IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

2026/HP/EP/039

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**

EX-PARTE SUMMONS FOR AN ORDER TO AMEND COURT PROCESS PURSUANT TO RULE 20 (1) OF THE HIGH COURT (ELECTION PETITION) RULES, 2026

LET THE PARTY CONCERNED attend before the Honourable Justice _____ in chambers on the _____ day of _____2026 at _____ hours in the _____ noon or soon thereafter on the hearing of an application on the part of the Petitioner for an Ex-Parte Order for leave to amend Originating Process based on the grounds clearly provided for in the Affidavit in support filed herewith.

Dated this _____ **day of** _____ **2026**

Drafted by:
MESSRS JOSEPH CHIRWA & COMPANY
Plot 10426, Manda Hill Road
Olympia Park
P.O. Box 37342
Email: admin@chirwalaw.com
LUSAKA
ADVOCATES FOR THE PETITIONER

IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
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BETWEEN:

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

SKELETON ARGUMENTS AND LIST OF AUTHORITIES IN SUPPORT OF AFFIDAVIT IN SUPPORT OF EX-PARTE SUMMONS FOR AN ORDER TO AMEND COURT PROCESS

1.0. **IF IT MAY PLEASE THIS HONOURABLE COURT**, we tender hereunder the Skeleton Arguments and List of Authorities in Support of the Petitioner's Application for an Order for Leave to Amend Court process.

2.0. **LIST OF AUTHORITIES**

2.1. **STATUTES**

a) **THE HIGH COURT (ELECTION PETITION) RULES, 2026**

2.2. **CASES**

a. **ZAMBIA SEED COMPANY LIMITED V. WEST CO-OP HAULAGE LIMITED AND WESTERN PROVINCE COOPERATIVE LIMITED (SCZ APPEAL NO. 112 OF 2013)**

2.3. **OTHER WORKS REFERED TO**

b. **HALSBURY'S LAWS OF ENGLAND, 4TH EDITION (RE-ISSUE), VOL. 36 (1)**

3.0. **LAW AND ARGUMENTS**

3.1. **My Lord/My Lady**, it is our submission that this Honourable Court is bestowed with discretionary power to grant the application for an order to amend court process.

3.2. **My Lord/My Lady**, this application is made pursuant to Rule 20 (1) of The High Court (Election Petition) Rules, 2026 which provides as follows:

"A party may, with leave of the Court, at any stage of the proceedings and before a hearing, amend process filed by that party" (Underlined for Emphasis)

3.3. **My Lord/My Lady,** Halsbury's Laws of England, 4th Edition (re-issue), Vol. 36 (1) at paragraph 76 which reads as follows:

"...The purpose of the amendment is to facilitate the determination of the real question in controversy between the parties to any proceedings, and for this purpose the Court may at any stage order the amendment of any document, either on application by any party to the proceedings or of its own motion...the person applying for the amendment must act in good faith."

3.4. **My Lord/My Lady**, in the case of ***Zambia Seed Company Limited v. West Co-op Haulage Limited and Western Province Cooperative Limited,*** the Supreme Court of Zambia held that the policy of the law was that amendments to pleadings sought before hearing should be freely allowed if they were made without injustice to the other side.

3.5. **My Lord/My Lady,** it follows, necessarily, that for a party to amend court process, there is need to seek leave of court and the amendments sought must be made without injustice to the Respondents, therefore, the basis of this application. Based on the above provision of the law, we therefore, seek the indulgence of this Honourable Court to grant the Petitioner leave to amend court process.

CONCLUSION

3.6. **My Lord,** in conclusion, based on the foregoing, it is the Respondents' argument that this is a proper case for the Court to exercise its discretion to grant the application for leave to amend court process. The Petitioner therefore prays that this Honourable Court exercises its discretion and grant his application for leave to amend court process.

We humbly pray.

Dated the _____ day of _____ 2026

Drafted By: _____

Messrs Joseph Chirwa and Company
Plot No. 10426
Olympia Park, Manda Hill Road
P.O. Box 37342
Lusaka, Zambia
Email: admin@chirwalaw.com
ADVOCATES FOR THE PETITIONER

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ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

REPUBLIC OF ZAMBIA 07 SEP 2026 PRINCIPAL REGISTRY P.O. BOX 50067, LUSAKA.

AFFIDAVIT IN SUPPORT OF EX-PARTE SUMMONS FOR AN ORDER TO AMEND COURT PROCESS

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

2. That I am the Petitioner herein and therefore, competent to depose to this my Affidavit from facts within my personal knowledge and belief.

3. That on 31st August 2026, I filed before this Honourable Court a Petition wherein I sought this Honourable Court to grant me reliefs following the declaration of the 1st Respondent as winner of the Chilubi Parliamentary election.

4. That as the record shows, I did not have any advocates on record at the point of filing my Petition and thus after appointing advocates, I have been advised that I need to amend parts of my petition.

5. That the said amendments are necessary and will in no way prejudice the Respondents. That there is now produced and shown to me an exhibit marked **"SMM1"** to **"SMM3"** the same being copies of the Amended Petition, Amended Affidavit Verifying Facts and Amended List of Authorities as proof thereof.

6. That for this Honourable Court to truly verify and confirm the will of the people regarding the election of the 1st Respondent this Court ought to grant me leave to amend the originating process.

7. That I have been advised by counsel on record that it is vital to amend the court process in the interest of justice so that the true question and controversy maybe adjudicated upon by this Honourable Court

8. That I have been advised by my advocates on record whose advise I verily believe that this Honourable Court has the Jurisdiction to grant this application and that doing so will in no way prejudice the Respondents.

9. That if this application is not granted I will be greatly prejudiced. In the premise, I seek this Honourable Court's indulgence to grant this application.

10. 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 7th day)
of September 2026)

DEPONENT

BEFORE ME: _____
COMMISSIONER FOR OATHS

HIGH COURT OF ZAMBIA
CLERK OF COURT
COMMERCIAL DIVISION
07 SEP 2026
COMMISSIONER FOR OATHS
P.O. BOX 50067, LUSAKA

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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"- "SMM3"** produced and shown to me.

Dated at Lusaka the 7th **day of** September **2026.**

BEFORE ME: _____

COMMISSIONER FOR OATHS

HIGH COURT OF ZAMBIA
CLERK OF COURT
COMMERCIAL DIVISION
07 SEP 2026
COMMISSIONER FOR OATHS
P.O. BOX 50067, LUSAKA