

FORM 3

ORIGINATING SUMMONS

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

SUIT NO: FHC/ABJ/CV/ /2024

BETWEEN

MR. MIKE ALADE

→ CLAIMANT

[FOR HIMSELF AND ON BEHALF OF MEMBERS OF NATIONAL ASSOCIATION OF SMALL AND MEDIUM ENTERPRISES (NASME)]

AND

- 1. THE REGISTERED TRUSTEES OF NATIONAL ASSOCIATION OF SMALL AND MEDIUM ENTERPRISES (NASME)**
- 2. DR. ABDULRASHID YARIMA**
- 3. DR. OKO JAJA**

DEFENDANTS

ORIGINATING SUMMONS

LET the Defendants:

- 1. REGISTERED TRUSTEES OF NATIONAL ASSOCIATION OF SMALL AND MEDIUM ENTERPRISES (NASME);**
- 2. DR. ABDULRASHID YARIMA; and**
- 3. DR. OKO JAJA**

All of c/o **NASME Abuja Liaison Office**,
Room 307 & 308,
Block D,
Federal Ministry of Industry, Trade and Investment,
Old Federal Secretariat,
Area 1, Garki, FCT, Abuja;

Respectively, within **Thirty (30)** days upon service of this Originating Summons (inclusive of the day of such service), cause an appearance to be entered for them to the Originating Summons issued on the application of the Claimant, whose address for service is: c/o his Solicitors, Law Office of Kayode & Co., of No 19, Sani Bello Close, off Street, Off Mobolaji Johnson Street, Apo Zone D, Legislative Quarters, Abuja, within the jurisdiction of the Honourable Court, for the determination of the following questions:

QUESTIONS FOR DETERMINATION

- 1. *Whether the tenure of the 2nd Defendant as the President of the Governing Council of NASME has not lapsed by effusion of time, since 18th August, 2023, having been appointed for a term of two (2) years at the Annual General Meeting of the National***

Association of Small and Medium Enterprises (NASME) held on 19th August 2021, by virtue of Section 10(iv) of the NASME Constitution and Article 4.2 of the Bye-Law, 2020 of NASME.

- 2. If the answer to Question One (1) above, is in affirmative, whether the 2nd Defendant could continue to exercise the powers of the Governing Council without recourse to the General Assembly of NASME.**
- 3. Whether the purported Annual General Meeting of the Association held on 18th May, 2024, as unilaterally called by the 2nd Defendant without a properly constituted Governing Council, and without any subsisting legal authority, was not unlawful, unconstitutional, null and void in the circumstance.**
- 4. Whether the appointment of the 3rd Defendant as the Chairman of the unilaterally constituted Electoral Committee of NASME by the 2nd Defendant, without a functional Governing Council, was not unlawful, ultra vires, null and void in the circumstance.**
- 5. Whether the purported election or appointment of the members of the General Council of Association conducted by the 3rd Defendant at the purported meeting held at the instance of the 2nd Defendant on 18th May, 2024 was not unconstitutional, unlawful, illegal, null and void in the circumstance.**

RELIEFS SOUGHT

WHEREUPON the Claimant seeks jointly and severally against the Defendants the following as reliefs:

- 1. A DECLARATION** that the tenure of the 2nd Defendant as the President of the Governing Council of NASME has lapsed by effusion of time, since 18th August, 2023, having been appointed for a term of two (2) years at the Annual General Meeting of the National Association of Small and Medium Enterprises (NASME) held on 19th August 2021, by virtue of Section 10(iv) of the NASME Constitution and Article 4.2 of the Bye -Law, 2020 of NASME.
- 2. A DECLARATION** that the 2nd Defendant could not continue to exercise the powers of the Governing Council without recourse to the General Assembly of NASME.
- 3. A DECLARATION** that the purported Annual General Meeting of the Association held on 18th May, 2024, as unilaterally called by the 2nd Defendant without a functional Governing Council, was unlawful, illegal, unconstitutional, null and void.

4. **A DECLARATION** that the appointment of the 3rd Defendant as the Chairman of the unilaterally constituted Electoral Committee of NASME by the 2nd Defendant, without a functional Governing Council, was unconstitutional, unlawful, illegal, ultra vires, null and void.
5. **AN ORDER nullifying** the entire proceedings of the purported Annual General Meeting of NASME held on 18th May, 2024, as unconstitutional, unlawful, illegal in the circumstance.
6. **AN ORDER restraining** the 2nd Defendant and or any other person or persons appointed by him from further parading himself or themselves as the President, Members of the Governing Council or Executive Committee NASME.
7. **AN ORDER directing** the 1st Defendant Trustees to immediately convey an Extraordinary General Meeting of NASME for the purpose of reconstitution of the General Council of the Association pursuant to Section 9 of the NASME Constitution.
8. **AN ORDER directing** a proper financial Auditing of the financial records and operations of NASME under the administration of the 2nd Defendant from 19th August 2021 till date.
9. SUCH FURTHER or other Order(s) as the Honourable Court may deem fit to make in the circumstance of this case.

This Summons was taken out by **OLATUNJI SALAWU, Esq.** of Law Office of KAYODE & CO., Legal Practitioner for the said Claimant whose address is at No.19, Sani Bello Close, Off Mobolaji Johnson Street, Apo Zone D, Legislative Quarters, Abuja, FCT.

The Defendant may appear hereunto by entering appearance personally or by a legal practitioner either by filing the appropriate processes (as in Order 7) in response at the Registry of the Court where the summons was issued or by sending them to that office by any of the methods allowed by these Rules.

Note: If the Defendants do not respond within the time at the place above mentioned, such orders will be made and proceedings may be taken as the Judge may think just and expedient.

DATED AT ABUJA THIS DAY OF MAY, 2024.

REGISTRAR

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

SUIT NO: FHC/ABJ/CV/ /2024

BETWEEN

MR. MIKE ALADE

→ CLAIMANT

[FOR HIMSELF AND ON BEHALF OF MEMBERS OF NATIONAL ASSOCIATION OF SMALL AND MEDIUM ENTERPRISES (NASME)]

AND

- 1. THE REGISTERED TRUSTEES OF NATIONAL ASSOCIATION OF SMALL AND MEDIUM ENTERPRISES (NASME)**
- 2. DR. ABDULRASHID YARIMA**
- 3. DR. OKO JAJA**

DEFENDANTS

AFFIDAVIT IN SUPPORT OF THE ORIGINATING SUMMONS

I, MICHAEL ALADE, Nigerian, Businessman of No. 10, Asani Close, Afromeia, Ojó, Lagos, do hereby make oath and state as follows:

1. I am a member of the National Association of Small and Medium Enterprises (NASME) herein referred to as “the Association” and the Claimant in this case. I am also a member of the Executive Committee of the Association as the National Publicity Secretary and by virtue of which I am familiar with the facts and circumstances deposed to herein.
2. The 1st Defendant is the Registered Trustees of the Association duly incorporated with the Corporate Affairs Commission.
3. The 2nd Defendant is a member of the Association who was appointed as the President of the Governing Council at the Annual General Meeting of the Association held on **19th August, 2021** at the Raw Material Research & Development Council Chambers at 17, Aguiyi Street, Maitama District FCT Abuja. Copy of the AGM Brochure where the 2nd Defendant was appointed is hereby attached as **EXHIBIT 1**.
4. The 3rd Defendant was appointed by the 2nd Defendant as the Chairman of the Electoral Committee set up by the 2nd Defendant to conduct election into the Governing Council of the Association.
5. National Association of Small and Medium Enterprises (NASME) as an association is the umbrella body for all Micro, Small and Medium Enterprises (SMEs) in Nigeria with an established constitution and bye-laws. Copy of the NASME Constitution and Bye-Laws are hereby attached as **EXHIBITS 2 and 3**, respectively.
6. The present Governing Council of NASME headed by the 2nd Defendant was constituted on 19th August, 2021 at the Annual General Meeting (AGM) of the Association held in Abuja.

7. That under the constitution of the Association, the Governing Council has a tenure of two (2) years, which had expired on 18th August, 2023.
8. That the 2nd Defendant in breach of the constitution and bye-laws of the Association refused, neglected and failed to convene the meeting of the General Council and the AGM of the Association in 2023, for the reconstitution of the Governing Council.
9. This anomaly was brought to the attention of the 2nd Defendant by me through a letter by my solicitors dated 7th November, 2023. Copy of the letter is hereby attached as **EXHIBIT 4**.
10. In spite of my reminder, the 2nd Defendant has continued to act in flagrant disregard to the constitution of NASME.
11. In addition, the 2nd Defendant has blatantly displayed lack of transparency and accountability in the management of financial operation of the Association, thus raising concerns among members and other stakeholders.
12. Furthermore, the 2nd Defendant has unilaterally convened a purported Annual General Meeting of NASME on 18th May, 2024, for the purpose of election/appointment in to the General Council and the Executive Committee of NASME, with the 3rd Defendant as the "Electoral Committee Chairman", contrary to the provisions of the extant constitution of the Association.
13. The 2nd and 3rd Defendants without any constitutional or legal authority, purportedly conducted an election on 18th June, 2024, and appointed members of the Governing Council of NASME, in clear breach of the provisions of the NASME constitution.
14. It will be in the interest of justice to determine the questions raised and to grant the reliefs sought by the Claimant in this suit.
15. I solemnly depose to this Affidavit in good faith, conscientiously believing the contents to be true and in accordance with the Oaths Act.

DEPONENT

**SWORN TO AT THE REGISTRY,
FEDERAL HIGH COURT, ABUJA
THIS DAY OF MAY, 2024**

BEFORE ME

COMMISSIONER FOR OATHS

IN THE FEDERAL HIGH COURT OF NIGERIA

IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

SUIT NO: FHC/ABJ/CV/ /2024

BETWEEN

MR. MIKE ALADE

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AND

1. THE REGISTERED TRUSTEES OF NATIONAL ASSOCIATION
OF SMALL AND MEDIUM ENTERPRISES (NASME)

2. DR. ABDULRASHID YARIMA

3. DR. OKO JAJA

} DEFENDANTS

**CLAIMANT'S WRITTEN WRITTEN ADDRESS IN SUPPORT OF
THE ORIGINATING SUMMONS**

1. INTRODUCTION

1.1. The Claimant by the originating summons against the Defendant is seeking the determination of the following questions:

1. *Whether the tenure of the 2nd Defendant as the President of the Governing Council of NASME has not lapsed by effusion of time, since 18th August, 2023, having been appointed for a term of two (2) years at the Annual General Meeting of the National Association of Small and Medium Enterprises (NASME) held on 19th August 2021, by virtue of Section 10(iv) of the NASME Constitution and Article 4.2 of the Bye-Law, 2020 of NASME.*

2. *If the answer to Question One (1) above, is in affirmative, whether the 2nd Defendant could continue to exercise the powers of the Governing Council without recourse to the General Assembly of NASME.*

3. *Whether the purported Annual General Meeting of the Association held on 18th May, 2024, as unilaterally called by the 2nd Defendant without a properly constituted Governing Council, and without any subsisting legal authority, was not unlawful, unconstitutional, null and void in the circumstance.*

4. *Whether the appointment of the 3rd Defendant as the Chairman of the unilaterally constituted Electoral Committee of NASME by the 2nd Defendant, without a functional*

Governing Council, was not unlawful, ultra vires, null and void in the circumstance.

5. Whether the purported election or appointment of the members of the General Council of Association conducted by the 3rd Defendant at the purported meeting held at the instance of the 2nd Defendant on 18th May, 2024 was not unconstitutional, unlawful, illegal, null and void in the circumstance.

1.2. The Claimant further seeks the following reliefs against the Defendants:

1. **A DECLARATION** that the tenure of the 2nd Defendant as the President of the Governing Council of NASME has lapsed by effusion of time, since 18th August, 2023, having been appointed for a term of two (2) years at the Annual General Meeting of the National Association of Small and Medium Enterprises (NASME) held on 19th August 2021, by virtue of Section 10(iv) of the NASME Constitution and Article 4.2 of the Bye -Law, 2020 of NASME.

2. **A DECLARATION** that the 2nd Defendant could not continue to exercise the powers of the Governing Council without recourse to the General Assembly of NASME.

3. **A DECLARATION** that the purported Annual General Meeting of the Association held on 18th May, 2024, as unilaterally called by the 2nd Defendant without a functional Governing Council, was unlawful, illegal, unconstitutional, null and void.

4. **A DECLARATION** that the appointment of the 3rd Defendant as the Chairman of the unilaterally constituted Electoral Committee of NASME by the 2nd Defendant, without a functional Governing Council, was unconstitutional, unlawful, illegal, ultra vires, null and void.

5. **AN ORDER nullifying** the entire proceedings of the purported Annual General Meeting of NASME held on 18th May, 2024, as unconstitutional, unlawful, illegal in the circumstance.

6. **AN ORDER restraining** the 2nd Defendant and or any other person or persons appointed by him from further parading himself or themselves as the President, Members of the Governing Council or Executive Committee NASME.

7. **AN ORDER directing** the 1st Defendant Trustees to immediately convey an Extraordinary General Meeting of NASME for the purpose of reconstitution of the General Council of the Association pursuant to Section 9 of the NASME Constitution.

8. **AN ORDER directing** a proper financial Auditing of the financial records and operations of NASME under the administration of the 2nd Defendant from 19th August 2021 till date.

9. SUCH FURTHER or other Order(s) as the Honourable Court may deem fit to make in the circumstance of this case.

1.3. In support of the Originating Summons is a 15-paragraph affidavit deposed to by the Claimant and to which documents marked as Exhibits 1 - 4, respectively are attached.

2. ISSUES FOR DETERMINATION

The Claimant adopts the questions formulated above as the issues for determination in this case.

3. ARGUMENTS/SUBMISSIONS ON ISSUES.

ISSUE 1: TENURE OF THE 2ND DEFENDANT AS THE PRESIDENT OF THE GOVERNING COUNCIL OF NASME.

3.1. **Exhibits 2 and 3** are the extant constitution and bye- laws of the National Association of Small and Medium Enterprises, respectively, subscribed to by Claimant and the Defendants.

3.2. Section 10(iv) of the NASME Constitution (**EXHIBIT 2**) provides that:

“The members of the Governing Council shall serve for a term of two years.”

3.3. Section 15 (2) (a) of the Interpretation Act states that a reference in an enactment to a period of days shall be construed where the period is reckoned from a particular event, as excluding the day on which the event occurs. Further, Section 18 of the Interpretation Act defines a “year” as a period of 12 months and the Act defines a month as a calendar month reckoned according to the Gregorian Calendar.

3.4. Reckoning with the facts deposed to in our affidavit in support, we humbly submit that it is clear from the unambiguous above provision that the tenure of the 2nd Defendant lapsed after two years of appointment. The Claimant has stated in the affidavit in support of the Originating Summons that the 2nd Defendant was

appointed as the President of the Governing Council of the Association at the Annual General Meeting of the Association held on 19th August, 2021. That means the 2nd Defendant's tenure automatically came to an end on 18th August, 2023, and as from that time lacked the powers to continue to act as the President of the Association.

- 3.5. We therefore urge the Honourable Court to answer the question in affirmative of the Claimant.

ISSUES 2, 3 & 4: UNLAWFUL EXERCISE OF POWERS BY THE 2ND DEFENDANT.

- 3.6. My Lord, we further submit that if the tenure of the has lapsed more than 8 months ago, there is absolutely no power residue in the 2nd Defendant to convene the General Meeting of the NASME and or appoint the 3rd Defendant as the Chairman of the Electoral Committee of the Association. In any case, even if the 2nd Defendant's tenure still subsists at the time of the said appointment, the power of the appointment resides in the Governing Council as a body and the 2nd Defendant therefore cannot unilaterally exercise the power without recourse to the Governing Council, by virtue of Section 10(v)(a) of the NASME Constitution which provides that:

**“The powers of the Governing Council shall include:-
(a) The appointment of the principal officers of the Association”.**

- 3.7. We therefore urge my Lord to resolve this issue in affirmative.

ISSUE 5: LEGAL EFFECT OF THE PURPOTED MEETING COVERED BY THE 2ND DEFENDANT WITHOUT AUTHORITY

- 3.8. We submit that in view of the argument that there was no proper Governing Council in place to act for the Association, the 2nd Defendant had no authority to unilaterally convene the meetings of NASME, neither does he has powers to unilaterally constitute any committee or appoint any body as an officer for the Association. Therefore, the appointment of the 3rd Defendant as the Chairman of the Electoral Committee by the 2nd Defendant was unlawful, null and void in the circumstance. Consequently, we submit that the purported Annual General Meeting convened by the 2nd Defendant on 18th May, 2024, as well as the purported election or appointment of the officers and General Council members at the said meeting was unconstitutional, unlawful, illegal and as such, null and void. We urge the Court to hold so.

4. RELIEFS

4.0. We submit that the Reliefs 1 - 8 claimed by the Claimant are consequential reliefs upon positive determination of the questions raised by the Claimant. We urge my Lord to grant same in the circumstance.

5. CONCLUSION

5.0. Finally, we urge the Honourable Court to resolve all the issues argued above in favour of the Claimant and to grant all the reliefs sought in this Originating Summons.

DATED AT ABUJA THIS DAY OF MAY, 2024

ABIMBOLA KAYODE, *Esq. FICMC, FCI Arb. (UK.)*
OLATUNJI SALAWU, ESQ.
DEBORAH L. KIRON, ESQ.
LAW OFFICE OF KAYODE & CO.
CLAIMANT'S COUNSEL
No. 19 Sanni Bello Close
Off Mobolaji Johnson Street
Apo Zone D, Legislative Quarters
ABUJA.
08033511373; olatunjisalawu@yahoo.com

FOR SERVICE UPON:

**1. REGISTERED TRUSTEES OF NATIONAL ASSOCIATION OF
SMALL AND MEDIUM ENTERPRISES (NASME)**

c/o NASME Abuja Liaison Office,
Room 307 & 308, Block D,
Federal Ministry of Industry, Trade and Investment,
Old Federal Secretariat,
Area 1, Garki, FCT, Abuja;

2. DR. ABDULRASHID YARIMA

c/o NASME Abuja Liaison Office,
Room 307 & 308, Block D,
Federal Ministry of Industry, Trade and Investment,
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