

SC. NO. 6/2019

IN THE SUPREME COURT OF SIERRA LEONE

IN THE MATTER OF THE CONSTITUTION OF SIERRA LEONE 1991
SECTION 64, 122, 124, 127, 135 (3) & 135 (4)

IN THE MATTER OF THE LEGAL PRACTITIONERS ACT NO. 15 OF 2000

IN THE MATTER OF THE ANTI CORRUPTION ACT NO. 12 OF 2008

IN THE MATTER OF THE NOTARIES PUBLIC ACT
CHAPTER 13 OF THE LAWS OF SIERRA LEONE 1960

IN THE MATTER OF AN ACTION PURSUANT TO
THE SUPREME COURT RULES 1982 PART XVI RULES 89-98,
STATUTORY INSTRUMENTS NO. 1 OF 1982

IN THE MATTER OF AN ACTION PURSUANT TO
ORDER 3 RULE 1 OF THE HIGH COURT RULES
CONSTITUTIONAL INSTRUMENT NO. 3 OF 2007

Between : **IBRAHIM SORIE ESQ.** - Plaintiff/Applicant

And : **GENERAL LEGAL COUNCIL** - Defendants/Respondents

CORAM

HON. MR. JUSTICE ALLAN B. HALLOWAY	-	JSC
HON. MR JUSTICE ALUSINE S. SESAY	-	JSC
HON. MR. JUSTICE MANGAY F. DEEN-TARAWALLY	-	JSC
HON. MR. JUSTICE M. SENGU KOROMA	-	JSC
HON. MS. JUSTICE MIATTA M. SAMBA	-	JA

COUNSEL

I. SORIE ESQ. Plaintiff/Applicant in person &
F. SORIE MRS. for the Plaintiff/Applicant.

O. JALLOH ESQ. & A.S. MARFAH ESQ. for the Defendants/Respondents

RULING/JUDGEMENT

Delivered this 20th day of October 2020

The application herein, made by IBRAHIM SORIE, the Plaintiff/Applicant-in-person by way of an Originating Notice of Motion dated 30th May 2019, seeks the interpretation of Sections 135(3) and 135(4) of the **CONSTITUTION OF SIERRA LEONE 1991** and the **LEGAL PRACTITIONERS ACT 2000** as amended, by determining whether or not the stated position of the GENERAL LEGAL COUNCIL, the Defendants/Respondents herein, expressed in a Notice dated the 18th December 2018, construing and interpreting the **CONSTITUTION OF SIERRA LEONE 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 Ten (10) years after his/her name has been entered into the Roll of Court/Permanent Register is correct ?

If the answer to the question aforesaid is in the affirmative, the application seeks the determination whether it could be said that to be qualified to be appointed a Judge of the Superior Courts of Judicature, the constitutionally required periods should be computed from year of signing the Permanent Register, rather than year of call and whether it could be said that failure to be admitted and enrolled into the Roll of Court/Permanent Register disqualifies one from being appointed a Judge of the Superior Courts of Judicature? On the other hand if the answer to the first question above is in the negative, the application herein seeks the determination whether the Plaintiff/Applicant herein, a Legal Practitioner, having been Called to the Bar since 4th October 2000, is eligible to serve as Pupil Master pursuant to the **LEGAL PRACTITIONERS ACT 2000** ?

The application herein seeks the determination of the question, whether the requirements to be eligible to be elected to the GENERAL LEGAL COUNCIL, the Defendants/Respondents herein, are '*pari materia*' and in principle, similar to the requirements to be appointed a Judge of the High Court or a Judge of the Court of Appeal and if the answer to the said question is in the affirmative, is the Plaintiff/Applicant herein, being a Legal Practitioner, having been called to the Bar since 4th October 2000, eligible to be elected to the GENERAL LEGAL COUNCIL, the Defendants/Respondents herein, in the fifteen (15) year and above category pursuant to the **LEGAL PRACTITIONERS ACT 2000** ?

The application herein, further seeks the determination of whether the Defendants/Respondents' interpretation of the provisions of Sections 135(3) and 135(4) of the **CONSTITUTION** aforesaid and the **LEGAL PRACTITIONERS ACT 2000**, discloses and produce an unreasonable, unfair, unjust, confusing and absurd result in its application, seeks the determination of whether the Defendants/Respondents 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, seeks the determination of whether the Defendants/Respondents having previously regarded the Plaintiff/Applicant as being eligible to serve as Pupil Master from 2014 to 2018 can now determine that the Plaintiff/Applicant is no longer eligible to do so, without him being disbarred or suspended from practice, seeks the determination of whether the Plaintiff/Applicant having been appointed as Notary Public by the **HON. CHIEF JUSTICE of SIERRA LEONE** on the 21st December 2017, pursuant to Section 2 of the **NOTARIES PUBLIC ACT, CHAPTER 13 of the LAWS OF SIERRA LEONE 1960**, which requires a Notary to be a Legal Practitioner of not less than Ten (10) years standing was rightfully appointed, seeks the determination of whether persons appointed **ATTORNEY GENERAL and MINISTER OF JUSTICE** or **ANTI-CORRUPTION COMMISSIONER** are deemed to be qualified to be appointed to such positions by computing standing from the date of call to the bar or by the date of enrolment/signing of the Permanent Register and seeks the determination of whether seniority at the Bar is determined by the date of call to the Bar or from the date of enrolment/signing of the Permanent Register.

The Plaintiff/Applicant seeks the Declaration that the Defendants/Respondents' position as stated in its Notice dated 18th December 2018, is inconsistent with the provisions of Sections 135(3) and 135(4) of the **CONSTITUTION OF SIERRA LEONE 1991**, a Declaration that the Plaintiff/Applicant is eligible and qualified to serve as Pupil Master, a Declaration that the Plaintiff is eligible to contest for and has been duly elected to the **GENERAL LEGAL COUNCIL**, the Defendants/Respondents herein, a Declaration that standing is computed from the date of call and not from the date of registration/enrolment, a Declaration that seniority at the Bar is determined by the date of call and not the date of enrolment and signing of the Permanent Register, an Interlocutory Injunction restraining the Defendants/Respondents by itself, its agents, privies, partners or assigns or any one 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 herein and any further order or relief as this Honourable Court may deem fit and just.

In support of the application aforesaid, is the affidavit of IBRAHIM SORIE, sworn to on the 30th May 2019, to which several exhibits are annexed, including the following:

Exhibit '1' is the Plaintiff/Applicant's Bar Final Certificate indicating that he has successfully completed the prescribed courses of such study,

Exhibit '2' is the Plaintiff/Applicant's Certificate of Call to the Degree of an Utter Barrister dated 4th October 2000,

Exhibits '7', '8', '9', '10', '11', '12', '13' and '14' are letters ranging from dates between 16th March 2014 and 1st November 2017, contents of which are the Plaintiff/Applicant notifying the Chairperson of the Defendants/Respondents, affirming the pupillage of several Barristers with him and confirming the said Barristers' completion of the one (1) year pupillage period with him,

Exhibit '16' is a Certificate dated 21st December 2017, confirming the appointment of the Plaintiff/Applicant herein as a Notary Public by, the HON. CHIEF JUSTICE OF SIERRA LEONE,

Exhibits '17¹⁻⁸', '18¹⁻⁵' and '19¹⁻⁵' are the Plaintiffs/Applicants application forms for payment of Practicing Certificates, receipts of payments and practising certificates, all based on prescribed fees computed from the year of his call to the Bar on the 4th October 2000, the earliest of these practising certificates being issued on the 3rd February 2011, after his payment of the prescribed fee for the period of Ten (10) years upwards from his date of call to the Bar,

Exhibits '20' is an article allegedly published by OSMAN JALLOH, a member of the Defendants/Respondents, advancing the argument that standing is computed from date of enrolment in the Permanent Register, rather than from date of call to the Bar and that for one to be eligible to serve as a Pupii Master, one must have enrolled in the Permanent Register for at least Ten (10) years,

Exhibit '21' is a Notice dated 18th December 2018 issued by MOHAMED PAMOMO FOFANAH, Chairperson of the Defendants/Respondents stating the Defendants/Respondents' own interpretation of the CONSTITUTION OF SIERRA LEONE 1991 and of the LEGAL PRACTITIONERS ACT 2000

regarding the period within which a Legal Practitioner is qualified to act as or serve as a Pupil Master,

Exhibit '25' is a letter dated 15th February 2019, addressed to the Plaintiff/Applicant herein from NICKY SPENCER-COKER MRS, the Secretary General of the Defendants/Respondents informing him of his excess payment for a practicing certificate, the number of years of standing apparently based on **Exhibit '21'** aforesaid,

Exhibit '31' is a list of Legal Practitioners, eligible to contest for the Defendants/Respondents' elections for members in the category of Legal Practitioners of standing of Fifteen (15) years and above in which the name of the Plaintiff/Applicant is excluded, apparently based on **Exhibit '21'** aforesaid,

Exhibit '32' are minutes of an 'Extraordinary General Meeting of the SIERRA LEONE BAR ASSOCIATION, the same confirming no objection to the appointment of the Plaintiff/Applicant as a member of the Defendants/Respondents in the category of Legal Practitioners of standing of Fifteen (15) years and above, notwithstanding the fact that his name did not make the list as in **Exhibit '31'** aforesaid,

Exhibit '33' is a Notice of Objection issued by AUGUSTINE SORIE-SENGBE MARRAH, to the Plaintiff/Applicants election aforesaid on the grounds that he was ineligible to be elected to such position,

Exhibit '34' is a letter dated 29th April 2019, addressed to the President of the SIERRA LEONE BAR ASSOCIATION from AUGUSTINE SORIE-SENGBE MARRAH, urging the Executive of the SIERRA LEONE BAR ASSOCIATION not to submit any written confirmation of the Plaintiff/Applicant and one SAMUEL T. NAVO as elected members of the Defendants/Respondents until his Petition/Objection as contained in **Exhibit '33'** aforesaid is tabled for consideration by the general membership of the SIERRA LEONE BAR ASSOCIATION, failing which he will seek injunctive and other reliefs against the Association.

Exhibit '35' is a letter dated 13th May 2019, addressed to the Secretary of the Defendants/Respondents, from the Secretary of the SIERRA LEONE BAR ASSOCIATION confirming the election of members of the Defendants/Respondents, in the just concluded elections, which said elected members include the Plaintiff/Applicant and one SAMUEL T. NAVO,

Exhibit '36' is an Originating Summons dated 14th May 2019, instituted by AUGUSTINE SORIE-SENGBE MARRAH, in the High Court of Sierra Leone seeking an order that the Plaintiff/Applicant's election aforesaid, be declared null and void and that he be restrained from serving as a member of the Defendants/Respondents,

Exhibit '38' is an Order of the High Court dated 28th May 2019, restraining the Plaintiff/Applicant aforesaid,

Exhibit '40' is a publication of the **SIERRA LEONE LAW REVIEW 2000** containing a list of Legal Practitioners with both their dates of call to the Bar and dates of enrolment,

Exhibit '41' is the **COUNCIL OF LEGAL EDUCATION SIERRA LEONE LAW SCHOOL SOUVENIR HANDBOOK AND STUDENT PASS LIST 1990-2006 EDITION** and

Exhibit '46' is the legal analysis which the Plaintiff/Applicant claims, is what the Defendants/Respondents considered before reaching its decision to restrict the right to serve as a Pupil Master, to only those who had been enrolled or signed the Permanent Register for at least ten (10) years.

In opposition to the application herein, is the affidavit of ONIKE CHRISTINE SPENCER-COKER and the affidavit of OSMAN JALLOH, sworn to on the 28th June 2019 and the 21st January 2020, respectively. Attached to the affidavit of ONIKE CHRISTINE SPENCER-COKER, are several exhibits including the following:

Exhibit 'OSC 1' is a letter dated 23rd November 2009, addressed to the Chairman of the Defendants/Respondents, in which as contained therein, the Plaintiff/Applicant applying to sign the Temporary Register as a Barrister and Solicitor of the High Court of Sierra Leone,

Exhibit 'OSC 2' is the relevant page of the Temporary Register of Legal Practitioners certifying that the Plaintiff/Applicant was approved and enrolled as a Pupil Barrister and Solicitor of the High Court of Sierra Leone on the 25th November 2009 and

Exhibit 'OSC 3' is the relevant page of the Roll of Court or Permanent Register of Legal Practitioners in Sierra Leone certifying that the Plaintiff/Applicant was approved and enrolled as a Barrister and Solicitor of the High Court of Sierra Leone on the 14th January 2011.

In reply to the affidavit in opposition aforesaid, is the affidavit of IBRAHIM SORIE, sworn to on the 9th December 2019, to which said affidavit is annexed several exhibits including the following:

Exhibit '1' is a website page of YADA WILLIAMS & ASSOCIATES, the law firm which OSMAN JALLOH belongs to and in which the said OSMAN JALLOH continues to hold himself out to the public as a Legal Practitioner, computation of his standing which is based from the year of his call to the bar,

Exhibit '2' is an extract of the yearly pass list of students of the **SIERRA LEONE LAW SCHOOL 1990 to 2010**, showing that OSMAN JALLOH completed Law School and was called to the Bar in October 2006,

Exhibit '3' is a campaign poster in which SONKITA CONTEH whilst campaigning to be elected as President of the **SIERRA LEONE BAR ASSOCIATION** in June/July 2019, held himself out to members of the **SIERRA LEONE BAR ASSOCIATION**, as being a Legal Practitioner of over Fifteen (15) years, computation of which can only be based on the years of his call to the Bar in 2003,

Exhibit '4' is an extract of the yearly pass list of students of the **SIERRA LEONE LAW SCHOOL 1990 to 2010**, showing that SONKITA CONTEH completed Law School and was called to the Bar in October 2003,

Exhibit '5' is a newspaper publication by AUGUSTINE SORIE-SENGBE MARRAH entitled 'is the Legal Profession in ICU' dated 15th October 2019, in which he stated that Ten (10) years this month he was called to the Sierra Leone Bar,

Exhibit '6' is another publication by AUGUSTINE SORIE-SENGBE MARRAH dated 31st October 2009, commemorating his call to the Bar entitled 'How a college drop-out came back to become a Law School Star Pupil',

Exhibit '8' is a Notice issued by the **SIERRA LEONE BAR ASSOCIATION** in preparing for its Annual General Meeting in July 2019, requesting subscriptions

from its members based on from year of call and not years of enrolment or signing of the Permanent Register of Legal Practitioners and

Exhibit '9' is a Resolution issued by the Board of Directors of the SIERRA LEONE BAR ASSOCIATION reviewing subscription of members of the Association for 2019/2020 financial year, based on from year of call and not year of enrolment or signing of the Permanent Register of Legal Practitioners.

HAVING READ the Originating Notice of Motion dated 30th May 2019, the affidavit of IBRAHIM SORIE, sworn to on the 30th May 2019, in support of the application by Originating Notice of Motion aforesaid, the affidavit of ONIKE CHRISTINE SPENCER-COKER and the affidavit of OSMAN JALLOH, sworn to on the 28th June 2019 and the 21st January 2020 respectively, the said affidavits, in opposition to the said application and the affidavit of IBRAHIM SORIE, sworn to on the 9th December 2019, in reply to the affidavit in opposition aforesaid, together with all the exhibits annexed to the affidavits aforesaid and **HAVING HEARD** I. SORIE ESQ., the Plaintiff/Applicant in person, and **HAVING HEARD** also, O. JALLOH ESQ. of Counsel for the Defendants/Respondents and **HAVING CONSIDERED** all the submissions made by them in relation to the application herein. having regard to all the provisions of the law cited and in particular Sections 135(3) and 135(4) of the **CONSTITUTION OF SIERRA LEONE 1991**, this Court thinks it necessary to first outline the undisputed facts, which provoked the application herein.

The Plaintiff/Applicant herein is a Legal Practitioner and was called to the Bar of Sierra Leone on the 4th October 2000. The Defendants/Respondents are a body corporate with perpetual succession and capable of being sued and suing in its name. They are established by an Act of Parliament and are the body charged with the responsibility of regulating the practice of Legal Practitioners in Sierra Leone. Shortly after being called to the Bar, the Plaintiff/Applicant left Sierra Leone, pursued further studies in the Law and was temporarily resident in the United States of America up till his return to Sierra Leone on the 29th September 2009. He thereafter completed twelve (12) months of pupillage and proceeded to sign the Permanent Register of Legal Practitioners on the 14th January 2011. The Plaintiff/Applicant is a member of the SIERRA LEONE BAR ASSOCIATION, was elected its President in June 2014 and re-elected as such in June 2015, for a further one year term. The Plaintiff/Applicant is also a Notary Public, having been so appointed on the 21st December 2017.

From 2014 to 2018, the Plaintiff/Applicant has acted as Pupil Master for several Barristers who have within this period, proceeded to sign both the Temporary and Permanent Register of Legal Practitioners without any incident, his qualification as a Pupil Master been determined from his date of call to the Sierra Leone Bar aforesaid. Since signing the Permanent Register of Legal Practitioners on the 14th January 2011 aforesaid and up to January 2018, the Plaintiff/Applicant had always paid the fees for his annual practicing certificate based on his year of call without incident, protest or complain from the Defendants/Respondents who issued practicing certificates thereafter to him.

A Notice dated 18th December 2018, was issued by the Defendants/Respondents stating that by its position based on the **CONSTITUTION OF SIERRA LEONE 1991** and the **LEGAL PRACTITIONERS ACT 2000** as amended, 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 Ten (10) years after his/her name has been entered into the Roll of Court/Permanent Register. In January 2019, the Plaintiff/Applicant applied for a Practicing Certificate for 2019 and submitted fees computed and based on his year of call. The Defendants/Respondents issued a Practicing Certificate but computed fees based on his years of signing the Permanent Register. Further in January 2019, the Plaintiff/Applicant proceeded to certify that the completion of pupillage of S.A. CONTEH ESQ. and I.D.B. JOHN ESQ. Notwithstanding the Notice dated 18th December 2018 aforesaid, the same which would have clearly disqualified the Plaintiff/Applicant as a Pupil Master, the Defendants/Respondents at a meeting with the said S.A. CONTEH ESQ. and the said I.D.B. JOHN ESQ. proceeded to have them sign the Permanent Register of Legal Practitioners.

A Notice for an Extraordinary General Meeting of the SIERRA LEONE BAR ASSOCIATION was put out, by notifying members that the tenure of members elected to serve as members of the Defendants/Respondents, expired in March 2019 and scheduled the 26th April 2019, as the date for elections of members to the Defendants/Respondents. On the eve of the scheduled elections, lists of Legal Practitioners eligible to contest for the vacant Council positions were given to the General Secretary of the Bar Association. From the list of Legal Practitioners eligible to contest for the election of members in the category of Legal Practitioners with standing of Fifteen (15) years and above, the said category which the Plaintiff/Applicant herein claims to be, based on his year of call to the Bar, the Plaintiff/Applicant's name was notably absent. This notwithstanding, the Plaintiff/Applicant was declared elected to the Fifteen (15)

years and above category as a member of the Defendants/Respondents at the meeting of the Sierra Leone Bar Association aforesaid.

Further to the election of the Plaintiff/Applicant aforesaid, one AUGUSTINE SORIE-SENGBE MARRAH issued a Notice of objection to the Plaintiff/Applicant's election aforesaid, on the grounds that he was ineligible to be elected to such position. By a letter dated 29th April 2019, the said AUGUSTINE SORIE-SENGBE MARRAH, threatened to seek Injunctive Reliefs against the SIERRA LEONE BAR ASSOCIATION and the Plaintiff/Applicant if his petition/objection contained in the Notice of Objection aforesaid was not discussed at the next extraordinary general meeting of the SIERRA LEONE BAR ASSOCIATION to be called specifically for that purpose. By a letter dated 13th May 2019, the General Secretary of the SIERRA LEONE BAR ASSOCIATION informed the Secretary of the Defendants/Respondents of the names of persons elected at the Extraordinary General meeting of the SIERRA LEONE BAR ASSOCIATION held on the 26th April 2019, informing the Defendants/Respondents also that a petition has been filed by AUGUSTINE SORIE-SENGBE MARRAH regarding the eligibility of the Plaintiff/Applicant herein and SAMUEL T. NAVO as members of the Defendants/Respondents.

By an Originating Summons dated 14th May 2019 AUGUSTINE SORIE-SENGBE MARRAH sought a Declaration from a Judge of the High Court of Sierra Leone, that in view of the position of the Defendants/Respondents, 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 Legal Practitioners in Sierra Leone and that by reason that the Plaintiff/Applicant signed and was enrolled in the Permanent Register of Legal Practitioners on the 14th January 2011, he was not qualified to be nominated and elected as a member of the Defendants/Respondents and sought further several Injunctive Reliefs. By an order of the Court dated the 28th May 2019, an Interlocutory Injunction was granted restraining the Plaintiff/Applicant herein from presenting himself as a duly elected member of the Defendants/Respondents, pending the hearing and determination of the application by Originating Summons aforesaid, on terms that the said AUGUSTINE SORIE-SENGBE MARRAH gives an undertaking to pay damages to the Plaintiff/Applicant herein, which he might suffer as a result of the Injunction aforesaid, should it turn out in the end that the said AUGUSTINE SORIE-SENGBE MARRAH was not entitled to the said Injunction and that the Plaintiff/Applicant ought not to have been restrained aforesaid.

Further to the filing of the application herein by Originating Notice of Motion dated 30th May 2019, a stay of all proceedings in the High Court aforesaid, was granted by this Court, by its order dated 16th December 2019.

As contained in the Defendants/Respondents statement of case filed on the 2nd July 2019, at paragraph 3 on **'LOCUS/STANDING OF THE PLAINTIFF TO RELY ON THE PERCEIVED ELIGIBILITY FOR APPOINTMENTS TO OTHER OFFICES IN REGARD HIS STATUS AS A LEGAL PRACTITIONER QUALIFIED FOR ELECTION TO THE DEFENDANT OR TO ACT AS A PUPIL MASTER'** O. JALLOH ESQ. of Counsel for the Defendants/Respondents submitted at paragraph 3.5 thereof at page 11 as follows:

'the entire case before this Court herein, hinges and should so be maintained, on this Court's consideration, interpretation and declaration as to who is a 'Legal Practitioner' under the Laws of Sierra Leone and no more or when does one become a 'Legal Practitioner' under the LEGAL PRACTITIONERS ACT 2000'.

O. JALLOH ESQ refers this Court to Section 1 of the said Act which defines a Legal Practitioner as:

'any person admitted and enrolled to practice law as a Barrister and Solicitor'

O JALLOH ESQ. of Counsel for the Defendants/Respondents submitted further that the definition of a Legal Practitioner under the **LEGAL PRACTITIONERS ACT** aforesaid is the same as the definition of a Legal Practitioner under the **CONSTITUTION OF SIERRA LEONE 1991**, Section 23(11) of which defines a Legal Practitioner as follows:

'... the expression Legal Practitioner means a person entitled to practice as a Barrister and Solicitor of the High Court of Sierra Leone.'

O. JALLOH ESQ. of Counsel for the Defendants/Respondents submitted that based on the definition above, the only natural, plain or even purposive meaning of the words **'admitted and enrolled'** as used in the said definition is to the effect that for a person to be considered a Legal Practitioner under the Laws of Sierra Leone, that person would have to inter alia, been called to the Bar and completed the mandatory pupillage prescribed by the **LEGAL PRACTITIONERS ACT 2000**, a submission which this court is inclined to

uphold and also uphold his further submission that to be admitted and enrolled to practice law as a Barrister and Solicitor, in the same context it is used above, informs of that person having unlimited access to practice law in all civil and criminal matters in the Courts in our jurisdiction and hence the rights that such a person can appear in interlocutory applications and trials in the High Court of Sierra Leone, in appeals in the Court of Appeal and before the Court of Appeal and before the Supreme Court in its appellate, supervisory and original jurisdictions.

O. JALLOH ESQ. of Counsel for the Defendants/Respondents invited this Court's attention to Sections 9, 10 and 11, under **PART III** of the **LEGAL PRACTITIONERS ACT 2000** under the rubric '**ADMISSION AND ENROLMENT OF LEGAL PRACTITIONERS**', submitting that the stipulations as contained therein, being a related and crucially important aspect in determining who is a Legal Practitioner is the consideration of what are the requirements for a person to become a Legal Practitioner. O. JALLOH ESQ., submitted that, based on the stipulations above, for a person to be a Legal Practitioner, that person has to satisfy the following requirements.

1. Hold a Degree in Law awarded by the UNIVERSITY OF SIERRA LEONE and of such level as the COUNCIL OF LEGAL EDUCATION may prescribe or
2. Hold any Degree in Law of a recognised University or other institution of higher learning of a commonwealth country approved by the COUNCIL OF LEGAL EDUCATION or
3. Hold any Degree in Law of a recognised University or other institution of higher learning of a country with a legal system analogous to that of Sierra Leone, approved by the COUNCIL OF LEGAL EDUCATION,
4. Passes the appropriate professional examinations conducted by the COUNCIL OF LEGAL EDUCATION and
5. Served a period of pupillage of not less than twelve months with a Legal Practitioner of at least Ten (10) years standing in Sierra Leone.

O. JALLOH ESQ. of Counsel for the Defendants/Respondents submitted that having regard to the above requirements and the fact put before this Court that, the Plaintiff/Applicant only satisfied the requirement to be described as a Legal

Practitioner in Sierra Leone, in other words the Plaintiff/Applicant only signed and was enrolled in the Permanent Register of Legal Practitioners on the 14th January 2011, the said Plaintiff/Applicant could only therefore be of eight (8) years standing at the bar as at the date the said submission was made, being the 2nd July 2019. This Court holds the view that the submission of O. JALLOH ESQ. above is the same as him stating that the Plaintiff/Applicant as at the date aforesaid is yet to achieve the status of a Legal Practitioner who has reached the hallmark of Ten (10) years from the date he signed and was enrolled in the Permanent Register of Legal Practitioners.

This Court holds the view that, whereas it is true that the Plaintiff/Applicant is yet to achieve the status of a Legal Practitioner who has reached the hallmark of Ten (10) years from the date he signed and was enrolled in the Permanent Register of Legal Practitioners, it would not readily at this stage and before it determines the meaning of 'standing' and interpretes how it is computed, uphold that the Plaintiff/Applicant is not a Legal Practitioner of at least Ten (10) years standing in Sierra Leone, a requirement which must be fulfilled before a Legal Practitioner can act as a Pupil Master with whom a pupil Barrister and Solicitor must serve a period of pupillage of not less than twelve months with, before he is regarded as a Legal Practitioner in compliance with the fifth (5) requirement above. In the circumstance this Court cannot uphold at this stage, the submission of O. JALLOH ESQ. above that, having regard to the fact put before this Court that, the Plaintiff/Applicant only satisfied the requirement to be described as a Legal Practitioner in Sierra Leone, in other words the Plaintiff/Applicant only signed and was enrolled in the Permanent Register of Legal Practitioners on the 14th January 2011, the said Plaintiff/Applicant could only therefore be eight (8) plus years standing at the bar as at the 2nd July 2019. the phrase 'standing at the Bar' which O. JALLOH ESQ. himself has persistently used herein. By reason of his consistent use of the said phrase, it is but proper that, contrary to his submission that 'standing' as used in the **LEGAL PRACTITIONERS ACT 2000** is akin to 'status to practice' in Sierra Leone as a Legal practitioner, the said submission which this Court overrules, this Court substantiates why it holds the view that, the concept of 'standing' is distinct from 'status to practice' in Sierra Leone as a Legal Practitioner.

Quite apart from several other instances which this Court can give, for it to amplify the fact that 'standing' and 'status to practice as a Legal Practitioner' are terms which cannot be interchangeable, this Court only needs to determine the intention of the Legislature after it has considered and interpreted, Sections

52(1) and 52 (2) of the **LEGAL PRACTITIONERS ACT 2000**, the same which provides thus:

'The GENERAL LEGAL COUNCIL, may after consultation with the Legal Practitioners Privileges Committee, confer on a Legal Practitioner, the rank of Senior Advocate, which said rank shall not be conferred on any person unless he is not less than Fifteen (15) years standing as a Legal Practitioner and he has practised as a Legal Practitioner for not less than Twelve (12) years and his selection for the conferment of the rank complies with the selection criteria prescribed in regulations made by the GENERAL LEGAL COUNCIL in that behalf'.

O. JALLOH ESQ. of Counsel for the Defendants/Respondents has not elaborated and expanded on, or shown how he concluded that, standing as used in the **LEGAL PRACTITIONERS ACT 2000** is akin to status to practice in Sierra Leone as a Legal Practitioner. This notwithstanding, this Court holds the view that his conclusion may have been arrived at because of the phrase contained in Sections 51(1) and 52(2) aforesaid that, 'the rank of Senior Advocate shall not be conferred on any person unless he is of not less than Fifteen (15) years standing as a Legal Practitioner', the relevant portion of this phrase under consideration being 'not less that Fifteen (15) years standing as a Legal Practitioner'. the same which could likely suggest that standing is akin, to practice as a Legal Practitioner. The pertinent question herein which requires an answer is that, 'Could the phrase aforesaid be interpreted to mean that the Legislature intended to say that standing is akin to practice as a Legal Practitioner?' In the case *R v SECRETARY OF STATE FOR ENVIRONMENT, TRANSPORT AND THE REGIONS P ANOTHER, EX PARTE SPATH HOLME LTD*, (2001) 1 ALL ER 195, LORD NICHOLLS OF BIRKENHEAD had this to say at page 216:

'The task of the Court is often said to be to ascertain the intention of Parliament expressed in the language under consideration. This is correct and may be helpful, so long as it is remembered that the intention of Parliament is an objective concept, not subjective. The phrase is a shorthand reference to the intention which the Court reasonably imputes to Parliament in respect of the language used. Thus, when the Courts say that such-and-such a meaning cannot be what Parliament intended, they are saying only that the words under consideration cannot reasonably be taken as used by Parliament with that meaning'.

It is seen from the full text of Section 52(1) and 52(2) aforesaid that the phrase '**not less than Fifteen (15) years standing as a Legal Practitioner**' is preceded by the word '**he**'. It cannot be disputed that the word '**he**' contained in the phrase aforesaid references a '**Legal Practitioner**'. That being the case, the relevant portion of Sections 52(1) and 52(2) would read thus:

'The rank of Senior Advocate shall not be conferred on any Legal Practitioner, unless that Legal Practitioner is of not less than fifteen (15) years standing as a Legal Practitioner'.

Clearly the above suggests that in one breath, standing and practice as a Legal Practitioner are separate and distinct concepts when that portion of the phrase reading '**a legal practitioner is of not less than Fifteen (15) years standing**' is considered and in another breath, standing is akin to practice as a Legal Practitioner when that portion of the phrase reading '**a person is of not less than Fifteen (15) years standing as a Legal Practitioner**' is considered. It cannot be said that the Legislature, by the enactment of Sections 52(1) and 52(2) aforesaid intended the two meanings as above. Consequently, this Court would have to consider the whole of Section 52 of the **LEGAL PRACTITIONERS ACT 2000** and indeed, the Act itself on the whole to determine what the intention of the Legislature was. This Court finds that as contained in the **LEGAL PRACTITIONERS ACT 2000**, the phrase which is prevalent and has been consistently used is that, the term '**Legal Practitioner**' always precede the words '**of so many years standing**' in the same way as in that portion of the phrase in Sections 52(1) and 52(2) reading '**a legal practitioner is of not less than Fifteen (15) years standing**'. This is seen from Section 52(3) of the **LEGAL PRACTITIONERS ACT** aforesaid which provides for the composition of the **LEGAL PRACTITIONERS PRIVILEGES COMMITTEE**, the same comprising three (3) Legal Practitioners of not less than fifteen (15) years standing, elected by the **SIERRA LEONE BAR ASSOCIATION**. In this regard, this Court holds the view that, it cannot be reasonable to hold that the Legislature intended to say that standing is akin to practice as a Legal Practitioner, but reasonably intended to say that standing as used in the **LEGAL PRACTITIONERS ACT 2000** is separate and distinct from practice as a Legal Practitioner. Surely, if it were otherwise, the Legislature would not have separately and distinctly provided that the rank of Senior Advocate shall not be conferred on any person, unless he is a Legal Practitioner of Fifteen (15) years standing and has practiced as such for not less than Twelve (12) years.

This Court holds the view that, it is by reason of the distinction above that, it cannot uphold the submission of O. JALLOH ESQ. that, the application herein, in its entirety, hinges and should so be maintained, on this Court's consideration, interpretation and declaration as to who is a Legal Practitioner under the laws of Sierra Leone and no more. Again reference is made to the Fifth requirement above which must be complied with before one is regarded as a Legal Practitioner, the same which reads as follows:

'served a period of pupillage of not less than Twelve (12) months with a Legal Practitioner of at least Ten (10) standing in Sierra Leone'.

Clearly, the above requirement stipulates that to be a Legal Practitioner and practice as such in Sierra Leone, one must, first serve a period of pupillage of not less than twelve months with a 'Legal Practitioner'. Secondly that 'Legal Practitioner' with whom you intend to serve the period of pupillage aforesaid with, must be of at least Ten (10) years standing in Sierra Leone. In other words, one would not only be required to determine that, a Pupil Master is a Legal Practitioner but would also be required to determine the Legal Practitioner's years of standing.

It cannot be disputed that the submission above of O. JALLOH ESQ. of Counsel for the Defendants/Respondents, that the Plaintiff/Applicant could only therefore be eight (8) plus years standing at the bar as at the 2nd July 2019, was determined from the date when the said Plaintiff/Applicant signed and was enrolled in the Permanent Register of Legal Practitioners on the 14th January 2011, the same substantiating his view that standing is akin to practice as a Legal Practitioner. If this were to be held true, then in order to determine who is a Legal Practitioner it would be unnecessary to determine the Legal Practitioner's years of standing. Ultimately, the Fifth requirement outlined above would have stipulated that to be a Legal Practitioner and practice as such in Sierra Leone, one must serve a period of pupillage of not less than Twelve (12) months with a Legal Practitioner. Clearly, this would have produced an undesirable consequence, since a Legal Practitioner could become a Pupil Master on the day he signs and enrolls in the Permanent Register of Legal Practitioner. It is as a result of this that, this Court would uphold the submission of I. SORIE ESQ. Plaintiff/Applicant-in-person that, the principal issue for determination herein is whether standing in the context in which it is used in the **LEGAL PRACTITIONERS ACT 2000** should be computed from date of call to the Bar, or from date when one signs or is enrolled in the Permanent Register of Legal Practitioners.

It follows from the above that, before determining how standing is computed, it is necessary to determine what standing is, in the context in which it is used in the **LEGAL PRACTITIONERS ACT 2000**. This Court notes the use of the terminology 'Call to the Bar' and the terminology 'Enrolled in the Roll of Courts'. This Court holds the view that '**standing**' in the context in which it is used in the **LEGAL PRACTITIONERS ACT 2000**, could only be in relation to one's standing at the Bar. It cannot be disputed that, one is not called to the Roll of Courts. Obviously, the computation of standing by O. JALLOH ESQ. aforesaid, which he himself consistently refers to as standing at the Bar, the same which if true should have attracted the terminology standing at or in the Roll of Court, a terminology which has never been heard of and contrary to standing at the Bar, being a terminology which O. JALLOH ESQ. himself has frequently and persistently used.

It cannot be disputed that the relevant legislation both past and present, pertinent to Legal Practitioners in Sierra Leone, include the **LEGAL PRACTITIONERS ACT CHAPTER 11 OF THE LAWS OF SIERRA LEONE 1960**, the **COUNCIL OF LEGAL EDUCATION ACT 1989** and the **LEGAL PRACTITIONERS ACT 2000** as amended. It cannot be disputed further that, all Three (3) legislation have requirements for 'enrolment' and that all made frequent use of the term 'standing' as well. Whereas Sections 9, 10 and 11 of the **LEGAL PRACTITIONERS ACT 2000** makes it clear, as to what enrolment of Legal Practitioners in Sierra Leone is, it cannot be disputed also that, the term 'standing' has not been defined in the **LEGAL PRACTITIONERS ACT 2000** neither was it defined in the **LEGAL PRACTITIONERS ACT, CHAPTER 11 OF THE LAWS OF SIERRA LEONE 1960** and the **COUNCIL OF LEGAL EDUCATION ACT 1989**. This notwithstanding, it cannot be disputed that the term 'standing' does have a meaning which has been well understood in both the Legal Profession in England as well as the Legal Profession in Sierra Leone. In the Seventh Edition of **BENNION ON STATUTORY INTERPRETATION** by **DIGGORY BAILEY** and **LUKE NORBURY** under the rubric '**PARTICULAR ASPECTS OF CONSTRUCTION AS A WHOLE**' at paragraph 21.2 on 'Presumption that every word has a meaning', page 511, it is stipulated thus:

'There is a presumption that every word in an enactment is to be given a meaning. Given the presumption that Parliament does nothing in vain, the Courts must endeavour to give significance to every word of an enactment. It is presumed that if a word or phrase appears, it was put there for a purpose and must not be disregarded'.

Clearly, the above stipulation confirms the fact that, in the absence of any evidence rebutting the presumptions aforesaid, the word 'standing' has appeared in all three legislation aforesaid, for a purpose which should not be disregarded. It cannot be disputed that it is the meaning of the word 'standing' which would determine the purpose for which it is put in all three legislation aforesaid, including the **LEGAL PRACTITIONERS ACT 2000**. In the Third Edition of the **OXFORD UNIVERSAL DICTIONARY ILLUSTRATED** prepared by **WILLIAM LITTLE, H.W. FOWLER and J. COULSON**, revised and edited by **C.T. ONOINS** at pages 2000 and 2140 'standing' in one sense, is the action of stand, the condition of being at a standstill, erect position; condition of not falling or being over thrown, manner of standing, an act of standing erect on one's feet, a period during which a person keeps a standing position. In another sense, standing is length of service, experience, position as determined by seniority; status in society, profession or the like.

Clearly, the meaning of standing in the former sense is not the meaning which the **LEGAL PRACTITIONERS ACT 2000** intended it to mean. By reason that words or phrases like length of service, experience, position determined by seniority, status in a profession connoting the meaning of 'standing' in the latter sense, are peculiar to the Legal Profession, the word 'standing' as contained in the **LEGAL PRACTITIONERS ACT 2000** has been used as a technical legal term. In the Seventh Edition of **BENNION ON STATUTORY INTERPRETATION** by **DIGGORY BAILEY and LUKE NORBURY** under the rubric, 'Technical Legal Terms' at paragraph 22.5, page 537, it is stipulated thus:

if a word or phrase has a technical meaning in a certain branch of law and is used in a context dealing with that branch, it is to be given that meaning unless the contrary intention appears. Any system of law contains terms which can be used without definition because they stand for well understood concepts within that system. If a legislation uses a technical legal term or expression that is not given a statutory definition Parliament is taken to have intended its meaning to correspond to its general legal meaning unless the contrary intention appears'.

It is clear that, if as determined above, the word 'standing' has been used as a technical legal term in the **LEGAL PRACTITIONERS ACT 2000**, there being no contrary intention shown therein, the meaning of standing as used in the said **ACT** is the length of service or experience or position determined by his/her

seniority or status of one in the Legal Profession. By virtue of the undisputable fact that, one's Legal Profession in Sierra Leone, start when he/she becomes a Barrister-at-Law, it cannot be disputed that the purpose for which the word standing is placed in all three legislation including the **LEGAL PRACTITIONERS ACT 2000**, is to ensure the proper computation of one's length of service or experience or position determined by his/her seniority or status as a Barrister-at-Law, as opposed to the computation from when one becomes a Legal Practitioner as defined by Section 1 of the **LEGAL PRACTITIONERS ACT 2000** and Section 23 of the **CONSTITUTION OF SIERRA LEONE 1991**. Having determined above that standing in the context in which it is used in the **LEGAL PRACTITIONERS ACT 2000** could only be in relation to one's standing at the Bar and not standing at or in the Roll of Court, the computation of one's standing or his length of service or experience or position determined by his seniority or status at the Bar or in the Legal Profession as a Barrister-at-law, should be from his/her date of call to the Bar.

The position of this Court above merely amplifies the fact that, notwithstanding that a Barrister is a separate and distinct profession from a Solicitor, they have been fused into one in Sierra Leone. This Court holds the view that, in Sierra Leone one would never be conferred with the title of Solicitor of the High Court of Sierra Leone if he/she is not already a Barrister-at-Law. Clearly, it is not disputed that for one to achieve the title of Barrister-at-Law he/she should have gone through a course of study, passed the relevant exams and called to the degree of 'Utter Barrister'. For one to attain the additional title of Solicitor of the High Court of Sierra Leone to the title Barrister-at-Law he/she should have completed the required period of pupillage and sign or be enrolled in the Permanent Register of Legal Practitioners or the Roll of Court. By the submission of O. JALLOH ESQ. of Counsel for the Defendants/Respondents, the computation of standing in the context in which it is used to the **LEGAL PRACTITIONERS ACT 2000** commences from the date of one's signing or enrolment in the Permanent Register of Legal Practitioners or the Roll of Court and not otherwise. He submitted further that it is noteworthy that one is not referred to as a Barrister and Solicitor in Sierra Leone, otherwise than after the completion of the mandatory pupillage period and that a pupil Barrister and Solicitor is not described otherwise until the completion of pupillage. He submitted also that, it follows therefore without more that, standing is predicated on one's signing or enrolment in the Permanent Register of Legal Practitioners or the Roll of Court.

This Court upholds the submission of O. JALLOH ESQ. above that, one is not referred to as a Barrister and Solicitor in Sierra Leone otherwise than after the completion of the mandatory pupillage period. However, for this Court to uphold his submission that the computation of standing in the context in which it is used in the **LEGAL PRACTITIONERS ACT 2000**, commences from the date of one's signing or enrolment in the Permanent Register of Legal Practitioners or the Roll of Court and not otherwise, would be tantamount to relegating the profession of a Barrister-at-Law to a mere nothing other than just a name. It should be pointed out that, as uncontrovertibly disposed to by IBRAHIM SORIE in his affidavit herein, sworn to on the 30th May 2019, he did at his call ceremony, swore to an oath prescribed by statute to be sworn to by all newly admitted/called Barristers that, he will truly and honestly demean himself in the office of Barrister... according to the best of his knowledge and ability. It follows that from the 4th October 2000 when the Plaintiff/Applicant was called/admitted to the Bar of Sierra Leone he became a Barrister-at-Law forthwith and remained so until the 25th November 2009 when he was approved and enrolled as a Pupil Barrister and Solicitor in the Temporary Register of Pupil Barristers and Solicitors, in commencement of the required period of pupillage before he signed or enrolled in the Permanent Register of Legal Practitioners or the Roll of Court.

It cannot be disputed that in the same way as it is not mandatory for one to commence the course of study which leads one to become a Barrister-at-Law within a certain time frame after graduating from University with a Bachelor of Laws with Honours (LLB Hons) degree, it is also not mandatory for one to commence the required period of pupillage which leads one to become a Solicitor of the High Court of Sierra Leone within a certain time frame after becoming a Barrister-at-Law. Surely a Barrister-at-Law can commence the required period of pupillage at any time after he/she becomes a Barrister-at-Law and it is only when he/she commences such pupillage that he/she is referred to as Pupil Barrister and Solicitor, just as one is referred to as a student of the SIERRA LEONE LAW SCHOOL, only when he/she commences the cause of study which leads him/her to become a Barrister-at-Law. The fact that, he is referred to as a Pupil Barrister and Solicitor Eight (8), Nine (9) or Ten (10) years after he/she becomes a Barrister-at-Law, will never take away the fact that he/she is a Barrister-at-Law notwithstanding. It cannot be disputed that, after one is admitted or called to the Bar, he/she can ply his/her trade as a Barrister-at-Law at the Magistrate Court and appear as Counsel, he can get himself gainfully employed in several Legal Institutions and in the corporate world in several positions or can join the inferior bench as a Magistrate, deciding to commence a period of pupillage, One (1) or several years later or may decide

never to commence such pupillage. The said acts are one's which the **LEGAL PRACTITIONERS ACT 2000** or any other law for that matter, does not in any way prohibit and which said acts will never take away the fact that one would always remain a qualified Barrister-at-Law. By reason of the undisputable fact that, as outlined above, one's Legal Professional career starts from the day one becomes a Barrister-at-Law after being admitted or called to the Bar, the computation of standing at the Bar of the Plaintiff/Applicant herein to be Eight (8) years plus as at the 2nd July 2019, the same which was based on from the date the Plaintiff/Applicant signed and enrolled in the Permanent Register of Legal Practitioners or Roll of Court, is absolutely and completely incorrect.

Having determined as above that, the computation of one's standing at the bar should be from his/her date of admission or call to the bar, the pertinent question which calls for determination is whether its computation aforesaid has been consistent or has changed over the years. I. SORIE ESQ. the Plaintiff/Applicant-in-person, submitted that the computation of standing has been consistent and has not changed one bit over the years, submitting also that the same way it was computed over the years is the same way now. Exhibit '40' which is annexed to the affidavit of IBRAHIM SORIE, sworn to on the 30th May 2019, is a publication of the **SIERRA LEONE LAW REVIEW 2000**, containing a list of Legal Practitioners with both their dates of call to the Bar from 1941 to 1996 and enrolment from 1943 to 2000. Undisputedly, apart from SAA FANDAY TURNER (LATE) whose date of call was the 25th September 1992 and date of enrolment being 31st October 1996 but was placed in the said list after several Legal Practitioners who were called to the Bar after the 25th September 1992 and which seemingly was an apparent mistake by the publishers, the list of Legal Practitioners as contained in the publication of the **SIERRA LEONE LAW REVIEW 2000** aforesaid, are placed by order of their respective dates of call starting from the oldest in the person of FRANCES WRIGHT (LATE) whose date of call was the 17th November 1941, signifying an order of seniority of the Legal Practitioners listed.

The apparent mistake by the publishers aforesaid, is confirmed by the fact that, as seen in Exhibit '41' which is the **COUNCIL OF LEGAL EDUCATION SIERRA LEONE LAW SCHOOL SOUVENIR HANDBOOK AND STUDENT PASS LIST 1990-2006 EDITION** annexed to the affidavit of IBRAHIM SORIE, sworn to on the 30th May 2019, the late SAA FANDAY TURNER's name appeared first with Qualifying Certificate Number 42 before the several other Legal Practitioners who were called to the Bar after the 25th September 1992, signifying the fact of seniority of SAA FANDAY TURNER (LATE) over the

several other Legal Practitioners aforesaid. Having determined as above that, as stipulated in the Third Edition of **THE OXFORD UNIVERSAL DICTIONARY ILLUSTRATED** aforesaid, standing is the length of service, experience, position as determined by seniority and that seniority of the Legal Practitioners listed in Exhibit '40' aforesaid is determined from their date of call, it is clear confirmation that, 'standing' in the context in which it is used in the **LEGAL PRACTITIONERS ACT 2000** and indeed all previous legislations in this regard, is computed from the date of call to the Bar.

It is seen from Exhibit '40' aforesaid, that another important and relevant factor, confirmation of which is brought to light, is the fact that seniority of the Legal Practitioners listed, is not determined by their date of enrolment in the Roll of Court, this being an indication that, 'standing' is not computed as from date of enrolment in the Roll of Court. A clear example of this in Exhibit '40' aforesaid, is H.E. MAURICE-JONES (LATE), whose date of enrolment is not shown and which might be an indication that he never enrolled in the Roll of Court, but whose seniority and standing was computed from his date of call, being January of 1949 and senior to all the other Legal Practitioners listed, apart from FRANCES WRIGHT whose date of call was the 17th November 1941.

Contained in Exhibit '40' aforesaid are several other examples, prominent of which include BERTHAN MACAULEY Q.C whose date of enrolment is the 14th March 1956 but whose seniority and standing was computed from his date of call being 25th November 1953 and senior to JUSTICE S.T. NAVO (LATE), who was enrolled on the 13th November 1954. A.B. KAMARA was enrolled on the 24th October 1962, but whose seniority and standing was computed from his date of call being 20th November 1957 and senior to JUSTICE S.T. NAVO (LATE), who was enrolled on the 5th July 1958. W. FILO-JONES who was enrolled on the 9th September 1968 and called to the Bar on the 30th November 1966 is senior to JUSTICE VIRGINIA WRIGHT who was enrolled before W. FILO-JONES on the 18th February 1967 but called to the Bar after W. FILO-JONES on the 1st January 1967. AHMED TEJAN KABBA (LATE) who was enrolled on the 10th December 1975 and called to the Bar on the 16th July 1970 is senior to JUSTICE M.E. TOLLA THOMPSON (LATE) who was enrolled before the said AHMED TEJAN KABBA (LATE) on the 10th February 1971 but called to the Bar after the said AHMED TEJAN KABBA on the 24th November 1970. PETER L. TUCKER (LATE) who was enrolled on the 21st December 1982 and called to the Bar on the 24th November 1970 is senior to EKE A. HALLOWAY who was enrolled before the said PETER L. TUCKER (LATE) on the 9th January 1973 but called to the Bar after the said PETER L. TUCKER (LATE) on the 9th

February 1971. JUSTICE ELDRED F. TAYLOR-KAMARA who was enrolled on the 28th January 1985 and called to the Bar on the 23rd July 1981 is senior to GLORIA ATIBA-DAVIES who enrolled before the said JUSTICE ELDRED F. TAYLOR-KAMARA on the 24th November 1981. JUSTICE ABDULAI H. CHARM who was enrolled on the 9th December 1993 and called to the Bar on the 25th October 1991 is senior to JUSTICE ALLAN B. HALLOWAY who was enrolled before the said JUSTICE ABDULAI H. CHARM on the 12th November 1993 but called to the Bar after the said JUSTICE ABDULAI H. CHARM on the 25th September 1992.

Clearly, the contents of Exhibit '40' aforesaid has not been controverted in any way. This Court holds the view that, in this regard, Exhibit '40' is the clearest example of confirmation that the computation of 'standing' in the context in which it is used in the **LEGAL PRACTITIONERS ACT 2000** and indeed, all the other previous legislation governing Legal Practitioners in Sierra Leone, is from date of call to the Bar. It can conclusively be said that, in the same way in which 'standing' was computed immediately prior to 2000, so also was it done in 1941. The question now is, has it changed subsequent to 2000 and the enactment of the **LEGAL PRACTITIONERS ACT 2000**? Specific examples hereunder will show that it has not changed one bit. Section 10 (b) of the **LEGAL PRACTITIONERS ACT 2000** provides thus:

'A person qualifies for admission as a Legal Practitioner if he has served a period of pupillage of not less than Twelve (12) months with a Legal Practitioner of at least Ten (10) years standing in Sierra Leone'.

Exhibit '7', '8', '9', '10', '11', '12', '13' and '14' annexed to the affidavit of IBRAHIM SORIE sworn to on the 30th May 2017, are letters ranging from dates between 16th March 2014 and the 1st November 2017 the contents of which show the Plaintiff/Applicant notifying the Chairpersons of the Defendants/Respondents affirmation of the pupillage of several Barristers with him and confirming the said Barristers completion of the one (1) year pupillage period with him. Clearly, the Plaintiff/Applicant herein was, as at the 16th March 2014, a Legal Practitioner having signed or enrolled in the Register of Legal Practitioners on the 14th January 2011 and of Thirteen (13) years plus standing having been called to the Bar of Sierra Leone on the 4th October 2000. Section 2(1) of the **NOTARIES PUBLIC ACT, CHAPTER 13 of the LAWS OF SIERRA LEONE 1960**, provides thus:

'The CHIEF JUSTICE may appoint any fit and proper person, being a Legal Practitioner of not less than Ten (10) years standing to be a Notary Public'...

Exhibit '16' annexed to the affidavit of IBRAHIM SORIE aforesaid, is a certificate dated 21st December 2017 showing the appointment of the Plaintiff/Applicant herein as a Notary Public by the **HON. CHIEF JUSTICE OF SIERRA LEONE**, the standing of the Plaintiff/Applicant was as at the date on the said certificate, computed from the Plaintiff/Applicant's date of call on the 4th October 2000. Undoubtedly the Plaintiff/Applicant was as at the 21st December 2017 a Legal Practitioner of seventeen (17) plus years standing at the Bar of Sierra Leone.

Exhibits '17¹⁻³', '18¹⁻⁵' and '19¹⁻⁵' annexed to the affidavit of IBRAHIM SORIE aforesaid, are the Plaintiff/Applicant's application forms for Practicing Certificates, receipts of payments and practicing certificates all based on prescribed fees computed from the year of his call to the Bar on the 4th October 2000. Exhibit '8' annexed to the Affidavit of IBRAHIM SORIE, sworn to on the 9th December 2019 is a Notice issued by the SIERRA LEONE BAR ASSOCIATION in preparing for its Annual General meeting in July 2019 requesting subscriptions from its members based on from year of call and not year of enrolment or signing of the Permanent Register of Legal Practitioners. Exhibit '9' annexed to the affidavit of IBRAHIM SORIE, aforesaid, is a Resolution issued by the Board of Directors of the Sierra Leone Bar Association reviewing subscriptions of members of the Association for 2019/2020 financial year based on from year of call and not year of enrolment or signing of the Permanent Register of Legal Practitioners

It is clear from the above that both the SIERRA LEONE BAR ASSOCIATION, membership of which comprises of Barristers-at-Law and or Solicitors of the High Court of Sierra Leone, together with the GENERAL LEGAL COUNCIL, the Defendants/Respondents herein, being the body responsible for regulating the practice of and discipline of Legal Practitioners in Sierra Leone, have consistently accepted the fact that standing is computed from one's date of call to the Bar rather than from the date of one's signing or enrolment in the Permanent Register of Legal Practitioners or the Roll of Court. Even though it cannot be disputed that, there are several others, subsequent examples hereunder will show that, at least Three (3) members of the SIERRA LEONE BAR ASSOCIATION who are opposed to the computation of standing aforesaid.

have themselves interpreted standing, as being computed from one's call to the Bar.

Exhibit '4' which is annexed to the affidavit of IBRAHIM SORIE, sworn to on the 9th December 2019 show that SONKITA CONTEH was called to the Bar in October 2003. Holding himself out as a Legal Practitioner of over Fifteen (15) years standing as seen in Exhibit '3' which is annexed to the affidavit of IBRAHIM SORIE ESQ. aforesaid, being a campaign poster, himself campaigning to be elected as President of the Bar Association in June/July 2019 could only mean that his computation of standing was based on his year of call to the Bar rather than from the date he signed and was enrolled in the Permanent Register of Legal Practitioners or Roll of Court which could only have been after October 2004.

By virtue of Exhibit '1', annexed to the affidavit of IBRAHIM SORIE, sworn to on the 9th December 2019, the same which is a website page of YADA WILLIAMS & ASSOCIATES, the law firm which OSMAN JALLOH belongs to, the said OSMAN JALLOH held himself out to the public as a Legal Practitioner who qualified in 2006. This Court finds that from Exhibit '2' annexed to the affidavit of IBRAHIM SORIE aforesaid, the same which is an extract of the yearly pass list of students of the **SIERRA LEONE LAW SCHOOL 1990 to 2010**, the computation of standing of OSMAN JALLOH who held himself out as having qualified in 2006, could only have been from the date of his call to the Bar of Sierra Leone which as shown in Exhibit '2' aforesaid, to be in October 2006. Further, it cannot be disputed that the application of and the appointment of OSMAN JALLOH, as a Notary Public by the **HON. CHIEF JUSTICE** on the 21st December 2017, could only have meant that his computation of standing was from his year of call to the Bar in October of 2006 rather than from the date he signed and was enrolled in the Permanent Register of Legal Practitioners which in accordance with Exhibit '30' annexed to the affidavit of IBRAHIM SORIE, sworn to on the 30th May 2019, was on the 3rd March 2008, the same being only Nine (9) years plus and less than the Ten (10) years threshold required for appointment of a Notary Public, in accordance with Section 2(1) of the **NOTARIES PUBLIC ACT, CHAPTER 13 of the LAWS OF SIERRA LEONE 1960**.

Exhibits '5' and '6', both annexed to the affidavit of IBRAHIM SORIE, sworn to on the 9th December 2019 are publications by AUGUSTINE SORIE-SENGBE MARRAH dated the 18th October 2019 and the 31st October 2009 respectively. Exhibit '6' aforesaid, commemorating his call to the Bar in October of 2009 and

Exhibit '5' aforesaid, determining his length of service in the Legal Profession or his standing based on his date of call to the Bar of Sierra Leone.

The above establishes the fact that, even before the passing of the **LEGAL PRACTITIONERS ACT, CHAPTER 11 of the LAWS OF SIERRA LEONE 1960** on the 1st January 1946, the term 'standing' has been in use since the passing of the **NOTARIES PUBLIC ACT, CHAPTER 13 OF THE LAWS OF SIERRA LEONE 1960**, on the 1st January 1937. This Court holds the view that the term 'standing' has had only one meaning since the 1st January 1937, the same which has always been computed from the date of call to the Bar. By reason that, since it cannot be disputed that, as established above, no legislation has defined the term 'standing', the same together with its meaning aforesaid, could only have been derived from the Common Law. This Court holds the view that it is the Common Law meaning and computation of standing that have consistently been used to interpret standing by all the relevant bodies involved in the Legal Profession in Sierra Leone, including at least three of the persons aforesaid, who are vehemently opposed to the interpretation of standing in the context in which it is used in the **LEGAL PRACTITIONERS ACT 2000**.

It is seen from the above that, undisputedly the Defendants/Respondents herein have consistently interpreted and computed standing from the date of call to the Bar and in so far as the Plaintiff/Applicant herein is concerned, the said Defendants/Respondents since 2014 to 2018 allowed the Plaintiff/Applicant to act as Pupil Master for several Pupil Barristers and Solicitors, his qualifications as a Pupil Master having been determined from his date of call. The said Plaintiff/Applicant who has also within the same period, always paid the fees for his annual practicing certificate based on his year of call. In her affidavit, sworn to on the 28th June 2019, **ONIKE CHRISTINE SPENCER-COKER** attempted to justify how and why the Defendants/Respondents allowed the Plaintiff/Applicant herein to act as Pupil Master for several Barristers from 2014 to 2018 even though as they claim, the said Plaintiff/Applicant was unqualified to act as such. She deposed at paragraph 20 thereof that, she was informed by the now **HON. MRS JUSTICE GLENNA THOMPSON JSC** and **MOHAMED PA-MOMO FOFANAH**, erstwhile chairpersons of the Defendants/Respondents and which she verily believes, that due to an oversight, the said Defendants/Respondents did not check the Roll of Court/Permanent Register when the Plaintiff/Applicant notified them he was serving as a Pupil Master for pupil Barristers and Solicitors, having regard to the fact that the Plaintiff/Applicant was perceived to be an

Honourable member of the Legal Profession hence, when he stated that he was a Barrister and Solicitor of Fifteen (15) years standing, it was deemed he would not be misleading the Defendants/Respondents.

This Court holds the view that the facts deposed to above by ONIKE CHRISTINE SPENCER-COKER are very unfortunate, coming from her. Considering the fact that certifying Legal Practitioners and allowing them to be Pupil Masters is one very important issue, in determining who is a Legal Practitioner in accordance with the **LEGAL PRACTITIONERS ACT 2000**, her statement that due to an oversight, the Defendants/Respondents did not check the Roll of Court/Permanent Register when the Plaintiff/Applicant notified them he was serving as a Pupil Master for Pupils, smacks of gross incompetence on the part of the Defendants/Respondents. If the reason(s) for the Defendants/Respondents oversight and failure to check the Roll of Court/Permanent Register when the Plaintiff notified them he was serving as a Pupil Master for pupils, was because they perceived him to be an Honourable member of the Legal Profession and as such he would not mislead them, this Court questions what then, as deposed by ONIKE CHRISTINE SPENCER-COKER at paragraph 14 of her affidavit aforesaid, prompted the Defendants/Respondents herein to review the records and check the Roll of Court/Permanent Register, only when applications were received from several other Legal Practitioners, immediately prior to the 18th December 2018. Were these Legal Practitioners not perceived to be Honourable members of the Legal Profession and would not mislead them, when the fact is that, all Legal Practitioners ought to be perceived to be Honourable members of the Legal Profession and would not mislead them?

It should be pointed out that, it was not only once that the Plaintiff/Applicant notified the Defendants/Respondents of his intention to act as Pupil Master. Exhibits '8', '9', '10', '11', '12', '13' and '14' annexed to the affidavit of IBRAHIM SORIE sworn to on the 30th May 2019 which are letters ranging from dates between 16th March 2014 and 1st November 2017, contents of which, the Plaintiff/Applicant notifying the chairperson of the Defendants/Respondents affirming the pupillage of several Barristers with him and confirming the said Barristers completion of the one (1) year pupillage period with him show that, as deposed to in paragraphs 13, 15 and 16 of the affidavit of IBRAHIM SORIE aforesaid, sometime in 2014, the Plaintiff/Applicant in writing, informed the Defendants/Respondents, under the chairmanship of YADA HASHIM WILLIAMS that, he intended to serve as Pupil Master for M.J. SESAY ESQ. and J. KALLON ESQ. IBRAHIM SORIE deposed further that sometime in 2016, the

Plaintiff/Applicant in writing, again informed the Defendants/Respondents under the chairmanship of the now **HON. MRS JUSTICE GLENNA THOMPSON JSC** that, he intended to serve as Pupil Master for H.M. GEORGE ESQ. IBRAHIM SORIE deposed also that sometime in 2017 in writing, then under the chairmanship of MOHAMED PA-MOMO FOFANAH that, the Plaintiff/Applicant intended to serve as Pupil Master for S.A. CONTEH ESQ. and I.D.B. JOHN ESQ. IBRAHIM SORIE deposed that in all three (3) instances, the Defendants/Respondents allowed the Pupil Barristers and Solicitors named aforesaid, to sign the Temporary Register of Pupil Barristers under the tutelage of the Plaintiff/Applicant. IBRAHIM SORIE deposed that, in the first two instances under the chairmanship of YADA HASHIM WILLIAMS and the now **HON. MRS. JUSTICE GLENNA THOMPSON JSC**, the Pupil Barristers concerned further proceeded in due course to sign the Permanent Register of Legal Practitioners after the Plaintiff/Applicant had certified in writing to the Defendants/Respondents that the said Pupil Barristers had completed the statutory required twelve (12) months period under his supervision.

It cannot be disputed that in all three instances above under the chairmanship of YADA HASHIM WILLIAMS, the now **HON. MRS JUSTICE GLENNA THOMPSON JSC** and MOHAMED PAMOMO FOFANAH respectively, the Defendants/Respondents allowed the Pupil Barristers named aforesaid to sign the Temporary Register of Pupil Barristers under the Plaintiff/Applicants tutelage and in the first two instances above under the chairmanship of YADA HASHIM WILLIAMS and the now **HON. MRS JUSTICE GLENNA THOMPSON JSC**, respectively allowed the Pupil Barristers concerned to further sign the Permanent Register of Legal Practitioners after the Plaintiff/Applicant had certified in writing to the Defendants/Respondents that the said Pupil Barristers had completed the statutory required twelve (12) months period under his supervision by reason only that, the Plaintiff/Applicant's qualification to act as a Pupil Master as provided for by Section 10(b) of the **LEGAL PRACTITIONERS ACT** aforesaid, to be a Legal Practitioner of at least Ten (10) years standing in Sierra Leone was determined by computing standing from the Plaintiff/Applicant's date of call to the Bar. Clearly there would not have been any other way which the Plaintiff/Applicant's status as a Legal Practitioner together with his standing at the Bar could have been verified without looking at the records showing the dates on which he enrolled in the Roll of Court/Permanent Register and the date on which he was called to the Bar.

This Court holds the view that the statement made by ONIKE CHRISTINE SPENCER-COKER that, she was informed by the now **HON. MRS JUSTICE**

GLENN THOMPSON JSC and **MOHAMED PA-MOMO FOFANAH** and verily believes that due to an oversight, the Defendants/Respondents did not check the Roll of Court/Permanent Register when the Plaintiff/Applicant notified them he was serving as a Pupil Master for Pupil Barristers and Solicitors, is most certainly untrue. By so saying, she would be insinuating that whereas the now **HON. MRS. JUSTICE GLENN THOMPSON JSC** and **MOHAMED PA-MOMO FOFANAH** might have acted with lack of due diligence, **YADA HASHIM WILLIAMS** acted diligently, but which said insinuation also cannot be true as regards the now **HON. MRS. JUSTICE GLENN THOMPSON JSC**, by virtue of the fact that, the now **HON. MRS. JUSTICE GLENN THOMPSON JSC** acted in the same manner as did **YADA HASHIM WILLIAMS**, in determining the status of the Plaintiff/Applicant to be a Legal Practitioner of at least Ten (10) years standing, by computing standing from the Plaintiff/Applicant's date of call to the Bar.

In so far as the signing of the Permanent Register of Legal Practitioner/Roll of Court by **S.A. CONTEH ESQ.** and **I.D.B. JOHN ESQ.** is concerned, both of whom the Plaintiff/Applicant herein had declared in writing, his intention to serve as Pupil Master for them, under his tutelage and who signed the Temporary Register of Pupil Barristers and Solicitors under the chairmanship of **MOHAMED PA-MOMO FOFANAH**, **IBRAHIM SORIE** deposes in his affidavit, sworn to on the 30th May 2019, that subsequent to both the Pupil Barristers aforesaid, having completed the statutory required twelve (12) months period of pupillage under his supervision, he informed the Defendants/Respondents of this. He deposes that in response, the Secretary to the Defendants/Respondents asked the said Plaintiff/Applicant to attend a meeting with the Defendants/Respondents together with the Pupil Barristers aforesaid, the said proposed meetings which the Plaintiff/Applicant asked to be rescheduled, after he would have been informed about the purpose of the said meeting, the Defendants/Respondents who failed to respond in this regard. He deposes that he is reliably informed by the said **S.A. CONTEH ESQ.** and the said **I.D.B. JOHN ESQ.** that they were subsequently jointly summoned to a meeting with the Secretary of the Defendants/Respondents and were informed that the Defendants/Respondents had now decided that the Plaintiff/Applicant was not qualified to serve as Pupil Master but that the Defendants/Respondents would allow them to sign the Permanent Register regardless.

In her affidavit aforesaid, sworn to on the 28th June 2019, **ONIKE CHRISTINE SPENCER-COKER** deposes that at the meeting aforesaid, she notified the said Pupil Barristers and Solicitors that, having regard to their legitimate expectations

and since they could not have known that the Plaintiff/Applicant was not qualified to serve as Pupil Master, the Defendants/Respondents had taken a decision to permit them to sign the Permanent Register/Roll of Court. O. JALLOH ESQ. of Counsel for the Defendants/Respondents submitted that, without prejudicing the rights of poor pupils who would not have known of the lack of standing on the part of the Plaintiff/Applicant as of the time the Plaintiff/Applicant represented himself to have the status to act as a Pupil Master, and in view of the fact that the legitimate expectations of the persons who served their pupillage under the Plaintiff/Applicant had been affected, the Defendants/Respondents took a decision to permit the said Pupil Barristers to sign the Permanent Register/Roll of Court.

This Court holds the view that the submission of O. JALLOH ESQ. above is preposterous. It should be noted that, it is mandatory that, for one to be regarded as a Legal Practitioner, the **LEGAL PRACTITIONERS ACT 2000** stipulates, inter alia, that one must have served a period of pupillage of not less than Twelve (12) months with a Legal Practitioner of at least Ten (10) years standing in Sierra Leone. It cannot be disputed that if the Defendants/Respondents herein, were at the time, truly and strongly convinced that the Plaintiff/Applicant was not qualified to be a Pupil Master, they ought not to have allowed sentiments to override their Judgement in allowing the Pupil Barristers and Solicitors aforesaid, to sign the Permanent Register/Roll of Court as they did. Clearly, the same sentiments aforesaid, which they allowed to override their Judgement, is not been displayed in their pursuance to get this Court to determine the issues herein in their favour, otherwise if they were sentimental about these issues they could simply have allowed the Plaintiff/Applicant herein, to be. This Court holds the view that the decision taken by the Defendants/Respondents aforesaid, to allow the above Pupil Barristers and Solicitors to sign the Permanent Register/Roll of Court aforesaid, when clearly, they ought not to have allowed them to do so. If the said Defendants/Respondents were strongly convinced that the Plaintiff/Applicant at the material point in time was not qualified to act as a Pupil Master confirms that, not only is it a fact that it was the Plaintiff/Applicant who is being singled out for embarrassment, it also exposes some of its officials concerned, to a level of gross incompetence and lack of knowledge of the law on their part. Surely, if the said Defendants/Respondents were strongly convinced that the Plaintiff/Applicant at the material point in time was not qualified to act as a Pupil Master, but yet allowed those persons who did pupillage with him in flagrant breach of the mandatory requirement aforesaid, to sign the Permanent Register/Roll of Court, could it not be said then that, the possibility exists that

they could allow one to sign the Permanent Register/Roll of Court even though such person does not pass the appropriate professional examination conducted by the COUNCIL OF LEGAL EDUCATION ?

It is obvious though that, even the Defendants/Respondents cannot truly say that they strongly believe that the Plaintiff/Applicant herein was not qualified at the time to be a Pupil Master by reason that, as deposed to in paragraph 29 of the affidavit of IBRAHIM SORIE, sworn to on the 30th May 2019, the Secretary to the Defendants/Respondents when questioned by A. CONTEH ESQ. and I.D.B. JOHN ESQ., if their position in computing standing from the date of enrolment would affect seniority at the Bar, her answer being that it would not, as seniority in Court was determined from call to the Bar, the fact that she said so which remains uncontroverted. Clearly, it has been defined above and contained in the Third Edition of **THE OXFORD UNIVERSAL DISTIONARY ILLUSTRATED**, that standing is the length of service, experience, position determined by seniority in one's profession. This being the case, the said Secretary by stating that seniority at the Bar was determined from call to the Bar, she would in effect be confirming that standing at the Bar is computed from the date of call to the Bar.

O. JALLOH ESQ. of Counsel for the Defendants/Respondents submitted that it was due to an omission/mistake on its part that led to it inadvertently permitting the Plaintiff/Applicant to put himself up as a Pupil Master and conduct himself as such in respect of the aforementioned persons. He submitted that when the Defendants/Respondents discovered that there had been omissions/mistakes on its part, steps were taken to address them immediately. He submitted that the Defendants/Respondents are not barred nor estopped in this regard, having a statutory duty from pursuing and/or enforcing compliance with a statute, being the **LEGAL PRACTITIONERS ACT 2000**, submitting also that an estoppel cannot arise in respect of a statute. In dismissing this submission, certain undisputed facts only need to be outlined. In the first place, notwithstanding the fact that, it was glaringly clear that the intention of the Defendants/Respondents was to change the Common Law meaning of and computation of standing, they have not even once, submitted and or admitted that its position as contained in Exhibit '21' being a notice dated 18th December 2018, issued by MOHAMED PA-MOMO FOFANAH, chairperson of the Defendants/Respondents at the time, the same annexed to the affidavit of IBRAHIM SORIE, sworn to on the 30th May 2019, was an attempt made by them to change the meaning of standing and how it has been computed over the years in Sierra Leone from 1941. Exhibit '21' states inter alia as follows:

'Council wishes all colleagues to note that its position, based on the CONSTITUTION OF SIERRA LEONE 1991 and the LEGAL PRACTITIONERS ACT 2000 as amended, is that a Legal Practitioners 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 Ten (10) years after his/her name has been entered into the Roll of Court/Permanent Register'.

It cannot be disputed that based on the above analysis of the Common Law meaning of and computation of standing, the position of the Defendants/Respondents herein as contained in Exhibit '21' aforesaid is at complete variance to the position as established above as to the meaning of standing and how it has been computed over the years in Sierra Leone from 1941. Clearly, even if it were true that the Defendants/Respondents inadvertently permitted the Plaintiff/Applicant to put himself up as a Pupil Master and conduct himself as such in respect of the aforementioned persons and that when the said Defendants/Respondents discovered that there had been omissions/mistakes on its part, steps were taken to address them immediately, it cannot be true to say that, those steps taken were the same as the position as established above as to the meaning of standing and how it has been computed over the years in Sierra Leone from 1941, from date of call to the Bar, contrary the Defendants/Respondents position of how standing is computed as being from date of signing the Permanent Register of Legal Practitioners or the Roll of Courts. In this regard and by reason that, their position as contained in Exhibit '21' aforesaid has never been the position as contained in any statute including the LEGAL PRACTITIONERS ACT 2000, the Defendants/Respondents cannot be heard to say that the steps taken to address their omissions and mistakes aforesaid, were in pursuance of and or enforcing compliance with a statute.

Clearly, if as is stated above, the Defendants/Respondents position aforesaid had never been the position as contained in any statute including the LEGAL PRACTITIONERS ACT 2000, they could not have been barred nor estopped by anything or anyone, including the Plaintiff/Applicant herein, from pursuing and or enforcing compliance with the LEGAL PRACTITIONERS ACT 2000. This Court holds the view that the submission of O. JALLOH ESQ. of Counsel for the Defendants/Respondents in this regard, is clearly misplaced and that the case between **M.S MATHRAPRASHAD & SONS** and **THE STATE OF PUNJAB** (1962) AIR 745, the case between the **COMMISSIONER OF INCOME**

TAX and MR P. FIRM, MUAR (1965) AIR 1216 and the case between ITC BHADRACHALAM PAPERBORADS and MANDAL REVENUE OFFICER JT 1966 (8) 67 are all inapplicable to the matter herein.

Clearly, the Plaintiff/Applicant herein, is not requesting this Court, to compel the Defendants/Respondents herein to compute standing from the date of call to the Bar, which the said Defendants/Respondents claim was so done in mistake and contrary to how standing should be computed, as from the date of signing the Permanent Register/Roll of Court which they claim is provided for by the **LEGAL PRACTITIONERS ACT 2000**. This Court holds the view that, what the Plaintiff/Applicant herein seeks to do is to get the Defendants/Respondents herein to continue interpreting standing as being computed from date of call to the Bar as has been done since 1941, as seen from Exhibit '40' and '41', respectively being a publication of the **SIERRA LEONE LAW REVIEW 2000**, containing a list of Legal Practitioners with both their dates of call to the Bar and enrolment and the **COUNCIL OF LEGAL EDUCATION, SIERRA LEONE LAW SCHOOL SOVENOIR HANDBOOK AND STUDENT PASS LIST 1990-2006**, the said interpretation which is consistent with the provisions of the **LEGAL PRACTITIONERS ACT 2000**. I. SORIE ESQ., Plaintiff/Applicant-in-person submitted that the Defendants/Respondents ought to be estopped from computing standing as from the date of signing the Permanent Register of Legal Practitioners or Roll of Court and trying to deal differently with him. In the Seventh Edition of **BENNION ON STATUTORY INTERPRETATION** by DIGGORY BAILEY and LUKE NORBURY at paragraph 25.13, page 675, it is stipulated thus:

'There is no absolute bar to invoking the doctrine of estoppel to modify or prevent the normal application of a statute. Whether estoppel can be relied on will depend on the nature of the enactment, the purpose of the provision and the social policy behind it'.

Clearly, by reason that, as established above, standing has been computed as from date of call to the Bar since 1941 in Sierra Leone, right up to the passing of the **LEGAL PRACTITIONERS ACT 2000** as amended and has so been invoked by successive chairpersons of the Defendants/Respondents herein, who have allowed the Plaintiff/Applicant herein to serve as Pupil Master for several Pupil Barristers and Solicitors to date, this Court holds the view that estoppel can be relied on by the Plaintiff/Applicant herein to prevent the Defendants/Respondents herein, from interpreting standing as being from the

date of signing the Permanent Register of Legal Practitioner or Roll of Court and trying the deal differently with him.

Apart from the Plaintiff/Applicant being allowed to serve as Pupil Master for several Pupil Barristers, other specific examples were given above, of the fact that subsequent to the passing of the **LEGAL PRACTITIONERS ACT 2000** as amended, the interpretation of standing being computed as from date of call to the Bar has remained the same as it was since 1941 and that in particular, at least Three (3) members of the SIERRA LEONE BAR ASSOCIATION who are opposed to the computation of standing as aforesaid have themselves interpreted standing as been computed from the date of one's call to the Bar. Obviously, it becomes pertinent, at this stage to consider what, if at all, is the Defendants/Respondents answer to the Plaintiff/Applicants claim regarding the Three (3) members of the SIERRA LEONE BAR ASSOCIATION aforesaid.

SONKITA CONTEH is an erstwhile member of the Defendants/Respondents and who was one member who voted in favour of the computation of standing as being from the date of signing the Permanent Register or Roll of Court. In so far as he is concerned, the Plaintiff/Applicant's contention that the said SONKITA CONTEH has held himself out as a Legal Practitioner of over Fifteen (15) years standing, his computation of standing being from date of call to the Bar rather than from the date he signed and was enrolled in the Permanent Register of Legal Practitioners, remains completely uncontroverted.

OSMAN JALLOH is a current member of the Defendants/Respondents herein and currently Counsel for them and vehemently opposed to the computation of standing as from the date of call to the Bar. In answer to the Plaintiff/Applicant's contention above that the said OSMAN JALLOH held himself out to the public in a website page of YADA WILLIAMS & ASSOCIATES, in which said firm, he belongs to, his computation of standing in this regard which could have only been from his call to the Bar of Sierra Leone, OSMAN JALLOH deposes in his affidavit, sworn to on the 21st January 2020 at paragraph 7 thereof that, he verily believes that the contents of the website page aforesaid relates to a document which had been done several years ago and the same has not been updated. He deposes further that he has since notified the host of the website to rectify what could only now be described as an error. The statement that the contents of the website page aforesaid relates to a document which had been done several years ago cannot be true. This Court finds that Exhibit '1' annexed to the affidavit of IBRAHIM SORIE, sworn to on the 9th December 2019, which is the website page aforesaid was published in 2019, as its copyright marking

shows and interestingly, published after the Defendants/Respondents Notice of the 18th December 2018 aforesaid, declaring that standing is computed from the date when one signs or enrolls in the Permanent Register of Legal Practitioners was issued. It has not been established that, further to the publication of Exhibit '1' aforesaid, the host has been notified to rectify its contents. But even if it were the case they have so been notified one would hardly be able to say that such rectification was done. This Court holds the view that in the absence of such evidence of the rectification aforesaid, the publication aforesaid, in which OSMAN JALLOH held himself out and computed standing as being from date of call to the Bar was deliberate as opposed to it been described as an error.

In answer to the Plaintiff/Applicant's contention above, that the application of and the appointment of OSMAN JALLOH as a Notary Public by the **HON. CHIEF JUSTICE** on the 21st December 2017, could only have meant that his computation of standing was from his year of call to the Bar in October 2006 rather than from the date he signed and was enrolled in the Permanent Register of Legal Practitioners on the 30th May 2019, OSMAN JALLOH deposes in his affidavit, sworn to on the 21st January 2020 at paragraphs 3, 4, 5 and 6 thereof that, before the period 18th December 2018, he held the view that there was no distinction between call to the Bar and enrolment but that when he had cause to fully examine the provisions of the law on the matter, more so as regards the qualification for Pupil Masters, he formed a different opinion on the issue. He deposes further that, he recalls that, immediately after 18th December 2018, he called on the learned **CHIEF JUSTICE, HON. MR. JUSTICE ABDULAI H. CHARM CJ** (as he then was) and notified him of his views he had formed of the law aforesaid, noting that he had not at the time he was appointed a Notary Public attained the status of a Legal Practitioner of Ten (10) years standing but was as at the time he approached the then learned **CHIEF JUSTICE**, attained the requisite status, seeking directions thereon and that to his mind, something had to be done to rectify the issue. He deposed that he was informed by his Lordship that in view of his having attained the status at the time he approached him on the issue, time had cured his status. He deposed that he subsequently conducted research on this point and formed an opinion that his Lordship's position was supported in law.

It should be pointed out at this stage that, the raising by I. SORIE ESQ., of the fact that OSMAN JALLOH was appointed a Notary Public, after computation of his standing as being from his date of call to the Bar, rather than from the date he was enrolled in the Permanent Register of Legal Practitioners, was done not because he intended to show that his appointment aforesaid amounted to a

breach of Section 2(1) of the **NOTARIES PUBLIC ACT, CHAPTER 13 OF THE LAWS OF SIERRA LEONE 1960**. This Court holds the view that indeed, it was so raised only to show that OSMAN JALLOH himself who is so vehemently opposed to computation of standing as being from date of call to the Bar and benefited from it, rather than from the date he enrolled in the Permanent Register of Legal Practitioners. This is precisely the reason why the statements and or submissions of O. JALLOH ESQ. of Counsel for the Defendants/Respondents ought to have been confined only to addressing why the issue of him being appointed a Notary Public after computation of his standing as being from his date of call was raised, rather than impugn persons who are placed to interpret laws, all done in his bid to defend actions which he perceives to be unlawful.

It is in the light of the above that, it should be said that the statement above as deposed to by OSMAN JALLOH in his affidavit aforesaid that, when he sought direction from the then Learned **CHIEF JUSTICE**, the **HON. MR JUSTICE ABDULAI H. CHARM CJ** (as he then was) that at the time he was appointed a Notary Public he had not attained the status of a Legal Practitioner of Ten (10) years standing, the learned **CHIEF JUSTICE** told him that, in view of his having attained the status at the time he approached him on the issue, time had cured his status, is a very unfortunate statement made by OSMAN JALLOH. This Court takes great exception to the fact that O. JALLOH ESQ., would accuse the Learned **CHIEF JUSTICE**, who once headed the institution, solely having the responsibility of interpreting laws, to be incompetent in so far as his knowledge of the Law is concerned, in breach of one of his principal Code of Conduct and Ethics. It cannot be disputed that, it could not have been, the then Learned **CHIEF JUSTICE** who solicited applications from Legal Practitioners and in particular from OSMAN JALLOH, for the appointment of Notaries Public. It was OSMAN JALLOH himself who applied for such appointment holding out himself as a Legal Practitioner of at least Ten (10) years standing, computing his standing as being from his date of call to the Bar. In the circumstance, OSMAN JALLOH should not have brought in the Learned **CHIEF JUSTICE** into this matter, when it was solely him who held himself out as such, without any assistance from the Learned **CHIEF JUSTICE**.

To compound the unfortunate situation aforesaid, OSMAN JALLOH stated as above that, after the then Learned **CHIEF JUSTICE** gave his views aforesaid, OSMAN JALLOH himself, conducted a research on the point and formed an opinion that, the position of the then Learned **CHIEF JUSTICE** above was supported in law, but however, as is evident herein, failed to share the law which

supported the position of the then learned **CHIEF JUSTICE** aforesaid. In this regard, this Court holds the view that, it cannot be true that OSMAN JALLOH actually sought the opinion of the then Learned **CHIEF JUSTICE** who stated his position as aforesaid and never in fact did any research confirming that the position of the Learned **CHIEF JUSTICE** was supported by law. It is evident that, if OSMAN JALLOH was bold enough to utter these statements aforesaid, then evidence should be available that the then **CHIEF JUSTICE** stated a position as aforesaid and that evidence should also be available that the position of the then learned **CHIEF JUSTICE** aforesaid is supported by law. The failure of OSMAN JALLOH to bring forward such evidence, the burden of which lies on him, is suggestive of the fact that if such evidence is brought forward it would be adverse to him and bring out the fact that he is not saying the truth about approaching the then **CHIEF JUSTICE**. In the case **LANSANA & ELEVEN OTHERS v REGINAM** 1970-71 ALR SL 186 at page 236 it was held as follows:

'It is trite law that when available evidence is not called there is a presumption that if such evidence was called, it would be adverse to the party on whom the burden lies and who fails to call such evidence'.

This Court holds the view that the presumption that, if the evidence of the statement of OSMAN JALLOH as to the position of the then **CHIEF JUSTICE** aforesaid and the evidence of the statement of OSMAN JALLOH as to his research done on the position of the learned **CHIEF JUSTICE** were called, it would be adverse to OSMAN JALLOH, is one presumption that cannot, in any way be rebuttable by the simple fact that, on the assumption that the appointment of OSMAN JALLOH as a Notary Public was in breach of Section 2(1) of the **NOTARIES PUBLIC ACT**, aforesaid, it is not so much the time at which the breach itself was discovered but the time at which the breach occurred. On the occurrence of the breach itself, the act constituting the breach is regarded as a nullity. It would be as if it never happened. In this regard, the subsequent passage of time would never cure that nullity. Clearly, the only thing which could have been done by the then learned **CHIEF JUSTICE** in the circumstance, was for him to declare the appointment of OSMAN JALLOH null and void. In the case **LANSANA & ELEVEN OTHERS v REGINAM** 1970-71 ALR SL 186, the facts which are that as outlined at page 228, it was contended that the appointment of MR METZGER as ACTING ATTORNEY GENERAL was null and void, as he did not have the necessary qualifications set out in the Constitution to be eligible for that post, the requirements being, in order that a person may be appointed to this office he should have been a Judge of a High Court in the Commonwealth or a Lawyer of Ten (10) years standing, such

requirements which MR METZGER himself admitted as not having and that when he was appointed as ACTING ATTORNEY GENERAL in June 1967, he had no status to hold this office. Notwithstanding the amendment of the Constitution with a view to rectifying the defect, in 1969 with retrospective effect as from 1st June 1968, the same which was contended that, applying this principle, MR METZGER did not in June 1967 regain the status of ACTING ATTORNEY GENERAL which he never had by the constitutional amendment aforesaid, **TAMBIAH JA** held at page 229 as follows:

'I have considered this submission carefully and there is merits in his contention. The only way Parliament could have given MR METZGER the status of Acting ATTORNEY GENERAL retrospectively from June 1967 was by mentioning his name in the Constitutional amendment and making a provision that he would be deemed to be the Acting ATTORNEY GENERAL as from 1st June 1967. This was not done, so that both on the law as well as on the facts, MR METZGER was not the Acting ATTORNEY GENERAL at the time and the approval to the fiat had no validity'.

AUGUSTINE SORIE-SENGBE MARRAH is the Legal Practitioner who issued out the Originating Summons dated 14th May 2019 against the Plaintiff/Applicant herein seeking a Declaration from a Judge of the High Court of Sierra Leone that, in view of the fact that the Plaintiff/Applicant signed and was enrolled in the Permanent Register of Legal Practitioner on the 14th January 2011 he was not qualified to be nominated and elected as a member of the Defendants/Respondents. In answer to the Plaintiff/Applicant's contention above that, AUGUSTINE SORIE-SENGBE MARRAH commemorated his tenth year in the Legal Profession or his length of service or standing based on his date of call to the Bar of Sierra Leone, OSMAN JALLOH deposes in his affidavit sworn to on the 21st January 2020 at paragraph Nine (9) that he has been informed by AUGUSTINE SORIE SENGBE MARRAH, which he verily believes that his reference to himself as a lawyer relates to the qualification he attained upon being called to the Bar and to his mind there is a dichotomy between a Lawyer and a Legal Practitioner.

This Court is constrained to say that, the statement of OSMAN JALLOH aforesaid, is incomprehensible. It should be pointed out that in the course of the proceedings herein and when asked to determine the status of one who has been called to the Bar but is yet to commence pupillage, O. JALLOH ESQ. of Counsel for the Defendants/Respondents submitted that one would be an unqualified person within the meaning contained in Section 1 of the LEGAL

PRACTITIONERS ACT 2000. This Court holds the view that, whereas it is true that one who has been called to the Bar but is yet to commence pupillage cannot be referred to as a Legal Practitioner within the meaning of Section 1 of the **LEGAL PRACTITIONERS ACT 2000**, he cannot be referred to as unqualified person. Clearly, if the holding of this Court is wrong, why then would AUGUSTINE SORIE-SENGBE MARRAH commemorate his tenth year in the Legal Profession or his length of service or standing based on his date of call to the Bar of Sierra Leone on which said date he was an unqualified person. Obviously the fact as admitted by OSMAN JALLOH himself that AUGUSTINE SORIE-SENGBE MARRAH references himself as a 'Lawyer' relates to the qualification he attained upon being called to the Bar, in other words on the day he qualified as a Barrister-at-Law, which in itself is a distinct Legal Profession of itself, means that he cannot be referred to as an unqualified person in the Legal Profession, or his length of service or standing been based on his date of call to the Bar of Sierra Leone. It would seem then that, by his statement that AUGUSTINE SORIE-SENGBE MARRAH referencing himself as a 'Lawyer' relates to the qualification he attained upon being called to the Bar, it is only a Barrister-at-Law who is referred to as a Lawyer and that a Legal Practitioner is not. This Court holds the view that this cannot be true in every sense of it. Clearly, OSMAN JALLOH has not in any way substantiated his statement that there is a dichotomy between a 'Lawyer' and a 'Legal Practitioner'. Substantiating the fact that, indeed there is no dichotomy between a 'Lawyer' and a Legal Practitioner one only needs to consider Section 19(1) of the **LOCAL COURTS ACT 2011**, the same which provides thus:

'No Legal Practitioner, other than a practitioner who is a party and acting solely in his own behalf, or other persons may appear before the Local Court on behalf of any party to any proceedings therein'.

If it is true then that there is a dichotomy between a 'Lawyer' and a 'Legal Practitioner', can it be said that a Barrister-at-Law who only could he referred to as a 'Lawyer' but is yet to become a Legal Practitioner has a right of audience at the Local Courts ? Obviously, it cannot be disputed that, the answer to this question is a resounding 'No' and it is so by reason that there could be no distinction between a 'Lawyer' and a 'Legal Practitioner', otherwise why is it that, the contents of Section 36 (2) of the **LEGAL PRACTITIONERS (CODE OF CONDUCT) RULES 2010**, which provides that the words 'Lawyer', 'Legal Practitioner' or 'Senior Advocate' shall not appear in election posters or banners, immediately preceding or following the candidate, who is a Legal Practitioner's name, does not seem to distinguish between a 'Lawyer' and a

'Legal Practitioner' ? Obviously, it cannot be disputed that, the answer to this question is that, there is no dichotomy whatsoever, between a 'Lawyer' and a 'Legal Practitioner'. It cannot be disputed further that, in the Magistrates Court where you find mostly Barristers-at-Law plying their trade, they are referred to as 'Lawyers' by the Magistrates who seek their whereabouts from litigants. So also is it a fact that in the Superior Courts of Judicature where you find only Legal Practitioners plying their trade, they are also referred to as 'Lawyers' by Judges who seek their whereabouts from litigants. This Court holds the view that indeed, there is no dichotomy between a 'Lawyer' and a 'Legal Practitioner' in the context in which it is used in Sierra Leone and hereby overrules the statement of OSMAN JALLOH in this regard aforesaid.

In his bid to substantiate the fact that the manner in which 'standing' is perceived and how it has been computed has not changed from the way it was from 1941 and subsequent to the passing of the **LEGAL PRACTITIONERS ACT 2000**, I. SORIE ESQ. the Plaintiff/Applicant-in-person specifically mentioned that, he has always paid for practicing certificates based on prescribed fees computed from the year of his call to the Bar on the 4th October 2000, but that in 2019, a practicing certificate was issued to him based on prescribed fees computed from the year of his signing and enrolment in the Permanent Register of Legal Practitioners. It cannot be disputed that, what I. SORIE ESQ. intends questioning is whether this change would amount to a shift from the position determined above about the meaning of standing and how it is computed. Sections 19(1) and 19 (2) of the **LEGAL PRACTITIONERS ACT 2000** provides as follows:

'A Legal Practitioner, other than the ATTORNEY GENERAL or a Legal Practitioner employed in the public service, shall not practice as a Barrister or Solicitor or both except in accordance with a practising certificate issued by the Council, in the appropriate form duly stamped, entitling him to practise in the capacity or capacities specified in the certificate and every Legal Practitioner other than the Attorney-General or a Legal Practitioner employed in the public service shall, for every year in which he wishes to practice law take out a practising certificate or as the case may be, renew his practising certificate, by appropriately completing application forms and by paying the fee prescribed by the Council in that behalf'.

It is evident from the above that, it is the Defendants/Respondents herein who are tasked with the responsibility of prescribing the fees to be paid for practicing

certificates. It is clearly seen from Exhibits '19¹⁻⁵' which are application forms to take out or renew practising certificates, annexed to the affidavit of IBRAHIM SORIE, sworn to on the 30th May 2019, fees prescribed by the Defendants/Respondents for practicing certificates for the year 2012, 2013, 2014, 2015 and 2016 was based on one's year of his call to the Bar. As seen from Exhibits '17⁵⁻⁶' annexed to the affidavit of IBRAHIM SORIE aforesaid the fees prescribed by the Defendants/Respondents for practising certificates for the year commencing 1st January 2017 was changed and was now based on one's year of his signing and enrolment in the Permanent Register of Legal Practitioners with exceptions for Legal Practitioners who take out or renew their practising certificates for 2017 before 1st January 2017 based on one's year of his call to the Bar. As seen from Exhibit 'OSC 7' annexed to the affidavit of ONIKE CHRISTINE SPENCER-COKER, sworn to on the 28th June 2019, the fees prescribed by the Defendants/Respondents for Practising Certificates for the year 2019 is clearly based on one's year of his signing or enrolment in the Permanent Register of Legal Practitioners.

By reason that it is the Defendants/Respondents herein who are tasked with the responsibility of prescribing fees for practising certificate, neither the Plaintiff/Applicant nor any Legal Practitioner for that matter can complain about the changes made aforesaid. It is clear that the changes made by the Defendants/Respondents aforesaid, were done so as to reflect their position that the computation of standing is from date of signing or enrolment in the Permanent Register of Legal Practitioners. On the other hand and from the above, the SIERRA LEONE BAR ASSOCIATION continued to fix subscriptions and related fees from its members, based on from year of call and not year of enrolment or signing of the Permanent Register of Legal Practitioners, even after the changes made by the Defendants/Respondents aforesaid. However, even though the changes made aforesaid, changes what fees for practising certificates for Legal Practitioners are based on, from date of call to the Bar to date of signing and enrolment in the Permanent Register of Legal Practitioners, they do not in any way affect the meaning of standing and how it is computed as determined above, in the context in which it is used in the **LEGAL PRACTITIONERS ACT 2000**. The possible effect which the changes aforesaid might have would be that funds accruing the Defendants/Respondents would reduce as evidently seen by the fact that of the One Million Sierra Leone Leones (SLL 1,000,000.00) sent by the Plaintiff/Applicant for Practising Certificate for the year 2019 only Five Hundred Thousand Sierra Leone Leones (SLL 500,000.00) was accepted by the Defendants/Respondents. This in turn would lead to the absurd effect that seniority at the Bar would be significantly different

when looked at from the perspective of the SIERRA LEONE BAR ASSOCIATION from the perspective of the Defendants/Respondents, the effect being that one who is more senior to another at the Bar would be paying higher subscription fees to the SIERRA LEONE BAR ASSOCIATION but would be paying less than the other for Practising Certificates to the Defendants/Respondents.

In addition to the mentioning of the fact that, his paid fees for Practicing Certificate for several years prior to 2019 based on his year of call to the Bar but that in 2019, the same was charged and based on his date of signing and enrolment in the Permanent Register of Legal Practitioners, I. SORIE ESQ. Plaintiff-in-person mentioned that prior to 18th December 2018, he had acted as Pupil Master for several Pupil Barristers and Solicitors, the same which was mentioned also, in a bid to substantiate the fact that the manner in which 'standing' is perceived and how it has been computed has not changed from the way it was from 1941 and subsequent to the passing of the **LEGAL PRACTITIONER ACT 2000**. Whereas, as determined above, the change in prescribing fees for Practising Certificates from based on year of call to based on the signing or enrolment in the Permanent Register of Legal Practitioners does not in any way affect the meaning of standing and how it is computed, the pertinent question which now require an answer is that does Exhibit '21' being a Notice dated 18th December 2018 annexed to the affidavit of IBRAHIM SORIE sworn to on the 30th May 2019, the same which after its issuance by MOHAMED PA-MOMOH FOFANAH the Defendants/Respondents herein, stopped allowing the Plaintiff/Applicant to act as Pupil Master caused a change in the meaning of standing and how it has been computed by the Defendants/Respondents ? As stated above, it has been established that the Defendants/Respondents have not even once submitted, admitting that Exhibit '21' aforesaid was an attempt made by them to change the meaning of standing and how it has been computed over the years in Sierra Leone from 1941. The Defendants/Respondents have consistently denied this and insisted that Exhibit '21' aforesaid was issued to clarify what the meaning of standing is and how it is computed as provided for in the **LEGAL PRACTITIONERS ACT 2000** in contrast to how it has been perceived to be, albeit a mistake by the Defendants/Respondents herein. In this regard, it is this Court which is left with the responsibility of answering the question above. Section 10 (b) of the **LEGAL PRACTITIONERS ACT 2000** provides as follows:

'A person qualifies for admission as a Legal Practitioner if, inter alia, he has served a period of pupillage of not less than twelve (12) months with a Legal Practitioner of at least Ten(10) years standing in Sierra Leone'.

Clearly the above requirement stipulates that to be a Legal Practitioner and practice as such in Sierra Leone one must first serve a period of pupillage of not less than twelve (12) months with a Legal Practitioner. Secondly that 'Legal Practitioner' with whom you intend to serve the period of pupillage with aforesaid, must be of at least Ten (10) years standing in Sierra Leone. In other words, to be regarded as a Legal Practitioner, it should be determined that the Legal Practitioner with whom you intend to do your pupillage with is a Legal Practitioner within the meaning of a Legal Practitioner in accordance with the **LEGAL PRACTITIONERS ACT** aforesaid, and also determine the number of years of standing of the said Legal Practitioner with whom you intend to do, two separate and distinct requirements to be determined. If one were to determine the position as to who is entitled to be a Pupil Master in accordance Section 10 (b) aforesaid, a Pupil Master must be both a Barrister-at-Law and a Solicitor of the High Court of Sierra Leone, his standing at the bar which should be of at least Ten (10) years, the same computed from his date of call to the Bar of Sierra Leone, having determined as above the meaning of standing and its computation in the context in which it is used in the **LEGAL PRACTITIONERS ACT 2000** to be from the date of call to the Bar.

It cannot be disputed that, if Exhibit '21' aforesaid, stipulates that a Legal Practitioner shall only be qualified to act or serve as a Pupil Master if such Legal Practitioner has been admitted or enrolled as a Legal Practitioner for a period of at least Ten (10) years after his/her name has been entered into the Roll of Court/Permanent Register, then the requirement of determining the standing of a Legal Practitioner before he is deemed to be qualified to act or serve as a Pupil Master would no longer be necessary. Clearly, the stipulation above would in effect change the wording of Section 10(b) of the **LEGAL PRACTITIONERS ACT 2000** to read thus:

'A person qualifies for admission as a Legal Practitioner if, inter alia, he has served a period of pupillage of not less than Twelve (12) months with a Legal Practitioner who has been admitted and enrolled as such for a period of at least Ten (10) years in Sierra Leone'.

It is clearly seen that the word 'standing' does not appear in the wording above. This would in effect mean that, to determine who is entitled to be a Pupil Master,

one would not need to separately and distinctly determine whether he is a Legal Practitioner within the meaning in accordance with Section 1 of the **LEGAL PRACTITIONERS ACT 2000** and determine his standing at the Bar to be of at least Ten (10) years, the same computed from his date of call to the Bar, but only determine whether he is a Legal Practitioner who has been admitted or enrolled as such for a period of at least Ten (10) years in Sierra Leone. The distinction between the two positions aforesaid is that whereas as regards the position stipulated in the **LEGAL PRACTITIONERS ACT 2000**, one would have to consult the Roll of Courts/Permanent Register to determine if one is a Legal Practitioner and separately determine whether he is at least Ten (10) years standing by consulting his certificate of call to the Bar, the position as stipulated by the Defendants/Respondents herein or contained in Exhibit '21' aforesaid requires one to consult only the Roll of Courts/Permanent Register to determine that the said Legal Practitioner is a person who has been admitted or enrolled as such for a period of at least Ten (10) years in Sierra Leone. Surely, this latter position cannot be position based on the former position as in the **CONSTITUTION OF SIERRA LEONE 1991** and the **LEGAL PRACTITIONERS ACT 2000**. This Court holds the view that the issuance of the position as expressed in Exhibit '21' aforesaid is an attempt made by the Defendants/Respondents herein to change the meaning of standing and the way it has been computed over the years, on the pretext that the said change is what the provisions of the **LEGAL PRACTITIONERS ACT 2000** is to be interpreted as, notwithstanding that, they the said Defendants/Respondents have mistakenly interpreted it in a manner in which the meaning of standing and the way it has been computed over the years is.

It has been sufficiently established above, that the term standing has had only one meaning, the said meaning and how it has been computed has been from the date of call to the Bar, the same which could only have been derived from the Common Law. It has been further established above that this Common Law meaning and computation of standing is what has been consistently used to interpret standing by all the relevant bodies and persons involved in the Legal Profession in Sierra Leone for close to a century. Clearly, standing in this regard, enjoys the status of a continued consistent interpretation. In the Tenth Edition of **CRAIES ON LEGISLATION, A PRACTITIONERS' GUIDE TO THE NATURE, PROCESS, EFFECT AND INTERPRETATION OF LEGISLATION**, edited by **DANIEL GREENBERG** and **BERWIN LEIGHTON PAISNER** under the rubric '**Presumption of continued consistent interpretation**' at paragraph 19.1.22.1.2 at pages 760 to 761 it is stipulated thus:

‘Although the Higher Courts will not be held back from correcting a judicial mistake merely because it is a mistake of long standing, in determining whether or not to reach a decision which will have the effect of changing the way in which the law has been understood or applied, the extent to which people have relied on the previous state of the law, and their justification for doing so, is at best one fact to be taken into account. In some cases the presumption can be quite strong: if all the different classes of persons affected by a statutory scheme have consistently applied it in a certain way over a period of decades without objection being taken, the Court are likely to incline towards preserving the long standing understanding, partly because it can be taken to show what must have been originally understood as the legislative intent’.

Notwithstanding the fact that the position as expressed above, it cannot be said that the position of the law as to the interpretation of standing and its computation which operated before the passing of the **LEGAL PRACTITIONERS ACT 2000** was a mistake which was being corrected by the position expressed in Exhibit ‘21’ aforesaid. The meaning of standing and how it has been computed as from date of call to the Bar, have consistently been applied as such for close to a century in Sierra Leone. Clearly, the position as expressed in Exhibit ‘21’ aforesaid that standing shall be computed as at from the date of signing and enrolment in the Permanent Register of Legal Practitioners will have the effect of changing the way in which the law has been understood or applied, the extent to which people have relied on it and their justification for doing so. In this regard, this Court would incline towards preserving the long-standing understanding of the interpretation of standing and its computation because it can be taken to show what the Legislature intended it to mean in the context in which it is used in the **LEGAL PRACTITIONERS ACT 2000**. In the case between **ISLE OF ANGLESEY COUNTY COUNSEL & ANOTHER** and **THE WELSH MINISTRIES & OTHERS** (2010) QB 163, **CARNWATH LJ** stated as follows:

‘Where an Act has been interpreted in a particular way without dissent over a long period, those interested should be able to continue to order their affairs on that basis without risk of it being upset up by a novel approach’.

As has been repeatedly stated above, the meaning of the word ‘standing’ and how it has been computed as from date of call to the Bar as used in several legislation has been interpreted as such, in that way without dissent since 1937

and the passing of the **NOTARIES PUBLIC ACT** aforesaid. It cannot be disputed that it is this same interpretation which has been adopted by the Legal Profession in Sierra Leone who have computed both standing and seniority at the Bar from date of call as can be seen from Exhibit '40' which is a publication of the **SIERRA LEONE LAW REVIEW 2000**, containing a list of Legal Practitioners with both their dates of call to the Bar and enrolment, and Exhibit '40' which is the **COUNCIL OF LEGAL EDUCATION SIERRA LEONE LAW SCHOOL SOUVENIR HANDBOOK AND STUDENT PASS LIST 1999 – 2006 EDITION**, containing a list of those who passed the Bar final exams and called to the Bar on dates, in the order of seniority, both Exhibits '40' and '41' annexed to the affidavit of IBRAHIM SORIE, sworn to on the 30th May 2019. It cannot be disputed further that it is this same 'long standing interpretation' that the Defendants/Respondents herein have adopted when they allowed the Plaintiff to be called to the Bar of Sierra Leone and qualified to appear as a Barrister and Solicitors, by computing 'standing' as from date of call to the Bar. It cannot be disputed also that it is this same long standing interpretation that several Legal Practitioners themselves who are vehemently opposed to this long standing interpretation of standing have used, when SONKITA CONTEH in a campaign poster held himself out as a Legal Practitioner of over Fifteen (15) years standing, his computation of standing being from date of call to the Bar of Sierra Leone, when OSMAN JALLOH held himself out to the public in a website page of YADA WILLIAMS & ASSOCIATES, his computation of standing which could only have been from his date of call to the Bar of Sierra Leone, when the said OSMAN JALLOH held himself out to be appointed a Notary Public his computation of standing being from the date of his call to the Bar of Sierra Leone and when AUGUSTINE SORIE-SENGBE MARRAH who in a newspaper publication commemorated his Tenth year in the Legal Profession or his length of service or standing based on his date of call to the Bar of Sierra Leone. In the circumstance, it is the Defendants/Respondents herein who should be the persons having the responsibility of ordering the continuance of the long standing interpretation of standing aforesaid, without the risk of it being upset by the position as stated in Exhibit '21' aforesaid, annexed to the affidavit of IBRAHIM SORIE, sworn to on the 30th May 2019, the same which, to all intent and purpose, introduces a novel approach to the interpretation of standing as being from the date of signing and enrolment in the Permanent Register of Legal Practitioners, issued by the very Defendants/Respondents on the 18th December 2018, under the chairmanship of MOHAMED PA-MOMO FOFANAH.

It is clear that, the Defendants/Respondents herein have not disputed the fact that, prior to the enactment of the **CONSTITUTION OF SIERRA LEONE 1991**

and the **LEGAL PRACTITIONERS ACT 2000**, the Common Law meaning of standing has been perceived to be the length of service or experience or position determined by his/her seniority or status of one in the Legal Profession and the way of how has been computed has been from date of call to the Bar, in the context in which it was used in several legislation since 1937. Even though that, as established above, the context in which standing has been used in the **LEGAL PRACTITIONERS ACT 2000** as to its meaning and how it is computed from the date of call to the Bar remains the same as it was, prior to the enactment of the **CONSTITUTION OF SIERRA LEONE 1991** and the **LEGAL PRACTITIONERS ACT 2000**, this Court holds the view that the interpretation of the contents of Exhibit '21' aforesaid should be considered in another perspective in that, what if the message sent out by the Defendants/Respondents, by the issue of Exhibit '21' aforesaid was that, the **CONSTITUTION OF SIERRA LEONE 1991**, in particular with the **LEGAL PRACTITIONERS ACT 2000**, changed the Common Law meaning of standing and its computation aforesaid from date of call to the Bar to date of signing or enrolment in the Permanent Register of Legal Practitioners. But in order for this Court to determine whether or not there were any intentions by the Legislature to change the Common Law meaning of standing and its computation by the enactment of the **LEGAL PRACTITIONERS ACT 2000**, it must first consider what, if at all, the mischief that the **LEGAL PRACTITIONERS ACT** aforesaid meant the remedy. In the Fourth Edition Reissue of **HALSBURY'S LAWS OF ENGLAND** at paragraph 1474 under the rubric 'construction by reference to the mischief' it is stipulated thus:

'Parliament intends that an enactment shall remedy a particular mischief. The term mischief as used in statutory interpretation, has two different meanings. It may refer to a defect in the existing law (the legal mischief) or to a mischief on the ground that is a factual condition that is causing concern. This may be called the social mischief. While a mischief on the ground may correspond to a defect in the law, this is not necessarily so. Other social mischiefs may be beyond the reach of the law altogether. It is therefore presumed that, Parliament intends that the Court when considering, in relation to the facts of the instant case, which of the opposing constructions of the enactment corresponds to its legal meaning should find a construction which applies the remedy provided by it in such a way as to suppress that mischief'.

It cannot be disputed that prior to the enactment of the **LEGAL PRACTITIONERS ACT 2000**, the **LEGAL PRACTITIONERS ACT CHAPTER 11** of the **LAWS OF SIERRA LEONE 1960** was the primary Legislation for Legal Practitioners in Sierra Leone. Sections 3 and 5 of **CHAPTER 11** aforesaid provided for the **CHIEF JUSTICE** to be responsible for the admission and enrolment of Legal Practitioners in Sierra Leone. Section 4 of **CHAPTER 11** gave the **CHIEF JUSTICE** the sole power to refuse to admit a person, notwithstanding the fact that he/she may have the required qualifications of Legal Practitioner. This was glaring in the sense that the **CHIEF JUSTICE** could refuse to admit one on subjective grounds and that the affected person had no recourse, by reason that there was no statutory path for the decision to be reviewed. The **COUNCIL OF LEGAL EDUCATION ACT 1989** tried to curtail the arbitrary nature of Section 4 of **CHAPTER 11** aforesaid, notwithstanding the fact that by virtue of Section 15 of the **COUNCIL OF LEGAL EDUCATION ACT** aforesaid, **THE CHIEF JUSTICE** still had the right to refuse to admit a person as a Legal Practitioner, that right was somewhat curtailed by the newly created right of review by the High Court upon the application by the aforesaid person. Clearly, even though Section 15 aforesaid though better than the state of law that existed under **CHAPTER 11** aforesaid, it still had the undesirable effect of having the **CHIEF JUSTICE** still being able to determine the fate of the Applicant or influence the outcome, since as head of the Judiciary he was the one who would assign the matter to a Judge of his choosing. The **LEGAL PRACTITIONERS ACT 2000** took away from the **CHIEF JUSTICE** entirely, the power of admission and placed it in the purview of the newly created **GENERAL LEGAL COUNCIL**, the Defendants/Respondents herein. Section 14 of the **LEGAL PRACTITIONERS ACT** aforesaid, also passed on the Defendants/Respondents herein the right to refuse admission but tempered that right with the right to the affected person to have that decision reviewed by the High Court.

Clearly, it cannot be disputed that the mischief which the Legislature intended to remedy by passing the **LEGAL PRACTITIONERS ACT 2000** was so that the **CHIEF JUSTICE** no longer had anything to do with admissions and enrolment of Legal Practitioners in Sierra Leone. Consequently the risk of undue influence, bias or an unfair hearing/outcome was significantly reduced, if not eliminated altogether. It cannot be disputed though that, the long standing Common Law

interpretation of the meaning of standing and its computation as being from the date of call to the Bar, has never created any mischief for which a remedy, and in this case, the so called remedy of construing standing as been computed from the date of signing or enrolment in the Permanent Register of Legal Practitioners, would apply to, in such a way as to suppress that non-existent mischief. It cannot be disputed further that, the matter of whether or not there were any intentions by the Legislature to change the Common Law meaning of standing and its computation, by the enactment of the **LEGAL PRACTITIONERS ACT 2000**, would have been put to rest at this juncture, with this Court determining that there were no intentions by the Legislature to change the Common Law interpretation of standing aforesaid. However and for the sake of argument, what would be the position of the law if it were assumed that the long standing interpretation of standing aforesaid created a mischief for which, by the passing of the **LEGAL PRACTITIONERS ACT 2000**, a remedy of computing standing as from date of signing or enrolment in the Permanent Register of Legal Practitioners was provided. In the Fifth Edition of **BENNION ON STATUTORY INTERPRETATION** by F.A.R. **BENNION** under the rubric 'special protection for the common law' at page 817, it is stipulated as follows:

'that the early struggles of the Common Law to establish itself against the claims of the King led Judges to shied itself from statutory encroachment. These efforts produced the theory that an Act was presumed not to be intended to change the Common Law. Thus COKE said that, it is a maxim in the Common Law that a statute made in the affirmative without any negative expressed or implied doth not take away the Common Law'.

In the Tenth Edition of **CRAIES ON LEGISLATION, A PRACTITIONERS GUIDE TO THE NATURE, PROCESS, EFFECT AND INTERPRETATION OF LEGISLATION** edited by **DANIEL GREENBERG** and **BERWIN LEIGHTON PAISNER** under the rubric 'Presumption against legislative interference with Common Law' at paragraph 14.1.7 at page 637, where it was stipulated that despite the increasing shift towards control by legislation, there remains a rebuttable presumption that the legislature does not intend to alter a clearly established principle of law so that in many cases the Courts have rejected a possible interpretation of legislation on the grounds that it would involve a significant departure from pre-existing Common Law, without the departure being expressly provided for a necessary implication from the context of the provision, the case between **ARTHUR** and **BOKENHAN** (1708) 11 Mod 148, was referred to, in which it was said at page 150 that:

'Statutes are not presumed to make any alteration in the Common Law further or otherwise than the Act doth expressly declare'.

In the case between **MARTHA GREEN** and **ASSOCIATED NEWSPAPERS LIMITED** 2004 EWHC 2322 (QB), **LORD JUSTICE BROOKE** in the Judgement of the Court stated at paragraph 62 that, first principle in statutory interpretation would also rule out the dismantling of Judge made law by Stealth (in the absence of necessary implication) and referred to the case between **BLACK-CLAWSON INTERNATIONAL LTD.** and **PAPIERWERKE-ASCHAFFENBURG AG** (1975) AC 591 where **LORD REID** said at page 614 that:

'There is a presumption which can be stated in various ways. One is that in the absence of any clear indication to the contrary, Parliament can be presumed not to have altered the Common Law further than was necessary to remedy the mischief. Of course it may and quite often does go further. But the principle is that if the enactment is ambiguous, that meaning which relates the scope of the Act to the mischief, should not be taken rather than a different or wider meaning which the contemporary situation did not call for'.

LORD JUSTICE BROOKE further, in the case between **MARTHA GREENE** and **ASSOCIATED NEWSPAPERS LTD** cited above, at paragraph 64 referred to the case between **ROTTERMAN** and **COMMISSIONER OF POLICE FOR THE METROPOLIS** (2002) 2 AC 692 where **LORD HUTTON** said at paragraph 75:

'It is a well-established principle that a rule of the Common Law is not extinguished by a statute unless the statute makes this clear by express provision or by clear implication'.

In the case **R** against **SECRETARY OF STATE FOR THE HOME DEPARTMENT, EX PARTE PIERSON** (1998) AC 539 **LORD BROWNE-WILKINSON** said at page 573 that:

'Parliament is presumed not to have intended to change the common law unless it has clearly indicated such intention either expressly or by necessary implications'.

In a **CONGRESSIONAL RESEARCH SERVICE REPORT** titled **STATUTORY INTERPRETATION: General Principles and Recent Trends**, done by **LARRY M. EIG** dated September 24 2014 under the rubric 'Departure from Common Law or Established Interpretation' it is stipulated at page 20 that:

'Congress is presumed to legislate with knowledge of existing Common law. When it adopts a statute, related Judge made law (Common Law) is presumed to remain in force and work in conjunction with the new statute absent a clear indication otherwise. The normal rule of statutory construction is that if congress intends for legislation to change the interpretation of a judicially created concept, it makes that intent specific'.

Having established above that the Common Law meaning of standing, to be the length of service or experience of people in a particular profession, by the status of one in the Legal Profession and the way how it has been computed has been from date of call to the Bar, did not create any mischief for which the passing of the **LEGAL PRACTITIONERS ACT 2000**, changed its meaning and computation aforesaid from date to call to the Bar to date of signing or enrolment in the Permanent Register of Legal Practitioners as a remedy, it is clear from the above that by the enactment and adoption of the **LEGAL PRACTITIONERS ACT 2000**, it is presumed that the Common Law meaning of standing and its computation aforesaid would remain in force and work in conjunction with the **LEGAL PRACTITIONERS ACT 2000**. The presumption aforesaid, has not been rebutted, by reason that there is absolutely no provision contained in the **LEGAL PRACTITIONERS ACT 2000**, clearly expressing an intention to change the Common Law position aforesaid or from which such an intention can be inferred. In this regard, the Defendants/Respondents position that the computation of standing as from the date on which one signs or enrol in the Permanent Register of Legal Practitioners as expressed in Exhibit '21' aforesaid, the same being a Notice dated 18th December 2018 issued by **MOHAMED PA-MOMO FOFANAH**, Chairperson of the Defendants/Respondents annexed to the affidavit of **IBRAHIM SORIE**, sworn to on the 30th May 2019, cannot in any way be the position based on the **LEGAL PRACTITIONERS ACT 2000**.

What remains to be determined is, whether by the enactment and adoption of the **CONSTITUTION OF SIERRA LEONE 1991**, the presumption that the Common Law meaning of standing and its computation aforesaid was rebutted and or whether the Defendants/Respondents position as expressed in Exhibit '21' aforesaid, is the position based on the **CONSTITUTION OF SIERRA**

LEONE aforesaid. In other words is the computation of standing, as expressed in Exhibit '21' aforesaid to be from the date of signing or enrolment in the Permanent Register of Legal Practitioners, be the position which the **CONSTITUTION OF SIERRALEONE 1991** expresses? It cannot be disputed that, the question aforesaid, is the most central question which this Court is required to answer, the answer of which cannot in any way be avoided. Surely, if this Court cannot avoid giving an answer to the question aforesaid, then it is bound to consider and interpret the most suitable provision in the **CONSTITUTION** aforesaid that, relates to 'standing'. By reason that as established above, the Common Law meaning of standing, is the length of service or experience or position determined by his/her seniority or status of one in the Legal Profession, the most suitable provision which would qualify for interpretation would be that provision in the said **CONSTITUTION** directly linked to the Legal profession. Obviously, it cannot be denied that the provisions aforesaid, can be no other than the provisions regarding the appointment of Judges of the Superior Courts of Judicature, by reason that qualifications for their appointment is squarely based on their length of experience in the Legal Profession. This Court holds the view that the only suitable provision(s) which qualify for interpretation by this Court, in this regard, are Sections 135(3) and 135(4) of the **CONSTITUTION OF SIERRA LEONE 1991**.

It is seen that the Defendants/Respondents themselves have severally admitted to the fact that it is absolutely necessary to interpret Sections 135(3) and 135(4) aforesaid in order for the Court to successfully determine the answers to the questions herein, sought by the application herein. In this regard, reference is made to Exhibit '46' annexed to the affidavit of IBRAHIM SORIE, sworn to on the 30th May 2019, the same being, a legal analysis which the Plaintiff/Applicant claim is what the Defendants/Respondents considered before reaching its decision to restrict the right to serve as Pupil Masters to only those who had been enrolled or signed the Permanent Register of Legal Practitioners for at least Ten (10) years, the said claim which the Defendants/Respondents herein do not in any way controvert. Contained in Exhibit '46' aforesaid, the issues outlined for the consideration of the Defendants/Respondents are whether the call to the Bar Certification of the COUNCIL OF LEGAL EDUCATION qualifies as admission and enrolment as a Legal Practitioner and whether the call to the Bar Certification means a person is entitled to practice as Counsel. As contained in Exhibit '46' aforesaid, the applicable rule aiding the determination of the

issues aforesaid were inter alia, Sections 135(3) and 135(4) of the **CONSTITUTION OF SIERRA LEONE 1991**. In the absence of any evidence to the contrary, this Court holds the view that, it was the Defendants/Respondents interpretation of inter alia Sections 135(3) and 135(4) aforesaid that led them to issue out Exhibit '21' annexed to the affidavit of IBRAHIM SORIE, sworn to on the 30th May 2019, the same which is a Notice dated 18th December 2018, 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 Ten (10) years after his/her name has been entered into the Roll of Court/Permanent Register.

Another instance of the Defendants/Respondents herein, acknowledging the fact of the absolute necessity to interpret Sections 135(3) and 135(4) of the **CONSTITUTION OF SIERRA LEONE 1991**, could be found in the affidavit of O. JALLOH ESQ. of Counsel of the Defendants/Respondents that, a Legal Practitioner who is qualified to stand as a Pupil Master is akin to such person being qualified for appointment as a Judge of the High Court which said admission is contained in Exhibit '20' annexed to the affidavit of IBRAHIM SORIE, sworn to on the 30th May 2019. Exhibit '20' aforesaid is an article published by OSMAN JALLOH aforesaid, which said fact that it was so published by OSMAN JALLOH remains uncontroverted and which said article advances the argument that standing is computed from date of enrolment in the Permanent Register rather than from date of call to the Bar and that for one to be eligible to serve as a Pupil Master one must have enrolled in the Permanent Register for at least Ten (10) years. As contained in Exhibit '20' aforesaid, OSMAN JALLOH references Sections 135(3) and 135(4) of the **CONSTITUTION** aforesaid, in support of his view above. This Court holds the view that if the analysis by OSMAN JALLOH of Sections 135(3) and 135(4) aforesaid is correct, then the said OSMAN JALLOH effectively says that a Judge of the High Court is the same as a Legal Practitioner who has been enrolled as such for a period of at least Ten (10) years after his/her name was entered into the Roll of Court/Permanent Register, the same which is the qualification required for one to have the right to serve as Pupil Master pursuant to Section 10(b) of the **LEGAL PRACTITIONERS ACT 2000**.

It cannot be disputed that in the same vain as above, by the provisions of Section 3(1)(c) which requires the Defendants/Respondents herein to consist of, inter alia, six practising Legal Practitioners of whom three shall be of not less than Fifteen (15) years standing and the rest of not less than Ten (10) years standing, the intention was to have those who serve as members of the

Defendants/Respondents to be qualified to be a Court of Appeal Judge and a High Court Judge respectively. It cannot be disputed that ultimately it is Section 135(3) and 135(4) of the **CONSTITUTION OF SIERRA LEONE** that one would have to turn to, in order to determine who is qualified to be a High Court Judge or a Judge of the Appeals Court and ultimately qualified to be a Pupil Master and who is qualified to be elected as member of the Defendants/Respondents confirming the absolute necessity to interpret Sections 135(3) and 135(4) aforesaid, for this Court to successfully determine the answers to the questions aforesaid, brought by the application herein.

O. JALLOH ESQ. submitted that the provisions of the **CONSTITUTION OF SIERRA LEONE 1991**, relating to the qualification and appointment of Judges under Section 135 of the same is specific to persons seeking to become Judges of the Superior Court of Judicature. O. JALLOH ESQ. submitted further that, it follows by reason of the phrase, '**for the purpose of sub section (3) of Section 135**' as contained in Section 135(4), the provision could only be applicable to persons seeking to become Judges of the Superior Courts of Judicature and not in regard to the qualifications of a Legal Practitioner, if at all, an alternate construction could be ascribed to the section. As contained in the Defendants/Respondents statement of case dated 2nd July 2019, at paragraph 13.6 at pages 32 to 33, O. JALLOH ESQ. submitted also that:

'the Plaintiff/Applicant seeks no such appointment to become a Judge of the Superior Courts of Judicature, hence conflating the provisions of the CONSTITUTION aforesaid and those of the LEGAL PRACTITIONERS ACT 2000 in regard to who is a Legal Practitioner by virtue of Sections 1, 3 and 19(b) of the LEGAL PRACTITIONERS ACT 2000 to suit the Plaintiff's skewed interpretation that, by virtue of his call to the Bar, he is qualified to be elected to the GENERAL LEGAL COUNCIL in the Fifteen (15) years and above category is mischievous to say the least'.

This Court holds the view that, the submissions of O. JALLOH ESQ. above are incomprehensible. Firstly, this Court does not comprehend how by reason of the phrase '**for the purpose of sub sections 3 of Section 135**' as contained in Sections 135(4) of the **CONSTITUTION** aforesaid, the provisions under Section 135 could only be applicable to persons seeking to become Judges of

the Superior Courts of Judicature. Clearly and as seen from the above, the Defendants/Respondents applied the provisions of Section 135 to determine the qualifications of Legal Practitioners who are qualified to be Pupil Masters. The Defendants/Respondents further applied the same provisions of Section 135 to determine that a Legal Practitioner who is qualified to stand as a Pupil Master is akin to such person being qualified for appointment as a Judge of the High Court. It cannot be disputed that the application of Section 135 of the **CONSTITUTION** aforesaid, was done by the Defendants/Respondents, notwithstanding the fact that the Legal Practitioners aforesaid were not seeking to become Judges of the Superior Courts of Judicature. In the same way as it would be an unfair conclusion to make, before the matter is fully considered that, because the Legal Practitioners aforesaid were not seeking to become Judges, conflating the provisions of Section 135 of the **CONSTITUTION** aforesaid with provisions of the **LEGAL PRACTITIONERS ACT 2000** produces a skewed interpretation that, by virtue of the Plaintiff/Applicant's call to the Bar he is qualified to be elected to the **GENERAL LEGAL COUNCIL**, the Defendants/Respondents herein in the Fifteen (15) years and above category.

It should be pointed out that the complaint of the Plaintiff/Applicant herein is that the Defendants/Respondents herein, under the authority of the **LEGAL PRACTITIONERS ACT 2000**, have declared that pursuant to the said **ACT**, the Plaintiff/Applicant is not a Legal Practitioner of at least Ten (10) years standing and unqualified to be elected a member of the **GENERAL LEGAL COUNCIL**, the Defendants/Respondents herein, in the Fifteen (15) years and above category, the said Defendants/Respondents who made such declaration based on their interpretation of Section 135 of the **CONSTITUTION OF SIERRA LEONE**, the said Plaintiff/Applicant who has claimed that the Defendants/Respondents herein have wrongly construed and acted inconsistently with the provision aforesaid of the said **CONSTITUTION**. Clearly, the Plaintiff/Applicant's claim aforesaid is made pursuant to Section 127(i) of the **CONSTITUTION OF SIERRA LEONE 1991** which provides thus:

'A person who alleges that an enactment or anything contained in or done under the authority of that or any other enactment is inconsistent with or is in contravention of a provision of the CONSTITUTION herein, may at any time bring an action in the Supreme Court for a declaration to that effect'.

It cannot be disputed that the Plaintiff/Applicant herein by seeking the Declarations prayed for herein is not in any way conflating the provisions of the **CONSTITUTION** aforesaid and those of the **LEGAL PRACTITIONERS ACT 2000** in order to skew an interpretation in his favour. All he has done is for this Court to interpret Sections 135(3) and 135(4) and determine whether the actions of the Defendants/Respondents herein of declaring that pursuant to the **LEGAL PRACTITIONERS ACT 2000**, the Plaintiff/Applicant is not a Legal Practitioner of at least Ten (10) years standing and unqualified to be elected a member of the **GENERAL LEGAL COUNCIL** of the **DEFENDANTS/RESPONDENTS** category, is inconsistent with or in contravention of the provisions aforesaid of the said **CONSTITUTION**. Clearly, Section 124 (1) of the **CONSTITUTION OF SIERRA LEONE 1991** gives this Court the original and exclusive jurisdiction in all matters relating to the interpretation and enforcement of the said **CONSTITUTION**. As to this Court's interpretation of the provisions aforesaid, Section 135(3) of the **CONSTITUTION OF SIERRA LEONE 1991** provides thus:

'A person shall not be qualified for appointment as a Judge of the Superior Court of Judicature, unless he is entitled to practice as Counsel in a Court having unlimited jurisdiction in civil and criminal matters in Sierra Leone or any other country having a system of law analogous to that of Sierra Leone and approved by the Judicial and Legal service commission and has been entitled as such Counsel in the case of appointment to the Supreme Court for not less than Twenty (20) years; in the case of appointment to the Court of Appeal, for not less than Fifteen (15) years and or in the case of appointment to the High Court, for not less than Ten (10) years'.

It is absolutely paramount that, it is made clear as to who is a person entitled to practice as Counsel, in the context in which it is used in Section 135(3) of the **CONSTITUTION** aforesaid. In the Defendants/Respondents statement of case dated 2nd July 2019, at paragraph 13.2 under the rubric '**SUBMISSIONS ON THE PLAINTIFF'S CONSTRUCTION OF SECTION 135 OF THE CONSTITUTION**' at page 31, O. JALLOH ESQ. references Section 135(4)

aforesaid, which states that 'for the purposes of Section 135(3), a person shall be regarded as entitled to practice as Counsel' submitting that:

'Counsel as used in Section 135(4) aforesaid is akin to one acting in the capacity of Barrister, when one is pursuing pupillage, one is not a Barrister but rather a Pupil Barrister; it follows therefore that for one to be considered as entitled to practice as Counsel one would have to have completed pupillage after coming out of Law School'.

Quite apart from the fact that the submission of O. JALLOH ESQ. aforesaid is incomprehensible, it should be reiterated as stated above that, one is only regarded as a Pupil Barrister and Solicitor, when he/she signs the Temporary Register of Pupil Barristers and Solicitors. the signing of which does not ever take away the fact that he/she is a Barrister-at-Law. Barrister-at-Law, having passed the required examinations conducted by the COUNCIL OF LEGAL EDUCATION and called/admitted to the degree of utter Barrister. A Pupil Barrister and Solicitor who completes his pupillage after coming out of Law School is regarded as a Legal Practitioner who is one conferred with the title of Solicitor of the High Court of Sierra Leone in addition to this title of Barrister-at-Law and would not be regarded as 'Counsel' as submitted by O. JALLOH ESQ. aforesaid.

It follows from the above that there is a clear distinction between a Legal Practitioner and one who is regarded as Counsel. In accordance with Section 23(11) of the **CONSTITUTION OF SIERRA LEONE 1991**, the expression Legal Practitioner means a person entitled to practice as a Barrister-at-Law and Solicitor of the High Court of Sierra Leone, confirming this Court's view held above that, a Legal Practitioner is a person conferred with the title of Solicitor of the High Court of Sierra Leone in addition to his already attained title of Barrister-at-Law. It means that a Legal Practitioner is one who is both a Barrister and Solicitor and not a Barrister-at-Law or a Solicitor of the High Court of Sierra Leone. Notwithstanding the use of the term 'Counsel' in the **CONSTITUTION** aforesaid, the same is not defined in the said **CONSTITUTION**. However, it is a notorious fact that in the Legal Profession 'Counsel' is that person who appears in Court and advocates a party's cause, as distinct from a Solicitor who enters appearance for and on behalf of a party to a cause or matter giving him 'locus standi' to file papers on the party's behalf, from which said papers, Counsel uses to advocate. As succinctly put in the Ninth Edition of **MOZLEY & WHITELEY'S LAW DICTIONARY** by **JOHN B. SANDERS ESQ.** 'Counsel' is a Barrister-at-Law. Clearly the distinction aforesaid, confirms the fact that, Counsel cannot be

a person entitled to practice as a Legal Practitioner. This Court holds the view that by reason that Section 135(3) of the **CONSTITUTION OF SIERRA LEONE 1991** makes reference to a person entitled to practice as 'Counsel' is an indication that the Legislature intended Section 135(3) aforesaid to apply to only persons who are regarded as 'Counsel' to the exclusion of a person who is regarded as a 'Legal Practitioner'.

It should also be made abundantly clear that, 'entitlement to practice as Counsel' is not the same as and clearly distinct from 'practising in a Court having unlimited jurisdiction in civil and criminal matters'. It is a notorious fact that entitlement is the fact of having a right to something. An entitlement to something is the right to have it or do it. It follows that the entitlement to practice as Counsel in the context in which it is used in Section 135(3) of the **CONSTITUTION** aforesaid is the right to practice as Counsel in a Court having unlimited jurisdiction in civil and criminal matters in Sierra Leone. Clearly the distinction aforesaid, between 'entitlement to practice as Counsel' and 'practising as Counsel in a Court having unlimited jurisdiction in both civil and criminal matters in Sierra Leone' becomes glaringly clear, when it is established that your entitlement to practice as Counsel in a Court having unlimited jurisdiction in both civil and criminal matters in Sierra Leone, is not taken away, if one does not or cannot practice as Counsel in a Court having unlimited jurisdiction in both civil and criminal matters in Sierra Leone. The paramount issue for consideration then is, at what point in time does one become entitled to practice as Counsel in a Court having unlimited jurisdiction in both civil and criminal matters in Sierra Leone, as distinct from the point in time when one practises as Counsel in a Court having unlimited jurisdiction in both civil and criminal matters in Sierra Leone. Several scenarios outlined hereunder, would assist in substantiating this Court's view above and help answer the question posed aforesaid.

'A Muslim Male is entitled to marry up to Four (4) wives. His entitlement aforesaid is not taken away by reason that he never marries or does not marry up to Four (4) wives. It cannot be disputed that, the point in time at which he becomes entitled to marry up to Four (4) wives is when he professes the Muslim faith and not when he marries Four (4) wives'.

'A Landlord contracts a lease with a Tenant for Life, who covenants that the Landlord is entitled to any timber felled by the said Tenant for Life. Clearly, the Landlord's entitlement aforesaid, is not taken away by reason that no timber is ever felled by the Tenant for Life. Obviously, the point in

time at which the said Landlord becomes entitled to any timber felled by the said Tenant for Life is when the lease is contracted and not when timber is felled by the Tenant for Life'.

'A Legal Practitioner is entitled to fees from his Client for legal work done by him for his Client. The Legal Practitioner's entitlement to fees aforesaid is not taken away by reason of his Client's failure to pay fees after he does work for the said Client. It would be absolutely correct to say that the point in time at which the Legal Practitioner becomes entitled to fees aforesaid, is when he agrees with his Client for the payment of fees for work to be done and not when his Client fails to pay fees after the said Legal Practitioner would have done work for his Client'.

'All Human Beings are entitled to the protection of the Law. The entitlement of a Human Being aforesaid, is not taken away by reason that he/she is not given protection of the law. The point in time at which a Human Being becomes entitled to protection of the Law is when he/she is born to this planet earth and not when protection of the Law is not given to him/her'.

It follows from the above that the point in time at which one becomes entitled to practice as Counsel in a Court having unlimited jurisdiction in both civil and criminal matters in Sierra Leone is when he becomes Counsel and not when he commences practising as Counsel in a Court having unlimited jurisdiction in both civil and criminal matters in Sierra Leone. It would be absolutely correct to say that the point in time aforesaid is the same as the date on which one is called to the Bar. Confirmation of this Court's view aforesaid, is found in Section 135(4) of the **CONSTITUTION OF SIERRA LEONE 1991** which provides thus:

'For the purposes of Section 135(3) a person shall be regarded as entitled to practice as Counsel if he has been called, enrolled or otherwise admitted as such and has not subsequently been disbarred or removed from the Roll of Counsel or Legal Practitioners'.

It has been established above, why this Court says it does not comprehend how by reason of the phrase **'for the purposes of sub section 3 of Section 135'** as contained in Section 135(4) aforesaid, the provisions under Section 135 could only be applicable to persons seeking to become Judges of the Superior Courts of Judicature. What remains to be established is what the meaning of Section 135(4) aforesaid would be when the phrase aforesaid is used in that

context. To determine this, the phrase **'for the purposes of Section 135(3)'**, must be read together with the phrase **'a person shall be regarded as entitled to practise as Counsel'**. This Court holds the view that the fact that Section 135(4) singles out the phrase **'a person shall be regarded as entitled to practice as Counsel'** from other phrases is the same Section 135(3), like **'in the case of appointment to the Supreme Court or the Court of Appeal or the High Court'** shows clearly that the Section 135(4) was intended to guide the interpretation of the point in time when a person is regarded as entitled to practice as Counsel. In accordance with Section 135(4) aforesaid, the point in time when a person is regarded as entitled to practice as Counsel is when he/she is called, enrolled or otherwise admitted as Counsel. Having determined above, that the term 'Counsel' is a Barrister-at-Law and that they are the ones who are called to the Bar, the point in time when a person is regarded as entitled to practice as Counsel is when he/she is called to the Bar.

The respective contention of Counsel herein, is whether the terms **called**, **enrolled** or **admitted** as used in Section 135(4) aforesaid are conjunctive or disjunctive. In a **CONGRESSIONAL RESEARCH SERVICE REPORT** titled **STATUTORY INTERPRETATION: General principles and Recent Trends** by **LARRY M. EIG** dated September 24 2014 under the rubric **'And/or'**, it is stipulated at page 9 that:

'Ordinarily, as in everyday English, use of the conjunction 'and' in a list means that all of the listed requirement must be satisfied while use of the disjunctive 'or' means that only one of the listed requirements need be satisfied. Courts do not apply these meanings inexorably, however if a strict grammatical construction will frustrate evident legislative intent, a Court may read 'and' as 'or' or 'or' as 'and': Moreover statutory context can render the distinction secondary'.

The issue for determination herein is whether or not, it is the case that the point in time when a person is regarded as entitled to practice as Counsel is when he/she is called and enrolled or otherwise admitted as Counsel or whether or not, it is the case that the point in time when a person is regarded as entitled to practice as Counsel is when he/she is called or enrolled or otherwise admitted as Counsel. It cannot be disputed that, as established above the term **'called'** as used in Section 135(4) aforesaid can only mean **'called to the Bar'**. It cannot be disputed further that called or otherwise admitted as Counsel can only mean that the term **'called'** is inter changeable with the term **'admitted'** by reason that the phrase **'admitted as Counsel'** is completely different from **'admitted**

as a Legal Practitioner'. Since it is 'Counsel' who is called to the Bar, the phrase 'admitted as Counsel' is the same as 'called' as used in Section 135(4) aforesaid. This Court holds the view however that, to determine whether or not the term 'called' and the term 'enrolled' are used in the conjunctive or in the disjunctive it is, necessary that the phrase '**called, enrolled or otherwise admitted as Counsel**' be read together with the phrase '**and has not subsequently been disbarred or removed from the Roll of Counsel or Legal Practitioners**'. Clearly, it is only one who has been called to the Bar or admitted as Counsel that can be disbarred. It cannot be said though that, one who has been called to the Bar can be both removed from the Roll of Counsel and the Roll of Legal Practitioners, by reason that the name of one who has been called to the Bar only would not be found in the Roll of Legal Practitioners. In such a case, one can be either only be removed from Roll of Counsel or only removed from the Roll of Legal Practitioners. In the circumstances, it cannot be disputed that, the term '**called**' on the one hand and the term '**enrolled**' on the other hand as used in Section 135(4) aforesaid are used in the disjunctive. Consequently, it would be true to say that when the phrase 'called, enrolled or otherwise admitted as Counsel' is used together with the phrase 'and has not subsequently been disbarred or removed from the Roll of Counsel or Legal Practitioners', the requirement that should be satisfied as to the point in time at which a person is regarded as being entitled to practice as Counsel is when he/she is called or admitted as Counsel or enrolled in the Roll of the Counsel and has not subsequently been disbarred or removed from the said Roll of Counsel, which said point in time is the same as the date on which one is called to the Bar as distinct from the date when one is enrolled in the Roll of Legal Practitioners.

It should immediately be pointed out that the phrase '**called, enrolled or otherwise admitted as Counsel and has not subsequently been disbarred or removed from the Roll of Counsel or Legal Practitioners**' suggests that one can be enrolled in the Roll of Counsel or enrolled in the Roll of Legal Practitioners. Obviously critics might say that the term 'enrolled' can only be as regards one's enrolment in the Permanent Register of Legal Practitioners, by reason of the fact that Roll of Counsel is not a phrase commonly used, which said fact might suggest its non-existence. This Court holds the view that, indeed Roll of Counsel is a list of persons who have been called to the Bar and the dates on which they were so called starting with the most senior. Examples of a Roll of Counsel is seen from both Exhibits '40' and '41' annexed to the affidavit of IBRAHIM SORIE, sworn to on the 30th May 2019, Exhibit 40 of which show a list of Legal Practitioners with their respective dates of call and date of enrolment

done in order of seniority starting from the earliest date of call to the Bar to the most recent date of call. If the said column showing the dates of call to the Bar, is separated from that showing the date of enrolment, it would represent the Roll of Counsel. Likewise, Exhibit '41' aforesaid shows a list of persons who have been called to the Bar in Sierra Leone with their respective dates of call starting from the earliest to the most recent, the same which represent the Roll of Counsel or Barristers-at-Law.

It should also be pointed out that the phrase aforesaid, as contained in Section 135(4) of the **CONSTITUTION** aforesaid, which suggests that one can be enrolled in the Roll of Counsel or enrolled in the Roll of Legal Practitioners, does not in any way mean or even suggest that, the point in time when one is regarded as entitled to practice as Counsel could either be on the date when one is called to the Bar or the date when one is enrolled in the Permanent Register of Legal Practitioners. From the interpretation of Section 135(3) and 135(4) of the **CONSTITUTION** aforesaid, it has always been from the date on which one is called to the Bar whether or not one is only a Barrister-at-Law or a Barrister-at-Law and a Solicitor of the High Court of Sierra Leone. In other words qualification for one to be appointed in the various categories of Judges of the Superior Courts of Judicature depends on the date when one is called to the Bar or his standing at the Bar. This Court holds the view then that, the suggestion brought out by the phrase aforesaid that, one can be enrolled in the Roll of Counsel or enrolled in the Roll of Legal Practitioners was merely meant by the Legislature that, it recognises the fact that one can be appointed as a Judge of the Superior Courts of Judicature, without being a Legal Practitioner as defined by Section 23(11) of the **CONSTITUTION OF SIERRA LEONE 1991**. It is a notorious fact that person have been appointed as Judges in Sierra Leone who are only Barristers-at-law and not Legal Practitioners as defined in Sierra Leone. This Court holds the view that whereas a Judge of the Superior Courts of Judicature can be only a Barrister-at-Law or can be a Legal Practitioner, the distinction between 'enrolled at the Roll of Counsel' and enrolled in the Roll of Legal Practitioners, is only meant to prevent the exclusion of those persons who are entitled to practice as Counsel in a Court having unlimited Jurisdiction in a civil and criminal matter in any other country having a system of law analogous to that of Sierra Leone and approved by the JUDICIAL AND LEGAL SERVICE COMMISSION. It is further a notorious fact that, persons from other countries have been appointed Judges of the Superior Courts of Judicature in Sierra Leone whose qualification for the appointment as such has been from the date which they are entitled to practice as Counsel in a Court having unlimited jurisdiction in civil and criminal matters in those countries. It cannot be disputed

that these persons have been so appointed without ever been enrolled in the Roll of Legal Practitioners in Sierra Leone.

It has been established above that to be appointed a Judge of the Superior Courts of Judicature in Sierra Leone one must be a 'Counsel' in other words one must be a Barrister-at-Law. It has been established further that the Barrister-at-Law must have been entitled to practice in a Court having unlimited jurisdiction in civil and criminal matters in Sierra Leone or in any other country having a system of law analogous to that of Sierra Leone and approved by the JUDICIAL AND LEGAL SERVICE COMMISSION. It has been established also that the period from which the Barrister-at-Law becomes entitled to practice must have Twenty (20), Fifteen (15) or Ten (10) years in the case of appointment as a Supreme Court Judge, Appeals Court Judge or High Court Judge respectively from the date he/she was entitled to practice. The length of service or experience of a Barrister-at-Law must be for a period of Twenty (20), Fifteen (15) or Ten (10) years to be appointed as a Supreme Court Judge, Appeals Court Judge or High Court Judge respectively. In other words, the standing of a Barrister-at-Law must be Twenty (20), Fifteen (15) or Ten (10) to be appointed as a Supreme Court Judge, Appeals Court Judge or High Court Judge respectively. By reason that as established above one becomes entitled to practice as Counsel or a Barrister-at-Law, on the date he/she is called to the Bar, this Court holds the view that the **CONSTITUTION OF SIERRA LEONE 1991**, did not in any way change the common law meaning of standing to be the length of service or experience or position determined by his/her seniority or status of one in the Legal Professional and the way how it has been computed from date of call to the Bar.

By reason of the above, and in addition to the fact that the actions of the Defendants/Respondents herein of declaring at the relevant point in time that, pursuant the **LEGAL PRACTITIONERS ACT 2000**, the Plaintiff/Applicant herein was not a Legal Practitioner of at least Ten (10) years standing and unqualified to be elected a member of the GENERAL LEGAL COUNCIL, the Defendants/Respondents herein, in the Fifteen (15) years and above category, is inconsistent with or in contravention of the provisions of Section 135(3) and 135(4) of the **CONSTITUTION** aforesaid, this Court holds the view that Exhibit '21' which is a Notice dated 18th December 2018 issued by MOHAMED PAMOMO FOFANAH, chairperson of the Defendants/Respondents herein and annexed to the affidavit of IBRAHIM SORIE, sworn to on the 30th May 2019, the same expressing the position of the Defendants/Respondents that computation of standing is from date of signing or enrolment in the Permanent Register of

Legal Practitioners, cannot in any way be the position based on the **CONSTITUTION OF SIERRA LEONE 1991**. In this regard, it cannot be correct to say that Section 10(b) of the **LEGAL PRACTITIONERS ACT 2000** as amended, which stipulates that, pupillage of Pupil Barristers and Solicitors must be done with a Legal Practitioner of at least Ten (10) years standing in Sierra Leone means that a Legal Practitioner shall only be qualified to act or serve as Pupil Master if such Legal Practitioner has been admitted and enrolled as a Legal Practitioner for a period of at least Ten (10) years after his/her name has been entered into the Roll of Courts/Permanent Register.

Having undisputedly established the fact that one's Legal Professional career starts from the day he/she becomes a Barrister-at-Law after been admitted or called to the Bar, the Plaintiff/Applicant herein having been called to the Bar of Sierra Leone on the 4th October 2000, and who is undisputedly a Legal Practitioner within its meaning above, was Ten (10) years plus standing at the Bar on the 14th January 2011 when he signed the Permanent Register of Legal Practitioners or the Roll of Court and Eighteen (18) years plus as at the 2nd July 2019 when O. JALLOH ESQ. wrongly submitted that the said Plaintiff/Applicant was Eight (8) years plus standing at the Bar. Consequently, the Plaintiff/Applicant herein became eligible to serve as Pupil Master pursuant to Section 10(b) of the **LEGAL PRACTITIONERS ACT 2000** since the 14th January 2011.

It cannot be disputed that, it follows from the above that to be qualified to be appointed a Judge of the Superior Courts of Judicature in Sierra Leone, the constitutionally required periods should be computed from the year of call to the Bar rather than from the date of one's signing or enrolment in the Permanent Register of Legal Practitioners. In particular, the constitutionally required period to be appointed an Appeals Court Judge or a High Court Judge are Fifteen (15) and Ten (10) years respectively, the said periods which are similar to the periods for eligibility to be elected to the **GENERAL LEGAL COUNCIL**, the Defendants/Respondents herein in the Fifteen (15) years and above or the Ten (10) years and above category, as provided for by Section 3(1) (c) of the **LEGAL PRACTITIONERS ACT 2000** which provides thus:

'The Council shall consists of six practising Legal Practitioners of whom three shall be of not less than Fifteen (15) years standing and the rest of not less than Ten (10) years standing'...

It has been established above that, the provisions of Section 3(1)(c) of the **LEGAL PRACTITIONERS ACT 2000** was so designed to ensure that those who serve as members of the Defendants/Respondents are qualified to be Court of Appeal Judges and High Court Judges. Can it be said then that, Section 3(1) of the **LEGAL PRACTITIONERS 2000** as amended in 'Pari materia' to Sections 135(3) and 135(4) of the **CONSTITUTION OF SIERRA LEONE 1991**? In the Tenth Edition of **CRAIES ON LEGISLATION, A PRACTITIONERS GUIDE TO THE NATURE, PROCESS, EFFECT AND INTERPRETATION OF LEGISLATION** edited by **DANIEL GREENBERG** and **BERWIN LEIGHTON PAISNER** under the rubric 'Statutes in pari materia' at paragraph 20.1.26 and 20.1.27 at page 786, it is stipulated that:

'Two Acts are said to be in pari materia if taking all their circumstance into account, it is natural to construe them as if they formed part of a single code on a particular matter. Where this is found to be the case, the result is that definitions in one, may be applied to expressions found in another. There is no reason why similar principles should not be applied to subordinate legislation. The construction of two pieces of legislation as being in 'pari materia' is however, something to be used to elicit the legislative intention, not to override it. As with other canons of construction therefore, it comes into play only where a doubt or ambiguity would otherwise arise'.

It has been established above that, in accordance with Sections 135(3) and 135(4) of the **CONSTITUTION**, a Barrister-at-Law or Counsel must be at least Fifteen (15) years or Ten (10) years to qualify for appointment as an Appeal Court Judge or a High Court Judge respectively. In other words the standing of one must be at least Fifteen (15) years or Ten (10) years to qualify for appointment as an Appeal Court Judge or a High Court Judge respectively. Similarly, in accordance with Section 3(1) (c) of the **LEGAL PRACTITIONERS ACT** aforesaid, the standing of one must be at least Fifteen (15) years or at least Ten (10) years to be qualified for election as a member of the Defendants/Respondents in the Fifteen (15) years plus category or the Ten (10) years plus category respectively. In this regard, it can be said that the standing of one who is qualified to be elected as a member of the Defendants/Respondents herein in both categories is the same as one who is qualified to be appointed as an Appeals Court Judge or a High Court Judge respectively. The only difference lies in the fact that whereas to be elected as a member of the Defendants/Respondents herein one must be a Legal Practitioner in accordance with Section 3(1) of the **LEGAL PRACTITIONER**

ACT 2000, one need not be a Legal Practitioner to be appointed as a Judge of the Superior Courts of Judicature, in accordance with Sections 135(3) and 135(4) of the **CONSTITUTION** aforesaid.

It is seen that, the construction of Sections 3(1) (c) of the **LEGAL PRACTITIONERS ACT 2000** on the one hand and the construction of Sections 135(3) and 135(4) of the **CONSTITUTION OF SIERRA LEONE 1991** on the other hand is crystal clear. In this regard, the construction of the two pieces of Legislation aforesaid as being in pari materia is absolutely unnecessary or does not come into play by reason that there is absolutely no doubt or ambiguity which has arisen in the constructions aforesaid. Suffice it to say that, the Plaintiff/Applicant who as established above, is undisputedly a Legal Practitioner within its meaning in the **LEGAL PRACTITIONERS ACT 2000** and **NOTARIES PUBLIC ACT, CHAPTER 13 OF THE LAWS OF SIERRA LEONE 1960** was entitled to practice as Counsel in a Court having unlimited jurisdiction in both civil and criminal matters for a period spanning Eighteen (18) years plus and therefore qualified to be appointed an Appeals Court Judge, the date on which he became entitled aforesaid being computed from his date of call aforesaid, his standing which was also as at the 26th April 2019 when he was elected as member of the Defendants/Respondents in the Fifteen (15) years category, Eighteen (18) years plus and therefore eligible to be elected as member of the Defendants/Respondents in the Fifteen (15) years category, his standing aforesaid been computed as from his date of call to the Bar aforesaid.

By reason of the above, this Court holds the view that the Defendants/Respondents having from 2014 to 2018, regarded the Plaintiff/Applicant herein as being eligible to serve as Pupil Master cannot now say and determine that the Plaintiff/Applicant is no longer eligible to do so without the said Plaintiff/Applicant being disbarred or removed from the Roll of Counsel or the Roll of Legal Practitioners or having been suspended from practice as a Legal Practitioners. In this regard, this Court holds the view that, the Plaintiff/Applicant having been appointed a Notary Public by the **HON. CHIEF JUSTICE** on the 21st December 2017, pursuant to Section 2 of the **NOTARIES PUBLIC ACT, CHAPTER 13 OF THE LAWS OF SIERRA LEONE 1960** which requires a Notary Public to be a Legal Practitioner of not less than Ten (10) years standing, was properly and rightfully so appointed.

It has been sufficiently established above that, the Defendants/Respondents have themselves consistently interpreted, construed, and applied standing to be computed from date of call to the Bar rather than from date of signing or

enrolment in the Permanent Register of Legal Practitioners. It has been sufficiently established further from the above that, the Defendants/Respondents having consistently interpreted, construed and applied standing to be computed as such, cannot now change the generally accepted understanding of how standing is computed as held herein. The pertinent question then which the Plaintiff/Applicant herein, seeks determination of is, if such a change aforesaid were permitted or that the Defendants/Respondents interpretation of how standing is computed, to be from the date of signing or enrolment in the Permanent Register of Legal Practitioners which they claim is in accordance with the provisions of Sections 135(3) and 135(4) of the **CONSTITUTION OF SIERRA LEONE 1991** and the **LEGAL PRACTITIONERS ACT 2000** as amended were allowed, would the same produce an unreasonable, unfair, unjust, confused and absurd result in the application of the provisions of the Constitution aforesaid? O. JALLOH ESQ. of Counsel for the Defendants/Respondents questions whether the issue of Exhibit '21', being a Notice dated 18th December 2018 issued by MOHAMED PA-MOMO FOFANAH, chairperson of the Defendants/Respondents, the same annexed to the affidavit of IBRAHIM SORIE, sworn to on the 30th May 2019, issued to ensure compliance with the **LEGAL PRACTITIONERS ACT 2000** is absurd, the answer to which, he submits would rest on this Court's determination as to whether Exhibit '21' aforesaid effected a change in the law to which the parties herein are subject. As contained in the Defendants/Respondents statement of case dated 2nd July 2019, under the rubric '**WOULD THE DECISION OF THE GLC ABSURD OR RESULT IN ABSURDITIES**' at paragraph 11.1 at pages 25 to 26, O. JALLOH ESQ. submits as follows:

'The definition as to who is a Legal Practitioner, who is qualified to be elected as a representative of the SIERRA LEONE BAR ASSOCIATION to the Defendants/Respondents remains the same since the enactment of the LEGAL PRACTITIONERS ACT 2000 notwithstanding, the amendments made to the principal statute, the Notice to the Defendants/Respondents in these circumstance is not absurd, nor would it result in absurdities, rather it would ensure compliance with the law'.

It has been determined above that the issue of Exhibit '21' aforesaid amounted to an attempt made by the Defendants/Respondents herein to change the meaning of standing and the way it has been computed over the years. In other words it was an attempt made to change the law in this regard. It has been established also how the attempt aforesaid would effect a change in the law to which the parties herein are subject, the change being that, a Pupil Master

would now be a Legal Practitioner who has been admitted and enrolled as such for a period of at least Ten (10) years in Sierra Leone, as opposed to the provision of Section 10(b) of the **LEGAL PRACTITIONERS ACT 2000** which stipulates that a Pupil Master must be a Legal Practitioner of at least Ten (10) years standing and the provision of Section 3(1) (c) which stipulates that, to be eligible for election as a member of the Defendants/Respondents herein in the Fifteen (15) years category one must be a Legal Practitioner of at least Fifteen (15) years standing. Clearly, in answer to the question as to who is a Legal Practitioner within the context of the **LEGAL PRACTITIONERS ACT 2000** and the **CONSTITUTION OF SIERRA LEONE 1991** is not in dispute. This Court has upheld the position of the Plaintiff/Applicant that to be eligible to be a Pupil Master, or to be eligible to be elected as a member of the Defendants/Respondents in the Ten (10) year category, the Legal Practitioner must be of at least Ten (10) years standing and to be eligible to be elected as a member of the Defendants/Respondents in the Fifteen (15) year category, the Legal Practitioner must be of at least Fifteen (15) years standing, the term 'standing' of which is computed from date of call.

On the other hand the position of the Defendants/Respondents as expressed in Exhibit '21' aforesaid is that to be eligible to be a Pupil Master or to be eligible to be elected as a member of the Defendants/Respondents in the Ten (10) year category, the Legal Practitioner must be one who has been admitted and enrolled as such for a period of at least Ten (10) years in Sierra Leone and to be eligible to be elected as a member of the Defendants/Respondents in the Fifteen (15) years category, the Legal Practitioner must be one who has been admitted and enrolled as such for a period of at least Fifteen (15) years in Sierra Leone. Certainly, if the position as expressed in Exhibit '21' aforesaid were to be allowed it would definitely change the law to which the parties herein are subject to, the same which cannot be said to be ensuring compliance with the **LEGAL PRACTITIONERS ACT 2000** as amended. In the circumstance, this Court holds the view that, it cannot be said that the issue of Exhibit '21' aforesaid is not absurd nor would it result in absurdities'.

It is clear from above that, what this Court has upheld is the Plaintiff/Applicant's interpretation of how standing is computed, to be from date of call to the Bar. As contained in the Defendants/Respondents statement of case dated 2nd July 2019, O. JALLOH ESQ. has outlined at paragraph 17 at pages 35 to 36, the same which he submits would result in absurdities, the consequences of upholding the Plaintiff/Applicant's position aforesaid. This Court finds that these consequences stem from the submission of O. JALLOH ESQ. that a person

Defendants/Respondents allowing him/her to be deemed or regarded as such and definitely not by reason of the interpretation of the computation of standing to be from date of call to the Bar. Clearly, the interpretation of the computation of standing as such would never take away the fact that one must do pupillage aforesaid, before he/she is deemed or regarded as a Legal Practitioner.

Having determined as above that, upholding the Plaintiff/Applicant's position that, the interpretation of standing, its computation of which is from date of call to the Bar cannot be absurd nor does it result in absurdities, this Court turns its attention to an earlier question posed, determination of which is sought herein, as to whether upholding the Defendants/Respondents' position that the interpretation of how standing is computed to be from date of signing or enrolment in the Permanent Register of Legal Practitioners, would produce an absurd result. A necessary starting point in determining the issue aforesaid would be to know the meaning of absurd. In the Third Edition of **THE OXFORD UNIVERSAL DICTIONARY ILLUSTRATED**, prepared by **WILLIAM LITTLE, H.W FOWLER** and **J. COULSON**, revised and edited by **C.T. ONIONS** at page 8, the word Absurd means inharmonious; out of harmony with reason or propriety; plainly opposed to reason and hence ridiculous, silly. It cannot be disputed that, the issue herein involves the interpretation of standing, two different interpretation of which have been given by the Plaintiff/Applicant on the one hand and by the Defendants/Respondents on the other hand, both interpretations which they claim is based on the **LEGAL PRACTITIONERS ACT 2000** and Sections 135(3) and 135(4) of the **CONSTITUTION OF SIERRA LEONE 1991**. This Court upholds the position of the Plaintiff/Applicant herein that, in construing statutes, the Courts will have to consider the consequences of different constructions when interpreting provisions. In the Seventh Edition of **BENNION ON STATUTORY INTERPRETATION** by **DIGGORY BAILEY** and **LUKE NORBURY** on 'CONSTRUCTION AGAINST ABSURDITY' at paragraph 12.1 under the rubric 'presumption that absurd result not intended' at page 359, it is stipulated as follows:

The Court seeks to avoid a construction that produces an absurd result, since this is unlikely to have been intended by Parliament. Here, the Courts give a very wide meaning of the concept of absurdity, using it to include virtually any result which is unworkable or unpractical, inconvenient, anomalous or illogical, futile, pointless, artificial or productive of disproportionate counter-mischief'.

needs no longer complete the mandatory prescribed pupillage of 12 or 18 months as the case may be and that the minute one leaves the Law School one could be deemed a Legal Practitioner notwithstanding not having completed the mandatory pupillage period aforesaid, prescribed as stipulated under Sections 10 and 11 of the **LEGAL PRACTITIONERS ACT 2000**. In the Defendants/Respondents statement of case aforesaid, O. JALLOH ESQ., at paragraph 12 under the rubric '**WHAT IS PUPILAGE AND WHY IS IT SO VERY IMPORTANT**' at pages 26 to 31, explains what pupillage is and its importance, the same which is not controverted and which this Court does not have any reason to dismiss. However, this Court does not see how, if the position of the Plaintiff/Applicant's interpretation of his standing is computed from date of call to the Bar were upheld, a person would no longer complete the mandatory prescribed pupillage of 12 or 18 months and that the minute one leaves the Law School one could be deemed a Legal Practitioner notwithstanding not having completed the mandatory pupillage period aforesaid.

It should be pointed out that, in accordance with the **LEGAL PRACTITIONERS ACT 2000**, a Legal Practitioner is one who has been admitted and enrolled as a Barrister-at-Law and a Solicitor of the High Court of Sierra Leone and entitled to practice as such. It follows that, one can only be regarded as a Legal Practitioner if he has been called to the Bar and subsequently does pupillage for a period of Twelve (12) or Eighteen (18) months with a Legal Practitioner of at least Ten (10) years standing or by employment with the JUDICIAL AND LEGAL SERVICE COMMISSION respectively. The pertinent question is, how then could one be deemed or regarded as a Legal Practitioner when he/she does not subsequently do pupillage for a period of Twelve (12) or Eighteen (18) months with a Legal Practitioner of at least Ten (10) years standing or by employment with the JUDICIAL AND LEGAL SERVICE COMMISSION respectively? The answer to this question could be found in the fact that, it is only the Defendants/Respondents herein who are charged with the responsibility of ensuring that one subsequently does the required pupillage, ensuring that he/she does pupillage aforesaid with a Legal Practitioner of at least Ten (10) years standing or by employment with the JUDICIAL AND LEGAL SERVICE COMMISSION and ensuring that those who practice or act as Legal Practitioners without doing pupillage with a Legal Practitioner of at least Ten (10) years standing or by employment with the JUDICIAL AND LEGAL SERVICE COMMISSION are prosecuted for criminal offences. It cannot be disputed that, if in the circumstance, one is deemed or regarded as a Legal Practitioner, notwithstanding him/her not having completed the mandatory pupillage period aforesaid, it would be by reason of the

In the Fourth Edition Reissue of HALSBURY'S LAWS OF ENGLAND on 'PRESUMPTION AGAINST ABSURDITY', at paragraph 1477 under the rubric 'Nature of presumption against absurdity' at page 910 it is stipulated thus:

'It is presumed that Parliament intends that the Court when considering, in relation to the facts of the instant case, which of the opposing constructions of an enactment corresponds to its legal meaning, should find against a construction, which produces an absurd result, since this is unlikely to have been intended by Parliament. Here 'absurd' means contrary to sense and reason, so in this context the term absurd is used to include a result which is unworkable or impracticable, inconvenient, anomalous or illogical, futile or pointless, artificial or productive of a disproportionate counter-mischief'.

The Plaintiff/Applicant herein, submitted that a good example of an absurdity which would result, if the Defendants/Respondents' position aforesaid that, the interpretation of how standing is computed to be from date of signing or enrolment in the Permanent Register of Legal Practitioners were upheld, is exemplified in the Plaintiff/Applicant's current status. It has been determined above that the said Plaintiff/Applicant who as established above is undisputedly a Legal Practitioner within its meaning as contained in the **LEGAL PRACTITIONERS ACT 2000**, was as at the 18th December 2018 when the Defendants/Respondents issued out Exhibit '21' aforesaid, expressing their position aforesaid, qualified to be appointed an Appeals Court Judge, having been called to the Bar of Sierra Leone on the 4th October 2000 and entitled to practice as Counsel having unlimited jurisdiction in both civil and criminal matters for a period Eighteen (18) years plus from the date of his call to the Bar of Sierra Leone aforesaid. It cannot be disputed that if the interpretation of how standing is computed, to be from date of signing or enrolment in the Permanent Register of Legal Practitioners were to be upheld, the standing of the Plaintiff/Applicant herein, who as stated above, is undisputedly a Legal Practitioner, as at the 26th April 2019 when he was elected as member of the Defendants/Respondents in the Fifteen (15) years category, would have been Eight (8) years plus himself having signed or enrolled in the Permanent Register of Legal Practitioners in Sierra Leone on the 14th January 2011 and therefore ineligible to be elected as a member of the Defendants/Respondents in the Fifteen (15) years category. Consequently, this Court holds the view that, upholding the Defendants/Respondents position aforesaid results in an absurdity, in that becoming a member of the Defendants/Respondents is more

stringent and onerous than that of becoming a Judge of the Superior Courts of Judicature and in particular an Appeals Court Judge.

It cannot be disputed that, the appointment of one as a Judge of the Superior Courts of Judicature is the height of one's Legal Professional career. This Court upholds the submission of I. SORIE ESQ. Plaintiff/Applicant-in-person that appointment as a High Court Judge or an Appeals Court Judge are constitutional appointments which said constitutional offices demand and give much more duties and responsibilities to holders of the office than to persons who are elected members of the GENERAL LEGAL COUNCIL, the Defendants/Respondents herein. In this regard, this Court cannot comprehend that, the legislature intended a higher criterion to become a member of the Defendants/Respondents than that of a High Court Judge or an Appeals Court Judge. Clearly, by doing so, the Legislature would be creating an absurdity and producing an illogical result. It cannot be said that the legislature intended the production of such an absurdity. To further buttress and confirm this, one only needs to consider another constitutional office created by Section 64 of the **CONSTITUTION OF SIERRA LEONE 1991**, Sections 64(1) and 64(2) of which provides thus:

'There shall be an ATTORNEY GENERAL and Minister of Justice who shall be the Principal Legal Adviser to the Government and a Minister. The ATTORNEY-GENERAL and Minister of Justice shall be appointed by the President from among persons qualified to hold office as a Supreme Court Judge and shall have a seat in Cabinet'.

It has been established above that to be appointed a Supreme Court Judge in accordance with Sections 135(3) and 135(4) of the CONSTITUTION aforesaid, one must have been entitled to practice as Counsel having unlimited jurisdiction in both civil and criminal matters in Sierra Leone for a period of at least Twenty (20) years from the date on which he/she becomes entitled to practice as such aforesaid, the same being from one's date of call. This Court finds that, if the Defendants' position that the interpretation of how standing is computed to be from date of signing or enrolment in the Permanent Register of Legal Practitioners were to be upheld, then to be appointed an ATTORNEY-GENERAL and Minister of Justice one would have to wait for at least Twelve (12) or Eighteen (18) months further to the Twenty (20) years period from the date when one becomes entitled to practice as Counsel aforesaid. Again, this Court holds the view that the Legislature, when it enacted the **LEGAL PRACTITIONERS ACT 2000**, could not have intended that the provisions of the

CONSTITUTION OF SIERRA LEONE 1991 could be superseded by provisions based on the LEGAL PRACTITIONERS ACT aforesaid. Clearly, the result produced aforesaid, is an absurdity in every sense of the word.

I. SORIE ESQ. the Plaintiff/Applicant in person submitted that the presumption that Parliament, in the enactment of a legislation, cannot intend a construction which produces an absurd result should sway this Court not to apply the construction advanced by the Defendants/Respondents by converting standing as from date of signing or enrolment in the Permanent Register of Legal Practitioners. In the Seventh Edition of **BENNION ON STATUTORY INTERPRETATION** by **DIGGORY BAILEY** and **LUKE NORBURY** on 'CONSTRUCTION AGAINST ABSURDITY' at paragraph 12.3 under the rubric 'Avoiding an inconvenient result' at page 368, it is stipulated thus:

'The presumption against absurdity means that the Courts will generally avoid adopting a construction that causes unjustifiable inconvenience to persons who are subject to the enactment'.

In the Seventh Edition of **BENNION ON STATUTORY INTERPRETATION** aforesaid, at paragraph 12.4 under the rubric 'Avoiding an anomalous or illogical result' it is stipulated at page 375 as follows:

'The presumption against absurdity means that the Courts will generally avoid adopting a construction that creates an anomaly or otherwise produces an irrational or illogical result'.

I. SORIE ESQ. Plaintiff-in-person submitted that, the Defendants/Respondents position that standing is computed from date of signing or enrolment in the Permanent Register of Legal Practitioners, greatly affects the determination of seniority at the Bar which is one of the hallmarks of the Legal Profession, not only in Sierra Leone but the world over. He substantiates this by an illustration below:

'A and B are both called to the Bar on the same day, A being called to the Bar first by virtue of him graduating with a first class and senior to B who was called after him who barely manages to pass. A later proceeds to pursue his pupillage at the Law Officers Department whilst B proceeds to pursue his pupillage with a Pupil Master at a private law firm. B complete his pupillage in Twelve (12) months pursuant to the LEGAL PRACTITIONERS ACT 2000 as amended and proceeds to sign the

Permanent Register of Legal Practitioners immediately thereafter. This is all done before A completes his Eighteen (18) months pupillage at the Law Officers Department and proceeds to sign the Permanent Register of Legal Practitioners'.

If the Defendants/Respondents position aforesaid were to hold, B would be senior to A by virtue of B having signed the Permanent Register of Legal Practitioners before A, notwithstanding that A is senior to B at the Bar.

This Court would further propound the scenario aforesaid, by giving its own actual illustrations as follows:

'JUSTICE ABDULAI HAMID CHARM and JUSTICE ALLAN BAAMI HALLOWAY were both, at first, Legal Practitioners before, been appointed as Judges of the Superior Courts of Judicature in Sierra Leone. JUSTICE ABDULAI HAMID CHARM was called to the Bar first on the 25th October 1991 whilst JUSTICE ALLAN BAAMI HALLOWAY was called later on the 25th September 1992. JUSTICE ABDULAI HAMID CHARM proceeded to pursue his pupillage at the Law Officers Department and on completion he signed the Permanent Registers of Legal Practitioners on 9th December 1993 whilst JUSTICE ALLAN BAAMI HALLOWAY immediately after his call to the Bar, proceeded to pursue his pupillage with a Pupil Master at a private law firm and on completion he signed the Permanent Register of Legal Practitioners on the 12th of November 1993 before JUSTICE ABDULAI HAMID CHARM signed the same'.

If the Defendants/Respondents position aforesaid were to hold, JUSTICE ALLAN BAAMI HALLOWAY would be senior to JUSTICE ABDULAI HAMID CHARM by virtue of JUSTICE ALLAN BAAMI HALLOWAY having first signed the Permanent Register of Legal Practitioners, the same which is clearly shown in Exhibit '31' being a list of Legal Practitioners of Fifteen (15) years and above standing, annexed to the affidavit of IBRAHIM SORIE, sworn to on the 30th May 2019, the said list which puts JUSTICE ALLAN BAAMI HALLOWAY first at number 63 and puts JUSTICE ABDULAI HAMID CHARM after, at number 67. This is so, notwithstanding the fact that JUSTICE ABDULAI HAMID CHARM is senior to JUSTICE ALLAN BAAMI HALLOWAY at the Bar, by virtue of him being called to the Bar first, the same which is clearly shown in Exhibit '40' being a list of Legal Practitioners in Sierra Leone with both their dates of call to the Bar and enrolment annexed to the affidavit of IBRAHIM SORIE, sworn to on the 30th May 2019. By virtue of the fact that the names of Legal Practitioners as

seen in Exhibit '40' aforesaid, are placed in the order by the date of which one is called to the Bar, it signifies that seniority in the Legal Profession is based on one's call to the Bar and not based on the date when one sign or enrolls in the Permanent Register of Legal Practitioners. Clearly as seen in Exhibit '40' aforesaid, the name of **JUSTICE ABDULAI HAMID CHARM** appears first before the name of **JUSTICE ALLAN BAAMI HALLOWAY**. The fact of the seniority of **JUSTICE ABDULAI HAMID CHARM** over **JUSTICE ALLAN BAAMI HALLOWAY** is clearly seen in Exhibit '41' which is a list of newly called Barrister-at-Law with dates of completion of the SIERRA LEONE LAW SCHOOL and their call to the Bar of Sierra Leone in the order of who was called first. It is seen from Exhibit '41' aforesaid that the name **JUSTICE ABDULAI HAMID CHARM** appears first with Qualifying Certificate numbered 24 before the name **JUSTICE ALLAN BAAMI HALLOWAY** with Qualifying Certificate numbered 25.

This Court holds the view that, the Defendants/Respondents position aforesaid creates an anomalous situation which brings with it a state of confusion in the Legal Profession in Sierra Leone. Clearly, prior to the expression of the Defendants/Respondents position on the 18th December 2018 as seen in Exhibit '21' being a Notice issued by the said Defendants/Respondents, there was only one list of Legal Practitioners being circulated signifying seniority being based on date of call to the Bar. By virtue of the fact that there is absolutely nothing to show or no evidence whatsoever that, this prior list of Legal Practitioners has been revoked, the same which is still in force, the Defendants/Respondents continue to circulate another list of Legal Practitioners signifying seniority being based on the date of one's signing the Permanent Register of Legal Practitioners. This cannot be a workable situation in so far as seniority of one, in the Legal profession is concerned, the same which out rightly results in an absurdity.

Moreover, the scenarios illustrated above which show that if the Defendants/Respondents position aforesaid were to be upheld, a Legal Practitioner who signs or enrol in the Permanent Register of Legal Practitioners first would be senior to a Legal Practitioner who signs later but was called to the Bar first. Even though it is acknowledged that, a situation like this might occur by reason of the fact that the Legal Practitioner who is senior at the Bar to another but ends up being a junior on enrolment in the Permanent Register of Legal Practitioner could have commenced pupillage later rather than immediately after call, like in the situation of **JUSTICE ABDULAI HAMID CHARM** and **JUSTICE ALLAN BAAMI HALLOWAY**, the paramount reason

why such situations occur, particularly when two (2) Legal Practitioners commence pupillage at the same time immediately after call, like in the former situation, is because whilst one Legal Practitioner does pupillage with a Pupil Master at a private law firm, period of which is Twelve (12) months and the other does pupillage at the Law Officers Department, period of which is Eighteen (18) months. Certainly, the Legal Practitioner who does his pupillage at the Law Officers Department would enrol at a later point in time to the other who does pupillage with a Pupil Master at a private law firm, because of the longer time it takes to complete pupillage at the Law Officers Department. This Court upholds the submission of I. SORIE ESQ., Plaintiff-in-person that such a result would not only be an inconvenient result but would also be patently unfair and illogical. Certainly, it could not be said that the intention of the Legislature was to deprive those who choose to serve the State of their seniority. Consequently, Parliament when it enacted the **LEGAL PRACTITIONERS ACT 2000**, did not intend to put those who serve the **GOVERNMENT OF SIERRA LEONE** at a professional disadvantage. This Court holds the view that, if the Defendants/Respondents position were to hold, the resulting situation aforesaid would clearly amount to an absurdity.

I. SORIE ESQ., Plaintiff/Applicant-in-person submitted that this Court should reject the Defendants/Respondents position aforesaid, as it will create a disproportionate counter mischief. In the Seventh Edition of **BENNION ON STATUTORY INTERPRETATION** by **DIGGORY BAILEY** and **LUKE NORBURY** on 'CONSTRUCTION AGAINST ABSURDITY' at paragraph 12.7 under the rubric 'Avoiding a disproportionate counter-mischief' at page 390, it is stipulated thus:

'The presumption against absurdity means that the Courts will generally avoid adopting a construction that cures the mischief the enactment was designed to remedy only at the Cost of establishing another mischief'.

As established above, Judges have been appointed in Sierra Leone in accordance with Sections 135(3) and 135(4) of the **CONSTITUTION OF SIERRA LEONE 1991** who are only Barristers-at-Law and not Legal Practitioners, such Judges being persons who start their Legal Profession by seeking to be Magistrates or persons who are regarded as entitled to practice as Counsel in a Court having unlimited jurisdiction in both criminal and civil matters in countries having a system of law analogous to that of Sierra Leone and approved by the **JUDICIAL AND LEGAL SERVICE COMMISSION**. As regards persons who become Magistrates immediately after being called to the

Bar and subsequently been appointed Judges of the Superior Courts of Judicature, O. JALLOH ESQ. of Counsel for the Defendants/Respondents refers this Court to Section 11(1) of the **LEGAL PRACTITIONERS ACT 2000** which provides as follows:

'The period of pupillage referred to in paragraph (b) of Section 10 may be served by the employment of Eighteen months in the Judicial and Legal Service'.

O. JALLOH ESQ. submitted that such persons being in the course of their magisterial sojourn, employees of the JUDICIAL AND LEGAL SERVICE COMMISSION, the time served in such capacity could be counted as pupillage for such persons, in which case there would be no issue as regards the standing of such persons as Judges of the Superior Courts of the Superior Courts of Judicature. It must be pointed out though that, the Defendants/Respondents herein have persistently over the years refused to recognise such persons as Legal Practitioners by reason that, they never signed or were enrolled in the Permanent Register of Legal Practitioners. It would be true then to say that, certain Judges today who were previously Magistrates, only became Judges based on the fact that the constitutional period required for them to be Judges was computed from date of call to the Bar and not from the date on which they completed pupillage with the JUDICIAL AND LEGAL SERVICE COMMISSION. This is further true as regards Legal Practitioners who became appointed as Judges of the Superior Courts of Judicature who though signed and were enrolled in the Permanent Register of Legal Practitioners had not met the prescribed constitutional period required for them to be Judges, if computation of such period is based on the date of signing and enrolment in the Permanent Register of Legal Practitioners.

It follows from the above that, in both situations, if the Defendants/Respondents position that the interpretation of how standing is computed to be from date of signing or enrolment in the Permanent Register of Legal Practitioner were upheld, appointment of such person as Judges of the Superior Courts of Judicature may be challenged and/or bring into disrepute the JUDICIARY OF SIERRA LEONE and embarrass successive Governments. It cannot be disputed that convictions and Judgements made by these Judges would be challenged and every Decision or Judgement made by these Judges in all form of matters and proceedings will become subject to challenge. It cannot be disputed further that the plethora of litigation that will result would be unprecedented and flood an already overworked Judiciary even further. It

cannot be disputed also that the possibility that dissatisfied persons seeking redress by challenging the constitutionality and efficacy of these Decisions and Judgement in Regional and International Courts such as the ECOWAS COURT OF JUSTICE will stretch even further limited state resources in defending such actions.

Similar to the situation above, which could bring the JUDICIARY OF SIERRA LEONE into disrepute, other institutions of the GOVERNMENT OF SIERRA LEONE such as the ANTI-CORRUPTION COMMISSION will be placed in jeopardy as regards appointment of its Commissioners. Sections 3(1) and 3(2) of the **ANTI-CORRUPTION ACT 2008** as amended states as follows:

'The Commission shall have a Commissioner who shall be the head of the Commission and shall be appointed by the President and shall be a Legal Practitioner having not less than Ten (10) years practice in his profession'.

It is clear that if it was the Defendants/Respondents position aforesaid that were upheld, both the current Commissioner of the ANTI-CORRUPTION COMMISSION, F.B. KAIFALA ESQ. and his predecessor in office A. MACAULEY ESQ. would not have practiced in their profession for Ten (10) years. It has not been controverted that A. MACAULEY ESQ. signed or enrolled in the Permanent Register of Legal Practitioners on the 10th September 2008 and swore to the oath of office as Commissioner of the ANTI-CORRUPTION COMMISSION on the 7th April 2016. It cannot be disputed that he served in that role until sometime in May 2018. It has not been controverted further that, his successor, F.B. KAIFALA ESQ., the current Commissioner of the ANTI-CORRUPTION COMMISSION, signed or enrolled in the Permanent Register of Legal Practitioners on the 29th December 2008 and was appointed Commissioner sometime on or about June 2018. Evidently, the statutory required Ten (10) years of practice in their profession were computed from their years of call, it also not having been controverted that A. MACAULEY ESQ. was called to the Bar in 2004 whilst F.B. KAIFALA ESQ. being called to the Bar in 2007. This Court upholds the submission of I. SORIE ESQ. Plaintiff-in-person that this was the basis upon which both A. MACAULEY ESQ. and F.B. KAIFALA ESQ. were appointed Commissioners of the ANTI-CORRUPTION COMMISSIONER by both past and present Presidents of Sierra Leone and approved by Parliament as being qualified to be appointed to such a position and it was not on the basis of their years of signing or enrolment in the Permanent Register of Legal Practitioners. Surely, this Court upholds the submission of I. SORIE that, it cannot be disputed that if the

Defendants/Respondents position aforesaid were to hold then all indictments, prosecutions and convictions thereof from 7th April 2016 to date would have been flawed by reason that they were signed, and successfully prosecuted by or under the instructions of persons lacking the legal capacity to do so. Consequently, all subsequent prosecutions and convictions stemming therefrom are questionable and could be the subject of litigation both within and outside Sierra Leone particularly in relation to Fundamental Human Rights as contained in **CHAPTER III of the CONSTITUTION OF SIERRA LEONE 1991**. All arrests and detentions made pursuant to directives of these two Commissioners, including arrests and detentions that did not result in an indictment during the period in question, would be the subject of scrutiny and possible challenge. Settlements entered into with the ANTI-CORRUPTION COMMISSION will also be susceptible to challenge.

It has been established above that the position of ATTORNEY-GENERAL and MINISTER OF JUSTICE is one appointment made by the President of Sierra Leone from among persons qualified to hold office as a Supreme Court Judge. It has been established further that, to be qualified to hold office as a Supreme Court Judge one must have been entitled to practice as Counsel in a Court having unlimited jurisdiction in both civil and criminal matters in Sierra Leone for a period of at least Twenty (20) years from the date in which he/she becomes entitled to practice as such aforesaid, the same being from one's date of call. As seen from Exhibit '40' aforesaid it has not been disputed that the erstwhile ATTORNEY-GENERAL and MINISTER OF JUSTICE, PRISCILLA H. SCHWARTS was called to the Bar of Sierra Leone on the 27th September 1996 and signed or enrolled in the Permanent Register of Local Practitioners on the 21st August 1998. She was appointed as ATTORNEY-GENERAL and MINISTER OF JUSTICE on or about in May/June 2018. This Court upholds the submission of I. SORIE ESQ that, surely if the Defendants/Respondents position were to be upheld then her appointment as such was done in contravention of the **CONSTITUTION OF SIERRA LEONE 1991** with all the attendant ramifications of bringing in the advice and actions of the then holder of the office into disrepute and the subject of potential legal challenge.

It follows from the above that in all the situations above, these being Presidential appointments, upholding the Defendants/Respondents position that the interpretation of how standing is computed to be from date of signing or enrolment in the Permanent Register of Legal Practitioners, the respective GOVERNMENT INSTITUTIONS involved would not only be subject to disrepute, the President of Sierra Leone would be put to considerable

embarrassment and ridicule. This Court upholds the submission of I. SORIE ESQ., Plaintiff-in-person that the counter-mischief that would be created if the position of the Defendants/Respondents herein were to hold, would be much greater than the mischief which the LEGAL PRACTITIONERS ACT 2000 intended to cure. The absurdity created thus, would by no means be construed as the intention of Parliament. Consequently and on the whole as seen from the above, upholding the Defendants/Respondents position would produce an unreasonable unfair, unjust, confused and absurd result in the application of Sections 135(3) and 135(4) of the CONSTITUTION OF SIERRA LEONE 1991 and the LEGAL PRACTITIONERS ACT 2000 as amended.

The Defendants/Respondents herein have not made any submissions controverting the consequences above which might arise if their position that standing is to be computed from the date of signing or enrolment in the Permanent Register of Legal Practitioners were upheld, particularly as regards the consequences that would arise if upholding their position aforesaid, is applied to certain constitutional and other appointments made by His Excellency, the President of Sierra Leone, O. JALLOH ESQ. of Counsel for the Defendants/Respondents rather referred those consequences outlined above as scaremongering by the Plaintiff/Applicant. He submits that these persons appointed by His Excellency into these constitutional and other offices who the Plaintiff/Applicant herein seek to impugn are not before this Court, the Plaintiff/Applicant has no issue or complaint against these persons or institutions; he submits that the attempt to lump in issues not germane to the Plaintiff/Applicant's complaint is being done with a view to skew and or eschew the narrative with a view of currying favours or sympathy to the determination of a most rudimentary, basic, clear and unambiguous issue that touches and concerns the Plaintiff/Applicant. O. JALLOH ESQ. submits though that, the Plaintiff/Applicant herein has not put before this Court those faceless Judges of the Superior Courts of judicature that would be affected, if the position of the Defendant/Respondents aforesaid were upheld, but that this notwithstanding, this Court cannot enquire into the circumstances surrounding these appointments due to the theory of 'Supreme Executive Authority' which said theory, it is claimed was propounded in the case between **ALHAJI SAMUEL SAM SUMANA** and **THE ATTORNEY-GENERAL & ANOTHER** SC 4/2015 in the Supreme Court of Sierra Leone.

The submission of O. JALLOH ESQ., above that the consequences which would arise if the Defendants/Respondents position that, standing is to be computed from the date of signing or enrolment in the Permanent Register of Legal

Practitioners were upheld, outlined by the Plaintiff/Applicant could be regarded as scaremongering is rather unfortunate. Substantiating this Courts view aforesaid, reference is made to a list of Legal Practitioners issued by the Defendants/Respondents herein in 2020 whilst the matter herein was sub-judice. This Court makes reference to this list because it was widely circulated with a substantial number of Judges of the Superior Courts of Judicature, including members of the panel of Judges herein, named in it and receiving it. It is clear from the said list that, respective Legal Practitioners are placed in the order from the date when they signed or were enrolled in the Permanent Register of Legal Practitioners. By reason that the said list does not make any reference to one's date of call to the Bar, it can conclusively be said that the Defendants/Respondents have clearly concluded that standing is to be computed from one's date of signing and enrolment in the Permanent Register of Legal Practitioners. Whether or not it should be so or is to be computed from one's date of call to the Bar is determined by this Court. Notable from the list is the absence from it of those Judges who were previously Magistrates and whose appointments as Judges was based on the date of call to the Bar as it should be. The list further show those Judges of the Superior Courts of Judicature who, though signed and enrolled in the Permanent Register of Legal Practitioners, had not met the prescribed constitutional period required for them to be Judges, if computation of such period is based on the date of signing and enrolment in the Permanent Register of Legal Practitioners. The said list also show that F.B. KAIFALA ESQ. and A. MACAULEY ESQ. respectively signed and enrolled in the Permanent Register of Legal Practitioners on dates which would cause them not be eligible for appointment as COMMISSIONER and erstwhile COMMISSIONER of the ANTI-CORRUPTION COMMISSION respectively, if the required period for eligibility is computed from those dates. So also is the fact that, the said list show that PRISCILLA H. SCHWARTS, the erstwhile ATTORNEY-GENERAL AND MINISTER OF JUSTICE signed and enrolled in the Permanent Register of Legal Practitioners on a date which would cause her not to have been eligible for the appointment of ATTORNEY-GENERAL AND MINISTER OF JUSTICE, if the required period for eligibility is computed from that date.

The question which boggles one's mind is, 'what was the purport of issuing this list at a time when the issue which this list portrays is one which was currently under consideration by this Court ? This Court holds the view that quite apart from the fact that the issuing of this list at the particular point in time when it was so issued, amounts to a contempt, its issuance is deliberate and meant to provoke a situation which would lead to the happening of the consequences

outlined above, if the position of the Defendants/Respondents aforesaid were to be upheld. The issue of the list aforesaid amounts to contempt, not only because it was so issued whilst the issue which this list portrays is one which is currently under consideration by this Court, it also amounts to contempt by reason of the fact that, further to this Court's Order that the Defendants/Respondents herein meet and appoint an interim Chairperson for the sole purpose of him overseeing the signing of Temporary and Permanent Registers, the same was exceeded, when instructions were given the Secretary of the Defendants/Respondents to circulate the said list.

Even though it cannot be said that the contempt aforesaid, would provoke the happening of the consequences which would occur if the Defendants/Respondents position were upheld, it is obvious that, the situation which would result from the happening of the consequences outlined above need not be perpetrated by the Defendants/Respondents themselves. By issuing the list of Legal Practitioners aforesaid, the same would be tantamount to the Defendants/Respondents informing the public that certain persons are not qualified to hold positions which they have been appointed into. In the circumstance, can it not be said that, it was that list of Legal Practitioners aforesaid, issued by the Defendants/Respondents herein and dated 24th April 2020, which might have provoked the application by Notice of Motion dated 15th May 2020, filed by SERRY-KAMAL & CO., for and on behalf of ALFRED PALO CONTEH the 1st Accused person in the case the **STATE** against **ALFRED PALO CONTEH & OTHERS** titled Misc. App 198/2020, for an order setting aside the fiat used to institute criminal proceedings against the 1st Accused aforesaid on the grounds that the person purporting to act as ATTORNEY-GENERAL, the said person being PRISCILLA H. SCHWARTS, in issuing the fiat aforesaid, was not on the date of her appointment as ATTORNEY-GENERAL, constitutionally qualified to hold that office? Clearly, the application aforesaid, had it been granted would have been one of the consequences which was outlined as accruing if the Defendants/Respondents position were upheld. Consequently, by reason that it has been adequately shown that the occurrence of such consequences are real, it cannot be said that outlining them as above amounts to scaremongering.

The submission of O. JALLOH ESQ. above that, the Plaintiff/Applicant seek to impugn those persons appointed by His Excellency into these constitutional and other offices is a most unfortunate and unfair submission. Clearly, these persons who were appointed based on the Plaintiff/Applicant's position which has been upheld, that standing is computed from date of call, were only named

so as to show the consequences that would occur if the Defendants/Respondents position were upheld, the said consequences which would include an immense embarrassment to His Excellency, the President of Sierra Leone and definitely not to impugn those persons. In this regard, it is completely immaterial that these persons are nameless and not before this Court. It cannot be said also that, the issues aforesaid raised, as regards these persons aforesaid, are not germane to the Plaintiff/Applicant's complaint herein, because those issues aforesaid raised, concerns the interpretation of how standing is to be computed, which said issue is the most central and principal one which the Plaintiff/Applicant herein seeks determination of. The submission of O. JALLOH ESQ. aforesaid, that the attempt by the Plaintiff/Applicant to lump in those issues is being done with a view to skew and or eschew the narrative with a view of currying favour or sympathy to the determination of a most rudimentary, basic, clear and unambiguous issue of the interpretation of standing that to skew and currying the Plaintiff/Applicant, is completely insulting and therefore untenable. It cannot be disputed that, contrary to the above submission the lumping in, of these issues, assisted this Court in determining that the most rudimentary, basic, clear and unambiguous issue of the interpretation of standing should not be what the Defendants/Respondents herein interpret it as being and does not in any way provoke this Court's sympathy or currying of its favour in determining the issue aforesaid.

The submission of O. JALLOH ESQ. that this Court cannot enquire into the Constitutional and Presidential appointments aforesaid, due to the theory of 'Supreme Executive Authority' claimed to have been propounded in the case between **ALHAJI SAMUEL SAM SUMANA** and **THE ATTORNEY-GENERAL & ANOTHER**, cited above is too sweeping a submission to be made. This Court holds the view that, not only is it a fact that, this was not what this Court decided in that matter, it cannot be said that by implication, this has been the import or ratio of the Decision aforesaid. Surely, an examination of the Decision of that matter would quickly dispel the notion that the Courts cannot enquire into the validity of Constitutional and Presidential appointments. The intentions of the Legislature when it enacted the **CONSTITUTION OF SIERRA LEONE 1991**, in giving the President, Executive powers was never meant to be construed that the President could do as he pleases, irrespective of the provision of the said **CONSTITUTION**. In the case between **ALHAJI SAMUEL SAM SUMANA** and the **ATTORNEY-GENERAL & ANOTHER** cited above, **HON. MR. JUSTICE V.V. THOMAS** Ag. CJ (as he then was) had this to say:

*I note that the exercise of the executive power of Sierra Leone which is vested in the President is declared by Section 53(1) of the **CONSTITUTION OF SIERRA LEONE 1991**, to be subject to the provisions of the said **CONSTITUTION**. So that it is appropriate for any exercise of such executive power to be challenged if it is alleged that such exercise is contrary to the provisions of the **CONSTITUTION** aforesaid'.*

As seen from the above, the **CONSTITUTION** aforesaid, places limits of the exercise of the executive powers, the President's executive powers of which are subject to the provisions of the said **CONSTITUTION**. Clearly, this is the correct position of the law and to hold otherwise would have grave consequences for the Rule of Law and Democratic Governance in Sierra Leone. Indeed the framers of the **CONSTITUTION OF SIERRA LEONE 1991** and the Legislature intended to ensure that the Government is governed by democratic principles and in line with the doctrine of 'SEPARATION OF POWERS'. If, as submitted by O. JALLOH ESQ. above, the appointment powers of the President could not be enquired into by this Court, irrespective of whether the said appointment were valid or not, that would allow the President to appoint completely unqualified persons to positions where some **ACT** or the **CONSTITUTION** aforesaid, has established clear qualifications. Clearly, this Court or any other Court of the Superior Courts of Judicature, would become powerless to determine the validity of such appointments if it were challenged. If it is the case that this Court or any other Court of the Superior Courts of judicature in Sierra Leone can say it cannot enquire into the validity of appointments done by the President, the same would amount to a scary and preposterous abdication of Judicial responsibility and signal the end of Democratic, Constitutional and Judicial order in Sierra Leone.

It cannot be disputed that the proposition that this Court cannot enquire into the validity of any appointment made by the President under the provisions of the **CONSTITUTION OF SIERRA LEONE 1991** is false and patently flawed. The abdication of its sacred duty to interpret the **CONSTITUTION** aforesaid, as stipulated in Section 124 of the same is one which this Court should and must reject completely. It should be pointed out that, the Presidency is a creature of the **CONSTITUTION** aforesaid and though he has wide executive powers, such powers are not above the law or the **CONSTITUTION** and can only be validly exercised in conformity with the provisions of the **CONSTITUTION** aforesaid. If it were held otherwise, then the President can without any constitutional authority remove the Speaker of Parliament or the Chief Justice, both of whom belong to a separate arm of GOVERNMENT and insist that such a violation of

our CONSTITUTION and the doctrine of Separation of Powers cannot be enquired into. Surely this would be an absurdity that could not have been the intentions of the Legislature. In the case between **ALHAJI SAMUEL SAM SUMANA** and **THE ATTORNEY-GENERAL & ANOTHER**, cited above, HON. MR. JUSTICE V.V. THOMAS Ag. CJ (as he then was) had this to say:

‘The need to avoid absurdity in interpreting statutory provisions has always been recognised by the Courts and I hold that this Court should avoid any absurd interpretation of the relevant constitutional provisions’.

As stated above, the submission of O. JALLOH ESQ. that, the ratio for the Decision in the case between **ALHAJI SAMUEL SAM SUMANA** and **THE ATTORNEY-GENERAL & ANOTHER** cited above is that, this Court cannot entertain the possibility of a Declaration of constitutional violation is a potentially false premise. This Court holds the view that even if it were the ratio of the Decision in the said case (which as this Court has already stated above was not the ratio), this Court is reinforced by the provision of Section 122(2) of the **CONSTITUTION OF SIERRA LEONE 1991** as follows:

‘The Supreme Court may, while treating its own previous decisions as normally binding, depart from a previous decision when it appears right to do so and all other Courts shall be bound to follow the decision of the Supreme Court on questions of law’.

As upheld above, the most central and principal issue for determination herein is whether the term ‘standing’ in the context in which it is used in the **LEGAL PRACTITIONERS ACT 2000** should be computed from date of call to the Bar or from the date when one signs or is enrolled in the Permanent Register of Legal Practitioners. Having determined as above that standing is computed from the date of call to the Bar and not from the date of signing or enrolment in the Permanent Register of Legal Practitioners the Plaintiff/Applicant herein is entitled to a Declaration in that regard. The Plaintiff/Applicant is further entitled to a Declaration that seniority at the Bar is determined by the date of call to the Bar and not the date of signing or enrolment in the Permanent Register of Legal Practitioners. The Plaintiff/Applicant herein is also entitled to a Declaration that the position of the Defendants/Respondents as expressed in a Notice dated 18th December 2018 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 Ten (10) years after his/her name was entered in the Roll of Court/Permanent Register is inconsistent with the

provisions of Sections 135(3) and 135(4) of the CONSTITUTION OF SIERRA LEONE 1991. In this regard, the Plaintiff/Applicant herein is entitled to a Declaration that he is eligible and qualified to serve as a Pupil Master and also entitled to a Declaration that he was eligible to contest for and was properly and duly elected as a member of the GENERAL LEGAL COUNCIL, the Defendant/Respondents herein in the Fifteen (15) years and above category.

By an order of this Court dated the 16th December 2019, a stay of proceedings in the High Court matter between **AUGUSTINE SORIE-SENGBE MARRAH & ANOTHER** and **THE SIERRA LEONE BAR ASSOCIATION & OTHERS**, Misc. App 257/2019 was granted pending the hearing and determination of the matter herein. The principal reason for the grant of a stay of proceedings in the High Court matter aforesaid, was because of the fact that, the issues sought to be varied by the High Court, determination of which would require interpretation of certain provisions of the **CONSTITUTION OF SIERRA LEONE 1991**, were the same issues which this Court were asked to determine. By virtue of the fact that it is the exclusive jurisdiction of this Court to deal with matters requiring the interpretation of the **CONSTITUTION** aforesaid, the matter at the High Court, which has no such jurisdiction, had to be stayed.

Prior to the grant by this Court of the Order dated the 16th December 2019, an Order of the **HON. MRS. JUSTICE JAMESINA KING JA** dated 28th May 2019, granted an Interlocutory Injunction restraining the Plaintiff/Applicant herein, whether by himself, his servants, agents, privies howsoever otherwise from presenting himself as duly elected member of the Defendants/Respondents and or sittings of the Defendants/Respondents, pending the hearing and determination of the matter at the High Court of an application by way of an Originating Summons dated 14th May 2019 which was stayed by this Court aforesaid. Further, by her Order dated 28th May 2019, it was ordered that, the Defendants/Respondents herein be restrained from holding elections for its positions of the chairman and from taking any decision that will prejudice the Plaintiff/Applicant herein and the matter at the High Court of an application by way of an Originating Summons dated 14th May 2019 which was stayed by this Court aforesaid.

The Order of **HON. MRS. JUSTICE JAMESINA KING JA**, dated 28th May 2019, restraining the Defendants/Respondents aforesaid, was sought to be varied in the course of the hearing of the application for the grant of stay of proceedings in the High Court aforesaid on the grounds, inter alia, as contained at page 11 of the affidavit of **ONIKE CHRISTINE SPENCER-COKER** sworn to on the 12th

December 2019 in opposition to the application for a grant of stay of proceedings aforesaid, by Notice of Motion dated 11th December 2019 that, in view of the restraining order dated 28th May 2019 aforesaid on the Defendants/Respondents, they lacked a chairperson before whom the Permanent Register/Roll of Court is to be signed by Pupil Barristers and Solicitors who have completed their mandatory pupillage. The Defendants/Respondents herein argued that by reason of their position with respect standing at the Bar, this would affect the counting period for these pupil Barristers and Solicitors as Legal Practitioner. The Defendants/Respondents argued further that they are being contacted on a daily basis by these pupils and their Pupil Masters inquiring about their status as regards the signing of the Permanent Register and as a matter of fact, the Law Officers had threatened to and they verily believe that action will be taken against them. The Defendants/Respondents also argued that, the above also affects those person who are waiting to sign in the Temporary Register and start their tenure as Pupil Barristers and Solicitors. This notwithstanding, by order of this Court dated 16th December 2019 aforesaid, this Court refused to vary the Order of the 28th May 2019, restraining the Defendant/Respondent aforesaid and refused to grant any interim order geared towards execution of a variation of these orders of the High Court aforesaid.

On a subsequent date, the issue of varying the order dated 28th May 2019 restraining the Defendants/Respondents aforesaid, was again raised by the said Defendants/Respondents and by a majority decision this Court, on or about the 23rd March 2020, ordered the variation of the restraining order aforesaid, allowing the Defendants/Respondents to elect an interim chairperson for the sole purpose of presiding over the signing by Pupil Barristers and Solicitor of both the Temporary Register and the Permanent Register of Legal Practitioners. It should be pointed out at this stage, that this Court is of the view that the variation order aforesaid, restricting the Defendants/Respondents to electing an interim chairperson for the sole purpose to preside over the signing of Registers was clearly breached when the said Defendants/Respondents through its Secretary proceeded after the said order to issue to the public an updated version of the current list of Legal Practitioners. Clearly the instructions of the Defendants/Respondents to its Secretary to have the said list issued could not be part of and is separate and distinct from an interim chairperson presiding over the signing of the Register aforesaid. It cannot be disputed that the decision to issue out to the public of the list aforesaid, which said decision could only have been taken by the Defendants/Respondents, with an interim chairperson presiding over the taking of such decision and not by the Secretary on her own

personal capacity, amounts to a decision which is prejudicial to the Plaintiff/Applicant herein and his matter herein. In this regard, the order of the **HON. MRS. JUSTICE JAMESINA KING JA**, dated 28th May 2019 that the Defendants/Respondents herein be restrained from taking any decision that will prejudice the Plaintiff/Applicant herein has now been made redundant. Meanwhile, the Plaintiff/Applicant herein, on his part, complied fully with the order aforesaid restraining him, whether by himself, his servants, agents, privies or howsoever otherwise from presenting himself as duly elected member of the Defendants/Respondents and or sittings of meetings of the Defendants/Respondents pending the hearing and determination of the matter at the High Court of an application by way of an Originating Summons dated 14th May 2019. It cannot be disputed that, by reason of the matter herein having been heard and determined by this Court, the matter pending at the High Court ~~for said becomes~~ redundant and can no longer proceed as such.

The Order of the **HON. MRS. JUSTICE JAMESINA KING JA**, dated 28th May 2019 ordered that AUGUSTINE SORIE-SENGBE MARRAH gives a written undertaking to the Plaintiff/Applicant herein to pay damages which he may suffer as a result of the injunction granted and restraining him aforesaid, if it turns out in the end that the said AUGUSTINE SORIE-SENGBE MARRAH was not entitled to the said injunction. A search of the records of the High Court, through the Registrar of this Court, by its order, reveal that on the 29th May 2019, AUGUSTINE SORIE-SENGBE MARRAH filed an undertaking to pay damages which will be ordered to be paid by him in the event that this Court were to hold that the Injunction sought by him ought not to have been granted. By reason of the fact that the matter herein has been determined in favour of the Plaintiff/Applicant herein, this Court having upheld his position that the computation of standing in the context in which it is used in the **LEGAL PRACTITIONERS ACT 2000** is from date of call, it means that the Plaintiff/Applicant ought not to have been restrained from presenting himself as duly elected member of the Defendants/Respondents and or sittings of meetings of the Defendants/Respondents. In this regard, since it now turns out that AUGUSTINE SORIE-SENGBE MARRAH was not entitled to the injunction restraining the Plaintiff/Applicant herein, the undertaking aforesaid dated 29th May 2019 ought then to be enforced against the said AUGUSTINE SORIE-SENGBE MARRAH by the Plaintiff/Applicant herein. However, since it cannot now be determined what, if at all, the loss suffered by the Plaintiff/Applicant herein, by reason of the injunction aforesaid, due to lack of evidence presently in that regard, Damages will have to be assessed at a subsequent hearing.

The Plaintiff/Applicant herein has claimed, for any further order or relief as this Honourable Court may deem fit and just. In determining whether in fact and apart from the above reliefs which the said Plaintiff/Applicant is entitled to, there is/are any further or other relief that the said Plaintiff/Applicant is entitled to, this Court cannot help but refer to the affidavit of ONIKE CHRISTINE SPENCER-COKER, sworn to on the 28th June 2019, where at paragraph 35 she deposed that the declarations sought by the Plaintiff/Applicant ought therefore to be refused and that the Plaintiff/Applicant be penalised in substantial costs for bringing this action and disrupting the conduct of business and proceedings of the Defendants/Respondents herein. It cannot be disputed that by reason that it has now turned out that the Plaintiff/Applicant was justified in bringing this action and seeking the declarations aforesaid, it cannot be said that the Plaintiff/Applicant by bringing the action was disrupting the conduct of business and proceedings of the Defendants/Respondents herein. Rather, the bringing of the action herein was provoked by the Defendants/Respondents themselves by the issue of the Notice of the 18th December 2018 aforesaid, which since have not only caused the Plaintiff/Applicant considerable and unrivalled embarrassment in the eyes of the public both in and outside of Sierra Leone but has also negatively shaken the Legal Profession in Sierra Leone, literally off its feet. The embarrassment aforesaid, becomes compounded when one considers the several descriptions of the Plaintiff/Applicant by O. JALLOH ESQ. of Counsel for the Defendants/Respondents, which said descriptions paint the Plaintiff/Applicant in a bad light in the eyes of the Public. Certainly, the Plaintiff/Applicant ought to be awarded substantial costs, by reason of him been put through the rigors of the action herein and been subjected to extreme embarrassment aforesaid.

This Court holds the view that in order to settle the issue of costs that should be awarded the Plaintiff/Applicant, detailed reference be made to the several descriptions of the Plaintiff/Applicant made by O. JALLOH ESQ. of Counsel for the Defendants/Respondents herein, in his bid to have this Court reject the Plaintiff/Applicants Declarations sought herein. At paragraph 7.3 of the Defendants/Respondents statement of case at page 18, O. JALLOH ESQ. states that the Plaintiff/Applicant curiously or most ingenuously represented himself to the SIERRA LEONE BAR ASSOCIATION as a Legal Practitioner and presented himself to be elected as a member of the GENERAL LEGAL COUNCIL, the Defendants/Respondents herein. O. JALLOH ESQ. further states at page 19 that the issues and narrative of the matter herein, are being skewed to suit the Plaintiff/Applicant's convenience at the expense of the law. At paragraph 11.1 of the Defendants/Respondents statement of case at page

25, O. JALLOH ESQ. states that the Plaintiff/Applicant misled the Defendants/Respondents in representing himself as being eligible to be a Pupil Master and to be elected as a member of the Defendants/Respondents. At paragraph 13.6 of the Defendants/Respondents statement of case at pages 32 to 33, O. JALLOH ESQ. refers to the Plaintiff/Applicant's skewed interpretation of the issues and narrative of the matter herein and states that the same is mischievous to say the least. At paragraph 18.1 of the Defendants/Respondents statement of the case at page 37, O. JALLOH ESQ. stated that the Plaintiff/Applicant was aware or should be aware that he was not qualified to be a Pupil Master but conned everyone into thinking he had a status he never had which amounts to the height of being and behaving in an unprofessional, dishonourable and unworthy manner by a Legal Practitioner. At paragraph 18.9 of the Defendants/Respondents statement of case, at pages 39 to 40, O. JALLOH ESQ. states that for the Plaintiff/Applicant to assert that he had standing which he interpreted as being computed from the date of his call to the Bar, he would in the circumstance be perjuring himself. At paragraph 18.13 of the Defendants/Respondents statement of case at pages 41 to 42, O. JALLOH ESQ. states that the Plaintiff/Applicant herein unabashedly declared he had requisite standing to be eligible to act as a Pupil Master, which actions and conduct, he as officer of the law misled the Defendants/Respondents herein. the HONOURABLE CHIEF JUSTICE, the SIERRA LEONE BAR ASSOCIATION and the people of Sierra Leone, which falls nothing short of being dishonourable, unprofessional and unworthy conduct on his part as an officer of the law. At paragraph 18.8 of the Defendants/Respondents statement of case at pages 47 to 48, O. JALLOH ESQ. made an omnibus submission as follows:

'The Plaintiff/Applicant with full and complete knowledge of the law on the point, misled the Judiciary and misled the SIERRA LEONE BAR ASSOCIATION into electing him to stand for the position and subsequently being elected President for two (2) terms; into electing him to serve as its representative in the Defendants/Respondents herein and misled the said Defendants/Respondents into allowing him to act as a Pupil Master for several pupils, conferring upon him status he does not hold and most importantly misled the people of Sierra Leone into thinking that he is a Barrister and Solicitor of over Fifteen (15) years standing at the Bar, when he was fully very much aware that this was blatantly false, wrong, erroneous and untrue. The Plaintiff/Applicant's conduct amounts to unprofessional, dishonourable and unworthy conduct on his part,

under Section 38 of the LEGAL PRACTITIONERS ACT 2000 as amended. His Lordship are invited to take appropriate action accordingly'.

This Court does not comprehend why O. JALLOH ESQ. made such descriptions of the Plaintiff/Applicant, the said descriptions which this Court views as language which is threatening, insulting, offensive and vile, in describing the character and integrity of the Plaintiff/Applicant. This Court holds the view that O. JALLOH ESQ. could have advocated the Defendants/Respondents position without resorting to such threatening, insulting, offensive and vile language. It should be pointed out that all what he was supposed to do is make submissions for and on behalf of the Defendants/Respondents, in answer to the Plaintiff/Applicant's submissions, the same which this Court finds contains only legal submissions, devoid of any threatening, insulting, offensive and vile language against the Defendants/Respondents or anybody else. It cannot be disputed that the threatening, insulting, offensive and vile language used by O. JALLOH ESQ. of Counsel for the Defendants/Respondents, could not have been used by him on the instructions of the said Defendants/Respondents. In the Fourth Edition 2005 Reissue of **HALSBURY'S LAWS OF ENGLAND** by **LORD MACKAY OF CLASHFERN**, Lord High Chancellor of Great Britain 1987-97, on 'PREPARATION OF CASES' at paragraph 344 under the rubric 'Drafting Document' at page 360 it is stipulated thus:

'A Barrister must not draft any statement of case, witness statement, affidavit, notice of appeal or other document containing any allegation of fraud, unless he has clear instructions to make such allegation and has before him reasonably credible material which as it stands establishes a prima facie case of fraud'.

It cannot be disputed that the use of the word 'misled' by O. JALLOH ESQ. in conjunction with the phrase 'he was very well aware that' is the same as saying that the Plaintiff/Applicant is deceitful, his use of the word 'skewed' is the same as saying that, the Plaintiff/Applicant's interpretation of the law is twisted or crooked, his use of the word 'conned' is the same as saying that the Plaintiff/Applicant fraudulently led all concerned to believe his position and the use of the words 'perjuring' is the same as saying that, the Plaintiff/Applicant is a liar. The words aforesaid could all be synonymous with 'fraud'. Clearly O. JALLOH ESQ. made and filed the Defendants/Respondents statement of case herein alleging that the Plaintiff/Applicant was a fraudster without showing that he had clear instructions to make such allegations and showed not an iota of evidence, which he had before him reasonably credible material which, as it

stands establishes a prima facie case of fraud. As a result, this Court holds the view that the threatening, insulting, offensive and vile language used against the Plaintiff/Applicant herein by O. JALLOH ESQ. seems to be a personal attack by him on the Plaintiff/Applicant and not made by him for and on behalf of the Defendants/Respondents.

This Court holds the view that, not only is it a fact that, the threatening, insulting, offensive and vile language aforesaid on the Plaintiff/Applicant seems personal, they also smack of malice on the part of O. JALLOH ESQ. In the Thirty Fifth Edition of **ARCHBOLDS CRIMINAL PLEADING AND PRACTICE** at paragraph 1154 at page 476 it is said thus:

'Malice in common acceptance means ill-will against a person, but in its legal sense it means a wrongful act done intentionally, without just cause or excuse'.

It is clear from the context in which the threatening, insulting, offensive and vile language aforesaid were used by O. JALLOH ESQ. of Counsel for the Defendants/Respondents, was a display of ill-will against the Plaintiff/Applicant herein. As expressed above, the Plaintiff/Applicant's submissions advocating his case contained only legal submission devoid of any threatening, insulting, offensive and vile language against the Defendants/Respondents or anybody else. It cannot be said, that it was the mention by the Plaintiff/Applicant of the fact that OSMAN JALLOH himself had computed his standing from the date of call to the Bar and benefitted from same as a result of being appointed a Notary Public, computing his standing based on his years of call and not years of enrolment in the Permanent Register of Legal Practitioners or the fact that SONKITA CONTEH held himself out as a Legal Practitioner of over Fifteen (15) years standing, his computation of standing being from date of call to the Bar rather than from the date he signed or was enrolled in the Permanent Register of Legal Practitioners or the fact that AUGUSTINE SORIE-SENGBE MARRAH commemorated his call to the Bar, determining his length of service in the Legal Profession or standing based on his date of call to the Bar of Sierra Leone, that provoked the threatening, insulting, offensive and vile language of O. JALLOH ESQ. This is so by reason that O. JALLOH ESQ. at all material times when responding to the Plaintiff/Applicant's submissions knew of the Plaintiff/Applicant's reference to the facts aforesaid. This Court finds that, O. JALLOH ESQ. in the Defendants/Respondents statement of case did not even once respond to the fact aforesaid but proceeded to make threatening remarks, threw insults, used offensive and vile language in describing the character and

integrity of the Plaintiff. He only responded to these facts when it was brought up by the Plaintiff/Applicant in open Court on the 17th January 2020, his response which is contained in his affidavit sworn to on the 21st January 2020. In this regard, this Court holds the view that the threatening, insulting, offensive and vile language directed at the Plaintiff/Applicant by O. JALLOH ESQ. were wrongful acts and done intentionally without any just cause and excuse.

In the Defendants/Respondents statement of case dated 2nd July 2019, O. JALLOH ESQ. failed to disclose that the Defendants/Respondents position which he promotes was one which he only recently came to adopt, as seen in paragraph 3 of his affidavit aforesaid where he deposed that before the period 18th December 2018 he held the view that there was no distinction between call to the Bar and enrolment in the Permanent Register. What he has portrayed to this Court on the other hand is that the Defendants/Respondents position was the correct one from the beginning of time and that the Plaintiff/Applicant's position was a mischievous view advanced by the Plaintiff/Applicant alone or accepted by very few. It cannot be disputed that, O. JALLOH ESQ. as a member of the GENERAL LEGAL COUNCIL, the Defendants/Respondents herein, is himself in fact, held out to a higher standard not to mislead the public and yet he even now continues to portray himself on his firm's website for over a year after the expression of the position of the Defendants/Respondents on the 18th December 2018, as having attained the status of Barrister and Solicitor since 2006, whilst vigorously opposing the rights of the Plaintiff/Applicant to compute his standing from date of call, by virtue of the fact that there is no evidence shown that the contents of the website aforesaid has been rectified to reflect the position of the Defendants/Respondents herein, contrary to what he deposed to in paragraph 7 of his affidavit, sworn to on the 21st January 2020, when he said that he had since notified the host of the website to rectify what could only now be described as an error.

Again, as a member who took part in the decision to change the computation of standing and as one who has prosecuted the Plaintiff/Applicant in the High Court and now represents the Defendants/Respondents in this Court and one who has made such disparaging remarks against the Plaintiff/Applicant, it is incumbent upon O. JALLOH ESQ. to remove and or rectify the website page aforesaid which he now conveniently calls an error which he has failed to do but to have been very measured and constructive in his papers to this Court attacking the character and integrity of the Plaintiff/Applicant. This Court asks the question **'would describing a colleague in the manner that he did for what O. JALLOH ESQ. himself did and benefitted from, not only the height**

of hypocrisy, but the highest form of unprofessional, unworthy and dishonourable conduct unbefitting of someone who sits in the body that regulates the Legal Profession, not be an appropriate one in the circumstance'? This Court holds the view that the apologies made by O. JALLOH ESQ. during the proceedings in Court, in respect of his descriptions of the Plaintiff/Applicant cannot be of any moment. The quotations of Lady Macbeth in **SHAKESPEARE'S MACBETH, ACT V Scene 1** that, 'all the perfumes of Arabia will not sweeten this little hand' is most appropriate. The accusations, descriptions, attitude and averments against the Plaintiff/Applicant by O. JALLOH ESQ. of Counsel for the Defendants/Respondents as contained in the Defendants/Respondents statement of case aforesaid cannot be whitewashed.

It should be made absolutely clear that the analysis above, of the fact that the Plaintiff/Applicant has been put to considerable embarrassment which said embarrassment became compounded by the threatening, offensive and vile language used against the said Plaintiff/Applicant by O. JALLOH ESQ. was done principally to determine the issue of what costs are to be awarded to the Plaintiff/Applicant and not because this Court intends to punish O. JALLOH ESQ. of Counsel for the Defendants/Respondents personally for his conduct towards the Plaintiff/Applicant herein. Obviously, the reason why such threatening, insulting, offensive and vile language used by O. JALLOH ESQ. becomes an issue is because O. JALLOH ESQ. has a duty to this Court and has to conduct himself in a proper and professional manner befitting a Legal Practitioner. In the Fourth Edition 2005 Reissue of **HALSBURY'S LAWS OF ENGLAND** by **LORD MACKAY OF CLASHFERN**, Lord High Chancellor of Great Britain, 1987-97 on '**CONDUCT IN COURT**' at paragraph 550 under the rubric '**Barrister's Duties in Court**' at page 363 it is stipulated thus:

'When conducting proceedings in Court, a Barrister is personally responsible for the conduct and presentation of his case and must exercise personal Judgement upon the substance and purpose of statements made and questions asked. He must not devise fact which will assist in advancing his client's case. He must not make a submission which he does not consider to be properly arguable. He must not make statements which are merely scandalous or intended or calculated only to vilify, insult or annoy either a witness or some other person. He must, if possible avoid the naming of third parties whose character would thereby be impugned and must not suggest that a victim, witness or other person

is guilty of crime, fraud or misconduct, or make any defamatory aspersion on the conduct of any person'.

Clearly, O. JALLOH ESQ. in the conduct and presentation of his case for and on behalf of the Defendants/Respondents has devised facts, has made submissions which he himself would not consider to be properly arguable, has made statements which are merely scandalous or intended or calculated only to vilify, insult or annoy the Plaintiff/Applicant, has suggested that the Plaintiff/Applicant is guilty of crime, fraud or misconduct and made defamatory aspersions on the conduct of the said Plaintiff/Applicant. Moreover, O. JALLOH ESQ. has failed to avoid naming third parties like the **HON. MRS. JUSTICE GLENNA THOMPSON JSC** and the **HON. MR. JUSTICE ABDULAI HAMID CHARM** a former **CHIEF JUSTICE** whose character as seen from the above, he sought to impugn. Notwithstanding the fact that as stated above, the threatening, insulting, offensive and vile language used by O. JALLOH ESQ. of Counsel for the Defendants/Respondents, could not have been used by him on the instructions of the said Defendants/Respondents, it is clear that they sat there and allowed O. JALLOH ESQ to proceed as such. It is for this reason aforesaid, that this Court feels that Costs which ought to be borne by the Defendants/Respondents and which will be ordered in favour of the Plaintiff/Applicant herein, must take into account, the considerable and unrivaled embarrassment of the said Plaintiff/Applicant in the eyes of the public, both in and outside of Sierra Leone, the embarrassment which was compounded when the several descriptions of the Plaintiff/Applicant by O. JALLOH ESQ. is considered, particularly so when it now turns out that such was absolutely unnecessary and done amidst the pain staking rigours which the Plaintiff/Applicant went through in prosecuting the matter herein, with its attendant Costs of his research, which said Costs obviously ought to be substantial, the same which will be assessed by this Court at a subsequent proceeding.

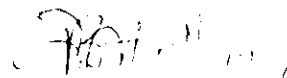
By reason of the above, it is hereby **ORDERED** and **DECLARED** as follows:

1. That it is hereby **DECLARED** that, 'standing' is computed from the date of call to the Bar and **NOT** from the date of signing or enrolment in the Permanent Register of Legal Practitioners.
2. That it is hereby **DECLARED** that, 'Seniority' at the Bar is determined by the date of call to the Bar and **NOT** from the date of signing or enrolment in the Permanent Register of Legal Practitioners.
3. That it is hereby **DECLARED** that, the position of the GENERAL LEGAL COUNCIL, the Defendants/Respondents herein, as expressed in a Notice dated 18th December 2018 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 Ten (10) years after his/her name was entered in the Roll of Court/Permanent Register, is inconsistent with the provisions of Sections 135(3) and 135(4) of the **CONSTITUTION OF SIERRA LEONE 1991** and in this regard, the said Defendants/Respondents are hereby estopped forthwith, from computing 'standing' as from the date of signing or enrolment in the Permanent Register of Legal Practitioners.
4. That it is hereby **DECLARED** that, IBRAHIM SORIE ESQ., the Plaintiff/Applicant herein is eligible and qualified to serve as a Pupil Master and **DECLARED** also that he was eligible to contest for and was properly and duly elected as a member of the GENERAL LEGAL COUNCIL, the Defendant/Respondents herein, in the Fifteen (15) years and above category.
5. That the Order of the **HON. MRS. JUSTICE JAMESINA KING JA** dated 28th May 2019, granting an Interlocutory Injunction restraining the said Plaintiff/Applicant, whether by himself, his servants, agents, privies howsoever otherwise from presenting himself as duly elected member of the said Defendants/Respondents and or their sittings, is hereby wholly **REVOKED** and that, the undertaking dated 29th May 2019 given by **AUGUSTINE SORIE-SENGBE MARRAH**, be **ENFORCED** against him by the said Plaintiff/Applicant and that determination of Damages for the loss


suffered, if at all, by the said Plaintiff/Applicant, be assessed at a subsequent hearing.


6. That the Costs of and occasioned by the application herein be **BORNE** by the said Defendants/Respondents, the same which will be assessed by this Court at a subsequent hearing.

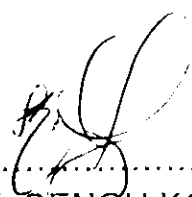
7. Liberty to apply




 HON. MR. JUSTICE ALLAN B. HALLOWAY - JSC


 I AGREE.....
 HON. MR JUSTICE ALUSINE S. SESAY - JSC


 I AGREE.....
 HON. MR. JUSTICE MANGAY F. DEEN-TARAWALLY - JSC


 I AGREE.....
 HON. MR. JUSTICE M. SENGU KOROMA - JSC


 I AGREE.....
 HON. MS. JUSTICE MIATTA M. SAMBA - JA