

# JITI OGUNYE CHAMBERS

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9<sup>th</sup> January, 2017

**Major General I. M Alkali,**

Headquarters,

Nigerian Army,

Ministry of Defence,

Area 7, Gark.i

PMB 239, Abuja, FCT.

E-mail : ahq.doaa@army.mil.org

Dear Major-General I.M Alkali,

**RE: REQUEST FOR THE RETRACTION OF THE UNAUTHORIZED FALSE LIBELOUS AND DEFAMATORY PUBLICATION BY PREMIUM TIMES AGAINST THE PERSON OF LIEUTENANT GENERAL T Y BURATAI THE CHIEF OF ARMY STAFF AND WITHDRAWAL OF UNAUTHORIZED FALSE PUBLICATIONS ON NIGERIAN ARMY OPERATIONS.**

We act as Solicitors to Premium Times Services Limited, owner and publisher of Premium Times, the leading online newspaper in Nigeria; Mr. Dapo Olorunyomi, the Publisher and Chief Executive Officer, Premium Times Services Limited; and the members of staff of Premium Times Services Limited, and journalists working with Premium Times, including Evelyn Okakwu and Samuel Ogundipe ( all, jointly hereinafter referred to as " our clients" ) on whose behalf and instructions we write this letter.

Your Letter under reference, Reference No.AHQ DOAA/G1/300/200 of 22nd December 2016, addressed to Publisher and Chief Executive Officer, Premium Times Services Limited has been passed to us. We have been fully briefed in respect of the grave and

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weighty allegations contained in the letter, and we hereby make the following representations on behalf of our clients.

1. The said letter was written for and on behalf of the Chief of Army Staff, General T.Y Buratai, "the complainant", whom we assume delegated the power to write the letter to you.
2. The said letter, which, for ease of reference, and for a proper appreciation of its purports, is hereunder reproduced in full, complains about the stories published in Premium Times. The letter states:

*22nd December, 2016*

*AHQ DOAA/GI/300/200*

*Mr. Dapo Olorunyomi  
The Editor -in- Chief/Managing Director  
Premium Times Services Limited  
53 Mambolo Street  
Zone 2  
Wuse  
Abuja*

*REQUEST FOR THE RETRACTION OF THE UNAUTHORIZED FALSE LIBELOUS AND DEFAMATORY PUBLICATION BY PREMIUM TIMES AGAINST THE PERSON OF LIEUTENANT GENERAL TY BURATAI THE CHIEF OF ARMY STAFF AND WITHDRAWAL OF UNAUTHORIZED FALSE PUBLICATIONS ON NIGERIAN ARMY OPERATIONS.*

1. *The Nigerian Army has observed with dismay the unwarranted serial provocative, unauthorised, libelous and defamatory publications against the person of Lieutenant General T.Y Buratai, the Chief of Army Staff, Nigerian Army and Nigerian Army counter insurgency operations in the North East by your online newspaper, The Premium Times. The latest in series of offensive publications was written by Evelyn Okakwu on 12 December, 2016 alleging that the Chief of Army Staff in the person of Lieutenant General T.Y, Buratai was to appear before the Code Conduct of Bureau over false asset declaration. Other similarly false, publications include the one captioned: "Exclusive: 83 Nigerian Soldiers still missing days after Boko*

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*Haram attack" written by Samuel Ogundipe on 21 October, 2016. As if that is not enough, on 19 November, 2016, there was another false and unsubstantiated story published in your newspaper alleging that the Nigerian Army killed a pastor and labeled him a militant among numerous unprofessional publications.*

2. *These stories published without reference to the Nigerian Army in order to have a balance, have without doubt exposed your deep hatred for the leadership of the Nigerian Army, the Nigerian Army as a service and the Nigerian nation for undisclosed reasons. It is submitted that your unprofessional one sided and unprovoked attacks on the Nigerian Army and its leadership, especially with regards to its operation in the Country have confirmed your unalloyed loyalty to the terrorist cause.*
3. *It is obvious that the Nigerian Army have always cooperated and worked in harmony with the press. Let it be known that the Code of Conduct Bureau through their letters dated 11 July and 29 September, 2016 cleared the Chief of Army Staff of false asset declaration. Equally, there was no time that 83 Nigerian army soldiers were missing as a result of Boko Haram attack. Nor did Nigerian army kill a pastor and labeled him a militant. One then wonders where your organisation got your false stories from. Despite the fact that your unprofessional publications are injurious to the personality of the leadership of the Nigerian army and the Nigerian army as a whole, it may interest you to know that your attempt have failed woefully to malign and impugn the hard earned good character of the Chief of Army Staff and the Nigerian Army.*
4. *In view of the foregoing, you are hereby advised to immediately retract the said unauthorized false, libelous and malicious stories against the person of Lieutenant General T.Y Buratai, the Chief of Army Staff and withdraw all false and unauthorized publications on the Nigerian army operations as published by your online medium, the Premium Times forthwith. Your retraction should be done in at least 3 national dailies and in online newspapers for 3 days consecutively from 29 - 31 December, 2016. You are to also publish an apology to the Chief of Army staff and the Nigerian Army in 3 Nigerian newspapers and online publications. Failure to retract and withdraw the said publications by Premium Times services Limited on or*

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*before 31 December, 2016. The Nigerian Army Team of Lawyers will be instructed to proceed against you in court.*

5. *Please accept the warm assurances of the Chief of Army Staffs highest esteem.*

*I.M Alkali  
Major General  
for: Chief of Army Staff*

*cc:  
Chief of Army Staff*

3. Whilst our clients can understand your disappointment that *Premium Times* published reports which you did not find favourable to the Nigerian Army, which you are at liberty to deny if you had exercised the right of reply on behalf of your principals, by writing a rejoinder in *Premium Times*, or by using other news media to so do, our clients, hard as they have tried, cannot understand why you used that letter to level very grave accusations against them, brazenly threaten them, and violate or attempt to violate their rights to life, dignity of the human person, personal liberty and freedom of expression and the press, respectively guaranteed by Sections 33, 34, 35 and 39 of the Constitution of the Federal Republic of Nigeria, 1999, and relevant international human rights protecting instruments.
4. In case you did not, while penning your letter, measure the words therein deployed or weigh carefully the meanings, import and intendments of the words used in the allegations contained therein, we draw your attention to the second paragraph of your letter which alleged that "these stories published without reference to the Nigerian Army in order to have a balance, have without doubt exposed your deep hatred for the leadership of the Nigerian Army, the Nigerian Army as a service and the Nigerian nation for undisclosed reasons. It is submitted that your unprofessional one sided and unprovoked attacks on the Nigerian Army and its leadership, especially with regards to its operation in the Country have confirmed your unalloyed loyalty to the terrorist cause.
5. Our clients hereby state unequivocally that there is no truth whatsoever in any of the claims you made in your said letter. Our clients do not have any hatred, deep or shallow, for anyone in the Nigerian Army, the Nigerian Army as an institution, or indeed the Nigerian State. Our clients have no loyalty to any terrorists' cause or to

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any terrorist organization, including Boko Haram. Our clients' stories were well checked, and their procedure was professional. Our clients therefore will not retract their stories and will not tender reserved or unreserved apology as demanded by you and your principals.

6. Our clients discharge their journalistic duties without any bias, fear or favour. They recognize and respect the right of reply by the readers of *Premium Times* or anyone who may be affected by stories published in and by *Premium Times*. Our clients have a commitment to continue to do so within the confines of the laws of Nigeria, and according to international best journalistic practices.
7. By the contents of your letter, you and the authority for whom you wrote your letter have played the role of the complainant, and the judge in your own cause. More worryingly, you and the said authority have reached conclusions which are both chilling and frightening. Through your letter, you now seek a conviction which plays to the notion of your own power and worth. By your letter you have threatened the lives of our clients, and our clients are thus obliged to put the Nigerian public and the international community on notice that should any harm come to them, you, the Chief of Army Staff and the Nigerian Army should be held accountable.
8. Given your position in the Nigerian Army and your claim that your letter was written on behalf of the Nigerian Army and its leadership, our Clients are of the clear view that your threats have come from the very top of the Nigerian Army.
9. Our Clients hope that the Office of the Chief of Defence Staff, the Ministry of Defence and the Minister of Defence, and indeed the Federal Government of Nigeria are aware of this letter from you and the grave implications of the letter.

Sir, may we declare to you that the assertions and the declarations in your letter have very grave implications.

First, the chilling threat that you have subjected our clients to shows a disregard for the due process which includes the constitutionally entrenched control of the military by civilian authorities, and equally respect of freedom of the Press. It is our view that all working journalists and news outlets are entitled to some protection from public officers, especially of the military and security agencies who are charged with the duty to secure and protect Nigeria and Nigerians, their lives and property, and maintain law and order,

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but who often, because of the uniqueness of that duty and for reason of the exclusive bearing of arms and control of our commonly owned ordinance, assume very erroneously that they are above the law.

Second, the penchant of public officers to flippantly, arrogantly and ignorantly label media reports and stories and journalists "unprofessional" once they are affected by media reports and stories must be deprecated with decorous pungency. Sir, you are not in any position at all to teach our clients about media professionalism, ethics and standards. It really can be exasperating and disconcerting to see public officers condescendingly castigate journalists, many of whom are not only internationally acclaimed and celebrated but who also have up to forty years of practice as journalists under their belts.

Third, we must also refute the false assumption that our military men, exclusively, are an epitome of patriotism and national sacrifice, and that they love Nigeria more than civilians do. Sir, the Nigerian Army of which you spoke so glowingly is an heir to a military that unpatriotically subverted, many times, constitutional governance in Nigeria, plunged Nigeria into a three year internecine civil war, committed unspeakable rights violations against the Nigerian people and thwarted the efforts of Nigerians to restore democratic governance to Nigeria. The Nigerian Media, if you must be reminded, played a frontline role and suffered gross human rights violations, perpetrated by the military, in the struggle to rid Nigeria of military dictatorship. During the struggle for Nigeria's independence, the Nigerian Media carried on its shoulders the anti-colonial agitations of the nationalists movement. Our clients, therefore, totally reject your claim that they hate Nigeria, their country. The Nigerian Army does not love Nigeria more than Nigerians love themselves. An armed force of less than three hundred thousand officers and men cannot claim to love Nigeria, a country of over one hundred and eighty million people, more than the Nigerian civil population.

Even under the current civil government, the officers and men of the Nigerian Army continue to carry out acts that threaten the survival of democratic governance, they trumpet they are sworn to protect. The ignoble roles played by officers and men of the Nigerian Army in the Ekiti State Governorship Election in 2014; the insertion of the Nigerian Army in the partisan allegation that the WASC School Certificate of our President, Muhammadu Buhari, then a candidate, could not be found in the Nigerian Army's records during the 2015 electioneering campaigns; the seizure and confiscation of newspapers nationwide during the Presidency of Goodluck Jonathan by men and officers of the Nigerian Army under the guise of looking for terrorist elements; the

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stealing of humongous sums from the budget of the military, meant, in part, for the counter-insurgency operation in the North East, by heads of the Nigerian Armed Forces, some of whom are now on trial for corruption and money laundering offences, but who more appropriately ought to have been charged with the offence of treachery punishable with death for subverting and undermining the capacity of the Nigerian State to levy war; and the recent killings that attended the insistence on right of way by the Nigerian Army against the adherents of the Shiite Islamic Sect in Zaria, in which hundreds of civilians lost their lives, are cases in point. A Nigerian Army that carries out such acts that not only violate the human rights of the citizens, but also subvert democracy and the rule of law cannot lay a claim to patriotism that is superior to the patriotism of the Nigerian media.

We state that just as the Nigerian Armed Forces are assigned a role to play in our national life under Sections 217 and 218 of the Constitution, so is the mass media assigned a role under Section 22 of the same Constitution which, in stipulating the obligation of the mass media, provides that "*the press, radio, television and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in this Chapter and uphold the responsibility and accountability of the Government to the people.*"

Although you ended your letter in a civil manner, and perfectly within your right, by demanding a retraction of the stories published by our clients, and an apology to be published in both national online and print media, failing which you and your principals may have recourse to a civil action, the allegations and threats contained in your letter are too grave and serious to be overlooked.

The right of our clients to practice their profession and publish the stories you are complaining about is guaranteed under the Constitution, which in Section 39 (1&2) provides that "*every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference; and that without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions*". It is our firm view that this right and the other above-listed rights of our clients have been, are being and are about to be breached by the threats issued to and the terrorist tags placed on our clients by your letter.

You should know that your wild allegations against our clients implicate the invocation, against our clients, of *Section 4 of the Terrorism (Prevention) Act, No. 10,2011*, which

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prescribes a maximum prison term of 20 years for any person convicted of knowingly, in any manner, soliciting or rendering support for an act of terrorism or a proscribed terrorist organization, and the death penalty where death results from such solicitation or rendering of support. And you should also have realized that your allegations imputed, on the part of our clients, the commission of treasonable offences and aiding the enemy under our criminal law.

In the circumstances, we hereby demand that you write a letter of withdrawal of these threats and allegations, to our clients, wherein you are to assure them of their safety and protection by the security and law enforcement agencies in Nigeria, in particular, the Nigerian Army. The letter, to be addressed to Mr. Dapo Olorunyomi, Publisher and Chief Executive Officer, Premium Times Services Limited must be received within seven (7) working days of delivery of this letter to you

**TAKE NOTICE** that should you *fail, refuse or neglect* to write and deliver the above letter as demanded, our clients will not hesitate to institute a legal action against you, your principals, the Nigerian Army and the Federal Government of Nigeria, to enforce their fundamental rights under the Constitution.

Kindly accept the assurances of our highest regards.

Yours faithfully,



**Jiti Ogunye, Esq;**  
*Principal Solicitor & Counsel*

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