

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, 10 THEREOF

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 2ND AND 3RD DEFENDANTS HEREIN WERE NOT ELIGIBLE TO HAVE BEEN ELECTED REPRESENTATIVES OF THE 1ST DEFENDANT TO THE GENERAL LEGAL COUNCIL AND CONSEQUENTIAL ORDERS

BETWEEN:

AUGUSTINE SORIE-SENGBE MARRAH - PLAINTIFF

AND

SIERRA LEONE BAR ASSOCIATION - 1ST DEFENDANT

IBRAHIM SORIE - 2ND DEFENDANT

SAMUEL T. NAVO - 3RD DEFENDANT

GENERAL LEGAL COUNCIL - 4TH DEFENDANT

COUNSEL

O. Jalloh Esq. & A. Camara-Macauley for the Plaintiff

Ibrahim Sorie Esq., F. Sorie (Ms), & I.D.B. John Esq. for the 2nd Defendant

O. Spencer-Coker (Ms) for the 4th Defendant

RULING DELIVERED THIS 25TH DAY OF NOVEMBER 2019

Background

The Plaintiff Augustine Sorie-Sengbe Marrah is a legal practitioner with a valid certificate to practice law, a member of the Sierra Leone Bar Association the 1st Defendant herein and a past secretary of the 4th Defendant, the General Legal Council (also referred to as GLC or Council) a statutory body which is the governing authority with regard to the conduct of the legal profession

in Sierra Leone. Ibrahim Sorie and Samuel Navo who are the 2nd and 3rd Defendants respectively are legal practitioners duly elected by the 1st Defendant to the GLC, the 4th Defendant on 26th April 2019.

The Plaintiff instituted an Originating Summons dated 14th May 2019 against the 1st Defendant, 2nd Defendant and 3rd 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 2nd Defendant only signing and being enrolled in the permanent register of barristers and solicitors of Sierra Leone on 14th January 2011, the 2nd Defendant is/was not qualified for the nomination and election as a representative of the 1st 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 1st 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 3rd Defendant only signing and being enrolled in the permanent register of barristers & solicitors on 3rd March 2010, the 3rd Defendant is/was not qualified for the nomination and election as a representative of the 1st 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 1st Defendant's representatives at Council being vacant.
3. A further declaration that the 3rd Defendant by reason of the resolution/position of the 1st 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 1st Defendant to Council, the same is unlawful.
4. An interim injunction be granted restraining the 1st Defendant and any of its Directors/Officers from submitting the names of the 2nd Defendant and 3rd 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 1st Defendant and any of its Directors/Officers from submitting the names of the 2nd Defendant and 3rd 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 2nd Defendant herein whether by himself, his servants, agents, privies or howsoever otherwise from presenting himself, as duly elected representative of the 1st Defendant to the General Legal Council (Council) and/ or sitting at meetings of Council purporting to represent the 1st Defendant pending the determination of this application.
7. An interlocutory injunction be granted restraining the 2nd Defendant herein whether by himself, his servants, agents, privies or howsoever otherwise from presenting himself, as duly elected representative of the 1st Defendant to the General Legal Council (Council) and/ or sitting at meetings of Council purporting to represent the 1st Defendant pending the determination of this matter.
8. An order directing the 1st 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.
10. That the costs of this Application be costs in the cause.

It is to be noted that throughout this matter there were several separate applications by both sides to short serve and hear several motions all of which the court granted. On the 27th May 2019 Counsel for the Plaintiff moved the Court in respect of a Notice of Motion dated 24th May 2019 for the following orders:

1. An interim injunction be granted restraining the 2nd Defendant herein whether by himself, his servants, agents, privies or howsoever otherwise from presenting himself, as duly elected representative of the 1st Defendant to the General Legal Council (Council) and/ or sitting at meetings of Council purporting to represent the 1st Defendant pending the determination of this Application.
2. That an interlocutory injunction be granted restraining the 2nd Defendant herein whether by himself, his servants, agents, privies or howsoever otherwise from presenting himself, as duly elected representative of the 1st Defendant to the General Legal Council (Council) and/ or sitting at meetings of Council purporting to represent the 1st 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.

The 3rd Defendant filed an affidavit in support of the said Notice of Motion in which he 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 1st Defendant at the General Legal Council.

The 2nd Defendant opposed the application and complained about not having access to the information he required for his defence. Both Counsel for the Plaintiff and the 2nd Defendant made lengthy submissions in respect of the application. The court gave a ruling on 28th May 2019 concluding that the issue for determination in the Originating Summons is very important touching and concerning the practice of law in Sierra Leone, regulating legal practitioners generally as well as a public interest issue and it will be in the interest of justice if it is heard speedily, all parties are heard and the matter determined. It then made the following orders:

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

- f. The Sierra Leone Bar Association who is the 1st Defendant shall appear before the Court to address the court on the matters in the Originating Summons dated 14th May 2019.
- g. The Originating Summons dated 14th May 2019 shall be speedily heard on 3rd June 2019 and the hearing shall last for two days i.e. 3rd June and 4th June 2019.
- h. All parties shall file their affidavits in respect of the said Originating Summons on or before 30th May 2019 and a compliance hearing will take place on 31st May 2019 at 1pm.
- i. The General Legal Council shall within 24 hours of this Order and without any delay provide access to the 2nd 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 14th May 2019.
- j. The Plaintiff shall give a written undertaking to the 2nd 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.
- k. 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.
- l. Costs of this application be costs in the cause

All of the parties complied with the court orders in preparation for the trial. The General Legal Council complied with the orders of the court; it filed an appearance after it was served with the Originating Summons, provided the required information to the 2nd Defendant and was represented in Court. The Sierra Leone Bar Association also complied with the court orders and was also represented on the next adjourned date.

On 31st May 2019 the matter came up for hearing regarding compliance of the aforesaid orders. Compliance hearing did not take place as the court was moved on an application for short service of the Motion for stay of proceedings in the matter pending the hearing and determination of the action now filed in the Supreme Court for interpretation and / or enforcement of the 1991 Constitution of the Republic of Sierra Leone. The court heard the application for a stay of proceedings on the same day. Both parties informed the court that they were agreeable to have the Court grant the stay of proceedings. However the Court insisted to hear submissions from both parties with the necessary authorities before considering whether to grant a stay. Submissions were made and on 24th September 2019 the matter was reserved for ruling.



THE APPLICATION FOR STAY OF PROCEEDINGS PENDING THE HEARING AND DETERMINATION OF THE ACTION IN THE SUPREME COURT

The 2nd Defendant/Applicant by Notice of Motion dated 30th May 2019 applied for inter alia that this court grants a stay of all proceedings in the matter herein pending the hearing and determination of the action now filed in the Supreme Court and in the alternative that this Court stay all proceedings and refer the questions of law involved in this matter to the Supreme Court as case stated. In the affidavit supporting the application, Ibrahim Sorie the 2nd Defendant/Applicant stated that the Plaintiff/Respondent instituted the action against him in this court objecting to his elections to serve as a member of the 4th Defendant based on the interpretation of the Constitution by the 4th Defendant as per its notice of 18th December 2018 which states as follows:

“Council wishes all colleagues to note that its position based on the Constitution of Sierra Leone Act No. 6 of 1991 (the Constitution) and the Legal Practitioners Act 2000 as amended to mean that a legal practitioner shall only be qualified to act or serve as a Pupil Master if such legal practitioner has been admitted and enrolled as a legal practitioner for a period of at least 10 years after his/her name has been entered into the Roll of Court/Permanent Register”.

He further stated that the Supreme Court being the only court authorized by the Constitution to interpret its provisions, he has instituted an action for the interpretation and enforcement of the relevant provisions of the constitution for a final determination of this pressing issue and he prays that the reliefs prayed for on this application is granted to prevent further delay of the court's time and resources since this matter once heard and determined by the Supreme Court will be disposed of in accordance with the decision of the Supreme Court.

Mr. Sorie referred to the Malawian Case of **Bango v Attorney General & another Civ Cause No. 532 of 2012**, a high court judgement which states that the court has an inherent jurisdiction to stay proceedings when two different set of cases arising from similar sets of facts and the parties are related. He also referred to a Court of Appeal of Sierra Leone case dated 18th April 2016 **Dawnus S.L. Ltd v Timis Mining Civ/18/2016** in which proceedings in the High Court was stayed due to a jurisdictional challenge to concurrent trials. He also referred to the Supreme Court of Sierra Leone case of **Alhaji Abdulai Bangura v Toufic Huballah & Others S/C Misc. App No. 3/2006** delivered on 26th November 2007. Counsel submitted that the sum total of all three judgments is that the Court has inherent jurisdiction to stay proceedings more so in the light of the action filed by the Defendant in the Supreme Court in which it seeks the interpretation of the 1991 Constitution of Sierra Leone which this court does not have jurisdiction to interpret. This he submitted based on the authorities is to avoid prejudice to the other party and to avoid the situation where the courts decides two matters of similar facts differently involving the same parties. He submitted that if this court were to decide this matter it will cause prejudice to one or more parties taking into consideration that both parties in the Supreme Court are also parties



to this action and to avoid a very anomalous situation if this court decides the case differently where the facts in dispute are essentially the same.

ISSUE FOR DETERMINATION

The issue for determination is whether this Honourable Court should grant a stay of all proceedings in the matter pending the hearing and determination of the action now filed in the Supreme Court for interpretation and/ or enforcement of the 1991 Constitution of the Republic of Sierra Leone. Both parties seemed to have abandoned the alternative order sought which was to stay the proceedings and for the court to refer the question of law involved to the Supreme Court so I will not deal with this order sought on the Notice of Motion.

As stated above both parties were on record agreeable to the Court granting an order to stay the proceedings pending a decision of the Supreme Court until this court insisted that they should make submissions and cite authorities. At the next adjourned date, when the matter came up Counsel for the Plaintiff/Respondent Mr. Jalloh agreed with Mr. Sorie's submission that the court could and should grant a stay under its inherent powers but he asked the court to vacate one of the orders of 28th May on the grounds that the work of the General Legal Council as provided for in section 4 of the Legal Practitioners Act 2000 as amended will be significantly affected if the second order was still in force. He also pointed out the sequence of events in the matter noting that the injunctive orders had been sought and granted before the 2nd Defendant filed an action in the Supreme Court. Ms. Spencer-Coker Counsel for the GLC did not address the application to stay proceedings but supported Mr. Jalloh's arguments that the 2nd Order must be vacated highlighting the very important functions of the GLC which will be seriously affected due to the absence of a Chairman.

Mr. Sorie submitted that what both Counsel are canvassing is to allow the election of the Chairman of GLC to take place whilst still restraining the 2nd Defendant from participating in the affairs of GLC the 4th Defendant. Mr. Sorie submitted that this court cannot vary the order of May 28th 2019.

He said that it was trite law that a court cannot and has no power to vary an order after it has been drawn up or entered save for clerical mistakes and accidental slips. Counsel referred to Halsburys law of England 3rd Edition Vol 22 at page 783 under the rubric "Liberty to Apply" and several other sections of the same volume. He also referred to **Cristel v Cristel 1951 2 All ER** at page 574 a Court of Appeal decision to the effect that the court did not have the power to make a variation. He also referred to the Court of Appeal Sierra Leone case of **Jones v Master & Registrar & Administrator General 1972 -73 ALR SL Series** at page 402 where the court allowed the amendment as the correction was to address a clerical error. Counsel submitted that this court is bound by the decision of the Court of Appeal based on the doctrine of stare decisis. He also referred to Order 23 Rule 10 of the High Court Rules which provides for amendments to Judgments and orders. Clerical mistakes can be amended by application by Motion and summons without an appeal and Counsel referred to Halsbury's Laws of England Vol 22 at page 1645 at



page 772 under the rubric "Varying Minutes" He also pointed out that there was no application filed for variation and the submission or request to the court was not in order as summons is the main mode of application to the court. He submitted that oral applications viva voce are limited to non-contentious matters such as leave to amend a Writ before it is served. He referred to Halsbury's Laws of England Vol 30 at para 621 at page 346.

He submitted that a party seeking to discharge an injunction must do so by application and he referred to Bean on Injunction 13th Edition at page 115 para 926, pg. 436, Halsbury Laws of England 3rd Edition Vol 21 at para 926 pg. 436 and **Sabra v Governor** 1957-60 ALR SL pg. 40. He also submitted that the application cannot be made under the 11th Order of the 28th May which was "liberty to apply" and he referred to Halsbury Vol 22 at page 783 para 1663. He argued that Counsel for the Plaintiff cannot make an application on behalf of the 4th Defendant as that will amount to conflict of interest and he referred to Halsbury's 4th Edition Volume 3 under the rubric "Conflict of Interest".

In addressing the Court on the concerns over GLC operating without a Chairman, Counsel for the 2nd Defendant submitted that the Act does not specify any role for the Chairman. Such functions of GLC he argued as highlighted by Ms. Spencer-Coker can be done in the absence of a chairman, for e.g. the certificates given to pupil barristers are signed by the Secretary and not the Chairman and the Chairman does not sign certificates, there is therefore no requirement for the Chairman to be a signatory to the account. On the issue of quorum he stated that GLC still has 7 members and the quorum is 5.

He finally submitted that the 2nd Defendant who has been voted for continues to suffer the restriction of been unable to participate in the affairs of the 4th Deft though elected by the 1st Defendant the Bar Association to do so. He submitted that to grant any alteration would unduly tilt the scale of inconvenience completely on the shoulder of the 2nd Defendant and if the 2nd Defendant is successful in the Supreme Court there is no way damages would be a sufficient remedy.

DECISION

The 2nd Defendant has applied for a stay of proceedings pending the determination of an entirely new action in the Supreme Court which he commenced much later after this present action was instituted and directions given for trial. The court has an inherent jurisdiction to stay proceedings which are an abuse of its process, such as frivolous, vexatious or harassing proceedings or those which are manifestly groundless or in which there is clearly no case in law or equity. The court always has a discretion whether or not to accede to an application to stay proceedings see **Bettinson v Bettison** 1965 1 All E.R. 102.

If there are two courts faced with substantially the same question or issue, it is desirable that such a question or issue shall be determined in only one of those two courts if by that means justice can be done. In those circumstances the Court will if necessary stay one of the actions See **Royal Bank of Scotland Ltd v Citrusdal Investment Ltd** 1971 3 All E. R. 558 , **Thames Launches**



Ltd v. Trinity House Corporation (Deptford Strond) 1961 1 All E. R. 26. The party applying for a stay must establish (1) duplication between two sets of proceedings, (2) oppression, vexation or abuse of process of the Court resulting from the continuance of the proceedings sought to be stayed and (3) the absence of any other consideration against the relief sought, such as unreasonable delay or acquiescence see **Slough Estates Ltd v. Slough Borough Council 1967 2 All E.R. 270**

I will also refer to **Mustapha Fofanah T/A Sarrah Trading Enterprises v Joseph Kelfala CC 819/03 F No. 26, High Court of Sierra Leone** Ruling delivered in 2008. In this case proceedings were in the High court and there was an appeal in the Supreme Court. The court referred to the case of **Ralph Obioha and Another vs. the President of the Republic of the Federal Republic of Nigeria, the President of Senate and the Speaker of the House of Representative (1981) 2 NCLR at page 701-709** where it was held as follows:

“when the Supreme Court being the Highest Court in Nigeria, is seized of a matter whether in its original or in its Appellate jurisdiction, it is the duty of the High Court dealing with similar matter to stay its proceedings pending the determination of such matter in the Supreme Court”.

In addition to the **Obioha** case other cases were cited dealing with the same principle. The Learned Trial Judge in **Mustapha Fofanah T/A Sarrah Trading Enterprises v Joseph Kelfala** observed that in all the cases the Plaintiff had instituted 2 or more separate proceedings in respect of the same matter in the lower and higher court at the same time for same/similar remedies and this definitely was frivolous, vexatious or an abuse of process which does constitute one of the grounds for stay of proceedings. He further opined that what he had to decide is whether the case before him presented the same scenario as represented in **Obioha** and the other cited cases. He refused the stay applied for, distinguishing the case before him that it was not the same party that instituted the said proceedings in the High Court and Supreme Court, that the plaintiff never instituted proceedings in the Supreme Court in its original jurisdiction and did not institute the proceedings in the Supreme Court in its appellate jurisdiction. The proceedings in the Supreme Court in that case were instituted by the defendant.

In the present case I note that Mr. Jalloh Counsel for the Plaintiff has no objection and is in agreement with Counsel for the 2nd Defendant that a stay of proceedings ought to be granted. I have a duty to ensure that this is a proper case to grant a stay. Having read the above authorities referred to and the facts of the case stated in the affidavits and after due consideration of the submissions by Counsel for the parties, I am not convinced that a stay should be granted for a number of reasons.

On the issue of jurisdiction, the question I ask myself is does this court have jurisdiction to hear the action in the Originating Summons? My answer is yes as it is called upon not to interpret the Constitution but to determine issues in the Legal Practitioners Act 2000 which it has full jurisdiction to do. A cursory look at the reliefs prayed for in the Originating Summons does not at

any time mention the Constitution of Sierra Leone 1991 let alone its interpretation. The main thrust of the reliefs the Plaintiff is seeking is to declare that the 2nd Defendant's election by the 1st Defendant to Council i.e. the 4th Defendant in the fifteen years standing category is unlawful, null and void based on the view of the GLC the 4th Defendant in so far as the counting period for standing or years of standing at the bar in Sierra Leone. It is also for interlocutory orders restraining the 2nd Defendant from sitting at Council pending the hearing and determination of the matter and from presenting themselves as duly elected representative of the 1st Defendant.

I fully recognize and respect the constitutional role of the Supreme Court of Sierra Leone to interpret the Constitution and very much welcome its interpretation and directions which all other courts are bound by and must follow. However as it performs its constitutional role, this Court also has a mandate to also undertake its own constitutional role which is in section 132(1) of the Constitution which states as follows:

"The High Court shall have jurisdiction in civil and criminal matters and such other appellate and other jurisdiction as may be conferred upon it by this Constitution or any other law."

Having confirmed that I have jurisdiction in this matter the next question is whether the parties or issues are the same as in the action now filed in the Supreme Court. In the Supreme Court, the parties are Ibrahim Sorie the 2nd Defendant herein as Plaintiff and General Legal Council the 4th Defendant herein as Defendant. They are parties in this court but in a different capacity; in the Supreme Court; the 2nd Defendant herein is the Plaintiff and the Defendant in the Supreme Court is the 4th Defendant herein. Furthermore and most importantly there are three other parties in this matter before this court who are not parties in the matter before the Supreme Court and they are the Sierra Leone Bar Association, Samuel Navo who has withdrawn his nomination and Augustine Sorie-Sengbe Marrah the Plaintiff who instituted this action.

The other question to be addressed is whether the matters are similar in both courts. For ease of reference it is necessary for me to set out the reliefs applied for in the Supreme Court which are as follows:

"TAKE NOTICE that the Supreme Court of Sierra Leone will be moved at the expiration of 21 days from the service upon you of this notice, or so soon thereafter as Counsel can be heard for the following reliefs pursuant to sections 122, 124 & 127 of the Constitution of Sierra Leone 1991 (Act No.6) of 1991 (hereinafter referred to as the "Constitution") namely:

A. The interpretation of sections 135(3) & 135 (4) of the Constitution and the Legal Practitioners Act, 2000 by the determination of the following questions:-

(i) Whether or not the Defendant's stated position by way of Notice dated the 18th day of December 2018 construing and interpreting the Constitution of Sierra Leone Act (No.6) of 1991 and the Legal Practitioners Act , 2000 as amended to mean that a Legal Practitioner shall only be qualified to act or serve as a Pupil Master if such Legal Practitioner has been admitted and



enrolled as a Legal Practitioner for a period of at least 10 years after his/her name has been entered into the Roll of Court/Permanent Register is correct?

(ii) If the answer to (i) above is in the affirmative could it be said that to be qualified to be appointed a Justice of the Superior Court of Judicature that the constitutionally required periods should be computed from year of signing the permanent register rather than year of call?

(iii) If the answer to (i) above is in the affirmative could it be said that failure to be admitted and enrolled into the Roll of Court/Permanent Register disqualifies one from being appointed a Justice of the Superior Court of Judicature?

(iv) If the answer to (i) above is in the negative can the Plaintiff, a legal practitioner having been called to the bar since 4th October 2000 be eligible to serve as Pupil Master pursuant to the Legal Practitioners Act 2000?

(v) Whether the requirements to be eligible to be elected to the General Legal Council are *pari materia* and in principle similar to the requirements to be appointed a Judge of the High Court or a Justice of the Court of Appeal?

(vi) If the answer to (v) is in the affirmative is the Plaintiff/Applicant, a Legal Practitioner, having been called to the bar since 4th October 2000 eligible to be elected to the General Legal Council in the 15 year and above category pursuant to the Legal Practitioners Act 2000?

(vii) Whether the Defendant's interpretation of the provisions of section 135(3) and 135(4) of the Constitution and the Legal Practitioners Act, 2000 discloses and does produce an unreasonable, unfair, unjust, confusing and absurd result in its application?

(viii) Whether the Defendant over a long period of time having consistently interpreted, construed and applied standing to be computed from date of call can now change the generally accepted understanding of how standing is computed?

(ix) Whether the Defendant having accepted from 2011 to 2018 payment as fees from the Plaintiff subscribed to from year of call and having previously regarded the Plaintiff as being eligible to serve as Pupil Master from 2015 to 2018 can now determine that the Plaintiff is no longer eligible to do so without the Plaintiff being disbarred or suspended from practice?

(x) Whether the Plaintiff having been appointed a Notary Public by the Chief Justice of the Republic of Sierra Leone on 21st December 2017 pursuant to section 2 of the Notaries Public Act (Cap 13 of the Laws of Sierra Leone 1960) which requires a Notary to be a Legal Practitioner of not less than 10 years standing was rightfully appointed?

(xi) Whether Persons appointed Attorney-General and Minister of Justice are deemed to be qualified to be appointed to such position by computing standing from the date of call to the bar or from the date of enrollment /signing of the Permanent Register?

(xii) Whether seniority at the Bar is determined by the date of call to the Bar or from the date of enrollment/signing of the Permanent Register?

B. (i) A Declaration that the Defendant's position as stated in its Notice dated 18th December 2018 is inconsistent with the provisions of Sections 135(3) & 135 (4) of the Constitution of Sierra Leone Act No. 6 of 1991.

(ii) A Declaration that the Plaintiff is eligible and qualified to serve as Pupil Master.

(iii) A Declaration that the Plaintiff is eligible to contest for and has been duly elected to the General Legal Council.

(iv) A Declaration that standing is computed from the date of call and not from the date of enrollment.

(v) A Declaration that seniority at the Bar is determined by the date of call and not the date of enrolment and signing the permanent register.

(vi) An interlocutory injunction to restrain the Defendant by itself, its agents, privies, partners or assigns or anyone acting under their instructions from holding any meeting or electing or causing a re-election or appointing any person to serve in any capacity whatsoever pending the hearing and determination of the substantive matter.

C. Any further order or relief as this Honourable Court may deem fit and just."

Having regard to the above I concede that the issues in the Supreme Court touch and concern the issues in the Originating Summons but the issues in the Supreme Court are far wider than the issues before this court. I am also not sure that the determination of the Supreme Court may automatically lead to the determination of the issues in this court. This is because even though the issues are all interrelated, the Originating Summons calls for this court's determination on the specific issue of the elections and nominations of the 2nd Defendant by Sierra Leone Bar Association is not among the issue for determination in the Supreme Court. Another issue which is not before the Supreme Court is the injunctive and mandatory reliefs sought against the Sierra Leone Bar Association which may be directly related but not specifically before the Supreme Court.

I note that the 2nd Defendant herein makes reference to the 4th Defendant's view or position based on the Constitution but this court is not bound by it as I have a duty to consider the submissions of all parties, interpret and apply the Legal Practitioners Act 2000 and make a determination of the issues before me.

Furthermore there is no indication that a date has been fixed for the hearing of the matter in the Supreme Court and I do not think it will be proper for this court to halt the trial of an action which it has jurisdiction to hear, given directions for trial and ordered an expedited trial. It is important to note that the interlocutory injunction ordered by this court continue to be in force pending determination of the trial. This court is also mindful of the fact that the parties namely the 2nd

and 4th Defendant affected by the interlocutory injunction may be prejudiced if this matter does not proceed and injustice may occur. There is urgency in this matter and this court will not be a party to delay the hearing of the Originating Summons which has a crucial public interest issue. The injunction was meant to be interlocutory for a short while pending the hearing and determination of the Originating Summons. Both the 1st and 4th Defendant are public interest bodies and in order to avoid an unsatisfactory situation of having an injunction in force indefinitely and to ensure finality in litigation, it will be in the interest of justice for this matter to proceed to trial and conclusion.

Proposed Variation of the 2nd Order of 28th May

For ease of reference the 2nd Order sought to be vacated by the Plaintiff and 4th Defendant states as follows:

“That the General Legal Council is hereby restrained from holding elections for its Chairman and from taking any decision that will prejudice the 2nd Defendant and the current action in the Originating Summons dated 14th May 2019”.

This variation sought was made verbally in Mr. Jalloh’s submissions in responding to the application of the 2nd Defendant/Applicant for a stay of proceedings and his submission was supported and buttressed by the affidavit and submissions of Ms. Spencer-Coker.

In responding to Mr. Jalloh’s proposed variation, Mr. Sorie has addressed the court lengthily on a number of issues and cited authorities to vehemently oppose a variation or vacation of the second interim injunctive order which if granted would allow the GLC to proceed to elect its Chairman and act in a manner that will prejudice the 2nd Defendant. It is my view that this order cannot be vacated as the very reason that necessitated this order still exists. The 2nd Defendant is still aggrieved that he has been prevented from sitting as a member of Council and from putting himself up for election as Chairman of Council which he feels he is entitled to do. This was the very reason why an expedited hearing was ordered, the injunction was intended to be for a short while and the trial was to have lasted for 2 days, 3rd and 4th June respectively. Mr. Sorie has quoted a long list of authorities all of which supports his submission that this court cannot vary its own orders and that liberty to apply does not entitle this court to vary its order by vacating the second order. Having considered all the submissions by Counsel for the parties herein I am of the view that the 2nd Order of 28th May 2019 should continue in force pending the hearing and determination of the action.

I therefore make the following orders:

1. The application for a stay of all proceedings in the matter herein pending the hearing and determination of the action now filed in the Supreme Court is refused.
2. The injunction against the 2nd and 4th Defendant shall continue to be in force.

3. The trial of the Originating Summons shall proceed and the 1st and 4th Defendants shall file affidavits within 14 days of this order and the Plaintiff shall file further affidavit evidence in reply within 14 days thereafter.
4. The Plaintiff shall enter the matter for trial which shall last for 2 days.
5. Hearing of the Originating Summons will take place on 15th January 2020 at 9am.

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

JL