"SMM1"

AMENDED ONCE WITH LEAVE OF COURT

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/039**
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

IN THE MATTER OF:	**ARTICLE 73 (1) OF THE CONSTITUTION OF ZAMBIA (AMENDMENT) ACT NO. 2 OF 2016 OF THE LAWS OF ZAMBIA**
IN THE MATTER OF:	**SECTIONS 72, 76, 87, 97, 98, 99, 100 AND 108 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA**
IN THE MATTER OF:	**RULE 9 OF THE HIGH COURT (ELECTION PETITION) RULES, 2026 OF THE LAWS OF ZAMBIA**
AND	
IN THE MATTER OF:	**AN ELECTION PETITION RELATING TO THE CHILUBI CONSTITUENCY PARLIAMENTARY ELECTION**

BETWEEN:

SIMON MUSONDA MUWA **PETITIONER**

AND

MATHIAS CHITEMBO **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

AMENDED ELECTION PETITION
(Chilubi Constituency)

The Petition of **SIMON MUSONDA MUWA**, a Zambian National who ordinarily resides at Plot No. 360, Linda Road, Bonaventure, Lusaka in the Lusaka District of the Lusaka Province of the Republic of Zambia, and for purposes of this Petition, whose address for service is as above **SHOWETH THAT:**

1. Your Petitioner was a candidate at the Parliamentary Election for Chilubi Constituency, in the Northern Province of the Republic of Zambia, under the sponsorship of the Citizens First Political Party (hereinafter referred to as "**CF**"), and accordingly has standing to present this Petition pursuant to Section 98(c) of the Electoral Process Act No. 35 of 2016 ("the Act").

2. The 1st Respondent was a candidate at the Parliamentary Election for Chilubi Constituency, in the Northern Province of the Republic of Zambia, who was

sponsored under the ticket of the United Party for National Development (hereinafter referred to as "**UPND**")

3. The 2nd Respondent is a statutory body established under Article 229 of the Constitution of Zambia as amended by Act No. 2 of 2016, who is mandated to manage and conduct elections at presidential, parliamentary, and local government levels.

4. And your Petitioner states that the election was held on the 13th day of August 2026. when **SIMON MUSONDA MUWA** and **CHITEMBO MEPHIAS** were candidates and the Returning Officer on 15th August 2026 returned **CHITEMBO MEPHIAS** as being duly elected as Member of Parliament for Chilubi Constituency.

FACTS IN SUPPORT OF GROUNDS RELIED ON

5. Your Petitioner states that the election to which this Petition relates was held on the 13th day of August, 2026, when your Petitioner, standing under CF, and, among others, the 1st Respondent, standing under the UPND, were candidates, and John Longwe, the returning officer for Chilubi Constituency, having received and tallied the results from all 93 of 93 polling stations in the constituency in accordance with Sections 71 and 72(1) ascertained that out of a total of 32,418 votes cast, your Petitioner polled 2,760 votes, the 1st Respondent polled 10,429 votes, the remaining candidates polled a total of 17,769 votes between them, and that 1,460 ballot papers were rejected as invalid.

6. Your Petitioner states that the said total number of votes tabulated by the returning officer and indicated on the Declaration of Result (Form GEN 20b) do not match the total number of votes actually cast and a declaration upon arriving at a sum total of the votes polled by each individual candidate in addition to the total rejected votes.

7. Your Petitioner will further aver that equally in the Presidential and Local Government elections held on the 13th of August, 2026 the said John Longwe on

15th August 2026, being the returning officer for Chilubi District (Constituency), wrongly calculated and declared the total number of votes cast, as such declared total did not tally with the votes polled by each individual candidate in addition to the total rejected votes.

8. Your Petitioner will aver at trial that the elections in Chilubi District (Constituency) were characterised by low voter turnout.

9. As a result of the low voter turn-out and the lack of observation monitors at the various polling stations, cadres of the UPND party unlawfully placed pre-marked ballots into the ballot boxes at the polling stations.

10. During the vote counting process at the respective polling stations the polling agents of Your Petitioner were not presented with copies of the Gen20 forms outlining the number of votes casts and the votes polled by each respective candidate.

11. Your Petitioner shall further aver that during the vote counting process of the elections held in Chilubi District, there were several acts of violence perpetrated by cadres of the UPND with the full knowledge of the 1st Respondent, and the servants and/or agent of the 2nd Respondent.

GROUNDS RELIED ON

12. Your Petitioner will further aver that the Declaration by the 2nd Respondent that the 1st Respondent had been duly elected as Member of Parliament for Chilubi Constituency was an illegal practice, irregular and unlawful in that:

    i. the 1st Respondent through his cadres in adding pre marked ballots to the ballot box was contrary to Section 87 of the Electoral Process Act No. 35 of 2016;
    ii. that the polling agents of the Petitioner were not granted access to the Gen20 forms at the various polling stations;
    iii. The ballots contained in the various ballot boxes do not reflect the number of ballots actually cast by individual voters who were entitled to vote at the election; and
    iv. The votes announced at various polling stations unlawfully added votes to the 1st Respondent's vote count which were not cast in the election;

v. That up to the time of filling this Petition the agents of Your Petitioner at the 93 polling stations were never granted an opportunity to confirm any Gen20 form even after the same was requested for multiple times;

vi. That the District Commissioner for Chilubi District openly campaigned with state resources and also offered the electorate sums of money if the vote for the UPND candidate;

vii. That a group of people were caught on camera and a video was circulated of the 2nd Respondent's polling staff pre-marking ballot papers;

viii. That there was no public announcement at the totalling centre by the returning officer as the victory of the 1st Respondent was only known by your petitioner after a Gen20 form was circulating on social media;

ix. That the suspension of counting of votes by the 2nd Respondent also affected Chilubi Constituency which suspended all counting of vote for over 24 hours even after the 2nd Respondent uplifted the suspension; and

x. That the results for the three tears (Presidential, Parliamentary and Council Chairperson show discrepancies in the numbers. The total votes received for presidential are 32, 488 Parlimentary are 32, 418 and Council Chairperson is 32, 391.

13. Your Petitioner avers that if the aforesaid illegal actions were not perpetrated the 1st Respondent would have not been declared the dully elected Member of parliament for Chilubi Constituency

14. That all polling station's numbers are not a true reflection of the will of the people as no Gen20 forms have ever been presented to confirm the same.

15. Your Petitioner avers that 1st Respondent's victory does not mirror the true will of the people of Chilubi Constituency.

WHEREOF your Petitioner PRAYS for a determination and declarations that:

i. The purported declaration naming the 1st Respondent as duly elected Member of Parliament for Chilubi Constituency, be declared void and of no legal effect;

ii. The costs of and occasioned by this Petition be borne by the Respondents; and

iii. Any other or further relief this Honourable Court may deem fit.

Dated at Lusaka this _____ day of _____ 2026.

_____

THE PETITIONER

Prepared by: _____

Messrs. Joseph Chirwa and Company
Plot 10426 Manda Hill Road
Olympia Park
P.O. Box 37342
Email: admin@chirwa@law.com
LUSAKA
ADVOCATES FOR THE PETITIONER

To: Mathias Chitembo
LUSAKA

The Electoral Commission of Zambia
Elections House, Haile Selassie Avenue,
P.O. Box 50274
LUSAKA

"SMM3"

AMENDED ONCE WITH LEAVE OF COURT

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BETWEEN:

SIMON MUSONDA MUWA **PETITIONER**

AND

MATHIAS CHITEMBO **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

AMENDED AFFIDAVIT VERIFYING FACTS

I, **SIMON MUSONDA MUWA**, a Zambian National ordinarily resident at Plot No. 360, Linda Road, Bonaventure, Lusaka in the Lusaka District of the Lusaka Province of the Republic of Zambia, **DO HEREBY MAKE OATH AND SAY** as follows: -

1. That my full names and nationality are as stated above, and I am an adult male of sound mind, competent to depose to this my Affidavit.

2. That I was a candidate for the Chilubi Constituency Parliamentary seat in the General Election held on 13th August, 2026, and it is in this capacity, and from facts within my personal knowledge, information and belief, that I depose to this my Affidavit.

3. That the candidates who successfully filed nominations for the Chilubi Constituency Parliamentary seat included myself, standing under the Citizens First party (CF), and the 1st Respondent, Mathias Chitembo, standing under the United National Party for National Development (UPND), among other candidates.

4. That upon the close of the count of the votes cast in Chilubi District, the returning officer declared that out of a total of 32,418 votes cast, your I polled 2,760 votes, the 1st Respondent polled 10,429 votes, the remaining candidates polled a total of 28,187 votes between them, and that 1,460 ballot papers were rejected as invalid. There is now produced and shown to me exhibit marked **'SMM1'** being a true copy of the declaration of the results.

5. That the said total number of votes tabulated by the returning officer and indicated on the Declaration of Result (Form GEN 20b) do not match the total number of votes actually cast and a declaration upon arriving at a sum total of the votes polled by each individual candidate in addition to the total rejected votes.

6. That equally in the Presidential and Local Government elections held on the 13th of August, 2026 the said John Longwe, being the returning officer for Chilubi District, wrongly calculated and declared the total number of votes cast, as such declared total did not tally with the votes polled by each individual candidate in addition to the total rejected votes. There is now produced and shown to me exhibits respectively marked **"SMM2"** and **"SMM3"** being true copies of the declaration of the results for the presidential and council chairperson polls.

7. That I verily believe that the elections in Chilubi District were characterised by low voter turnout which led to less than 50% of the registered voters casting a ballot during the elections.

8. That as a result of the low voter turn-out and the lack of observation monitors at the various polling stations, cadres of the UPND party unlawfully placed pre-marked ballots into the ballot boxes at the polling stations.

9. That during the vote counting process at the respective polling stations neither myself nor my polling agents were not presented with copies of the Gen20 forms outlining the number of votes casts and the votes polled by each respective candidate.

10. That the said Gen20 forms at the polling stations were in fact never produced, thus the votes counted by the 2nd Respondent did not reflect the votes actually cast in the election and duly recorded in the Gen20.

11. That up to the time of filling this Petition my polling agents at the 93 polling stations have never granted neither myself nor my agents an opportunity to confirm any Gen20 form even after the same was requested for multiple times. That my agents have never had the opportunity to confirm or ascertain the accuracy of the election results.

12. That the District Commissioner for Chilubi District openly campaigned with state resources and also offered the electorate sums of money if they vote for the UPND candidate. That my agent did take a video of the said district commissioner actually promising to leave a ZMW3000 for the electorate for voting and endorsing the UPND the said video is named as "Video of Chilubi DC addressing voters" which was on 9th September 2026 extracted from my phone to a flash disk that I have attached herein. That a copy of the said video is now shown to me herein and marked as "SMM4"

13. That a group of people were caught on camera and a video which was taken on 13th August 2026 was circulated of the 2nd Respondent's polling staff pre-marking ballot papers. That the said video is named as "ECZ Agents pre marking ballot papers" and has been circulating on various social media platforms. That I further did extract the said video on to the flash disk attached hereto and marked as "SMM4".

14. That further to the above SMM4 also has photos and videos of myself at various polling stations to monitor the voter turnout across the constituency. The said pictures were taken on 13th August 2026 using my mobile phone and they are called images of polling station and the videos were taken on the very date titled video of petitioner casting vote.

15. That there was no public announcement at the totalling centre by the returning officer as the victory of the 1st Respondent was only known by myself after a Gen20 form was circulating on social media.

16. That the suspension of counting of votes by the 2nd Respondent also affected Chilubi Constituency which suspended all counting of vote for over 24 hours even after the 2nd Respondent uplifted the suspension.

17. That your Petitioner shall further aver that during the vote counting process of the elections held in Chilubi District, there were several acts of violence perpetrated by cadres of the UPND with the full knowledge of the 1st Respondent, and the servants and/or agent of the 2nd Respondent.

18. That I depose to the foregoing paragraphs verily believing the same to be true and correct to the best of my knowledge and belief.

SWORN by the said)
SIMON MUSONDA MUWA)
at Lusaka this _____ day)
of _____ 2026)

_____
DEPONENT

BEFORE ME: _____
COMMISSIONER FOR OATHS

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AND

MATHIAS CHITEMBO **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

CERTIFICATE OF EXHIBITS

These are the true and correct exhibits referred to in the Affidavit sworn by one **SIMON MUSONDA MUWA** marked **"SMM1-4".**

Dated at Lusaka the _____ day of _____ 2026.

BEFORE ME: _____
COMMISSIONER FOR OATHS

"SMM3"

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BETWEEN:

SIMON MUSONDA MUWA	**PETITIONER**
AND	
MATHIAS CHITEMBO	**1ST RESPONDENT**
ELECTORAL COMMISSION OF ZAMBIA	**2ND RESPONDENT**

AMENDED LIST OF AUTHORITIES

MAY IT PLEASE THIS HONOURABLE COURT; These are your Petitioner's Skeleton Arguments and List of Authorities in Support of the Affidavit Verifying Facts;

LIST OF AUTHORITIES

STATUTES:

1. **Constitution of Zambia Act No.2 of 2016**
2. **The Electoral Process Act No. 35 of 2016**

Dated the _____ day of _____ 2026.

Prepared by: _____
Messrs. Joseph Chirwa and Company
Plot 10426 Manda Hill Road
Olympia Park
P.O. Box 37342
Email: admin@chirwa@law.com
LUSAKA
ADVOCATES FOR THE PETITIONER

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AMENDED PETITIONER'S LIST OF DOCUMENTS

Pursuant to Rule 9(3)(c) of the High Court (Election Petition) Rules, 2026

The following is a list of documents relating to the matters in question which the Petitioner shall rely on at trial:

NO.	DESCRIPTION OF DOCUMENTS
1.	Declaration of Results - MP
2.	Declaration of Result - Presidential
3.	Declaration of Results – Council Chairperson
4.	Video of pre-marking of ballots
5.	Video of District Commissioner
6.	Any other document the Petitioner may rely on at trial.

Dated at Lusaka the_____ day of_____ 2026.