

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

Junior Sackie, Prince Blackie and Emmanuel Kollie of)
Weala, Margibi County, Republic of Liberia.....Movants)

Versus)

) Motion to Dismiss Appeal

The Salala Rubber Corporation by and thru its General)
Manager, and all other officers under its Authority, of)
Weala, Margibi County, Republic of Liberia)
..... Respondent)

GROWING OUT OF THE CASE:)

The Salala Rubber Corporation by and thru its General)
Manager, and all other officers under its Authority, of)
Weala, Margibi County, Republic of Liberia,)
.....Appellant)

Versus)

) Appeal

Junior Sackie, Prince Blackie and Emmanuel Kollie of)
Weala, Margibi County, Republic of Liberia....Appellee)

GROWING OUT OF THE CASE:)

Junior Sackie, Prince Blackie and Emmanuel Kollie of)
Weala, Margibi County, Republic of Liberia.....Plaintiff)

Versus)

) Action of Damages for Wrong

The Salala Rubber Corporation by and thru its General)
Manager, and all other officers under its Authority, of)
Weala, Margibi County, Republic of Liberia)
.....Respondent)

Heard: March 18, 2026

Delivered: August 27, 2026

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION FOR THE COURT

This matter before this Honorable Supreme Court of Liberia is a motion to dismiss an

an appeal filed by Salala Rubber Corporation, the respondent, against Junior Sackie et al., movants. The movants, on allegation made by the respondent, Salala Rubber Corporation, were arrested and tried in the Salala Magisterial Court for multiple crimes including theft of property and criminal trespass. The said prosecution ended into an acquittal for the movants.

Following their acquittal, movants, filed a complaint of unjust treatment against their persons, in an action of "Damages for Wrong" in the 13th Judicial Circuit Court against the Salala Rubber Corporation, respondent, and prevailed, with the court awarding movants damages of Six Hundred Thousand United States Dollars (US\$ 600,000.00) and Eight Hundred Seventy-eight Thousand Nine Hundred Liberia Dollars (LD\$ 878, 900.00) in special damages, plus One Hundred Seventy-five Thousand Two Hundred United States Dollars (US\$ 175, 200.00) in general damages. The respondent excepted to the final ruling of the 13th Judicial Circuit Court, rendered on January 25, 2025, and appealed to the Supreme Court. This motion to dismiss grows out of the respondent 's appeal.

The movants' grounds cited for the dismissal of the respondent's appeal are that the respondent have announced an appeal, filed a bill of exceptions, and filed an appeal bond which are the first three mandatory steps under Civil Procedure Law, Revised Code 1:51.4; however, it failed and neglected to file its notice of completion of appeal as required by section 51.4(d), and further failed to facilitate the transcription and transmission of the appeal records to the Supreme Court within the required 90-day statutory period which constitutes abandonment of the respondent's appeal as supported by precedent in the case, *National Housing and Saving Bank v. James D. Gordon*, 35 LLR 326 (1988).

In support of their contention, movants annexed to their motion to dismiss a Clerk's Certificate issued by the 13th Judicial Circuit Court of Margibi County, dated November 4, 2024, certifying that no notice of completion of appeal had been filed in the court below.

The respondent, in its resistance to the motion filed, counterargued that it superintended the perfection of the appeal by providing adequate financial resources to their former counsel, Sherman & Sherman, Inc. to perfect the said appeal, including the filing of the notice of completion of appeal and the transcription and transmission of the records. The respondent avers that to its surprise, Sherman & Sherman, Inc. failed to fulfil these obligations and subsequently communicated its withdrawal from the case directly to the Supreme Court via a letter dated April 7, 2025, without notifying the respondent. Respondent contends that these circumstances constitute excusable neglect within the meaning of the Civil Procedure Law, Revised Code 1:1.7(2)(b), and prays this Court to grant an enlargement of time to perfect its

appeal, relying on the case, *Raspal and Sachdeva v. Dukuly*, Supreme Court Opinion, March Term, A.D. 2025 as a precedent for the Court granting it enlargement of time.

Can the Court under the facts and circumstances of the instant case legally grant a request for enlargement of time?

It is a well-settled and long-standing principle in this jurisdiction that only strict compliance with the appeal statute confers jurisdiction upon this Court to entertain and determine the merits of a matter certified for appellate review. The Civil Procedure Law, Revised Code 1:51.4, is unambiguous:

"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 an appeal bond; (d) service and filing of notice of completion of the appeal. Failure to comply with any of these requirements within the time allowed by statute shall be ground for dismissal of the appeal."

This Court has affirmed in a consistent line of decisions spanning over two decades that noncompliance with any of these four mandatory jurisdictional steps is a ground for dismissing an appeal- *Sauid v. Gebara* 15LLR 598, 603 (1964); *Catakaw et al. v. Karweh*, Supreme Court Opinion, March Term, A.D. 2010; *Liberia Baptist Theological Seminary v. Lincoln S. Brownell, Jr.*, Supreme Court Opinion, March Term 2020; *Esther Yeanay Barkpei v. Joseph L. Tompoe*, Supreme Court Opinion, March Term, A.D. 2020.

The Court particularly stressed that it is the filing of the notice of completion of appeal that grants the Supreme Court the legal basis to assume jurisdiction over an appeal. In emphasizing its jurisdiction to hear an appeal based on the service and filing of a notice of completion of appeal, the Court referenced its Opinion in the case, *Taye v. Kiawu*, Supreme Court Opinion, October Term, A.D 2024, and stated:

"The notice of completion of appeal is in the nature of a writ of summons which the law requires to be served upon the appellee notifying him to appear before the appellant court. Service of this notice gives the appellate court jurisdiction in the matter and the trial court cannot continue thereafter to exercise any jurisdiction."

We reaffirm the principle cited *supra*, and reiterate that it is only the fulfillment of the final step of the appeal that grants jurisdiction to the Supreme Court for appellate review over the subject of an appeal. Since jurisdiction is a substantial authority that enables courts to pass on the substance of a given matter, this Court has adopted an unwavering position that called for strict compliance to the mandatory requirements of the appeal statute for the perfection of appeals and has decreed the dismissal of cases not in compliance therewith: *Mankeh v.*

Toweh, 32LLR 207 (1984); *Ezzedine v. Saif Services*, Supreme Court Opinion, March Term, A.D. 2006; *Hussenni v. Brumskine*, Supreme Court Opinion, March Term, A.D. 2013; *National Elections Commission (NEC) v. Siebo, Jr.*, Supreme Court Opinion, March Term A.D. 2017 and *Baikpei vs Tompoe*, Supreme Court Opinion, March Term, A.D. 2020.

Considering the requirement for mandatory compliance with the appeal statute, the question we ask is, can this Court under the facts and circumstances grant the respondent's request for enlargement of time to enable it perfect its appeal? We must look to the statute and case law regarding this issue of enlargement of time relating to acts not being done within a prescribed period as stated by statute.

Our Civil Procedure Law, Rev Code: 1.7.2. reads:

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.

Our Civil Procedure Law 51.10 "*Tolling of time for acts required to complete appeal*" specifically provide applicable conditions for the tolling of the statute as regards the taking of an appeal. We quote the cited provision as follow:

If, after an appeal is announced, the counsel for the appellant dies or becomes physically or mentally incapacitated or is suspended before the expiration of the time for filling of a bill of exceptions or an appeal bond, the time for the doing such act shall commence to run anew from the date of the death, incapacitation, disbarment, or suspension of such counsel. A bill of exceptions or appeal bond shall not be filed by a new attorney or records with the extended time allowed by this section until he has applied for and received permission of the court.

The respondent herein alleges that it made all payments for its legal counsel to perfect the appeal, to include the filing of the notice of completion of appeal and the transcription of the records of the case, but its legal counsel failed to perfect the said appeal, and the respondent therefore prayed the Court under the circumstances to grant it an enlargement of time to perfect its appeal in accordance with the statute. The respondent relied on the case, *Raspal and Sachdeva v. Dukuly*, Supreme Court Opinion, March Term AD 2015.

In the case *Raspal and Sachdeva v Sachdeva*, the movants filed a motion to dismiss the appellant's appeal on ground that the appellant Bendu Dukuly filed a notice of completion of appeal on the 67th day in contravention of the appeal statute. In response to the movants'

motion, the respondent Dukuly admitted to the lateness in perfecting her appeal but argued that such lateness could be considered as an excusable neglect in that her lawyer, Counsellor Marcus R. Jones, who had handled her case from the inception was suspended from the practice of law five days before final argument and that the continuation of the case was handled by two junior lawyers in the law firm of Counsellor Jones and they had miscalculated the time of the appeal process. The respondent Dukuly prayed the Court to deny the motion to dismiss her appeal. The Court denied her prayer and granted the motion to dismiss, stating reasons as follows:

"Where the lawyer of the respondent had been suspended just before the final argument of the case and the junior lawyers having argued and lost said case, the respondent upon announcing an appeal should have asked the court for enlargement of time to find a more experienced lawyers to handle the appeal process where she did not have confidence in the ability of the junior lawyers to effectively handle her appeal. There is no law disallowing a junior lawyer from perfecting an appeal process; and where said lawyer is negligent and fails to perfect the appeal within the statutory time, it is no excuse for denying the motion to dismiss the appeal."

We do not see how the *Raspal and Dukuly* case supports the respondent's prayer for denial of the motion to dismiss, since like the lawyer in the reference case, the court has held that where appellants' lawyers are incapacitated or for whatever reasons are unable to handle appellants' cases within the time prescribed by statute, the appellants must pray the court below for enlargement of time under the principle of excusable neglect.

The Supreme Court in setting out the 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. Consistent with the statute, neglects of a 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 the court 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.

From our interpretation of section 7.2. of the Civil Procedure Law, excusable neglect for the sickness of a counsel is granted upon order by the trial court, and upon an application and showing of cause by the requesting party. It is the Opinion of this Court that the granting of an order by the trial judge in support of the execution of an action that could not be completed within an earlier defined statutory period on grounds of excusable becomes a reflection of the judge's wisdom to the effect that a justifiable cause existed in the first place that amounted to the tolling of the statute. This reasoning aligns with section 51.10 of the Civil Procedure Law which expressly names the conditions that necessitate the tolling of the statute to include the death, **incapacitation**, disbarment or suspension of the counsel for the party in whose favor the statute ought to toll. The benefit that party litigant accrues from the tolling, the filing of the bill of exceptions or the appeal, is not self-executing; it must be requested and approved by the court under section 51.10. In view of these statutory reasonings, the question we asked is whether the respondent in the instant case requested the court to have its appeal completed under sections 7.2 or 51.10 of the statute? This, the record shows, was certainly not done, and it amounts to evading the province or permissive authority of the trial court.

In this case, the Court notes with grave concern the respondent's allegation against Sherman & Sherman, Inc., and with a particular focus on the averment that the Firm, though retained and funded to perfect the respondent's appeal, failed to file the notice of completion of appeal, abandoned the respondent's cause, and communicated its withdrawal directly to this Court by letter dated April 7, 2025, without first notifying its clients, thereby causing the respondent to remain unaware of its exposure and depriving it of any opportunity to seek alternative representation in a timely manner. This conduct, if proven, constitutes a serious breach of the duty of loyalty and competence that every lawyer owes to his or her client, and equity and fairness will mandate an enlargement of time applicable, depending on proof or evidentiary support of the appellant/ respondent's allegation.

The Court says that this position does not in any way contradict the intent of the Legislature for a strict adherence to the mandatory compliance with the appeal statute, but recognizes that to allow the motion to dismiss under the allegation cited by the respondent would restrict substantive justice on the altar of procedural law. In support of its action, the Court references the case, *Kenya Kamara v. Pan African Capital Group*, Supreme Court Opinion, March Term, 2018. In that case, counsel for the appellant in fulfilling the appeal process filed a bill of exceptions, an appeal bond along with a notice of completion before the expiration of the sixty-day period as required by law. The counsel for the appellant however failed to serve the counsel for the appellee with the notice of completion of the appeal as required by the appeal statute. On a motion to dismiss the appeal filed by the appellee, this Court ruled:

"The provisions of the Civil Procedure Law shall be construed to promote the just, speedy and inexpensive determination of every action. This Court however does not favor strict application of the procedural law for the determination of substantive rights. This matter is one that must be decided upon a fair determination of the substantive rights of the parties. We therefore cannot permit a procedural technicality which has been invoked because of the deliberate neglect of counsel of one of the parties to prevent us from making a fair determination of this case on its merits. In order to arrive at such fair determination, we must hear the appeal. We are of the opinion that each case that comes before us involving the breach of a procedural technicality, concerning the period of the time an act is to be performed, must be considered on a case by case basis, and all of the facts and circumstances that resulted in such breach should be carefully scrutinized."

The Court again acknowledges the rigidity and strict compliance rules of the appeal statute but again must look to equity and fairness in deciding this motion, and must give the respondent an opportunity to prove its allegation with regards to the Civil Procedure Law, Rev. Code: 1.7 (b) or 51.10; that is, the respondent/appellant must be allowed to proceed in the court below to file a motion for enlargement of time and to prove its allegations made, and where the court below is satisfied with the evidence produced, it must order the notice of completion of appeal served and filed *nunc pro tunc*.

WHEREFORE AND IN VIEW OF THE FOREGOING, the motion to dismiss the respondent Salala Rubber Corporation's appeal is denied based on the grounds stated herein. The judge presiding in the 13th Judicial Circuit Court of Margibi County is ordered to have the respondent filed its motion for enlargement of time and to proceed to hear and rule thereon as stated in this Opinion. The Clerk of this Court is ordered to issue a Mandate to the 13th Judicial Circuit Court to resume jurisdiction over this case and proceed in accordance with the Judgment emanating from this Opinion. Costs abide final determination. AND IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLOR KPOTO KPADEH GIZZIE OF GARNETT & ASSOCIATE LAW FIRM, INC. APPEARED FOR THE MOVANTS. COUNSELLOR J. JOHNNY MOMOH OF THE J. JOHNNY MOMOH AND ASSOCIATES LEGAL CHAMBERS, INC. APPEARED FOR THE RESPONENT.