

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE LOKOJA JUDICIAL DIVISION
HOLDEN AT LOKOJA
ON THURSDAY, THE 10 DAY OF NOVEMBER, 2016
BEFORE HIS LORDSHIP, HONOURABLE JUSTICE PHOEBE M. AYUA
JUDGE

SUIT NO. FHC/LKJ/CS/26/2013

BETWEEN:

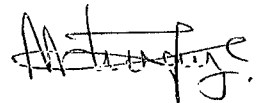
FEDERAL ROAD SAFETY CORPS.....PLAINTIFF

VS

OKAY O. MADUABUCHI.....RESPONDENT

JUDGEMENT

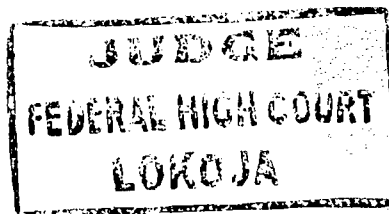
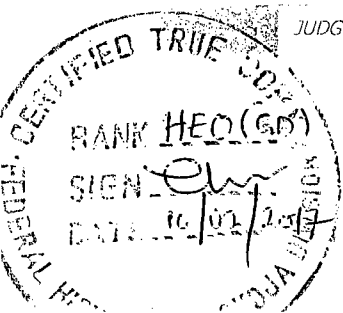
This judgement relates to the claim of the Plaintiff against the Defendant for declaratory reliefs and special and general damages for the injury sustained by the official of the Plaintiff, allegedly due to the dangerous driving of the Defendant which resulted in an accident involving the Plaintiff's staff in the course of his official duty. The Defendant denied liability and instead counter claimed declaratory reliefs and general and exemplary damages amounting to N2m for the unlawful damage to the Defendant's Toyota Camry car by officials of the Plaintiff, shock, pain and financial loss to the Defendant's family as well as the refusal to release the said car to the Defendant on the 24/03/2013 after the Defendant paid the charges for the "phantom" offences, etc.



The Plaintiff instituted this Suit by writ of summons which was issued by F. O. Ogudugu, Esq., of Counsel for the Plaintiff on the 10/06/2013. The writ was filed along with a statement of claim and statements on oath of

JUDGEMENT IN FEDERAL ROAD SAFETY CORPS v. OKAY O. MADUABUCHI:

SUIT NO. FHC/LKJ/CS/26/2013



Plaintiff's two witnesses, the list of two witnesses and list of documents to be relied on by the Plaintiff at the hearing as well as copies of the documents listed.

The Defendant upon being served with the Plaintiff's processes filed a Conditional Memorandum of Appearance, a Statement of Defence, and Statement on Oath of the Defence witness and list of witness and documents to be relied on by the Defendant at the trial.

By the leave of Court, the Plaintiff filed an Amended Statement of Claim on the 04/06/2014 with written statements on oath of two witnesses, Barclays Toloni Koko, Deputy Poute Commander and Marshal Oluwasehun Adeshola, Road Marshal Assistant III, both officials of the Plaintiff.

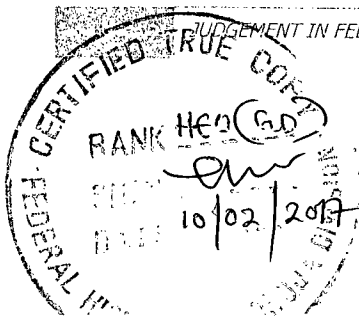
In paragraph 46 of the Amended Statement of Claim, the Plaintiff gave the particulars of special damages as follows:

46: Particulars of the Special Damages

First Hospital Treatment	-	N3,970.00
Hospital Treatment	-	N50,000.00
Traditional Treatment	-	N48,000.00
General Provisions for the period	-	N6,000.00
Purchase of other Drugs	-	N12,000.00
Total	-	<u>N120,000.00</u>



Furthermore, the Plaintiff in paragraph 47 of the Statement of Claim, claims as follows:



47. Whereof the Plaintiff claims as follows against the Defendant as follows (sic):

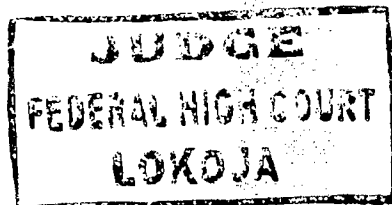
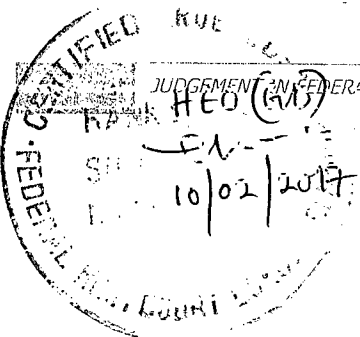
1. A declaration that the Defendant's dangerous driving in a Toyota Camry (pencil light) with Registration No. EQ 134 ABJ caused the accident which led to the injury sustained by Oluwasehun S. Adeshola (Road Marshal Assistant II) an official of the Plaintiff.

2. A declaration that the dangerous driving by the Defendant in a Toyota Camry (pencil light) with Registration No. EQ 134 ABJ which led to the accident involving Oluwasehun S. Adeshola (Road Marshal Assistant II) in the course (sic) of his official duties caused the Plaintiff to incur financial expenses for the medication of Oluwasehun S. Adeshola (Road Marshal Assistant II) a staff of the Plaintiff.

3. An Order of special damages compelling the Defendant to pay the sum of N120,000.00 (One Hundred and Twenty Naira) only as medical bill to the Plaintiff so incurred for the treatment of her staff, Oluwasehun S. Adeshola (Road Marshal Assistant II).

4. An order compelling the Defendant to pay the sum of N200.00 (Two Hundred Naira) only per day from the 3rd March, 2013 till the filing of this action on the 10th of June, 2013, which is 100 days amounting to N20,000.00 (Twenty Thousand Naira) only as custody fee on his impounded car with Registration No. EQ 134 ABJ.

5. An Order compelling the Defendant to pay the sum of N200.00 (Two Hundred Naira) only per day from the date of filing this Suit on the 10th



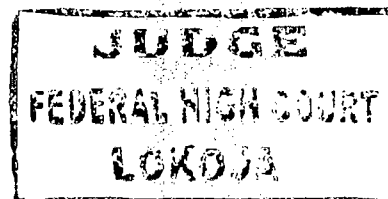
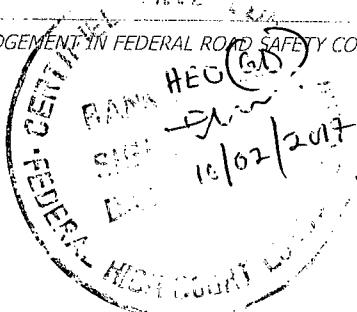
of June, 2013 till the final judgement as the custody fee on his impounded car with Registration No. EQ 134 ABJ.

6. A declaration that the Plaintiff is entitled to the payment of the sum of N2,000,000.00 (Two Million Naira) only as general damages against the Defendant for hitting and picking Oluwasehun S. Adeshola (Road Marshal Assistant II) an official of the Plaintiff which caused him serious body injury, pains, trauma, financial loss, hardship, keeping the staff of the Plaintiff out of his office, thereby creating a vacuum.

SUMMARY OF FACTS OF THE CASE

A Team of Operatives/Officials of the Plaintiff, comprising six (6) officers, with Barclays Toloni Koko, Deputy Route Commander as the Team Leader and Oluwasehun S. Adeshola, Road Marshal Assistant II as one of the members of the Team were on duty on the 24/02/2013 along Lokoja/Ajaokuta Road, around Halims Hotel, by Ganaja Junction, on public education, safety precaution and enforcement of traffic laws.

At about 16.20 hours, the Team accosted the Defendant driving in a Toyota Camry (pencil light) with registration number EQ 134 ABJ with a primary driving offence of driving without using seat belt which is said to be a violation of Traffic Rules as an offence under section 10(4)(ee) of the Federal Road Safety Commission (Establishment) Act, 2007. The Defendant was flagged down for interrogation and slowed down and told the Plaintiff's operatives that he was in a hurry to reach the Federal Medical Centre, Lokoja, for medication and so would not have time to wait to hear what the Plaintiff's Operatives were saying to him about traffic issues. The Defendant drove off and in the process hit one of the Plaintiff's Operatives, Marshal Oluwasehun S. Adeshola and that he hit his waist from the service belt area up to his chest on the windscreen and was dragged and rolled down to the

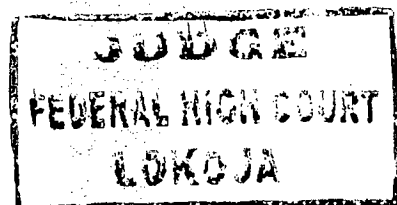
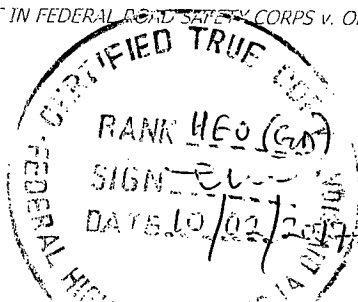


bonnet of the Defendant's vehicle and sustained serious injury. The Plaintiff's injured Operative was rushed to the Kogi State Specialist Hospital for treatment and further taken to Ilorin, Kwara State for native medication. The Defendant was later apprehended and taken to the Command Office at Oba Olaboyo Road, Lokoja, Kogi State and issued with a Notice of Offence Sheet, stating thereon the offences of Seat Belt Violation, Failure to Move Over and Driver's Licence Violation. Thereafter, settlement of the issues was initiated by the Defendant with the Sector Head of Operations (SHOOPS) for the matter to be settled amicably and for the treatment of the injured Plaintiff's Operative. The car of the Defendant was impounded to ensure compliance with the terms of settlement. The Defendant did not meet his part of the settlement, that is, pay compensation for the treatment of the injured Operative. The Defendant rather took out a summons against the Plaintiff herein at the Federal High Court, Lokoja, but the matter was struck out for non-service of pre-action notice on the Plaintiff (Defendant) in that case.

This case was first mentioned before me for trial *de novo* on the 22/05/2014. Hearing in the matter commenced on the 24/06/2014. The Plaintiff called two witnesses in all to prove her claim. At the close of the case for the Plaintiff, the Defendant opened his defence on the 18/04/16

TESTIMONY OF PW1 – MARSHAL OLUWASEUN S. ADESHOLA

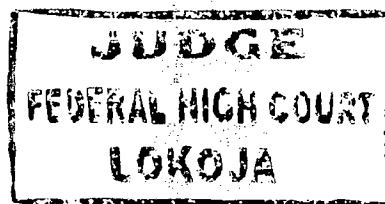
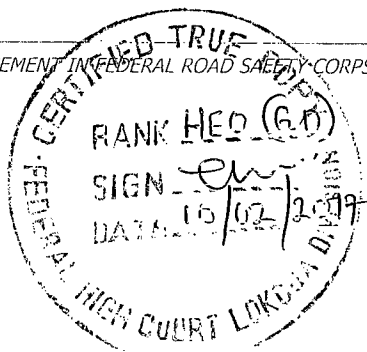
On the 24/06/2014, the PW1, gave his evidence-in-chief. PW1 stated that he had made a statement on Oath dated the 05/06/2014. He adopted that statement as his evidence in this matter. The PW1 referred to paragraphs 14(a), 14(b), 15, 17, and 18 of his Written Witness Statement on Oath dated the 05/06/2014 as well as paragraphs 34 and 38 of the Amended Statement



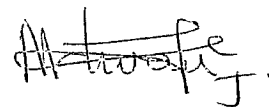
of Claim and identified the photographs of the Defendant's car taken after the accident occurred, the Medical Report from the Specialist Hospital, Kogi State, the medical bills which were faded and illegible, the request for new original medical receipts, request by PW1 for a two-week pass and the pass given by the employers of PW1, and the letter from the Defendant's Counsel to the Plaintiff and the reply by the Plaintiff to that letter. The same were tendered in evidence and without objection by the Defendant, the photographs/documents were admitted by this Court and marked as Exhibits P1, P2, P3, P4, P5, P6, and P7, respectively.

On the same 24/06/2014, the Defence Counsel, A. O. Onoja, Esq., cross-examined the PW1 halfway, owing to the excuse by the Plaintiff's Counsel that the PW1 was not feeling well and might not be able to go through with the cross-examination.

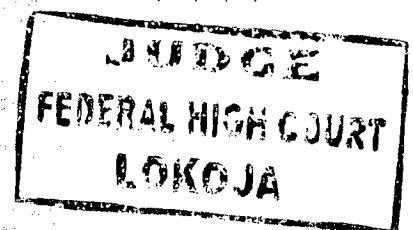
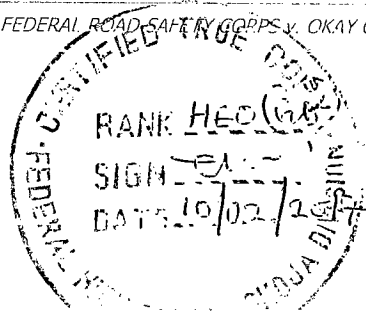
Under cross-examination, the PW1 responded that it is correct that he had testified in this case before at the Federal High Court 2, Lokoja and that he was standing in the witness box when he testified. That there was air conditioner in that Court Room but that he did not tell the Court that he was disturbed by the air conditioner because it was not switched on. That it was only the fan that was switched on. PW1 stated that the incident that brought the parties in this Court happened on the 24/02/2013 at about 4.00pm. That he knows what a one "1" - kilometre stretch of distance is but he said he could not tell, where a one-kilometre distance from Halims Hotel, Lokoja going towards his office will terminate. He agreed that from the 24/02/2013, the car of the Defendant was impounded and had been in the Plaintiff's office and was released at a time he could not tell and did not know whether it was



released after one year and/or February, 2014, but that the car was eventually released. PW1 stated that he was not aware that from February, 2013 to February, 2014, is exactly one year. At this stage, the Court observed that the PW1 was yawning and fidgeting as if uncomfortable in the witness box. The matter was adjourned. The cross-examination of PW1 continued on the 28/10/2014. PW1 responded that he was not a Medical Doctor. That he would not be able to analyse the Exhibit P3, an X-Ray from the Radiology Department of the Kogi State Specialist Hospital. That he could read and write. He read the writing on the Envelope of the X-Ray and admitted that no ailment was identified on the envelope. That the X-Ray films have no sickness written on them. That Exhibit P5 titled "The Reprint of the Peceipts from Kogi Specialist Hospital" is not a Medical Report but that Exhibit P4 is a Medical Report. That in Exhibit P4, the Report, it is not written that he, PW1, suffered from any ailment but that it was stated that following RTA, he should be attended to. PW1 said he did not know the meaning of RTA. He then admitted contrary to his earlier assertion, that Exhibit P4 is not a Medical Report but a letter written to the office of PW1.

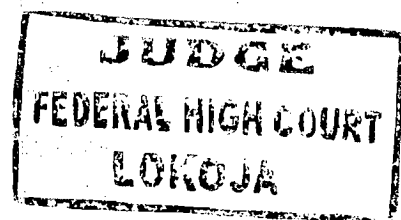
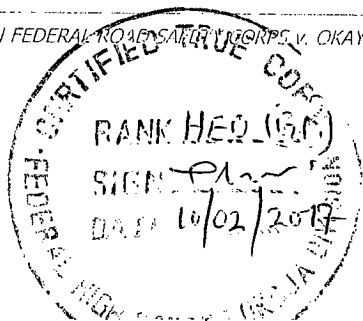


PW1 further responded that he was not aware that immediately after the incident, the Defendant wrote a letter to the Plaintiff's Department and that the Plaintiff's Department responded. The PW1 was shown Exhibit P7 and he admitted that Exhibit P7 was the Report from PW1's Department about the correct position of what happened on the date of the accident and that the other page of Exhibit P7 is the letter from the Defendant to FPSC, from Makpene Chambers, dated the 1st March, 2013. That when he told the Court that he was not aware that immediately after the incident of 24/02/2013, the Defendant wrote to the Plaintiff's Department, he did not mean to hide the



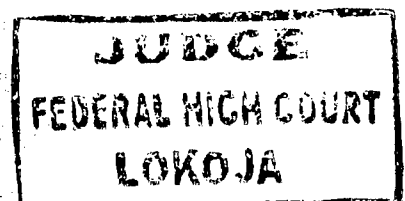
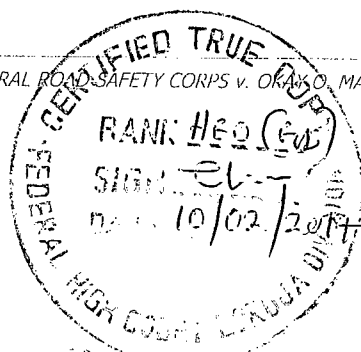
truth from the Court. PW1 admitted that attached to the Defendant's letter was a Notice of offence sheet from the Federal Road Safety Corps (FRSC). That the Notice of Offence Sheet is usually issued to a person for committing an offence. That the person is meant to pay fine for the offences charged. That after the person pays the fine, the vehicle is released but that even if the vehicle is not released after the payment of fine, it does not amount to impoundment. That where an offender pays the fees shown on the Notice of Offence Sheet and his car is not released, FRSC has the right to still hold the vehicle if other issues happened on the road. That on the charge sheet annexed to Exhibit P7, three offences are reflected and the fine put together amounts to a total of N15,000.00 (Fifteen Thousand Naira). That there was no UBA teller to show that the fine of N15,000.00 was paid by the Defendant. That without the payment of the fine of N15,000.00 shown on the Notice of Offence Sheet, the Defendant's vehicle cannot be released to him. PW1 stated that he did not know of any other charge imposing fine on the Defendant which he was to pay before release of his vehicle. PW1 also stated that he did not know that after the payment of the N15,000.00 by the Defendant and failure to release his vehicle if there was no other charge imposed on him, would become illegal impoundment. PW1 was shown a document and he admitted that it was the Ruling of then Justice Chinda Sam-Wobo Adele (of blessed memory) of the Federal High Court and bears three stamps of the Federal High court. PW1 agreed that at page 7 of the Ruling, the last paragraph beginning with "Thereafter" is there.

PW1 also admitted that he made Additional Statement on Oath, in this proceedings, dated the 13/10/2013 and signed by him, that at paragraph 11(v) of the said Additional Statement on Oath, it is stated that:



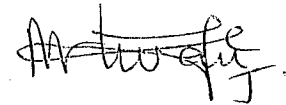
That the photograph of the Defendant's car attached to the Statement of Defence were taken in the Plaintiff's office and not on the road or place of the incidence.

PW1 admitted that he would be able to identify the pictures of the Defendant's car. He was shown the photographs and he said of the two pictures, he could identify only one that had the PW1's office premises as background. He said Exhibit P2 and one of the pictures which he could not identify are not the same. That the cars in the two pictures are different. That the damage on the windscreen in both pictures was on the driver's side. That one picture has a belt mark on it while the other has no such belt mark. PW1 stated that if someone holds his property wrongly and he sees it later, he would collect the property and not say he is entitled to damages. He admitted that he knows Ganaja Junction and that it is a very busy place. He admitted that there is an obstacle at Ganaja Junction if coming from Dunamis to town which makes motorists to slow down before turning to go to town. That from Halims Hotel to Ganaja Junction, there is a gradual hill, an obstacle, and unflat road, a slope. He said vehicles can be fast on the slope. PW1 stated that the incident under reference happened on a Sunday and that vehicles of travellers do not usually follow that Ganaja Road but that they follow the road outside the town on the Highway at the back of the town. That he and his Team were on the Road on that date and their mission was to provide safety to road users and apprehend traffic offenders. PW1 stated that none of the road users on the day in question told him whether he was a traveller or resident in Lokoja. That if anybody told him that he was on the bonnet of the Defendant's car for one kilometre, he could not tell whether that person was telling the truth or lying. The cross-examination of

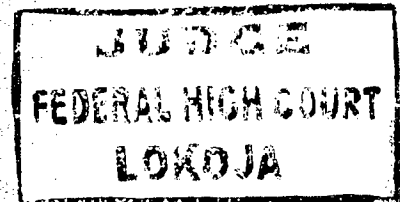
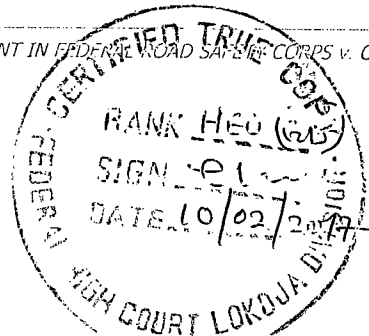


PW1 was adjourned because it was past 4.00pm and the weather was inclement.

Cross-examination of PW1 continued on the 02/03/2015. PW1 stated that he would be able to identify a Driver's Licence issued by the Plaintiff. He admitted that the photocopy of the Defendant's Driver's Licence shown to him was the old licence and the original licence shown to the PW1 which belongs to the Defendant's Counsel was the new licence. That the expiry date on the Defendant's licence was 15/01/2014 and the incident occurred on the 24/02/2013. That by 24/02/2014, the Defendant's Driver's Licence had not expired.



PW1 was shown Exhibit P2 (photographs) and he stated that the 1st picture shown to him indicated that the point of contact was on the driver's side. That if a motorist is driving from Halims Hotel to Lokoja, the driver's side will be on the left hand side. The PW1 admitted that they were on the road on that date of the incident for safety of lives and to educate road users and not to endanger their lives. The PW1 stated that for that reason, he ought to stay on the right side of the road to flag motorists down and not in the middle of the road. He admitted that it was only the wiper on the driver's side that got destroyed, while the other wiper on the passenger's side was intact. PW1 further stated that the Defendant's vehicle was in the process of pulling over when flagged down by him and that his colleague asked the Defendant for his licence. That PW1 was then in front of the Defendant's car and that the Defendant took off again rather than show his licence and thereby he picked up the PW1 on the bonnet of his vehicle. That he would not know whether it was his chest or head that had contact with the windscreen of the vehicle.

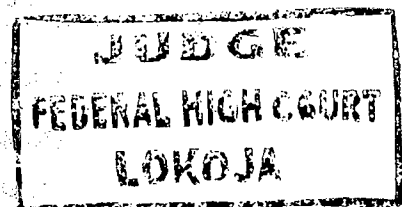
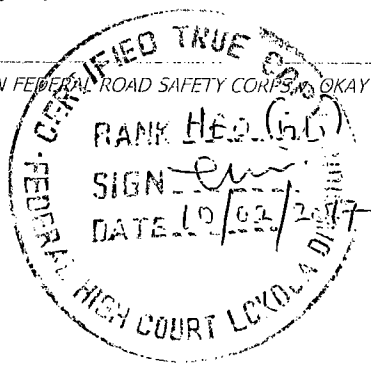


PW1 said he did not know the length of period the Defendant's car was impounded by the Plaintiff but that he did know that once an offender pays his fine or charges, the vehicle is usually released. PW1 admitted also that he saw the Court Order releasing the Defendant's vehicle while he was giving evidence in Court during cross-examination. PW1 said he had never hired a taxi for a day and said he did not know whether a taxi could be hired for profit within the range of N3,000.00 – N6,000.00 per day. The cross-examination was over.

TESTIMONY OF PW2 – MR. KOKO BARCLAYS, Deputy Routes Commander, RC 8.3, Lokoja Sector Command of the Federal Road Safety Corps and Team Leader

PW2 adopted his written statement on Oath made on the 05/06/2014 on the 18/05/2015. The Defence Counsel cross-examined PW2 forthwith. PW2 responded that he and his Team were on the road on the 24/2/2013 to educate road users and that if the officers of FRSC do anything to endanger life, it will mean that they are not there to ensure safety of road users and that will be arbitrary and unconstitutional.

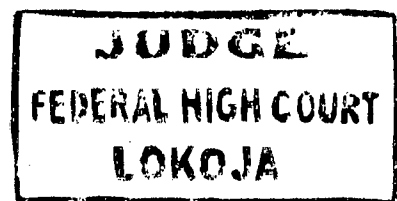
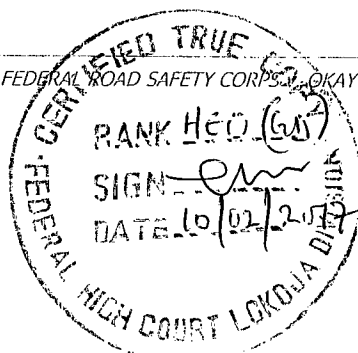
PW2 stated that he was not aware of any obstacle at Halims Hotel, Lokoja where there is a T-Junction. That the sloping hill from the T-Junction at Halims Hotel which ascends towards the Specialist Hospital gate by the right as one moves towards Lokoja Town is not an obstacle. That at paragraph 13 of his written statement on Oath, he referred to "build-up" area on Ganaja Road, Lokoja Metropolis and that the "build-up" does not refer to the build-up of traffic but refers to the area which is densely populated. PW2 also referred to paragraph 19 of his statement on Oath and maintained that from



Halims Hotel to Ganaja Junction where the Plaintiff's officials were standing, the Defendant picked the victim, PW1, on the bonnet of his car and dragged him from there up to Fentoro Junction, that is Zenith Bank Junction, a distance of about one kilometre (1km). That it is not correct to say that the Plaintiff's officers pursued the Defendant to that Junction with their officer on the bonnet before arresting the Defendant. That it is also not correct that it was the Police Command that assisted the Plaintiff's officers to stop the Defendant. That the PW1 was rushed to the Flogi State Specialist Hospital, Lokoja, after his encounter with the Defendant. PW2 stated that as the Team Leader, he wrote a detailed report of what happened on the date of the incident and forwarded the same to his superiors in office and that the office instructed the lawyer to write to the Defendant. He said that PW1 was not in a position to endanger his life or the life of the Defendant but was performing his lawful duty. PW2 said he would be able to identify a Driver's Licence issued by his office, the Plaintiff. That such Driver's Licence looks like an ATM Card or a phone recharge card but has different features and that it can be put in a wallet. PW2 was shown the Driver's Licence belonging to Mr. Maduabuchi O. Okey and he identified it as the old National Driver's Licence issued by his organization, the Plaintiff herein and that the expiry date on it was 15/01/2014. PW2 agreed that as at the date of the incident, 24/02/2013, the Defendant's Driver's Licence had not expired. PW2 was shown Exhibit D7 and he identified it as the Notice of Offence Sheet issued by him, PW2. He admitted that once an offender is booked and he has paid the fine, he will be free to go. That if he pays and is not allowed to go, it becomes arbitrary and it means he is deprived of the comfort of his car but that he did not know whether such a person is entitled to damages. PW2 was shown Exhibit P4 and Exhibit P5 and he identified them as letters from the

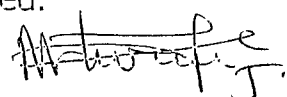
JUDGEMENT IN FEDERAL ROAD SAFETY CORPS v. OKAY O. MADUABUCHI:

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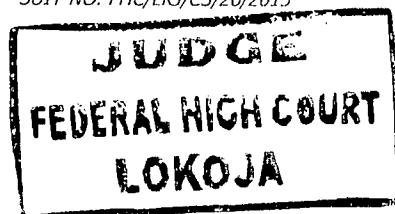
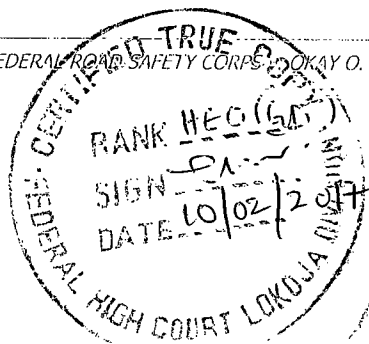


Yogi State Specialist Hospital but that no sickness was diagnosed therein. PW2 said he knows the Police Motor Pol also called Motor Traffic Department. PW2 stated that it is not all accident cases on the road that are taken to the Police for prosecution, but that some of such cases are handled by the Federal Road Safety Corps (FRSC), although he could not tell how many motor traffic accident cases the FRSC has prosecuted because he is not in the Legal Department. That the Plaintiff also handles accident cases but that they did not ask the Defendant to make a statement. PW2 stated that he reported the case to the 'A' Division Police Station, Lokoja on the following date but was not aware whether the Police there took the statement of the Defendant. PW2 said he did not know the name of the Policeman who was in mufti but armed, a CID Officer, that arrested the Defendant. PW2 said he was shown Exhibit P4 again and that the amount written on the papers was not clear. That they are empty papers. PW2 admitted that he saw the Defendant's car parked in their office for over a year. The cross-examination of PW2 was over. There was no re-examination of PW2. The Plaintiff's Counsel, I. A. Tanko, Esq., applied to close the case of the Plaintiff. The Defence did not object, but asked for a date to open their defence. The Plaintiff's application was granted. The matter was adjourned.

TESTIMONY OF DW1



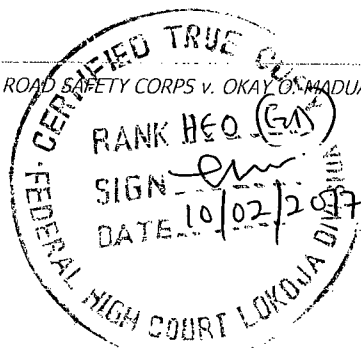
The Defendant opened his defence on the 18/04/2016. The Defendant gave evidence as DW1, the lone witness for the Defence. He swore on the Holy Bible to speak the truth only, while testifying in this matter. DW1 adopted his Statement on Oath made on the 08/07/2013. DW1 referred to the documents mentioned at paragraphs 3 and 7 of his Statement on Oath. The said documents were not objected to and they were admitted in evidence. The Certificate of Incorporation of the Defendant's Company, Total Diamond



Company Limited was admitted in evidence and marked Exhibit D1. The receipts showing evidence of payment of Defendant's children's school fees issued by Salem Wisdom School dated 25/05/2013 and 17/06/2013 were marked Exhibit D2A and D2B, respectively. The Defendant's Driver's Licence pleaded at paragraph 13 of the Statement on Oath was also tendered and admitted in evidence and marked as Exhibit D3, but copies of the Vehicle Licence, Road Worthiness Certificate, and Insurance Certificate of the Defendant's vehicle were objected to by the Plaintiff on the grounds that they were not certified true copies, being public documents and that there was no extract of Police Report indicating the loss of the original documents. The objection of the Plaintiff was upheld and the said documents were not admitted in evidence. Other documents tendered by DW1 and admitted in evidence and marked accordingly are:

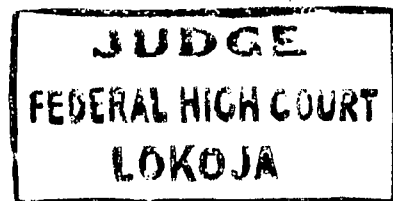
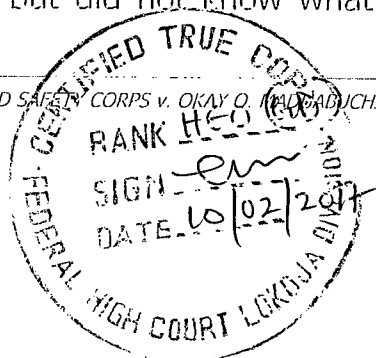
- Two photographs and negatives of the vehicle of the Defendant taken at the premises of the Plaintiff - mentioned at paragraph 36 of the Statement on Oath of the Defendant and marked as Exhibit D4a, D4b and D4c.
- Letter to the Sector Commander, Federal Road Safety Corps, Lokoja, dated the 10/03/2013, by Malpene Chambers, marked as Exhibit D5.
- Letter from Ogwo Ameh & Co., to FPSC, Fogi State, Sector Command, Lokoja, dated the 13/05/2013, marked as Exhibit D6.
- FPSC Charge Sheet and the attached UBA payment slips, marked as Exhibit D7.
- 27 cash receipts issued in respect of vehicle No. MT 810 GGE collectively marked as Exhibit D8.

JUDGE
FEDERAL HIGH COURT
LOKOJA



- Certified True Copy of the Ruling of this Court delivered on the 12/12/2013 in Suit No. FHC/LKJ/CS/26/2013, Federal Road Safety Corps v. Olay O. Maduabuchi, marked Exhibit D9a.
- The enrolled order of the Court pursuant to the said Ruling, marked Exhibit D9b.

The DW1 was cross-examined on the same date. Under cross-examination, DW1 responded that he had ever seen FPSC Patrol Team while on duty on the road. That he could not tell whether the FPSC Patrol Team on duty on the date of the incident knew him but that he did not know any of them. That nobody asked him to present his driver's licence or vehicle particulars on that date or on any other date up until the date of his testimony in Court. That the Notice of Offence Sheet was given to him a few days after the incident and that he collected it the same date he was given. That he could not remember the exact date he collected it or whether it was two days after he had visited the FPSC on the 25/03/2013 to see the Head of Operations. DW1 stated that he was shocked when he was given the Notice of Offence Sheet and saw the offences listed therein. DW1 agreed that he stated in his Statement of Defence that he was issued with a Notice of Offence Sheet with phantom offences. That he paid the fine instead of resorting to prosecution because he desperately needed to get his car back. That it was the only car he had which he was using for running his business as well as his private and family affairs. DW1 stated that he did not know the role of the FPSC but that the Plaintiff's Counsel told him in Court while he was testifying that the role of FPSC is to educate road users on proper use of the roads, and to enforce traffic regulations and sanction offenders. DW1 admitted that he stated in his Statement on Oath that while he was driving and the car was in motion, he heard a bang on his car but did not know what hit his car. That from the

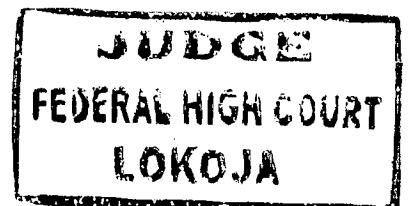
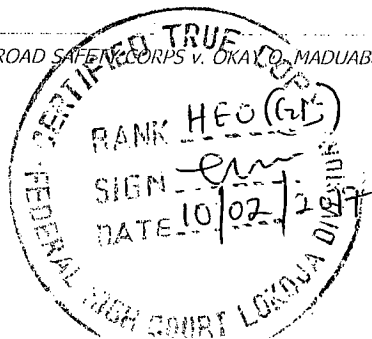


photograph tendered and admitted in evidence, he did not know whether the object that hit his car was a big one. The Plaintiff's Counsel put it to him that he knew what hit his car and DW1 maintained that he did not know what hit his car. That he was in shock when he heard the bang on his car and panicked, thinking it was a bomb blast. That he then stopped to find out what had happened and saw men of FRSC surround him. DW1 stated that he took photographs of the scene of the incident as stated at paragraph 35 of his Statement on Oath and that he would be ready to show the photographs to the Court. DW1 stated that FRSC officials then took him to the front door of the passenger's side of the car and pushed him into the car and drove away to their office. He admitted that the FRSC has the power to impound a vehicle reasonably suspected to have been involved in an offence but that he was not aware that the reason his car was still impounded after he had paid the fine for the offences was that he committed another offence which was assault on an officer of the FRSC. DW1 stated that he was not told that he assaulted an officer of the FRSC on the date of the incident.

The Defence closed its case. On the 27/09/2016, the Defendant's Counsel adopted their final written address dated the 10/06/2016 and filed on the 13/06/2016 as their argument in this case. He urged this Court to dismiss the Plaintiff's case as it lacks merit, and grant the counter-claim of the Defendant.



Learned Defence Counsel submitted that they were served with the written address of the Plaintiff but that it was not a legal document in the sense that it did not bear the seal of a Legal Practitioner and that there was no evidence that the person who signed the document had paid the annual practicing



fees, contrary to Rules 9 and 10, respectively, of the Rules of Professional Conduct for Legal Practitioners, 2007.

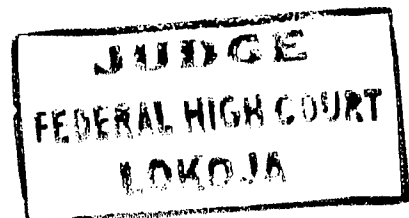
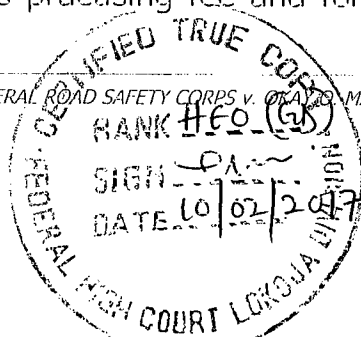
He also submitted that the written address lacked the character of what a written address ought to be in that it is not a highlight of pleadings and evidence before the Court. That the written address was full of extraneous matters not connected with pleadings or evidence before the Court. He objected to the content of paragraph 7.9.1 and 7.9.7 of the written address which he said are insulting to the opposing party and urged the Court to expunge the said paragraphs.

Learned Defence Counsel also noted that paragraph 7.9.8 of the written address of the Plaintiff is contrary to what the Defendant stated in evidence and that the Defendant's evidence speaks for itself. Counsel urged the Court to disregard the written address.

I looked at paragraphs 7.9.1. and 7.9.7 of the Plaintiff's Counsel's Written Address and I see phrases such as the defence is ignorant of the term..." and "the Defendant Counter Claim is mere fabrications and concoctment of falsehood...."

The Court frowns at the use of such language in Court processes. Counsel are enjoined to be courteous and maintain polite language in documents as well as in spoken language while addressing other Counsel.

Learned Counsel for the Plaintiff, F. G. Yawa, Esq., on his part, submitted that he had paid his practising fee and for the stamp and seal. He pleaded

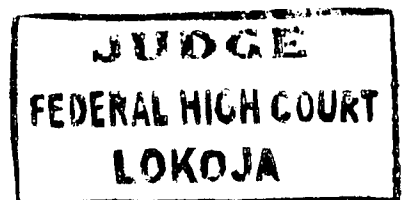
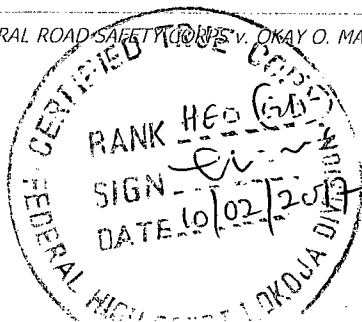


with the Court for a stand down of the case to enable him go back to his office and bring evidence to show that he was not in breach of Rules 9 and 10 of the Rules of Professional Conduct for Legal Practitioners, 2007. The Court granted his application for a stand down. On resumption at 1.51pm, the Plaintiff's Counsel presented documentary evidence of payment for the NBA seal and practising fee. The Defence Counsel did not object. The Court was satisfied that the Plaintiff's written address was properly before the Court and signed and filed by a competent Legal Practitioner and ruled accordingly. Plaintiff's Counsel then adopted their written address, dated the 04/07/2016 and filed on the 08/07/2016 as their argument in support of their claim. He urged the Court to grant the reliefs being sought by the Plaintiff and to dismiss the counter-claim of the Defendant.

ARGUMENT OF THE PLAINTIFF IN SUPPORT OF THE CLAIM

In the written address of Counsel for the Plaintiff, a brief statement of fact of the case was given as well as the list of Exhibits tendered by the Plaintiff in this case. Learned Counsel for the Plaintiff then raised four issues for determination as follows:

1. Whether the Federal Road Safety Corps is statutorily empowered by law to perform its functions.
2. Whether the impoundment of the Defendant's vehicle was done within its powers.
3. Whether the Plaintiff is entitled to remedy for Assault and Compensation.
4. Whether the Defendant is entitled to remedy for counter claim.

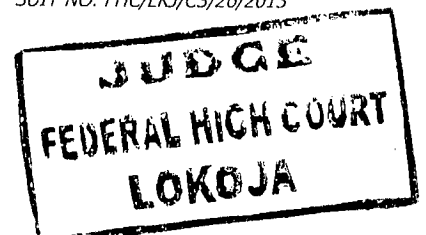
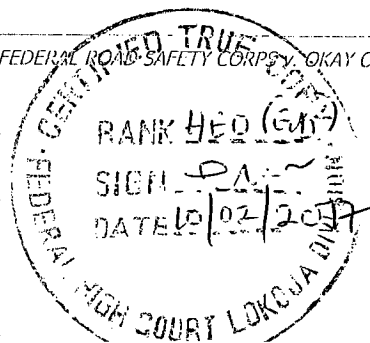


On Issue One, it was the argument of learned Counsel that the Plaintiff is empowered under the Federal Road Safety Commission (Establishment) Act, 2007 and the National Road Traffic Regulation, 2012, both enactments of the National Assembly as provided for in section 4(2) of the Constitution of the Federal Republic of Nigeria, 1999. That these laws have been enacted for the good governance and general interest of the country. He also referred to item No. 63 which mentions "Traffic" under Part A of the 2nd Schedule of the 1999 Constitution, which empowers the National Assembly to enact laws on Traffic of which the Federal Road Safety Commission (Establishment) Act, 2007 and the National Road Traffic Regulations, 2012 are included.

Learned Counsel also cited and relied on cases which have decided that the statute governing the Federal Road Safety Corps is a valid enactment of the National Assembly and thus Supreme Law. The cases are:

1. ***Kabir Akinbalo Esq. v. Federal Road Safety Corps & 3 Ors., (unreported) Suit No. FHC/AB/CS/64/2013 per, Hon. Justice F. O. G. Ogunbanjo of the Federal High Court, Abeokuta.***
2. ***Federal Road Safety Corps v. Emmanuel Ofoegbu, Suit No. CA/L/412/2014 (unreported), before the Court of Appeal, Lagos, sitting on 31/10/2014.***
3. ***Ekeocha v. Civil Service Commission of Imo State & Anor. (1931) NCLR 154 at 165.***
4. ***Usman Mohammed v. A.G. Kaduna State & Anor. (1980) 1 NCLR 117.***

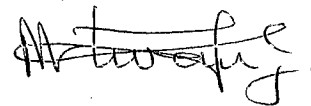
That in No. 4 case listed above, it was held that a Federal Legislature is in a position to legislate for the general interest of the whole country.



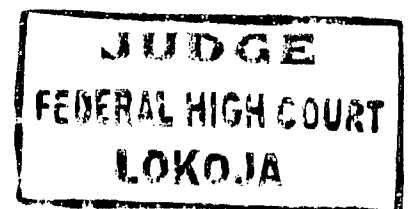
On Issue Two, learned Counsel submitted that by section 10(5) of the Federal Road Safety Commission (Establishment) Act, 2007, the Plaintiff is empowered to impound any vehicle with which an offence under this Act is reasonably suspected to have been committed. He further submitted that in the instant case, the Defendant/Offender was reasonably suspected to have committed the offences of:

- (i) Seat Belt Violation, section 10(4)(ee) of the FPSC (Establishment) Act, 2007.
- (ii) Driver's Licence Violation, section 10(4)(i) of the FPSC (Establishment) Act, 2007.
- (iii) Failure to Move Over Offence, section 10(4)(q) of the FPSC (Establishment) Act, 2007.
- (iv) Assaulting Marshal on Duty, section 10(4)(aa) of the FPSC (Establishment) Act, 2007.

It was also the submission of learned Counsel that the FPSC is empowered to arrest and prosecute persons reasonably suspected of having committed any traffic offence and serve such person with Court processes or Notice of Offence Sheet.



Furthermore, learned Counsel argued that despite the provision in section 44(1) of the Constitution of the Federal Republic of Nigeria, 1999, (as amended)(1999 Constitution) guaranteeing to citizens, the right not to be deprived of movable or immovable property, an exception is provided in that regard in section 44(2) of the same Constitution. That section 44(2) of the 1999 Constitution makes provision that movable property can be compulsorily taken possession of, for the imposition of penalties or forfeiture for breach of any law, whether under civil process or after conviction for an

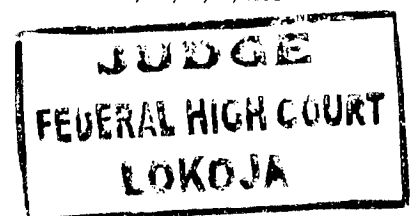
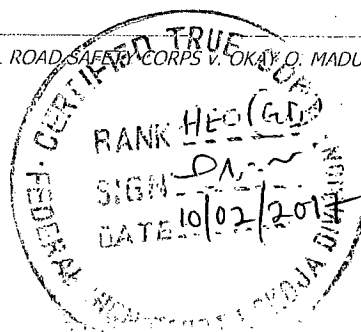


offence. He cited and relied on the case of *Brent Williams Nig. Ltd. & Anor. v. Federal Road Safety Commission, Suit No. FHC/L/CS/436/09 (unreported) before Justice J. T. Tsoho of the Federal High Court, Lagos on 26/03/2014.*

On Issue Three of the Plaintiff, it was the submission of learned Counsel that the Plaintiff was wronged and so it is entitled to remedy. That from the depositions of PW1 and PW2 in their Statement on Oath as well as the evidence and pleadings of the Plaintiff, the Plaintiff has proved within the balance of probability that the Defendant's dangerous driving caused the injury sustained by Plaintiff's operative while the operative was on lawful duty to wit:- saving of the lives and property of all road users including the Defendant on the 24/02/2013. That the Plaintiff is therefore, entitled to a refund of the medical expenses incurred on its injured operative and compensation.

Learned Counsel then referred to sections 31, 242, 196 and 248 of the Penal Code law of Nigeria for the definitions of "injury", "voluntarily causing hurt", "negligent conduct causing danger to person or property", "voluntarily causing hurt or grievous hurt by dangerous means", respectively.

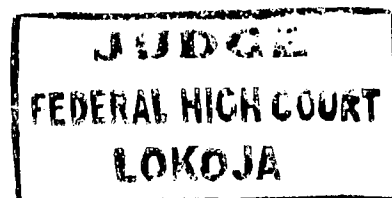
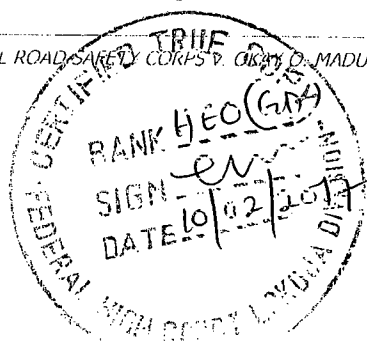
Learned Counsel also relied on section 267 of the Penal Code for the definition of the offence of "Assault or Criminal Force to Deter Public Servant from discharge of his duties" and section 78 of the Penal Code which provides for compensation to an injured person by a convicted person. He then urged the Court to grant compensation to the Plaintiff.



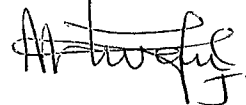
On Issue Four, the learned Counsel submitted that the counter claim of the Defendant is baseless and lacks substance to warrant any measure of success. He argued that from the facts and evidence, pleadings, depositions and legislation presented before this Court by the Plaintiff, it can be reasonably deduced that the Defendant desired the consequences of his rash and negligent act of assault occasioning grievous hurt on the Plaintiff's operative while he was performing his statutory duty of protecting lives and property of road users, which included the Defendant.

Plaintiff's Counsel argued that the Plaintiff's operatives and the Defendant never knew each other before the incident, so it was not possible to ascribe a motive of malice or retribution on the part of the Plaintiff's operatives to have singled out the Defendant among the multitude of road users plying the same road on that date and accuse him of wrongdoing if he did not commit an offence. It was further submitted that at paragraphs 16-20 of the Defendant's deposition, the Defendant did admit that the nature of the road at the point the Plaintiff's Operatives were stationed does not allow for fast movement of vehicles and that the Defendant's movement was slow. That as such he ought to have apprehended happenings around him particularly the big bang on his vehicle. That the bang was actually the body of the Plaintiff's operative who was trying to educate the Defendant, on the use of seat belt while driving when the Defendant picked him on the bonnet of the Defendant's car. That this shows that the Defendant knew he had committed an offence and tried to evade arrest.

Learned Counsel submitted that PW1 and PW2 testified that the three Plaintiff's operatives, PW1, PW2 and Marshal Abdullahi Adekunle Jimoh sighted the Defendant not using his seat belt and flagged him down as

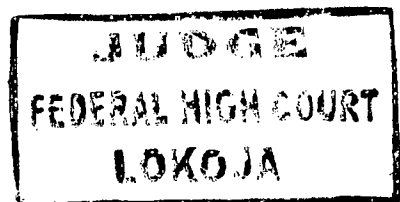
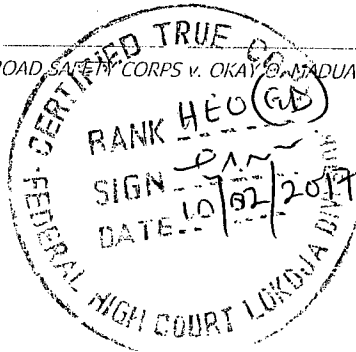


deposed in paragraph 9 of the deposition of PW1 and paragraph 8 of the deposition of PW2. That the Plaintiff's operatives sighted the Defendant in breach of a primary offence, that is non-use of seat belt by the Defendant and stopped him and then discovered the secondary offence of Driver's Licence violation on interrogation. He argued that there are no variations between the depositions of PW1 and PW2 and the pleadings as the Defence Counsel would have the Court believe as stated in his final written address. That the Defendant drove dangerously even in a built-up area such as Ganaja Junction because the driving may not have been fast but reckless with grievous effect as the Plaintiff has proved in the pleading to wit: the Defendant picked up its operative from the bonnet of his vehicle to the windscreen, while on interrogation to evade arrest for the traffic offence he knew he had committed. That the Plaintiff, in furtherance of proving its case, tendered the photograph of the vehicle with belt mark on the bonnet and the dent on the windscreen. That the Defendant's statement in paragraphs 21 and 22 of his pleadings that he did not know what hit his vehicle and that he had no time to discover that as he was immediately whisked away by the Plaintiff's operatives is not credible.



As regards the counter claim of the Defendant, the Plaintiff's Counsel stated that it is mere falsehood. That the Defendant had admitted the commission of the traffic offences listed in the Notice of offence sheet given to him and elected to pay the fines prescribed rather than be prosecuted and did in fact pay the fines. He referred to sections 21 and 24 of the Evidence Act, 2011.

Plaintiff's Counsel also referred to section 33 of the Constitution of the Federal Republic of Nigeria, 1999 as amended and submitted that the Defendant deprived the Plaintiff's operative of right to life by causing him



bodily harm (though not actual death) and that the Plaintiff's has adduced evidence and proved the culpability of the Defendant in that regard.

It was the further submission of the Plaintiff's Counsel that the Defendant desired the consequences of his actions as such cannot claim remedy against an innocent person.

In conclusion, Plaintiff's Counsel submitted that the Plaintiff had proved its case on the balance of probability and urged the Court to look at the substance of the Plaintiff's arguments and grant judgement in favour of the Plaintiff as to the reliefs being sought.

DEFENDANT'S ARGUMENT IN OPPOSITION TO THE PLAINTIFF'S CLAIM ON THE ONE HAND, AND ON THE OTHER ARGUMENT IN SUPPORT OF THE COUNTER CLAIM.

In the written address of Counsel for the Defendant, the learned Counsel gave a brief statement of fact of the case from his perspective and then deposited two issues for the determination of the Court, to wit:

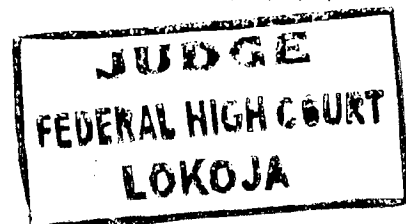
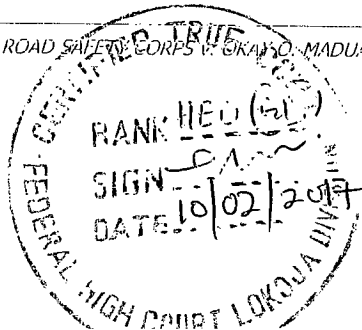
Issue One:

Whether the Plaintiff has proved its case against the Defendant on balance of probability and/or on preponderance.

Issue Two:

Whether the Defendant Counter Claimant made out a case of wrong doing against the Plaintiff in the circumstance of this case that entitles him to damages.

On issue one, learned Defence Counsel, A. O. Onoja, Esq., answered the same in the negative. He submitted that it is trite that the Plaintiffs case

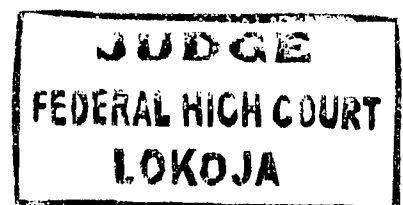
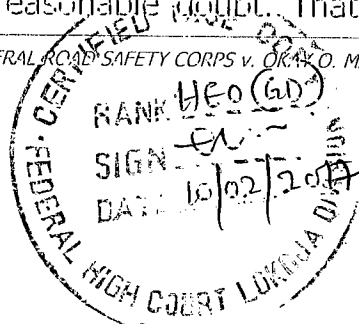


must succeed on the strength of his own case to wit: by acceptable creditable evidence as adduced vis-à-vis any supporting evidence of the Defendant both on cross examination and evidence-in-chief. He relied on the cases of **OLUKOYA V. ASHIRU (2006) all FWLR (Pt.322) 1479 at 1496-1497, paragraphs A-E and C.P.C. V. INEC (2013) ALL FWLR (Pt.665) 364 at 390 paragraphs A-B.** He argued that the Plaintiff's Claims or case is anchored on fables contained in paragraphs 9-29, 31, 33, 34, 35-40, 43 and 46 of the Amended Statement of Claim.

That the evidence of PW1 and FW2 in their depositions on oath were properly distorted by answers on cross examination. That there is nothing the Plaintiff can hold onto to prove this assertion of wrongdoing to the Plaintiff against the Defendant as required by sections 132-138 of the Evidence Act, 2011. He also relied on the cases of:

- **A.C.N. v. LAMIDO (2012) ALL FWLR (Pt.630) 1138 paragraph B.**
- **JOLASUN v. BAMGBOYE (2011) ALL FWLR (Pt.595) 203 at 222 A-C, page 219 paragraphs F-G.**
- **F.I.B. Plc v. Z. V. & CO. NIG. LTD. (2016) ALL FWLR (PT.814) P. 1 at Pp. 31-32, paragraphs F-A** – all to the effect that he who asserts the positive must prove it.

It was the submission of learned Counsel that the Plaintiff has to discharge the burden of proof that the Defendant committed the purported road safety infractions contained in Exhibit D7 leading to complaint in the correspondence in Exhibits D5, D6 and P7 and the allegations of dangerous driving to cause hurt on the personnel of the Plaintiff beyond reasonable doubt. That those allegations are criminal in

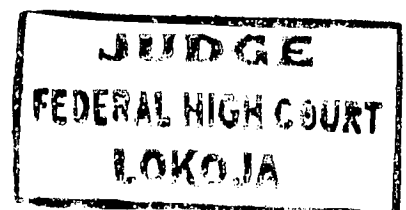
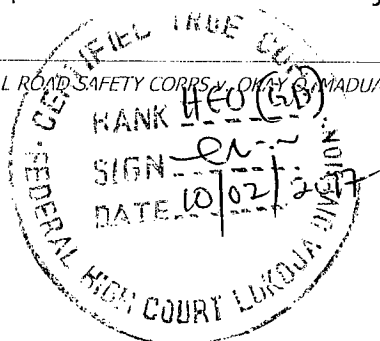


nature and the standard of proof required is proof beyond reasonable doubt. He relied on the cases of:

- **OMOGBORIOWO v. AJASIN (1984) 1 SCNLR, 108 at 122.**
- **NWOBODO v. ONOH (1984) 1 SCNLR 1.**
- **OMOREGBE v. LAWANI (1984) 3-1 S.C. 108.**
- **A.C.N. v. LAMIDO (2012) ALL FWLR (Pt.630) 1316 at P.1338, paragraph E.**

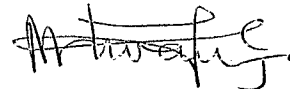
Furthermore, learned Counsel argued that lack of clarity in the pleadings in paragraphs 9-29, 31, 33-40, 43 and 46 as to which among the men of the Plaintiff was an eye witness who testified to the fact that he spotted the Defendant without a seat belt and who specifically asked him for his vehicle particulars and drivers' licence, there is a doubt raised already. That at paragraphs 12, 13, 14 and 27, of the Amended Statement of Claim "officials" were conspicuously being mentioned while in paragraph 29 an action or activity of a specific official was mentioned. That such doubt that has been raised in the pleading of the Plaintiff which relate to criminal allegations against the Defendant, must be resolved in favour of the person alleged to have committed such allegations, in this case, the Defendant, as if those allegations never happened. This Court was urged to so hold.

Learned Counsel also submitted that there was a muddle-up of events in the depositions of PW2 and PW1. That paragraph 8 of the depositions of PW2 did not disclose who spotted the Defendant in the purported infractions. That paragraph 9 states the actions of three officers and the succeeding paragraphs 10-23 tell of self-injurious lies. That paragraph 23



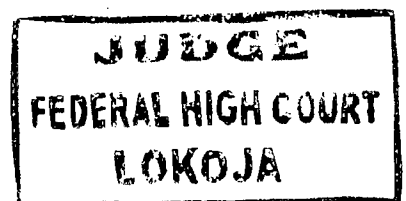
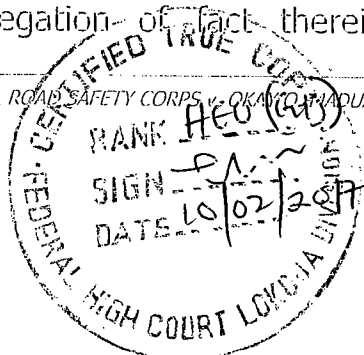
of the depositions on oath of PW2 is at variance with paragraph 27 of the Amended Statement of Claim as to the "official" demanding for and "I". That at paragraphs 7-11 of the depositions on oath of PW1, are at variance with pleadings. This Court was urged by Counsel to hold that the allegation of Road Safety infractions levelled against the Defendant are false and remain unproved within the standard of proof beyond reasonable doubt in criminal cases. He urged this Court to view the testimony of PW1 and PW2, in written deposition, respectively, as being at variance with pleadings. He relied on a host of cases including the cases of:

- *SIBC CONSORTIUM v. N.N.P.C. (2011) 4 S.C.N.J. 211.*
- *GLUKOYA v. ASHIRU (2006) ALL FWLR.*
- *ALANJOLA v. SOLANO (1986) 2 NWLR (Pt.24) 598 at 623 SC.*
- *OKOKO v. DAKOLO (2006) 14 NWLR (Pt.1000) 401.*
- *ADDAH v. UBANDAWAKI (2015) ALL FWLR (Pt.775) 200 at 2015 B-C.*



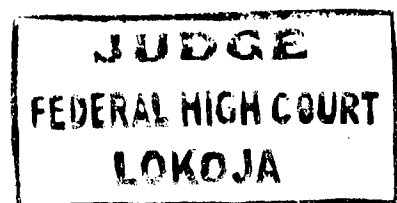
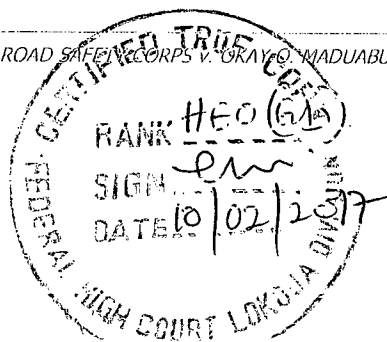
He submitted that in these cases, the Supreme Court held that evidence which is at variance with the pleadings goes to no issue and should be rejected and if admitted should be expunged from the record. That it will be discountenanced because it is contrary to the issues joined and therefore goes to no issue worthy of consideration.

It was the further submission of Counsel that while the Plaintiff has failed to discharge the onus of proof on her in these allegations, the Defendant has successfully refuted the allegations in the Statement of Defence as every material allegation of fact therein are rebuttable. That by



paragraphs 22-34, 38 and 39 of the pleading; and the corresponding paragraphs of the depositions on oath of the Defendant, the Defendant was able to rebut and challenge the Plaintiff to a standstill as to allegations of driving without a safety belt. That the allegation of dangerous driving on a road recognized by paragraph 13 of the deposition of PW2 as at a built-up area of Ganaja was also debunked. That paragraph 10 of the Statement of Defence also rebutted the allegation of request for particulars of vehicle and that this was ventilated in the Defendant's depositions on oath and the answers of PW1, PW2 and DW1 under cross-examination. That as for the issue of injury to the chest of the Plaintiff's operative, PW1, the Defendant has clearly denied it and shown it to be false vide pleadings of the Plaintiff and depositions of the PW1 and PW2 as well as the pleadings of the Defendant and cross-examination.

In addition, the Court was urged by the learned Counsel to hold that the oral testimonies of PW1, PW2 and DW1 vis-à-vis the Exhibits tendered and recognised are of material assistance in coming to the conclusion that the Plaintiff failed to discharge the burden of proof placed on it to succeed against the Defendant. He relied on the case of *Ukaegbu v. Nwololo (2009) ALL FWLR (Pt. 466) 1852 at 1883-4 H-A* and urged the Court to put the evidence adduced by both parties on an imaginary scale and weigh one side against the other and then decide upon the preponderance of credible evidence which weighs more. Learned Counsel also referred the Court to the pieces of oral evidence of PW1, PW2 and DW1 and quoted a large portion of the response of PW1 under cross-examination and paraphrased the testimony of PW2 under cross-examination as well as Exhibits before the Court, particularly, Exhibits P1, P2, P4, P5, P7 and Exhibit



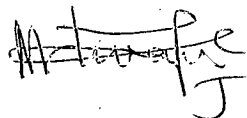
D4, to draw out contradictions in the evidence of PW1 and PW2 vis-à-vis the pleadings in the Amended Statement of Claim.

It was the submission of learned Counsel that the Plaintiff has failed to prove the criminal allegations and sundry issues levelled against the Defendant and urged the Court to resolve issue one in favour of the Defendant.

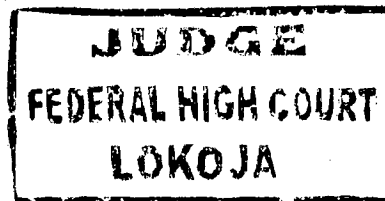
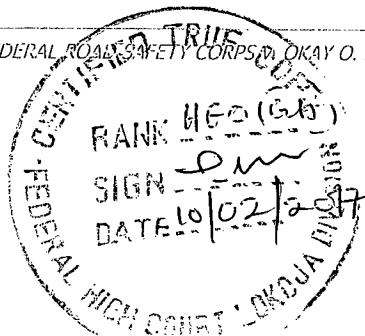
Issue Two:

Whether the Defendant Counter Claimant made out a case of wrongdoing against the Plaintiff in the circumstance of this case that entitles him to damages.

On Issue Two, learned Counsel submitted that they were adopting the arguments canvassed in respect of issue one. That the Defendant Counter Claimant in proof of his counter claim adopted paragraphs 1-63 of his Statement of Defence and also adopted his deposition on Oath to ventilate his defence by challenging the claims and allegations of the Plaintiff and to prove the counter claim. He relied on the case of *Jolasun v. Bamgboye (2011) ALL FWLR (595) 2-3 at 222 Paragraphs A-C, Page 219 Paragraphs F-G.*



He argued that the character of the evidence adduced at the trial, especially the cross-examination of PW1, PW2 and DW1 left no one in doubt that the Defendant counter claimant was injured by the Plaintiff in that a wrongful damage was caused to the windscreen of the Defendant's car. That paragraphs 10, 22-56 of the Statement of Defence and corresponding depositions on Oath have not been punctured by the Plaintiff and so remain the true position of the facts of what transpired on the road on that date.

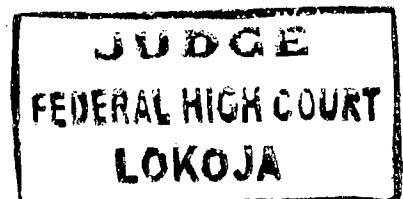
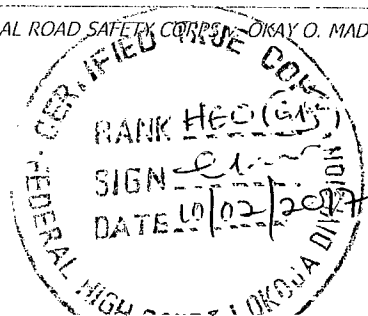


Learned Counsel also submitted that the Defendant tendered Exhibits D1-D10 in his defence and also as proof of his counter claim. That the Exhibits are *res ipsa loquitur* in terms of the injuries suffered by the Defendant because of the illegal acts of the Plaintiff. That it was the deposition of the Defendant that he was never asked to produce any licence or vehicle particulars and under cross-examination the Defendant maintained that he was never asked to produce his licence or vehicle particulars, except in the Court. That during cross-examination, PW1, and Pw2 have identified the Driver's Licence of the Defendant, that is, Exhibit D3 and that it had not expired as at the time the incident on the road happened. That the Plaintiff's personnel took the laws into their hands by refusing to release the vehicle of the Defendant Counter Claimant to him even after payment of the fees for the offences charged on the offences charge sheet which was given to him. He referred to Exhibits D9 and D10 supported by Exhibits D1, D2, and D3.

Learned Counsel urged this Court to hold that the Defendant counter claimant having successfully established his counter claim against the Plaintiff, is entitled to the Judgement of this Court in terms of his reliefs.

Resolution of the issues

The Plaintiff herein sued the Defendant by way of Writ of Summons seeking declaratory reliefs and special damages to defray the cost of treatment of injuries sustained by the Plaintiff's operative owing to the dangerous driving of the Defendant while the Plaintiff's operatives were at Garaja Junction of the Lokoja – Ajaokuta Road on statutory duty on the 24/02/2016. The Plaintiff also claims custody fees on Defendant's impounded car as well as general damages against the Defendant for hitting and picking the official of



the Plaintiff with his car which caused him body injury, trauma and financial loss, keeping the Plaintiff's staff out of office, thereby creating a vacuum.

The Defendant on its part denies the allegation and has instead claimed that it was the Plaintiff's agent (Marshal Oluwaseun S. Adeshola), who wrongfully damaged the Defendants car and that the Plaintiff, therefore, is not entitled to any declaratory orders or damages.

The Defendant also filed a counter claim against the Plaintiff seeking declaratory reliefs with regard to his legal rights and protection and particularly in relation to his car which he said was arbitrarily damaged and wrongfully seized by the Plaintiff/Counter Defendant and that the actions of the Plaintiff's staff were illegal and unconstitutional. He also asked for injunctive relief and general and exemplary damages of N2m.

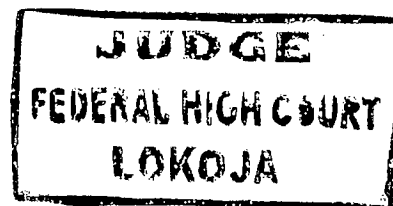
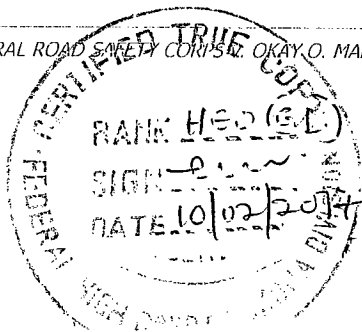
The issues for determination are:

- 1. Whether the Plaintiff has proved its case to entitle it to the reliefs sought.*
- 2. Whether the Defendant has proved his counter claim to entitle him to the reliefs sought.*

Issue I:

Whether the Plaintiff has proved its case to entitle it to the Relief sought.

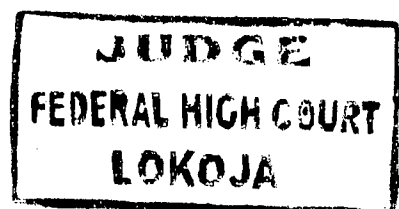
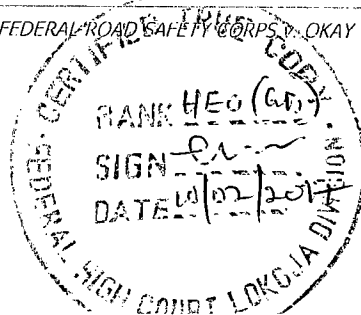
The Plaintiff avers that its six officers were on patrol duties to educate road users on road safety tips and to enforce traffic laws. That by 16:20hours, the Defendant drove in his Toyota Camry car with Registration No. EQ 134 ABJ to the Plaintiff's patrol point and the Plaintiff's officers noticed that the



Defendant was driving without using seat belt. The Plaintiff's officers flagged down the Defendant to educate him on the importance of using seat belt while driving. The Defendant slowed down as if to stop but only told the Plaintiff's officer's that he was in a hurry to reach the Federal Medical Centre, Lokoja, for his medication. That the 1st and 2nd Arresting officers of the Plaintiff approached the Defendant to speak with him but that the Defendant then zoomed off dangerously undermining the danger in driving with anger. That the Plaintiff's first arresting officer was able to dodge the Defendant's car as the Defendant drove dangerously but that the Plaintiff's 2nd arresting Marshal Oluwaseun S. Adeshola, Road Marshal Assistant III was not able to escape the effect of the dangerous driving of the Defendant "because of the close range of contact he had with the Defendant" and that the said 2nd arresting Marshal was hit by the Defendant's car and he landed on the bonnet of the car from his waist service belt to the top of the bonnet, hitting his chest on the windscreen of the car, which got broken. The Plaintiff pleaded the photographs of the Defendant's car showing the service belt skid mark and the broken windscreen of Defendant's car. See paragraphs 5, 6, 7, 8, 10, 11, 14, 15, 30 of the Amended Statement of Claim and Exhibits P7 and P7a of the Plaintiff referred to in paragraph 20 of the Amended Statement of Claim.

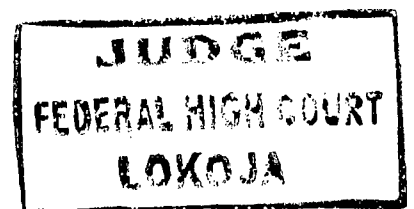
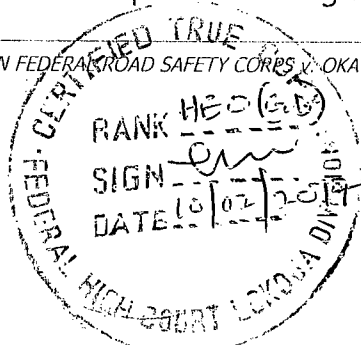
In their evidence before the Court. The Plaintiff's two witnesses, PW1, Marshall Oluwaseun S. Adeshola (PMA III) and PW2 Barclays Toloni Loko, Deputy Route Commander, stated the same story. See paragraphs 5-14 of the written statement on oath of the PW1 and paragraphs 5-19 of the written statement on oath of the PW2.

That as a result of the dangerous driving of the Defendant which led to his car hitting Plaintiff's Marshal who was on duty, the said Marshal sustained

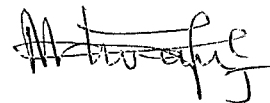


injuries on his chest and was rushed to the Fogi State Specialist Hospital for treatment and subsequently was given a pass for two weeks to go to his home town for native treatment and incurred expenses amounting to a total of N120,000.00. See paragraphs 21-24 of the Amended Statement of Claim and paragraphs 15-22 of the written statement on oath of PW1 and paragraphs 18, 21 of 27 of the written statement on oath of PW2 and Exhibits P3, P4, P5, P8 and P9 of the Plaintiff. It was also averred at paragraph 25 of the Amended Statement of Claim that the Defendant hit the Plaintiff's Marshal and still drove off with the Marshal victim still on the bonnet of his car and it took the effort of the PW2, other Road users and an unnamed Policeman in Mufti to cause the Defendant to stop. That the victim was rushed to the Fogi State Specialist Hospital, Lokoja, while the Defendant was requested by the PW2 to show his Driver's licence and vehicle particulars which he did not do, hence his car was impounded by the Plaintiff's Marshals. That the Defendant was given Notice of Offence Sheet and he paid the fines for the three offences but made only part payment of the impoundment fine. That his car was not therefore released, more so, that he failed to also refund the medical bill of the Marshal victim he had hit with his car on the 24/02/2013, as agreed between the Defendant and the Plaintiff's Sector Head of Operatives (SHOOPS) on the 27/02/2013. See paragraphs 25, 26, 27, 28, 29, 32-35 of the Amended Statement of Claim and paragraphs 23, 24, 26 and 28 of the Statement on Oath of the PW2.

Under cross examination the PW1 maintained his evidence as contained in his written deposition on oath. That while on duty with members of his team at Ganaja Junction, Lokoja, the Defendant was driving along that Lokoja – Ajaoluta Road and was moving towards Lokoja town then at close to Halims Hotel, the Plaintiff's Operatives sighted the Defendant driving without

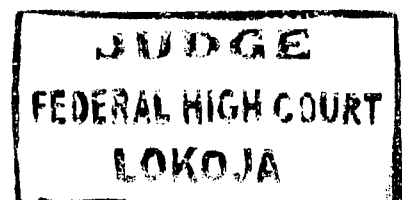
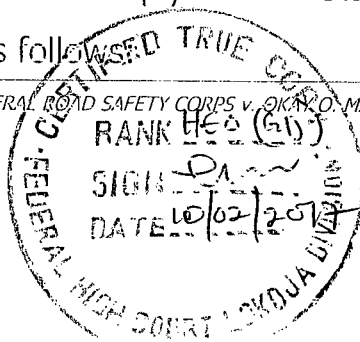


wearing a seat belt. That the Defendant was flagged down and he slowed down but picked up momentum again, unexpectedly and hit the PW1 with his car and caused him to hit his chest on the windscreen of the Defendant's car and it got broken. The Plaintiff averred at paragraphs 14 and 15 of the Amended Statement of Claim to the effect that when flagged down by the Plaintiff's Marshals, he slowed down but again within a short span of time the Defendant zoomed off dangerously and in his dangerous driving manner, the Defendant hit the Plaintiff's Marshal. That the PW1, was taken to the Fogi State Specialist Hospital for treatment. The X-Ray of the chest of the PW1, Exhibit D4 and the Hospital bills, Exhibit P5 are evidence that the PW1 was treated at the Fogi State Specialist Hospital, Lokoja. The evidence of PW1 was corroborated by the evidence of PW2 and their pieces of evidence are in consonance with the averments in the Amended Statement of Claim. The Defendant makes heavy weather of the fact that in Exhibit P7a the Plaintiff wrote in reply to the Defendant's Solicitor's letter that the Plaintiff was rushed to the Federal Medical Centre, Lokoja instead of the Fogi State Specialist Hospital, Lokoja.



That by mentioning the Federal Medical Centre in Exhibit P7a and the averment in the Statement of Claim referring to the Fogi State Specialist Hospital, Lokoja, as the hospital which treated the Plaintiff's officer after the incident of 24.02.2013, creates doubt as to whether the Plaintiff's officer was hit by the Defendant's car at all, or it is just falsehood. See paragraph 25 of the Statement of Defence. Well, the Plaintiff has explained the mention of two different hospitals with regard to the same situation as a mix up on the part of the Solicitor who wrote the reply, Exhibit P7a.

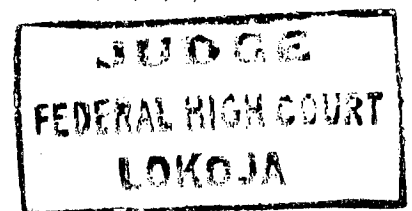
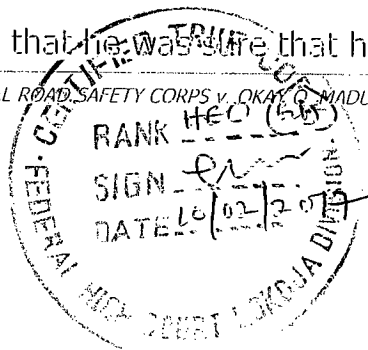
At paragraph 16 of the "Reply to the Statement of Defence and Counter Claim" It is stated as follows



The Plaintiff contend (sic) in response to paragraph 39 of the Statement of Defence and the particulars of fraud that when the Plaintiff's official was rushed to the State Specialist Hospital and later went to Ilorin for more medication for about two months, the Marshal and his team leader were not around to tell the Plaintiff's lawyer the 1st hospital he was rushed to when the Solicitor's letter was being replied.

The explanation above sounds credible, but assuming it was not, the contradiction about the hospital the Plaintiff's officer was taken to is not a serious one. There is evidence that the Plaintiff's officer was hit by the Defendant's car and was taken to a hospital. That is what is important. Moreover, in the Amended Statement of Claim and the Statements on oath of PW1 and PW2, respectively, the only hospital mentioned in those documents is the Kogi State Specialist Hospital, Lokoja.

The allegation of the Defendant that the Plaintiff's operative hit the windscreen of his vehicle with an object and broke it does not sound credible. The Defendant admitted under cross examination that he had ever seen patrol Team of the FPSC on duty on the road before. Similarly, at paragraph 14 of the Statement of Defence, the Defendant admitted that personnel of the Plaintiff usually stand at the Ganaja Junction. He also said on the date of the incident, the 24/02/2013, he could not tell whether the officers of the Plaintiff on patrol at Ganaja Junction, Lokoja were holding guns or sticks. The Defendant could not, therefore, tell for sure that it was the Plaintiff's officer that deliberately smashed the windscreen of his car. Moreover, the Defendant also admitted under cross examination that before the date of the incident of the 24/02/2013, he did not know whether any of the officers of the Plaintiff's Patrol Team on duty on that date at that point knew who he was but that he was sure that he did not know any of them.

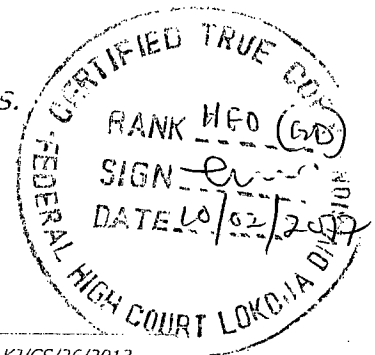


It does not, therefore, stand to reason to infer that the Plaintiff's operatives probably had an axe to grind with the Defendant and thus maliciously damaged the Defendant's Car.

I have looked at Part II of the Federal Road Safety Commission (Establishment) Act, 2007, in volume 6, Cap.F19 of the Laws of the Federation of Nigeria, updated to 31/12/2013 and section 16(1) thereof establishes the Federal Road Safety Corps, the Plaintiff herein. The Corps Marshal and other members of the Corps shall perform their functions under the direction of the Federal Road Safety Commission.

Under subsection (2) of section 10 of the Act, the functions of the Commission are spelt out. In section 10(3), the responsibilities of members of the Corps, the Plaintiff herein, are spelt out to include, *inter alia*:

- 3(a) *preventing or minimizing accidents on the highways.*
- (b)-(i)
- (j) *educating drivers, motorists and other members of the public generally on the proper use of the highways.*
- (k)-(n)
- (o) *making regulations in pursuance of any of the functions assigned to the Corps by or under this Act.*
- (p)-(r)
- (s) *regulating the use of seat belts and other safety devices.*

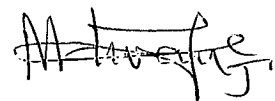


JUDGE
FEDERAL HIGH COURT
LOKOJA

Under subsection (4) of section 10 of the Act, the members of the Corps are conferred with powers to arrest and prosecute persons reasonably suspected of having committed any traffic offence as follows:

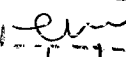
Section 10(4): In the exercise of the functions conferred by this section, members of the Corps, shall have power to arrest and prosecute persons reasonably suspected of having committed any traffic offence including the following offences and serve such persons with Court processes or a notice of offence sheet.

- (a) *obstructing the highway with a vehicle or any other object.*
- (b) – (g).....
- (h) *being on a road without the driver of the vehicle being in possession of a valid vehicle licence or identification mark being displayed.*
- (i) *being on a road without the driver of the vehicle being in possession of a valid driving licence or permit required by law.*
- (j) *driving a motor vehicle on a highway recklessly or negligently or at a speed or in a manner which is dangerous to the public.*
- (k) *driving a vehicle not fitted with seat belts or where fitted, not wearing them while the vehicle is in Motion.*



Additional powers are vested in the Corps under subsection (5) of section 10 as follows:

**JUDGE
FEDERAL HIGH COURT
LOKOJA**

CERTIFIED TRUE COPY
RANK HEO (GD)
SIGN 
DATE 19/02/2013
FEDERAL HIGH COURT LOKOJA DISTRICT

10(5): *In the discharge of the functions of the Corps by or under this Act notwithstanding the provision of section 18(1) of this Act, a member of the Corps shall have power to –*

(a) *Arrest any person suspected of committing or having committed an offence under this act;*

(b) - (g)

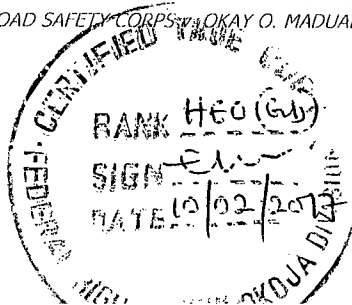
(h) *impound any vehicle by which an offence under this Act is reasonably suspected to have been committed, and*

10(6) *The driver or owner of the vehicle shall be liable to pay a sum of N200 for every day or part thereof during which the vehicle is detained:*

Provided that.....

The corporate reading of the above quoted sections of the Law are to effect that the Plaintiff's operatives were lawfully on patrol on the Road at Ganaja Junction Lokoja, performing their statutory duties. See the case of Federal Road Safety Commission v. Emmanuel A. Ofoegbu (unreported) Appeal No. CA/L/412/14, at page 24 where the Court of Appeal held, Per J. S. Ikejeh, JCA, that the Federal Road Safety Commission (Establishment) Act, 2007, establishes the FRSC and that the 2007 Act and the National Road Traffic Regulations 2012 made pursuant to Section 5 of the Act, 2007 have the force of law and they empower the FRSC to perform all the objectives of the Act, 2007.

The facts of the case herein show that the Defendant committed the primary offence of driving a vehicle fitted with seat belts but not wearing the seat belt while the vehicle was in motion contrary to section 10(4)(ee), of the



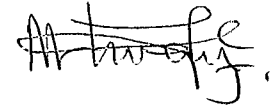
**JUDGE
FEDERAL HIGH COURT
LOKOJA**

Federal Road Safety Commission (Establishment) Act, 2007, Cap. F19 Laws of the Federation of Nigeria, updated to 2013.

On being stopped, the Defendant did not produce his driver's licence and vehicle particulars on demand by the Plaintiff's Marshals on duty, particularly, Barclays Toloni Kolto, Deputy Route Commander, for inspection. See section 10(4) (h) and (j) of the Act as well as section 67(1)(2)(3) and (4) under PART VII of the National Road Traffic Regulations 2012 made pursuant to the Act as subsidiary legislation.

Furthermore, under section 226(1) of the National Road Traffic Regulations, 2012, it is provided that:

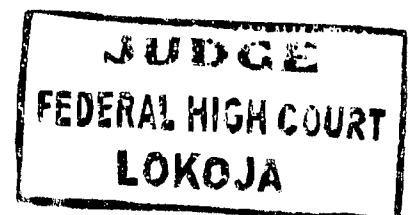
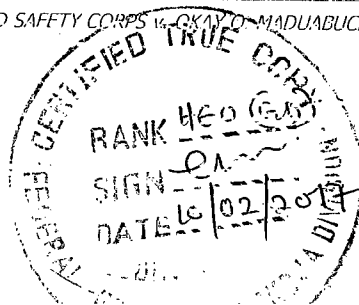
S.226(1): It shall be an offence for any driver of a motor vehicle to wilfully fail or refuse to bring his vehicle to a stop or otherwise flee or attempt to flee from a Federal Road Safety Corps member in Uniform, when given visual or audio signal to bring the vehicle to a stop.



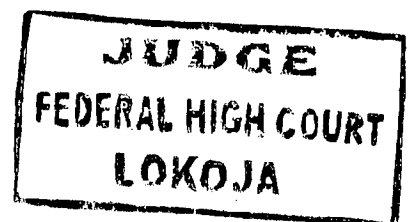
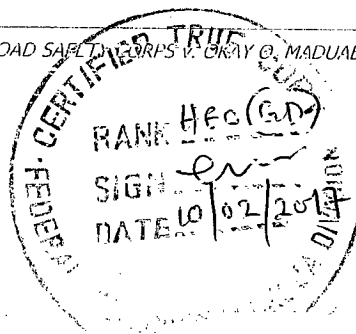
(2) Under this regulation "signal" may be by hand, voice, emergency lights or siren.

In the present case, the Defendant refused or failed to move over to the parking side of the road to be educated on the importance of the use of seat belt, while driving. He therefore refused to obey directions given to him by the Plaintiff's Marshal, an appropriate authority, to stop the vehicle and move over and park, contrary to Regulation 226 of the National Road Traffic Regulations, 2012.

In the result, I find that the Deputy Route Commander, PW2, was in order to have issued the Defendant with a Notice of offence sheet, Exhibit P1, on



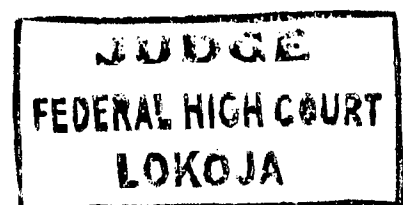
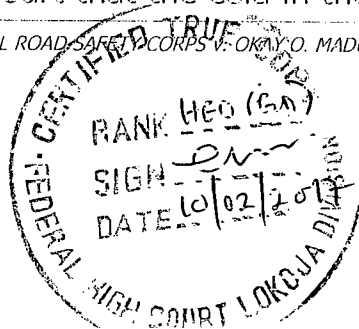
which it was indicated that the Defendant was booked for three offences, to wit: Driver's licence violation, failure to move over and seat belt violation. The fines were indicated on the Notice of offence sheet. The Defendant was also required to pay the sum of N200.00 (Two Hundred Naira) per day for the period his car was detained at the premises of the Plaintiff from the 24/02/2013. That the Plaintiff did pay the fines on the offences as charged on the Notice of offence sheet but failed to pay the correct amount for the period for which his vehicle was impounded and kept at the premises of the Plaintiffs. By approximate calculation, from the 24/2/2013 when the Defendant's vehicle was impounded and detained to the date he paid the fines on the 04/03/13 is a period of seven days. The Defendant paid the sum of N1,200.00 for the seven days the vehicle was detained. The Plaintiff alleges that the Defendant did not pay the full fine for the number of days the vehicle was detained at their premises. It appears that the Defendant did not pay N200.00 for the seventh day of the detention of his Car. The sum of N200.00 will be added to the special damages, accordingly. The Plaintiff also avers that the Defendant had agreed with the Sector Head of Operations to pay back to the Plaintiff the hospital bill and expenses incurred for the traditional medicine application on the Plaintiff's Marshal that was hit by the Defendant's car on the 24/02/13. There is no proof that there was any such agreement between the SHOOPS and the Defendant. The Defendant denies making such undertaking when he went to see the SHOOPS. This means that what is before the Court in that regard is the word of the Plaintiff against that of the Defendant. As there is no documentary evidence to show in that regard, I find that the Plaintiff's officers had acted arbitrary in keeping the Defendant's car after he had paid the fines indicated on the Notice of offence sheet and I so hold. See the response of PW1 and PW2 under cross



examination, respectively, that once an offender pays the fines indicated on the Notice of Offence Sheet given to him, his vehicle is usually released to him PW2 stated further that if thereafter the offenders car is not released, it becomes arbitrary act on the part of the Plaintiff's personnel and it means that the offender is deprived of the comfort of his car.

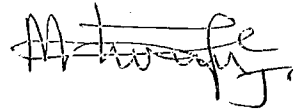
The evidence of PW1 and PW2 as I earlier stated, support the pleadings of the Plaintiff that the Defendant refused to move over when flagged down by the Plaintiff's officers and in driving off in disregard to the instruction to stop and move over, the Defendant recklessly hit the Plaintiff's officer, PW1, and he sustained chest injury. The windscreen of the Defendant's vehicle got broken by the incident. The Defendant, to my mind, was the architect of the damage to his vehicle and he cannot therefore turn round to blame the Plaintiff's officers for damaging his car by hitting the windscreen with an object which he did not mention by name even though the incident happened in broad day light, about 16.20 hours. I do not believe the narration of the Defendant in the above regard, that Plaintiff's officers smashed the windscreen of his car with an object or stone. The Defendant cannot therefore, hold the Plaintiff's officers liable for the said damage to his car and I so hold.

Having held that the Defendant refused to obey the instruction of the Plaintiff's officers to stop his vehicle on the highway and mover over, I hold that the Defendant did drive his car with Registration No. EQ 134 ABJ in a reckless manner and that led to the injury sustained by the Plaintiff's officer, Oluwaseun S. Adeshola, Marshal Assistant III. The said staff, PW1, suffered injury in his chest and even as at the time he was giving evidence in Court in this case, he showed signs of discomfort in his chest and complained of the same as he told the Court that the cold in the air conditioned Courtroom and



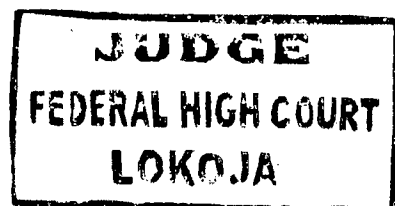
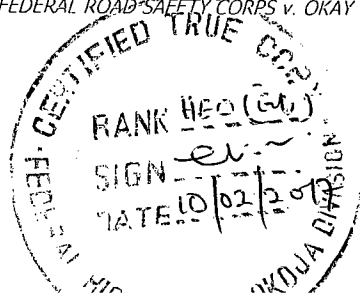
feeling sick. Particulars of special damages have not, however, been proved by the Plaintiff.

The only evidence of payment of hospital bill at the Kogi State Specialist Hospital is the sum of N3,450.00 only. The sum of N6,000.00 said to have been spent for "General Provisions for the period" of the victims treatment is also reasonable, but there is no documentary evidence to the claim that N50,000.00 was spent on hospital treatment of the victim or that N48,000.00 was spent for traditional treatment. Hospitals usually issue receipts for payment made for the treatment of their patients as shown on their invoices. In the present case there are no such receipts except the receipt from the Kogi State Specialist Hospital which indicates that a total sum of N3,450.00 was paid for the treatment of the Plaintiff's officer. The Plaintiff did not mention the village of the native doctor or the name of the said native doctor which was paid by his employer to treat him. See paragraph 19 of the written deposition on oath of PW1 before the Court. I find that the Plaintiff is entitled to the sum of N9,450.00 plus the N200.00 custody fee for one day making it a total of N9,650.00 only as special damages.



It is clear to me that the preponderance of evidence points to the conclusion that the Plaintiff's officer was hit by the Defendant's vehicle while he was performing his lawful duty and he was injured in the chest and treated at the Kogi State Specialist Hospital, Lokoja and also obtained a pass giving him permission for two weeks to travel to his home town, Ilorin, Kwara State for traditional treatment.

This evidence goes to prove beyond reasonable doubt that the Plaintiff was hit by the Defendant's car as a result of the reckless driving of the Defendant. The standard of proof of a criminal offence, even if alleged in a



civil case is proof beyond reasonable doubt. See section 135(1) the Evidence Act, 2011. The Superior Courts have held that "proof beyond reasonable doubt" does not mean "proof beyond all shadow of doubt".

The above was the holding of the Court of Appeal, per Adeloye, J.C.A. in the case of *ANUSA V. STATE* (2002) FWLP (PT.85) 382 when the Court considered the import of section 138(1) of the repealed Evidence Act, which is in *pari materia* with section 135(1) of the Evidence Act, 2011. In the said case, the Court of Appeal further held that:

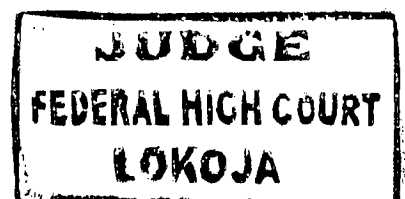
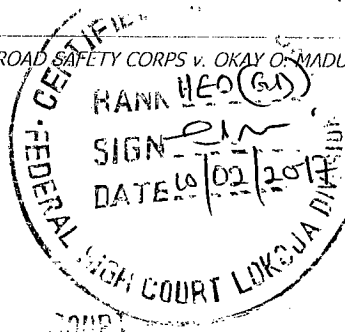
Thus if the evidence is so strong against a man as to leave only a remote possibility in his favour which can be dismissed with the sentence "of course it is possible but not in the least probable", the case is proved beyond reasonable doubt.

In the present case, the Defendant contended that he slowed down to negotiate the bend at the Ganaja Junction heading towards Lokoja town and so he could not have zoomed off at a speed and hit the Plaintiff's operative. His contention sounds possible but it is not in the least probable. The Plaintiff's witnesses, however, testified that the Defendant slowed down when he was flagged down but again zoomed off in order to avoid answering questions with regard to his primary offence of driving a vehicle without the seat belt on. That to my mind, is a more probable occurrence.

Section 343(1) (a) of the Criminal Code Act provides that:

S.343(1): Any person who in a manner so rash or negligent as to endanger human life or to be likely to cause harm to any other person.

(a) drives any vehicle or rides on any public way, is guilty of a misdemeanour, and is liable to imprisonment for one year.

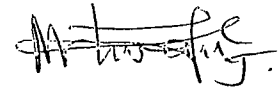


In the present case the Plaintiff has adduced sufficient evidence and proved beyond reasonable doubt through PW1 and PW2, eye witnesses, with PW1 being, infact, the victim of the Defendant's rash and reckless driving on a public way on the 24/02/2013, as analysed above.

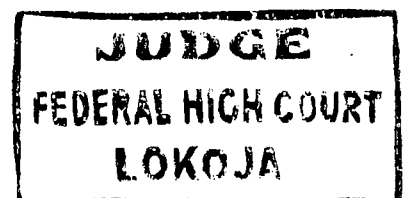
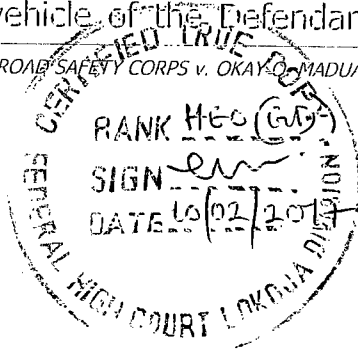
Issue one is resolved in favour of Plaintiff. The Plaintiff is, however, only entitled to special damages in part as well as general damages but not entitled to payment of the sum of N200.00 (Two Hundred Naira) per day from the 03/03/13 till filing the suit on the 10th of June, 2013 which is 100 days amounting to N20,000.00 (Twenty Thousand Naira) and/or N200.00 per day from 10/06/13 till the final judgement as custody fees on his impounded car with Registration No. EQ 134 ABJ, as the impoundment of the said vehicle became illegal after the Defendant paid the fines shown on the Notice of offence sheet given to him and I so hold.

Issue Two

Whether the Defendant has proved his Counter Claim to entitle him to the relief sought.



The evaluation of evidence under issue 1 already shows that the personnel of the Plaintiff did wrong when they still kept the Defendant's vehicle impounded at their premises even after the Defendant had paid the fines imposed on him for committing traffic offences. PW1 and PW2 also admitted under cross examination that it becomes an arbitrary act to still detain the vehicle of an offender when he has paid the fines imposed on him in respect of traffic infractions. The PW1 and PW2 also admitted under cross examination that the Defendant's car was still impounded at the Plaintiff's premises for about a year even after he had paid the fines imposed on him. See Exhibit D7. This implies that the Plaintiff's personnel acted arbitrarily in further detaining the vehicle of the Defendant after he had paid the fines.



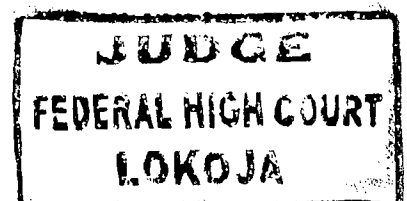
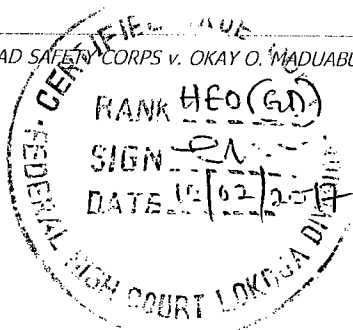
This Court, in a Puling delivered on the 12/12/2013, also made an Order directing the Plaintiff to release, forthwith, the Defendant's car with Registration Number EQ 134 ABJ. See Exhibits D9a and D9b.

The Defendant has adequately adduced evidence to show that he was using his car for his family and company business before the impoundment of the car by the Plaintiff's personnel on the 24/2/13. That the impoundment of his car caused the Defendant and his family hardship, shock and economic paralysis and cost of earning from his business activities. See paragraphs 53 and 58 of the Statement of Defence. The Defendant, also, at paragraph 53(i) (ii) gave particulars of hardship and financial loss and receipts of payment for car hire of vehicle with registration No. MT 810 GGE. See Exhibit D8.

The Counter Claim of the Defendant succeeds only in part and only to the extent that the refusal of the Plaintiff to release the car to the Defendant on the 04/3/13 after the payment of the fines imposed on him for three offences as listed on the notice of offence sheet was arbitrary and illegal. The impoundment of the Plaintiff's car after the incident of 24/2/13 was lawful and the fines imposed on him were in order. The Defendant is therefore not entitled to a refund of the N15,000.00 he paid as fines.

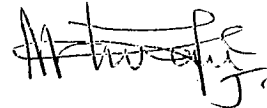
Conclusion and Verdict

On the whole, while the Plaintiff succeeds in part in its claim, the Defendant also succeeds in part in his counter claim.



The Plaintiff asked for award of special and general damages against the Defendant and the Defendant in his counter claim has asked for special, general and exemplary damages. The primary function of damages, is to compensate a person for breach of his legal right by the wrongful act of the Defendant which caused harm. See the case of UDOFEL LTD. & ANOR. V. SIYE BANI PLC (2014) LPELP – 22732 (CA) P.39 B-C.

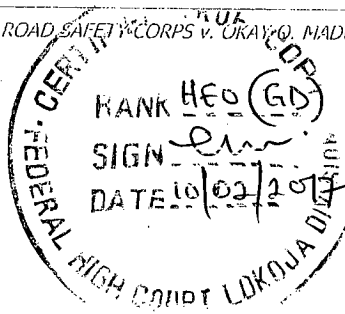
Now, general damages are described as damages the law will presume to be the direct, natural or probable consequence of the act complained of, whereas special damages are such damages as the law will not infer from the nature of the act complained of. Special damages are exceptional character wise and must be specifically pleaded and strictly proved. The difference between general and specific damages is that in the case of general damages, the Court can make an award when it cannot point out any measure of assessment except what it can hold in the opinion of a reasonable man. In the case of special damages, all the losses claimed on every item must have crystallized in terms and value before trial. See the cases of NIGERIAN COMMUNICATIONS COMMISSION V. MOTOR PHONE LTD. & ANOR. (2014) LPPELP – 8893 CA; ADEJUNLE V. POOLVIEW HOTELS LTD. (2004) 1 NWLP (PT.353) 161 at 173-174.



Exemplary damages are punitive and may be awarded in any of the following situations:

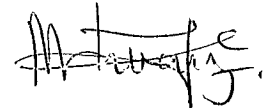
- a) When the action complained of is oppressive, arbitrary or unlawful/unconstitutional.

**JUDGE
FEDERAL HIGH COURT
LOKOJA**

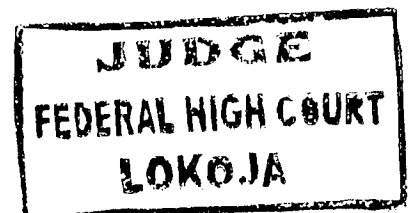
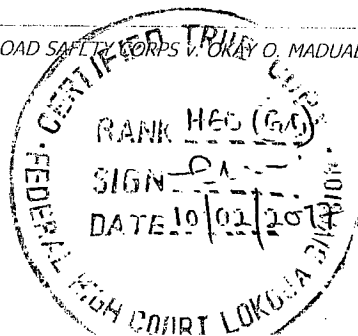


- b) Where the Defendant's action or conduct has been calculated by him to make a profit for himself which may well exceed the compensation payable to the Plaintiff.
- c) When expressly authorised by statute.

See UDOFEL LIMITED & ANOR V. SIYE BANI PLC. (2014) LPELR – 22742 (CA); WILLIAMS V. DAILY TIMES OF NIG. LTD. (1990) 1 NWLP (124) 1; ONAGOPUWU V. IGP (1991) 2 NWLP (1930) 593 AT 647 -8; IKEREMO V. CHIEKWE (1991) 2 NWLR (173) 316.



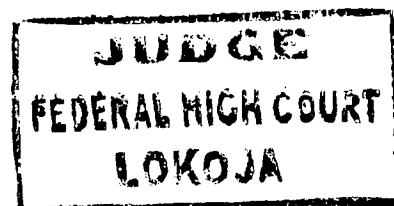
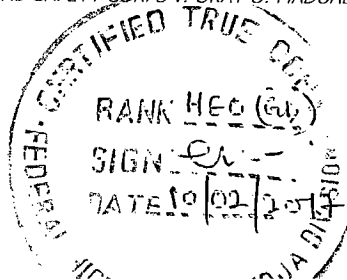
I have already held above in this judgement that the Plaintiff's staff had been injured and kept out of office by the rash and reckless act of the Defendant on a public way. The Plaintiff is therefore entitled to special damages for expenses incurred in the treatment of its staff for the injury to the extent specifically proved by the Plaintiff. The Plaintiff is also entitled to general damages for the suffering and trauma of the Plaintiff's staff as well as the vacuum created by the absence of the Plaintiff's staff who was kept out of his office to go treat the injury he sustained. It is glaring that as a result of that incident, the Plaintiff's officer was kept out of office and could not perform his rostered duties, thereby creating a vacuum for almost one month. See paragraphs 42 and 43 of the Amended Statement of Claim and paragraphs 19 and 20 of the written statement on oath of the Plaintiff. Even though there is no proof that the Plaintiff's officer was treated by a native doctor in a village, the two-wheel pass given to the Plaintiff's officer indicates that he was not on duty immediately after the period of the accident and his treatment at the Ilogi State Specialist Hospital. The Plaintiff is therefore entitled to general damages, and I so hold.



I have also held that the Defendant is entitled to special damages, particulars of which he has stated and supported with receipts, Exhibit D3. Going by the definition of exemplary damages, as given above in this judgement, such exemplary damages may be awarded where the Court finds that the wrongful act on the part of the Defendant or (in the present case the Plaintiff/Counter Defendant), is oppressive or arbitrary. I have held herein, that the operatives of the Plaintiff acted arbitrarily when they kept the car of the Defendant still in their custody after he had paid the fines shown on the Notice of Offence Sheet. The Defendant is, therefore, entitled to exemplary damages. I, however, feel constrained not to award much money in the area of exemplary damages but only as a token to show that the Court frowns at the excesses of the Plaintiff's operatives to the Defendant. I say so because taking a holistic view of the scenario of this case, the act which led to the entire incident which brought the Plaintiff to Court to claim reliefs was based on the wrongdoing of the Defendant who refused or neglected to obey the signal of appropriate authority to move over to the parking portion of the road. As rightly observed by Tsoho, J. in the case of TOPE ALABI V. NATIONAL ASSEMBLY & 20 OPS (unreported) (supra), "the Court cannot inhibit the FRSC from performing its statutory duties, while leaving the Plaintiff's/motorist and other road users to do as they like. There must be law and Order in society". I, totally, agree with my Brother.

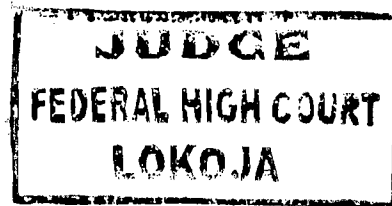
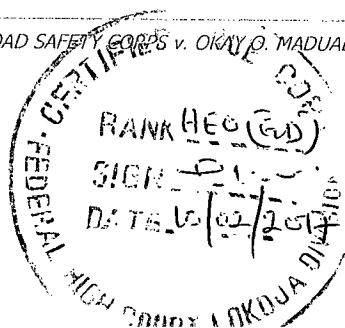
In the result, I make the following Orders:

1. A declaration is made that the dangerous driving of the Defendant in a Toyota Camry (Pencil Light) Car with Pegistration No. EQ 134 ABJ which led to the accident involving Oluwaseun S. Adeshola (Road Marshal Assistant III) a staff of the Plaintiff, in the course of his official duties, caused the Plaintiff to incur financial expenses for the



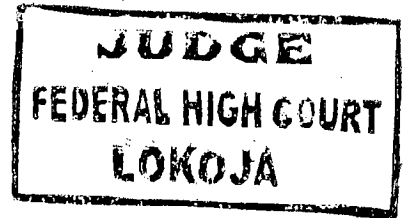
- medication of the said Oluwaseun S. Adeshola, (Road Marshal Assistant III).
2. An Order is made compelling the Defendant to pay special damages in the sum of Nine Thousand, Four Hundred and Fifty Naira (N9,450.00) only as medical bill to the Plaintiff incurred for the treatment of her staff. Oluwaseun S. Adeshola, (Road Marshal Assistant III).
 3. An Order is made compelling the Defendant to pay the sum of N200.00 (Two Hundred Naira) only for the one day he omitted to pay when he paid the custody fee on his impounded car with Registration No. EQ 134 ABJ on the 04/03/2013.
 4. An Order is made directing the Defendant to pay to the Plaintiff the sum of Two Million (N2,000,000.00) only as general damages for the Defendant's wrongful act of hitting the staff of the Plaintiff, Oluwaseun S. Adeshola (Road Marshal Assistant III) with his car with Registration No. EQ 134 ABJ, on the 24/02/2014, at Ganaja Junction, near Halims Hotel, Lokoja, which caused the said Plaintiff's staff serious body injury, pain, trauma, financial loss, hardship, and keeping the staff out of his office, thereby creating a vacuum.
 5. An Order is also made in respect of the Defendant's Counter Claim compelling the Plaintiff to pay to the Defendant Special damages in the sum of N1,223,000.00 (One Million, Two Hundred and Twenty Three Thousand Naira only).
 6. An Order is made directing the Plaintiff to pay the sum of N500,000.00 (One Hundred Thousand Naira only) to the Defendant as exemplary damages for arbitrarily keeping his Toyota Camry Car with Registration No. EQ 134 ABJ beyond 04/03/2013 in its custody after he had paid the

AA [Signature]



finer shown on the Notice of Offence Sheet given to him by the Plaintiff on the 04/03/2013.

This shall be the judgement of this Court in this case.

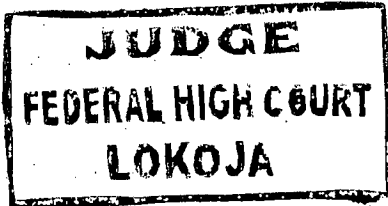


Hon. Justice Phoebe Nsuean Ayua
Judge

10th day of November, 2016

Parties: Are all absent from Court.

Appearances: F. G. Yawa, Esq., for the Plaintiff/Counter Defendant and A. O. Onoja, Esq., (with David I. Ali, Esq.), for the Defendant/Counter Claimant.



Hon. Justice Phoebe Nsuean Ayua
Judge

10th day of November, 2016

