V. H. TIMBER, represented by its President, VICTOR HANNING, Appellant, *v.* **NACA LOGGING COMPANY**, represented by its President, GABRIEL DOE, **CAVALLA TIMBER CORPORATION**, represented by its President, GABRIEL DOE, and GABRIEL DOE, Appellees.

APPEAL FROM THE DEBT COURT FOR MONTSERRADO COUNTY

Heard: December l5, 2004. Decided: March l, 2005.

1. The returns of ministerial officers of the courts are presumed to be correct; that the returns to a precept is evidence of the service of the precept; and service is presumed correct if it is so stated in the precept.
2. The recital of due service of the ministerial officer of a court is presumed correct.
3. A sheriff's affidavit submitted in lieu of a sheriff's returns is good and must stand, where the affected party presents no rebuttal evidence to defect the averment of said affidavit.
4. The failure by a former sheriff to state in an affidavit issued by him in lieu of returns, done at the instance of a plaintiff-party, the time and manner of service of summons is not a valid reason to render the affidavit null and void.
5. In the absence of controverting or rebuttable evidence, a trial judge is under an obligation to take the statement contained in the ruling of his predecessor judge to the effect that precepts were served as true and correct; and his failure to do so is a reversible error.
6. Under Liberian law, he who alleges a fact has the burden to prove his allegation.
7. The burden is on the appellees who denies service of precepts on him to prove that the sheriff did not serve the precepts on him to bring them under the jurisdiction of the court; and the mere assertion that no such percepts were served is not sufficient to meet the standard of proof.
8. As a general proposition, one who brings an action on a judgment has the burden of proving that cause of action and the material allegations on which the action is based.
9. The burden is generally on one alleging a want of jurisdiction of a court to render a judgment to prove the allegation and to show that the judgment is invalid because the court did not bring him under its jurisdiction by service of process.
10. In the absence of contrary evidence, the mere allegation that defendant-parties were not served precepts to bring them under the jurisdiction of court, in the face of the ministerial officer's affidavit indicating that service was indeed made on them, plus the trial court's statement contained in the ruling that the appellees

were served, the Supreme Court is under an obligation to accept the version of the matter presented by the ministerial officer and the trial court which is based on certified records presented to the Court.

11. The rule is that the record of a judgment is presumed to speak the truth; express recitals therein import verity. If the record states what was done, it may not be presumed that something different was done.
12. If the plaintiff's claim in an action in which the defendant has defaulted is for a sum certain or for a sum which by computation can be made certain, the court, upon submission of the proof required by section 42.6 of the Civil Procedure Law, shall direct entry for the amount demanded in the complaint plus costs and interest.
13. A trial judge who entered judgment for a sum certain did not err by making ruling for the amount demanded.
14. A judgment in a plaintiff's favor must be based on the theory or ground of liability on which his pleadings have placed his right of recovery.
15. A judge has no power or authority to review, set aside, modify, or reverse the ruling of a judge of concurrent jurisdiction. Accordingly, a judge who succeeds another judge in a court has no power or authority to tamper with any judgment or ruling of his predecessor, except to enforce and complete unfinished business related to that judgment
16. As a matter of law, a trial judge is under obligation to enforce the ruling of his own court even though said ruling was not made by him.
17. In the absence of any showing to the contrary, the judgment of a court of competent jurisdiction is presumed to be valid and correct, and that the court acted impartially, honestly, and justly after due consideration in conformity with the law and in accordance with its duty.
16. The Supreme Court is under obligation, as a matter of law, to uphold the decision of a court of competent jurisdiction and take said ruling to be true and correct, absence any showing to the contrary.

The appellant instituted an action of debt in the Debt Court for Montserrado County against the appellees. The records stated that the writ of summons and complaint were served on the appellees but that they had failed to appear or file an answer to the complaint. However, there were no records of the summons itself or of the returns of the sheriff. At the call of the case for hearing, the appellant prayed the court to enter a judgment by default and to allow it to produce evidence to make the judgment perfect. The request was granted, judgment by default was entered, and the appellant was allowed to produce evidence to substantiate the allegations in the complaint. Thereafter, final judgment of was entered by the court adjudging the

appellees liable in the amount sued for by the appellant and ordering that they make payment to the appellant with costs.

Nine years later, the appellant filed before the court, presided over by another judge, a petition for the enforcement of money judgment. Because the summons and returns of the sheriff in the original debt suit could not be found, the former sheriff who had made service of the summons executed an affidavit to the effect that he had in fact made service of the summons and the complaint on the appellees. The ruling of the trial judge who had presided over the main debt case also stated that service was made on the appellees but that they had failed to appear or file and answer.

The judge before whom the petition for enforcement of money judgment was filed denied the petition, noting that there was no evidence in the records that service of summons and the complaint was made on the appellees and that his predecessor ruling lack specificity as to the date the alleged service was made. He stated that he could not therefore grant the petition.

On appeal to the Supreme Court, the Court reversed the ruling of the trial judge, holding that although the writs of summons could not be located to show that service of summons and the complaint was made on the appellees, the affidavit executed by the former sheriff was sufficient evidence that service was in fact made, unless rebutted by the appellees by the production of evidence. This it said the appellees had failed to do. The mere denial of service of summons, and therefore a lack of jurisdiction of the court, the Supreme Court held, was insufficient; the appellees were required by law to substantiate the allegation of non-service or the attack made on the jurisdiction of the court that had rendered the judgment. One who alleges a fact, the Court opined, had the burden of proving the allegation by substantive evidence.

Moreover, the Court observed, the judge who presided over the main suit had indicated in her ruling that service of summons was made on the appellees. The statement of the judge and the affidavit of the former sheriff, the Court said, are to be deemed correct and accurate, as opposed to the denial of the appellees who had neither presented evidence in rebuttal nor facts to substantiate their allegations. The Supreme Court, it said, was under an obligation to accept the version of the judicial officials.

In addition, the Court held that the judge was in error in refusing to order the enforcement of his predecessor's ruling. The Court noted that a judge of concurrent jurisdiction could not review or reverse the ruling of his predecessor; rather, that he is under an obligation to accept such ruling, and that it is only the Supreme Court that has the authority in such circumstance to review the ruling of the trial court. It therefore ordered the lower court to enforce the judgment handed down in the main debt action.

On the issue of the lack of any specification of the date of the service of summons by the judge that presided over the man debt suit and the former sheriff in his affidavit, the Court held that these were insufficient to render the affidavit of the ruling of the judge invalid.

J. Johnny Momoh of Sherman & Sherman Inc. appeared for the appellant. *J. Jerome Verdier* of Stubblefield and Associates appeared for the appellees.

MR. JUSTICE KORKPOR delivered the opinion of the Court.

The facts in this case show that the appellant, V. H. Timber, a corporation organized and doing business in the Republic of Liberia, filed an action of debt against NACA Logging Company and Cavalla Timber Corporation, appellees, both of whom were represented by Mr. Gabriel Doe as their president. Mr. Gabriel Doe was also sued in the same action in his personal capacity

A default judgment was entered against the appellees because they failed to file an answer or to appear at the debt court for trial. At the time, the debt court was presided over by Her Honour Frances Johnson-Morris. Counsels for the appellant requested and were allowed to perfect the imperfect judgment of default by presenting evidence. At the close of the evidence, they waived argument and prayed the debt court for judgment against the appellees in the amount of US$519,454.54 (Five Hundred and Nineteen Thousand, Four Hundred and Fifty-Four United States Dollars and Fifty-Four Cents), plus six percent (6%) interest per annum and the costs of court. The court entered its final judgment on September 6, 1989, in favor of the appellant. We shall quote the full text of the trial court's judgment later in this opinion.

A writ of execution was issued by the debt court on September 6, 1989 and delivered to the Sheriff for service. Since the appellees were conducting their businesses in Grand Gedeh County, the writ of execution had to be served in Grand Gedeh County. Consequently, ministerial officers of the Debt Court for Montserrado County went to Grand Gedeh County on September 25, 1989 and delivered the writ of execution to the sheriff in that county, who received and endorsed same for service. The writ of execution and the judgment were not served and executed because Mr. Gabriel Doe was not found within Grand Gedeh County and no assets of the appellees were found to be attached

In 1998, the appellant retained the services of Sherman & Sherman Law Firm who made all efforts to locate the court's file on the case containing the complaint, writs of summons and other documents but to no avail. However, they were able to locate the court's file with the minutes. In that file they found the writ of execution, trial

records in the default judgment proceedings with testimonies of the appellant's witnesses, and the judgment handed down by Her Honor Frances Johnson-Morris, who presided over the debt court at the time.

On the 23rd day of September, 1998, the appellant, through its counsels, filed a petition for enforcement of money judgment against the defendants in the Debt Court for Montserrado County to enforce its own judgment of September 6, 1989, by collecting from the appellees the amount of US$965,652.09 (Nine Hundred and Sixty Five Thousand, Six Hundred and Fitly-Two United States Dollars) which, according to appellant, was the face value of the writ of execution, plus six percent (6%) interest per annum as of September 6, 1989. The petition for enforcement of judgment was filed before His Honour John H. Mathies who had taken over the debt court.

The appellees, then respondents in the debt court, filed their resistance to the petition on the 18th day of December, 1989, contending essentially that they were never served with any writ of summons in the case. They also alleged that co-appellee Gabriel Doe fled the Republic of Liberia because he was sought by the Samuel K. Doe regime for his alleged complicity in a fracas involving Ellen Johnson-Sirleaf and the Republic of Liberia, and was therefore not in Liberia during the time the complaint in the action of debt was filed.

In its reply, the appellant presented an affidavit issued by S. Musa Johnson, sheriff of the Debt Court for Montserrado County, at the time of the issuance of the writ of summons, confirming that he actually served the writs of summons on Mr. Gabriel Doe for himself and the other appellees. Additionally, the appellant maintained that Mr. Gabriel Doe was in the country in 1989, and that it was public knowledge that the Samuel K. Doe regime was not looking for Mr. Gabriel Doe in 1989 for any alleged complicity in any matter concerning Ellen Johnson-Sirleaf.

The petition for the enforcement of money judgment was called for hearing on March 3, 1999. After argument *pro et con* by lawyers representing the two parties, the petition for enforcement of money judgment was denied by Judge John H. Mathies, then presiding. Judge Mathies ruled that petitioner did not satisfy the court that the writ of summons was served on co-appellee Gabriel Doe for himself and the other appellees in order to bring them under the jurisdiction of the Debt Court for Montserrado County. On this ground, he dismissed the petition for enforcement of money judgment. We quote the relevant portions of Judge Mathies' ruling as follows:

> "This court further observed from said records attached to the petition that when the case was called for *ex parte* trial, there was no indication by counsel for plaintiff/ petitioner at the time that respondents were served with a notice of assignment for the hearing on Sept. 6, 1989; and that defendants having failed to honour such notice of assignment, they had indeed abandoned whatever defense they might had had to oppose said action of debt..."

The judge further stated in his ruling that:

> "We like to go on record as saying that we have no doubt as to the integrity of the former Debt Court Judge for Montserrado County, Her Honour Frances Johnson- Morris, we also make it emphatically (sic) clear that the judgment she entered in favour of plaintiff/petitioner herein on Sept. 6, l989 is also silent as to the date of service of the writ of summons and only mentioned in passing the clerk's certificate dated Aug. 9, 1989, which was issued to plaintiff/petitioner.

To this ruling, the appellant excepted and announced an appeal to this Honourable Court for review.

For the determination of this case, four issues are presented, and they are:

1. Whether or not a sheriff's averment in an affidavit that seeks to establish that writs of summons were issued and served by him on party litigants is defective when it does not state the specific date, time and manner of service?
2. Whether or not the assertion made in the trial judge's ruling that the writ of summons was served and returned served is considered true, valid and sufficient when the sheriff's returns cannot be found?
3. Whether or not the appellant established proof of his cause of action to warrant money judgment in his favor after the default judgment was entered against the appellees?
4. Whether or not a succeeding judge of concurrent jurisdiction in the same court can set aside the judgment of his predecessor?

Concerning the first issue — whether or not a sheriff's affidavit confirming that precepts were served is defective because it does not state the time and manner of service, we note that despite diligent search, the parties did not find the case file with the complaint, writs of summons and other documents. However, they were able to secure the court's file containing the ruling of the trial judge, minutes of court proceedings in which testimonies of witnesses were recorded, and the writ of execution. Since they were not also able to locate the sheriff's returns, an affidavit was issued by the same sheriff who was assigned at the debt court at the time of the trial, S. Musa Johnson, who confirmed that indeed he served the writ(s) of summons on Mr. Gabriel Doe for himself and the other appellees.

The appellees contended that the affidavit issued by the sheriff was defective because it did not specify the date, time, and manner of service. On the other hand, the appellant argued that appellees' failure to have called the sheriff on the stand in order to test the sheriff's credibility operates in favor of appellant and against appellees.

On this issue, we note that the Supreme Court has consistently held that the returns of ministerial officers of the courts are presumed to be correct; that the returns to a precept is evidence of the service of the precept; and service is presumed

correct if it is so stated in the precept. *Sheriff v. Pearson et al.*, 35 LLR 693 (1988); *Citibank N.A. v. Jos Hansen and Soehne (Liberia) Ltd.,* 36 LLR 198 (1989). Also the rule has been laid down by this Court that the recital of due service of the ministerial officer of a court is presumed correct. *Eitner v. Sawyer*, 26 LLR 247 (1977). In the case before us, the sheriff's returns were presumed lost and so S. Musa Johnson, the sheriff of the debt court at the time, who is said to have served the precept in question on Mr. Gabriel Doe, issued an affidavit confirming that he actually served the writ of summons on Mr. Doe. We are mindful that the cases cited above deal with returns while the matter before us involves an affidavit confirming service of summons. We, however, hold that the affidavit is good and must stand given the fact that the appellees presented no rebuttable evidence to defect the averment of said affidavit.

It must be noted that the purported service of precept under review took place in 1989, while the affidavit was issued in 1998, about nine (9) years apart. In such a case, it is highly unlikely that the ministerial officer will remember the specific date, time and manner of service due to lapse of time. What a reasonable mind could most likely remember under the circumstance is the event, that is to say that service was actually made on the person and not particular details of service. Under the circumstance, the failure to have stated the time and manner of service in the affidavit issued by the then sheriff, S. Musa Johnson, is therefore no valid reason to render the said affidavit null and void.

In cases where allegations are made that precepts are not served on parties, such allegations are in the nature of a complaint; the ministerial officers are made parties to the complaints; and investigations are conducted by the court. But in the case before us, not only was there no complaint filed to which the ministerial officer was made a party, but there was no practical necessity of any investigation to establish whether or not precepts were served on the appellees in 1989. This is because the debt court presided over by Her Honour Frances Johnson-Morris ruled and expressly stated in her ruling, as seen herein below, that "the writs of summons along with the complaint were served on the defendants...." In the face of such statement in the ruling and there being no controverting or rebuttable evidence produced by the appellees, Judge Mathies was under an obligation to take the statement contained in the ruling to the effect that precepts were served as true and correct. And we hold that it was a reversible error that he did not do so.

The appellees only denied that they were ever served with precepts and further indicated that Mr. Gabriel Doe was not in the country at the time the complaint in the debt action was filed. No clear *alibi* was made as to the specific whereabouts of Mr. Doe at the time. To the mind of this Court, the burden was on the appellees to prove that the sheriff did not serve precepts on them to bring them under the

jurisdiction of the court. Mere assertion that no such percepts were served is not sufficient to meet the standard of proof. Additionally, the appellees alleged that Mr. Gabriel Doe was out of the country, but this allegation was never established by proof. The appellees were under obligation to have shown through, i.e., a cull from Mr. Doe's passport that he left the country on or about the date in question, or produced some communication or documentation of transaction(s) that Mr. Doe was outside the bailiwick of this Republic during the time of the service of the summonses in question. Under our law, he who alleges has the burden to prove his allegation.

Furthermore, the law is that "as a general proposition, and as in other actions, one who brings an action on a judgment has the burden of proving that cause of action and the material allegations on which the action is based, in which respect he is usually aided by certain presumptions and ordinarily makes out his case by the production of the judgment. On the other hand, the burden is generally on one alleging a want of jurisdiction of a court to render a judgment to prove the allegation." 47 AM JUR 2d. §970. In our opinion, by producing the judgment rendered in its favor, the appellant complied with the foregoing law. Since it is the appellees who are contesting the debt court's jurisdiction, the burden is on the said appellees to show that the judgment was invalid because the debt court did not bring them under its jurisdiction by service of process. But the appellees have not shown by any proof that they were not brought under the jurisdiction of the debt court.

Moreover, it has been held that the presumptions in favor of the regularity and validity of a judgment become stronger with the lapse of years. In such case, it has been declared that almost any reasonable presumption of fact will be conclusively indulged in order to sustain rights asserted under the judgment. 46 AM. JUR 2d., §32. Hence, as between the appellees' mere allegation that they were not served precepts to bring them under the jurisdiction of court on the one hand, the ministerial officer's affidavit indicating that service was indeed made on them, plus the trial court's statement contained in the ruling that the appellees were served, on the other hand, we are under obligation to accept the version of the matter presented by the ministerial officer and the trial court which is based on the certified records presented to us.

Let us now consider the trial court's final judgment in this case in the light of the assertion made in said judgment that precepts were served on the appellees. We quote verbatim the said final judgment made by Her Honour Frances Johnson-Morris, as follows:

> "COURT'S FINAL JUDGMENT:
>
> V. H. Timber Company, plaintiff, filed a complaint against NACA, a logging company, Cavalla Timber Corporation, represented by their president, Gabriel

Doe, and Gabriel Doe, defendants on July 24, 1989. The writ of summons, along with the complaint, was served on the defendants as indicated by the sheriff's return to the writ of summons but the defendants filed no answer as per clerk's certificate dated August 9, 1989, which was issued to plaintiff. When this case was called for trial on today, Counsellor Toye C. Bernard, one of counsel for plaintiff requested the court to have the sheriff call the defendants three times at the door of the courtroom and if they fail to answer, that the court enter a plea of not liable in their favor and an imperfect judgment be entered in plaintiff's favor, and plaintiff be permitted to prove its case. The sheriff was then ordered to call the defendants three times at the door of the courtroom and upon the sheriff's report that the defendants had been called three times at the door of the courtroom but failed to answer, a plea of not liable was entered in their behalf and an imperfect judgment was entered in plaintiff's behalf.

In perfecting the imperfect judgment entered in plaintiff's favor, plaintiff produced two witnesses, namely, Mr. Viktor Hanning, president of the plaintiff company, and Mr. Eddie Jones, plaintiff's shipping coordinator, who, after being duly qualified, testified to and identified documents, including a loan agreement, a promissory note, a chattel mortgage and several invoices, which instruments were then marked by the court "P/1" thru "P/6", and subsequently admitted into evidence to form a part of plaintiff's evidence.

Having listened to the oral testimonies of the witnesses, and having carefully reviewed the written species of evidence presented by plaintiff, the court is convinced that plaintiff has submitted the proof required by Section 42.6 of I LCL Revised to warrant the entry of a default judgment in favor of plaintiff and against the defendants, as prayed for by plaintiff. For reliance, 1LCL Revised, Section 42.1, page 214.

WHEREFORE, and in view of the foregoing, defend-ants are hereby adjudged liable jointly and severally to pay to plaintiff the sum of $519,454.54 plus 6% interest. Defendants are also ruled to costs of these proceedings and the clerk of this court is ordered to prepare the necessary bill of cost and place same in the hands of the sheriff for service and satisfaction of this judgment. AND IT IS HEREBY SO ORDERED.

GIVEN UNDER MY HANDS AND SEAL OF THIS HONOURABLE COURT THIS 6TH DAY OF SEPTEMBER, A. D. 1989.

FRANCES JOHNSON-MORRIS

FRANCES JOHNSON-MORRIS

JUDGE, DEBT COURT, MONT. COUNTY, R.L.

MATTERS SUSPENDED."

As seen from the quoted final judgment of the debt court, the court stated that the writs of summons, along with the complaint were served on the appellees, as indicated by the sheriff's returns to the writs of summons, but they failed to file their answer(s). The court further stated that a clerk's certificate was obtained to the effect that the appellees, though served with precepts, failed to file responsive pleadings.

What the quoted final judgment does is it reinforces the affidavit issued by S. Musa Johnson that indeed the appellees received summonses to appear in court but that they neglected or refused to appear or to file their responsive pleadings or to proceed to trial.

The judgment was entered about sixteen (16) years ago, when the matter was within the clear province of the judge and the issues involved very fresh on her mind. The judge ruled at that time on the contentious issue of service of precept, which had then just occurred. In such case the rule is that "the record of a judgment is presumed to speak the truth; express recitals therein import verity. If the record states what was done, it may not be presumed that something different was done...." 47 AM. JUR 2d. §40. Hence, absent any clear evidence to controvert the statement that service was made on the appellees, we find no reason to set aside the ruling of the trial court which confirmed and laid to rest the issue of whether precepts were served on the appellees. We conclude therefore, that precepts were served on the appellees. We must note here that even though in Judge Mathies' ruling he expressed unreserved confidence in the integrity of Judge Frances Johnson-Morris who decided the case, he nevertheless overruled her on the issue of service of process. We find his action not only without legal basis, but quite contradictory.

The next issue is whether or not the appellant established its cause of action against the appellees after default was entered against said appellees. On this point, it is important that we present what transpired in the debt court after the granting of the imperfect judgment of default against the appellees. As stated earlier, and in keeping with procedure, the debt court permitted the appellant to take the witness stand and establish its cause of action. In this regard, the appellant produced two witnesses, namely, Mr. Viktor Hanning and Mr. Eddie Jones.

Mr. Viktor Hanning first took the witness stand and upon direct examination by his counsels, the Toye C. Bernard Law Offices, represented by Counsellors Toye C Bernard and E. Winfred Smallwood, and Attorney Johnny Bernard, testified in part as follows:

> "I started work with Gabriel Doe with his two companies in 1983. We have pre-financed his two logging corporations regularly up to 1987 at which time, we have an outstanding of over $200,000.00 resulting out of pre-financing Cavalla

Timber and Naca Logging. At this time, we prepared a promissory note, a loan agreement and a chattel mortgage, and the materials of these two companies and Gabriel Doe. After this agreement had been signed, we have continued to pre-finance his two corporations and Gabriel Doe up to the 20th July, 1989, at which time the total amount owed to V H. Timber Corporation is US$519,454.54. All our efforts to obtain this outstanding amount in total or partially has failed."

Documents mentioned by Mr. Hanning in his testimony were marked, confirmed and introduced into evidence. Upon resting direct examination, the court waived questions and ordered the sheriff to discharge the witness with thanks of the court. Thereafter, the second witness for the appellant, in person of Eddie Jones, took the witness stand and gave testimony. The gist of that testimony is as follows:

"V. H. Timber Corporation has been pre-financing Cavalla Timber Corporation and Naca Logging Company, represented by its president, Mr. Gabriel Doe in terms of spare parts, fuel and cash. Naca and Cavalla, represented by Mr. Gabriel Do, have been supplying round logs and timbers against this pre-financing. Against this pre-financing, V H. Timber Corporation and Cavalla and Naca, represented by its president, Mr. Gabriel Doe entered into a loan agreement and a chattel mortgage against the pre-financing of their logging corporations. V. H. Timber, also on a monthly basis, is due a statement of account showing the present balances due V H. Timber Corporation by the above named companies; that is, signed by both Mr. Viktor Hanning, president of V. H. Timber, and Mr. Gabriel Doe of Cavalla and Naca Logging Corporation. To date, the statement of account has a balance of US$519,454.54 in favor of V. H. Timber Corporation."

All documents referred to in the testimony of Mr. Eddie Jones were also marked, confirmed, and introduced into evidence and he was duly discharged by the court. Thereafter, the appellant rested with the production of evidence and all written documents relied on were admitted into evidence. The appellant then rested in *toto,* waived argument and requested the court to render judgment in its favor by awarding the full amount of US$519,454.54 (Five Hundred and Nineteen Thousand, Four Hundred Fifty-Four United States Dollars and Fifty Four Cents) plus interest of six percent (6%) per annum, with costs against the appellees. It was after the production of witnesses backed by documentary evidence, that the trial judge entered the court's final judgment against the appellees and in favor of appellant. We have earlier quoted the full text of the trial judge's ruling in this opinion.

A perusal of the statements by the appellant's witnesses shows that the appellant and the appellees entered into agreements under which it was mutually accepted that the appellant would pre-finance the appellees logging businesses by providing them

with cash as the need arose, and spare parts as well as fuel. In consideration, the appellees agreed to supply round logs and timbers to the appellant. The testimonies of the witnesses further show that a statement of account prepared by the appellant indicated a balance of US$519,454.54 (Five Hundred and Nineteen Thousand, Four Hundred Fifty-Four United States Dollars and Fifty-Four Cents) in favor of the appellant and that despite repeated demands, the appellees failed to settle the outstanding balance.

Our statute on default judgments provides under section 42.2 that:

> "If the plaintiff's claim in an action in which the defendant has defaulted is for a sum certain or for a sum which by computation can be made certain, the court, upon submission of the proof required by section 42.6, shall direct entry for the amount demanded in the complaint plus costs and interest."

It is clear that the amount claimed by the appellant is a sum certain, representing unpaid balances in the amount of US$519,454.54. Thus, the trial judge did not err in making a ruling for the amount demanded. Moreover, although the matter before us involves a default judgment, the appellant was nonetheless required to prove its case. This is consistent with this Court's ruling that "judgment in plaintiff's favor must be based on the theory or ground of liability on which his pleadings have placed his right of recovery." *Blamo v. Zulu et al.,* 30 LLR 586 (1983). From the testimonies of the witnesses, as seen in the case before us, and there being no counter position from the appellees because they failed to file responsive pleading(s), we agree with Judge Frances Johnson-Morris in ruling in favor of the appellant. That is to say, that we are satisfied that the judgment entered in favor of the appellant is based on the theory of appellant's case.

Concerning the fourth and last issue as to whether or not a succeeding judge of concurrent jurisdiction in the same court can review and set aside the judgment of his predecessor, the Supreme Court has held that: "A judge has no power or authority to review, set aside, modify, or reverse the ruling of a judge of concurrent jurisdiction. Accordingly, a judge who succeeds another judge in a court has no power or authority to tamper with any judgment or ruling of his predecessor, except to enforce and complete unfinished business related to that judgment". *In Re: Testate Estate of Fineboy, Larzalee*, 28 LLR 99 (1979). In the case before us, not only did Judge Mathies and Judge Johnson-Morris have concurrent jurisdiction, but also the two judges presided over the same court, the debt court, one before the other. Thus, rather then acting otherwise, we hold that as a matter of law, Judge John Mathies was under obligation to enforce the ruling of his own court even though said ruling was not made by him.

The general rule adopted in our jurisdiction, which rule is also applicable in other jurisdictions, is that "… in the absence of any showing to the contrary, the judgment

of a court of competent jurisdiction is presumed to be valid and correct, and that the court acted impartially, honestly, and justly after due consideration in conformity to law and in accordance with its duty." *Ibid.*, page 107. Judge Mathies was under obligation to uphold this rule of law. And since we are also under an obligation, as a matter of law, to uphold the decision of a court of competent jurisdiction and to take said ruling to be true and correct, absence any showing to the contrary, we take the ruling of Her Honour Frances Johnson-Morris to be true, valid and correct, and find that she acted impartially, honestly, and justly, after carefully considering the facts and laws governing the case.

Wherefore and in view of the foregoing, the ruling of His Honour John H. Mathies denying the petition for enforcement is hereby reversed. The Clerk of this Court is hereby ordered to send a mandate to the debt court to enforce the final judgment of Her Honour Frances Johnson-Morris, made and entered on September 6, 1989, subject of this review. Costs are assessed against the appellees. And it is hereby so ordered.

Ruling reversed.