



## What You Need to Know About Suspending an Employee in Nigeria

### Did you know that:

- An employer has an inherent right to discipline an employee if this becomes necessary, and suspension is a form of discipline. However, in order to exercise this right to suspend an employee, the power to suspend must have been expressly stated in the employment contract, company policies, or statutes governing the contract in the case of a statutory employment<sup>1</sup>.
- There are 2 (two) forms of suspension: an administrative suspension pending inquiry and a disciplinary suspension<sup>2</sup>. Administrative suspension is often used to protect the business of an employer or other employees in an organisation where an allegation of wrongdoing has been leveled against an employee. Disciplinary suspension is a punitive measure meted out to an employee after an established misconduct following a thorough investigation and having given the employee a fair hearing.

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<sup>1</sup> City Central Group of Companies Limited v. Eze (2021) LPELR-55725 (CA)

<sup>2</sup> Globe Motors Holding (Nig) Ltd v. Akinyemi Adegoke Oyewole (2022) LPELR-56856 (CA)



- A suspension temporarily restricts an employee from performing his regular job duties without diminishing or revoking any of his entitlements during the suspension period, including remuneration, unless there is an express provision in the employment contract authorising a suspension with or without pay, or at half-pay.<sup>3</sup> Therefore, it is unlawful to suspend an employee without pay<sup>4</sup>, except the contract of employment expressly provides otherwise<sup>5</sup>.
- A suspension does not terminate the contract of employment. However, an indefinite suspension has been declared to be an unfair labour practice by the National Industrial Court<sup>6</sup>.
- Suspension cannot be used as a means to circumvent the contractual period of notice if the employee's employment is eventually terminated after the suspension period.<sup>7</sup>
- In the case of wrongful suspension of an employee, an employer may be liable to damages or may be required to reinstate such employee in their previous position<sup>8</sup>. Indefinite suspension without pay can amount to constructive dismissal.<sup>9</sup>

*This publication has been authored by the Employment Law team of Udo Udoma & Belo-Osagie. For more information about our Employment Law offerings, please visit our website at [www.uubo.org](http://www.uubo.org) or email us at [uubo@uubo.org](mailto:uubo@uubo.org).*

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<sup>3</sup> Longe v FBN Plc (2010) 6 NWLR (Pt. 1189) 1; City Central Group of Companies Limited v. Eze (SUPRA)

<sup>4</sup> Globe Motors Holding (Nig) Ltd (n 2)

<sup>5</sup> The decision of the court in Globe Motors' case also suggests that if the suspension letter is specific as to non-payment of wages (for the period of suspension), it will equally suffice.

<sup>6</sup> Ogbodu v. Global Fleet Oil & Gas Ltd. & Anor. [2015] 55 N.L.L.R (Part 187) 201

<sup>7</sup> Enahoro v. Germaine Auto Centre Ltd (SUIT NO: NICN/LA/378/2013), judgment delivered 13 May 2015 by Hon. Justice Oyewumi Oyebiola

<sup>8</sup> Koomlong I. Miaphen v. University of Jos Consultancy Limited (2013)LCN/6210(CA)

<sup>9</sup> Mr. Adelabu Patrick Olasumbo v Ecobank Nigeria Ltd. (unreported ruling delivered on 10 May 2017 by Hon. Justice B. B. Kanyip in Suit No. NICN/LA/257/2016)