IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
BEFORE HIS LORDSHIP HON. JUSTICE B. B. KANYIP, PHD, OFR, bpa
PRESIDENT, NATIONAL INDUSTRIAL COURT OF NIGERIA

DATE: 19 FEBRUARY 2026 SUIT NO. NICN/ABJ/152/2025

BETWEEN
Raw Materials Research and Development Council - Claimant

AND
1. Nigeria Civil Service Union
2. Nigeria Civil Service Union Abuja Chapter
3. Okwor Hillary
4. Adeogun A. Ganiyat
5. Moses Akam
6. Yildet D. Gig wan
7. Mohammed B. Kolo - Defendants

REPRESENTATION
Dr J. A. Akubo, SAN, with M. E. H. Adanchin, Miss D. O. Musa and Miss V. E. Ojomah, for the claimant.
No legal representation for any of the defendants.

RULING

INTRODUCTION
1. The claimant came to this Court by way of an originating summons filed on 23 May 2025 (and brought pursuant to pursuant to Order 3, Rule 3 of the National Industrial Court Rules (NICN), 2017) asking the Court to determine three questions, namely:

> (1) Whether by virtue of section 25 of the Trade Union (sic) Act Cap T14, Laws of the Federation 2004, the 1st Defendant listed as No. 19 of the 3rd Schedule of the said Trade Union (sic) Act, Part A thereof and whose purported members are employees of the Claimant is entitled to an automatic recognition without first seeking and obtaining formal recognition of the Claimant?
> (2) Whether Section 17 of the Trade Union (sic) Act Cap T14, Laws of the Federation 2004 is dependent upon strict compliance to Section 25 thereof?
> (3) Whether by combined reading of Sections 17 and 25 of the Trade Union (sic) Act Cap T14, Laws of the Federation 2004, the Claimant is under obligation to deduct checks off dues from salary of its employees in favour of the 1st and 2nd Defendants in absence of formal recognition by the Claimant?

2. And if the above questions are resolved in favour of the claimant, the claimant prayed for the following reliefs severally and jointly against the defendants:

(1) A DECLARATION that by virtue of Section 25 of the Trade Union (sic) Act Cap T14, Laws of the Federation 2004, the 1st and 2nd Defendants whose purported members are employees of the Claimant is (sic) not entitled to an automatic recognition without first seeking and obtaining formal recognition of the Claimant.

(2) A DECLARATION that Section 17 of the Trade Union (sic) Act Cap T14 Laws of the Federation 2004 is dependent upon strict compliance to Section 25 thereof, therefore the Claimant must formally recognise the Defendants before Section 17 of the Trade Union (sic) Act can become operational.

(3) A DECLARATION that secretly unionizing or attempting to unionize workers/staff of the Claimant into the 1st and 2nd Defendants is ultra vires the Defendants and therefore null, void and of no effect being contrary to the extant labour law and decided authorities.

(4) AN ORDER of Perpetual Injunction, prohibiting/restraining the Defendants or their servants, officers, agents, members and whosoever from secretly and compulsorily unionizing, or attempting to unionize workers/staff of the Claimant into the 1st and 2nd Defendants without first seeking recognition from the Claimant.

(5) AN ORDER DIRECTING the Defendants to seek and obtain the approval of the Claimant before unionizing or attempting to unionize workers/staff of the Claimant into the 1st and 2nd Defendants subject to their individual constitutional rights to freedom of Association.

(6) Exemplary damages as this Honourable Court may deem fit to grant as if same has been applied for.

(7) Ten million being cost of Litigation.

3. When the case came up for hearing, the Court noted that the case is a recognition dispute and one over check-off dues given the questions posed by the claimant. To the Court, this naturally raises the question whether the claimant is competently before the Court. In other words, can the claimant as an employer come to this Court as a claimant in a recognition dispute and a dispute over check-off dues? The Court then reasoned that this issue must first be resolved before any hearing on any issue in the case can be made.

4. Parties, starting with the claimant, were asked to addressed the Court vide written addresses on the issue.

5. Only the claimant filed a written address in response. None of the defendants did. In fact, no defendant was represented by counsel in the matter despite that the 1st, 2nd and 6th defendants were present in Court.

6. Accordingly, the issue raised *suo motu* by the Court will be resolved on only the written address of the claimant.

THE CLAIMANT'S SUBMISSIONS ON THE ISSUE RAISED SUO MOTU BY THE COURT

7. The claimant addressed the issue raised *suo motu* by the Court as one relating to the claimant's *locus standi*.

8. The claimant then gave the background and relevant facts of the case. To the claimant, the background and relevant facts in the circumstance of this case in summary is that the 1st and 2nd defendants took steps to covertly unionise the employees or staff of the claimant herein and purportedly constituted an Executive Committee, without their knowledge and demonstrating to it their intention to do so as required by law. [The claimant did not disclose to the Court the law that provided for this requirement.] That the chagrin of the claimant is that it was only notified of the inauguration of the purported Executive of the 1st and 2nd defendants within its establishment, without any prior notice or demonstration of intention to unionise its employees by their letter of 16/10/2024 (i.e. the 1st letter written to the claimant), which is akin to putting the cart before the horse as far as the sequence of unionisation of employees is concerned. That the defendants further threatened to picket the claimant's premises. That exhibits attached to the supporting affidavit to the originating summons and particularly page two of Exhibit 5, wherein the defendants threatened to picket the workplace of the claimant and to inaugurate their executive, are relevant on this point.

9. That the case of the claimant is not that the 1st and 2nd defendants are not deserving recognition by virtue of section 25 of the Trade Unions Act (TUA) Cap T14 LFN 2004, since the 1st defendant is listed as No. 19 of the 3rd Schedule to the said TUA, Part A thereof.

10. That it is the case of the claimant that the defendants ought to have first introduced themselves to the Management of the claimant headed by its Director General, and indicate their intention to unionise. Then the *onus* would shift to the said claimant's Management to accord the 1st and 2nd defendants their due recognition, as a prospective union entering its organisation, before the 1st and 2nd defendants can commence their unionisation process of registration of new employees of the claimant into their sheepfold and then inauguration of Executive, which is the climax of such unionisation.

11. To the claimant, the above stated sequence of recognition engenders transparency and mutual respect between Management of the claimant and the defendants herein and wards off any feeling of suspicion or ill-will. It also makes for a healthy environment for fostering synergy between the parties as they co-exist to preserve their welfare. That the rather clandestine approach of the 1st and 2nd defendants does not make for a healthy takeoff of the unionisation process which has resulted in this suit.

12. That it is the firm position of the claimant that there is a *lacuna* or an ambiguity in the provision of section 25 of the TUA as to the laid down steps to follow and sequence of unionisation of employees of an organisation by a registered trade union under the Act. That the clear steps and how or in what manner a union is required or expected to demonstrate its intention to unionise are not clearly spelt out by said law and same cannot be assumed. Interestingly, that this Court clearly stated the intendment of the legislature with regard to section

25 of the Law under reference in the case of *Management of Tuyil Nig. Ltd v National Union of Chemical, Footwear, Rubber, Leather and Non-Metalic Productions Employees* [2009] 16 NLLR (Pt. 37) 109 at 127 held thus:

> Once any of the trade unions listed in the Third Schedule of the Trade Unions Act *exhibits enough intention to be recognised by an employer by indicating its willingness to unionise workers who are eligible to be its members*, to an employers is obliged to accord recognition and not pose obstacle in the way of such unionization (emphasis is the claimant's).

13. That the words "exhibits enough intention" stated above suggest that request for recognition should come before the commencement of actual unionisation.

14. The claimant went on that the questions which this suit seeks to find answers to are: whether the claimant's Management ought to be informed by the defendants and obtain due recognition before the commencement of their unionisation exercise vide registration of members and composition of their leadership and then inauguration. Also, where the trade union fails to formally approach the employer before unionising its employees, what are the rights of the employer? Should unions be allowed to operate underground in an organisation until they are ready to show their faces to the employer or should the employer be given an opportunity first to welcome the union at the door, into its organisation?

15. That this Court has the golden opportunity in this suit to once again make pronouncements on these missing gaps in our jurisprudence as per section 25 of the TUA and lay the precedent for all to follow

16. The claimant then adopted the question for determination as raised by the Court *suo motu* as follows: whether this Honourable Court has jurisdiction to entertain the action of the Claimant as an Employer in an action against the Defendants over the issue of Recognition for lack of requisite locus standi on the part of the Claimant in this suit.

17. To the claimant, to begin with issue of jurisdiction, that this Court has unfettered jurisdiction to hear and determine this suit as by the claimant. That it is trite that the jurisdiction of the Court is vested by the Constitution or statute, referring to *Owners MV Baco Liner v. Adeniji* [1993] 2 NWLR (Pt. 274) 195, *The Export-Import Bank of the United States of America v. Nigerian Deposit Insurance Corporation* [2021] LPELR-53399(CA), section 254A of the 1999 Constitution and section 7 of the NIC Act 2006.

18. The claimant continued that by the combined effect of sections 254A to 254F of the 1999 Constitution, and sections 7 to 9 of the NIC Act 2006, this Court is the sole competent court to hear and determine labour employment, trade unions and industrial relations disputes, as well as interpretation of collective agreements, discrimination in employment, and related criminal or international labour law matters. That the subject matter in question comes rightly within the purview of the jurisdiction of this Court and there is no other court the claimant can approach for

the interpretation of the extant laws herein as brought by it. We submit that the phrase trade union related dispute used in both the 1999 Constitution and the statute that created this Court by extension include any dispute between an employer and trade union in relation to recognition and deduction and remission of check off dues by the employer to the trade union. The claimant then cited *Board of Management of FMC, Makurdi v. Kwembe* [2015] LPELR-40486(CA) and *Board of Management of Federal Medical Centre, Makurdi v. Shie* [2016] LPELR-42911(CA), which considered the jurisdiction of this Court in terms of section 254C(1) of the 1999 Constitution.

19. The claimant proceeded that the subject matter of this suit is within the exclusive jurisdiction of this Court as it concerns the unionisation process of employees under the employment of the claimant, which the claimant and the defendants are on different pages in terms of the proper procedure to follow for doing so under our laws.

20. Additionally, that by section 6(6)(a)(b) of the 1999 Constitution, this Court has the inherent jurisdiction to adjudicate on any dispute between two parties as in the instant case. That it is also germane that the Court should lean towards giving the claimant the latitude and opportunity to canvass its case before the Court and the Court would then sieve the wheat from the chaff thereby upholding the claimant's constitutional right of access to the Court, citing *Akinyemi & Anor v. Banjoko* [2017] LPELR-42377(CA).

21. That shutting the claimant out of Court at this stage will deny the claimant's right of access to the court thus exposing the clamant to suffer undesirable injustice, citing *Okeahialam v. Nwamara* [2003] 12 NWLR (Pt. 835) 597 at 598, *NNPC v. Fawehinmi* [1998] 7 NWLR (Pt. 559) 598 at 623, *Ahmadu v. Gov., Kogi State* [2002] 3 NWLR (Pt. 755) 502 at 519 - 520 and *Odugbo v. Abu* [2001] 14 NWLR (Pt. 732) 45 at 114.

22. The claimant then urged the Court to hold that it has jurisdiction to hear and determine this suit to its logical conclusion on the issues formulated by the claimant for determination as there is no statute that expressly excludes this Court from exercising jurisdiction over this suit.

23. Turning to the issue of *locus standi* of the claimant to sue the defendants in this suit, the claimant submitted that it has sufficient *locus* or interest to maintain this suit given that the claimant has a direct, personal, and legally cognizable duty and role to discharge which confers on it interest in the subject matter of this suit and has satisfied every statutory and procedural requirement necessary to clothe it with standing before this Court.

24. That the term *locus standi* simply means the right or legal capacity to institute proceedings in a court of law. It is the right to be heard in a matter, citing *Nworka v. Ononeze-Madu* [2019] 7 NWLR (Pt. 1672) 422, *Adesanya v. President of the Federal Republic of Nigeria* [1981] 2 NCLR 358; [1981] 5 SC 112, *AG, Kaduna State v. Hassan* [1985] 2 NWLR (Pt. 8) 483, and *Olori Motors Ltd v. Union Bank of Nigeria Plc* [2006] 10 NWLR (Pt. 987) 587. That the general principle is that a person has *locus standi* to bring an action if he can show sufficient interest in

the subject matter, or that his civil rights and obligations have been or are in danger of being infringed upon, citing *Nworka v. Ononeze-Madu* (*supra*) 7 NWLR (Pt. 1672) 422 at 444.

25. To the claimant, the test for determining *locus standi* as laid down by the Supreme Court in *Adesanya v. President of the FRN* (*supra*) and *Thomas v. Olufosoye* [1986] 1 NWLR (Pt. 18) 669 is as follows:

(1) Whether the claimant has shown sufficient interest in the subject matter of the action;
(2) Whether the claimant's civil rights and obligations have been or are in danger of being violated; and
(3) Whether there is a nexus between the claimant and the subject matter of the action.

26. That these elements are determined solely form the claimant's originating processes, particularly the statement of facts and the reliefs sought (in the instant case, it is to be determined from the supporting affidavit to the originating summons) and not from the defendant's averments, citing *Fawehinmi v. Akilu* [1987] 4 NWLR (Pt. 67) 797.

27. The claimant went on that it has sufficient interest and has sufficiently demonstrated in its originating process the nexus between the claimant and the subject matter of this action for *locus* to be imputed on it in the circumstance of this case. Furthermore, that the TUA imposes a duty on the claimant to act upon the fulfilment of the responsibility of the 1st and 2nd defendants' to make a demonstration of their intention to the claimant, to unionise its employees. That in the instant case, the defendants did not first demonstrate their intention for the claimant to recognise it in compliance with the law. That the 1st and 2nd defendants, however, proceeded to unionise the employees of the claimant without seeking for recognition but only notified the claimant of inauguration of its executive officers. That the claimant is aggrieved that its right to be presented with a demonstration of an intention to unionise for it to accord recognition before the act of unionisation has not been complied with hence the rights of the claimant has been violated by the act of the 1st and 2nd defendants. On this point, the claimant referred to paragraphs 4 to 16 of the supporting affidavit to the originating summons as well as page 2 of EXHIBIT 5 wherein the defendants threatened to stage picketing at the premises of the claimant. Thus, the claimant has approached this Court to seek for the interpretation of the relevant sections of the laws. That from the facts in the affidavit and Exhibits 1 - 5 attached to the supporting affidavit to the originating summons, there is a clear dispute between the parties herein that establishes that the claimant's standing has been satisfied or lawfully triggered.

28. The claimant continued that based on the facts in the supporting affidavit to the originating summons and the exhibits annexed thereto, this Court is imbued with jurisdiction having regard to section 6(a), (b), 36(1), and 254C of the 1999 Constitution to decide the controversy or dispute or grievances on the issue whether the defendants are in breach of sections 25 and 17 of the TUA which confers rights and obligations on the 1st and 2nd defendants and claimants respectively. That what constitutes *locus standi* or sufficient interest of the claimant is a breach of its rights by the defendants and threat to picket, which constitutes a right of action or *locus* in law as in this case. That these are the issues the Court will need to address in this suit and the claimant should

not be shut out from this temple of justice. That the claimant has thereby acquired the right to seek judicial intervention when the defendants' conduct adversely affected its rights or interest, citing *Chief Ojukwu v. Military Governor of Lagos State* [1985] 2 NWLR (Pt. 10) 806, *Bamaiyi v. AG, Federation* [2001] 12 NWLR (Pt. 727) 468 and *Ibrahim v. Osim* [1988] 3 NWLR (Pt. 82) 257.

29. That in *Ibrahim v. Osim* (*supra*), the Court of Appeal held that where a statute confers a right or imposes an obligation, a person who acts under or is affected by such statute has the *locus standi* to seek judicial redress where his interest is threatened. That the claimant's affidavit discloses a clear cause of action against the defendants. The claimant's rights under the said Act have been adversely affected by the defendants' actions and is further likely to be infringed with the defendants' threats of picketing at the claimant's premises, thus satisfying the test of justifiability.

30. To the claimant, where a claimant's rights are infringed or threatened by the acts of the defendant, the claimant automatically acquires standing to sue, citing *AG, Anambra State v. Eboh* [1992] 1 NWLR (Pt. 218) 491 and *Ogbuehi v. Governor of Imo State* [1995] 9 NWLR (Pt. 417) 53. That it is immaterial that the defendants disagree with the claimant's position — what is material is that the claimant has demonstrated a personal interest recognized by law, which this Court must protect.

31. That the defendants cannot by their conduct defeat the claimant's standing. The defendants cannot by their own actions or interpretations of the statute oust the claimant's right to challenge their conduct in court. That once the claimant has shown that it has been personally affected or stands to be affected or stands to be affected by the defendants' acts done pursuant to or in breach of the statute, its *locus standi* is established, citing *Fawehinmi v. President, FRN* [2007] 14 NWLR (Pt. 1054) 275 and *AG, Ondo State v. AG, Federation* [2002] 9 NWLR (Pt. 772) 222.

32. The claimant then submitted that courts are enjoined to lean towards sustaining *locus standi*. That it is the law that courts should not take a narrow or restrictive view of *locus standi* where the claimant has shown a sufficient and substantial interest in the matter, citing *AG, Lagos State v. AG, Federation* [2014] 9 NWLR (Pt. 1412) 217, *AG, Ondo State v. AG, Federation* (*supra*) and *Nnadi v. Okoro* [1998] 1 NWLR (Pt. 535) 573 CA.

33. To the claimant, it is accordingly evident that the claimant has a sufficient and direct interest in the subject matter; the claimant's rights and obligation under the relevant Act have been adversely affected by the defendants' actions, omission and likely to be further threatened; and the claimant has fulfilled all legal conditions for instituting this action. The claimant then urged the Court to hold that the claimant has the requisite *locus standi* to maintain this action.

34. The claimant concluded by urging the Court to hold that there are mutual statutory rights and obligations between the claimant and the defendants which have been breached while the provisions of the extant laws give reasonable grounds for the claimant to seek the interpretation

of the laws as presented in its originating summons. Therefore, the claimant has *locus* to file this suit and this Court has jurisdiction to hear the parties in the circumstance of this suit.

35. Like I pointed out earlier, there was no submission from any of the defendants. On record, the 6th defendant, representing himself and the 1st and 2nd defendants, merely told the Court that he had nothing to add when the claimant adopted their written address.

COURT'S DECISION

36. I took time to consider the processes and submissions of the claimant. Given that the defendants did not react to the issue raised *suo motu* by the Court, the Court is left with no choice but to resolve the issue on the strength of the submissions of the claimant. The claimant of course cannot assume that he is entitled to an automatic favourable ruling just because the defendants did not adduce any argument before the court. See *Attorney General Osun State v. NLC & ors* [2013] 34 NLLR (Pt. 99) 278 NIC, *Mr Lawrence Azenabor v. Bayero University, Kano* [2011] 25 NLLR (Pt. 70) 45 CA at 69, *Ogunyade v. Oshunkeye* [2007] 4 NWLR (Pt. 1057) 218 SC at 247, *The Shell Petroleum Development Company of Nigeria Limited v. The Minister of Petroleum Resources & 2 ors* unreported Suit No. NICN/LA/178/2022, the judgment of which was delivered on 28 July 2022 and *Tsaro Igbara Tuamene Godswill v. The Chief of Air Staff & anor* unreported Suit No. NICN/ABJ/364/2024, the judgment of which was delivered on 4 March 2025.

37. In considering the written address of the claimant, a number of wrong assertions are self-evident. Firstly, in paragraph 4.2, the claimant referred to section 254A of the 1999 Constitution as the provision that establishes the National Industrial Court of Nigeria (NICN). This is true and correct. But the claimant went on to state what the section provides, prefacing it with these words these words: "It provides thus:". This is where the claimant got it wrong, for the claimant went on in paragraph 4.3 to recite the provisions as to the exclusive jurisdiction of the NICN. The exclusive jurisdiction of the NICN is provided for by section 254C(1) of the 1999 Constitution, not section 254A as the claimant puts it.

38. Secondly, in paragraph 4.5, the claimant misrepresented the provisions of section 7(2) and (3) of the NIC Act. To the claimant, by section 7(2), the Court has jurisdiction to interpret any law or instrument relating to labour or employment; and section 7(3) provides that the Court has exclusive jurisdiction over matters expressly assigned to it by any other Act or law. Once again, this is not true or correct. Section 7(2) and (3) of the NIC Act 2006 provides thus:

> (2) The National Assembly may by an Act confer such additional jurisdiction on the Court in respect of such other causes or matters incidental, supplementary or related to those set out in subsection (1) of this section.
>
> (3) Notwithstanding anything to the contrary in this Act or any other enactment or law, the National Assembly may by an Act prescribe that any matter under subsection (1)(a) of this section may go through the process of conciliation or arbitration before such matter is heard by the Court.

As can thus be seen, the claimant misrepresented these provisions in its written submissions.

39. Thirdly, in paragraph 4.6, to the extent that the claimant stated that by the combined effect of sections 254A to 254F of the 1999 Constitution, and sections 7 to 9 of the NIC Act 2006, this Court is the sole competent court to hear and determine related criminal matters, the claimant is wrong because section 254C(5) of the 1999 Constitution, which grants criminal jurisdiction to the NICN, does not use the word "exclusive". This means that jurisdiction over criminal causes and matters arising from the causes and matters of which jurisdiction is conferred on the NICN by section 254C or any other Act of the National Assembly or by any other law is concurrent with the High Courts, as the case may be. I say this given the authority of *Momodu v. The State* [2008] All FWLR (Pt. 447) 67 at 103 per Ogunwumiju, JCA (as he then was) where section 251(3) of the 1999 Constitution, the equivalent provision relating to the Federal High Court, was interpreted along the lines I just indicated.

40. The misrepresentations by the claimant are not restricted to the written address. They even extend to the affidavit in support of the originating summons. In paragraphs 5, 7 and 12 of the affidavit, Idaopu Wakama, Chief Legal Officer of the claimant, respectively deposed thus: he "know[s] the legal procedure for recognition and operation of any trade union in any work place under a Trade Dispute Act"; "…the Defendants…without first seeking recognition from the Claimant started unionizing the workers or staff of the Claimant secretly without formal notice as required by the provisions of the Trade Disputes Act"; and "…the Claimant wrote a letter…to the 1st defendant, explaining their dismay over their intention for inauguration of the staff of the Claimant as their interim executive officers as well as demanding for payment of Check off Dues for their new members within the Claimant's Organization without following the due procedures allowed by the Trade Disputes Act before starting Union activities in its Establishment…"

41. The reference to the Trade Disputes Act (TDA) as the law which regulates recognition and payment of check-off dues is incorrect. The governing statute is the Trade Unions Act (TUA). The claimant referred to this law in the questions it posed for determination and the reliefs it prayed for in the originating summons, although once again incorrectly as "Trade Union Act" instead of "Trade Unions Act" i.e. without the "s" in 'Union". The question thus becomes: if Idaopu Wakama, Chief Legal Officer of the claimant, deposed that he knows "the legal procedure for recognition and operation of any trade union in any work place", and yet misquotes the governing statute, how in truth can it be said that he really knows the legal procedure for recognition and operation of any trade union in any work place as he claims?

42. In paragraph 3 of the affidavit in support, the claimant deposed that there are two existing trade unions in its establishment i.e. ASURI and NASU. The full names of these trade unions were not disclosed. What this signifies is that the defendants in seeking to unionize the staff of the claimant are doing that as the third trade union. In insisting that the 1st and 2nd defendants must first seek recognition from the claimant (as the claimant put it in paragraphs 6 to 9 of the affidavit in support), the claimant is indirectly making it out some sort of preference amongst the existing trade unions. This of course raises the issue of interference — something that is

fundamental when the question whether the claimant can come before this Court as a claimant, as it presently did, is considered. I shall return to this issue shortly.

43. The claimant had argued in paragraph 4.6 of its written address that there is no other court the claimant can approach for the interpretation of the extant laws herein as brought by it. I think that the claimant got it wrong here. The issue is whether the claimant can litigate as a claimant the issues of recognition and check-off dues as it did in this case. In same paragraph 4.6 (and as can be seen in paragraphs 5 to 14 of the affidavit in support) the claimant agreed that its case relates to the issues of recognition and payment of check-off dues, when it submitted that "the phrase trade union related dispute used in both the 1999 Constitution and Statute that created this Court by extension include any dispute between an employer and trade union in relation to recognition and deduction and remission of check off dues by the employer to the trade union".

44. Now, if the claimant had simply studied case law as enunciated by this Court, it would have known that it is not required to do anything other than wait on the defendants to bring it to this Court as a defendant over the same issues of recognition and remission of check-off dues. If the claimant is not sure if it should recognise the defendants as the appropriate trade union to unionise its employees and hence pay check-off dues to, all it needed to do was refrain from recognizing the defendants as well as refrain from paying check-off dues to them. The defendants would then be compelled to bring the claimant to this Court as a defendant over the same issues that the claimant presently seeks answers.

45. Alternatively, ASURI and NASU, the existing trade unions in the claimant's establishment, as rival trade unions, are entitled to approach this Court to stop the claimant from unionizing the staff of the claimant.

46. A third expedient is for the unionised staff of the claimant to complain against the defendants' unionisation attempts in the claimant's establishment. Certainly not the claimant complaining as it did presently in this suit.

47. The rationale for all this is that, as a claimant, litigating these issues by an employer is a classic case of interference in trade union matters, which the Freedom of Association and Protection of the Right to organise Convention, 1948 (No. 87) (C.87), an ILO Convention ratified by Nigeria on 17 October 1960 (see https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103259 as accessed on 1 February 2026) frowns on. Very often, as a claimant, the employer thereby exhibits preference over a particular trade union over another especially where the issues relate to recognition disputes, disputes over jurisdictional scope, and disputes over payment of check-off dues. Legal policy thus prefers the employer being passive in these matters, which passivity is best represented by the employer being a defendant, that is if he must be a party in the first place, and not a claimant.

48. Citing *Board of Management of FMC, Makurdi v. Kwembe* [2015] LPELR-40486(CA) and *Board of Management of Federal Medical Centre, Makurdi v. Shie* [2016] LPELR-42911(CA),

the claimant argued as if the issue raised *suo motu* by the Court is one that says this Court has no jurisdiction over the issues presented by the claimant in this suit. This Court no doubt has jurisdiction over the issues. The question is whether it is the claimant as an employer that can litigate them as a claimant. The claimant did not seem to appreciate this fine distinction.

49. So, when the claimant urged the Court to hold that it has jurisdiction to hear and determine this suit to its logical conclusion on the issues the claimant formulated for determination, given that there is no statute that expressly excludes this Court from exercising jurisdiction over this suit, the answer from this Court is that, of course, this Court has jurisdiction over the issues — only that it is not the claimant (an employer) who should litigate the issues in this Court as a claimant.

50. Case law abounds in this Court where the law barring employers from litigating as claimants in recognition disputes and disputes over jurisdictional scope of trade unions and payment of check-off dues was clearly laid down. A few will do here. Before that, it should be remembered that in paragraph 3 of the affidavit in support the claimant averred that there are two existing trade unions (ASURI and NASU) in its establishment. And I am not unmindful of the fact that all through the affidavit in support, the claimant did not indicate the class of its workers or staff (i.e. whether junior or senior) that the defendants unionised. I, however, note that the Nigeria Civil Service Union (NCSU) is a trade union meant for junior staff. Item 19 of Part B of the Third Schedule to the TUA deals with the jurisdictional scope of each of the re-structured trade unions, item 19 of which provides for the jurisdictional scope of the NCSU in these words:

> All *junior employees* of the Federal and State civil service but excluding enforcement employees in the Nigerian Customs and Immigration Services Technical, typists, stenographic. Medical, nurses and midwives and recognised professional and administrative cadres (emphasis is this Court's).

51. The first case I want to consider is *Nestoil Plc v. NUPENG* [2012] 29 NLLR (Pt. 82) 90 NIC. In that case, the claimant company (an employer) prayed the Court for *inter alia* the following declarations and order:

> i. A declaration that workers of the claimant/applicant do not fall under the category of workers as stipulated under the 3rd Schedule of the Trade Unions Act, 2005…
>
> ii. A declaration that the claimant/applicant not being an oil producing or marketing company does not fall within the area of jurisdiction of the National Union of Petroleum and Natural Gas Workers (NUPENG) as stipulated under the Trade Unions Act, 2005… and as such the claimant/applicant's workers cannot be registered with or affiliated to the respondent (NUPENG).
>
> iii. A declaration that the majority of the workforce of the claimant/applicant has not opted for unionization with the respondent in this suit.
>
> iv. AN ORDER of perpetual injunction restraining the respondent…from intimidating, harassing, threatening, compelling and cajoling the claimant/applicant and its workers or staff into joining their union…

52. One of the two issues decided by the Court was "Whether the claimant has sufficient interest in the jurisdictional scope of the defendant union as to warrant bringing this action to court". In resolving this issue against the clamant, this Court held thus:

> …*if* in truth the defendant is the proper union to unionize junior staff of the defendant, the question of them having to agree and express their interest before they can join the defendant's union will not arise. All that will be required of them is that if they do not want to be members, they can opt out. See generally the cases of *CAC v. AUPCTRE* [2004] 1 NLLR (Pt. ) 1, *Mix & Bake v. NUFBTE 2004* 1 NLLR (Pt. 2) 247, *TIB Plc v. NUBIFIE* [2008] 10, NLLR (Pt. 27) 322 and *Mgt. of Tuyil Nig. Ltd v. NULFRIL & NMPE* [2009] 14 NLLR (Pt. 37) 109, which establish that the law is that registration is deemed, recognition automatic and deduction of check-off dues compulsory, being based on mere eligibility to be a member of the union in question. All of this, therefore, raises the pertinent question of the *locus standi* of the claimant to come to court. In other words, if it lies with, and so is the right of, the employee to opt in or opt out of a union (depending on the status of the employee in question), does an employer have the right, interest or standing to come to court raising issues of jurisdictional scope before this Court?
>
> In *ASCSN v. INEC and 2 ors* [2006] 5 NLLR (Pt. 11) 75 at 89, the issue was whether an employer must be a party to an action regarding jurisdictional and recognition disputes before the decision of this Court in that regard can be enforced on the said employer. This Court held that in questions of jurisdictional scope between unions and recognition disputes, an employer is often a passive party and so may not necessarily be a party to the suit; yet the outcome of the suit may be enforceable against the employer. The Court of Appeal affirmed the position of this Court describing it as impeccable with nothing upon which the Court of Appeal can pick a quarrel against. See *Independent National Electoral Commission (INEC) v. Association of Senior Civil Servants of Nigeria and anor* unreported Suit No. CA/A/154/05 delivered on November 19, 2007. The ratio in *ASCSN v. INEC and 2 ors* was subsequently applied by this Court in *ACSN v. National Orientation Agency and ors* unreported Suit No. NIC/9M/2003 delivered on September 27, 2007.

53. In deciding the issue against the claimant, the Court held thus:

> …the claimant has no *locus standi*, and so is a busy body, regarding the question whether the defendant is the appropriate union to unionize its staff. The *locus* is with either the staff themselves or some other rival union that lays claim to jurisdictional mandate. The interest of the claimant regarding this question is passive and does not entitle it to come to court. Only two categories of persons have the *locus* to challenge the defendant in this regard. They are: a rival union challenging the jurisdictional mandate of the defendant over the staff of the claimant or the staff of the claimant indicating *individually* and *in writing* that they are opting out and so check-off dues should no longer be deducted.

54. The second case is *Premier Lotto Limited v. National Union of Lottery Agents and Employees & anor* unreported Suit No. NICN/LA/218/2016, the ruling of which was delivered on 9 November 2016. The claimant prayed for these reliefs:

> a) A declaration that having regard to the 2 (two) classes of members of the 1st defendant, the 1st defendant is not a body eligible to be registered as a trade union in Nigeria.
>
> b) A declaration that having regard to the 2 (two) classes of members of the 1st defendant, the registration of the 1st defendant as a trade union by the 2nd defendant is unlawful, invalid and not in accordance with the Trade Unions Act.
>
> c) An order of this…Court nullifying the registration of the 1st defendant by the 2nd defendant as a trade union in Nigeria.
>
> d) An order of this…Court directing the 2nd defendant to rectify the Register of Trade unions by deleting the name of the 1st defendant from the Register of Trade Unions.
>
> e) An order of perpetual injunction restraining the 1st defendant…from holding itself out as a trade union and enjoying the rights and privileges of a registered trade union in Nigeria.

55. The 1st defendant raised a preliminary objection against the suit on grounds which include the claimant lacking the *locus standi* to come to this Court as they did. In upholding the preliminary objection, this Court reasoned thus:

> [13] What even is the actual grouse of the claimant against the defendants in the instant case? …the claimant argued that section 5(2) of the TUA is not a bar to the institution of an action by a party whose right is being violated or in danger of being violated by activities of a registered trade union as a party has the unfettered right to approach the Court for ventilation of his civic rights. What this implies is that the claimant thinks its rights or interests have been violated by the activities of the 1st defendant. Secondly, … the claimant also indicated its real interest in this suit to be the desire "to settle the dispute once and for all, and not to compel the claimant's agents and employees to be part of a union that they do not wish to belong to, this suit should determine the lawfulness and/or validity of the defendant's registration". What I gather from this submission is that the claimant is not comfortable with its agents and employees being part of the 1st defendant. Its answer to this discomfort is that the registration of the 1st defendant should be nullified. Does the claimant have the *locus* to pray for this from this Court? In other words, instead of suing the 1st defendant (even as a trade union) for whatever infraction the 1st defendant committed against the claimant, can the claimant thereby and just for that reason alone ask for the nullification of the registration of the 1st defendant? Yet put, what has the acts of the 1st defendant, for which the claimant is complaining, got to do with the fact of registration as a trade union of the 1st defendant?
>
> [14] We cannot find answers unless we interrogate further the real grouse of the claimant as per its statement of facts. Here, the claimant referred the Court to paragraphs 13 – 19 of the statement of facts. But first, in paragraph 8 of the statement of facts, the claimant categorically asserted that it "neither recognized the 1st defendant as a *bona fide* trade union nor recognized the members of the 1st Defendant as belonging to a duly registered

trade union". This is where the claimant got it all wrong. It [is] not open to an employer to elect whether to recognize a registered trade union or not. His Lordship Akpabio, JCA when delivering the lead judgment in *Panya Anigboro v. Sea Trucks Nigeria Ltd* [1995] 6 NWLR (Pt. 299) 35 at 62 was pretty clear when he held that "it becomes crystal clear that the right to form or join any…trade union is exclusively that of the individual citizen and not that of the employer". This statement of principle accords with the International Labour Organisation (ILO) jurisprudence regarding the Freedom of Association and Protection of the Right to Organise Convention 1948 (No. 87), which establishes the right of workers' and employers' organisations "to organize their administration and activities and to formulate their programmes" (Article 3) and recognizes the aims of such organisations as "furthering and defending the interests of workers and employers" (Article 10). This freedom entails a number of principles, which have been laid down over time and which (according to the trio of B. Gernigon, A. Odero and H. Guido – 'Freedom of Association' in *International Labour Standards: A Global Approach, 75th anniversary of the Committee of Experts on the Application of Conventions and Recommendations*, First Edition 2002 at pp. 27 – 40) include the following: right of workers and employers, without distinction whatsoever, to establish and join organisations of their own choosing; right to establish organisations without previous authorization; right of workers and employers to establish and join organisations of their own choosing; right of workers' and employers' organisations to establish federations and confederations and to affiliate with international organisations of workers and employers. If the claimant understood the significance of these rights, it will not be asserting as it did that it "neither recognized the 1st defendant as a *bona fide* trade union nor recognized the members of the 1st Defendant as belonging to a duly registered trade union". The point is that the claimant does not have any choice in the matter.

[15] A corollary to the point just made may be necessary to drive home the point. In *ASCSN v. INEC and 2 ors* [2006] 5 NLLR (Pt. 11) 75 at 89, the issue was whether an employer must be a party to an action regarding jurisdictional and recognition disputes before the decision of this Court in that regard can be enforced on the said employer. This Court held that in questions of jurisdictional scope between unions and recognition disputes, an employer is often a passive party and so may not necessarily be a party to the suit; yet the outcome of the suit may be enforceable against the employer. The Court of Appeal affirmed the position of this Court describing it as impeccable with nothing upon which the Court of Appeal can pick a quarrel against. See *Independent National Electoral Commission (INEC) v. Association of Senior Civil Servants of Nigeria and anor* [2007] LPELR-8882(CA). The ratio in *ASCSN v. INEC and 2 ors* was subsequently applied by this Court in *ACSN v. National Orientation Agency and ors* unreported Suit No. NIC/9M/ 2003 delivered on September 27, 2007.

……..

> [18] …In *Nestoil Plc v. NUPENG* [2012] 29 NLLR (Pt. 82) 90 NIC, this Court held that an employer is a busy body and has no *locus* to ask whether a union is the appropriate union to unionize its staff, the *locus* being with either the staff themselves or some other rival union that lays claim to jurisdictional mandate. *A fortiori*, an employer has no *locus* to ask the nullification of a registered trade union as presently sought for by the claimant…

56. The third case is *Beloxxi Industries Limited v. National Union of Food, Beverage and Tobacco Employees (NUFBTE) & 2 ors* unreported Suit No. NICN/LA/437/2016, the ruling of which was delivered on 30 March 2017. The claimant, vide an originating summons, posed three questions for the determination of the Court, namely:

> A) Whether or not by the combined effect of section 17(a) of the Trade Unions Act…and section 40 of the Constitution…, every worker or employee of the claimant must compulsorily be a member of the 1st defendant union.
>
> B) If the answer to A) above is in the negative, whether or not the claimant can be compelled by the defendants to make deductions form (sic) the wages of its employees who are not members of the 1st defendant in order to pay same directly to the 1st defendant as union dues.
>
> C) Whether or not the claimant is entitled in the circumstances to an order of injunction restraining the defendants…from disturbing picketing or disturbing the day-to-day operations and running of the claimant's offices and factories on the pretext that the claimant is violating extant labour laws of Nigeria.

57. In holding the claimant incapable of coming to this Court as a claimant with these questions, this Court reasoned thus:

> [9] To the claimant, the instant case is not challenging the freedom of the workers to join NUFBTE; but simply seeks the interpretation of the extant laws as to whether deductions can be made from the wages of the workers without their permission or prior indication of their membership. That the Trade Unions Act (TUA) authorizes the claimant company to make deductions only after the worker is a member of the union in question; as such, it behoves of the claimant to ensure that before it makes deductions, it must be sure that the requirements in terms of membership have been satisfied. The claimant does not here seem to understand what the law means when it states that membership of trade unions for junior staff is based on eligibility. …the claimant described *Nestoil* as stating that the requirement for deductions from wages in respect of a trade union is mere eligibility to be a member of the respective unions. Since the claimant is aware that deductions is (sic) hinged on "mere eligibility", I wonder why the claimant came to Court in terms of the instant suit. If membership of the requisite union is based on mere eligibility, then the claimant ought to know that once its staff are eligible to be members of NUFBTE, deductions must be made. It is only the staff who can say that he/she does not want the deductions to be made. In other words only, the staff can come to Court to raise the issues raised by the claimant, not the claimant. The claimant cannot assume the role of a policeman here or be more Catholic than the Pope or cry more than the bereaved. All that

the claimant has done in bringing this suit is nothing but interference. *Nestoil* frowned on interference of whatsoever nature by an employer in union matters. The Freedom of Association and Protection of the Right to Organise Convention 1948 (No. 87) ratified by Nigeria also frowns on interference by employers in union matters. *Premier Lotto Limited v. National Union of Lottery Agents and Employees & anor* unreported Suit No. NICN/LA/218/2016, the ruling of which was delivered on 9th November 2016 reinforced *Nestoil* and the ILO Convention No. 87. The claimant cleverly lost sight of this stance of *Nestoil*. The argument of the claimant that section 5(3) of the Labour Act must be interpreted in the light of section 17 of the TUA, the necessity of this suit, does not take away the fact that it is the employee that has the right (*locus*) to raise that issue and come to Court, not the claimant. The claimant is nothing but an interloper and a busybody. The error made by the claimant is that it thinks that it can be a claimant. The ratio of the cases is that the employer should remain passive; it can be defendant but not a claimant. See *Panya Anigboro v. Sea Trucks Nigeria Ltd* [1995] 6 NWLR (Pt. 299) 35 at 62, *ASCSN v. INEC and 2 ors* [2006] 5 NLLR (Pt. 11) 75 at 89, *Independent National Electoral Commission (INEC) v. Association of Senior Civil Servants of Nigeria and anor* [2007] LPELR-8882(CA) and *ACSN v. National Orientation Agency and ors* unreported Suit No. NIC/9M/2003 delivered on September 27, 2007. In *Premier Lotto Limited v. National Union of Lottery Agents and Employees & anor* (*supra*), this Court stressed that an employer cannot arrogate to itself the right to determine who can be a member of a union. In like manner, the claimant in the instant case has no right to ask whether deductions can be made from the wages of the workers (junior staff) without their permission or prior indication of their membership, the subject matter of this suit. To come to this Court as a claimant over this issue is nothing but interference in union matters. The obligation to make such deductions is already laid down by law and so there is no need for the claimant coming to ask that question.

58. I indicated earlier that the NCSU is a trade union covering junior employees. The jurisdictional scope of the 1st and 2nd defendants under the TUA accordingly covers junior staff of the claimant. So, as far as this suit is concerned, the key points to note from the case law just enunciated are:

- The law is that registration is deemed, recognition automatic and deduction of check-off dues compulsory, being based on mere eligibility to be a member of the union in question.
- It is not open to an employer to elect whether to recognize a registered trade union or not.
- In questions of jurisdictional scope between trade unions and recognition disputes, an employer is often a passive party and so may not necessarily be a party to the suit.
- If the employer must be a party to the suit, he can only be a defendant, not a claimant.
- The employer here does not have any choice in the matter.

59. Accordingly, the claimant (an employer) in the instant case cannot as a claimant pose the three questions it did in this suit. It can only be called upon to answer as a defendant the questions so posed. Certainly not as a claimant! I so hold.

60. In paragraph 4.20 of its written address, the claimant, citing *Adesanya v. President of the FRN* (*supra*) and *Thomas v. Olufosoye* [1986] 1 NWLR (Pt. 18) 669, submitted that the test for determining *locus standi* as laid down by the Supreme Court consists of three elements, namely:

(1) Whether the claimant has shown sufficient interest in the subject matter of the action;
(2) Whether the claimant's civil rights and obligations have been or are in danger of being violated; and
(3) Whether there is a nexus between the claimant and the subject matter of the action.

61. The first part of the second of these three elements is of particular interest. What is the civil right of the claimant in any recognition dispute, and in any dispute over jurisdictional scope or over check-off dues? The claimant did not disclose any to this Court.

62. I have all along stressed that the law is that in questions of jurisdictional scope between trade unions and recognition disputes, an employer is often a passive party and so may not necessarily be a party to the suit; yet the outcome of the suit may be enforceable against the employer. See *Independent National Electoral Commission (INEC) v. Association of Senior Civil Servants of Nigeria and anor* [2007] LPELR-8882(CA). Nothing in all this puts the claimant (as an employer) in any disadvantage except that it prevents the claimant from interfering in the affairs of the defendants as a trade union. Interference in trade union affairs is frowned on by the Freedom of Association and Protection of the Right to organise Convention, 1948 (No. 87) (C.87), an ILO Convention ratified by Nigeria on 17 October 1960 (see https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103259 as accessed on 1 February 2026) and so applicable as part of the laws of Nigeria in virtue of section 7(6) of the NIC Act 2006 and section 254C(1)(f) and (h), and (2) of the 1999 Constitution, which permit this Court to, when adjudicating, apply international best practices in labour and the Treaties, Conventions, Recommendations and Protocols on labour ratified by Nigeria. Cases such as *Ferdinand Dapaah & anor v. Stella Ayam Odey* [2018] LPELR-46151(CA); [2019] 16 ACELR 154 at page 181 and *Sahara Energy Resources Ltd v. Mrs Olawunmi Oyebola* [2020] LPELR-51806(CA) have acknowledged the obligation of this Court to apply Conventions ratified by Nigeria in terms of section 254C(1)(f) and (h), and (2) of the 1999 Constitution.

63. In paragraph 4.21 of its written address, the claimant complained that the defendants did not first demonstrate to the claimant their intention to unionise the claimant's employees. Instead, it only notified the claimant of the inauguration of its executive officers. The truth is, as far as the law against interference in trade union matters by an employer is concerned, the claimant is only entitled to be informed as the defendants did — nothing more. Permission to undertake trade union activities is only needed if that will be during working hours — certainly not outside of working hours. See for instance section 9(6)(b) of the Labour Act.

64. The claimant's additional complaint that the 1st and 2nd defendants unionised the employees of the claimant without seeking for recognition tells of the claimant's interest at interfering with the activities of the defendants as a trade union where its membership is automatic to junior staff as may be applicable. Special recognition by the claimant is not a requirement for the trade union to exist in the claimant. Insisting on a demonstration of their intention to unionise the claimant's employees and seeking recognition first from the claimant suggests that the claimant may refuse recognition, more so as it disclosed in paragraph 3 of the affidavit in support the existence of ASURI and NASU as trade unions in its establishment. This the claimant cannot do since in cases such as *CAC v. AUPCTRE* [2004] 1 NLLR (Pt. ) 1, *Mix & Bake v. NUFBTE 2004* 1 NLLR (Pt. 2) 247, *TIB Plc v. NUBIFIE* [2008] 10, NLLR (Pt. 27) 322 and *Mgt. of Tuyil Nig. Ltd v. NULFRIL & NMPE* [2009] 14 NLLR (Pt. 37) 109, this Court has long established that the law is that for junior staff trade unions listed Part B of the Schedule to the TUA, registration is deemed, recognition automatic and deduction of check-off dues compulsory, being based on mere eligibility to be a member of the trade union in question.

65. It is not opened to the claimant to ask, as it did in this case, whether the defendants are in breach of sections 25 and 17 of the TUA. If the claimant sincerely believes that the 1st and 2nd defendants are not the appropriate trade union to unionise its junior employees and be so recognised, all it needs do is withhold the payment of check-off dues to them and await whatever suit the 1st and 2nd defendants may institute to determine the matter. Alternatively, ASURI and NASU, the existing trade unions in the claimant's establishment, may take up the gauntlet and sue the defendants. The third possibility is that the supposed members of the defendants may also sue. But all these expedients must be devoid of any interference from the claimant. The choice must be that of the trade union(s) or members.

66. All this said, the claimant is not competently before this Court as a claimant. I so hold. That being the case, there is no competent suit before the Court. The case is accordingly struck out.

67. Ruling is entered accordingly. I make no order as to cost.

……..……

Hon. Justice B. B. Kanyip, PhD, OFR, bpa