IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA, SITTING IN ITS MARCH TERM, A.D. 2016.

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR.....CHIEF JUSTICE
BEFORE HIS HONOR: KABINEH M. JA'NEH .....ASSOCIATE JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: PHILIP A.Z. BANKS, III.....ASSOCIATE JUSTICE
BEFORE HER HONOR: SIE-A-NYENE G. YUOH.....ASSOCIATE JUSTICE

Firestone Liberia Inc., by and through its General Manager, Comptroller and all those acting and operating under the scope of their authority of, Harbel, Margibi County, Liberia
.....APPELLANT

VERSUS

Mano River Agricultural Rehabilitation & Development Corporation (MARDCO), by and through Mr. Edgar S. Sydney, its President/CEO, its shareholder/incorporator, of the city of Monrovia, Liberia
.....APPELLEE

APPEAL

GROWING OUT OF THE CASE:

Mano River Agricultural Rehabilitation & Development Corporation (MARDCO), by and through Mr. Edgar S. Sydney, its President/CEO, its shareholder/incorporator, of the city of Monrovia, Liberia
.....PLAINTIFF

VERSUS

Firestone Liberia Inc., by and through its General Manager, Comptroller and all those acting and operating under the scope of their authority of, Harbel, Margibi County, Liberia
.....DEFENDANT

ACTION OF DAMAGESFOR BREACH OF CONTRACT

HEARD: April 14, 2015 DECIDED: June 17, 2016

MADAM JUSTICE YUOH DELIVERED THE OPINION OF THE COURT

The genesis of these proceedings is traced to two undated memoranda of understanding entered into between the appellant, Firestone Liberia Inc., and the appellee, Mano River Agricultural Rehabilitation and Development Corporation (MARDCO), which provided that the appellee, would supply rubber to the appellant, at a price to be determined by the appellant. Said price determination by the appellant was based on the appellant's prevailing gate price when the rubber was weighed. The two memoranda of understanding were basically analogous in

content and contractual obligation except that one alluded to farm # 1345 and the other to farm # 1966. A perusal of the record established that the memorandum of understanding as regards farm # 1345, which clearly named and designated the appellee as the supplier, is not in dispute. However, the memorandum relating to farm # 1966 designating both the appellee and Mr. Edmondo Trombetta (the appellee's comptroller and shareholder) as the supplier of the rubber is the crux of the dispute between the parties. We quote verbatim the entire memorandum of understanding for farm #1966 which reads thus:

"FIRESTONE PLANTATION COMPANY
RUBBER PURCHASE DEPARTMENT

MEMORANDUM OF UNDERSTANDING
FOR FARM #1966

Whereas FPCo wishes to purchase unprocessed (coagulum or cuplump) from MARDCO Ltd./Edmondo Trombetta (Sierra Leone) and whereas the supplier has unprocessed rubber to sell to FPCo. It is hereby agreed and understood that:

1. *The supplier will arrange for rubber of acceptable quality free from contaminants to be delivered to FPCo.*

2. *MARDCO Ltd./Edmondo Trombetta will arrange to transport the rubber to FPCo and sell at prevailing buying price determined by FPCo.*

3. *All rubber delivered by MARDCO Ltd./Edmondo Trombetta to Firestone shall be paid on actual DRC based on FPCo prevailing gate price.*

4. *Any rubber of unacceptable quality will be rejected.*

5. *Farm supplies may be drawn from the farm store on cash limit basis and the cost deducted against the delivery.*

6. *An incentive of 30.00USD per ton will be paid over the gate price on every delivery.*

7. *The incentive scheme may be changed or modified at any time at the sole discretion of FPCo management.*

8. *The supplier shall also be responsible to pay all charges and levies imposed by the Sierra Leone Government, for and in respect of the consignment of rubber brought to Liberia*

This memorandum of understanding may be terminated by FPCo without giving any valid reason

Witness	*The Supplier (EdmondoTrombetta)*
	For: Firestone Plantation Company
Witness	*Manager, Rubber Purchase*

The records reveal that by letter dated April 6, 2007 addressed to the appellant's purchasing manager, instructed the appellant to henceforth issued all checks directly in the name of MARDCO instead of Mr. Edmondo Trombetta, whom the appellee accused of alleged financial impropriety. The letter of April 6, 2007 on this point reads thus:

> *"Mr. K. Moorthi Muthusamy*
> *Manager*
> *Rubber Purchasing, Harbel*
> *Firestone, Liberia*
>
> *Dear Mr. Muthusamy:*
>
> *Having entered into partnership agreement of memorandum of understanding for farm #1966 to supply us material and we in turn [have sold] products to you as per our request in the letter dated November 27, 2006, [which] was based on good faith on the overall business interest of MARDCO.*
>
> *However, why this memorandum is still in active force, we write to advise you to immediately issue the check of this present sale (March production) and all checks be issued directly in the name of the company (MARDCO) and not in the name of Edmondo Trombetta. You will be duly informed and given the named personnel responsible to sign for all checks on behalf of MARDCO as of the date of this letter.*
>
> *You are therefore advice to act accordingly. Any attempt to issue check(s) to Trombetta and permit him sign for same will be done so at your own risk.*
>
> *Thanks for your usual understanding.*
>
> *Best regards*
>
> *Very truly yours*
>
> *Edgar S. Sydney*
> *Shareholder/Incorporator/Liberia Ltd/President"*

There is no showing in the records that the appellant responded to the appellee's letter quoted *supra*, or acted thereon. However, the records do show that on August 29, 2007, the appellee addressed a second letter to the appellant, specifically the appellant's comptroller, alleging financial malpractices and that legal proceedings were being filed against Mr. Edmondo Trombetta. The letter of August 29, 2007, is also quoted herein below to wit:

> *"The Comptroller*
> *Firestone Rubber Plantation Company*
> *Harbel, Margibi County*
>
> *Dear Comptroller:*

The above management entered into an agreement with your entity through the purchase Department upon my request as President/CEO of MARDCO and a memorandum of understanding (MOU) was subsequently signed by and between the two entities, content of which is self-explanatory.

While this (MOU) is still in full force, we observed financial malpractices on the part of our comptroller, Dr. Edmondo Trombetta of MARDCO in whose name all cheques from rubber sales have been issued by your entity.

In order to curtail this as part of our internal control mechanism, we wrote under my signature informing the purchase Manager, Mr. K. Moorthi Muthusamy and advising him not to issue any checks for MARDCO in the name of Trombetta but rather he would be officially informed as to the MARDCO personnel responsible to sign for same.

We cautioned him to act accordingly to avoid maximum risk and strain in our relations. To our dismay, he refused to adhere to our candid advice and issued March sales checks up to date to Dr. Trombetta.

Mr. K. Moorthi Muthusamy refusal has caused more friction in our entity and has endangered the investment in Sierra Leone. As a privileged information, Dr. Trombetta has single handily hijacked and conducted the financial transaction of the entity without any information or accountability since January 2007. As a result of this, legal action is being filed against him for theft of property.

Mr. Comptroller, in order to maintain the good relations between the two entities, we hereby reiterate that henceforth as of the date of this letter, you are advise not to issue any checks in the name of Mr. Trombetta on behalf of MARDCO but rather in the name MARDCO only to be signed for by Mr. I. voteh Chey-Sam, Accounting Manager of MARDCO. Take note and act accordingly to avoid further confrontation.

Best regards.

Very truly yours

Edgar S. Sydney
President/CEO/MARDCO"

Between the periods 2007 to 2011, the appellee transmitted other communications to the appellant alluding to the above mentioned matter of Mr. Trombetta but again, the records are void of any responsive action taken by the appellant.

Hence, on May 19, 2014, the appellee instituted an action of damages for breach of contract against the appellant in the Six Judicial Circuit, Civil Law Court, sitting in its June Term A.D. 2014. In its complaint, the appellee, MARDCO stated that the appellant, Firestone Corporation had conspired and connived with MARDCO's

comptroller/shareholder, Edmondo Trombetta in defrauding MARDCO of its incomes from the sales of rubber supplied the appellant; that due to the continued payments made to Edmondo Trombetta by the appellant over its objection, the appellee's sales revenue suffered losses in the amount of US 1,785,028.58 (One Million Seven Hundred Eighty-Five Thousand, Twenty Eight United States Dollars and Sixty Eight Cents) which it pleaded as special damages; and in addition thereto, pleaded the amount of US 1,500,000.00 (One Million Five Hundred Thousand United States Dollars) as general damages for mental anguish it suffered at the hands of the appellant. For a better appreciation of the appellee's contentions we quote pertinent counts of the complaint, as follow, to wit:

1. "Plaintiff is a corporate entity organized and existing under the laws of the Republic of Liberia and engaged in various business ventures including but not limited to the management, purchase, sales and processing of natural rubber in Liberia and elsewhere. Attached is a copy of Plaintiff's Articles of Incorporation marked as P/1 to form a part of this Complaint.

2. That in pursuance of its business activities the Plaintiff entered into Farm Management Contract with several Rubber Farmers in the Republic of Sierra Leone, one of which contract has a duration of a period of eighty-five (85) years for the purpose of managing their farms and purchasing all their raw rubber and sell same to the Defendant Firestone Plantations Company. Attached are copies of the agreements marked as P/2.

3. That in order to commence the supply of raw rubber to the Defendant, the Plaintiff thru its Shareholder/Managing Partner/President/CEO, Mr. Edgar S. Sydney wrote the Defendant thru its Purchasing Manager on April 6, 2006 a formal letter informing it that the Plaintiff is engaged in the management of a number of farms in Kenema District, Sierra Leone and that it would soon commence operation on at least two of the farms. It further requested for business collaboration and indicated that the Management of Plaintiff has chosen the Defendant for the purchase of Plaintiff's overall production from Sierra Leone and Liberia. Thereafter, on November 27, 2006, Mr. Sydney wrote the Defendant thru its same Purchasing Manager another letter requesting to open an account with it to be able to sell Plaintiff's production to the Defendant. Copies of the two letters are attached and marked as P/3 in bulk to form a part of this Complaint.

4. That in keeping with Plaintiff's letters aforesaid, the Plaintiff became a regular supplier to raw rubber to the Defendant and in doing so the both parties. Plaintiff and Defendant entered into a purchase-sales memorandum of Understanding which basically provided that the Plaintiff (supplier) agreed to arrange for rubber of acceptable quality free from contaminants to be sold to the Defendant (FPCO) at a prevailing buying price determined by the Defendant (FPCO), amongst others. Copies of the Memorandum of Understanding are attached and marked as P/4 to form a part of this Complaint.

5. That in complete obedience to the terms and conditions of the MOU between the Plaintiff and the Defendant, the Plaintiff supplied several thousand tons of raw rubber free of contaminants to the Defendant at various times between the period June 2007 to October 2011, thereby faithfully and loyally adhering to the terms and conditions of the MOU without fail.

6. That on the part of the Defendant, rather than paying for the rubber to the Plaintiff as an entity, the Defendant management thru its former Rubber Purchase Manager, Mr.Moorthi Muthusamy along with Mr. Edmondo Trombetta, one of Shareholders of Plaintiff and signatory to the MOU above referred, formulated a clandestine plain to pay all the sales proceeds to Mr. Edmondo Trombetta as individual, in quite violation of the best business practices and cardinal principle of transparency. As a result of this kind of illegal arrangement, the Plaintiff could not receive payment for its rubber as Mr. Trombetta could not report the proceeds to Plaintiff Management.

7. That the said scandalous activity of the Defendant in connivance with its cohorts continued for many years to the extent that the total payment the Defendant made to Mr. Tombetta and his collaborators for raw rubber supplied by the Plaintiff amounted to a total on one million seven hundred eighty-five thousand, twenty-eight dollars and sixty-eight cents (US$1,785.028.68), evident by the attached copies of Plaintiff's money/invoice and/or checks that was paid by checks to Trombetta and his collaborators and marked in bulk as P/5 to form a part of this Complaint.

8. Further to the above, Plaintiff says when it started experiencing financial loses and discovered such scandalous and illegal payments to Trombetta, the Plaintiff thru its Managing Partner, Edgar S. Sidney, addressed a letter dated April 6, 2007 to Mr. Moorthi Muthusamy him representing the Plaintiff that while the Memorandum of Understanding still in force all checks due to the Plaintiff must be issued in the name of Plaintiff. A copy of said letter was also sent to the Comptroller of the Defendant a copy of which is also attached and marked P/6 to form a part of this Complaint.

9. Further to the above, Plaintiff says, its letter of April 6, 2007 was apparently ignored by the powerful Purchasing Manager and the Comptroller, as a result of which the Defendant continued to issued all of Plaintiff's checks to Mr. Trombetta unabated. Then on August 9, 2007, the Plaintiff thru its shareholder/President/CEO addressed a letter to the Comptroller of Plaintiff in which it narrated amongst others that..."based on the request of Plaintiff's President/CEO, it entered into an agreement with the Defendant and while the said MOU was still in force, Plaintiff observed financial malpractices on the part of one of its shareholders and comptroller, Mr. Trombetta where he had caused all checks due payable to Plaintiff had been issued in his name rather than to the order to the Plaintiff. That, although the Purchasing Manager was written and advised on these on these illegal payments to Trombetta, he refused to adhere to the warning and continued to cause Plaintiff's checks to be issued to Trombetta. A copy of the letter was also sent to the County Attorney for Margibi County and a copy is attached and marked as P/7 to form a part of this Complaint.

10. That in order to determine the total payments made to Plaintiff by the Defendant, the Plaintiff thru its Shareholder/President Edgar S. Sydney and Member of the Board/Finance Manager and Shareholder, Mr. I Voteh Chey-Sam again wrote the same Purchasing Manager, Mr. Moorthi Muthsusamy for a financial statement covering the period January 2007 to November 2007. A copy of the said letter was again sent to the Comptroller and the County Attorney for Margibi County. Again the letter was ignored; a copy is attached and marked as P/8.

11. That due to financial malpractices perpetrated by Mr. Trombetta against the Plaintiff filed a petition for accounting resulting to a court ruling against him and in order to avoid payment to Plaintiff, Mr. Trombetta, he thereafter organized fictitious companies that continued to operate and received illegal payments that were due to Plaintiff growing out of Plaintiff's rubber sales.

13 That while investigation in the matter was on going and the Petition for accounting was pending before the Court, the Plaintiff informed the Defendant of the controversy and requested the Defendant thru its Purchase Manager not to make any payment to Trombetta, all of which the Defendant Management ignored.

14 That at the conclusion of the matter during which the Honorable Supreme Court of Liberia ruled against Trombetta ordering him to account for all sales and payment he personally received, followed by criminal investigation conducted by the Police, the Plaintiff informed the Defendant thru the usual channel, but when all effort failed the Plaintiff thru its Administrative Manager wrote the General Manager of Firestone, the Defendant on October 4, 2011 narrating all that transpired including the signing of the MOU between Plaintiff and the Defendant, all letters of complaint filed to the Purchasing Manager and Comptroller that were all ignored. The letter informed the General Manager of the decision of the Honorable Supreme Court and the Civil Law Court regarding the same subject matter. The letter concluded and advised the defendant Management that Mr. Trombetta is on the run and no check must be issued to him and or his fake companies. A copy of the letter is attached and marked P/9. However, in the face of all of the above no action was taken by the Defendant to curtail the wrong doing of its Managers who are in the proper position to make decision for the Defendant Management.

16 Further to the above as a result of Defendant failure to fully cooperate with Plaintiff despite all of Plaintiff's many letters of warnings, the Plaintiff has been forced to close down its operation for lack of funds to pay its employees and carry on its operations thereby causing it to breach the Contract with the Rubber Farmers, Plaintiff's main sources of Rubber. Plaintiff also suffers contacts with other Farmers who are major owners and customers of Plaintiff and as a result, Plaintiff now suffers serious financial losses, loss of business and frustration. Plaintiff therefore prays this court for General Damages in the amount not less than US$1,500,000.00 as this Court may determine.

17 Plaintiff further submits that the action of damages will lie against the Defendant Management for intentionally and deliberately making all of Plaintiff's payment to Mr. Trombetta as an individual and his collaborators and fake companies rather than to the Plaintiff who entered into the valid and legal Memorandum of Understanding with it thereby causing the Plaintiff to suffer financial losses, loss of business, resulting to frustration and anguish due to Defendant's failure to abide by and adhere to the basic accounting and auditing principle as well as best business practices and failing to adhere to and ignoring all of the warnings given by the Plaintiff through its authorized Officers.

On May 31, 2014, the appellant filed a three (3) count answer in which it generally denied the allegations in the complaint. On June 16, 2014, the appellant withdrew said answer and filed a thirty-four (34) counts amended answer, stating that the memorandum of understanding for farm # 1966 authorized it to make payment either to MARDCO or Edmondo Trombetta and it paid Edmondo Trombetta a total amount of US 192, 147.85 (One Hundred Ninety Two Thousand One Hundred Forty-Seven United States Dollars and Eighty-Five cents) for rubber emanating from farm # 1966. The appellant also stated that it was the appellee that introduced Edmondo Trombettato the appellant as its comptroller and shareholder and as such it cannot be held liable for the appellee's internal corporate wrangling with its comptroller and shareholder, Edmondo Trombetta who also happens to be the owner of other local rubber farms in Liberia that supplied the appellant with rubber. The appellant stated that it received rubber from other farms owned and operated by Mr. Edmondo Trombetta and accordingly paid for the supply of rubber. The appellant denied receiving any communications from the appellee and stated that the communications referenced by appellee in its complaint cannot supersede the memorandum of understanding which authorized the appellant to make payment to either MARDCO or Edmondo Trombetta. The Court quote counts 2, 3, 6, 7, 8, 16, 17, 19, 20, 29, 32, and 33 of the appellant's 34 counts answer which read thus:

2. "That as to Counts One (1) and Two (2) of the Complaint, Defendant says that it is without knowledge and information sufficient to form a belief as to the truthfulness of the averment contained therein, and therefore can neither deny not confirm same.

3. That as to Counts Three (3) and Four (4) of the Complaint, Defendant says that it is in the business of purchasing raw rubber free of contaminants from local rubber farm owners, and therefore always engages and collaborates with local farmers for the sale of their rubber products to the Defendant, and therefore Plaintiff's request to sell its rubber products to Defendant and the subsequent execution of a Memorandum of Understanding in respect thereto, was in furtherance of Defendant's overall objective and desire to purchase raw rubber from local farmers such as Plaintiff.

6. That as to Count Six (6) of the Complaint, Defendant says that there are two memoranda attached to the Complaint: one relating to Farm #1345, executive by Edgar S. Sydney as Executive Director of Plaintiff, and the other relating to Farm #1966, in the name of Plaintiff – i.e. MARDCO Limited/Edmondo Trombetta – executed by Edmonda Trombetta and witnessed by Edgar S. Synder. Defendant submits that the Memorandum of Understanding covering Farm #1966 provides that all rubber delivered by MARDCO Limited/Edmondo Trombetta to Defendant shall be paid on actual DRC bills on FPCO prevailing gate price. Consistent with the Memorandum of Understanding covering Farm #1966, Defendant says that it had the right to either pay for rubber delivered by MARDCO Limited/Edmondo Trombetta to MARDCO limited or Edmondo Trombetta, or to both, which makes no difference. Defendant submits that Plaintiff did not sell any rubber to Defendant covering Farm **#1345;** but rather, rubber was sold and paid for under Memorandum of Understanding covering Farm #1966. Attached hereto and marked as Defendant's **Exhibit "D/1"**are copies of checks issued Edmondo Trombetta covering Memorandum of Understanding for Farm #1966 amounting to US$192,147.85 (United States Dollars One Hundred Ninety-Two Thousand One Hundred Forty-Seven

85/100), which are part of Plaintiff's Exhibit "P/5" in bulk, in substantiation of the averment contained herein.

7. That also as to Count Six (6) above, Defendant says that Edmondo Trombetta had a company engaged in the purchase of rubber from local farmers in Liberia which he in turn sold same to Defendant, covered by Memorandum No. 2358, Attached hereto and marked in bulk as Defendant's **Exhibit "D/2"** are copies of checks issued Edmondo Trombetta covering Farm 2358 amounting to US$896,021.02 (United States Dollars Eight Hundred Ninety-Six Thousand Twenty-One 02/100), which are part of Plaintiff's Exhibit "P/5" in bulk, in substantiation of the averment contained herein.

8. That further to Counts Six (6) and Seven (7) above, Defendant says that it did not clandestinely pay proceeds to Edmondo Trombetta; instead, same was done consistent with the instruction of the entity delivering and selling the rubber to Defendant. Defendant says that it is Plaintiff which introduced Edmondo Trombetta into the stream of commerce and business with Defendant. Accordingly, the Plaintiff is barred and estopped from denying the capacity and authority of Edmondo Trombetta to act for and on behalf of Plaintiff.

16. That as to Count Ten (10) of the Complaint, Defendant says that Plaintiff should know how many payments and the aggregate amount paid to it by the Defendant. Defendant submits that any payment it made to Plaintiff is based on the quantity of rubber sold by Plaintiff to Defendant at the agreed purchase price. Accordingly, Plaintiff should have its own record and should be able to determine, independent of Defendant, the quantity of rubber supplied Defendant and the payment made to it. Defendant submits that since Plaintiff has admitted that it does not know the quantity of rubber it supplied Defendant and the aggregate amount paid pursuant thereto, on what basis is Plaintiff filing the instant Action of Damages for Wrong? Defendant submits and says that in order for Plaintiff to claim that it supplied Defendant raw rubber and that Defendant allegedly diverted payment therefor to third parties including Edmondo Trombetta, Plaintiff must first establish that it did supply Defendant rubber and was therefore entitled to payment therefor. This not being the case, the instant Action of Damages for Wrong cannot lie against Defendant.

17. Defendant says that also traversing Count Ten (10) of the Complaint, Defendant says that all rubber supplied it are weighed at its weighing station and a waybill issued therefor, thereby establishing the quantity of rubber so delivered to Defendant. Defendant submits that Plaintiff has not submitted a single waybill to prove that it delivered rubber to Defendant. Under our law, the burden of proof lies on the party alleging the existence of a fact. In the instant case, Plaintiff has alleged that it sold raw rubber to Defendant in the aggregate amount of US$1,785,028.68 (United States Dollars One Million Seven Hundred Eight-Five Thousand Twenty-Eight 68/100), but has failed to exhibit a single waybill(s) to establish its allegation. The failure of Defendants to produce evidence that it supplied Defendant raw rubber amounting to US $1,785,028.68, makes the instant action a fit subject for denial and dismissal; and Defendant prays Your Honor to so rule and declare.

19 That as to Count Eleven (11) of the Complaint, Defendant says that the averment contained therein is an admission by Plaintiff that it was Edmondo Trombetta who allegedly perpetrated financial malpractices against Plaintiff. Defendant submits that the conduct of Edmondo Trombetta cannot be imputed to Defendant, as Edmondo Trombetta was neither an agent nor an officer of the Defendant, but rather an agent and officer of Plaintiff. Defendant submits that it is Plaintiff who introduced Edmondo Trombetta in the stream of commerce, and therefore cannot and should not be permitted to attribute Edmondo Trombetta's wrongdoing to Defendant.

20 That also traversing Count Eleven (11) of the Complaint, Defendant says that if Edmondo Trombetta organized fictitious companies, as alleged by Plaintiff, and said fictitious companies were selling Plaintiff's raw rubber to Defendant, Defendant has remedy at law to have prohibited such fictitious companies from gaining access to its raw rubber and selling same Defendant. Plaintiff having acquiesced to such alleged illegal activities of Edmondo Trombetta, cannot come now to hold Defendant liable for the alleged illegal acts of Plaintiff's corporate officer and shareholder.

29 That as to Count Seventeen (17) of the Complaint, Defendant denies the allegation contained therein, and submits and says that at no time did Plaintiff supply rubber to Defendant for which payments were made to Edmondo Trombetta or third parties. Defendant challenges Plaintiff to produce documentary evidence to substantiate its claims that it sold on account raw rubber to Defendant and payment therefor was made to Edmondo Trombetta or other third parties and not Plaintiff. Defendant submits that Plaintiff has not produced a single documentary evidence (waybill) for rubber allegedly supplied Defendant by Plaintiff. In the light of the absence of documentary evidence to substantiate Plaintiff's alleged supply of raw rubber to Defendant, Plaintiff's instant Action of Damages for Wrong should be denied and dismissed.

32 That as to the prayer for the award of special damages, Defendant says that same is speculative and therefore not recoverable under our law.

33 That as to the claim for general damages in an amount not less than US$1,5000,000.00 (United States Dollars One Million Five Hundred Thousand), Defendant says that same is not recoverable as Plaintiff has not proven special damages; and where special damages are not recoverable, general damages will equally not lie.

On June 5, 2014, the appellee filed its amended reply substantially denying the averments in the appellant's amended answer, but reaffirmed its position stated in the complaint, that the appellant should have issued all checks in the name of the appellee instead of Edmondo Trombetta who was only an employee of the appellee; that having notified the appellant to stop payments to Mr. Edmondo Trombetta the appellant should have ceased making said payments.

On August 27, 2014, following the disposition of law issues the trial judge, His Honor Emery S. Paye, ruled the case to trial on its merits. On October 29, 2014, lawyers for both parties waived jury trial thus by operation of law, the judge presiding was the sole determiner of the weight and credibility of the evidence. See Civil Procedure, Law Rev Code 1:22.1(4); *Ezzat Eid v. Republic 37LLR 775, 776 (1995); Living Counsellor v. Republic*, Supreme Court Opinion October Term 2008; *Mayango v Republic,* Supreme Court Opinion, October Term A.D 2013.

Upon commencement of trial, the appellee produced four (4) witnesses in person of Edgar Sydney, its president and CEO, G. Sam Flomo, Foday Jabati and Kadi Koroma, all of whom testified to the averments contained in the complaint, that is, the failure by the appellant to stop payments to Mr. Trombetta upon being notified by the appellee; and that by said act of noncompliance with the appellee's notice, the appellee suffered revenue losses in the amount of US 1,785,028.68 (One Million Seven Hundred Eighty-Five Thousand Twenty Eight United States Dollars and Sixty Eight Cents).

The witnesses also testified to accounting proceedings instituted in 2007 by the appellee against Mr. Edmondo Trombetta and the trial court's final judgment of US 600,000.00 (Six Hundred Thousand United States Dollars) awarded in the appellee's favor.

On November 7, 2014, the appellee rested with the production of evidence. Thereafter, on November 11, 2014, the appellant filed a motion for judgment during trial stating that the appellee's witnesses and the evidence produced failed to prove that the appellant was in breach of the memorandum of understanding for farm # 1966, especially since same authorized payments to pay either the appellee or Edmondo Trombetta; and that as the appellee had already obtained a judgment against Edmondo Trombetta in the accounting proceedings, and that the said judgment having been satisfied hence, the appellee should not be allowed to unjustly enriched itself at the detriment of the appellant.

On November 14, 2014, the appellee filed its resistance to the motion stating that the motion was filed in bad faith since its witnesses' testimonies and the evidence adduced during trial were sufficient to hold the appellant liable; and that the accounting proceedings it instituted against Mr. Edmondo Trombetta was separate and distinct from the present case, as same was for the breach of his fiduciary duty to the corporation while the present case, is to hold the appellant liable for the financial losses and damages the appellee's business sustained all of which are the direct result of the appellant's refusal to comply with the appellee's warning and its connivance with Mr. Edmondo Trombetta to defraud the appellee of its money.

On August 20, 2014, the trial judge, His Honor Emery S. Paye rendered his ruling on the motion and the resistance thereto denying the appellant's motion on grounds that the appellant should take the stand to accord the trial court the opportunity to review the entire testimonies and the evidence from both sides on the matter. We are in total agreement with trial judge's decision seeing that the trial judge did not abuse his discretion, thus within the pale of the law.

On November 21, 2014, the appellant filed a motion for newly discovered evidence. The motion sought to call the trial court's attention to previous records of the Sixth Judicial Circuit, Civil Law Court showing that the appellee had instituted accounting proceedings against Mr. Edmondo Trombetta to account for monies paid to him by the appellant on behalf of the appellee; that a final judgment was entered in favor of the appellee and that Mr. Edmondo Trombetta satisfied said judgment. The appellant therefore argued that Mr. Edmondo Trombetta having paid the appellee the self-same amount it claimed was wrongfully paid by the appellant to Mr. Edmondo Trombetta, cannot now require the appellant to make additional payment of monies paid to Mr. Trombetta under the memorandum of understanding for farm #1966.

On November 22, 2014, in its resistance to the motion, the appellee prayed the trial judge to deny and dismiss the said motion, arguing that the motion was irrelevant and could not be considered as newly discovered evidence; that the accounting proceedings alluded to by appellant was filed against Mr. Trombetta and his collaborators who are not parties to the current suit between the appellee, MARDCO and the appellant, Firestone; and that the ruling from the accounting proceedings cannot affect the decision of the trial court with respect to the allegation that the appellant breached its duty under the contract for which it has been sued by the appellee.

The trial judge reserved ruling on the motion for newly discovered evidence and thereafter on November 27, 2014, at the close of evidence by both parties, rendered final judgment to include the motion on newly discovered evidence, all in favor of the appellee. The trial judge stated that the prior proceedings and judgment from the accounting proceedings offered as newly discovered evidence by the appellant settled a separate action and therefore had no relevance to the case or action of damages for breach of contract against the appellant, Firestone, and that there was sufficient evidence showing that the appellant had injured the appellee's business activities; that the appellant's argument regarding farm # 1966 that it could pay to either MARDCO or Mr. Trombetta since the MOU was captioned MARDCO/Trombetta was not tenable for reasons that same was drafted by the appellant with the intent to confuse the readers and that the appellant failed to rebut the appellee's evidence.

We quote relevant excerpt of the trial court's final judgment on the action of damages for breach of contract:

> *"...this court says that under the law extant where the plaintiff has presented a prima facie case, the burden rests on the defendant to produce sufficient evidence to counter or rebut the evidence presented by the plaintiff. Where the evidence so presented by the defendant is insufficient to rebut the evidence presented by the plaintiff then the plaintiff prima facie case will prevail. In the instant case, from the various testimonies of plaintiff's witnesses buttressed by the documentary evidence marked by court and confirmed, it is clear that the plaintiff had sufficiently established or proven its case for which the defendant must be held liable as the defendant for its part has failed to rebut or refute any aspect of the evidence presented by the plaintiff against it...*
>
> *This court says, the evidence presented by the defendant to rebut the evidence presented by the plaintiff is irrelevant because from a careful perusal of the judgment offered into evidence by the defendant settles another action for accounting instituted by MARDCO against Trombetta and collaborators and has no relevance to this case or action of damages for breach of contract against defendant Firestone Plantation Company.*
>
> *Also from a careful perusal of the MOU prepared by the defendant itself which shows on its face 'MARDCO Ltd/Edmondo Trombetta as supplier with whom defendant dealt with does not dismiss the fact that the defendant was doing business with MARDCO Ltd. The court holds*

that the defendant was aware that it was doing business with MARDCO [and that] the plaintiff went and chose the supplier as 'MARDCO Ltd/ Edmondo Trombetta' since it could have taken out the name MARDCO Ltd only to do business with Edmondo Trombetta as an individual. The defendant drafted the MOU to confuse the reader of the MOU as it relates to who is the supplier. This court says that under the law ambiguity in contract is construed against the maker.

With respect to proof of special damages, this Court says that from a careful review of the file, the plaintiff did plead and prove special damages in line with law. It is a settled provision of the law that special damages when relied upon must be specifically pleaded and proven. This court says, the plaintiff having proven special damages, it has overwhelmingly produced sufficient evidence to support its case based upon its exhibit K/2 in bulk, constituting checks paid by the defendant to Trombetta and his collaborators.

During arguments, Firestone contended that the damages sought to be recovered by MARDCO has already been satisfied by Trombetta before this court in an action of accounting, out of which suit MARDCO received about US 610, 306.00. In the mind of this court, this argument is untenable. The special damages which plaintiff sought to recover is US 1, 785, 028.68. It was established by the production of series of paychecks marked by court K/2 in bulk, which were never denied by proof. The only contention by Firestone Plantation Company is that this amount has already been satisfied. How then can one be inclined to believe that such special damages has been satisfied by the payment of US 610, 306.00?

The evidence showed that the plaintiff and the defendant entered into a purchase/sales memorandum of understanding, which basically provided that the plaintiff's agreed to supply rubber at prevailing buying prices demanded by the defendant Firestone....That in compliance with the intent of the MOU, plaintiff MARDCO commenced supplying raw rubber to the defendant; but rather paying for the rubber to the plaintiff as a corporate entity, the defendant made the payments directly to Edmondo Trombetta as an individual to which plaintiff the plaintiff Edgar Sydney protested with several letters, all of which were ignored. The defendant Firestone illegally collaborated or connived with Trombetta by taking over the plaintiff contracted farm in Sierra Leone and changing the office name from MARDCO to Italian Firestone Rubber Corporation and as a result of such illegal acts, plaintiff's business has collapsed. The scandalous activities of the defendant in connivance with its cohorts continued for many years to the extent that the total payment the defendant made to Mr. Trombetta and his collaborators for rubber supplied amounted to a total of US 1, 785, 028.68. That as a result of the breach, and the defendant total connivance with Trombetta, the plaintiff MARDCO has suffered and continues to suffer financial collapse and is no longer in the position to perform its side f the bargain under the lease with the farmers in Sierra Leone. The court says that predicated on

the evidence which the defendant did not rebut, it holds that the defendant did damage the plaintiff.

Wherefore and in view of the foregoing, it is the final judgment of this court that the defendant is liable to the plaintiff in the full and just sum of US 1, 785, 028.68 as special damages and general damages in the amount of US 1, 500,000.00 for the mental anguish suffered at the instance of the defendant."

The appellant excepted to the above ruling and announced an appeal to this Court and thereafter filed its bill of exceptions on December 5, 2014, contending that the appellee did not prove its case and that the trial judge erred when he awarded special and general damages to the appellee. The bill of exceptions is quoted herein below as to wit:

"Defendant in the above-entitled proceedings having excepted to Your Honor's Final Judgment delivered on the 28th day of November, 2014, but received by Defendant on the 3rd day of December, 2014, and announced an appeal therefrom to the Supreme Court of Liberia sitting in its March Term, 2015, now presents this Bill of Exceptions for Your Honor's approval, as follows:

1. MARDCO International of Sierra Leone, represented by its Executive Director, Edgar S. Sydney, and Defendant executed a Memorandum of Understanding for Farm #1345, pursuant to which MARDCO International of Sierra Leone made three (3) shipments of rubber to Defendant/Appellant and was accordingly paid in full therefor. Subsequent thereto MARDCO Limited/EdmondoTrombettaand Defendant executed another Memorandum of Understanding with EdmondoTrombetta signing as supplier. Clearly, the Memorandum of Understanding for MARDCO International of Sierra Leone, if reference is made to be Plaintiff, is separate and distinct from the Memorandum of Understanding signed by EdmondoTrombetta for the account of MARDCO Limited/EdmondoTrombetta. Accordingly, Your Honor's conclusion that the Memorandum of Understanding signed by and between EdmondoTrombetta, as supplier, and Defendant was for Plaintiff, is not supported by the evidence adduced at trial. Hence, Your Honor's Final Judgment adjudging Defendant liable to Plaintiff in the amount of US$1,785,028.68 as special damages and general damages in the amount of US$1,500,000.00, is erroneous and prejudicial; for which Defendant excepts.

2. That Plaintiff alleged that EdmondoTrombetta was its agent in the execution of the Memorandum of Understanding for Farm #1966 pursuant to which Plaintiff instituted an Action for Proper Accounting against EdmondoTrombetta et al on October 10, 2008, and obtained a judgment for the amount of US$610,306.73 for and in respect of the same and identical transaction, subject of these proceedings, as admitted by Plaintiff during the trial of this case. Notwithstanding the admission by Plaintiff that the judgment amount in the herein-mentioned Property [proper] Accounting case covers the transactions for which the instant Action of Damages for Breach of Contract was filed, Your Honor ruled that the said judgment was

irrelevant and immaterial to the instant case; for which erroneous and prejudicial conclusion of Your Honor Defendant excepts.

3. That Your Honor's predecessor, His Honor J. BoimahKontoe, ruled in the Bill of Information growing out of the Action for Proper Accounting mentioned hereinabove, confirming the satisfaction of the judgment entered against EdmondoTrombetta et al, and further held that Edgar Sydney was impersonating as President and CEO of Plaintiff and therefore an indictment from the First Judicial Circuit Court, Criminal Assizes "A", and a Writ of Arrest issued in respect thereto were outstanding for his arrest. This evidence adduced by Defendant was never disputed, denied or rebutted by Plaintiff. Notwithstanding, Your Honor adjudged Defendant liable to Plaintiff in the amount of US$1,785,028.68 as special damages and general damages in the amount of US$1,500,000.00; for which erroneous and prejudicial ruling of Your Honor denied excepts.

4. That during trial, none of Plaintiff's witnesses ever established which provision(s) of the Memorandum of Understanding was allegedly breached by the Defendant., Plaintiff's principal witness, in person of Edgar Sydney, testified that Defendant breached the entire Memorandum of Understanding; while Plaintiff's second witness testified that Defendant breached Paragraph 1 of the Memorandum of Understanding, which provides that the supplier will arrange for rubber of acceptable quality, free from contaminants to be delivered to Defendant. For this inconsistency and contradiction between the testimonies of Plaintiff's first and second witnesses, coupled with Plaintiff's inability to state with definiteness and certainty which provision of the Memorandum of Understanding was allegedly breached by Defendant, Your Honor erred when Your Honor ruled that Defendant is liable to Plaintiff in the amount of US$1,785,028.68 as special damages and general damages in the amount of US$1,500,000.00; for which erroneous and prejudicial ruling of Your Honor Defendant excepts.

5. Defendant says that all consignments of rubber supplied it are weighed at its weighing station and weigh bills issued therefor, thereby establishing the quantity of rubber so delivered to Defendant. The Plaintiff failed to submit into evidence a single weigh bill to prove that it delivered rubber to Defendant. Moreover, Plaintiff failed to prove and establish the quantity of rubber allegedly taken from its farm and sold to Defendant by EdmondoTrobetta. Under our law, the burden of proof lies on the party alleging the existence of a fact; and the party having the burden must establish his case by the preponderance of evidence. The Plaintiff having the burden must establish his case by the preponderance of the evidence. The Plaintiff having failed to prove with particularity, specificity and certainty that it supplied Defendant rubber amounting to US$1,785,028.82, Your Honor erred when Your Honor awarded Plaintiff special and general damages in the herein-mentioned amounts; for which error of Your Honor Defendant excepts.

6. Plaintiff's fourth witness, in person of Kadi Kromah, testified that upon the execution of the lease agreement between her entity and MARDCO, represented by its President, Edgar Sydney and Edmondo Trombetta and

operation on the farm began, they stopped seeing Edgar Sydney; and when they asked about him, they were informed that Edgar Sydney was dead. Plaintiff's second witness testified that he was the operations manager but was stationed in Monrovia. Accordingly, the farm was being operated by Edmondo Trombetta. Notwithstanding these testimonies, Your Honor adjudged Defendant liable to Plaintiff in the amount of US$1,785,028.68 as special damages and general damages in the amount of US$1,500,000.00; for which erroneous and prejudicial ruling of Your Honor Defendant excepts.

7. That Your Honor concluded, in the absence of evidence, that Defendant connived with EdmondoTrombetta to change the name of MARDCO's office in Sierra Leone to Firestone Italian Agriculture Company, which constituted a breach of contract and damaged Plaintiff. Defendant submits that Plaintiff failed to establish by documentary evidence that Defendant was in partnership or had interest, either directly or indirectly, in the alleged Firestone Italian Agriculture Company which allegedly operated in Sierra Leone; nor did Plaintiff identify any of Defendants' employees who was part and parcel of the operation of the alleged Firestone Italian Agriculture Company. This not having been established, Your Honor erred when your Honor concluded that Defendant connived with EdmondoTrombetta to change the name of MARDCO's Office in Sierra Leone to Firestone Italian Agriculture Company, which alleged act damaged the Plaintiff; for this error of Your Honor Defendant excepts.

8. That Plaintiff failed to establish the quantity of rubber that was allegedly supplied Defendant by Plaintiff. Instead, Plaintiff relied on checks and check stubs paid to EdmondoTrombetta, Rebecca Eze and several third parties who supplied rubber to Defendant. Plaintiff led no evidence whatsoever to establish that the rubber brought to Defendant by EdmondoTrombetta, Rebecca Eze and several other third parties was owned by Plaintiff. Notwithstanding, Your Honor ruled that Plaintiff established special damages and therefore awarded Plaintiff US$1,785,028.68 as special damages; for which erroneous and prejudicial ruling of Your Honor Defendant excepts.

9. That under the law, a corporation is considered a fictional person which does not have a brain and the ability to suffer mental anguish. Accordingly, mental anguish being one of the reasons for which Your Honor awarded Plaintiff general damages in the amount of US$1,500,000.00, makes Your Honor's Judgment erroneous and prejudicial; for which Defendant excepts.

10. That under our law, a court must have jurisdiction over the person and subject matter to justify the rendition of a binding and enforceable judgment. In the instant case, the Civil Law Court for the Sixth Judicial Circuit lacks jurisdiction over the person of the Defendant and therefore the Judgment rendered by Your Honor is void *ab initio* and therefore not binding on the Defendant. Your Honor having assumed jurisdiction over Defendant, over the objection of Defendant, makes Your Honor's Judgment erroneous and prejudicial; for which Defendant excepts.

Suffice it to say, the entire bill of exceptions basically challenges the validity of the trial court's ruling awarding the appellee the amount of US 1, 785, 028.68 (One Million Seven Hundred Eighty Five Thousand Twenty Eight United States Dollars and Sixty Eight Cents) as special damages and US 1, 500,000.00 (One Million Five Hundred Thousand) as general damages. To the mind of this Court, the appellant's ten (10) count bill of exceptions as gleaned from the records presents only one issue for the final disposition of this appeal which is:

> Whether or not the appellant breached the memorandum of understanding for farm # 1966 by paying Mr. Edmondo Trombetta for which special and general damages will lie.

In answering this issue the appellant has argued that it did not breach the memorandum of understanding for farm # 1966 in that the said memorandum was signed by Mr. Edmondo Trombetta as supplier; and, that the said MOU also authorized the appellant to make payment to either the appellee or Mr. Edmondo Trombetta which it did by paying the amount of US 192, 147.85 (One Hundred Ninety Two Thousand Forty Seven United States Dollars and Eighty Five Cents) to Edmondo Trombetta for farm # 1966. The appellant argued that the appellee is not entitled to the award of special and general damages since the appellee neglected to specifically proved its case by showing the quantity of rubber sold to the appellant by Mr. Edmondo Trombetta

The appellee counter argued that the memorandum of understanding for farm # 1966 constituted a contract between the appellant and the appellee and that the appellant had sufficient knowledge that Mr. Trombetta who signed the memorandum was an agent of the appellee hence, the appellant should have adhered to the warnings contained in its communications, instructing the appellant not to pay monies to Mr. Edmondo Trombetta. The appellee also argued that by breaching the memorandum of understanding the appellant connived with Mr. Edmondo Trombetta and other third parties to illegally sell its rubber hence, the proceeds from the illegal sales in the amount of 1, 785, 028.68 (One Million Seven Hundred Eighty Five Thousand Twenty Eight United States Dollars and Sixty Eight Cents) as evidenced by the sundry checks are conclusive to the award of special damages and general damages.

A careful perusal of the memorandum of understanding for farm # 1966 revealed that the said memorandum carries the nomenclature 'MARDCO Ltd./Edmondo Trombetta' as the party responsible to supply rubber and receive payment from the appellant. Given this nomenclature –MARDCO Ltd./EdmondoTrombetta- this Court must determine who was actually responsible to supply rubber to the appellant and receive payment thereof. Was it MARDCO, Edmondo Trombetta or both; what is the meaning of the slash (/) or punctuation as used in the memorandum of understanding?

It has been stated that

> *"In a contract which contains punctuation marks, the words and not the punctuation are the controlling guide in its interpretation. Punctuation is always subordinate to the text and is never allowed to control. The court will take the contract by its four corners and determine from its language and having ascertained from the*

arrangement of its words what its meaning is, will construe it accordingly, without regard to the punctuation marks."17A Am Jur 2d Contracts §366.

Taking the memorandum of understanding by its four corners in light of the above, we must state here that English grammarian and lexicographer have customarily used the slash (/) mark to represent separate alternatives and it is usually used to represent the word *'or'*. See The Merriam Webster's Collegiate Dictionary 11th Edition, page 1609. In view of this, the nomenclature 'MARDCO Ltd./Edmondo Trombetta' when given a liberal grammatical construction can be rightly interpreted as 'MARDCO or Edmondo Trombetta' as the party responsible to supply rubber to the appellant and receive payment thereof. Hence, under the terms and conditions of the memorandum of understanding for farm # 1966 this Court holds that the appellant was permitted to either pay the appellee or Edmondo Trombetta for and on behalf of the corporation.

However, let us quickly interject, that notwithstanding the fact that by the wording of the memorandum of understanding for farm # 1966, the fact remains that at all times the appellant was dealing with a corporation and not an individual. Accordingly, when the corporation notified the appellant to stop direct payments to Mr. Trombetta, and informing the appellant of a pending suit in a court of law, the appellant should have complied forthwith. We therefore hold that the continued payments to Mr. Trombetta after the said notices constituted serious breach of the memorandum of understanding, and for this willful act of ignoring the appellee's notice, resulting to injury to the appellee's business, damages will lie.

According to the Supreme Court, damages are liability awards that come about as the natural and necessary outcome of a wrongful act or omission and that where a wrong is committed, damages will attach; and any person who has suffered a loss, detriment or injury through the unlawful act or omission of another is entitled to damages. Intrusco Corp v. Osseily, 32LLR 571 (1985); *Firestone Liberia Inc. v. G. Galimah Kollie,* Supreme Court Opinion, March Term, A.D. 2012; Harris v. Cavalla Rubber Corp., Supreme Court Opinion, October Term, 2012; *LoneStar v. Wright,* Supreme Court Opinion, March Term, A.D.2014; *The Management of Comium v. Flomo,* Supreme Court Opinion, October Term, A.D. 2014.

However, it is the law that the plaintiff in all claims of damages, special or general, is required to plead with particularity and prove his case by preponderance of evidence during the trial. *Konnah and Tiawan v. Carver* 36LLR 319, 327 (1984). With regards to special damages this Court has held that special damages are award made through judicial determination with the intent to restore a person who has suffered an injury to the state he was previously situated before the injury. And, it is a requirement that to sustain an award of special damages the injury must be measurable and that the plaintiff must specifically plead and prove the damages suffered. *Firestone Liberia Inc. v. G. Galimah Kollie,* Supreme Court Opinion, March Term, A.D. 2012. A review of the entire proceedings show that the appellee's case against the appellant is premised upon the several checks attached to the appellee's complaint, which it claimed were issued by the appellant to Mr. Trombetta in complete disregard and defiance to the several notices to desist from making said payments. We have thoroughly perused these checks and this exercise has established that indeed the majority of the checks were issued to Mr. Trombettta subsequent to the appellee's notice; while others were issued in the name of Mr. Trombetta for farms other than farm # 1966, were credited to the

same account as farm # 1966; and *vice-versa* checks issued in favor of farm # 1966 were also credited to different accounts in favor of Mr. Edmondo Trombetta. These transactions clearly establish and persuade us to the logically conclude that the averment of the appellee that the appellant connived and was in collusion with Mr. Edmondo Trombetta is true.

It is a principle of contract law that there is an implied covenant of good faith and fair dealing in every contract, whereby neither party shall do anything which will have the effect of destroying or injuring the right of the other party to receive the fruits of the contract. 17A Am Jur 2d *Contracts* § 370. It is stated that

> "the implied covenant of good faith, and fair dealing requires the parties to perform, in good faith, the obligations required by their agreement, and a violation of the covenant occurs when either party violates, nullifies or significantly impairs any benefit of the contract." Id.

It is also a principle of corporate law that

> "a third person who knowingly participates with a corporate officer or director in a breach of his or her fiduciary duty may be held accountable for any loss sustained by the corporation or may be held accountable for any profits made in the transaction." *Am Jur 2d 18, Corporations §1434*

The continuous payments by the appellant to Mr. Edmondo Trombetta after receiving sufficient notice is a demonstration of the appellant's unfair dealing leading to the injury to the appellee's business. Reverting to the checks, we observed a total of Eighty-Nine (89) different payments, totaling US $597, 487.40 (Five Hundred Ninety-Seven Thousand Four Hundred Eighty-Seven United States Dollars Forty Cents). This amount we must state here is separate, distinct and not inclusive of the final judgment rendered in the accounting proceedings as was argued by the appellant. This Court takes judicial notice that the accounting proceedings instituted by the appellee which was appealed to this Court and the final judgment affirmed was specifically filed against the appellee's corporate officer, Mr. Edmondo Trombetta and not the appellant's corporation; and, as such the accounting proceedings and the judgment thereof have absolutely no bearing on this present case which is against the appellant corporation for breach of contract. Hence, we out-rightly reject the appellant's argument that it cannot be held liable in this present case since the judgment in the accounting proceedings was satisfied by Mr. Edmondo Trombetta.

In keeping with the precedent of this Court which states that the insufficiency of the evidence cannot be a sufficient basis to quash an award made in favor of an injured party; and, where the evidence is insufficient, the Supreme Court will affirm the award in a manner commensurate and warranted by a preponderance of evidence; and in keeping with the rule that this Court is clothed with the authority to enter the requisite judgment that the trial court should have entered, the amount of 1, 785, 028.68 (One Million Seven Hundred Eighty Five Thousand Twenty Eight United States Dollars and Sixty Eight Cents) awarded as special damages is modified to US $597, 487.40 (Five Hundred Ninety-Seven Thousand Four Hundred Eighty-Seven United States Dollars Forty Cents) the amount as proven by the appellee's evidence. *Firestone v Kollie,* Supreme Court Opinion, March Term

A.D. 2012; *LoneStar v. Wright*, Supreme Court Opinion, March Term A.D. 2014.This Court have espoused that *Id. The Management of Comium v. Flomo,* Supreme Court Opinion, October Term A.D. 2014.

We now turn to the amount of US $1,500,000.00 (One Million Five Hundred Thousand United States Dollars) awarded as general damages. This Court has consistently held that although general damages are intended by the law to provide compensation for injuries which cannot be easily quantified or accurately estimated and that there is no judicial yardstick for an accurate measurement of general damages, same should always be controlled by the rule of evidence and that a party seeking an award of general damages ought to show a connection between what is being prayed for and the injury, anguish and/or humiliation purportedly suffered. *Firestone v. Kollie,* Supreme Court Opinion, March Term A.D. 2012; *LoneStar v. Wright*, Supreme Court Opinion, March Term A.D. 2014. This Court has also held that where an amount for general damages is pleaded the plaintiff must carry the burden of producing evidence showing all reasonable connections and that the plaintiff is entitled to general damages. *Konnah and Tiawon v. Carver*, 36LLR 319, 327 (1989); *National Milling Company of Liberia v. Bridgeway Corporation*, 36LLR 776 (1990); *Firestone v. Kollie,* Supreme Court Opinion, March Term, A.D. 2012; *LoneStar v. Wright*, Supreme Court Opinion, March Term A.D. 2014. The appellee having specifically pleaded general damages but failed to prove same is disallowed.

However, because of the appellant's reckless, wanton and total disregard towards the appellee's notices to stop payments to Mr. Trombetta and especially the notice of the pendency of the matter before the court, which act injured the appellee's business, punitive damages will lie. Punitive damages are those awarded to serve as deterrent against the repetition or occurrence of the same acts by other parties. In the case INTRUSCO v *Osseily* 32 LLR 573-574 (1985) punitive damages are defined as, "...damages which are given in enhancement merely of the ordinary damages of the wanton, reckless, malicious, or oppressive character of the acts complained of. Such damages go beyond the actual damages suffered in the case; they are allowed as a punishment of the defendant and as a deterrent to others. Under this principle such damages are allowed on grounds of public policy and in the interest of society and for public benefit, not as compensatory damages, but rather in addition to such damages. Accordingly, the amount of US $25,000.00 (Twenty Five Thousand United States Dollars) is awarded as punitive in addition to the special damages.

This Court directs that the appellee being a corporation, separate and distinct from its owners, shareholders, officers or members the awards stipulated herein are to be paid only in the name of the corporation, that is, MARDCO Incorporated.

WHEREFORE and in view of the foregoing the judgment of the 6th Judicial Circuit, Civil Law Court in favor of the appellee is confirmed but with the modifications that the award of US $1, 785, 028.68 (One Million Seven Hundred Eighty Five Thousand Twenty Eight United States Dollars and Sixty Eight Cents), as special damages is reduced to US $597, 487.40 (Five Hundred Ninety-Seven Thousand Four Hundred Eighty-Seven United States Dollars Forty Cents); the award of US $1,500,000.00 (One Million Five Hundred Thousand United States Dollars) as general damages is disallowed and the amount of US $25,000.00 (Twenty Five Thousand United States Dollars) awarded as punitive damages.

The Clerk of this Court is ordered to send a mandate to the 6th Judicial Circuit, Civil Law Court commanding the judge presiding therein to resume jurisdiction over this case and give effect to this Judgment. Costs are ruled against the appellant. AND IT IS SO ORDERED.