

IN THE MAGISTRATE COURT OF LAGOS STATE
IN THE LAGOS MAGISTERIAL DISTRICT
HOLDEN AT ETI OSA

SUIT NO:

BETWEEN

- 1. Dr. Dan Edokpolo Austin**
- 2. Cynthia Nwokeuku Austin**
- 3. Austin Family Holdings Limited**
- 4. Uplift Medicals Limited**
- 5. Cigenet Properties Limited**
- 6. Stallion Technology Limited**
- 7. Mr. Akorede Adeyinka**

CLAIMANTS

AND

- 1. Mr. Jeffery Okpaleke**
- 2. Jeffery Okpaleke trading under the name
And Style of BLD**

DEFENDANTS

**WRITTEN DEPOSITION OF THE CLAIMANT WITNESS BROUGHT
PURSUANT TO SECTION 27(1) OF THE LAGOS STATE TENANCY
LAW, 2015**

I, **JOSEPH OHONYON IDU**, Male, Adult and Christian Nigeria Citizen of 15A, Admiralty Way, Lekki Phase 1, Lagos do hereby make an oath and state as follows:

1. That I am the deponent herein.
2. That I am Staff of the 1st to 6th Defendant in this Case and a member of the property management team managing the property subject matter of this suit.

3. That by virtue of my position above stated in Paragraph 2, I know the Defendants as the Occupant of Unit A1, A2, A3 of our Company's property subject matter of this Suit.
4. That all the facts contained in this witness deposition are facts within my personal knowledge and information save as otherwise stated.
5. That I have the consent of Claimants and my employers to depose to this affidavit.
6. That I am aware that the property subject matter of this Suit was rented to the 1st and 2nd Defendants since 2014 though the tenancy agreement was executed on 14th day of June 2019 and upon expiration of the Tenancy contract, the Defendants requested for extension of the tenancy and by the agreement of the parties, the tenancy was extended and a new Tenancy/lease Agreement dated 1st July 2019 was executed by the parties. The Tenancy/lease agreement dated 14 June 2019 which extended the Defendants Tenancy with the Claimants is hereby pleaded as exhibit ODC1 and shall be relied upon at the trial of this suit. The Tenancy agreement dated 1st July 2019 is hereby pleaded as exhibit ODC2 and shall be rely upon at the trial of this suit.
7. That by the Tenancy/lease Agreement which extended the Defendant's tenancy ie exhibit ODC2, the Defendants are required to pay their rent every six (6) month with a yearly increment of N600,000 (Six Hundred Thousand Naira Only) in this order.
 - i. Total rent to be paid in the year 2020=11,000,000 (Eleven Million

Naira Only) N5,500,000 (Five Million Five Hundred Thousand Naira) to be paid in January and expired in June 2020 and N5,500,000 (five Million Five Hundred Thousand Naira to be paid in July and expire in December 2020.

- ii. Total rent in 2021 =11,600,000 (Eleven Million Six Hundred Thousand Naira Only) N5,800,000. (Five Million Eight Hundred Thousand Naira only) to be paid in January 2021 and expires June 2021 and N5,800,000(Five Million Eight Hundred Thousand Naira only) to be Paid in July 2021and expired in December 2021
- iii. Total rent to be paid in 2022. N12,400,000. (Twelve Million Four Hundred Thousand Naira only) N6,200,000 (Six Million Two Hundred thousand naira only) to be Paid in January 2022 and expired in June 2022 and N6,200,000 (Six Million two Hundred thousand naira only) to be paid in July 2022 and expired in December 2022.
- iv. Total Rent to be paid in 2023 is N13,000,000 (thirteen Million Naira Only). N6,500,000. (Six Million Five Hundred thousand naira only) To be paid in January and expires in June 2023 and N6,500,000 (Six Million Five Hundred thousand naira only) to be paid in July and expires in December 2023
- v. Total rent to be paid in 2024 is N13,000,000. N6,500,000. Six Million Five Hundred to be paid in January and expires in June 2024 and N6,500,000 (Six Million Five Thousand Naira to be paid in July and expires in December 2024.

8. The above stated rent amount and order of payment is stated in clause 5 of exhibit ODC2 executed by the parties which extended the tenancy after the expiration of the first Tenancy and clause 6b of the same agreement requires the Defendants to pay the above rent in area in the manner described above.
9. The Defendants immediately upon signing the second Tenancy/ Lease agreement defaulted in paying their rent as required by the agreement and were in arrears of rent since 2020 till the date of filing of this suit. The Claimants made several demands for rent payment which the Defendants ignored in breach of the Tenancy Lease Agreement.
10. Also, the Defendants in clear breached of the Tenancy Agreement paid their rent in arrears, at all-time that, they had paid rent since the signing of the extension of their tenancy contrary to the agreement which required that rent must be paid in advance.
11. Again the Defendants breached clause 6f of the Tenancy/lease Agreement continuously till this moment of filing by altering the property and purportedly renovating, breaking walls, erecting new walls and altering the property in various ways without the consent of the Landlords first sought and obtained. The landlords sent various emails demanding that the Defendants stop the continuous breach in form of alteration, damage to the walls, breaking of the wall purported renovations but the Defendants refused to refrain from the breach and continually deals with the property. as if they were the owners of the property. The Claimants hereby plead

various emails sent to the Defendants requiring them to stop constructions, alterations, breaking of walls, remove waste and pay their overdue rent etc as exhibit ODC3 a,b,c,d,e,f,g,h, shall be relied upon at the trial of this suit.

12. Clause 6f of the Tenancy/lease Agreement ie exhibit ODC2 require that the Defendants must first seek and obtain written permission of the landlord before they can make any structural alteration to the property yet, the tenants/Defendants herein ignored this clause and breached same almost throughout the subsistence of the tenancy till date.
13. Clause 6n of the Tenancy/Lease Agreement attached as exhibit ODC2 expressly stated that the Defendants tenancy comes to an end if the Defendants failed to pay their rent within two weeks of every payment or due payment months which is always January and July of every year and that the Landlords/Claimants are only required to issue 30 days' notice to the Defendants in the event that the default in payment of rent within or any breached of the Tenancy/Lease Agreement occurred.
14. I am aware that the landlords authorized Success Ogebe Esq to issue a 30 day notice in accordance to clause 6f of the Tenancy agreement which requires that the Defendants be serve 30 day notice upon any breach of the Contract and Success Ogebe ESQ issued the 30 day notice dated 3rd August 2024. Success ogebe came to the premises on the same day at about 3:30pm and served the 30 day notice on Mr. Kelvin in my presence 30 day

notice to quit dated 3r August 2023 is hereby pleaded as exhibit ODC4 and shall be relied upon at the trial of this suit.

15. Seeing that the Defendants Tenancy is a half yearly Tenancy and the Defendants are in arrears of rent as well as breach of the contract, our company Lawyer, Success Ogebe Esq issued a 3 month notice to quit dated 14th day of March 2024, which he came to the premises on the same day and served the Notice on Mr. Kelvin who was the only available staff of the Defendants on duty on this day at about 4:30pm. Kelvin received the Notice in my presence. 3 month notice dated 14th march 2024 is hereby pleaded as exhibit ODC5 and shall be relied upon at the trial of this suit.

16. The Defendants refused to move out of the Premises despite the Notices served on them and my company briefed Mr. Success Ogebe Esq to apply to the Magistrate Court to recover the Premises from the Defendant.

17. Upon being brief to apply to the Court to recover the Premises, Mr. Success Ogebe issued a 7 day notice of owners intention to apply to Court to recover possession, he brought the Notice to the premises and no staff or member of the Defendants were around so, he handed over the notice to me and I served same on Kelvin who has being receiving the previous notices on the 22nd day of July 2024 in the premises. Notice of owners intention to apply to Court dated 19th July 2024 is hereby pleaded as exhibit ODC6 and shall be relied upon at the trial of this suit.

18. I am also aware that my employer sent two month notice to quit to the Defendants through email when the continuous breach of the contract became ceaseless with impunity and disregard to the Claimant's right of ownership. Copies of emails sent requiring the Defendant to stop the various breach of contract and demanding for the payment of rent are already attached as exhibit and shall be relied upon at the trial of this suit.
19. That despite all these notices, served on the Defendants, the Defendants failed, refused and neglected to vacate the promises and or give up possession. The Defendants instead withhold possession illegally. All efforts endeavored to persuade the Defendants to give up possession failed as the Defendants continued to withhold the property hence this Suit.
20. That by provision of the Tenancy/lease agreement, the Defendants ought to give up possession the moment they are in breach of the contract and the Court is empowered to order the Defendants to give up immediate vacant possession to the Claimants.
21. That the Defendants are still violating the contract up till this moment of filing and if the Court did not immediately order the Defendants to give up vacant possession, the Defendants will damage the Claimant's property maliciously.
22. That I pray the Honourable Court to assist the Claimants and recover the property from the Defendants so that the landlords will be able to take benefit of their property as the Defendants are currently not paying rent.

23. That the rent of the property increase by N600,000 (Six Hundred thousand naira every year hence the figure/amount requested for mesne profit in this suit is different year to year in recognition of the yearly incensement in the rent.
24. That the property subject matter of this suit is being used by the Defendant as a restaurant and the Defendant makes money on daily bases yet they are refusing to pay their rent even though they make profit every day.
25. The Defendants has also refused to pay service charges which include security, water etc while enjoying the services which are in e victable in the premises.
26. The Defendants refusal to pay rent is deliberate and it is in the interest of justice that the Defendants be order to pay 10 percent interest every every month on the arrear of rent and mense profit hence the request for interest on arrears of rent and mense profit in t his case.
27. That my company is billed to pay N1,500,000 (One Million Five Hundred Thousand Naira only) by Success Ogebe Esq to file this suit.
28. That the Defendants had been informed earlier that should they refused to move out after the service of notice on them and the Claimant is force to hire a lawyer for this eviction, the Defendants will bear the cause of eviction. The invoice of Ogebe Defence Chambers is hereby pleaded as exhibit ODC7 and shall be relied upon at the trial of this suit.

29. That the Defendants has not paid any rent since the beginning of this year even though they make money daily from the property and the Defendants are accordingly in arrears of rent as stated in this writ.
30. That the Defendants has resorted to dealing with the property Maliciously and depreciating the value of the property by deliberately breaking any part of the property they wish to break and rebuild as they wish.
- 31.** I pray the Court to order the Defendant to pay Arrears of rent in the sum of N9,749,999 (Nine Million, Seven Hundred and forty Nine Thousand, Nine Hundred and Ninety Nine Naira) owned from 1st day of January 2024 to 30th day of September 2024 and to pay mense profit in the rate claimed in the writ to wit:
- a. N1,083,333,33 kobo (One Million, Eighty hundred and Three Thousand, three hundred and thirty three naira thirty three Kobo) per month from 1st day of October, 2024 until the 31st day of December 2024.
 - b. 1, 125,000 (One Million, One Hundred and Twenty Five Thousand Naira per month from 1st January, 2025 till 31st December, 2025 and 1,166,666,66 (One Million, One Hundred and Sixty Six Thousand, Six Hundred and Sixty Naira, sixty six Kobo per month from 1st January 2026 till 31st December 2026. The variation in the amount claim as mense profit is in recognition of the yearly increment of rent as clearly obvious in the contract.

32. That it is in the interest of justice for this Honourable Court to grant the Claimant's Claim as per the writ.

33. That the Claimants Claim as per the writ and pray the Honourable Court to grant all their Claim in the interest of justice.

34. That I deposed to this affidavit in good faith.


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DEPONENT

SWORN to at the Magistrate Court Registry Eti-Osa

Thisday of.....2024.

09 day of October 2024

BEFORE ME



COMMISSIONER FOR OATH



