

**IN THE MAGISTRATE COURT OF RIVER STATE OF NIGERIA**  
**IN THE PORT HARCOURT MAGISTERIAL DISTRICT**  
**HOLDEN AT PORT HARCOURT**  
**BEFORE HIS WORSHIP S. S. IBANICHUKA, ESQ**  
**HOLDEN AT SMALL CLAIM COURT 6 PORT HARCOURT**

**PMC/SCC/303/2024**

**MR CHIJOKE NWANKWO ESQ** ..... **CLAIMANT**

**AND**

**AIR PEACE LIMITED** ..... **DEFENDANT**

**JUDGEMENT**

This action was instituted via forms RSSC 2 and RSSC 3 of this court filed on the 7-11-24 wherein the claimant claim are for the following:

- i. The sum of **₦219,000.00 (Two Hundred and Nineteen Thousand Naira)** being and representing total expenditure incurred by the claimant as a result of the defendants conduct.
- ii. **₦2,000,000 (Two Million Naira)** only as cost of litigation.

In proof of his case the claimant testified as the sole witness (CW1) and tendered Exhibits "A,A1 to A5, B, B1 and B2, C,D, D1 to D4, E, E1 to E9, F and G respectively. The Defendant did not cross examine CW1 neither did the defendant defend this suit and was never represented by counsel despite proof of service in the courts file of the originating processes in this suit and hearing notices as well on the defendant. The claimant applied and the defendant was foreclosed from cross examining CW1 and defending this suit. At the close of hearing the claimant counsel waived his right to address the court orally or in writing.

The summery of the facts of this case are that the claimant was scheduled for a business meeting on 11-10-24 in Abuja Nigeria and he booked a round trip from the Defendant from Port Harcourt to Abuja at the cost of **₦300,000.00 (Three Hundred Thousand Naira)** , that his departure time for his trip was 08:25am from Port Harcourt and arrival time in Abuja was 09:25am , and the schedule of his return flight was 14:05 pm from Abuja to arrive Port Harcourt on 15:05pm, that the departure and arrival time was changed and that due to the change in the flight schedule by the defendant which affected the claimants business meeting, , the claimant asked for a reschedule of his flight and the ticket was reissued but the defendant again changed the time for the flight schedule , that the claimant finally travelled to Abuja on the defendants air craft on 14-10-24, that upon arrival in Abuja his scheduled return date was again rescheduled by the defendant to the 15-10-24 and on the said 15-10-24 the claimant was at the Airport for two hours before checking in procedures commenced only for the defendant to announce a reschedule from the original time of departure from 10:25 am to 21:50pm, this action of the Defendant made the claimant to miss the essence of his return to Port Harcourt on the said date. That as a result of the defendants rescheduling of the flight, the claimant had to lodge in a hotel in Abuja where he incurred extra cost.

Further facts of this case are that the claimant sent several emails and his solicitor also wrote to the defendant for refund of the flight fees and other expenditures but the defendant still refused to respond or make any refunds to the claimant hence this suit.

The sole issue for determination as raised by this court in this judgment is

***“Whether considering the facts and circumstances of this case, the Claimant is entitled to his reliefs before this court?”***

The claimants counsel on 11-12-24 applied to the court to amend his processes before the court to correct the name of the Defendant from “Air Peace” to “Air Peace Limited” and also to reduce the claim in relief one of the claimants claim from the sum of ₦219,000.00 (Two Hundred and Nineteen Thousand Naira) to ₦69,000.00 (Sixty Nine Thousand Naira), the reason being that in cause of this suit the Defendant has refunded the claimant the sum of ₦150,000.00 (One Hundred and Fifty Thousand Naira) and that the sum of ₦69,000.00 (Sixty Nine Thousand Naira) is still left unpaid and the claimant still claims for cost against the defendant. The application was granted as prayed.

The law is trite that where the claimant leads evidence in prove of his case and the Defendant adduces no evidence in rebuttal, the claimant is entitled to judgment on the merits of the case if he meets the standard of prove required by law. In a civil case such as this the standard of prove is on a preponderance of evidence. See: **Section 134 of the Evidence (Amendment) Act 2023**. The burden of this prove however rests on the claimant. See the cases of **IBANIPIO V. ONYIYANGO (2000) 6 NWLR (PT. 661) PAGE 497 at paragraph E**.

The claimant as CW1 relied on Exhibits “A” to “G” in proof of his case and led evidence accordingly. The defendant did not contradict the evidence led by the claimant neither is there a defence against all the claims of the claimant before this court, the implication is that the Defendant is deemed to have admitted all the facts and claims as stated by the Claimant, the law is trite that facts admitted need no further proof, see **Section 123 Evidence (Amendment) Act, 2023** and the case of **CBN V. DINNEH (2010) 17 NWLR (PT. 1221) PAGE 125, 162 at paragraphs C-D**.

I have carefully considered the evidence adduced by the claimant in this case, the documents relied on by the claimant, I have also considered all the prayers as sought by the claimant and which for the sake of emphasis I must repeat are unchallenged by the Defendant and I find as follows:

That with respect to “relief 1”, I find no difficulty in arriving at the conclusion that the claimant has proved his case on the standard required by law and that this is indeed a deserving circumstance for the court to order as prayed by the claimant.

With respect to “relieve 2” being a relief for cost, the position is that cost follows events, this cost however is at the discretion of the court.

Accordingly, it is adjudged as follows:

1. That the claimant is entitled to the sum of **₦69,000.00 (Sixty-Nine Thousand Naira)** only being and representing expenses incurred by the claimant as a result of the Defendants continues change in flight schedule of the claimant.

2. Cost of **₦500,000.00 (Five Hundred Thousand Naira)** only is awarded in favour of the Claimant.

I make no further orders.

Dated this 18<sup>th</sup> day of December, 2024

  
Signed:  
S. S. IBANICHUKA, ESQ.  
18/12/2024.

