

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS MARCH TERM, A.D. 2026

BEFORE HIS HONOR : YAMIE QUIQUI GBEISAY, SR CHIEF JUSTICE
BEFORE HER HONOR : JAMESETTA H. WOLOKOLIE ASSOCIATE JUSTICE
BEFORE HIS HONOR : YUSSIF D. KABA ASSOCIATE JUSTICE
BEFORE HER HONOR: CEATNEH D. CLINTON JOHNSON ASSOCIATE JUSTICE
BEFORE HIS HONOR : BOAKAI N. KANNEH ASSOCIATE JUSTICE

Srimex Oil and Gas Company represented by its President)
& Chief Executive Officer (CEO) Mr. Musa Hassan Bility,)
with offices located at Halfway farm (adjacent Total Gas)
Station Monrovia, Liberia.....Movant)

Versus

) MOTION TO DISMISS
) APPEAL

The Liberia Petroleum Refinery Corporation (L.P.R.C) by &)
thru its Managing Director, Hon. Amos B. Tweh and all other)
authorized officers & agents, of Bushrod Island, UN Drive,)
Monrovia, Liberia.....Respondent)

GROWING OUT OF THE CASE:

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thru its Managing Director, Hon. Amos B. Tweh and all other)
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Versus

) PETITION FOR AN
) ORDER TO COMPEL
) ARBITRATION

The Liberia Petroleum Refinery Corporation (L.P.R.C) by &)
thru its Managing Director, Hon. Amos B. Tweh and all other)
authorized officers & agents, of Bushrod Island, UN Drive)
Monrovia, Liberia.....Respondent)

Heard: March 18, 2026

Decided: May 21, 2026

JUSTICE WOLOKOLIE DISSENTS

Having tried assiduously to persuade my distinguished Colleagues of the Majority to see this case the way I see it, but to no avail, and because the issue upon which we part company

touches the very jurisdictional foundation of this Court and the unambiguous command of our appeal statute, I have respectfully declined to compromise. I have therefore withheld my signature from the Judgment growing out of the Majority Opinion, and I now record the reasons for my dissent.

The Majority Opinion has stated the facts of this case quite ably, but I think it necessary to reiterate certain key aspects which bring the law in this jurisdiction into question and which form the basis upon which I have declined to join the Majority.

As the record shows, the Commercial Court rendered a ruling compelling arbitration, and the respondent, LPRC, being dissatisfied, announced an appeal. Although the appeal statute requires the filing of the bill of exceptions within ten (10) days, the respondent admits that it failed to meet that deadline, and instead, filed its bill of exceptions on November 26, 2025, two days beyond the statutory period. The movant has in line with the Civil Procedure Law, Rev. Code 1: 51.4, and in line with a litany of Opinions by this Honorable Court under the circumstances, filed the instant motion to dismiss the said appeal, arguing that the appeal be dismissed for failure of the respondent to file its bill of exception in time and as mandated by the appeal statute.

The respondent conceded to filing its bill of exceptions late but argued that the late filing was the result of an excusable neglect, stating that the late filing had been occasioned by the sudden illness of one of its counsels. In support of this assertion, the respondent submitted a medical certificate from an orthopedic doctor stating that the one of the counsellors from the law firm of the respondent, Sherman and Sherman, Inc., Counsellor Arthur M. Morrison, suffered from Rheumatoid Arthritis on November 24 and 25, 2025.

The Majority has held that the respondent's failure to file its bill of exceptions within the statutory period prescribed by the Civil Procedure Law, Revised Code 1:51.4, is curable by the assertion of reason attributable to excusable neglect under section 1.7(2)(b) of the Civil Procedure Rev. Code 1. As a basis for their assertion, my Majority Colleagues took recourse to the medical certificate proffered by the respondent, alleging the sudden illness of a member of the firm that represents the respondent.

With the greatest deference to my distinguished Colleagues, I am unable to subscribe to that conclusion, since the motion to dismiss the appeal, which the Majority has denied, squarely challenges the respondent's noncompliance with the appeal statute, and which this Court in a litany of cases has interpreted as been mandatory. I find it compelling to restate Section 51.4 of the statute on appeal. It reads:

The following acts shall be necessary for the completion of an appeal: (a) Announcement of the taking of the appeal; (b) Filing of the bill of exceptions; (c) Filing of an appeal bond; (d) Service and filing of notice of completion of appeal. **Failure to comply with any of these requirements within the time allowed by statute shall be ground for the dismissal of the appeal.**
[Emphasis supplied.]

The four steps listed by the statute are mandatory as cited above, and the penalty for non-compliance is not discretionary, it is dismissal. When a statute is clear in such unambiguous terms, the duty of this Court is to give effect to its plain meaning. Where any one of these steps is omitted within the time fixed by law, this Court is divested of jurisdiction, and no act of sympathy, however well-intentioned, can supply that jurisdictional defect. See *Knuckles v. Liberian Trading and Development Bank*, 40 LLR 49; *Catakaw et al. v. Karweh*, Supreme Court Opinion, March Term, A.D. 2010; *Sheriff v. Parwon et al.*, Supreme Court Opinion, March Term, A.D. 2015; *David Gotoba v. LBDI*, Supreme Court Opinion, March Term, A.D. 2023.

What I am asserting in my dissent is that we are not at liberty to bend the clear language of the appeal statute to accommodate litigants, especially when the law, the Civil Procedure Law, Rev. Code 1: 1.7(2)(b) has provided the avenue, the recourse to overcome tardiness in the filing of any of the appeal steps due to an excusable neglect, and which this Court has also in a litany of Opinions ably interpreted, setting out the perimeters for consideration of delays in the timely filing of courts' required documents.

The framers of the statute took cognizance of human frailties and made provision to accommodate circumstances that would make it impossible to perform actions tied to statutory deadlines even before their expiration. In the same vein, the statute also anticipated that circumstances beyond human control may arise in such a way that it becomes impossible to request an excuse for one's inability to meet a statutory deadline. In events of this nature, the statute left room to remedy an inaction upon a proper showing of excusable neglect. Thus, Section 1.7(2) of our Civil Procedure Law offers two distinct subsections, each addressing a distinct procedural gap, and each carrying its own conditions:

2. Enlargement. When under this title or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may, except as otherwise provided by law, at any time in its discretion: (a) order the period enlarged if application is made before the expiration of the period originally prescribed or as extended by previous order, or (b) upon motion made after the expiration of the prescribed period permit the act to be done when the failure to act **was the result of excusable neglect.**

The statute, as cited above, is clear. Consistent with subsection (a), the burden is upon a party to, upon foreseeing that he will be unable to comply with a deadline, apply to the trial court for an enlargement of time before an expected deadline expires. In the event that party could not make an application to the trial court to register his/her inability to meet the requirement of the statute prior to its expiration, the statute provided another opportunity under Subsection (b).

My contention is that section 1.7(2)(b) is not a self-executing absolution. It is a basis for a motion which must be made, and which must be ruled upon by the trial court. Unlike the precedent set by the Majority today, this Court has, for over two decades, upheld a high bar for the granting of enlargement of time to perfect appeals in instances where such request was made before the Court. A review of the Opinions of this Court reveals a permissible condition upon which an enlargement of time was granted by the Supreme Court where the appeal was not perfected within the statutory time. That condition is rooted in the doctrine of *force majeure* as articulated in *Intercon Security System, Inc. v. Philips et al.*, 40 LLR 30, 35 (2000), grounded in the common-law equitable doctrine of impossibility.

In the *Intercon* case, the appellant, upon the trial court's rendition of final judgment, filed its bill of exceptions but was unable to file an appeal bond and notice of completion of appeal in time because of the outbreak of the Civil War on April 6, 1996. This Court rejected the appellee's motion to dismiss appellants appeal on the grounds that the appellant was involuntarily prevented from complying with the appeal statute by reason of war, a *force majeure*, an irresistible force entirely beyond the control of the appellant. That holding was not an act of judicial indulgence, it was a precise and faithful application of the common-law doctrine of impossibility, which teaches that there can be no obligation to fulfil what is impossible. Where *force majeure*, an irresistible and unforeseeable force operating entirely outside the will and control of the appellant, destroys the functioning legal order that must guarantee the implementation of statutory mandates, the statute itself ceases to toll, and the clock does not legitimately run against a party who is genuinely incapacitated from acting through no fault of his own.

Five (5) years after the *Intercon* case, this Court was squarely faced with the question of whether the illness of counsel could be considered a *force majeure* for purposes of excusing non-compliance with the appeal statute. In the case *Sheriff v. Parwon et al.*, Supreme Court Opinion, March Term 2015, the appellant's counsel was alleged to have been too ill to file a notice of completion of appeal within the statutory period. This Court unequivocally held that the illness of a counsel does not constitute *force majeure* and that the principle articulated in

Intercon was inapplicable as the courts were fully functioning and that even the ill counsellor for the respondent was able to instruct a non-lawyer to pursue the filing of the notice of completion of appeal. In the instant case, the respondent was represented by a Law Firm which has staff including lawyers and non-lawyers.

The case at bar is, in every material respect, synonymous to the *Sheriff* case. The respondent here, like the appellant there, pleads the illness of a single counsel. It does not plead war, natural disaster, civil insurrection, or any other irresistible force that paralyzed the legal order. The illness of the counsel for respondent is not a *force majeure*. It is a misfortune of the kind that befalls members of the bar from time to time, and against which prudent law firms organize themselves around the services of multiple counsels.

The Majority places principal reliance on *Harris v. Barkemeni*, Supreme Court Opinion, March Term 2012. In *Harris*, the appellant delayed by one day in filing his appeal bond and the notice of completion of appeal. The delay was occasioned not by any act or omission of the appellant, but by the absence of the trial judge, who had left Maryland County for the Christmas holidays with no substitute judge assigned to the circuit. Because the trial judge's approval of the appeal bond was a *prerequisite* to every step that followed, the appellant in *Harris* was rendered powerless by a circumstance entirely outside its control and squarely attributable to the court itself. This Court held, in those narrow circumstances, that it would be unreasonable to require an appealing party to chase a judge around the country to obtain a signature, and that the absence of a judge from his assigned circuit should not work hardship on the party requiring said service.

The case at bar is different in every respect from the *Harris* case. While the delay in the *Harris* case was attributable to the court, the delay in the instant case is attributable to the respondent's own counsel and the internal arrangements of the respondent's own law firm. The unavailability of one's own lawyer is not the unavailability of the court. It should also be noted that this Court, in *Harris* expressly faulted the appealing party for failing to take affirmative legal measures, and noted that the appellant's counsel could have filed an application to the trial court for extension of the appeal period or, in the alternative, should have filed a motion for enlargement of time under Section 1.7(2) of the Civil Procedure Law. The appellant in *Harris* prevailed *in spite of* that failure, and only because the delay was the court's fault; it did not prevail *because of* any doctrine that excusable neglect cures the omission of a statutory step.

Interestingly, the respondent in the case at bar, availed itself of neither remedy under section 1.7 (2) before the trial court. That is, it did not apply to the trial court before the expiration of

the ten-day period within which to file its bill of exceptions; it did not, after the expiration of the ten-day period, file a motion under Section 1.7(2)(b) to seek the trial court's leave to file its bill of exceptions out of time for what it considered an excusable neglect. Instead, what the respondent did was simply to file a bill of exceptions two days later than the statutory deadline and proceeded as though nothing had happened, and then, when confronted before this Court with a motion to dismiss, the said respondent invoked excusable neglect as a defense attaching a medical certificate from an orthopedist, stating that one of the counsel of the respondent's Law Firm had the bill of exceptions with him and became sick to the extent that he was unable to file same within the statutory deadline, but the Law Firm of the respondent made no attempt to cure this delay by the filing of a motion for enlargement of time before the trial court.

A litigant who simply ignores a statutory deadline and then, when challenged, invokes excusable neglect as an afterthought, has not satisfied the statute. The Majority's holding, in substance, has sets a precedent under which the filing of a motion for enlargement of time before the trial court will become meaningless, as the Majority Opinion will now become the new license to direct the filing of said motion before this Honorable Supreme Court with the respondent attaching some document which could not be authenticated, as the Supreme Court does not take evidence, and the movant would have no opportunity to traverse it. I see this as a dangerous precedent that undermines the essence of structural procedures in legal proceedings. Procedural frameworks in litigation processes creates a fair and structured environment that guarantees due process and mitigates the abuse of discretion by substituting arbitrary decision making with predictable standards which ensure transparency over matters before the Court.

In my considered view, the Majority's holding departs from the clear mandate of the legislature with regards to appeals and which this Court in its interpretation has held as mandatory. The Majority has also departed from the requirement mandated under the statute on enlargement of time 1.7(2)(b) due to an alleged excusable neglect which requires the excuse traversed in the court below by the filing of a motion for extension of time.

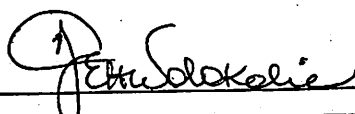
By their ruling, members of the Majority have diluted the jurisdictional character of the appeal statute. I hold a strong view that the respondent, having missed the deadline for the filing of the bill of exceptions for reasons stated, but failed to cure said tardiness by the filing of a motion for enlargement of time in the court below, its appeal is dismissible and must be denied. It would be remiss were I not to note the practical consequences of the rule the Majority announces today. The BAR of this Republic is now on notice that the statutory ten-

day period for filing a bill of exceptions, and indeed the sixty-day period for the completion of an appeal, may be safely overshoot so long as a medical certificate can be produced after the fact. Counsels no longer need to trouble themselves with the discipline of Section 1.7(2)(a) & (b); the easier course is to file late and plead excusable neglect in the appellate court.

Worse still, the holding effectively transfers from the trial court to this Court the function of granting enlargements of time in the first instance. The trial court in this matter was never given the opportunity to pass upon a motion under Section 1.7(2)(a) or 1.7(2)(b) because no such motion was ever filed. The problem with this is that the trial court has simply been deprived of the opportunity to admit and examine the evidence needed for a proper determination of excusable neglect when the Supreme Court is not a court of first instance and is not constituted to receive and weigh evidence. An appealing party may now bypass the scrutiny of the trial court altogether and come up to the Supreme Court with an unauthenticated document which the Court may accept or not accept depending on its discretion.

I take no pleasure in observing that sickness of a legal counsel does not, as a matter of law, excuse a client's non-compliance with the appeal statute, but sympathy is not a source for obtaining jurisdiction, especially where the legal firm representing the respondent has other lawyers. This Court has repeatedly enunciated that it cannot do for a party what the party ought to have done for itself. The respondent's failure to take advantage of Section 1.7(2)(b) constituted a conscious waiver; and, having waived its right to invoke the remedy in the manner the statute prescribes, the respondent must suffer the consequences of its own neglect.

In my view, I strongly hold that the motion to dismiss the respondent's appeal ought to have been granted, the appeal ought to have been dismissed, and the Mandate ought to have issued to the trial court commanding it to resume jurisdiction and give effect to its final ruling. Because the Majority has held otherwise, and because the principle of strict compliance with the appeal statute is, in my judgment, too fundamental to be subjectively compromised, I have withheld my signature from the Judgment in this case and respectfully dissent.



HER HONOR JAMESETTA H. WOLOKOLIE
ASSOCIATE JUSTICE, SUPREME COURT OF LIBERIA