17th March, 2021.

He said that other newspapers such as New Telegraph Newspaper, Info Daily Online Newspaper and others also reported the protest, but the most balanced report was that of the 2nd Defendant.

Upon the conclusion of evidence, the learned counsel for each party filed his final written address.

In his final written address, the learned counsel for the 1<sup>st</sup> Defendant **A. Osayomwanbor Esq.** formulated a sole issue for determination as follows:

***“Whether the Claimant in the face of the pleadings, evidence oral and documentary proved defamation against the Defendants to entitle him to compensation”.***

Arguing the sole issue, the Learned Counsel posited that the pleadings, evidence and documents presented before the Honourable Court show clearly that the Claimant and the first Defendant’s Community had dispute over a portion of land which dispute led to the murder or killing of one Osaheni Osadolor, the Youth Leader of the 1<sup>st</sup> Defendant’s Community. He said that the killing was reported to the Police and while the investigation was going on, threats to the lives of other Defendant’s Community members and the use of Police to arrest, harass and intimidate the Defendant’s Community people continued. He said that **Exhibit B** was tendered by the 1<sup>st</sup> Defendant to show the arrest, intimidation and oppression on them at the instance of the Claimant being a person in authority who was using his position to hinder Police Investigations into the murder of Osaheni Osadolor who to the knowledge of the parties in this suit is still in the mortuary.

He said that to press home their grievances to the Police all the Community members marched to the Police Headquarters to address the Edo State Police Commissioner. He said that their complaint to the Edo State Police Commissioner was verbal, that they requested the Police authorities to investigate the killing of their son, Osaheni Osadolor.

Learned counsel referred to the case of *Nwadinobi vs Botu (2000) 9 NWLR (PT. 672) 220 at 229 paras A-B* where the court held that:

***“An alleged publication of libelous words made to the Police in the course of lodging a complaint with the Police cannot form the basis of a claim for libel”.***

He said that the 1<sup>st</sup> Defendant in his statement on oath clearly showed that they went to the police to lodge their complaint based on the developments in their community and the murder of their son, Osaheni Osadolor. He said that the evidence of the 1<sup>st</sup>

Defendant was confirmed by the 2<sup>nd</sup> Defendant under cross-examination that the 1<sup>st</sup> Defendant's people came to the Edo State Police Command to lodge their complaint.

He said that the parties including the Claimant himself, agreed that the complaint was on the basis of the murder of Osaheni Osadolor who is till today still in morgue.

Learned counsel posited that according to the Claimant and the 2<sup>nd</sup> Defendant's, witness, the complaint or allegations published by the 2<sup>nd</sup> Defendant were contained in placards carried by different people. He maintained that looking at the document tendered as the publication Exhibit A, whatever was printed on the placards, which are the basis or foundation of this suit, could not be seen or read by anybody.

He said that the 2<sup>nd</sup> Defendant's witness under cross-examination stated that he interviewed the 1<sup>st</sup> Defendant and that he recorded the interview of the 1<sup>st</sup> Defendant in a disc, and that he also interviewed the Claimant and the Deputy Commissioner of police and that the interviews were recorded into a disc which disc formed the basis of the 2<sup>nd</sup> Defendant's Publication. He said that he did not produce the interview disc before the Honourable Court and what was contained in the permanent form as a disc was not tendered before this Honourable Court. He said that the actual words used by the 1<sup>st</sup> Defendant were not shown as the disc containing the interview was not tendered before the Honourable Court. He referred to the decision of the Supreme Court in the case of *Abalaka vs Akinsete (2023) 13 NWLR (Pt. 1901) 343 at pages 369 to 370 paras H – E* where they stated thus:

*“There is a world of difference between the actual words spoken by a person and the spin or interpretation or the manner in which the words have been headlined in a newspaper. The duty of a trial court is to examine the words spoken to determine whether they directly or by inmeedo challenge the integrity of the Plaintiff in an action for defamation. In the instant case, the schedule of offending words relied on by the appellant was as contained in some daily newspaper which were not sued by the appellant. The Newspapers carried the news of the world press conference with flourish in their own words. The Respondents could not be blamed for the way the newspapers decided to headline the event which was recorded in exhibit “H” the NTA news telecast of 26<sup>th</sup> March, 2000 repeated on 28<sup>th</sup> March, 2000. The trial court by watching exhibit “H” was constrained to determine whether or not the respondent actually uttered the Words that contained the defamatory phrases. Exhibit “H” did not reveal that the 1<sup>st</sup> and 2<sup>nd</sup> respondents said anything defamatory of the Appellant. (Okunta vs Phillips (2010) 18 NWLR (Pt. 1225) 320; Oyeyemi vs Owoeye (2017) 12 NWLR (Pt. 1580) 364; A. P. G. A. vs Oye (2019) 2 NWLR (Pt. 1657) 472; Jegede vs I. N. E. C. (2021) 14 NWLR (Pt. 1797) 409 referred to).”*

He maintained that the Claimant did not produce before the Honourable Court any visible record of the items recorded of the 1<sup>st</sup> Defendant as words spoken by him in the interview as the disc containing the recorded words was not produced and tendered before this Honourable Court. Also the placards allegedly displayed by the protesters were also not produced and tendered before the Honourable Court. The ones showed on Exhibits C and C1 did not show whatever was printed or written on the placards. Infact, the Claimant who tendered Exhibit A and his witness stated clearly that whatever was alleged to be on the placards cannot be seen and cannot also be read.

He submitted that it is trite Law that the words in its actual form and particulars must be pleaded and evidence given of it before the Honourable Court. He said that the words used are the material facts and they must be set out in the Claimant's pleadings to enable the Court determine whether they constituted a ground of action in libel. See *Guardian News Paper Ltd vs Ajeh (2011) 10 NWLR (Pt. 1256) 574 at 588 paras G-H*.

He said that the 1<sup>st</sup> Defendant pleaded and testified that the people of his community protested to the Edo State Police Command complaining to the Police about the killing of their son, Osaheni Osadolor by the Claimant and his Agents/Army of thugs and the fact that the Claimant was using his position as the speaker of the Edo State House of Assembly to obstruct or prevent the investigation into the matter.

He said that the pleadings of the 1<sup>st</sup> Defendant were not denied as no Reply was filed by the Claimant to it. Also, that the evidence by the 1<sup>st</sup> Defendant, both oral and documentary were not controverted or rebutted by cross-examination. The Claimant under cross-examination admitted knowledge of the death of Osaheni Osadolor and the threat and arrest of the Osaheni Osadolor at his instance before the sudden killing of the said Osaheni Osadolor. He said that he admitted invitation by the Police in respect of the murder severally at Edo State Police Command, Force Headquarters Abuja and Alagbon Police Zone in Lagos all in respect of the murder of Osaheni Osadolor.

He said that the 2<sup>nd</sup> Defendant's witness admitted under cross examination that the subject of the protest to the Edo State Police Command was the murder of Osaheni Osadolor, one of the children of 1<sup>st</sup> Defendant's community. He said that the truth or falsity of the subject of the protest were not challenged. He relied on the case of *Abalaka vs Akinsete (Supra) pages 372 to 373 paras D-A, 377 paras D-F*.

He said that in the instant case the Claimant failed to prove to the Honourable Court that the 1<sup>st</sup> Defendant's Community person was not killed or that he did not appear and make statement to the police in respect of the death of the subject of the publication. Again, he referred to the case of *Abalaka vs Akinsete (supra) at page 377 paras D-E*.

He also referred to the case of *Awolowo vs Kingsway Stores & Anor. (1968) All NLR, 606.*

He said that the Claimant, his witness and the 2<sup>nd</sup> Defendant's witness under cross examination admitted that the Claimant continued to enjoy his status as the speaker of the Edo State House of Assembly and enjoyed the privileges ascribable to the Office. He said that he was nominated and elected to a higher office, that is, the House of Representatives at the federal Capital, Territory, Abuja where he is now. He said that there was no pleading and evidence of his loss of reputation and no loss of any kind was shown by the Claimant to the Honourable Court. See: *Adeosun vs Afobabi (2004) All FWLR. (Pt. 227) 590 at 603 paras B-C.*

Finally, he urged the Court to dismiss the suit.

In his final written address, the learned counsel for the 2<sup>nd</sup> Defendant, *I.P.Igbuan Esq.* formulated six issues for determination as follows:

1. *Whether there was a public protest*
2. *whether the 2<sup>nd</sup> Defendant owes the public a duty to report the protest*
3. *Whether the protest was fairly reported*
4. *Whether it is the duty of the 2<sup>nd</sup> Defendant to determine the truth or otherwise of the statement published*
5. *Whether the Claimant was able to prove defamation against the 2<sup>nd</sup> Defendant*
6. *Whether the Claimant has a cause of action against the 2<sup>nd</sup> Defendant*

Thereafter, the learned counsel argued the issues seriatim

#### **ISSUE ONE:**

#### **WHETHER THERE WAS A PUBLIC PROTEST**

Learned counsel submitted that there was a public protest against the **Claimant** and he referred to paragraphs 6 & 7 of his statement on oath dated 16<sup>th</sup> April 2021 where he stated thus: *“That the 1<sup>st</sup> Defendant instigated the aforesaid publication and was quoted specifically in the said news story as follows. That my attention was also drawn by a member of my constituency to a broadcast by one VOS TV, Benin City (An Online TV News Channel) where the 1<sup>st</sup> Defendant was interviewed and said the following words concerning me; that we know quite well that base on available information, it is the Speaker of Edo State House of Assembly, Hon. Marcus Onobu that killed our son Osaheni Osador. That is what we stand out to say it is as true as truth can be and we stand our ground.”*

He said that the 2<sup>nd</sup> Defendant deposed in paragraph 7 of his statement on oath thus: *“...That on Tuesday March 16<sup>th</sup> 2021, there was a protest at the Edo State Government House and he Olaniyi went there to inquire what the protest was all about”*

He said that under cross-examination the 2<sup>nd</sup> Defendant witness stated that the leader of the protesters John Eweka addressed Journalists who came to cover the protest in front of Government House Benin City.

He said that the Claimant and the 1<sup>st</sup> Defendant never denied that there was protest against the Claimant. He said that Exhibit A, B, C also corroborates the fact that there was a protest.

### **ON ISSUE 2:**

#### ***WHETHER THE 2<sup>ND</sup> DEFENDANT OWES THE PUBLIC A DUTY TO REPORT THE PROTEST:***

He referred to **paragraph 4 of the 2<sup>nd</sup> Defendant Statement on oath dated 24<sup>th</sup> September 2021** he deposed; *...”that the said publication was not done falsely, defamatorily, calculated to diminish the status of the Claimant before the members of the public who ordinarily hold him in high esteem (as the 2<sup>nd</sup> Defendant also do) but was done perfunctorily as they were mere reportage from a public protest against the Claimant whom the 2<sup>nd</sup> Defendant also hold a duty to report happenings in society to and he knew about the protest through the media and the 2<sup>nd</sup> Defendant is part of the media.”*

He said that this fact was not denied or controverted by the Claimant. He said that the public duty on the 2<sup>nd</sup> Defendant to pass information is enshrined in **Section 39 (1) & (2) of the 1999 Constitution of the Federal Republic of Nigeria as amended 2010** which provides: *“Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference. Without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas, and opinions”*

He submitted that this constitutionally guaranteed public duty on the 2<sup>nd</sup> Defendant to disseminate information which she discharged by publishing the protest and the statements made at the protest does not need the permission of the Claimant to carry out nor the invitation from the 1<sup>st</sup> Defendant to the protest.

### **ISSUE 3:**

### **WHETHER THE PROTEST WAS FAIRLY REPORTED:**

He submitted that the report of the protest against the Claimant by the 2<sup>nd</sup> Defendant was a fair reportage of facts about the protest as regards the purpose, the statements from the protesters especially that of the 1<sup>st</sup> Defendant who was the spoke person for the protesters, the statement made by Deputy Commissioner of Police (Operations) Miller Dantawaye and even the denial by the Claimant of the allegation by the protester that he killed their person; Osaheni Osadolor were reported. May we refer my Lord to Exhibit “A”. He referred to paragraph 6 & 9 of the 2<sup>nd</sup> Defendant Statement on oath dated 24<sup>th</sup> September 2021 where he deposed thus: *“That the 2<sup>nd</sup> Defendant states further that as a reputable and one of the leading incorporated bodies in Nigeria who publishes the “ Nation Newspaper” to disseminate information, happenings and activities in the public domain, they owe the Claimant and the public the duty to report such without addition or subtraction and without malice or personal interest and that was what she did on Wednesday 17<sup>th</sup> March , 2021 when they reported a protest at the Edo State Government House, Benin City which occurred on Tuesday March 16<sup>th</sup> 2021 to the Claimant and the public for them to be aware of such happening nay the protest. That the reportage is a balance one as the views of the protesters including the 1<sup>st</sup> Defendant who was the spoke person for the protesters, the views of the Deputy Commissioner of Police (operations), Miller Dantayawe who addressed the protesters by assuring them that justice would be served and the response by the Claimant (who was not around the protest vicinity) denying the allegations were reported under the same caption” Protesters accused Edo Speaker of “Murder” in the same publication of Wednesday, 17<sup>th</sup> March, 2021”*

He maintained that the 2<sup>nd</sup> Defendant adhered to the principle of fair hearing as provided in *Section 36 (2) (a) 1999 Constitution* (supra) before publishing the protest as opportunity was given to the Claimant to react to the statements made by the protesters through the 1<sup>st</sup> Defendant as their spoke person and he utilized the opportunity by denying the allegations and it was equally published by the 2<sup>nd</sup> Defendant. He said that *Section 36 (2) (a) 1999 Constitution* (supra); *“provides for an opportunity for the person whose right and obligations may be affected to make representations to the administering authority before that authority makes the decision affecting that person”*.

### **ISSUE 4:**

**WHETHER IT IS THE DUTY OF THE 2<sup>ND</sup> DEFENDANT TO DETERMINE THE TRUTH OR OTHERWISE OF THE STATEMENT PUBLISHED:**

He submitted that it is not the duty of the 2<sup>nd</sup> Defendant to determine the truth or otherwise of the statements made by the protesters through the 1<sup>st</sup> Defendant as it is not an inquiring or investigative body but on a medium of dissemination of happenings, events and incidents of public interest. This assertion is supported by **Section 39 (1) & (2) of the 1999 Constitution** (supra).

He said that the evidential burden of proving the falsity of those statements published against the Claimant is on the Claimant and he has not been able to discharge the burden as imposed by **Section 131 of the Evidence Act** which states: *“Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of fact which he asserts must prove that those facts exist”*

We further submit that it is when the falsity of the statements is proven by the Claimant that the issue of defamation will arise.

#### **ISSUE 5:**

#### **WHETHER THE CLAIMANT WAS ABLE TO PROVE DEFAMATION AGAINST THE 2<sup>ND</sup> DEFENDANT**

He maintained that the Claimant has not discharged the evidential burden on him to prove defamation. He cited the case of *Ekong v. Otop (2014) LPELR -23022 (SC) (2014) 11 NWLR (Pt.1419) 549* which explicitly placed the burden on the Claimant to prove the falsity of the statements published by the 2<sup>nd</sup> Defendant.

#### **ON ISSUE 6:**

#### **WHETHER THE CLAIMANT HAS A CAUSE OF ACTION AGAINST THE 2<sup>ND</sup> DEFENDANT:**

He submitted that the Claimant’s action against the 2<sup>nd</sup> Defendant is frivolous, vexatious, and malicious and an abuse of court process. On frivolous, vexatious and abuse of court process, he referred to the case of *Olukunmi Olaiifa v. Chairman Ibadan North East Local Government & Anor. 2009, ALL FWL, Part 455, pg. 1724 @1727, R.4* where the court held thus: *“Abuse of the process of the court is a term generally applied to a proceeding that is wanting in bonafide and is frivolous, vexatious or oppressive. It also means abuse of legal procedure or improper use of a legal process. Every case is unique and turns on its own fact and circumstances, particularly cases relating to “abuse of court processes”, a terminology that is not defined in our rules and it is difficult to pigeon-hole since every court has the inherent power to prevent the abuse of its process”*.

He submitted that the Claimant has no cause of action against the 2<sup>nd</sup> Defendant who merely carried out a public and constitutional duty of reporting a public issue to the public and the report was very balanced.

In his final written address, the learned counsel for the Claimant ***R.O. Isenalumhe Esq.*** formulated two issues for determination as follows:

- 1) Whether in the circumstances of this case, the Claimant has been able to prove the case of libel against the Defendants as required by law; and***
- 2) Whether the Claimant is entitled to the sum of N500,000,000.00 (Five Hundred Million Niara) as damages claimed and unreserved apology.***

Thereafter, the learned counsel argued the two issues seriatim.

### **ISSUE ONE:**

***Whether in the circumstances of this case, the Claimant has been able to prove the case of libel against the Defendants as required by law.***

Arguing this first issue, learned counsel submitted that the Claimant has successfully proved his case of libel on the preponderance of evidence as required by law.

He said that the Claimant and his witness gave succinct evidence stating how the Defendants false allegations against him that he is a murderer, kidnapper and that he is a criminal who used his position as the Speaker of the Edo State House of Assembly to seize parcels of land belonging to the 1<sup>st</sup> Defendant's Community as contained in the publication was calculated to diminish, ridicule and defame his person/status to the public who hold him in high esteem as the Speaker of the Edo State House of Assembly. He said that the said defamatory words contained in Exhibit "A" was made by the 1<sup>st</sup> Defendant to the 2<sup>nd</sup> Defendant's reporter who later published same.

He submitted that for an action of libel to succeed in a Court, there are five (5) fundamental elements that must be established and this are as follows:

- i. That there is the publication of the material complained of by the Claimant***
- ii. That the publication refers to no other person but the Claimant.***
- iii. That the publication is defamatory of the Claimant.***
- iv. The words or statement were false or untrue.***
- v. There was no justifiable legal ground for the publication of the words or statement.***

See the cases of *AFUDE V. MELA (2020) LPELR – 51155 (CA) PP. 17 – 19 Paras. SKYE BANK PLC. V. AKINPELU (2010) LPELR-SC 38-2003, EMMANUEL BEKEE & ORS V. FRIDAY EBOM BEKEE (2012) LPELR-21270 CA, LABATI V. BADMUS (2006) 1 NWLR 1041 199, NEPA V. INAMETI (2002) FWLR 130 (1695) and ILOABACHIE V. ILOABACHIE (2005) 13 NWLR 943 695; AFRICAN NEWSPAPERS OF NIG. PLC & ANOR V. USENI (RTD) (2014) LPELR-22954(CA) (PP. 41 PARAS. B).*

He said that in the instant case, the words complained of by the Claimant were published in the 2<sup>nd</sup> Defendant's Newspaper i.e Nation Newspaper of 17<sup>th</sup> March, 2021 and the said publication was read by the CW1 and many other persons throughout Nigeria.

He submitted that publication in the claim for defamation is established if there is evidence that any person outside the Claimant read the defamatory publication and he relied on the case of *EZEGBO & ANOR V. IGBOKWE (2016) LPELR-40784(CA) (PP. 15-16 PARAS. F-F)*

He submitted that the Claimant has successfully established the first ingredient in proof of libel which is publication.

On the second ingredient, counsel submitted that the publication complained clearly refers to the Claimant and nobody else. He said that in the body of the publication his name **MARCUS ONOBUN** was clearly stated as well as his office as the **SPEAKER OF THE EDO STATE HOUSE OF ASSEMBLY**.

On the third ingredient, he submitted that the words complained of were clearly defamatory and same imputed crime as the Claimant was referred to as a murderer and kidnapper as contained in Exhibit "A", He said that this description of the Claimant portrayed him in a bad light and clearly injures his character because the description of the Claimant as a murderer and kidnapper is not consistent with his character and more so as no Court has convicted him for the offence of murder and kidnapping. He said that there is no evidence that the Claimant has ever been charged before any Court of law for such offences nor is he standing trial for such offences.

On the fourth ingredient, he submitted that the words complained of by the Claimant which were imputed to him by the 1<sup>st</sup> Defendant are clearly untrue. He said that there is no evidence before Court that the Claimant murdered or kidnapped any person. He said that the 1<sup>st</sup> Defendant merely concocted the publication to lower the reputation of the Claimant. He said that the 1<sup>st</sup> Defendant in his evidence was unable to prove that the allegations he made against the Claimant are true.

He submitted that the evidence of the Claimant was not challenged or controverted by the 1<sup>st</sup> Defendant and that under cross examination, the 1st Defendant admitted that he made the statement which was published in Exhibit “A” by the 2<sup>nd</sup> Defendant.

He submitted that where evidence before a trial court is unchallenged, it is the duty of that court to accept and act on it as it constitutes sufficient prove of a party’s claim in proper cases and he relied on the cases of *Koperk Constriction Ltd Vs Ekisola (2009) All FWLR (Pt. 519) Pg 1033 @ Pp 1077 Paras D – E* and *Obineche Vs Akusobi (2010) All FWLR (Pt. 533) Pg 1837 @ Pp 1865 Paras E – F*.

He urged the Court to resolve issue one in favour of the Claimant.

### **ISSUE TWO:**

***Whether the Claimant is entitled to the sum of N500,000,000.00 (Five Hundred Million Naira) as damages claimed and unreserved apology.***

Arguing this second issue, learned counsel submitted that to determine the quantum of damages to award in a case of libel, the Court must consider the following factors:

- i. The Standing of the Plaintiff in the Society;*
- ii. The impact of the words complained of on the career of the Claimant;*
- iii. The impact of the words complained of on the relationship between the Claimant and members of the public;*
- iv. The unjustifiable attack on the Claimant reputation;*
- v. The depreciation in the value of the currency due to inflation.*

He relied on the following cases: *ACCESS BANK V. PETRO-AL (NIG) LTD (2017) LPELR -45198 (CA) PP. 16 – 18 (PARAS. D)*; *IROEGBU & ORS V. OKEKE & ANOR (2016) LPELR-40620(CA) (PP. 50-53 PARAS. D)*; *ALHAJI ADAMU CIROMA VS ALHAJI M. KALOMA ALI & ORS (1994) 2 NWLR (PART 590) 317 at 330 A -C*; and *MR. BIODUN ODUWOLE & Ors. V. PROFF TAM DAVID-WEST (2010) 6 SCM 174 at 187 D-G*.

He said that in the instant case, the Claimant claim for damages is based on the fact that his person/status as the Speaker of the Edo State House of Assembly has been diminished, ridiculed and defamed to the public who hold him in high esteem by the false allegations of the Defendants as contained in Exhibit “A”.

He said that the Claimant as an elected member into the Edo State House of Assembly, relies on the goodwill of the people to sustain his position as speaker and as well as to pursue his career as a politician. He said that publication has reduced his standing and

reputation in the eye of the members of the public. He referred to the evidence of the C.W.1.

He maintained that the attack on the Claimant's character from the evidence on record is clearly unjustifiable, and in the circumstances should attract considerable damages in monetary terms. He said that the sum of N500,000,000.00 (Five Hundred Million Naira) claimed by the Claimant in 2021 has now diminished having regards to the exchange rate of the Naira at that time and as at present.

He therefore submitted that a claim for N500,000,000.00 (Five Hundred Million Naira) as damages is appropriate in this case.

Furthermore, he posited that to be entitled to damages, the Claimant need not prove that he has suffered actual monetary damages because libel is actionable per se and proof of actual monetary damages is not required in a case of libel to be entitled to damages. See *ODINKALU & ANOR V. ODILI (2022) LPELR-58717(CA) (Pp. 75 paras. A)*.

He urged the Court to resolve issue two in favour of the Claimant and to grant the reliefs sought by the Claimant.

Responding to the 1<sup>st</sup> Defendant's Final Written Address, learned counsel submitted that the 1<sup>st</sup> Defendant did not deny making the statement complained of but rather he made fruitless efforts to justify same in his evidence and his Counsel strenuously canvassed that the alleged libelous words were complaints made to the Edo State Police Command whereas, the words complained of were contained in an interview the 1<sup>st</sup> Defendant granted to the 2<sup>nd</sup> Defendant and which the 2<sup>nd</sup> Defendant published in its Newspaper. He said that this fact was confirmed by the 2<sup>nd</sup> Defendant's witness.

He urged the Court to disregard the assertion of the Defendant Counsel in his address that the libelous statement complained of was a complaint to the Edo State Police Command. He said that the authorities cited by the 1<sup>st</sup> Defendant's Counsel is inapplicable to this case.

On the failure to produce the virtual records of the words spoken by the 1<sup>st</sup> Defendant before Court as well as the Placards carried by the protesters, he submitted that the basis of the complaint are the words published in Exhibit "A" which was not denied by the 1<sup>st</sup> Defendant but rather sought to justify it.

Responding to the 2<sup>nd</sup> Defendant's Final written address, counsel submitted he urged the Court to discountenance the address to hold that the 1<sup>st</sup> and 2<sup>nd</sup> Defendants are vicariously liable for the defamation of the Claimant's character. He said that the means of publication of the words complained of is owned by the 2<sup>nd</sup> Defendant.

I have carefully considered all the processes filed in this suit, together with the evidence led during the hearing and the address of the learned Counsel for the parties.

I am of the view that the sole Issue for Determination in this suit is: ***whether the Claimant is entitled to the reliefs claimed in this suit.***

From the pleadings and the evidence led in this suit, the Claimant's suit is on the tort 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. See the cases of *Labati v. Badmus (2007) 1 NWLR (PT. 1014) 199*; and *OLAJOGUN & ORS V. AGORO (2014) LPELR-24040(CA) (PP. 22 PARAS. D)*.

It is settled law that in an action for libel the burden is on the Claimant to strictly prove the allegations of fact as stated in his pleadings. He must discharge that burden before it can shift to the Defendant. See the case of *AMUZIE V. ASONYE (2010) LPELR-4758(CA) (PP. 24 PARAS. C)*.

To succeed in an action for libel the following five fundamental elements must be established:

- 1. That there is the publication of the material complained of by the Defendant, the Respondent herein;***
- 2. That the publication refers to no other person but the Claimant, the Appellant herein, conclusively;***
- 3. That the publication is defamatory of the Claimant/Appellant herein;***
- 4. That the words or statement were false or untrue; and***
- 5. That there was no justifiable legal ground for the publication of the words or statement.***

See the cases of *SKYE BANK PLC. V. AKINPELU (2010) LPELR-SC 38-2003*; *EMMANUEL BEKEE & ORS V. FRIDAY EBOM BEKEE (2012) LPELR-21270 CA*; *LABATI V. BADMUS (2006) 1 NWLR 1041 199*; *NEPA V. INAMETI (2002) FWLR 130 (1695)* and *ILOABACHIE V. ILOABACHIE (2005) 13 NWLR 943 695*.

The issue is whether the Claimant has established all the five elements of the tort of libel in this suit. If the answer is in the affirmative, then the burden will be on the Defendants to establish their possible defences.

In proof of his case, the Claimant is testified and tendered a publication in *The Nation Newspaper of Wednesday 17<sup>th</sup> March, 2021* under the caption: **“Protesters Accuse Edo State Speaker of ‘murder’”**, where the Defendants allegedly published the following words concerning the Claimant:

*“The aggrieved protesters carried placards bearing inscriptions like ‘Marcus Onobun, the speaker, stop killing us’, ‘Marcus Onobun, stop killing the people of Obagie-Uwafiokiun’ and Marcus Onobun, carry your bulldozer away from Obagie-Uwafiokiun community’.*

*Their spokesman, Prince John Eweka, accused Onobun of sending assassins to kill Osadolor on March 13 at his mechanic workshop. According to him, Osadolor earlier had an encounter with Onobun over land. The speaker also threatened to kill Osadolor if he stood in his way while developing the land, and he had earlier abducted and tortured Osadolor twice. Eweka said, ‘on March 13, as Osadolor went back to his mechanic workshop, some persons came in a Toyota Camry and killed him. Osadolor was in charge of looking after boundaries between Obagie-Uwafiokiun and its neighbouring communities. Before his murder, Osadolor and some men of Obagie-Uwafiokiun went on patrol and saw some persons in Toyota Hilux and other vehicles driving into the community, and claiming to have 36 plots of land (100 by 100), with the leader later introducing himself as Marcus Onobun. The third day after the encounter, the same Onobun drove to the community, kidnapped Osadolor and took him to his house. He tortured him and threatened that Osadolor would either leave the land for him to develop or would die. The second time Osadolor was abducted, the community sent delegates to meet with Onobun. I was among the people who went to his house in Benin. He didn’t grant us an audience. We went again to meet him, but he declared that nobody could stop him from developing the land’.*

In his evidence, the Claimant testified that at the time of the publication, he was the Speaker of the Edo State House of Assembly, and the alleged publication was about him and that the publication defamed his character.

A defamatory statement has been defined in the case of *NEPA v. CHIEF INAMETI (2002) FWLR (Pt. 130) 1695 at 1716* as one which tends to injure the reputation of the person to whom it refers and tending to lower him in the estimation of right thinking members of the society generally and in particular cause him to be regarded with feelings of hatred, contempt, ridicule, fear, disdain or disesteem. See also the case of *NWAKOBY v. AHAM & ORS (2016) LPELR-41511 (CA)*.

At the hearing, the Claimant alleged that the 1<sup>st</sup> Defendant instigated the aforesaid publication and actually supplied facts contained therein to the 2<sup>nd</sup> Defendant’s Reporter at a press briefing during the protest.

The Claimant alleged that the aforesaid words referred to him and were understood to refer to him by those who read them because his name is Marcus Onobun and he is the current Speaker of the Edo State House of Assembly.

On the first element of publication, it is settled law that liability for a publication falls on all persons who participated or authorized it. Consequently, where a libel is published in a Newspaper, everyone who has taken part in publishing it or in procuring its publication or has submitted material published in it is prima facie liable. See the case of **VANGUARD MEDIA LTD & ORS V. OLAFISOYE (2011) LPELR-8938(CA) (PP. 51-52 PARAS. C).**

In the instant case, the words complained of by the Claimant were published in the 2<sup>nd</sup> Defendant's Newspaper i.e Nation Newspaper of 17<sup>th</sup> March, 2021 and the said publication was read by the CW1 and many other persons throughout Nigeria.

In a claim for defamation, publication is established if there is evidence that any person outside the Claimant read the defamatory publication. See the cases of **EZEGBO & ANOR V. IGBOKWE (2016) LPELR-40784(CA) (PP. 15-16 PARAS. F-F)** **EZEUGWA VS. ADIMORAN (1993) 1 NWLR Part 271 Page 620.** **NAS VS. ADESANYA (2003) 2 NWLR Part 803 Page 97.**

In the instant case the Claimant led evidence to show that the C.W.1 read the publication. I hold that the Claimant has established the first element of publication.

On the second element it is evident that the publication refers to the Claimant whose name was mentioned as well as his office as the Speaker of the Edo State House of Assembly at that time.

On the third element, the words complained of were imputations of heinous crimes allegedly committed by the Claimant. In the publication, the Claimant was accused of murder and kidnapping. The publication portrayed the Claimant as a base criminal whereas there is no evidence that he has ever been charged before any Court of law for such offences nor is he standing trial for such offences.

On the fourth element, the Claimant denied all the allegations of crime and although the 1<sup>st</sup> Defendant maintained that the allegations are true, no evidence was adduced to prove that the Claimant committed the heinous offences alleged against him.

I hold that from the totality of the evidence before the Court in this suit, the allegations are not true.

On the fifth element that there was no justifiable legal ground for the publication of the words or statement, it is pertinent to examine the defences of the two Defendants in this suit.

In defence of this suit, the 1<sup>st</sup> Defendant substantially admitted that he made some of the criminal allegations against the Claimant which are contained in the publication.

In his evidence in chief, he alleged that the Claimant dared the community, used his position and hired armed thugs to invade the community leadership which subsequently led to the murder of their community youth leader Mr. Osaheni Osadolor. He alleged that the Claimant used his position to suppress the police thereby frustrating all attempts to investigate the threat to the life of Mr. Osaheni Osadolor by the Claimant.

Under cross examination, the Claimant categorically stated as follows:

***“The protesters accused the Claimant of killing the said Osaheni Osadolor because of the threats to the life and the abduction of Osaheni Osadolor before the said date of his death. I still maintain that it was the Claimant that killed Osaheni Osadolor. I am aware that at that time the Claimant was the Speaker of the Edo State House of Assembly.”***

From the foregoing, it is apparent that the 1<sup>st</sup> Defendant is raising the defence of justification.

To establish a plea of justification the Defendant must prove that the defamatory imputation is true. The Defendant must justify the precise imputation complained of. In other words, strict proof is demanded. See the case of ***Dumbo v. Idugboe (1983) 1 SCNLR 29 at 51.***

At common law, under a plea of justification, the defendant must prove the truth of all the material statements in the libel. A plea of justification means that the libel is true, not only in its allegation of fact, but also in any comments made thereon. The Defendant therefore has the onus to prove not only that the facts are truly stated but also that any comments on them are correct. See the following cases on the point: ***Peter v. Bradlaugh (1884) 4 TLR 467; Kerr v. Force (1826) 3 Crunch CC8 at page 24; Truth (N.Z) v. Holloway (1960) 1 WLR 996 (pc); Wernher Bart v. Markham (1901) 18 TLR 143, 763; John v. Gittings (159) CE 239; Clarkson v. Lawson (1829) 6 Bing 266; 3 M.O.O. & P; Cooper v Lawson (1938) 8 A & E 746; Sutherland v Stopes (1925) AC at pages 62, 63, 75.***

It is manifest from the foregoing that a Defendant who is relying on a plea of justification is faced with an uphill task. To succeed he must prove and that very strictly, the truth of every allegation of fact made in the libel. Although, it is not necessary to prove the truth of every word in the libel, the Defendant, is however obliged to prove that the main charge or gist of the libel is true. He need not justify the statements or comments which do not add to the sting of the charge. See the case of ***A.C.B. LTD V. APUGO (2015) LPELR-24857(SC) (PP. 18-20 PARAS. E).***

In the instant suit, the 1<sup>st</sup> Defendant has alleged that the Claimant committed inter alia, the offences of kidnapping and murder. It is settled law that that where in a civil matter such as this, there are allegations that are suggestive to have an element of crime, the party asserting that fact has the onerous burden of proof which must be beyond reasonable doubt and not on balance of probability. See *Section 135(1) & (2) of the Evidence Act, 2011*. See also the following cases: *RAYMOND S. DONGTOE v. CIVIL SERVICE COMMISSION, PLATEAU STATE & Ors. (2001) LPELR-959 (SC)*; *SYLVANUS EMEKA MADUBUIKE v. ROMANUS ELOCHUKWU MADUBUIKE (2016) LPELR- 40679 (CA)*; *UDOM GABRIEL EMMANUEL v. UMANA OKON UMANA & Ors. (2016) LPELR- 40037 (SC)*.

I hold that from the state of evidence led, there was no justifiable ground for the 1<sup>st</sup> Defendant to publish the defamatory words complained of.

On the part of the 2<sup>nd</sup> Defendant, their defence is that the publication is a fair reportage of what transpired at the press briefing. They alleged that they balanced the report by hearing from the Claimant and by publishing his denial of the allegations. They also maintained that *Section 39 (1) & (2) of the 1999 Constitution of the Federal Republic of Nigeria as amended 2010* guarantees their right to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.

It is settled law that liability for a publication falls on all persons who participated or authorized it. Consequently, where a libel is published in a Newspaper, everyone who has taken part in publishing it or in procuring its publication or has submitted material published in it is prima facie liable. It follows therefore that the editor, printer, publisher of the Newspaper are prima facie jointly and severally liable for any libel which appears in the publication unless they can however show that they did not know that the publication contained defamatory material or was unlikely to contain such material. See for instance the pronouncement by Bridge L.J. in *Goldsmith vs Sperrings (1977)1 W.L.R.478 at 505* where it was held that:- *"... Any disseminator of defamatory matter is liable to the party defamed, subject to the defence of innocent dissemination. To establish this, it is for him to show that he did not in fact know that the publication contained defamatory matter and that he had no reason to believe that it was likely to contain defamatory matter. Gatley para. 241."* See the case of *VANGUARD MEDIA LTD & ORS V. OLAFISOYE (2011) LPELR-8938(CA) (PP. 51-52 PARAS. C)*.

In the instant case, despite the denial of the Claimant and the institution of this suit against them, the 2<sup>nd</sup> Defendant did not retract the false publication. I think they were complicit in the wrongful action of the 1<sup>st</sup> Defendant who used them as a channel to

disseminate the libelous publication. It is not an excuse that some other media also published the same publication.

Furthermore, the right to freedom of expression is subject to the law of defamation. See the cases of *AVIOMOH V. COP & ANOR (2014) LPELR-23039(CA) (PP. 15-17 PARAS. F)*; *OMOYELE SOWORE v. FEDERAL REPUBLIC OF NIGERIA (2022) LPELR-57439(CA)*.

From the foregoing, I hold that the 2<sup>nd</sup> Defendant has no justification for the publication of the libel.

On the issue of damages, it is settled law that libel is actionable per se without proof of special damage. The law will presume that some damage flows from the publication of the libel in the ordinary course of things from the mere invasion of the complainant's absolute right to reputation. See the following cases: *EDEM V. ORPHEO NIG. LTD. (2003) 13 NWLR (838) 537*; *Cross River State Newspaper Corporation V. Oni & Ors. (1995) 1 SCNJ 218 @ 239*; and *AFOLABI V. ALAREMU (2011) LPELR-8894(CA) (PP. 50-51 PARAS. F)*.

Furthermore, the Claimant has adduced evidence to show that as a prominent politician holding high public office, the base allegations have seriously tarnished his reputation. The fundamental objective for the award of damages is to compensate the Claimant for the harm and injury caused by the Defendant.

Thus, it is the duty of the Court to assess the Damages; taking into consideration the surrounding circumstances and the conduct of the parties. See: *Olatunde Laja vs. Alhaji Isiba & Anor. (1979) 7 CA*. The quantum of damages will depend on the evidence of what the Claimant has suffered from the acts of the Defendant.

Since the libel has been established, the Claimant is entitled to some reasonable compensation to cover some of the expenses which he has suffered as a result of the Defendants' defamatory publication.

Generally, the trial court has discretion as to the quantum of damages it would award in a claim of damages. See: *U.B.N. v. Odusote Bookstores Ltd. (1995) 9 NWLR (Pt.421) pg. 558*; *Solanke v. Ajibola (1969) 1 NMLR pg. 45*; *ACB Ltd v. Apugo (2001) 5 NWLR (pt.707) pg. 653*; and *YENEYIN & ANOR V. AKINKUGBE & ANOR (2010) LPELR-2875(SC)*.

In the instant case, I will exercise my discretion to award a reasonable sum as general damages to compensate the Claimant.

On the relief of injunction against the Defendants, it is settled law that once an infraction has been proved, an order of injunction becomes necessary to restrain further infraction. See: *ADEGBITE VS. OGUNFAOLU (1990) 4 NWLR (PT. 146) 578*; *BABATOLA VS. ALADEJANA (2001) FWLR (PT. 61) 1670* and *ANYANWU VS. UZOWUAKA (2009) ALL FWLR (PT. 499) PG. 411*.

Sequel to the foregoing, the sole issue for determination is resolved in favour of the *Claimant and he is granted the following reliefs against the Defendants jointly and severally*:

- 1) *The sum of N50,000,000.00 (Fifty Million Naira) being damages for libel contained at page 4 in ‘The Nation’s Newspaper of Wednesday 17th March, 2021 under the caption: “Protesters Accuse Edo State Speaker of ‘murder’” the full test of which is set out in paragraph 6 of the statement;*
- 2) *AN ORDER directing the Defendants to publish an unreserved apology and retraction of the offensive publication in an edition of ‘The Nation’ Newspaper and in at least three (3) other National Newspaper; and*
- 3) *AN ORDER of injunction restraining the Defendants from publishing any further libelous statement against the Claimant.*

*The Defendants shall pay the sum of N200,000.00 (Two Hundred Thousand Naira) as costs for the action.*

**P.A. AKHIHIERO**  
**JUDGE**  
**07/05/2026**

**COUNSEL:**

*R.O. Isenalumhe Esq. -----Claimant*  
*A. Osayomwanbor Esq-----1<sup>st</sup> Defendant*  
*I.P. Igbuan Esq-----2<sup>nd</sup> Defendant*