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: CEAINEH D. CLINTON JOHNSON............ASSOCIATE JUSTICE
BEFORE HIS HONOR : BOAKAI N. KANNEH...............................ASSOCIATE JUSTICE

Veritas Shipmanagement Ltd., a corporation validly existing under the)
laws of Liberia, with Reg. No. c-115946, with registered office at 80)
Broad Street, Monrovia, Liberia, having established at shipmanage-)
ment Branch Office in Greece situated at 10 Ouranou Street,)
Vouliagmeni 16671, Athens, Greece,)
)
And)
)
Dimitrous Koukas, a resident of 10 Ouranou Street, Vouliagmeni)
16671, Athens, Greece, the first being the last known address of)
Record and the second being the last known president/director and)
and dissolution Trustee of six dissolved Liberia corporations: Arista)
Maritime Ltd, Anax Shipping Ltd, Aspire Shipping Ltd, Archer Maritime)
Ltd, of 80 Broad Street, Monrovia, Liberia represented by their Attorney)
-In-Fact, Lex Group Liberia, LLC Congo Town, opposite Dominion)
Christian Fellowship Church, Monrovia, Liberia............Appellants)
)
Versus) APPEAL
)
Arista Maritime Ltd., with reg. no. C-116808 and registered address)
at 80 Broad Street, Monrovia, Liberia....................1st Respondent,)
Archer Maritime Ltd., with reg. no. c-116810 and registered address at)
80 Broad Street, Monrovia, Liberia.........................2nd Respondent,)
Aspired Shipping Ltd., with reg. no. c-116812 and registered address)
at 80 Broad Street, Monrovia, Liberia.....................3rd Respondent)
Anax Shipping Ltd., with reg. no. c-116809 and registered address at)
80 Broad Street, Monrovia, Liberia..........................4th Respondent)
Apnea Shipping Ltd., with reg. no. c-116811 and registered address at)
80 Broad Street, Monrovia, Liberia..........................5th Respondent)
Advanced Shipping Ltd., with reg. no. c-116807 & registered address)
at 80 Broad Street, Monrovia, Liberia......................6th Respondent)
by and thru their authorized representative.................Appellees)
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GROWING OUT OF GROWING OUT OF CASE:)

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Advanced Shipping Ltd., with reg. no. c-116807 & registered address)
at 80 Broad Street, Monrovia, Liberia)
by and thru their authorized representative..................Petitioners)
)
Versus) PETITION FOR
) THE WRIT OF
His Honor J. Kennedy Peabody, Assigned Judge, Sixth Judicial) CERTIORARI
Civil Law Court, Montserrado County, Republic of Liberia) I
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Christian Fellowship Church, Monrovia, Liberia.......2nd Respondents)

Heard: March 24, 2026 Delivered: May 21, 2026

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION FOR THE COURT

This appeal is before the full bench of the Honorable Supreme Court of Liberia from the ruling entered on August 26, 2025, by the Chambers Justice, Her Honor Ceaineh D. Clinton-Johnson, granting the appellees, Arista Maritime Ltd. petition for a writ of certiorari. Her ruling reversed the trial judge's denial of the appellees' motion for enlargement of time in the Civil Law Court, Montserrado County, Liberia.

The facts show that on January 17, 2023, the appellants, Veritas Shipmanagement Ltd. and Dimitrious Koukas, filed a petition for declaratory judgment before the Sixth Judicial Circuit, Civil Law Court, Montserrado County against the appellees, six nonresident corporations registered under the laws of Liberia. In the petition for the declaratory judgment, the appellants argued and prayed that the recission of dissolution by the appellees be declared void *ab initio* as it was inconsistent with the Liberian Business Corporation Act.

The lower court issued a writ of summons on January 17, 2023, and it was duly served on the same day on the Liberia International Ship and Corporate Registry ("LISCR"), the designated statutory registered agent of the appellees in Liberia. The sheriff's returns confirmed service at the offices of LISCR, as evidenced by the signature of the Corporate Manager of LISCR.

The writ of summons required the appellees to file their returns within ten (10) days, that is, by or before January 27, 2023, or in accordance with our Civil Procedure Law, Rev Code1: 1. 7 (3) twenty days thereafter in regard to service by mail outside of Liberia. That is, upon proper service as per our Civil Procedure Law, Rev. Code 1: 3.38 (6) the appellees had up to February 6, 2023, to filed their returns to the appellants' petition since they exist outside the jurisdiction.

The appellees however did not file their returns up to the end of February 6, 2023, the twenty-day period allowed by statute, but on February 20, 2023, fourteen (14) days after the expiration of the period allowed for filing their returns, the appellee filed a motion for enlargement of time. In their motion, the appellees contended that they had received the court's precept through LISCR via DHL courier on January 26, 2023, ten days before the twenty day period expired and that, being nonresident corporations without presence in Liberia, this required additional time to identify, engage, and secure a Liberian legal counsel, to represent their interest, the role that Heritage Partners & Associates, LLC subsequently was hired to serve. The appellees contended that these circumstances constituted an excusable neglect upon the basis of which enlargement of time would lie.

A review of the records showed that appellees attached no DHL delivery receipt, no copy of the retainer agreement with Heritage Partners & Associates, and no documentary evidence of any kind to substantiate either the date they received the summons or the date they retained a Liberian counsel. The appellants resisted the motion for enlargement of time, arguing that the appellees bore the burden of proving the factual basis of their excusable neglect claim, and having failed to do so, their motion should be denied and dismissed.

The trial judge, His Honor J. Kennedy Peabody, on April 5, 2023, denied the motion for enlargement of time on grounds that the appellees had failed to produce the DHL delivery receipt, failed to produce the retainer agreement, and that under settled Liberian law, he who alleges a fact bears the burden of proving it.

The appellees thereafter filed a motion to rescind judgment, raising the issue of improper service as per the construction of the Civil Procedure Law, Rev. Code 1: 3.38 (6). The appellees argued that the sheriff after serving the defendants' agent should have mailed a copy of the summons to the appellees but having failed to do so, enlargement of time for the appellees' appearance should be granted.

The trial judge again denied the motion to rescind, holding that Section 3.38(6) of the Civil Procedure Law was moot, it having not been raised in the original motion for enlargement of time, and the appellees having appeared before the court had voluntarily submitted themselves to its jurisdiction.

The appellees filed a petition for the writ of certiorari before the Chambers Justice, praying the Chambers Justice to review the trial judge's ruling on the following: **(1)**. that the Judge had failed to consider key arguments raised in the motion to rescind; **(2)** That the Judge had mischaracterized their contention relating to Section 3.38 (6); and **(3)**. That the Judge erred in requiring proof of the appellee's counsel retention.

Did the Chambers Justice erred when she granted the appellees' petition for Certiorari and overturned the trial judge's ruling denying appellees' motion for enlargement of time?

Section 1.7(3) of the Civil Procedure Law further provides for time of response to service of summons by mail within and outside Liberia. Section 1.7 (3) reads:

> 3. *Additional time for service by mail.* Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, five days shall be added to the prescribed period if the mail is sent to him within the Republic of Liberia, and ten days shall be added if mail is sent to him abroad. Whenever a certain period of time must elapse after service of a notice or paper on a party before the adverse party has the right to do some act or take some proceedings, and the notice or paper has been served by mail, five days shall be added to the prescribed period if mail is sent to the person within the Republic of Liberia, and ten days shall be added if mail is sent to him abroad.

The Liberian Civil Procedure Law, Rev. Code 1:1.7 (2) also states:

> 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 the act to be done when the failure to act was the result of excusable neglect.

The facts in this matter before us are that the appellants, Veritas Shipmanagement Ltd. et. al., a corporation registered under the laws of Liberia, and Dimitrous Kouka, a residence of Athens, Greece, filed a petition for declaratory judgement against the appellees, six non-resident corporations registered under the law of Liberia. The appellants say the six appellee corporations were incorporated under the law of Liberia on November 13, 2013, and subsequently, all stock subscriptions belonging to them were transferred to the co-appellant Dimitrious Kouka, and to that effect, the co-appellant Veritas Shipmanagement Ltd. became their appointed address of records. Appellants further say that on January 20, 2017, the appellee corporations were dissolved in accordance with Chapter 11 of the Business Corporation Act on grounds that they were not achieving their established objectives; that notwithstanding this dissolution, a request for the rescission of the appellees corporations was made by a third party unbeknownst to the petitioners; consequently, the dissolved appellee corporations were subsequently reinstated as revived corporate entities.

With respect to these reinstatements, the appellants filed this petition for declaratory judgment in the court below requesting the judge therein to declare the rescission of the appellee corporations void and inconsistent with law. The appellants' petition for declaratory judgement, along with the writ of summons, were served on their registered agent LISCR on January 17, 2023 and received by Olivia Johnson who signed in her formal capacity as the Corporate Manager for LISCR.

In reaction to the petition for declaratory judgement, the appellees, on February 20, 2023, filed an eight-count motion for enlargement of time on grounds that they were nonresident domestic corporations with no physical location in Liberia and that they had received the summons and petition for declaratory judgment on January 26, 2023, a day prior to their due date for the filing of their returns. The appellees averred that because they were nonresident corporations, they needed to conduct due diligence to recruit a legal counsel in Liberia who could adequately represent their interests, and when they hired the Heritage Partners and Associates, LLC, they were left without sufficient time for filing their returns.

the appellants resisted the motion, praying the trial court to deny the request on grounds that appellees had failed to show any proof that they received the court precepts on January 26, 2023, via DHL from LISCR. The appellants further countered that being nonresident domestic corporations without physical presence in Liberia could not be considered an excusable neglect in face of the fact that the appellees have LISCR as their registered agent on whom the court's precepts were served.

The trial judge listened to oral arguments, pro and cons, and denied the motion for enlargement of time on grounds that the appellees failed to produce any exhibits to substantiate receipt of the court's precepts on January 26, 2026, and that their diligent search for a competent counsel to represent their interest made it impossible to file within the time required by statute.

Predicated upon the trial court's ruling, the appellees Arista Maritime Ltd *et al* filed another motion, requesting the trial Judge to rescind his ruling. The appellees argued that the judge erred by requiring them to produce proof of receipt of the mailed precepts, and asserting further that the burden of proof regarding service of court's receipts rested with the ministerial officer in keeping with section 3.38 (6) of the Civil Procedure Law, and not the appellees. Again, the court heard and denied the motion to rescind, reasoning that section 3.38 (6) of the Civil Procedure Law, which requires mailing copy of summons to defendants after service on statutory agents, was moot because it was never raised by the appellees in their motion for enlargement of time.

The appellees filed a petition for the writ of certiorari before the Chambers Justice, primarily reiterating their petition before the Justice in Chambers, that they are nonresident corporations with no physical location in Liberia; that LISCR had received the court's precepts on their behalf, and mailed same to them via DHL which they received on January 26, 2023, one day before their January 27, 2023 deadline for filing their returns; and that they were unable to file their returns due to the time required to search for lawyer to adequately represent them. The appellees further argued that the trial judge mischaracterized their position regarding section 3.38 (6) of the Civil Procedure Law for which they had argued placed the burden of proof concerning the service of precepts upon the ministerial officer; that the judge erred in ruling that they had been properly served through LISCR, their statutory agent.

Her Honor Ceaineh D. Clinton-Johnson, presiding in Chambers, cited the parties for conference, and subsequently issued the alternative writ of certiorari. Consequently, the appellants filed their returns contending, *inter alia,* that the Liberian law permits service of precepts on nonresident corporations without physical presence in Liberia on LISCR, their registered agent, in keeping with section 3.1 (a) of the Association Law of Liberia; that LISCR was duly served with the writ of summons and the petition for declaratory judgment; that arguments of mailing copy of service to the foreign address of appellees as contained in section 3.38 (6) of the Civil Procedure Law was never raised as an issue in the motion for enlargement of time; that the appellees having appeared for the hearing, arguments and ruling on the motion, could not later raise the issue of service in their motion to rescind; that the Judge Peabody did not err in ruling that the matter was moot, and that the burden of proving excusable neglect did not rest with the sherif but rather with the appellees, the parties seeking relief.

Arguments of the parties were heard *pro and cons* and Chamber Justice Johnson ruled granting the appellees' Arista Maritime Ltd et al petition. The Justice stated that the appellees, nondomiciliary Corporations, having received the summon on January 26, 2023, a day before the required time for filing their returns, and considering that they had to recruit a Liberian Lawyer to represent their interest, this constituted excusable neglect for which enlargement of time should be granted.

The Court observes that the appellees' motion for enlargement of time was filed without any exhibit to substantiate their assertions as to the time of receipt of the summons and petition.

The Supreme Court in setting out this applicability of excusable neglect, a failure that the law will excuse, has held that it must not arise from the party's own carelessness, inattention, or willful disregard of the court's process, but from circumstances that a reasonably prudent person could not have anticipated or overcome within the prescribed time. Consistent with the statute and as we have narrated, neglects of magnitude deserving to be deemed excusable must be shown and established by the party seeking enlargement of time. That is, there must be a genuine showing of evidence to convince that something had occurred or not occurred which made compliance with the statute impossible; it signals that something more than a recitation of reasons is required. This Court therefore says, excusable neglect must not only be stated, but it must also be shown. *Dragages et Travaux Public v. Sojon*, 30 LLR 604, 609 & 610 (1983). This clarity finds support in a long line of Opinions of this Court holding that one who alleges a fact must prove it. *Banjoe v. Republic of Liberia*, 26 LLR 255, 273 (1977); *Mano Insurance Corp. v. Picasso Cafeteria*, 38 LLR 37, 48 (1996); Knowlden v. Reeves, 12 LLR 103, 108 (1954); *Chebli v. Benson et al.*, Supreme Court Opinion, October Term 2016; *Barway v. Republic of Liberia*, Supreme Court Opinion, March Term 2016.

We disagree with the Justice in Chambers ruling that the mere statement by the appellees Arista Maritime Ltd *et al* that they received the summons and petition on January 26, 2023, a day before they were to file their returns was insufficient to grant an enlargement of time where the appellants were under an obligation to attach the evidence of the date of receipt of the court's precepts. One rule that remains protective of our adversarial system is embedded in the principle which states that a person who alleges a fact must prove it. In the instant case, appellees who sought to convince the court that they deserved enlargement of time have upon their shoulders the burden of proof.

Nonresident status is a relevant circumstance in the excusable neglect analysis, but it is not a conclusive substitute for the evidentiary showing that the law requires. To hold otherwise would be to effectively conclude outside the statutory requirement that excusable neglect be deemed established by an automatic enlargement right for nonresident corporations, with or without proof of material evidence.

Notwithstanding the failure of the appellees Arista Maritime Ltd *et al* to proffer the required evidence for granting the motion for enlargement of time, they alleged that the summons was not properly carried out consistent with the Civil Procedure Law, Rev. Code 1: 3.38 (6). This statute of our Civil Procedure Law provides for personal service within Liberia. Section 6 of the Civil Procedure Law regarding service of summons upon corporations, reads as follows:

> 6. *Upon a corporation.* Personal service shall be made upon a domestic or foreign corporation by reading and personally delivering the summons within Liberia to an officer, or manager or general agent, or to any other agent authorized by appointment or statute to receive service of process, and, if the summons is delivered to a statutory agent, **by, in addition, mailing a copy thereof** to the defendant.

It is the law that a summons is an instrument used to commence a civil action or special proceedings and it is a means of acquiring jurisdiction over a party. Where service of summons is not done as required by statute, said summons cannot be said to be proper and as such the court is without authority to exercise jurisdiction over said party. *Venn v Johnson*, Supreme Court Opinion, March Term, 2025; *Joseph S. Feahn v Her Honor Judge Mardea Chenoweth et al,* Supreme Court Opinion, March Term 2022.The rendition of judgment without jurisdiction is a usurpation of power and makes the judgment itself coram non judice and ipso facto void. Kyung v. Mathies, Supreme Court Opinion, March Term, 2006; Ministry of Labor v Natt, Supreme Court Opinion March Term, 2007.

The ruling of the Chambers Justice, Her Honor Ceaineh D. Clinton-Johnson, entered on August 26, 2025 as regard the granting of the petition of certiorari without the appellees Arista Maritime Ltd *et al* proffering evidence of proof of excusable neglect was contrary to the statute. However, the court not having served the summon on the appellees in accordance with our Civil Procedure Statute as the previous summons was improperly served, and the appellees having brought themselves under the jurisdiction of the lower court, the court should have taken notice of its lack of jurisdiction by the improper service of the summons on the appellees and given them time to serve their returns to the appellants Veritas Shipmanagement Ltd and Dimitrious Koukas' declaratory judgment. We therefore hold that the lower court grants the appellees ten days as of the reading of the Mandate of this Court to file their returns.

WHEREFORE AND IN VIEW OF THE FOREGOING, the alternative writ of certiorari issued by the Justice in Chambers is sustained and the peremptory writ prayed for granted for the reason stated herein. The Clerk of this Honorable Court is ordered to send a Mandate to the court below, commanding the judge presiding therein to resume jurisdiction over this case and enforce the Judgment emanating from this Opinion. Costs are ruled against the appellants. AND IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLOR J. DAKU MULBAH OF LEX GROUP LIBERIA, LLC. APPEARED FOR THE APPELLANT. COUNSELLOR T. NEGBALEE WARNER AND J. AWIA VANKAN OF HERITAGE PARTNERS AND ASSOCIATES, LLC. APPEARED FOR THE APPELLEE.