REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
04 SEP 2026
PRINCIPAL REGISTRY 3
P.O. BOX 50067, LUSAKA.

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

2026/HP/EP/033

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, 97, 98, 99, 100 AND 108 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA, AS AMENDED BY THE ELECTORAL PROCESS (AMENDMENT) ACT NO. 12 OF 2026**

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 LUPOSOSHI CONSTITUENCY PARLIAMENTARY ELECTION HELD ON THURSDAY, 13TH AUGUST, 2026, THE DECLARATION OF THE RESULT THEREOF MADE ON 16TH AUGUST, 2026, AND THE PURPORTED FURTHER DECLARATION OF THE RESULT THEREOF MADE ON 18TH AUGUST, 2026**

BETWEEN:

LAZAROUS CHUNGU BWALYA **PETITIONER**

AND

SHADRECK MWANSA **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

EX PARTE SUMMONS FOR AN ORDER FOR LEAVE TO SERVE PETITION VIA SUBSTITUTED SERVICE

Pursuant to Rule 14 (3) 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 order for leave to serve court process on the 1st Respondent via substituted service.

AND that costs of and occasioned by this application be borne by the 1st Respondent.

Dated at Lusaka this _____ day of _____ 2026.

This summons was taken out by: _____

Messrs Joseph Chirwa and Company
Plot No. 10426 Manda Hill Road, Behind
Manda Hill Mall, Olympia Park
Tel: +260975756793
Email: admin@chirwalaw.com
LUSAKA
ADVOCATES FOR THE PETITIONER

REPUBLIC OF ZAMBIA
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SKELETON ARGUMENTS AND LIST OF AUTHORITIES IN SUPPORT OF EX PARTE SUMMONS FOR AN ORDER FOR LEAVE TO SERVE PETITION VIA SUBSTITUTED SERVICE

MAY IT PLEASE THIS HONOURABLE COURT these are the Petitioner's List of Authorities and Skeleton Arguments in Support of Ex-Parte Summons for an Order for Leave to Serve Petition via Substituted Service.

LIST OF AUTHORITIES REFERRED TO:

1. **The High Court (Election Petition) Rules, 2026**

CASES

1. **Anort Kabwe, Charity Mumba Kabwe V James Daka, Attorney General and Albert Mbazima (2006) ZR,12**
2. **Melodious Sonnets Food Industries Vs Rodia Mashu, Actor Maunga, Siveri Investments Zambia Limited 2018/HP/1670**

1. LAW AND ARGUMENTS

1.1. My Lady Rule 14(3) of the High Court (Election Petition) Rules, 2026 provides that;

> ***"A petitioner may, where the petitioner fails to effect personal service of a nomination petition or an election petition referred to under subrule (1) make an application for substituted service within twenty four hours of failing to effect personal service."***

1.2. My Lady, the cited provision above gives authority to this Honourable Court to make an order for substituted service in any way this Honourable Court deems fit.

1.3. My Lady, in the cases of **Anort Kabwe, Charity Mumba Kabwe v James Daka, Attorney General and Albert Mbazima (2006) ZR 12** and **Eustace Spaita Bobo and Another v The Commissioner of Lands and Another- 2005/HP/1108-Unreported** it was stated that;

> ***"The tribunal had arrived at the conclusion that service by way of substituted service was applicable and a recognized mode of service and was excusable in light of the fact that service by way of substituted service would be most economical and efficient....."***

1.4. My Lady, service by way of substituted service is a recognisable mode of service and is considered efficient in instances where the other party cannot be traced. Further, in the case of **Melodious Sonnets Food Industries Vs Rodia Mashu, Actor Maunga, Siveri Investments Zambia Limited 2018/HP/1670** the Court stated as follows:

"All efforts to personally serve on the respondents proved to be difficult as all efforts to track the respondents proved to be futile. The Applicant sought leave from the Honourable Court to serve via substituted service which was granted."

1.5. My Lord/Lady, the Plaintiff seeks before this Honourable Court, an order to serve the court process by way of substituted service as efforts to track the Defendant have proved to be futile and that service by way of substituted service will be a proper way in which to serve upon the 1st Respondent, and that the documents will be brought to the attention of the 1st Respondent through use of the substituted service.

2.0. PRAYER

2.0.1 My Lord/Lady, the Plaintiff humbly submits that this application to serve all process by way of substituted service be allowed.

Dated the _____day of _____2026.

Drawn by: _____

Messrs Joseph Chirwa and Company
Plot No. 10426 Manda Hill Road, Behind
Manda Hill Mall, Olympia Park
Tel: +260975756793
Email: admin@chirwalaw.com
LUSAKA
ADVOCATES FOR THE PETITIONER

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BETWEEN:

LAZAROUS CHUNGU BWALYA — **PETITIONER**

AND

SHADRECK MWANSA — **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA — **2ND RESPONDENT**

AFFIDAVIT IN SUPPORT OF EX PARTE SUMMONS FOR AN ORDER FOR LEAVE TO SERVE PETITION VIA SUBSTITUTED SERVICE

I, **JOSHUA PHIRI,** a Zambian National of Plot 10426, Manda Hill Road, Olympia Park, Lusaka in the Lusaka Province of the Republic of Zambia **DO HEREBY** make **OATH** and **SAY** as follows:

1. That my full names and address are as stated above.

2. That I am counsel seized with conduct of this matter on behalf of the Petitioner and thus competent to swear this my affidavit from facts within my personal knowledge and belief.

3. That this matter was commenced by the Petitioner on 31st August, 2026 seeking *inter alia* nullification of the 1st Respondent's purported election as member of parliament for Lupososhi Constituency.

4. That on the 2nd of September, 2026 we attempted to effect personal service of the Petition herein on the Respondents.

5. That the 2nd Respondent was duly served with the Petition herein. There is now produced and shown to me exhibit marked **'JP1'** being a true copy of the acknowledgment of receipt.

6. That we attempted to call the 1st Respondent so as to serve him with the documents, however the 1st Respondent sated he was not around to receive the documents.

7. That we proceeded to send the court process to the 1st Respondent via Whatsapp messenger; however, he did not acknowledge receipt. There is now produced and shown to me exhibit marked **'JP2'** being a true copy of a screen shot of the Whatsaap messenger chat.

8. That we have no information as to the residential address of the 1st Respondent in order to effect personal service.

9. That again on the 3rd of September, 2026 we attempted to call the 1st Respondent so as to ascertain his whereabouts and serve him with the Petition, however all our calls went unanswered.

10. That I verily believe that prompt personal service cannot be affected on the 1st Respondent.

11. That I verily believe that the contents of the Petition and these ongoing proceedings will be brought to the attention of the 1st Respondent if advertised in a newspaper of wide circulation or sent to him via Whatsapp Messenger.

12. 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)
JOSHUA PHIRI)
at Lusaka this 4th)
day of Sep 2026)

J. Phiri
DEPONENT

Billington Mosha
LLB, AHCZ
Commissioner for Oaths
P.O. Box 33961, Lusaka

BEFORE ME: _____

COMMISSIONER FOR OATHS

IN THE HIGH COURT FOR ZAMBIA
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REPUBLIC OF ZAMBIA HIGH COURT FOR ZAMBIA 04 SEP 2026 PRINCIPAL REGISTRY P.O. BOX 50067, LUSAKA

CERTIFICATE OF EXHIBITS

These are the true and correct exhibits referred to in the Affidavit sworn by one **JOSHUA PHIRI** marked **"JP1-2".**

Dated at Lusaka the 4th **day of** September **2026**

BEFORE ME: _____
COMMISSIONER FOR OATHS

Billington Mosha
LLB, AHCZ
Commissioner for Oaths
P.O. Box 33961, Lusaka