

THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT OF JUSTICE
ACCRA – A.D. 2023

on 31-3-2023
3:00 am/pm
Registrar
SUPREME COURT OF GHANA

SUIT NO.:

THE REPUBLIC

VS

J5/42/2023

THE HIGH COURT (COMMERCIAL DIVISION 2)
ACCRA

EX PARTE:

1. ANDREWS ACQUAH --- INTERESTED PARTIES
2. ABUBAKAR HAMZA
3. ADU KENNEDY
4. LAWRENCE EDINAM EGLEH
5. ISMAIL ALI SHERIFF
6. SOLOMON APPIAH
7. ABDUL-YAKINI LUKMAN
8. GIDEON QUANSAH
AND 161 OTHERS

ALL RESIDENT AT COMMONWEALTH HALL
UNIVERSITY OF GHANA – LEGON, ACCRA

VS.

UNIVERSITY OF GHANA --- APPLICANT
LEGON, ACCRA

**NOTICE OF MOTION: APPLICATION TO INVOKE THE
SUPERVISORY JURISDICTION OF THE SUPREME COURT UNDER
RULE 61 OF CI 16 AND ARTICLE 132 OF THE 1992 CONSTITUTION**

PLEASE TAKE NOTICE that pursuant to the provision of Article 132 of the Constitution, this Honourable Court will be moved by Counsel for and on behalf of the Applicant, **KWABENA ADU-KUSI** of ADU-KUSI PRUC of Third Floor, Teachers' Hall Complex, Off Barnes Road, Adabraka, Accra on the day of APRIL, 2023 at 9:00am o'clock in the forenoon or so soon thereafter as Counsel can be heard on the hearing of an application for:

1. *An Order bringing up into this Court for the purpose of quashing and accordingly quashing the Orders, including the order for injunction and Proceedings of the High Court, Commercial Division 2, Accra of February 9, 2023 by His Lordship Obiri J.*

2. An **Order of Prohibition** restraining His Lordship Obiri J, High Court Judge, sitting at Commercial Court 2, Accra from hearing the substantive suit or any other aspect of the said suit.
3. An **Order of Injunction** to restrain the High Court and the Interested Parties herein from enforcing the Orders of the Commercial Court 2 dated February 9, 2023 made by His Lordship Obiri J

Directed at the High Court (Commercial Court 2) Accra

UPON GROUNDS set forth below, namely,

- a. *The failure of the Court to determine the Applicant's application to cross-examine the deponent of the Affidavit in Support of the application for Injunction filed by the Interested Parties before making a determination of the Injunction application on the basis of the impugned Affidavit in Support constituted a grave error apparent on the face of the record.*
- b. *The Learned Trial Judge's relationship with "Vandals" of Commonwealth Hall of the University of Ghana and his conduct of the case so far suggests bias or a real likelihood of bias.*

And as further set forth in the accompanying affidavit.

AND for any other order(s) which this Honourable Court may deem fit.

COURT to be moved on day of April, 2023.

DATED AT ACCRA THIS 7TH DAY OF MARCH, 2023

ADU-KUSI, PRUC
Attorneys & Consultants
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P.P. *Adabire*
.....
KWABENA ADU-KUSI
LICENCE NO: eGAR00890/23
ADU-KUSI PRUC
LAWYERS FOR APPLICANT

THE REGISTRAR
SUPREME COURT
ACCRA

AND FOR SERVICE ON THE INTERESTED PARTIES OR THEIR
LAWYER, MAXWELL KORBLA LOGAN, LOGAN & ASSOCIATES,
KINGFISHER HOUSE, NO. E742/1, 10TH AVENUE, RINGWAY, OSU-
ACCRA.

Filed on... 31-3-20
at... 3:00
SUPREME COURT OF GHA

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LEGON, ACCRA

AFFIDAVIT IN SUPPORT

I, Gordon Akanzuwine Awandare of 47 Little Legon, University of Ghana, Accra, make oath and say as follows:

- 1. That I am the deponent herein and Pro Vice-Chancellor of the Applicant herein.
- 2. That I have the consent of the Applicant to depose to these facts, which are within my personal knowledge and belief, having acquired same in the course of my work and position.

3. That at the hearing of this application, Counsel for the Applicant will seek leave of this Honourable Court to refer to the processes so far filed in this matter.
4. Unless otherwise indicated, any matter deposed to by me in this Affidavit which borders or relates to law, I make on the basis of advice I have received from Applicant's Counsel, which advice I believe to be true.
5. That on January 16, 2023, the Interested Parties herein filed an Application for Interlocutory injunction for the reliefs endorsed on the face of the motion paper. Attached and marked as **Exhibit 'A'** is a copy of the said Application, Affidavit in Support and accompanying Statement of Case.
6. That on February 8, 2023, the Applicant subsequently filed an Affidavit in Opposition denying material depositions contained in the Affidavit in support of the Application for Interlocutory Injunction filed by the Interested Parties. Attached and marked as **Exhibit 'B'** is a copy of the Affidavit in Opposition.
7. That on February 8, 2023, the Applicant herein filed a Motion for Leave to Cross-Examine *Lawrence Edinam Egleh*, the Deponent of the Affidavit in Support of the Interested Parties' Motion for Interlocutory Injunction on grounds set out in the affidavit in support of the motion. Attached and marked as **Exhibit 'C'** is a copy of the Application and Affidavit in Support.
8. That the said Motion for leave to cross-examine the deponent was to be moved on February 27, 2023, a date assigned by the Registrar of the Court below.
9. That on February 7, 2023, the Honourable Judge directed that the Court would deliver its ruling on the Application for Interlocutory Injunction, **which was yet to be moved, on February 9, 2023**. Attached is a copy of the record of proceedings for the day and marked as **Exhibit 'D'**.
10. That on the said February 9, 2023, the date fixed by the Court for ruling, the Applicant drew the Court's attention to its Motion for Leave to Cross-Examine the Deponent to the Affidavit in Support of the Interested Parties' Application for Interlocutory Injunction.
11. That the Applicant further explained to the Court that the said Motion for Leave to Cross-Examine was to impugn the evidence given by the

Deponent in the depositions contained in the Affidavit in Support of the Interested Parties' Application for Interlocutory Injunction, which Application was the subject of the Court's ruling.

12. That the Applicant urged on the Honourable Court to stay the hearing of the Application for Injunction and its Ruling on the Application for Interlocutory Injunction filed by the Interested Parties pending the hearing and determination of the Applicant's Motion for Leave to Cross-Examine the Deponent, given that the ruling of the Court on the Application for Interlocutory Injunction would be based on the evidence contained in the impugned Affidavit in support of the Interested Parties' Application for Interlocutory Injunction.
13. The Applicant also urged the Court that in the event that it was not minded to take the Motion for leave to cross-examine the deponent on the date assigned by the Registrar, the Court could
 - a. Exercise its powers to abridge time and hear the Application to cross-examine immediately or
 - b. Hear the application orally as the authorities, including the Supreme Court case of *Kojach Limited vs. Multichoice Ghana Limited* had held.
14. The Applicant had explained to the Court that the Application for Leave to Cross-examine could not have been made earlier- even if orally- because the first time the application formally came to be heard was February 9, 2023, which was the date of the ruling on the Application for Injunction.
15. That the Trial Judge however proceeded to give its Ruling on the Application for Interlocutory Injunction filed by the Interested Parties on the grounds that the Applicant's motion impugning the Interested Parties' Affidavit in Support did not operate as a stay of proceedings.
16. That the Trial Judge further held that the Court's pre-existing decision that it would give its Ruling on that day, February 9, 2023, subsisted and remained in force and would not be set aside.
17. That the Trial Judge then proceeded to give its ruling on the Application for Interlocutory Injunction filed by the Interested Parties on the evidence deposed to by the deponent in the impugned Affidavit in Support.

18. That the Applicant applied for a certified copy of the Court's ruling on granting the Application for Injunction made on February 9, 2023 immediately after the order was made. As at the time of the filing of the instant application, the Applicant had not received same.
19. That I am advised by Counsel and verily believe same to be true that it is a party's fundamental right at law to cross-examine a witness in a matter, which right is so fundamental that the courts may exclude the testimony of a witness who is unavailable for cross-examination.
20. That I am further advised by Counsel and verily believe same to be true therefore that the refusal of the Trial Judge to hear and determine the Applicant's Motion for Leave to Cross-Examine the deponent before considering the Application for Injunction on the basis of the impugned Affidavit of *Lawrence Edinam Egleh* was an error which is clear on the face of the record which error warrants the quashing of the said Order by an order of certiorari.
21. The Learned Judge's refusal to consider the Applicant's application for leave to cross-examine the Deponent before proceeding to rely on the affidavit, for which the Application to cross-examine related, occasioned substantial miscarriage of justice.
22. Immediately following the Decision of the Court granting the Injunction, some of the Interested Parties and others proceeded to the University, breached security and proceeded to Commonwealth Hall of the University of Ghana purporting to enforce the decision of the Court.
23. The said conduct of some the Interested Parties and others materially breached the peace on the Campus of the University, resulted in attacks on the University Security and the Police, resulting in the arrest and prosecution of about eighteen (18) persons.
24. Unless restrained by this Honourable Court, the Interested Parties and their privies would continue to breach the peace and quiet of the Applicant University adversely affecting the environment required for teaching, learning and research.
25. The instant suit, although commenced by persons purporting to be Students of the University Ghana who are resident in/or affiliated with Commonwealth Hall of the University of Ghana, is in fact spearheaded by persons who have had an affiliation, residence or association with the

Commonwealth Hall of the University of Ghana who refer to themselves as Old VALDALS or VANDALS as if they are students or currently resident in Commonwealth Hall, whether legally or illegally.

26. Old Vandals share common ideology and are very invested in matters affecting students of Commonwealth Hall of the University of Ghana.
27. There is currently pending in the High Court, two matters commenced by the Old Vandals Association, one of which arises from the same facts and seek same reliefs as the instant matter filed by the Interested Parties in which the Old Vandals purport to be acting for and in the interest of the current students of Commonwealth Hall in respect of the New Residency Policy of the University, the subject matter of both disputes. *Attached herewith are the Originating Processes in the said disputes and marked as Exhibit 'E series.'*
28. In *Suit Number GJ/0294/2023* entitled *Republic vs University of Ghana; Ex parte Old Vandals' Association – National*, his Lordship Justice Stephen Oppong (sitting at the General Jurisdiction court 3) declined Jurisdiction because he was an old Vandal and indicated that he wanted to avoid any appearance of bias.
29. I am informed by, Dr Poku Adusei, whose Affidavit in support is included herewith, and verily believe that Justice Francis Obiri, when he was a student at the University of Ghana, was officially attached to Akuafu Hall but was at all material times during his studentship in University of Ghana, resident at Commonwealth Hall of the University of Ghana and by definition a Vandal.
30. I am further informed that Justice Obiri was the lead assistant of the then Chief Vandal, a very revered office of Vandals, by the alias Chief Korea.
31. The impartiality of Justice Obiri in these matters in which Vandals are deeply invested cannot be assured.
32. In *Suit number GJ/0376/2023 Andrews Acquah & 168 others vs University of Ghana*, the said Justice Obiri has conducted himself in a manner that suggests bias or the real likelihood of bias including the following:
 - a. The decision not to consider the Application for leave to cross-examine *Lawrence Edinam Egleh*, the deponent of the Affidavit in Support of the Application for Injunction before considering and

granting the application on the basis of the impugned affidavit. Moreso, when the Applicant had prayed the Court to abridge time or even take the application orally in keeping with the decisions of this Court. The Applicant did not have any other avenue to make the Application as the Application for injunction was not formally moved so that the Applicant would have made an application to cross-examine the deponent.

- b. The ruling of the Court granting the Application for injunction did not appear to consider at all any of the facts and issues raised by the Applicant herein.
- c. The Court in the result granted an order for injunction restraining the University from implementing a decision that had not been taken, at least not on the date alleged and/or matters that had clearly, from the Interested Parties' own showing, already taken place.
- d. The undue delay in providing the injunction ruling of the Court. The ruling made on February 9, 2023 is yet to be provided to the Applicant in spite of constant checks and requests.
- e. The very short time afforded the Applicant to file its affidavit in opposition to the Application for Injunction. The Trial Judge, on February 7, 2023, directed that the Applicant file its Affidavit in Opposition to the Application for Interlocutory Injunction filed by the Interested Parties by 2pm of February 8, 2023, the very next day. Meanwhile, the proceedings of February 7, 2023 ended rather late, at the time when the registry of the Court was soon to close.
- f. The refusal of the Applicant's Motion for Leave to cross-examine the deponent of the Affidavit in Support of the Contempt Application filed by the Interested Parties, even in the absence of an Affidavit in Opposition by the Interested Parties. Attached and marked as *Exhibits 'F1', 'F2' and 'F3'* is a copy of the said Contempt Application, the Motion for Leave to Cross-Examine the Deponent of the Affidavit in Support of the Contempt Application and the Ruling of the Court on the Application for Leave to Cross-Examine.

33. WHEREFORE I depose to the facts contained in this Affidavit in Support of the Application for Certiorari, Prohibition and Injunction.

SWORN IN ACCRA THIS DAY OF MARCH, 2023.

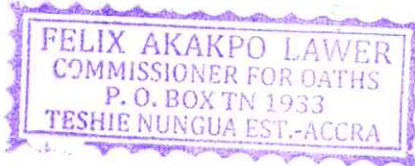
[Handwritten Signature]
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DEPONENT

SWORN BEFORE ME

[Handwritten Signature]

COMMISSIONER FOR OATHS



**THE REGISTRAR
SUPREME COURT
ACCRA**

**AND TO THE INTERESTED PARTIES OR THEIR LAWYER,
MAXWELL KORBLA LOGAN, LOGAN & ASSOCIATES,
KINGFISHER HOUSE, NO. E742/1, 10TH AVENUE, RINGWAY, OSU-
ACCRA.**