IN THE HONOURABLE 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

The Management of Lonestar Cell/MTN of the City of Monrovia, Liberia .... Appellant Versus Normanlyn B. Barclay Mayango, of the City of, Monrovia, Liberia.............................. Appellee	Appeal

GROWING OUT OF THE CASE

The Management of Lonestar Cell/MTN of the City of Monrovia, Liberia .... Petitioner Versus His Honor Nathaniel Dickerson, Hearing Officer of the Ministry of Labor, Republic of Liberia and Normanlyn B. Barclay Mayango of the City of Monrovia, Liberia .... Respondents	Petition for Judicial Review

GROWING OUT OF THE CASE:

Normanlyn B. Barclay Mayango, of the City of Monrovia, Liberia......................... Complainant And The Management of Lonestar Cell/MTN of the City of Monrovia, Liberia .... Defendant	Unfair Labour Practice/Wrongful Dismissal

Heard: June 2, 2026 Decided: August 27, 2026

MR. JUSTICE KABA DELIVERED THE OPINION OF THE COURT

This appeal emanated from a final ruling of the National Labor Court affirming the ruling of the Ministry of Labor's Hearing Officer, which found the appellant, Lonestar Communications Corporation, liable for wrongful dismissal and unfair labor practices in connection with the termination of the employment of the appellee, Madam Normanlyn B. Barclay-Mayango.

The records show that on September 5, 2011, the Appellant, Lonestar Communications Corporation, sent a communication to the then Director of Police, Hon. Marc Amblard, requesting an investigation to determine whether the Appellee had committed a crime in connection with returned checks. In substance, the letter averred that, over at least ten (10) months, the Appellee received checks paid to and on behalf of the Appellant and deposited them into the Appellant's bank accounts at Ecobank and UBA. According to the letter, the banks provisionally credited the Appellant's accounts and subsequently forwarded the checks for collection in accordance with clearinghouse procedures. The letter alleged that when the checks were not honored, the banks debited the Appellant's accounts for both the amounts of the checks and a fee of US$35.00 per returned check, and thereafter returned the checks unpaid. The letter further alleged that the Appellee received the returned checks but, instead of immediately reporting them as required by company policy, retained them for several months in some instances. As a consequence of the alleged withholding of the returned checks, the Appellant claimed to have incurred uncollectible receivables amounting to at least US$2,528,072.00. The Appellant's letter therefore asserted that the withholding of the returned checks and the deliberate concealment of information might constitute criminal conduct and requested that the police investigate to determine whether any crime had been committed.

On September 6, 2011, one day after requesting a police investigation, the appellant dismissed the Appellee. In the dismissal letter, the appellant stated that it was terminating the Appellee for cause, specifically for breach of duty, gross negligence, and inability to perform her duties as Head of Accounts Receivable, pursuant to Section 1508(6)(c) of the then-operative Labor Practices Law.

Two years after her dismissal, on November 27, 2013, the Appellee filed a complaint with the Ministry of Labor alleging unfair labor practices and wrongful dismissal. Following a hearing, the Hearing Officer found the Appellant liable for wrongful dismissal and unfair labor practices and ordered the Appellant to reinstate the Appellee with all benefits and entitlements from the date of dismissal to the date of the ruling. In lieu of reinstatement, the Hearing Officer awarded the Appellee US$31,389.54, representing: (a) twenty-four (24) months' salary for wrongful dismissal, US$28,974.96 (US$1,207.29 × 24); (b) salary for the month of September 2011; and (c) one month's salary in lieu of notice, US$1,207.29.

Aggrieved by the Hearing Officer's ruling, the Appellant filed a thirteen-count Petition for Judicial Review with the National Labor Court. Among other things, the Appellant contended that the Appellee was not dismissed for criminal conduct. Rather, upon discovering returned or dishonored checks, the Appellant merely requested that the Liberian National Police investigate and determine whether any criminal activity had occurred. The Appellant further argued that the Hearing Officer ignored the facts, witness testimony, and documentary evidence presented at the hearing when he concluded that the Appellee had not been accorded due process of law. The Appellant maintained that the Appellee committed a serious breach of duty through gross negligence and lack of ability in discharging her responsibilities by failing to comply with express instructions regarding the handling of checks and cash payments received from customers. It also argued that the Appellee failed to establish that she was dismissed for theft and that the evidence demonstrated that she was terminated solely for breach of duty. The Appellant further asserted that the Appellee was afforded due process through an internal disciplinary investigation and hearing conducted on its premises. According to the Appellant, the testimonies of its witnesses clearly established that the Appellee was dismissed for failing to follow company procedures and for breaching her duties. Accordingly, the Appellant prayed that the National Labor Court reverse the ruling of the Hearing Officer.

In response, the Appellee filed a sixteen-count return, contending that on August 29, 2011, the Appellant summoned her and questioned her about certain checks, specifically her role and responsibilities when the banks returned them unpaid, in her capacity as Head of Accounts Receivable. The Appellee stated that she informed the Appellant that she had no knowledge of the photocopies of checks presented to her and denied any wrongdoing regarding the allegedly missing checks. The Appellee further asserted that after the August 29, 2011, inquiry, she was instructed to return home and await further communication because the matter was still under investigation. However, no additional questioning or investigation involving her occurred before her dismissal on September 6, 2011.

The appellee also contended that she was later referred to the Liberian National Police for investigation. She alleged that during the investigation, the Appellant failed to produce its then Chief Financial Officer (CFO), who supervised the department and whom the police regarded as a key person of interest. According to the appellee, the CFO, Ms. Lucile Nxumalo, accepted responsibility for the check irregularities and told the police that the matter resulted from a system error. The Appellee further alleged that the appellant's refusal and delay in making the CFO available for questioning compelled the police to close the investigation and issue her a clearance certificate, thereby exonerating her from any criminal allegations. The appellee maintained that after receiving the police clearance, she wrote to the Appellant, characterizing her dismissal as unlawful and demanding reinstatement. After the Appellant refused to reinstate her, she filed a complaint for wrongful dismissal with the Ministry of Labor. The Appellee argued that she had established her claim of wrongful dismissal and denial of due process with sufficient evidence and that the Hearing Officer properly ruled in her favor. She further asserted that the true reason for her dismissal was the Appellant's suspicion of theft, while the grounds stated in the dismissal letter were merely a pretext intended to conceal the actual basis for her termination. Accordingly, she prayed that the Appellant's petition be denied and the Hearing Officer's ruling affirmed.

The records further show that after hearing the parties and reviewing the pleadings and evidence, the Judge of the National Labor Court was not persuaded by the appellant's arguments. Consequently, the court affirmed the Hearing Officer's ruling in full. Dissatisfied with the National Labor Court's decision, the Appellant interposed exceptions to the judgment and perfected its appeal under Section 51.4 of the Civil Procedure Law, seeking review by this Court.

In its five-count Bill of Exceptions, the appellant averred that the trial judge erred in finding that Madam Lucile Nxumalo, the then CFO of the appellant, informed the police investigators that the alleged losses were caused by a system error rather than by the negligence or criminal conduct of any employee. The appellant contends that this finding is unsupported by the record. The appellant further contends that the trial judge failed to consider evidence showing that the appellee breached her fiduciary duty to the Appellant and was grossly negligent in performing her duties by deliberately failing to report checks returned by distributors for insufficient funds and by retaining those checks without notifying the Appellant. The Appellant also maintains that the trial judge erred in concluding that the Appellee was denied due process, despite evidence that the Appellee had been cited to and had appeared at a disciplinary hearing before her employment was terminated. The Appellant further argues that the Appellee was not dismissed for converting, or attempting to convert, dishonored checks to her personal benefit, and that the facts and evidence presented did not warrant or justify the maximum award of twenty-four (24) months' salary granted by the trial judge.

Having reviewed the hearing officer's ruling of the Ministry of Labor, the National Labor Court, and the appellant's bill of exceptions, the issues presented for resolution in this appeal are as follows:

1. Whether the records show that the appellant dismissed the appellee for committing a criminal offense during the course of her employment with the appellant; and

2. Whether the Hearing Officer's ruling, as affirmed by the trial judge, that the Appellee was wrongfully dismissed, is supported by the evidence and the records developed during the investigation of the Appellee's complaint.

We shall address these issues in the order presented.

With respect to the first issue, the appellant vigorously argues that it did not dismiss the appellee for a criminal offense. Rather, the appellant maintains that the appellee was dismissed for breach of fiduciary duty, gross negligence, and lack of ability in the performance of her duties, pursuant to Section 1508(6)(c) of the then-operative Labor Practices Law of Liberia. The appellant contends that it merely referred the matter to the Liberia National Police to determine whether any criminal offense had been committed arising from the appellee's alleged negligence in handling returned checks. Conversely, the appellee argues that she was effectively dismissed based on allegations of theft.

The records before this Court clearly support the appellant's position that the appellee was not dismissed for a criminal offense. The dismissal letter, introduced by the appellee as the best evidence on this issue, unequivocally states that the appellee was dismissed for breach of duty, gross negligence, and lack of ability in the performance of her duties as Head of Accounts Receivable, pursuant to Section 1508(6)(c) of the Labor Practices Law then in force. The dismissal letter is the most reliable and controlling evidence for determining the reasons assigned by the appellant for the appellee's termination. A reading of the dismissal letter reveals no allegation that the appellee committed theft or any other criminal offense. Although the appellee strongly contends that the appellant believed she had misappropriated company funds and that this belief prompted both the referral to the police and her subsequent dismissal, this Court is constrained to rely on the clear and unambiguous language of the dismissal letter itself. **Civil Procedure Law, Rev. Code 1:25.9, provides that oral testimony cannot be used to vary, contradict, or explain the terms of a written instrument that is clear, complete and unambiguous on its face.** Kpoto v. Kpoto, 34 LLR 371 (1987). The dismissal letter expressly states the grounds for the appellee's termination and contains no reference whatsoever to theft, fraud, or any other criminal offense committed by the appellee.

Moreover, when the appellant dismissed the appellee, no police investigative report had been issued because the police had not yet reached any conclusion regarding criminal liability. The fact that the matter remained under investigation at the time of dismissal strongly undermines the appellee's contention that she was dismissed for committing a criminal offense. Had the police completed their investigation and submitted a report before the dismissal, it might have been reasonable to infer that criminal conduct formed the basis for the termination. Even then, however, the dismissal letter would remain the best evidence of the grounds on which the employer relied. *Res ipsa loquitur*-the thing speaks for itself.

The law in this jurisdiction is well settled that the burden of proof rests with the party asserting a fact, except when the subject matter of a negative averment lies peculiarly within the opposing party's knowledge. In such circumstances, the averment is deemed true unless disproved by that party. *Civil Procedure Law, Rev. Code 1:25.5(1).* Thus, every party alleging the existence of a fact must establish it by a preponderance of the evidence. Furthermore, in every case, the best evidence that the case admits must be produced, and no evidence is sufficient if it presupposes the existence of better evidence. *Forestry Development Authority v. Walters et al., 34 LLR 777 (1988).* The dismissal letter before this Court does not support the appellee's contention that she was dismissed for an alleged criminal offense. In the instant case, the appellee's testimony that she was dismissed based on criminal allegation contrary to the content of the dismissal letter introduced by the appellee into evidence, the trial judge erred when he give credence to the verbal allegation of the appellee over the dismissal letter.

Having determined that the evidence supports the conclusion that the appellee was not dismissed for a criminal offense, we now turn to the second issue: whether the records support appellant's dismissal of the appellee for gross negligence and breach of duty under Section 1508(6)(c) of the Labor Practices Law which provides that acts and violations shall be deemed to be serious breaches of duty…entitling the employer to terminate without notice or pay in lieu of notice, contracts of employment for an indefinite period, if the employee commits any other serious offence against his obligations under the contract.

In undertaking this inquiry, this Court is mindful that not every mistake, act of negligence, or error in judgment constitutes a serious offense warranting summary dismissal. Rather, the evidence must show conduct amounting to a substantial breach of the employee's contractual obligations, such as willful misconduct, gross negligence, dishonesty, insubordination, or other acts fundamentally inconsistent with the duties owed to the employer. On the other hand, where the evidence establishes only ordinary negligence, an isolated lapse in judgment, inadvertence, or a failure attributable to lack of training, oversight, or systemic deficiencies, without proof of intentional misconduct, dishonesty, concealment, or bad faith, the penalty of dismissal may be disproportionate to the offense. In such circumstances, corrective or disciplinary measures short of termination may be more appropriate.

It is the law that the burden of proof rests on the party who alleges a fact, except that when the subject of a negative averment lies peculiarly within the knowledge of the adverse party, the averment is taken as true unless it is proved by that party. The general rule of proof in this jurisdiction is that the burden of proof rests on the party who alleges a fact. *Civil Procedure Law, Rev. Code 1: 25.5(1). Liberia Fisheries Incorporated v Badio et al 36 LLR 277 (1989).* To determine whether the appellee proved her dismissal wrongful, we turn to her own testimony.

The appellee, Madam Normanlyn B. Barclay-Mayango, substantiated her claim by testifying that prior to her dismissal, she had been employed by the appellant for more than ten (10) years and that throughout that period she had never been cited or disciplined for any wrongdoing. She further testified that she was summoned to a meeting by the Deputy Chief Executive Officer, Stephen Flemming, along with several other company officials, including the Chief Financial Officer (CFO), the Human Resources Manager, the Company's Legal Counsel, the Security Advisor, and the Internal Auditor. According to the appellee, during the meeting she was questioned about certain checks and asked to explain her role as Head of Accounts Receivable, including the procedures followed when checks were returned by the bank. She testified that she was shown approximately fifty (50) photocopies of checks about which she claimed to have no knowledge. She was also asked whether she had ever kept returned checks in her drawer or otherwise had them in her possession, and she responded that she had not.

The appellee further testified that after several hours of questioning, she was instructed to go home and report to work the following day while the investigation continued. She stated that no further investigation or inquiry involving her occurred until September 6, 2011, when she was dismissed and asked to execute a release and waiver. She testified that, upon the advice of counsel, she declined to sign the release.

The appellee further testified that on September 7, 2011, she was turned over to the Liberia National Police for investigation into the alleged check scandal. During the investigation, she explained what she knew about the checks and produced several documents, including materials needed to question the issuing banks, employees in her department, and the Chief Financial Officer. She also testified that the CFO left the country during the investigation. The police later requested the CFO to return and assist with the inquiry. After several months, the CFO returned and told the police that the matter may have resulted from a system error and that responsibility should be shared between her and other employees in the department. The police asked the employees whether they had ever seen the appellee in possession of any of the checks, and they answered that they had not. The Reconciliation Officer was also questioned about how the accounts had been reconciled for ten (10) months without the dishonored checks being detected.

The appellee further testified that the CFO was required to return to the police to continue the investigation but failed to do so and subsequently left the country with the appellant's assistance. She stated that, after more than a year of investigation and due to the appellant's alleged failure to fully cooperate with the police inquiry, the Liberia National Police issued her a clearance certificate, thereby exonerating her from the allegations. The appellee further testified that, prior to her dismissal, the CFO called her and other staff members to discuss returned checks. According to her, during that meeting the CFO instructed them to open a separate account for distributor checks. She testified that distributors were authorized to pay twelve percent (12%), but the CFO instructed them to give the distributors nine percent (9%) and place the remaining three percent (3%) into a "return account". According to the appellee, the CFO expressly instructed them not to disclose the arrangement to management because, as she allegedly stated, it would create a problem.

The appellee further testified that, during the same period, the bank returned twelve (12) checks, which the CFO received. She stated that, during the investigation, representatives of Ecobank and UBA were called separately to explain what they knew about the checks. According to the appellee, the representatives explained that whenever the banks returned checks to Lonestar, the checks were delivered to the Accounts Receivable Department and received either by the appellee or by Olive Swen. The checks were then immediately returned to their supervisors and subsequently taken back to the bank. She further testified that the bank charged a fee of US$35.00 each time a check was returned.

The appellee also testified that her supervisors, including the CFO, the Account Manager, and the Reconciliation Officer, had access to an online banking platform that sent alerts whenever transactions were processed at the bank. She stated that, as the Head of the Accounts Receivable Section, she requested that the CFO add her to the platform, but the CFO refused. She nevertheless maintained that the CFO and the Accounts Receivable Officer were aware of the returned checks.

The appellee's conduct, as established by her own evidence, falls within the scope of conduct punishable under section 1508(6)(c) of the Labor Law, particularly when it constitutes serious negligence, a serious breach of duty, or a violation of the trust and confidence inherent in her position. The Supreme Court has recognized that section 1508(6)(c) of the Labor Law is sufficiently broad to encompass serious misconduct arising from an employee's contractual obligations and is not limited to conduct constituting a criminal offense. *Taylor v. Denco Shipping Lines, 37 LLR 66, 70–71 (1992).* In Taylor, the employee released bills of lading without first obtaining the required guarantee for payment. The Supreme Court upheld the finding that this conduct constituted a serious breach of duty under section 1508(6)(c).

In the case at bar, the records establish that the appellee was the Head of Accounts Receivable and, by virtue of that position, was responsible for the custody and control of the company's receivables and payment instruments. The records further establish that she knew certain checks had been dishonored by the banks. Yet, according to the evidence, she failed to promptly notify the company of the dishonored checks. An employee entrusted with responsibility for accounts receivable is expected, upon learning that a company check has been dishonored, to promptly report the matter to the appropriate supervisory authority, safeguard or

The central issue, therefore, is not merely whether the appellee personally received or appropriated any of the funds represented by the returned checks. Rather, the issue is whether, given her responsibilities as Head of Accounts Receivable, her knowledge of the returned checks, her alleged failure to report them, and her participation in or knowledge of the undisclosed three percent (3%) arrangement constituted serious negligence, a serious breach of duty, or conduct sufficient to destroy the trust and confidence necessary to sustain the employment relationship.

The appellee argued that the CFO did not include her on an online platforms that could monitor banks' transaction of the appellant/management, even assuming that the CFO prevented the appellee from accessing the online banking platform, such alleged restriction did not relieve her of the obligation to report returned checks that came directly into her possession or were otherwise brought to her attention in the ordinary course of her duties. Her obligation to report and safeguard such instruments arose from the responsibilities attached to her position and did not depend exclusively upon her access to the company's online banking platform.

The records having shown that the appellee, as the Head of Accounts Receivable was responsible for the custody and control of the company's receivables and payment instruments, but failed to perform this duty diligently, honestly and promptly, the trial judge of the Labor Court erred when he upheld the Hearing Officer's ruling holding the appellant liable for wrongful dismissal.

WHEREFORE, AND IN VIEW OF THE FOREGOING, the ruling of the National Labor Court affirming the ruling of the Hearing Officer is hereby reversed. The Clerk of this Court is hereby ordered to issue a Mandate to the court below commanding the judge presiding therein to resume jurisdiction over the case and give effect to the Judgment of this Opinion. Costs are ruled against the appellee. AND IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLOR STEPHEN B. DUNBAR OF THE DUNBAR AND DUNBAR LAW FIRM APPEARED FOR THE APPELLANT. COUNSELLOR AMELIA KIN HARRIS AND FRANK K. NIMELY OF THE PIERRE, TWEH AND ASSOCIATE, INC. APPEARED FOR THE APPELLEE.