

IN THE HIGH COURT OF SIERRA LEONE

(GENERAL CIVIL DIVISION)

IN THE MATTER OF THE LEGAL PRACTITIONERS ACT 2000 (AS AMENDED), MORE PARTICULARLY SECTION 1, 3, 7 10 THEREFORE

AND

IN THE MATTER OF AN ACTION PURSUANT TO SECTION 256(1) OF THE COMPANIES ACT 2009

AND

IN THE MATTER OF ORDER 5 RULE 4 (2) OF THE HIGH COURT RULES 2007

AND

IN THE MATTER OF A DECLARATION THAT THE 2<sup>ND</sup> AND 3<sup>RD</sup> DEFENDANTS HEREIN WERE NOT ELIGIBLE TO HAVE BEEN ELECTED REPRESENTATIVES OF THE 1<sup>ST</sup> DEFENDANT TO THE GENERAL LEGAL COUNCIL AND CONSEQUENTIAL ORDERS

BETWEEN:

AUGUSTINE SORIE-SENGBE MARRAH - PLAINTIFF

AND

SIERRA LEONE BAR ASSOCIATION - 1<sup>ST</sup> DEFENDANT

IBRAHIM SORIE - 2<sup>ND</sup> DEFENDANT

SAMUEL T. NAVO - 3<sup>RD</sup> DEFENDANT

COUNSEL

O. Jalloh Esq. for the Plaintiff

F. Sorie (Ms) for the 2<sup>nd</sup> Defendant

RULING DELIVERED THIS 28<sup>th</sup> DAY OF MAY 2019

1. On the 27<sup>th</sup> May 2019 Counsel for the Plaintiff moved the Court in respect of a Notice of Motion dated 24<sup>th</sup> May 2019 for the following orders:
  1. An interim injunction be granted restraining the 2<sup>nd</sup> Defendant herein whether by himself, his servants, agents, privies or howsoever otherwise from presenting himself, as duly elected representative of the 1<sup>st</sup> Defendant to the General Legal Council (Council) and/ or sitting at meetings of Council

purporting to represent the 1<sup>st</sup> Defendant pending the determination of this Application.

2. That an interlocutory injunction be granted restraining the 2<sup>nd</sup> Defendant herein whether by himself, his servants, agents, privies or howsoever otherwise from presenting himself, as duly elected representative of the 1<sup>st</sup> Defendant to the General Legal Council (Council) and/ or sitting at meetings of Council purporting to represent the 1<sup>st</sup> Defendant pending the determination of this Application.
  3. Any other or further order(s) that this Honorable Court may deem fit and just.
  4. That the costs of this Application be costs in the cause.
2. The said Notice of Motion was short served pursuant to the order of this Court dated 24<sup>th</sup> May 2019. The application was supported by the affidavit of Augustine S. Marrah sworn to on 24<sup>th</sup> May 2019 and a supplemental affidavit of the same deponent sworn to on 27<sup>th</sup> May 2019 together with the several exhibits attached thereto. The said Notice of Motion was served upon the 1<sup>st</sup> and 2<sup>nd</sup> Defendants respectively indicated in the affidavit of service of Hamid Bangura sworn to on 27<sup>th</sup> May 2019.
  3. The 3<sup>rd</sup> Defendant filed an affidavit in support of the Notice of Motion sworn to on 24<sup>th</sup> May 2019 in which the 3<sup>rd</sup> Defendant indicated that having perused the contents of the Originating Summons and the supporting affidavit and having regard to the relevant provisions cited and arguments proffered by the Plaintiff he has advised himself to withdraw his name as one of the persons elected to serve as a representative of the 1<sup>st</sup> Defendant at the General Legal Council.
  4. 2<sup>nd</sup> Defendant was present in court and represented by Counsel who addressed the Court on the orders prayed for. The 2<sup>nd</sup> Defendant opposed the application and did not file an affidavit in opposition as service of the Notice of Motion was effected only on the 27<sup>th</sup> May 2019 and it was not possible for Counsel for the 2<sup>nd</sup> Defendant to file an affidavit in opposition due to the time constraints to do so. However after the Motion was moved and submissions were made by both Counsel it became apparent that due to the nature of the application and the exigencies in relation to the matter it became necessary for the Court to dispose of the Notice of Motion to ensure that the substantive action in the Originating Summons is speedily heard. This court pronounced itself verbally on the application on the Notice of Motion of 27<sup>th</sup> May 2019 on the same date subject to a more careful consideration of the issues and necessary modifications based on the reasoning herein, this ruling reduces the fuller version of the orders in writing with slight modifications based on the reasons given in this ruling for the said orders.

#### **Background**

5. The Plaintiff instituted an Originating Summons dated 14<sup>th</sup> May 2019 against the Sierra Leone Bar Association as 1<sup>st</sup> Defendant, Ibrahim Sorie as 2<sup>nd</sup> Defendant and Samuel T. Navo as 3<sup>rd</sup> Defendant inter alia asking for the following orders:



1. A declaration that in view of the position of the General Legal Council (Council) that in so far as standing or years of standing at the bar in Sierra Leone is concerned, the counting period commences from the date of the signing and enrolment in the permanent register of barristers and solicitors in Sierra Leone and in view of the 2<sup>nd</sup> Defendant only signing and being enrolled in the permanent register of barristers and solicitors of Sierra Leone on 14<sup>th</sup> January 2011, the 2<sup>nd</sup> Defendant is/was not qualified for the nomination and election as a representative of the 1<sup>st</sup> Defendant to Council pursuant to section 3(1)(c) of the Legal Practitioners Act 2000 (as amended) in the fifteen years standing bracket/category hence his purported nomination and election is unlawful, null and void the slot purportedly taken by him in regard the 1<sup>st</sup> Defendant's representatives at Council being vacant.
2. A declaration that in view of the position of the General Legal Council (Council) that insofar as standing or years of standing at the bar in Sierra Leone is concerned, the counting period commences from the date of the signing and enrolment in the permanent register of barristers & solicitors in Sierra Leone and in view of the 3<sup>rd</sup> Defendant only signing and being enrolled in the permanent register of barristers & solicitors on 3<sup>rd</sup> March 2010, the 3<sup>rd</sup> Defendant is/was not qualified for the nomination and election as a representative of the 1<sup>st</sup> Defendant to Council pursuant to section 3(1)(c) of the Legal Practitioners Act 2000 (as amended) in the ten years standing bracket/category hence his purported nomination and election is unlawful, null and void the slot purportedly taken by him in regard the 1<sup>st</sup> Defendant's representatives at Council being vacant.
3. A further declaration that the 3<sup>rd</sup> Defendant by reason of the resolution/position of the 1<sup>st</sup> Defendant to the effect that only legal practitioners who have taken out practicing certificate and the same is current at the date of the nomination shall be eligible for election to Council and the said Defendant not having a current practicing certificate for the year 2019 as at the date of his nomination and subsequent election by the 1<sup>st</sup> Defendant to Council, the same is unlawful.
4. An interim injunction be granted restraining the 1<sup>st</sup> Defendant and any of its Directors/Officers from submitting the names of the 2<sup>nd</sup> Defendant and 3<sup>rd</sup> Defendants as persons duly elected to represent same and sit at Council pending the hearing and determination of this application.
5. An interlocutory injunction be granted restraining the 1<sup>st</sup> Defendant and any of its Directors/Officers from submitting the names of the 2<sup>nd</sup> Defendant and 3<sup>rd</sup> Defendants as persons duly elected to represent same and sit at Council pending the hearing and determination of this matter.
6. An interim injunction be granted restraining the 2<sup>nd</sup> Defendant herein whether by himself, his servants, agents, privies or howsoever otherwise from



presenting himself, as duly elected representative of the 1<sup>st</sup> Defendant to the General Legal Council (Council) and/ or sitting at meetings of Council purporting to represent the 1<sup>st</sup> Defendant pending the determination of this application.

7. An interlocutory injunction be granted restraining the 2<sup>nd</sup> Defendant herein whether by himself, his servants, agents, privies or howsoever otherwise from presenting himself, as duly elected representative of the 1<sup>st</sup> Defendant to the General Legal Council (Council) and/ or sitting at meetings of Council purporting to represent the 1<sup>st</sup> Defendant pending the determination of this matter.
8. An order directing the 1<sup>st</sup> Defendant to conduct fresh elections, to elect two duly qualified legal practitioners to fill the current two vacant positions in regard the representatives in Council.
9. Any further order or relief as this Honourable Court may deem fit and just.

#### **Submissions by Counsel for the Plaintiff**

6. Mr. O. Jalloh Counsel for the Plaintiff referred to the various documents exhibited to the affidavits in support of the application for an injunction indicating that the Plaintiff is a legal practitioner duly admitted and enrolled to practice law and holding a current certificate and a member of the 1<sup>st</sup> Defendant. He referred to the Notice from the General Legal Council dated 18<sup>th</sup> December 2018 informing legal practitioners that council had taken a position regarding the qualification of a legal practitioner as being someone admitted and enrolled to practice law in Sierra Leone. By a notice dated 4<sup>th</sup> April 2019 the Secretary General of the 1<sup>st</sup> Defendant published a notice, notifying the members of an Extraordinary General Meeting to be held on 26<sup>th</sup> April 2019 for inter alia election of members to vacant GLC positions.
7. By email dated 8<sup>th</sup> April 2019 sent out to legal practitioners on Council's listserv, the Secretary of the General Legal Council published names of the legal practitioners who had taken out practicing certificates for the year 2019. At the meeting on 26<sup>th</sup> April 2019, the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants were both elected as representatives of the 1<sup>st</sup> Defendant to Council in the fifteen and ten years standing categories respectively pursuant to section 3 (1)(c) of the Legal Practitioners Act 2000 (as amended).
8. The Plaintiff was not present at the said meeting as he was out of the jurisdiction and upon receiving information about the said election from a colleague named in the affidavit he wrote an online petition which was posted on E-bar and also sent to the Secretary General of the 1<sup>st</sup> Defendant. On 29<sup>th</sup> April 2019 the Plaintiff caused to be served on 1<sup>st</sup> Defendant with a copy sent to Council with a notice of petition and objection to the said election of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendant.
9. It is the Plaintiff's belief that the purported election of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants respectively as representatives of the 1<sup>st</sup> Defendant in Council is illegal, unlawful and ultra vires the Legal Practitioners Act (as amended) and interferes with his right not



to be represented by persons ineligible to have been so elected. By letter dated 13<sup>th</sup> May 2019, the Secretary General of the 1<sup>st</sup> Defendant inter alia notified the Secretary of the General Legal Council (also referred to in this ruling as the GLC or Council) of the names of the representatives elected by the 1<sup>st</sup> Defendant which includes the 2<sup>nd</sup> and 3<sup>rd</sup> Defendant. By letter dated 20<sup>th</sup> May 2019, a meeting of the General Legal Council has been slated for 29<sup>th</sup> May 2019 and by letter dated 23<sup>rd</sup> May the 2<sup>nd</sup> Defendant has indicated his availability to attend the said meeting.

10. Mr. Jalloh submitted that the first criteria in American Cyanamid Case has been met as the issues raised in the Originating Summons are most serious as they touch and concern to practice and regulation of the practice of law in Sierra Leone and having regard to the contents of the notice from GLC dated 18<sup>th</sup> December 2018 which was never challenged, legal standing at the Bar begins to run from the signing of the permanent register or rolls of court and not otherwise.
11. He referred to section 1 of the Legal Practitioner's Act 2000 (as amended) and to the definition of Legal Practitioner and contended that based on the definition a person would have to have completed the mandatory pupillage period prescribed by the Act and signed the Rolls of Court or the permanent register. He also referred to sections 2 and 3 of the Act and in particular to section 3 (1)(c) of the Act which requires the SLBA to elect 6 legal practitioners to GLC, 3 of whom shall be not less than 15 years and the rest of not less than 10 years which provision is the crux of the matter in the action before the court. He submitted that it is imperative for such persons referred to in section 3 (1) (c) of the Act to have fulfilled the requirement to be enrolled as a Barrister and Solicitor as required by section 1. He also referred to the letter of 13<sup>th</sup> May 2019 from the 1<sup>st</sup> Defendant addressed to the secretary of the GLC indicating the names of legal practitioners elected to the GLC and reference to the petition it had received regarding the eligibility of both the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants and submitted that the 1<sup>st</sup> Defendant's ought to have addressed the issue.
12. Mr. Jalloh referred to section 10 of the Act which deals with qualification for admission as legal practitioner in particular section 10(b) which provides for the completion of a mandatory pupillage. He submitted that the issue for determination in the action before the court is whether the 2<sup>nd</sup> Defendant is qualified for election in the 15 years category i.e was he enrolled as a barrister & solicitor for a period of 15 years prior to 26<sup>th</sup> April 2019, having regard to the fact that the 2<sup>nd</sup> Defendant's name was not among the names on both lists circulated by GLC for legal practitioners above the 15 years category and between the 10 – 15 years category. He also referred to paragraph 14 of the Defendant's affidavit indicating that the 2<sup>nd</sup> Defendant was enrolled on the Permanent Register on 14<sup>th</sup> January 2011 and that from that date to 26<sup>th</sup> April 2019, the 2<sup>nd</sup> Defendant is not even 10 years. However from the letter of the 1<sup>st</sup> Defendant to the GLC dated 13<sup>th</sup> May 2019, the 1<sup>st</sup> Defendant stated that the 2<sup>nd</sup> Defendant was elected unopposed in the 15 years standing category. Counsel therefore submitted that having regard to the above, there were serious issues to be



tried, the action was not vexatious and he referred to the Plaintiff's draft undertaking as to damages in relation to the orders sought.

13. Counsel also made submissions to the Court why damages would not be an adequate remedy to the Plaintiff having regard to the fact that GLC regulates the conduct of the legal practitioners and if the 2<sup>nd</sup> Defendant were to sit in council and decisions are taken on the practice of the law in Sierra Leone and if the Plaintiff were to succeed in his action, this could have adverse consequences for the legal profession which includes colleagues at the Bar losing faith and respect for Council and refusing to comply with its decisions. He submitted that GLC is a creature of statute and if it elects someone who is ineligible to be a member as Chairman, then it would send a message that the very body which should regulate the legal profession could afford to breach its rules and regulations and go scot-free. He therefore submitted that the injury that would be done to the Plaintiff and the legal profession will be so grave that the injunction sought against the 2<sup>nd</sup> Defendant ought to be granted.
14. He made the application pursuant to Order 35 Rule 1 of the High Court Rules 2007 and relied on the cases of Solomon v. Solomon vs Aboud 1950-56 ALR SL. P 21, American Cynamid 7 Co v Ethicon Ltd 1975 1AER 504 and Alie Bangura & Others v Chief Sumano Kapen II and others.

**Submission by Counsel for the 2<sup>nd</sup> Defendant**

15. Ms. Sorie, Counsel for the 2<sup>nd</sup> Defendant opposed the application and took objection to Mr. Jalloh's references to administrative lapses which can result in delay in the drawing up of court orders. She referred to the application to short serve the Notice of Motion for an injunction which was filed and heard on the same day the papers were filed so the justification for a grant of interim injunction based on the administrative lapses was not tenable.
16. On the substantive application for the injunction, Ms. Sorie submitted that the 1<sup>st</sup> Defendant charged with electing members to Council has duly notified Council of the six members elected which indicates that the 1<sup>st</sup> Defendant recognizes the standing of the 2<sup>nd</sup> Defendant.
17. She referred to the letter of the GLC dated dated 20<sup>th</sup> May 2019 in which it has convened a meeting for 29<sup>th</sup> May 2019 seeking to discuss the Petition of the Plaintiff and the Originating Summons which is the action before the Court. She submitted that it is clear that the Secretary of the GLC raised the issues in the letter so that those attending would be aware of the issues to be discussed.
18. Ms. Sorie referred to the letter dated 23<sup>rd</sup> May 2019 from the 2<sup>nd</sup> Defendant to the Secretary of the GLC, an exhibit to the affidavit of the Plaintiff and submitted that the 2<sup>nd</sup> Defendant is suffering significant prejudice and has been refused access to the GLC records to prepare his case in this action, whereas the Plaintiff does have unfettered access to the GLC records as indicated in affidavit of the Plaintiff and in particular paragraph 14 of the said affidavit. She maintained that the 2<sup>nd</sup> Defendants name does not appear on the lists of legal practitioners circulated by the GLC in respect of the



above 15 years or between 10-15 years category yet the Plaintiff in his affidavit stated that the 2<sup>nd</sup> Defendant was enrolled on 14<sup>th</sup> January 2011. Answering to the bench on whether the 2<sup>nd</sup> Defendant does not have in his possession documents to the effect that will indicate when he was put on the permanent register, Ms. Sorie Counsel for the Defendant indicated that GLC did not give either the 2<sup>nd</sup> Defendant or herself with any certificate or document to that effect hence the need to have access to the GLC records as requested by the 2<sup>nd</sup> Defendant regarding the issue.

19. Ms. Sorie further submitted that to restrain the 2<sup>nd</sup> Defendant from attending the meeting on the 29<sup>th</sup> May 2019 would be most prejudicial to the 2<sup>nd</sup> Defendant in view of the fact that he will be discussed at that meeting and he will be absent when such discussions are taking place in relation to the petition and originating summons. Furthermore she submitted that restraining 2<sup>nd</sup> Defendant to attend the said meeting will deprive him of his right to put his name forward to be elected as Chairman of the GLC.
20. After the submission of Ms. Sorie Counsel for the 2<sup>nd</sup> Defendant, the Court indicated its position to grant the injunction sought and to make further orders as to the addition of the GLC as a party and other orders as to the hearing and future conduct of the proceedings relating to Originating Summons. Mr. Jalloh, Counsel for the Plaintiff informed the court that he had no objection to the orders of the court as pronounced by me in court as it will protect the interest of subject to the court's determination of its jurisdiction to grant the same.

### **Analysis and Decision**

21. The issue for determination is whether it appears to the Court to be just or convenient to grant the interlocutory injunction sought by the Plaintiff and whether the order may be made unconditionally or upon such terms and conditions as the Court considers just as provided in Order 35 Rule 1 of the High Court Rules 2007. I am guided by the principles and guidelines to be applied in applications for interlocutory injunctions in the Supreme Court Practice of 1999 as set out in *American Cyanamid Co. v. Ethicon Ltd.* (1975) A.C. 396, HL.
22. Having heard the submissions by Counsel of both parties and reviewing the evidence in respect of this application, I can conclude that the Plaintiff's several reliefs claimed are not frivolous or vexatious and that there are very serious issues to be tried which are whether the Plaintiff is entitled to the declaratory orders set out in the Originating Summons of 14<sup>th</sup> May 2019 and injunctions sought against the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Defendant regarding the eligibility of the latter two to serve on the GLC and to conduct fresh elections to elect two duly qualified practitioners to fill in vacancies by reason of the fact that the Plaintiff deems the 2<sup>nd</sup> and 3<sup>rd</sup> Defendant to be ineligible for election to the GLC.
23. The Plaintiff has set out its case in the various affidavits supporting the action and this application and has produced evidence in support of his contention which touches



and concerns legal practitioners, the practice of the law, and the regulation of legal practitioners involving the 1<sup>st</sup> Defendant which is the national bar association, a company registered in Sierra Leone in accordance with the Companies Act and the General Legal Council which is a statutory body established by the Legal Practitioners Act. Both the 1<sup>st</sup> Defendant and the GLC are governed and regulated by the laws of Sierra Leone. Furthermore the action also relates to the election by the 1<sup>st</sup> Defendant of its representatives to the GLC and whether such elected representative were eligible to serve and fulfill the requirements of the Legal Practitioners Act. The Plaintiff is prepared to give an undertaking to pay damages to the Defendant if this injunction ought not to have been granted.

24. The Plaintiff has satisfied the Court that damages would not be an adequate remedy to him or in the public interest as he highlights the irreparable harm that would occur if the 2<sup>nd</sup> Defendant took up his membership in Council which he has indicated he intends to do as indicated in the 2<sup>nd</sup> Defendant's letter to the Council. As a Council member the 2<sup>nd</sup> Defendant may be elected as Chairman of Council, participate in decisions of Council in relation to the functions of Council as provided in section 4 of the Act. If the Plaintiff were to succeed in his action against the Defendant and this injunction is not granted, some of the irreparable harm may include adverse consequences to the Plaintiff, the legal profession and the practice of law in Sierra Leone.
25. The 2<sup>nd</sup> Defendant maintains that he will be prejudiced if the injunction is granted as the meeting convened by the GLC scheduled to take place on the 29<sup>th</sup> May 2019 will discuss the petition and originating summons which relates to him and he will be absent for this discussion. Furthermore he will be deprived of the opportunity of contesting for the Chairmanship of the Council. One of the issues that the 2<sup>nd</sup> Defendant has raised which is of concern to the court is that his requests for information from the GLC to assist him to prepare his case has not been honoured and he does not have any document from the GLC in that regard. He has complained of unfettered access to GLC records by the Plaintiff as evidence in his affidavit in support of the application.
26. One important question in this matter is whether the 2<sup>nd</sup> Defendant is eligible for election to the GLC. According to the Plaintiff the 2<sup>nd</sup> Defendant is not eligible because if he was enrolled on the permanent register on 14<sup>th</sup> January 2011 then he does not have 10 years standing at the bar in accordance with the GLC's position in calculating standing, at the time he was elected. If this is the case the question is why did the 1<sup>st</sup> Defendant elect the 2<sup>nd</sup> Defendant and even when such election was challenged it proceeded to submit the 2<sup>nd</sup> Defendant's name to the GLC indicating that he was elected unopposed in the 15 years standing category.
27. The 1<sup>st</sup> Defendant has not taken any action to address this issue raised in the petition submitted to it prior to this action and most regrettably has not caused papers to be filed on its behalf in response to the Originating Summons or to this application for an



injunction even though it was served with the said Summons and notice of motion. Furthermore and also regrettably the 1<sup>st</sup> Defendant which is an association of legal practitioners and a Company registered under the Companies Act has not seen the need to instruct counsel to appear in court on its behalf and provide the necessary assistance and information this Court requires to determine the very important issues in this action and application and in particular to provide the Court with the basis on which the 2<sup>nd</sup> Defendant was elected in the category of legal practitioners in the 15 years category. This Court will therefore strongly urge the 1<sup>st</sup> Defendant to reconsider its stance to disregard the court and to file the necessary papers and be heard on the said issues. It is therefore in order for this court to make an order compelling the 1<sup>st</sup> Defendant to defend the action.

28. I will refer to the meeting of the GLC convened for 29<sup>th</sup> May 2019 and it is this meeting that the Plaintiff is seeking to restrain the 2<sup>nd</sup> Defendant from attending. The Plaintiff has produced to the court a letter from Nicky Spencer-Coker Esq. Mrs., Secretary General of the General Legal Council addressed to one Osman Jalloh Esq which states as follows:

*"Dear Sir*

*As Secretary of the General Legal Council, I am in receipt of a letter dated 13<sup>th</sup> May 2019 from the Secretary of the Sierra Leone Bar Association to wit:*

*"RE: ELECTION OF MESSRS ELVIS KARGBO, RHODA SUFIAN KARGBO, IBRAHIM SORIE, OSMAN JALLOH, MICHAELA SWALLOW AND SAMUEL T. NAVO AS REPRESENTATIVE LEGAL PRACTITIONERS OF THE SIERRA LEONE BAR ASSOCIATION TO THE GENERAL LEGAL COUNCIL PURSUANT TO SECTION 3(1)(C) OF THE LEGAL PRACTITIONERS ACT NO. 15 OF 2000"*

*and to which letter you were also carbon copied on.*

*Further, the letter contained a copy of a formal petition filed by Augustine Marrah Esq regarding the eligibility of both Mr. Ibrahim Sorie and Mr. Samuel Navo.*

*Separately, as Secretary of the GLC, I am in receipt of an Originating Summons filed against the Sierra Leone Bar Association, Mr. Ibrahim Sorie and Mr. Samuel Navo as 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Defendants on the same subject matter as the formal petition filed by Mr. Marrah.*

*In the light of the above I would suggest the General Legal Council convenes on Wednesday 29<sup>th</sup> of May at 3 pm at the General Legal Council Conference Room.*

*Kindly confirm whether this is agreeable....."*

29. This court is of the view that having regard to the claims of the Plaintiff for inter alia the declaratory orders sought in this action, the evidence submitted to the Court in relation to the application for an injunction and its letter of 20<sup>th</sup> May 2019 convening a meeting of GLC on 29<sup>th</sup> May 2019, the General Legal Council ought to be joined as a party to the action as its presence before the Court is necessary to ensure that all matters in dispute are effectually and completely determined and adjudicated on. In



such circumstances the Court on its own motion pursuant to Order 18 Rule 6 of the High Court Rules may make an order adding any person who ought to have been joined to be added as a party to the action. The determination of this action is germane to the functions and operations of the General Legal Council and it is imperative that the Court hears from the General Legal Council. I will therefore make such an order for it to be added as a party to the action. Mindful that the GLC is a statutory body performing very important statutory functions this court seriously considered and was minded to restrain GLC from meeting even though it presently can have a quorum for such meeting without the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants particularly having regard to the prejudice such a meeting or meetings would have on the 2<sup>nd</sup> Defendant as submitted by Ms Sorie.

30. I note that both Counsel are not opposed to this Court making an order to restrain the GLC from meeting but after having carefully considered this issue and the role and functions of Council as set out in section 4 of the Act, I do not think it will be prudent from preventing GLC from carrying out the other statutory functions it is mandated to perform which are of a public interest and will not prejudice the action or the 2<sup>nd</sup> Defendant. I have therefore declined to restrain Council and will restrain it only from holding elections for its Chairman on the 29<sup>th</sup> May 2019 or any other date pending the hearing and determination of this action and from taking any action that will prejudice this action pending in court. Furthermore this Court cannot act in vain and mindful of the fact that it has ordered that the GLC be added as Defendant and carry out certain actions as set out in this ruling and for such matters it will need to have a meeting to take decisions for the implementation and enforcement of the court orders. The GLC at the very least ought to assist the Court with the necessary information to determine whether the 2<sup>nd</sup> Defendant is eligible to be elected and serve as a member of the GLC.
31. I will now turn my attention to the prejudice the 2<sup>nd</sup> Defendant claims to have suffered and continues to suffer firstly by reason of the fact that he does not have the necessary information or records from GLC in relation to enrolment notwithstanding the fact that he has requested same and to his allegation that the Plaintiff has an unfettered access to GLC records. To support this contention the 2<sup>nd</sup> Defendant Counsel has referred the court to the affidavit of the Plaintiff and to the letter of the 2<sup>nd</sup> Defendant also produced by the Plaintiff.
32. For ease of reference I will refer to paragraphs 14, 15 and 16 of the affidavit in support of the application which states as follows:

*"14. That my inquiries of the secretary to the Council informs me and I verily believe that the 2<sup>nd</sup> Defendant was enrolled pursuant to the section 14 of the Legal Practitioners Act 2000 (as amended) into the Permanent Register kept and maintained by Council on the 14<sup>th</sup> day of January 2011.*

*15. That whereas two separate lists were circulated on 24<sup>th</sup> April 2019 by the secretary of Council on several social media platforms, amongst which was the E-bar forum – containing the names of certified legal practitioners qualified to be*



*elected to Council in the fifteen and ten years categories. Copies of the lists are now exhibited and marked "Ex J & K".*

*16. That the names of the 2<sup>nd</sup> Defendant was not featured in any of the said lists as being eligible to be elected to Council in any of the said categories"*

33. I could recall that Counsel for the 2<sup>nd</sup> Defendant submitted in her arguments to the court that not only is the 2<sup>nd</sup> Defendant name not on the said lists but her own name and the names of other senior legal practitioners are also not on the said lists. This is an issue that the General Legal Council should and ought to address. On the issue on the request of the Plaintiff for information from the General Legal Council and his determination to participate in the meeting of 29<sup>th</sup> May 2019, I will reproduce the letter from the 2<sup>nd</sup> Defendant to the General Legal Council dated 23<sup>rd</sup> May 2019 which states as follows:

*"Dear Madam*

*I am in receipt of your letter dated 20<sup>th</sup> May 2019 which was delivered to my office yesterday.*

*I note the suggested meeting date and hereby confirm my availability to attend the said meeting. As you may recall, I had sent a letter to you dated 13<sup>th</sup> May 2019 requesting to review the books and records of Council. You had in a letter dated 14<sup>th</sup> May 2019 informed me that you had not yet received official confirmation of my election from the Sierra Leone Bar Association. As your letter of 20<sup>th</sup> May 2019 now confirms that you have been duly informed of my election, I hereby request that you grant immediate access.*

*I do note that you make reference to an action contesting my election, I trust that you would appreciate that until the Court decides otherwise and upholds the Plaintiff's contention I intend to serve on Council unrestrained. I do draw your attention specifically to both the Originating summons and the Affidavit in Support therein and note that the deponent makes reference to a date of my signing the permanent register. I also do note that in paragraph 14 of the said Affidavit in Support the deponent does not disclose his source of that information. This information is not readily available except through the General Legal Council. I therefore trust you will not delay in granting my request this time around.*

*Whilst counting on your co-operation, I remain....."*

34. It is strange to hear Counsel for the 2<sup>nd</sup> Defendant submit to the Court that the 2<sup>nd</sup> Defendant does not have a document/certificate from General Legal Council confirming the date he was enrolled on the permanent register having regard to section 17 of the Act which states as follows:

*"The Secretary shall issue to every person enrolled as a legal practitioner a certificate of enrolment under the seal of Council".*

35. It is also instructive to note that the availability of such a certificate in respect of the 2<sup>nd</sup> Defendant would indicate his year of enrolment as a legal practitioner having



regard to section 1 of the Act which defines "legal practitioner" as ".....any person admitted and enrolled to practice law as a barrister and solicitor".

36. I refer to the submission of Counsel for the 2<sup>nd</sup> Defendant that he is prejudiced as he has not been given access to the records of GLC for him to prepare his case and she has referred to his letter set out above. The GLC is a statutory body and has a responsibility to provide such information to the 2<sup>nd</sup> Defendant more so when he needs to have information for him to prepare his case in an action brought against him. I am supported by this view as I take judicial notice of the enactment by the Parliament of Sierra Leone of the Right to access Information Act 2013, Act No. 2 of 2013 which provides that every person has the right to access information held by or is under the control of a public authority..
37. The action in relation to the 2<sup>nd</sup> Defendant's eligibility to serve in the GLC could be determined with proof of the facts of the 2<sup>nd</sup> Defendant's date of enrolment on the permanent register having regard to section 1, 3, and 10 of the Legal Practitioners Act 2000 as amended. If the Court finds he is not eligible then a declaration will be made to that effect and his election will be null and void. If the facts show otherwise and the Court determines that he is eligible then he can take up his membership of the GLC which is a statutory body as soon as the matter is determined, contest for the Chairmanship and he will not be prejudiced if he does not attend the meetings of GLC pending the hearing and determination of the action. The balance of convenience I agree with Counsel for the Plaintiff lies in favour of granting the injunction to restrain the 2<sup>nd</sup> Defendant from attending the meeting of 29<sup>th</sup> May 2019 or any meeting of GLC at all until the determination of this action.
38. In conclusion, it is the view of the Court that the issue for determination is a very important issue that touches and concern the practice of law in Sierra Leone, legal practitioners as well as regulation of legal practitioners generally. No doubt this issue is also a public interest issue and it will be in the interest of justice if the Originating Summons is heard speedily and all parties are heard and this matter determined. I would therefore appeal to the parties to this action and the GLC to take steps to ensure that this matter is brought to a logical conclusion and obey the orders of this court.

In the circumstances I make the following Orders

1. An interlocutory injunction is granted restraining the 2<sup>nd</sup> Defendant herein whether by himself, his servants, agents, privies or howsoever otherwise from presenting himself, as duly elected representative of the 1<sup>st</sup> Defendant to the General Legal Council (Council) and/ or sitting at meetings of the General Legal Council purporting to represent the 1<sup>st</sup> Defendant pending the hearing and determination of the Originating Summons dated 14<sup>th</sup> May 2019.
2. That the General Legal Council is hereby restrained from holding elections for its Chairman and from taking any decision that will prejudice the 2<sup>nd</sup>



Defendant and the current action in the Originating Summons dated 14<sup>th</sup> May 2019.

3. The General Legal Council shall produce to the Court on the date of the hearing of the Originating Summons if available the original roll of court referred to in section 18 of the Legal Practitioners Act and within 48 hours of this order file an affidavit exhibiting relevant copies of the portion of the said roll of court which indicates when the 2<sup>nd</sup> Defendant was enrolled as a legal practitioner. If the said original roll of court is not available the GLC shall provide the court with sufficient explanation as to its unavailability and indicate from its records available the date of enrolment of the 2<sup>nd</sup> Defendant.
4. That the Originating Summons dated 14<sup>th</sup> May 2019 be amended by adding the name of the General Legal Council as a Defendant to this action and the said amended Originating Summons and all other court documents filed be served on the General Legal Council within 2 days from the date of this order.
5. The General Legal Council shall be at liberty to file an appearance and necessary court papers in answer to the Originating Summons within 48 hours of receipt of the Amended Originating Summons.
6. The Sierra Leone Bar Association who is the 1<sup>st</sup> Defendant shall appear before the Court to address the court on the matters in the Originating Summons dated 14<sup>th</sup> May 2019.
7. The Originating Summons dated 14<sup>th</sup> May 2019 shall be speedily heard on 3<sup>rd</sup> June 2019 and the hearing shall last for two days i.e. 3<sup>rd</sup> June and 4<sup>th</sup> June 2019.
8. All parties shall file their affidavits in respect of the said Originating Summons on or before 30<sup>th</sup> May 2019 and a compliance hearing will take place on 31<sup>st</sup> May 2019 at 1pm.
9. The General Legal Council shall within 24 hours of this Order and without any delay provide access to the 2<sup>nd</sup> Defendant in respect of General Legal Council records and provide him with all information requested to enable him to adequately prepare his case in respect of the Originating Summons dated 14<sup>th</sup> May 2019.
10. The Plaintiff shall give a written undertaking to the 2<sup>nd</sup> Defendant to pay damages he may suffer as a result of this injunction if it turns out in the end that the Plaintiff was not entitled to the order.
11. Any of the parties herein and the General Legal Council are at liberty to apply to this court by letter in writing to the Court copying the other parties and the Master & Registrar to be heard on any of the matter relating to the enforcement of this order and for the purposes of making any consequential orders for the enforcement of this order.
12. Costs of this application be costs in the cause

..... HON. MRS. JUSTICE JAMESINA E. L. KING (J.A.)