Amos V. Sandolo Appellee versus The **Management of the Liberia Agency for Community Empowerment (LACE)** Appellant

APPEAL FROM THE NATIONAL LABOR COURT, MONTSERRADO COUNTY.

Heard: March 26, 2007 Decided: August 9, 2007

MR. CHIEF JUSTICE LEWIS DELIVERED THE OPINION OF THE COURT.

On 21 October 2005, the Liberia Agency for Community Empowerment (LACE), appellant, entered into a service contract for one year with Amos V. Sandolo, appellee, as Information, Education and Communication Officer, effective 10 October 2005 and ending on 9 October 2006, at the monthly salary of nine hundred sixty and 44/100 United States dollars ($960.44).

On 17 March 2006, Ramses T. Kumbuyah, Executive Director of LACE, sent the following interoffice memorandum to the appellee:

"This letter is to inform you that effective March 17, 2006, you are being suspended without pay for time indefinite. This action is being taken as a result of your gross insubordination to the office of the Executive Director of LACE, and your failure to adhere to the behavior and rules governing staff of LACE in keeping with LACE's MAAFP and staff handbook.

"Please turn over your office to the Deputy Executive Director for Administration and all LACE's properties in your possession."

Ten days later, on 27 March 2006, the Executive Director sent a second letter to the appellee:

"The Liberia Agency for Community Empowerment (LACE) regrets to inform you that your services with the agency will no longer be needed by April 30, 2006. Please accept this letter as a 30-day notice required for the termination of contract. This letter is predicated upon your action that led to your suspension.

"You will be paid for the months of March and April 2006. As you come to sign for your check, please bring along your hand-over notes, detailing all the work you have

done and those in pipe-line. Also, please turn over all properties of LACE in your possession.

"We want to thank you for your services to LACE for the past five (5) months."

On 28 March 2006, the appellee addressed a letter of complaint to Mr. James Ngenda, Chairman, LACE Board, against the actions which had been taken against him by Mr. Kumbuyah. It would appear there was no response from or redress by Mr. Ngenda.

On 6 April 2006, the appellee filed a complaint, Unfair Labor Practice/Wrongful Dismissal, with the Ministry of Labor against LACE. The complaint was withdrawn, amended and refiled on 1 May 2006.

The appellee alleged essentially in his complaint: (1) that he had entered into a twelve-month employment contract with LACE; (2) that after serving five months, he was suspended for time indefinite for what management referred to as gross insubordination and his failure to adhere to the behavior and rules governing LACE; (3) that ten days following his suspension, he was dismissed for gross subordination and his failure to adhere to the behavior and rules governing LACE, the same reasons given for his suspension.

The matter was assigned to Nathaniel S. Dickerson, Director, Workmen's Compensation, Labor Standards Division. We note from the record certified to this Court that several notices of assignment for pre-trial conferences were issued and returned served. It would appear, however, that an out-of-court settlement did not result, the Hearing Officer indicating as follows in record.

"Having received the complaint, the investigation cited both parties to a pre-trial conference which intent was to amicably resolve the matter at that level. During the conference, there were claims and counter-claims which resulted in no meeting of the minds. The case was therefore ruled to regular trial."

On 17 July 2006, at the conclusion of the investigation, Hearing Officer Dickerson entered a default judgment against the appellant, the conclusion of which we quote:

"That the failure of defendant/management or its counsel to appear, plead or proceed to trial, having acknowledged receipt of the notice of assignment, warrants a

default judgment, and therefore we render [the following] default judgment against the defendant/management.

"In consideration of the above facts, coupled with the law controlling, we hereby rule that the defendant/management is liable for Unfair Labor Practice/Wrongful Dismissal meted against Mr. Sandolo, the complainant, and therefore is liable to pay him for the unexpired portion of the contract, which is seven (7) months and one (1) month in lieu of notice.

"SUMMARY:
Unexpired contractual period (7 x US$805.00) = US$5,635.00
One month in lieu of notice = 805.00
Total entitlement = US$6,440.00"

The official returns of the ministerial officer of the Ministry of Labor indicate that a copy of the default judgment was served upon and acknowledged by the appellee on 17 July 2006, and a copy served on the appellant on 19 July 2006. On 20 July 2006, counsel for the appellant addressed a letter to Hearing Officer Dickerson in which he acknowledged receipt of the default judgment, noted exceptions to the default judgment, and announced an appeal to the National Labor Court.

On 4 August 2006, appellee, as petitioner, filed a three-count petition for enforcement of judgment against the appellant with the National Labor Court. We quote the petition:

"1. That the petitioner is a complainant in the cause out of which this petition grows.

"2. That on July 17, 2006, a default judgment was rendered in favor of the petitioner/complainant, and said ruling was served on both parties, as is evidenced by the sheriffs returns. . . . Further, petitioner says and avers that on July 20, 2006, respondent confirmed receipt of said ruling by a letter addressed to Nathaniel S. Dickerson, Director/Hearing Officer. . . .

"3. That petitioner says and avers that since the respondent/defendant received a copy of the default judgment, it has failed and refused to take advantage of its right to file a petition for judicial review as is evidenced by the Clerk's Certificate hereto attached. . . .

"Wherefore, in view of the foregoing, petitioner prays Your Honor and this Honorable Court to enforce the judgment in the amount of US$6,440.00 (four thousand six hundred forty-four United States dollars) entered on July 17, 2006 against respondent/defendant, LACE, and grant unto petitioner any and all relief deemed just, legal and equitable, with costs against the respondent/defendant."

Attached to the appellees' petition for enforcement of judgment was a Clerk's Certificate, dated 1 August 2006, issued by G. Abednego N. Simpson, Sr., Clerk of the National Labor Court.

"A careful perusal of the records of this Honorable Court in the above captioned case reveals that neither the defendant nor its legal counsel has filed a petition for judicial review with the Clerk of this Honorable Court up to and including the date of the issuance of this Clerk's Certificate. Hence this warrants the issuance of this Certificate to the effect."

On 8 August 2006, the appellant filed a three-count resistance to the petition for enforcement of judgment.

"1. That the petitioner's petition requesting for the enforcement of judgment is being done in bad faith, for reason that the judgment was entered on July 17, 2006 by Nathaniel S. Dickerson, Hearing Officer of the Ministry of Labor and the said judgment was served directly on defendant/management on July 19, 2006, without reference to management's legal counsel of record, which indeed makes this petition for enforcement vague and not in keeping with law practiced in this jurisdiction.

"2. That the said petition for the enforcement of judgment should be denied and dismissed for reason that respondent/management's legal counsel immediately excepted to the default judgment of Hearing Officer Dickerson and announced an appeal to the National Labor Court by letter dated July 20, 2006, and therefore the petition for enforcement of the default judgment, not being in keeping with the Labor Law, practice and procedure in this jurisdiction, should be denied and dismissed, and the Ministry of Labor should be ordered to hear the case *de novo,* thereby granting respondent/management its day in court in keeping with due process of law.

"3. That as to counts one, two and three of the petitioner's petition, respondent says same are vague, indistinct and are not in keeping with law and practice made and provided for in this jurisdiction, and therefore the said counts should be denied and

dismissed, *for reason that the petition was purposely submitted to this Honorable Court for pecuniary reason for both the petitioner and the Hearing Officer in the Ministry of Labor evidenced by the hasty default judgment,* without notice of assignment made and served on the respondent, and therefore counts one, two and three, together with petitioner's prayer, should be denied and dismissed and the said case ordered remanded in the interest of transparent justice. . . .

"Wherefore, in view of the foregoing facts and circumstances, respondent respectfully prays Your Honor to deny, dismiss, quash and order the case remanded in the interest of transparent justice, and grant unto your Respondent any and all further relief as shall be just and proper" (emphasis supplied).

On 21 August 2006, the National Labor Court entertained arguments on the petition for enforcement of judgment and the resistance. On 2 October 2006, Her Honor Judge Comfort Natt, Judge of the National Labor Court, handed down the following ruling:

"On August 4, 2006, petitioner Amos V. Sandolo of the City of Monrovia, Liberia, by and thru its legal counsel, The TIALA Law Associates, Inc., filed a three-count petition for enforcement of judgment.

"On August 8, 2006, respondent, the Management of Liberia Agency for Community Empowerment (LACE), by and thru its legal counsel, the Jones and Jones Law Firm, filed a three-count returns, captioned 'Petition for Enforcement of Judgment.'

"Pleading having rested, and [while] awaiting request for notice of assignment, Counselor Molley N. Gray of the Jones and Jones Law Firm sent his messenger with a Judge's Order to be approved by the Judge. Unknowingly, the Judge realizing that whenever a Judge's Order is requested by a counselor, it is a new case awaiting the approval of the Judge in order to bring the parties under the jurisdiction of the court, little did we know that a senior lawyer of the Supreme Court Bar would have been so dishonest to have deceived this court, which of course, is not surprising, as this is not the first time.

"The court having no idea that Counselor Molley N. Gray, a senior member of the Supreme Court Bar, who appears credible, honest and respectable, would have, having filed his returns to petitioner's petition [for enforcement of judgment], also file a petition for judicial review on August 4, 2006, which even disqualifies him, especially when petitioner had obtained a Clerk's Certificate on August 1, 2006, due

to counsel for respondent's failure to file a petition for judicial review within statutory time.

"What surprises this court is that Counselor Molley N. Gray, a senior lawyer of the Jones and Jones Law Firm, represented the defendant in said case at the Ministry of Labor, but due to his failure to appear for hearing upon a notice of assignment issued from the Ministry of Labor and served on counsel for respondent, and returned served, as evidenced by the sheriffs returns neglected, failed and disobeyed the Hearing Officer's order, but elected to mislead this court by filing a petition for judicial review, one which was never filed by him before this court. To even prove that he misled this court, the alleged petition for judicial review later filed by him was never acknowledged by the court, as there is no filing date on said pleading.

"To be specific, a notice of assignment was issued by the Hearing Officer at the Ministry of Labor on June 15, 2006, for the hearing of the case on [June] 27, 2006, at the hour of 1:00 p.m. Again, when the case was called for hearing, neither respondent nor his legal counsel was present, and without excuse, despite the fact that the notice of assignment was received and signed for by one Martin Cephas of the Jones and Jones Law Firm.

"Realizing the unexcused absences of respondent management and his legal counsel, counsel for petitioner took advantage of the law as provided in such cases and requested the investigation to enter a default judgment against defendant management, which request was granted. The request having been granted, counsel for petitioner then requested for the qualification of his witnesses. The witnesses having been qualified, the first witness in person of Amos Sandolo took the witness stand and testified to the best of his knowledge. He was examined and cross-examined by showing the proof of service of summons, complaint and the facts constituting the claim. The second witness was Madam Vanpelt, who corroborated the testimony of Mr. Sandolo. Ruling in said case was rendered on July 17, 2006.

"Petitioner at the hearing, upon a notice of assignment, received a copy of the ruling on July 17, 2006.

"According to counsel for respondent, a copy of the ruling was served on him on July 19, 2006, at 10:00 a.m. However, due to respondent's failure to file a petition for judicial review within statutory time, petitioner, who ought to have been respondent, obtained a Clerk's Certificate on August 1, 2006, that is fifteen days after the final

judgment was rendered by the Hearing Officer, and a copy delivered to counsel for respondent, Counselor Molley N. Gray on June 19, 2006.

"At the call of the case on Monday, August 21, 2006, Counselor Molley N. Gray, legal representative of the management, requested court to have a submission made after representation was noted, which request was granted.

"In his seven-count submission, counsel for respondent alleged in essence:

"1. That under the principle of due process of law, the law requires that fair and impartial treatment or hearing must be heard and given the party the chance to explain [itself] to clear all doubts as in the instant case.

"2. That all doubts in the instant matter were not cleared, and proper notice was not served on defendant management to appear to explain to the court what actually transpired. Counsel requests court to take judicial notice of the case [file] in which you will find out that there was no notice of assignment sent out to defendant management and/or counsel for hearing to be heard on June 27, 2006, that the notice of assignment was sent out for hearing to be heard on June 14, 2006, but the said hearing was not heard because Hearing Officer] Nathaniel S. Dickerson was busy with the Minister on that day concerning the employees of the National Port Authority.

"3. Under the doctrine of default judgment, the applicant shall file proof of the service of the summons, complaint and give proof of the facts constituting the claim. In the instant case, the summons relied upon by the plaintiff/petitioner was not served on the defendant management nor its counsel, and therefore counsel requests this court to disregard the purported petitioner's petition for enforcement filed before this court in the interest of transparent justice.

"4. Further, defendant management requests this court to take judicial notice of the records in these proceedings. The Jones and Jones Law Firm was representing the interest of the defendant management, but the judgment in these proceedings was not served on counsel of record for the defendant. Counsel requests the court to take judicial notice of the records in these proceedings.

"5. That the ruling in these proceedings from the Ministry of Labor [was received by counsel for defendant management] on July 19, 2006 at 10:05 a.m. Counsel requests

court to take judicial notice of the Ministry's file and give credence to the petition for judicial review.

"6. That on July 20, 2006, counsel for defendant management promptly communicated with Hearing Officer Dickerson, excepting to the ruling and announcing an appeal to the National Labor Court for judicial review and that in keeping with practice and procedure, it is the wish of the defendant management that the petition for judicial review be heard for reason that the rendition of judgment by the Ministry of Labor by Hearing Officer Dickerson and the expeditious assignment for enforcement of judgment of that default judgment is indeed irregular, since indeed the petition for judicial review needs to be heard. Counsel therefore requests court to take judicial notice of the case file as well as the main case file from the Ministry of Labor in order to give credence to the submission now being made.

"7. That the whole process of the hearing in the Ministry of Labor and the urgent preparation of the petition for enforcement of default judgment is irregular, unfounded and not in keeping with law and therefore counsel respectfully requests this court to set aside the petition for enforcement of judgment and conduct an investigation to ascertain whether or not a [notice of] assignment dated June 15, 2006 was [issued] and served on defendant management and/or its counsel in order to protect transparent justice.

"Wherefore, in view of the foregoing facts and circumstances, counsel for defendant management respectfully requests this court to review its case file and the steps [taken] therein, thereby to give credence to the petition for judicial review because the judgment in the Ministry of Labor and the speedy petition for enforcement was irregularly done."

"In resisting the submission made by counsel for defendant management, counsel for complainants indicated that the submission was made in bad faith and merely designed to mislead this Honorable Court. More besides, counsel for defendant management knows that there is not an iota of truth to all that he has said. Counsel therefore says the following:

"1. That as to counts one and two of the baseless submission made by the counsel, same is far from the reality as can be vividly seen from the records in these proceedings in that the July 15, 2006 notice of assignment for the hearing to be heard on June 27, 2006 at 1 o'clock p.m. was served on counsel for the defendant as evidenced by the copies of the notice of assignment as served on all the parties and

returned served. Counsel prays the court to take judicial notice of counsel's legal memorandum served this morning, said notice and its returns are thereto attached.

"2. Counsel says that as to counts three and four of defendant management's submission, same are without legal basis, in that the notice of assignment for the hearing to be had on June 27, 2006 at 1 o'clock was received by counsel for defendant management and same was acknowledged. By that, the requirement for due process of law was legally met for he had notice to appear and present his side of the case, but woefully failed, neglected and refused, without notice to the court for continuance. Therefore counsel for defendant management cannot plead the principle of due process of law under any circumstances.

"3. That as to count five of defendant management's submission, counsel for plaintiff says that the ruling from the Ministry of Labor was served on defendant management and its counsel, therefore defendant management cannot negate that, in that he admitted in count four of defendant management's purported petition for judicial review that we found in the court's file a minute ago. In that, he said in count four that the ruling of the Ministry of Labor was served on him on July 19, 2006. Therefore, he had notice as counselor to know that when you receive a final ruling in a default judgment, you have ten days thereafter to file a petition for judicial review. Due to his failure and neglect, counsel for petitioner fled to this court and obtained a Clerk's Certificate on August 1, 2006 to the effect that over ten days elapsed from the time the Ministry of Labor served the final ruling on defendant management and its counsel, and that the defendant management and its counsel had not filed any petition for judicial review.

"4. That as to counts six and seven of defendant management's submission, counsel says that said counts are irrelevant and have no basis in law in that counsel for defendant if, and only if, he filed any petition for judicial review, that is completely out and should not be given any credence by this court. More besides, the defendant management and its counsel have not served the petitioner/plaintiff in this case any returns to the petition for enforcement of judgment filed by the complainant, meaning that counsel for the defendant management has not argued, refuted or denied all of what petitioner said in his petition for enforcement of judgment.

"Wherefore, in view of the facts and circumstances as well as the law controlling, counsel for petitioner requests this court to ignore, dismiss and set aside the unmeritorious motion or submission filed by the counsel for the defendant management.

"This court having listened to the contentions raised by respondent's counsels in his submission and the resistance thereto by petitioner/respondent, there is only one salient issue for determination of this case:

"Whether or not counsel for defendant [management] received a copy of the Hearing Officer's ruling, and if so, did he file a petition for judicial review within statutory time?

"We say no.

"In keeping with the records, petitioner alleged that the ruling was delivered to him on July 19, 2006. The Labor Law states:

"'Any party dissatisfied with the decision of the Hearing Officer may take an appeal to the National Labor Court by filing a petition for judicial review within ten (10) days after actual receipt of the Hearing Officer's decision. Copies of the petition shall be served promptly on the Hearing Officer who rendered the decision, and all parties on record. The decision of a Hearing Officer shall become final and conclusive upon the expiration of the ten (10) days after copies of his ruling have been received by the parties to a case.' See Labor Practices Law of Liberia, sec. 7, page 174.

"Since the petition for judicial review is to be filed within ten (10) days upon actual receipt of the Hearing Officer's decision, then this court sees no reason for the contention raised by counsel for the respondent who had failed to file a petition for judicial review within statutory time.

"We have also observed from the records that counsel for the respondent's so-called petition allegedly filed before this court during the hearing did not carry a filing date, but when the case was brought for ruling, it was observed that the filing date had been placed under the petition as being filed on August 4, 2006.

"To prove this, during argument, and based upon respondent's submission, both lawyers were invited to the bar, including the Clerk of Court, to show that the petition so filed by Counselor Molley N. Gray was never dated, so as not to have claimed the attention of the court. This notice was observed by the lawyers and the Clerk of Court which makes it difficult for the court, especially where petitioner/respondent had received a Clerk's Certificate on August 1, 2006.

Thereafter, on August 4, 2006, a petition for enforcement of judgment was filed by petitioner and a returns served.

"Wherefore, in view of the surrounding circumstances, respondent's returns filed August 8, 2006, and his alleged petition filed August 4, 2006 are hereby dismissed for late filing. Respondent's motion filed for the hearing of this petition is hereby denied. Petition's petition for enforcement of judgment of the Hearing Officer's ruling is hereby granted, and the ruling of the Hearing Officer of July 17, 2006 is hereby confirmed and affirmed. The respondent management is therefore liable to petitioner/respondent in the total sum of US$6,440.00 (six thousand four hundred forty United States dollars) for the unexpired contractual period.

"The clerk of this court is hereby ordered to prepare the necessary bill of costs against the respondent management and have same placed in the hands of the sheriff of this court for service on both lawyers [that the same may be taxed], and for subsequent approval by this court in satisfaction of this judgment. It is hereby so ordered."

We note at the outset that this case was most unprofessionally handled by counsels representing both parties, and ineptly presided over by the Judge of the National Labor Court. In short, it was a hearing run amok. The Judge seemed oblivious of the legal issues before her, and blamed Counselor Molley N. Gray, of counsel for the appellant, for misleading her, when she should have inspected the case file before signing a Judge's Orders. She blamed the Clerk of the National Labor Court, also, when she should have enquired of the Clerk of Court whether a petition for judicial review had been filed, and satisfied herself that a petition for judicial review had indeed been filed before signing a Judge's Order. What pitiful excuses!

In truth, it is the Judge of the National Labor Court who is to blame for the several blunders apparent in the handling of this case by that court.

If the National Labor Court's ruling dated 2 October 2006 was supposed to be the ruling on the petition for enforcement of judgment, and from the title of the Judge's ruling it was, why did the Judge decide to discuss and pass upon whether the Hearing Officer was justified in granting a default judgment? This was not an issue which had been raised in the petition for enforcement of judgment.

The ineptness of the Judge's handling of this case is apparent specifically when, at the call of the case on Monday, 21 August 2006, for hearing of the petition for

enforcement of judgment, the Judge allowed Counselor Molley N. Gray, of counsel for the appellant, to place a most unintelligible and unmeritorious submission on the records of the court, essentially that the default judgment of the Hearing Officer was not justified.

This Court, as early as 1878, recognized and laid the principle that "[e]very court is the guardian of its own records and master of its own practice." *Roberts v. Roberts,* 1 LLR 107, 109 (1978). The principle was affirmed in *Harmon v. Republic,* 4 LLR 195, 197 (1934).

The Judge, on the side of caution, should firstly have asked Counselor Gray to state, prior to submitting on the records of the court, what the nature of his submission was, and if it was improper or irregular, the Judge should have refused permission for him to place same on the records of the court.

We shall now pass upon the two issues which we have decided are determinative of this appeal.

(1) Whether the petition for enforcement of judgment was prematurely filed?

(2) Whether the appellant was justified in filing a petition for judicial review before the National Labor Court on 4 August 2006?

We hold that the petition for enforcement of judgment was prematurely filed.

Decree no. 21 of the Interim National Assembly (INA) titled Decree by the Interim National Assembly of the Republic of Liberia Amending the Executive Law to extend the Administrative Powers and Procedure of the Ministry of Labor, Amending the Labor Law to extend the Duties of the Labor Solicitor, and Amending the Judiciary Law to Establish National Labor Courts, art. II, § 7 (1985), on Time Limitation for taking an Appeal, provides:

"Any party dissatisfied with the decision of a Hearing Officer may take an appeal by filing a petition for judicial review with the [Labor Court] *within 30 days after receipt of the Hearing Officer's decision.* Copies of the petition shall be served promptly on the Hearing Officer who rendered the decision, and all parties on record. The decision of a Hearing Officer shall become final and conclusive upon the expiration of the thirty days after copies of his ruling have been received by the parties to a case" (emphasis supplied).

The default judgment of Hearing Officer Dickerson was rendered on 17 July 2006. A copy of the default judgment was served on counsel for the appellant on 19 July 2006. Under INA decree no. 21, the appellant being dissatisfied with the decision of Hearing Officer Dickerson, *within thirty days* after receipt of the default judgment, and not ten days, had the right to take an appeal and file a petition for judicial review with the National Labor Court. The ruling of the Judge of the National Labor Court granting the appellee's petition for enforcement of judgment was therefore erroneous, and it is hereby reversed.

Of course, we note from the petition for enforcement of judgment filed by the appellee, as well as from the ruling on the petition by Her Honor Judge Natt, that both had relied upon a statute which had been repealed, albeit by implication, by INA decree no 21.

Judges, if they are to be resourceful and effective, should keep abreast of changes in, and be *au courant* with the law.

We of our holding in *Kerdoe v. Bright Rubber Plantation/Farm,* a case decided yesterday, by recalling *LBDI v.* York, .35 LLR 155 (1988) and *Umehai v. The Management of Mezbau, Inc.,* 35 LLR 406 (1988).

We address next the issue whether the appellant was justified in filing a petition for judicial review before the National Labor Court on 4 August 2006?

We hold that the appellant was justified in filing its petition for judicial review on 4 August 2006, since it was *"within 30 days after receipt of the Hearing Officer's decision"* by counsel for the appellant.

Kerdoe v. Bright Rubber Plantation/Farm and this case, two labor cases, have grown out of default judgments rendered by Ministry of Labor Hearing Officers. Because of what this Court sees is a growing trend of non-professionalism in how some lawyers handle the legal interest of their clients, we shall, for the purpose of comparing the petition for judicial review in *Kerdoe v. Bright Rubber Plantation/Farm* and this case, quote the petition for judicial review in this case.

"1. That the ruling of the Hearing Officer of July 17 July 2006 is neither supported by the evidence adduced at the trial of this case nor the Hearing Officer's own finding of

the facts and hence the said ruling should be reversed. Your Honor is most respectfully requested to take judicial notice of these proceedings.

"2. That the Hearing Officer failed to give petitioner its day in court.. . The Hearing Officer did not exercise care in the hearing of this matter and as a result wrongly ruled against your humble petitioner because of his failure to give your petitioner the opportunity to properly defend himself for reason that sufficient notice was not provided to the petitioner to warrant a default judgment under the law.

"3. That the Hearing Officer failed and neglected to send a notice of assignment to the petitioner for the continuation of the case, but elected to satisfy the respondent, Amos V. Sandolo, against the interest of petitioner, forgetting to take due process of law procedures into consideration, and therefore the ruling of the Hearing Officer being not in the contemplation of the Labor Law should be reversed.

"4. That the ruling of the Hearing Officer, being oppressive and not in keeping with due process of the Labor Law, was purely designed to impose hardship on the petitioner for the Hearing Officer's future benefit from respondent Amos V. Sandolo should the said illegal ruling be sanctioned and for these ugly practices perpetrated to the detriment of petitioner, the default judgment of the Hearing Officer should be denied and the said case remanded for a new trial in order to provide petitioner its day in court.

"5. That the Hearing Officer is biased and the default ruling rendered on July 17, 2006, is to the detriment of your humble petitioner, for reason that the last notice of assignment issued by Hearing Officer Nathaniel S. Dickerson, dated June 2, 2006, was for continuation of the hearing on Wednesday, June 14 2006. The petitioner did [not receive] any more assignment from the Ministry of Labor until July 19, 2006, when the judgment was delivered to your humble petitioner, and therefore petitioner challenges the Hearing Officer to produce a copy of the notice of assignment dated June 15, 2006 for the benefit of this court. . . .

"6. That the Hearing Officer, contrary to decisional laws of this jurisdiction and the fact that the Ministry of Labor is an administrative forum which procedures are not governed by the technical rules of evidence, failed to exhaust the proper procedure by not sending our notices of assignment adequately to the petitioner for the continuation of the case and wrongly entered judgment by default. . . .

"7. That the entire ruling of the Hearing Officer is a travesty of justice and a legal blunder which, if allowed to stand, will make a mockery of the Labor Practices Law of Liberia and the Ministry of Labor which is charged with regulating the affairs between employer and employees in this jurisdiction.

"Wherefore, in view of the foregoing facts and circumstances, petitioner pray that Your Honor will reverse said ruling, and grant unto your petitioner any and all other relief as shall be just and proper."

The appellant did not file a resistance to the petition for judicial review, apparently relying on his petition for enforcement of judgment.

This is a labor matter which has been pending for more than a year. The Judge of the National Labor Court, in her ruling dated 2 October 2006, dismissed the petition for judicial review, notwithstanding the petition the Judge had assigned and which she entertained arguments on 21 August 2006, was the petition for enforcement of judgment. We have decided, therefore, not to remand this case for disposition of the petition for judicial review; rather, this Court, exercising its inherent power to render such judgment as the lower should have rendered, shall dispose of the petition for judicial review. *Townsend v. Cooper,* 11 LLR 52, 61-2 (1951); *Simpson v. Caranda,* 13 LLR 121, 124 (1957); *Williams v. Tubman,* 14 LLR 109, 114 (1960); *Wahab v. Helou Brothers,* 24 LLR 250, 259 (1975); *Reynolds International Export, Inc. v. The United Africa Company (Liberia), Ltd.,* 30 LLR 135, 143 (1982); *DENCO Shipping Lines v. The Casual Workers of DENCO,* 31 LLR 593, 596 (1983); *Liberia Electricity Corporation v. Mongrue,* 32 LLR 487, 496 (1984); *Sibley v. Bility,* 33 LLR 548, 555 (1985); *Rachid v. Dennis,* 34 LLR 272, 278 (1986); *Ezzedine v. Sambola,* 35 LLR 239, 246-7 (1988); *Bong Mining Company v. Bah,* 35 LLR 513, 522 (1988); *Johnson-Maxwell v. Mitchell,* 35 LLR 609, 613 (1988); *Konneh v. The Intestate Estate of the late J. W. Marshall,* 40 LLR 429, 439 (2001); *The Ministry of Foreign Affairs v. The Intestate Estate of the late Jarbo Sartee,* 41 LLR 285, 302-3 (2002); Civil Procedure Law, 1 L.C.L.Rev., tit. 1, § 51.17 (1973).

We have in the record certified to this Court a notice of assignment which was issued upon the directive of Hearing Officer Dickerson on 15 June 2006, assigning the hearing to resume on 27 June 2006 at 1:00 p.m. The notice of assignment was received and acknowledged by Martin Cephas of the Jones and Jones Law Firm, of counsel for the appellant. At the call of the hearing on 27 June 2006, neither the counsel for the appellant nor the appellant appeared. Counsel for the appellee thereupon made an application for a default judgment, which was granted.

A request for the qualification of witnesses was granted. Appellee Sandolo testified, and a second witness, Madam Vanpelt, also testified for the appellee. On the resting of evidence by counsel for the appellee, the hearing was postponed pending a ruling.

Labor Law, Liberian Codes Revised, tit. 18, appendix no. 3, art. II, § 8 (1977), on Default Judgment, provides:

"If a defendant in a labor case has failed to appear, plead or proceed to trial, or if the Hearing Officer orders a default for any other failure to proceed, the complainant may seek a default judgment against the defendant. On an application for a default judgment, the applicant shall file proof of service of the summons and complaint and give proof of the facts constituting the claim, and default judgment. The Ministry of Labor is hereby empowered to enforce such judgment by imprisonment until said default judgment is fully complied with."

We hold, in view of the record certified to this Court, that Hearing Officer Dickerson was justified in granting the appellee's application for a default judgment, and that the appellee satisfied the requirements of the law that he "give proof of the facts constituting the claim." *Monrovia Tobacco Corporation v. Flomo,* 36 LLR 523, 527-8 (1989); *Liberia Logging and Wood Processing Corporation v. Allison,* 40 LLR 199, 206 (2000); *Liberian Bank for Development and Investment v. Natt,* Opinion of the Supreme Court of Liberia, October Term, 2006; *Dagoseh v. The Management of the National Security and Welfare Corporation and Monrovia Breweries, Inc.,* Opinion of the Supreme Court of Liberia, March Term, 2007; *Kerdoe v. Bright Rubber Plantation/Farm,* Opinion of the Supreme Court of Liberia, March Term, 2007.

We hold, also, that under Labor Law, Liberian Codes Revised, tit. 18, appendix no. 3, art. II, § 8 (1977), it is not required that the Hearing Officer, after a party has been duly notified but has refused and/or neglected to attend upon a hearing, to postpone the hearing and order a second or third notice of assignment issued. The Hearing Officer, within his/her discretion, may grant an application for a default judgment on the very first default of the defendant, and proceed with the hearing. We hope Hearing Officers at the Ministry of Labor will take advantage of this holding, so that labor matters will be expeditiously handled and decided.

We address next, not an issue raised in the briefs, but what this Court sees is a growing trend of non-professionalism in how some lawyers handle the legal interest of their clients.

The petition for judicial review in *Kerdoe v. Bright Rubber Plantation/Farm* contained five counts. The petition in this case contained seven counts. Counts one, two, three, six and seven of the petition in this case, however, are worded identically as the five counts of the petition in *Kerdoe v. Bright Rubber Plantation/Farm.* Is counsel for the appellant implying that notwithstanding the Hearing Officer in *Kerdoe v. Bright Rubber Plantation/Farm* was Philip G. Williams, Director of Labor Standards and Labor Relations Officer, and the Hearing Officer in this case was Nathaniel S. Dickerson, Director, Workmen's Compensation, Labor Standards Division, that they both committed identical errors? The implication we draw from the petitions for judicial review in these two cases is that counsel for the appellants "lifted" the five counts from *Kerdoe v. Bright Rubber Plantation/Farm,* and "copied" them into this case.

This was neither adequate nor competent representation of either client's interest.

We note that in count four of the appellant's petition for judicial review before the National Labor Court, counsel for the appellant alleged that "the ruling of the Hearing Officer . . . was purely designed to impose hardship on the petitioner *for the Hearing Officer's future benefit from respondent Amos V. Sandolo* should the said illegal ruling be sanctioned. . . ." (emphasis supplied). A similar allegation was made in the submission made by counsel for appellant in *Kerdoe v. Bright Rubber Plantation/Farm,* a case decided yesterday.

In that submission, made on 16 February 2006, counsel for the appellant alleged:

"That as to count three of the said vague motion, *respondent respectfully requests this court to dismiss same for the said motion is in connivance with the Hearing Officer at the Ministry of Labor in order to extort financial benefit from the respondent for the consumption of both the Hearing Officer and the party litigant* which is contrary to law and therefore the said count should be denied and dismissed" (emphasis supplied).

During arguments before this Court, counsel for the appellant was questioned whether he had any evidence to substantiate the allegations against Hearing Officer Philip G. Williams, Hearing Officer in *Kerdoe v. Bright Rubber Plantation/Farm,* and against Hearing Officer Nathaniel S. Dickerson, Hearing Officer in this case. He answered he had none. This conduct of counsel for the appellants is not only unprofessional, but reprehensible. It violates rules 1 and 2 of the Code for the Moral and Ethical Conduct of Lawyers.

Rule 1 provides:

"It shall be unprofessional for any lawyer to advise, initiate or otherwise participate directly or indirectly *in any act that tends to undermine or impugn the authority, dignity, and integrity of the courts or judges thereby hindering the effective administration of justice*" (emphasis supplied).

Within the context of this rule, we hold that Hearing Officers of the Ministry of Labor are included.

Counsel for the appellant must have mislead, and advised, his clients that Hearing Officers Williams and Dickerson had granted default judgments because they were to gain some favor from John G. Kerdoe and Amos V. Sandolo, the appellees. This was not the truth. What counsel for the appellant should have told his client was that he had been derelict and negligent, and had handled his client's legal interest unprofessionally. That is what counsel for the appellant should have told his client.

We hold that the allegation by counsel for the appellants was designed, maliciously, to undermine the authority, dignity and integrity of the Ministry of Labor and Hearing Officers Williams and Dickerson. Counselor Molley N. Gray is fined five hundred United States dollars (US$500.00).

Rule 2 of the Code for the Moral and Ethical Conduct of Lawyers provides:

"It is the duty of every lawyer to maintain towards the courts a respectable attitude, not only towards the judge temporarily presiding, but for the purpose of maintaining supreme importance of his judicial office. *Whenever there is proper ground for complaint against a judicial officer, it is the right and duty of the lawyer to submit his grievance promptly and fairly. . . .*" (emphasis supplied).

Counsel for the appellant has not submitted any grievance against Hearing Officer Dickerson.

Counsel for appellants in both *Kerdoe v. Bright Rubber Plantation/Farm* and this case is in violation of Rule 21 of the Code, also. The Rule provides:

"It is the duty of the lawyer to be punctual in his attendance to court, and to be prompt and faithful in answering assignments received by him, notifying the time for hearing of his client's case. It is also his duty to the public and to his profession to avoid tardiness in the performance of his professional duty."

Counsel for the appellants was not punctual "in his attendance to court," otherwise two Hearing Officers, in two separate cases, would not have granted applications for default judgments.

In view of our holding that the allegation made by Counselor Molley N. Gray, counsel for the appellants, was designed, maliciously, to undermine the authority, dignity and integrity of the Ministry of Labor and Hearing Officers Philip G. Williams and Nathaniel S. Dickerson, he is fined five hundred United States dollars (US$500.00).

The final judgment of the National Labor Court is hereby reversed. The Clerk of this Court is ordered to send a mandate to the National Labor Court for Montserrado County to resume jurisdiction over this case and to give effect to this judgment. It is so ordered.

Judgment reversed.