IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/033**
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, 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

SHADRICK MWANSA **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

REPUBLIC OF ZAMBIA HIGH COURT OF ZAMBIA 16 SEP 2026 PRINCIPAL REGISTRY P.O. BOX 50067, LUSAKA

PETITIONER'S REPLY TO THE 1ST RESPONDENT'S ANSWER

The Petitioner, **LAZAROUS CHUNGU BWALYA**, replies to the 1st Respondent's Answer to the Election Petition, filed on or about 10th September 2026, as follows:

1. Save as is hereinafter expressly admitted, the Petitioner joins issue with the 1st Respondent on his Answer to the Election Petition and denies each and every allegation of fact contained therein as if the same were set out herein and specifically traversed seriatim.

2. As to paragraph 1 of the Answer, it is admitted only that the 1st Respondent was one of eight (8) parliamentary candidates for Lupososhi Constituency in the election held on 13th August 2026. Save as aforesaid, paragraph 1 of the Answer is denied. It is denied that the 1st Respondent is or was the candidate duly declared or duly elected Member of Parliament for Lupososhi Constituency. The Petitioner repeats the Petition and shall aver that he alone was the duly declared candidate having had won the Election.

3. Paragraph 2 of the Answer, in which the 1st Respondent states that he does not dispute paragraphs 1, 2 and 3 of the Petition, is noted.

4. Paragraph 3 (erroneously numbered as 4, a sequence to continue) of the Answer is denied in its entirety, and in particular:

    a. it is denied that the 1st Respondent was duly declared as duly elected Member of Parliament for Lupososhi Constituency, but that he was subject of a second declaration, unlawfully so therefore rendering said second declaration *void ab initio* and of no legal effect;

    b. the Petitioner avers, and shall at trial lead evidence to show, that there was, as a matter of fact, an attempt on the part of the Returning Officer and/or persons acting in concert with and on behalf of him to have the 1st Respondent declared the winner, notwithstanding that the votes lawfully cast and counted showed the Petitioner to be the winner by a margin of 2,643 votes, and that this attempt was identified and successfully thwarted by alert polling and party agents, monitors and other stakeholders present at the totalling centre, who intervened to vehemently object, insist upon, and to secure the integrity of the count leading to the announcement of the true and correctly tallied result as per their mandate and duty;

    c. it is denied that the Petitioner's supporters or agents, were "unruly", or that they caused or were responsible for any disruption of a declaration properly and lawfully being made. It is averred that any intervention by the Petitioner's agents and supporters was a legitimate response to the attempt described in sub-paragraph (b) above, made to protect the integrity of the count and to ensure that the result declared was the result actually reflected by the ballots cast and the tally as duly conducted and concluded in their presence. The Petitioner shall show video evidence of the tallied count being presented by the 2nd Respondents staff at the totalling centre being at a complete variance with the returning officer's attempted declaration; and

    d. it is denied that there was any violence of the kind alleged, or of any kind, on the part of the Petitioner, his agents or his supporters, at any stage of the counting, totalling or declaration process. The Petitioner will rely at trial on video evidence recorded at the totalling centre showing that no such violence occurred and shall instead aver that while the environment became emotive (as is characteristic of any well contested election), all engagement and clarifications as between the Petitioners agents/monitors, including other stakeholders remained largely diplomatic and formal

as shall be evidenced by video footage which shall also show the heavy presence of security, (some of whom were armed) who ensured calm was maintained and that the emotional outbursts did not turn into anything more. A situation which was adequately and comprehensively marshalled, much to their credit.

5. Paragraph 5 of the Answer is denied. It is denied that the Declaration of the Results of the Poll (Form GEN 20b) records, or ever recorded, 9,533 votes for the 1st Respondent and 6,890 votes for the Petitioner. The Petitioner repeats paragraphs 2 and 5 of the Petition and avers that the true, lawful and correctly tallied result of the poll, as tallied in the presence of all stakeholders and declared by the Returning Officer, Mr Oscar Kafunda, on 16th August 2026, and duly witnessed by, among others, the Petitioner's own polling/election agent, was 9,533 votes for the Petitioner and 6,890 votes for the 1st Respondent. The Petitioner further avers, and shall at trial lead evidence to show, that any document reversing or transposing those figures is not a genuine, lawful or contemporaneous declaration of the result, but is part of, or a product of, the very effort to transpose and manipulate the declared results referred to in paragraph 4 above, an effort which the Petitioner will show was carried through, in a continuing and connected fashion, from the time of vote counting.

6. Paragraph 6 of the Answer is denied for the reasons given in paragraph 5 above. The Petitioner repeats and relies upon the Declaration of the Results of the Poll and the Record of Proceedings at the Totalling of Votes, each dated 16th August 2026, as showing the true and correct result of the poll.

7. It is denied that the 1st Respondent was declared the winner under, or by virtue of, any declaration made on 16th August 2026, or at all. The Petitioner will draw the Court's attention at trial to the inherent inconsistency in the 1st Respondent's own case. The Petitioner avers that no declaration was ever made in the 1st Respondent's favour on 16th August 2026, and that the document dated 18th August 2026 upon which the 1st Respondent in truth relies is evidence of his continued effort to manipulate the election which effort is now actively enjoying the support of the 2nd Respondent.

8. In response to paragraph 7 of the Answer, the Petitioner shall object to any attempt by the 2nd Respondent to use his Petition as a collateral challenge to his election. The Petitioner shall aver that the Respondents had the opportunity to challenge that election through the procedure prescribed by the law based on any ground including alleged violence, duress, undue influence or any similar allegation. In any event, the Petitioner denies all such allegations and shall remain ready to fully defend his election if any competent challenge is brought before a court of competent jurisdiction.

9. However, notwithstanding the above and for purposes of being prudent, the Petitioner shall respond to paragraph 7 of the Answer by denying that the Returning Officer was ever subject to any undue influence, violence or threats in making the only declaration of 16th August 2026 in the Petitioner's favour; and, insofar as paragraph 7 of the Answer is to be read as an admission that the declaration of 16th August 2026 was made "free and voluntarily and without any duress", that admission is correct and is adopted and repeated by the Petitioner.

10. In the same fashion as above, paragraph 8 of the Answer is denied in its entirety. It is denied that the Petitioner, or any person acting with his knowledge, consent or approval, exercised any undue influence, violence or threats upon the Returning Officer or any other electoral officer, or fraudulently generated any Form GEN 20b. The Petitioner avers, that not only shall he contend that no particulars of the alleged fraud have been presented, he shall also at trial lead evidence, including video evidence, to show that it was the 1st Respondent and/or persons acting in concert with him who sought to procure a declaration in the 1st Respondent's favour otherwise than in accordance with the votes lawfully cast and counted but that this effort was resisted and rejected by some people who were approached to participate and was also successfully thwarted by alert stakeholders at the totalling centre, thus ending up a botched manipulation attempt.

11. In the same fashion as above, paragraphs 9 and 10 of the Answer are denied. It is denied that the Returning Officer was subjected to duress, undue influence, violence or threats by the Petitioner's agents, or that any declaration in the Petitioner's favour was procured by such means. The Petitioner avers, and shall at an appropriate avenue produce evidence, including video evidence recorded at the totalling centre, to show that:

    a. no violence of the kind alleged, or of any kind, was perpetrated by the Petitioner or his lawful agents. A position also supported by the video evidence supplied by the 1st Respondent; and

    b. although the District Electoral Officer and the Returning Officer, at one stage, attempted to postpone the declaration of the result, constructive and diplomatic engagement among stakeholders present at the totalling centre resulted in the resolution to proceed with, and to conclude, the earlier disrupted proceedings which thus led to the announcement and declaration of the correctly tallied results. All the while stating that the Returning Officer was only held to lawful account, in relation to his duty to announce and declare the correctly and dully tallied result of the election

as required by the law. Results which were tallied and in the presence of and with the full participation of stakeholders at the totalling centre and which were captured through the 2nd Respondents Results Management System Results as projected and by way of graphic presentation by the 2nd Respondents polling staff available at the totalling centre and from which system the record of proceedings and the declaration and/or announcement forms were generated and accordingly used to accordingly declare the Petitioner as duly elected and also to announce the correct presidential vote. The Petitioner shall supply video evidence depicting the referred to diplomatic engagement, the graphic presentation of results tallied, declaration of the parliamentary poll in favour of the Petitioner and announcement of the correct presidential poll at an appropriate avenue, if at all.

12. Further to, and by way of matter supporting paragraph 10 and 11 above, which the Petitioner shall prove, the Petitioner avers that:

a. the same pattern of attempted transposition and manipulation of results was, contemporaneously, at play in respect of the Presidential poll counted and tallied at the same totalling centre, where irregular figures were announced by the same Returning Officer which did not match the figures as tallied and counted from the poll, of which evidence is available and will be relied upon at trial; and

b. notwithstanding the foregoing, and as earlier stated, the correct results for both the Presidential and Parliamentary polls, as tallied and counted were, after successful constructive and diplomatic engagement, and without postponement transmitted formally and officially to the Electoral Commission of Zambia following their announcement declaration on 16th August 2026. The Petitioner shall rely on the announcement of the Presidential result by the 2nd Respondent at the National Totalling Centre on 17th August 2026 to aver that the said duly transmitted results, being the only true basis upon which the 2nd Respondent could rely were, as a matter of fact, in the custody of the 2nd Respondent on 16th August 2026 just shortly after the end of the election. Thus, no manner of document, whether it be called an authentication report, clarification declaration or whatsoever, especially not one dated 18th August 2026, can lawfully override, supersede or overturn the Petitioners declaration of 16th August 2026.

13. Paragraph 10 of the Answer, in which the 1st Respondent states that he was not privy to the letter written by the Petitioner's Advocates to the 2nd Respondent, is noted. The matters pleaded therein are not material to the issues raised in the Petition or this Reply.

14. Paragraph 11 of the Answer, in which the 1st Respondent states that he is not privy to the contents of paragraphs 12 and 13 of the Petition, is noted, and the Petitioner shall repeat the contents of the said Paragraphs.

15. As to paragraph 12 of the Answer, it is admitted that the purported further declaration of 18th August 2026 was null, void and illegal, as already pleaded in the Petition, and the Petitioner repeats his case that only one declaration of the result of a poll is permitted under the Electoral Process Act No. 35 of 2016, as amended.

16. Further to the above, it is denied and averred that there is NOT any such thing, known to the Electoral Process Act No. 35 of 2016 (as amended) or otherwise, as a "clarification declaration". A declaration of the result of a poll is that made and recorded in Form GEN 20b, and no subsequent communication, however described, constitutes a further or alternative declaration. The Petitioner shall aver that any person wishing to challenge that declaration was required to do so by way of an election petition presented under Part IX of the Act.

14. Paragraph 13 of the Answer is denied. The Petitioner shall aver that he has never been subject of any second declaration relating the election for Member of Parliament for Lupososhi constituency and does not rely on any such alleged second declaration. The 1st Respondent shall be put to strict proof.

15. Paragraph 14 of the Answer is denied. The Petitioner denies that the 1st Respondent's election ought to be upheld and repeats the reliefs sought in the Petition.

16. Save as is expressly admitted herein, the Petitioner denies that the 1st Respondent is entitled to any of the relief, or to make any of the assertions, set out in his Answer, and repeats and relies upon the Petition and the Affidavit Verifying Facts filed in support thereof.

Dated the _____ day of _____ 2026.

_____

PETITIONER

This Reply is filed by **Messrs Joseph Chirwa and Company,** Advocates for the Petitioner herein, whose address for service is Plot No. 10426 Manda Hill Road, Behind Manda Hill Mall, Olympia Park, Lusaka.

TO:
Messrs VN Michelo & Partners
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P.O Box 21103
KITWE
(Advocates For the 1st Respondent)

TO:
Messrs Chanza Sikazwe Advocates
Plot 1721M/H, Main Street, Ibex Hill
LUSAKA
(Advocates for the 2nd Respondent)

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AND

SHADRICK MWANSA — 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

REPUBLIC OF ZAMBIA HIGH COURT OF ZAMBIA 16 SEP 2026 PRINCIPAL REGISTRY 8 P.O. BOX 50067, LUSAKA.

COMBINED SKELETON ARGUMENTS AND LIST OF AUTHORITIES IN SUPPORT OF PETITIONER'S REPLY TO THE 1ST & 2ND RESPONDENT'S ANSWER

MAY IT PLEASE THE COURT.

These are the Petitioner's Skeleton Arguments in support of his Reply to the 1st Respondent's Answer to the Election Petition, filed pursuant to Rule 10(7)(b) of the High Court (Election Petition) Rules, 2026. In accordance with Rule 10(8) of the said Rules, these arguments are confined to the issues raised in the 1st Respondent's Answer.

LIST OF AUTHORITIES

(a) The Electoral Process Act No. 35 of 2016, as amended by the Electoral Process (Amendment) Act No. 12 of 2026.

(b) The High Court (Election Petition) Rules, 2026 (Statutory Instrument No. 31 of 2026).

Cases referred to:

i. Mutale v Munaile, S.C.Z. Judgment No. 14 of 2007.

ii. Independent Electoral and Boundaries Commission v Maina Kiai & 5 Others, Civil Appeal No. 105 of 2017; [2017] eKLR (Court of Appeal of Kenya).

iii. Mohinder Singh Gill & Anr v Chief Election Commissioner, New Delhi & Ors, AIR 1978 SC 851 (Constitution Bench, Supreme Court of India).

iv. Morgan v Simpson [1975] QB 151 (Court of Appeal of England and Wales).

INTRODUCTION

1. MY LADY, as the record shall show, the Petitioner filed his petition on 31st August 2026 challenging the 2nd Respondents recognition of the 1st Respondents declaration and purported election as member of Parliament for Lupososhi Constituency. The bedrock of the petitioners case was that the Petitioner and not the 1st Respondent was declared duly elected by the returning officer on 16th August 2026 and further that instead, the 1st Respondent was further declared as duly elected only 2 days later on 18th August 2026. The Petitioner proffered a copy of his declaration exhibited as LCB1 and provided video evidence of the undertaking.
2. As the record shall show, on 10th September 2026, both the 1st and the 2nd Respondent, accordingly and by way of answer filed their opposition to the Petitioner's claims and instead averred that while the Petitioner was declared winner by the returning officer on 16th August 2026, the 1st Respondent was declared winner earlier on the same day. Further that the 1st Respondent was further and later, on 18th August 2026, by way of a 'clarification declaration' redeclared winner for reason that his initial declaration was deemed unclear and was amid confusion. Both Respondents proffered a copy of the said 1st Respondent's declaration respectively as SM1 and as OK1.
3. MY LADY, in terms of the legal arguments as to which declaration would prevail in a situation where there is more than one such declaration, we are of the understanding that both the 1st and the 2nd Respondents agree and are reconciled to the legal position that a first declaration caries the day and that such declaration can only be questioned through the judicial process provided for under the Constitution and the Electoral Process Act. We therefore consider that

this has significantly narrowed down the issues in contention to a single issue for this court to determine; *which of the two candidates, the Petitioner or the 1st Respondent was declared first so as to establish who between the two was duly elected.*

A. THE DECLARATION

1. MY LADY, Section 72 of the Electoral Process Act, as amended provides as follows:

'72. (1) A returning officer shall, on receipt of the items specified under section 71, tally the results received from a polling station in a constituency, district and ward and shall— (a) announce the results of the votes for the presidential, Member of Parliament, mayoral, council chairperson or councillor elections; and (b) declare the results of the votes for the Member of Parliament, mayoral, council chairperson or councillor election.'

2. Further, Regulation 50 of the Electoral Process (General) Regulations, 2016 as amended states as follows:

> ***50. (1) The returning officer shall receive the votes counted at the polling stations in the constituency, district or ward, total the votes of the poll for each candidate from the ballot paper accounts of each polling station.***
>
> ***(2) In every constituency where a poll in respect of an election to the office of President, mayor or council chairperson has been taken, the returning officer for that constituency shall, without delay after the totalling of the votes has been completed, announce the results of each candidate in Form GEN 20b set out in the Schedule and inform the Commission of the number of valid votes cast in the election and the number of valid votes cast for each candidate and votes rejected.***
>
> ***(3) <u>When the totalling of the votes for National Assembly or local government elections has been completed and the result of the poll ascertained, the returning officer shall:</u>***

(a) complete in duplicate a declaration of the results of the poll in Form GEN 21 set out in the Schedule;

(b) declare to be elected as Member of Parliament, mayor, council chairperson or councillor, the candidate to whom the majority of votes were cast by reading aloud in public at the place where the totalling was conducted; and

3. Black's Law dictionary defines 'declare' as: ***"A formal statement, proclamation, announcement, esp. one embodied in an instrument"***
4. My Lady, it is without a doubt that a declaration being a culmination of the event known as an election and whose embodiment, in the case of a Parliamentary Election, is required to be contained in an instrument prescribed by law as form Gen20b, is the only evidence of an such election being duly declared subject only to challenge through the judicial mechanism established by way of election petition. The above position appears entirely agreed to by the 1st and 2nd Respondent and thus needs no debate.
5. My Lady, by his own answer, 1st Respondent's in his Paragraph 4 asserts that he was "first declared" duly elected on 16th August 2026 yet his own Exhibit "SM1" evidence to the contrary indicating that his declaration was in fact made and dated 18th August 2026, not 16th August 2026.
6. My Lady, similarly, the 2nd Respondent alleges that it declared the 1st Respondent duly elected on 16th August 2026 but its own Exhibit OK1 evidences the factual position that the 2nd Respondent declared the 1st Respondent as elected only on 18th August 2026, two (02) days later from the declaration of the Petitioner and to the close of that election.
7. It therefore follows, on the 1st and 2nd Respondent's own pleaded case, that the single document on which their entire rebuttal rests is one that they both admit as being null, void and illegal. A litigant cannot found a defence on an instrument he concedes to be of no legal effect. This is not a matter requiring resolution of disputed fact; it is apparent on the face of

both the Respondent's respective Answers and their own exhibits and is submitted to be dispositive of their case without more.

8. My Lady, it is clear as day that the assertion by the 1st and the 2nd Respondents that there was purportedly an earlier declaration of the 1st Respondent before that of the Petitioner on 16th August 2026 is at best speculative as it lacks any evidential backing. The 1st and 2nd Respondents own evidence clearly demonstrates the sequence of events in the Petitioners favour. Despite the 2nd Respondents claim in paragraph 7 of its Affidavit that some declaration of the 1st Respondent was made 'amid an uproar' its own video evidence and that of the 1st Respondent shows no such thing except to support the Petitioners account of events that the attempt made to declare the 1st Respondent was stopped and objected to and therefore did not take place.
9. My Lady, we strongly contend and hereby submit that based on the foregoing, this honourable Court makes a finding of undisputed fact that the Petitioner and not the 1st Respondent was declared first as winner for the Lupososhi Parliamentary Election, the Petitioner's declaration having and been made on 16th August 2026 as compared to that of the 1st Respondents which was made on 18th August 2026. We further submit that on this basis, this honourable Court proceeds to determine the matter and grant the reliefs as prayed in the petition; to *inter alia* declare the Petitioner as duly elected member of parliament for Lupososhi constituency and order that he takes up his rightful place at Parliament in substitution of the 1st Respondent.
10. In the unlikely event that this honourable court dispels our above submission capable of concluding this matter, we shall, in the alternative, proceed to argue as below:

B. THE UNLAWFUL ADMINISTRATIVE EFFORT TO CHANGE A DECLARED RESULT

4. My Lady, having had already established that no declaration was ever made in favour of 1st Respondent nor in favour of anyone else other than Petitioner on 16th August 2026, we must examine the 2nd Respondents assertions namely that: a purported report of the District Election Officer and/or the Returning Officer could authenticate or confirm an election; and

that a returning officer could validly exercise the powers of the 2nd Respondent as contained in Section 76 of the Electoral Process Act.

5. My Lady, it is our contention that all elections under Lupososhi constituency had concluded on 16th August 2026. The declaration of the Petitioner as duly elected member of parliament being the last event. Following this, the duly announced, duly declared and duly witnessed results were promptly transmitted to the 2nd Respondent as required under 74 of the Electoral Process Act and as supported by Regulation 50(3)(c) of the General Regulations of that Act. This, as alluded to, in the Petitioners Reply and Affidavit hereto, was evident by the announcement and the addition of the presidential election results for Lupososhi constituency to the tally of the national presidential vote as announced by the 2nd Respondent from the national totalling centre via national television on 17th August 2026.
6. My Lady, we therefore strongly contend that was irregular and unlawful for the 2nd Respondent, having already had the results of the poll from Lupososhi rely on a report from a defunct returning to ascertain the result of the election, albeit only for the Parliamentary election had had never needed any such report in relation to the presidential election despite being similarly circumstanced.
7. My Lady, we contend that the irregularity even becomes more apparent when the 2nd Respondent purports (at page 4, para 2 and 3 of its skeleton arguments) that the returning officer, by making the second declaration of 18th August 2026 (the only recorded declaration, of the 1st Respondent and upon which he relies) was performing the corrective function of the 2nd Respondent as envisaged under Section 76 of the Electoral Process Act. While also in another breath alleging that the said 18th event was a clarificatory declaration as alluded at paragraph 14 of the Affidavit sworn by the Returning Officer.
8. To start with, we disagree in totality that the Returning Officer had any lawful power to correct his own declared result firstly for reason that he, upon declaring the Petitioner duly elected, became functus officio thus could not do anything of consequence to the result. Secondly because the law does not imbue him with any power to review his own declarations, and thirdly

but more importantly, being an electoral officer himself, the power contained under section 76 of the Act is not reposed in him at all. We shall contend that the returning officers' powers were fully spent 16th August 2026 thus rendering him legally impotent to do anything of consequence to the result, whether by way of report, subsequent declaration or otherwise.

9. My Lady, we thus submit that any purported correction taken by the returning officer on 18th August 2026 is unlawful and does not affect the declared result of 16th August 2026. We further submit that the law does not provide for or envisage any clarification declaration nor any report by a returning officer capable of reversing or superseding a declared result following the close of an election for any reason, or at all.

10. My Lady, in any case, it is the Petitioner's submission, based on the evidence presently available, that no correction under Section 76 of the Act has ever been made by the Commission in respect of any election in Lupososhi Constituency — whether before, on, or after 18th August 2026. In any case, no circumstances warranting any such correction even properly so done ever arose in this case, a position which was adequately argued in the Petitioners Skeleton Arguments in support of his petition filed on 31st August 2026.

11. The Petitioner strongly submits that, on the preponderance of the evidence, the purported clarification declaration is the only declaration of the 1st Respondent on record. Properly characterised, it is a second declaration of the election, upon which the Respondents unlawfully rely in respect of the Lupososhi Constituency parliamentary election, to the prejudice of both the Petitioner and the electorate of Lupososhi Constituency.

11. My Lady, nothing in sections 72 or 76 admits of a second or clarifying declaration; to read one in, would be to add words Parliament did not enact.

12. This construction is reinforced by persuasive Commonwealth authority on the finality of a declared result. In *Independent Electoral and Boundaries Commission v Maina Kiai & 5 Others*, the Court of Appeal of Kenya held that:

"the results announced by the presiding officer at the polling station are final and no entity, not even the national returning officer, can alter those results."

13. My Lady, In *Mohinder Singh Gill & Anr v Chief Election Commissioner*, the Supreme Court of India held that:

"the sole remedy for an aggrieved party, if he wants to challenge any election, is an election petition. And this exclusion of all other remedies includes constitutional remedies … because of the non-obstante clause" (AIR 1978 SC 851 at p. 289, para E–F).

14. The Supreme Court of Uganda in *Besigye v Museveni & Anor, Election Petition No. 1 of 2001*, held that:

> ***The Commission's own declaration, on that scheme, is never itself the last word; but nor is it disturbed by anything short of the petition the law provides for.***

15. My Lady, in *Morgan v Simpson [1975] QB 151 (CA)*, the English Court of Appeal held that:

> ***It is for the election court, applying the statutory tests, to determine whether an election is vitiated by non-compliance with electoral law, and not for any administrative authority to make that determination unilaterally.***

16. Section 97(1) of the Act is to like effect as above when it instructs that an election ***"shall not be questioned except by an election petition presented under this Part."***

17. My lady, we strongly contend that given that the only lawful declaration for Lupososhi Constituency is the Form GEN 20b of 16th August 2026, declaring the Petitioner duly elected; that any subsequent document — however described, and whatever motivated it — is not a fresh or alternative declaration known at law. The 1st or 2nd Respondent or both ought to have presented an election petition challenging the said declaration for the reasons which they attempt to now do; they cannot use their Answer to mount a collateral challenge to the Petitioner's declaration that Part IX of the Act required them to bring, if at all, by petition.

C. NO VIOLENCE, DURESS OR UNDUE INFLUENCE

18. My Lady, in terms of the allegations of violence, duress and undue influence, et cetera, it is our humble submission that such allegations could not, after the declaration of the petitioner

as duly elected, be used as an administrative reason by the 2nd Respondent to overturn, override or supersede such declaration following the close of election. We contend that the only avenue available to the 1st and 2nd Respondent for redress should they wish to overturn the Petitioner's duly elected status on those or any other ground, is through as election petition as provided under Section 97 of the Electoral Process Act.

19. My Lady, the 1st Respondent's alleges that the Returning Officer was moved to act in the Petitioner's favour by "undue influence, violence and threats" (Answer, paragraphs 4, 8, 9 and 10). Similarly, the Returning Officer himself, on behalf of the 2nd Respondent, alleges that he declared the Petitioner under duress Affidavit, paragraph 13; Answer, paragraph 5). We contend alleged violence, duress and/or undue influence inherently improbable given the continuous presence of uniformed, armed police and security personnel, at the totalling centre as shown the various video evidence exhibited by both the 1st and the 2nd Respondent. Especially given that the polling and party agents and monitors present at the totalling centre numbered no more than approximately ten (10) persons. A fact which can also be descended from the video evidence. We contend that, it is therefore not a credible account that so small and unarmed group could overbear the security detail present so as to exert violence upon an electoral officer of the Returning Officers standing.

20. My Lady, what the video evidence shows in fact is a vocal and emotional protest — not violence — at the spectacle of the Returning Officer appearing to depart from an already correctly tallied result. My Lady, we shall contend that any reasonable person acting and participating in such a highly contested election and subjected to similar conditions would react in the same manner and fashion to thwart any such attempt by a returning officer.

D. THE ELECTION RESULTS ARE CORROBORATIVE

21. My Lady, the Declaration of the Results of the Poll (Form GEN 20a) and the Record of Proceedings at the Totalling of Votes (Form ECZ 19) for the Presidential election in Lupososhi Constituency are each dated 16th August 2026, signed by the same Returning

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AND

SHADRICK MWANSA **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

REPUBLIC OF ZAMBIA HIGH COURT OF ZAMBIA 16 SEP 2026 PRINCIPAL REGISTRY P.O. BOX 50067, LUSAKA.

COMBINED SKELETON ARGUMENTS AND LIST OF AUTHORITIES IN SUPPORT OF PETITIONER'S REPLY TO THE 1ST & 2ND RESPONDENT'S ANSWER

MAY IT PLEASE THE COURT.

These are the Petitioner's Skeleton Arguments in support of his Reply to the 1st Respondent's Answer to the Election Petition, filed pursuant to Rule 10(7)(b) of the High Court (Election Petition) Rules, 2026. In accordance with Rule 10(8) of the said Rules, these arguments are confined to the issues raised in the 1st Respondent's Answer.

LIST OF AUTHORITIES

(a) The Electoral Process Act No. 35 of 2016, as amended by the Electoral Process (Amendment) Act No. 12 of 2026.

(b) The High Court (Election Petition) Rules, 2026 (Statutory Instrument No. 31 of 2026).

Cases referred to:

i. Mutale v Munaile, S.C.Z. Judgment No. 14 of 2007.

ii. Independent Electoral and Boundaries Commission v Maina Kiai & 5 Others, Civil Appeal No. 105 of 2017; [2017] eKLR (Court of Appeal of Kenya).

iii. Mohinder Singh Gill & Anr v Chief Election Commissioner, New Delhi & Ors, AIR 1978 SC 851 (Constitution Bench, Supreme Court of India).

iv. Morgan v Simpson [1975] QB 151 (Court of Appeal of England and Wales).

INTRODUCTION

1. MY LADY, as the record shall show, the Petitioner filed his petition on 31st August 2026 challenging the 2nd Respondents recognition of the 1st Respondents declaration and purported election as member of Parliament for Lupososhi Constituency. The bedrock of the petitioners case was that the Petitioner and not the 1st Respondent was declared duly elected by the returning officer on 16th August 2026 and further that instead, the 1st Respondent was further declared as duly elected only 2 days later on 18th August 2026. The Petitioner proffered a copy of his declaration exhibited as LCB1 and provided video evidence of the undertaking.
2. As the record shall show, on 10th September 2026, both the 1st and the 2nd Respondent, accordingly and by way of answer filed their opposition to the Petitioner's claims and instead averred that while the Petitioner was declared winner by the returning officer on 16th August 2026, the 1st Respondent was declared winner earlier on the same day. Further that the 1st Respondent was further and later, on 18th August 2026, by way of a 'clarification declaration' redeclared winner for reason that his initial declaration was deemed unclear and was amid confusion. Both Respondents proffered a copy of the said 1st Respondent's declaration respectively as SM1 and as OK1.
3. MY LADY, in terms of the legal arguments as to which declaration would prevail in a situation where there is more than one such declaration, we are of the understanding that both the 1st and the 2nd Respondents agree and are reconciled to the legal position that a first declaration caries the day and that such declaration can only be questioned through the judicial process provided for under the Constitution and the Electoral Process Act. We therefore consider that

this has significantly narrowed down the issues in contention to a single issue for this court to determine; *which of the two candidates, the Petitioner or the 1st Respondent was declared first so as to establish who between the two was duly elected.*

A. THE DECLARATION

1. MY LADY, Section 72 of the Electoral Process Act, as amended provides as follows:

'72. (1) A returning officer shall, on receipt of the items specified under section 71, tally the results received from a polling station in a constituency, district and ward and shall— (a) announce the results of the votes for the presidential, Member of Parliament, mayoral, council chairperson or councillor elections; and (b) declare the results of the votes for the Member of Parliament, mayoral, council chairperson or councillor election.'

2. Further, Regulation 50 of the Electoral Process (General) Regulations, 2016 as amended states as follows:

> ***50. (1) The returning officer shall receive the votes counted at the polling stations in the constituency, district or ward, total the votes of the poll for each candidate from the ballot paper accounts of each polling station.***
>
> ***(2) In every constituency where a poll in respect of an election to the office of President, mayor or council chairperson has been taken, the returning officer for that constituency shall, without delay after the totalling of the votes has been completed, announce the results of each candidate in Form GEN 20b set out in the Schedule and inform the Commission of the number of valid votes cast in the election and the number of valid votes cast for each candidate and votes rejected.***
>
> ***(3) <u>When the totalling of the votes for National Assembly or local government elections has been completed and the result of the poll ascertained, the returning officer shall:</u>***

(a) complete in duplicate a declaration of the results of the poll in Form GEN 21 set out in the Schedule;

(b) declare to be elected as Member of Parliament, mayor, council chairperson or councillor, the candidate to whom the majority of votes were cast by reading aloud in public at the place where the totalling was conducted; and

3. Black's Law dictionary defines 'declare' as: ***"A formal statement, proclamation, announcement, esp. one embodied in an instrument"***
4. My Lady, it is without a doubt that a declaration being a culmination of the event known as an election and whose embodiment, in the case of a Parliamentary Election, is required to be contained in an instrument prescribed by law as form Gen20b, is the only evidence of an such election being duly declared subject only to challenge through the judicial mechanism established by way of election petition. The above position appears entirely agreed to by the 1st and 2nd Respondent and thus needs no debate.
5. My Lady, by his own answer, 1st Respondent's in his Paragraph 4 asserts that he was "first declared" duly elected on 16th August 2026 yet his own Exhibit "SM1" evidence to the contrary indicating that his declaration was in fact made and dated 18th August 2026, not 16th August 2026.
6. My Lady, similarly, the 2nd Respondent alleges that it declared the 1st Respondent duly elected on 16th August 2026 but its own Exhibit OK1 evidences the factual position that the 2nd Respondent declared the 1st Respondent as elected only on 18th August 2026, two (02) days later from the declaration of the Petitioner and to the close of that election.
7. It therefore follows, on the 1st and 2nd Respondent's own pleaded case, that the single document on which their entire rebuttal rests is one that they both admit as being null, void and illegal. A litigant cannot found a defence on an instrument he concedes to be of no legal effect. This is not a matter requiring resolution of disputed fact; it is apparent on the face of

both the Respondent's respective Answers and their own exhibits and is submitted to be dispositive of their case without more.

8. My Lady, it is clear as day that the assertion by the 1st and the 2nd Respondents that there was purportedly an earlier declaration of the 1st Respondent before that of the Petitioner on 16th August 2026 is at best speculative as it lacks any evidential backing. The 1st and 2nd Respondents own evidence clearly demonstrates the sequence of events in the Petitioners favour. Despite the 2nd Respondents claim in paragraph 7 of its Affidavit that some declaration of the 1st Respondent was made 'amid an uproar' its own video evidence and that of the 1st Respondent shows no such thing except to support the Petitioners account of events that the attempt made to declare the 1st Respondent was stopped and objected to and therefore did not take place.
9. My Lady, we strongly contend and hereby submit that based on the foregoing, this honourable Court makes a finding of undisputed fact that the Petitioner and not the 1st Respondent was declared first as winner for the Lupososhi Parliamentary Election, the Petitioner's declaration having and been made on 16th August 2026 as compared to that of the 1st Respondents which was made on 18th August 2026. We further submit that on this basis, this honourable Court proceeds to determine the matter and grant the reliefs as prayed in the petition; to *inter alia* declare the Petitioner as duly elected member of parliament for Lupososhi constituency and order that he takes up his rightful place at Parliament in substitution of the 1st Respondent.
10. In the unlikely event that this honourable court dispels our above submission capable of concluding this matter, we shall, in the alternative, proceed to argue as below:

B. THE UNLAWFUL ADMINISTRATIVE EFFORT TO CHANGE A DECLARED RESULT

4. My Lady, having had already established that no declaration was ever made in favour of 1st Respondent nor in favour of anyone else other than Petitioner on 16th August 2026, we must examine the 2nd Respondents assertions namely that: a purported report of the District Election Officer and/or the Returning Officer could authenticate or confirm an election; and

that a returning officer could validly exercise the powers of the 2nd Respondent as contained in Section 76 of the Electoral Process Act.

5. My Lady, it is our contention that all elections under Lupososhi constituency had concluded on 16th August 2026. The declaration of the Petitioner as duly elected member of parliament being the last event. Following this, the duly announced, duly declared and duly witnessed results were promptly transmitted to the 2nd Respondent as required under 74 of the Electoral Process Act and as supported by Regulation 50(3)(c) of the General Regulations of that Act. This, as alluded to, in the Petitioners Reply and Affidavit hereto, was evident by the announcement and the addition of the presidential election results for Lupososhi constituency to the tally of the national presidential vote as announced by the 2nd Respondent from the national totalling centre via national television on 17th August 2026.
6. My Lady, we therefore strongly contend that was irregular and unlawful for the 2nd Respondent, having already had the results of the poll from Lupososhi rely on a report from a defunct returning to ascertain the result of the election, albeit only for the Parliamentary election had had never needed any such report in relation to the presidential election despite being similarly circumstanced.
7. My Lady, we contend that the irregularity even becomes more apparent when the 2nd Respondent purports (at page 4, para 2 and 3 of its skeleton arguments) that the returning officer, by making the second declaration of 18th August 2026 (the only recorded declaration, of the 1st Respondent and upon which he relies) was performing the corrective function of the 2nd Respondent as envisaged under Section 76 of the Electoral Process Act. While also in another breath alleging that the said 18th event was a clarificatory declaration as alluded at paragraph 14 of the Affidavit sworn by the Returning Officer.
8. To start with, we disagree in totality that the Returning Officer had any lawful power to correct his own declared result firstly for reason that he, upon declaring the Petitioner duly elected, became functus officio thus could not do anything of consequence to the result. Secondly because the law does not imbue him with any power to review his own declarations, and thirdly

but more importantly, being an electoral officer himself, the power contained under section 76 of the Act is not reposed in him at all. We shall contend that the returning officers' powers were fully spent 16th August 2026 thus rendering him legally impotent to do anything of consequence to the result, whether by way of report, subsequent declaration or otherwise.

9. My Lady, we thus submit that any purported correction taken by the returning officer on 18th August 2026 is unlawful and does not affect the declared result of 16th August 2026. We further submit that the law does not provide for or envisage any clarification declaration nor any report by a returning officer capable of reversing or superseding a declared result following the close of an election for any reason, or at all.

10. My Lady, in any case, it is the Petitioner's submission, based on the evidence presently available, that no correction under Section 76 of the Act has ever been made by the Commission in respect of any election in Lupososhi Constituency — whether before, on, or after 18th August 2026. In any case, no circumstances warranting any such correction even properly so done ever arose in this case, a position which was adequately argued in the Petitioners Skeleton Arguments in support of his petition filed on 31st August 2026.

11. The Petitioner strongly submits that, on the preponderance of the evidence, the purported clarification declaration is the only declaration of the 1st Respondent on record. Properly characterised, it is a second declaration of the election, upon which the Respondents unlawfully rely in respect of the Lupososhi Constituency parliamentary election, to the prejudice of both the Petitioner and the electorate of Lupososhi Constituency.

11. My Lady, nothing in sections 72 or 76 admits of a second or clarifying declaration; to read one in, would be to add words Parliament did not enact.

12. This construction is reinforced by persuasive Commonwealth authority on the finality of a declared result. In *Independent Electoral and Boundaries Commission v Maina Kiai & 5 Others*, the Court of Appeal of Kenya held that:

"the results announced by the presiding officer at the polling station are final and no entity, not even the national returning officer, can alter those results."

13. My Lady, In *Mohinder Singh Gill & Anr v Chief Election Commissioner*, the Supreme Court of India held that:

"the sole remedy for an aggrieved party, if he wants to challenge any election, is an election petition. And this exclusion of all other remedies includes constitutional remedies … because of the non-obstante clause" (AIR 1978 SC 851 at p. 289, para E–F).

14. The Supreme Court of Uganda in *Besigye v Museveni & Anor, Election Petition No. 1 of 2001*, held that:

> ***The Commission's own declaration, on that scheme, is never itself the last word; but nor is it disturbed by anything short of the petition the law provides for.***

15. My Lady, in *Morgan v Simpson [1975] QB 151 (CA)*, the English Court of Appeal held that:

> ***It is for the election court, applying the statutory tests, to determine whether an election is vitiated by non-compliance with electoral law, and not for any administrative authority to make that determination unilaterally.***

16. Section 97(1) of the Act is to like effect as above when it instructs that an election ***"shall not be questioned except by an election petition presented under this Part."***

17. My lady, we strongly contend that given that the only lawful declaration for Lupososhi Constituency is the Form GEN 20b of 16th August 2026, declaring the Petitioner duly elected; that any subsequent document — however described, and whatever motivated it — is not a fresh or alternative declaration known at law. The 1st or 2nd Respondent or both ought to have presented an election petition challenging the said declaration for the reasons which they attempt to now do; they cannot use their Answer to mount a collateral challenge to the Petitioner's declaration that Part IX of the Act required them to bring, if at all, by petition.

C. NO VIOLENCE, DURESS OR UNDUE INFLUENCE

18. My Lady, in terms of the allegations of violence, duress and undue influence, et cetera, it is our humble submission that such allegations could not, after the declaration of the petitioner

as duly elected, be used as an administrative reason by the 2nd Respondent to overturn, override or supersede such declaration following the close of election. We contend that the only avenue available to the 1st and 2nd Respondent for redress should they wish to overturn the Petitioner's duly elected status on those or any other ground, is through as election petition as provided under Section 97 of the Electoral Process Act.

19. My Lady, the 1st Respondent's alleges that the Returning Officer was moved to act in the Petitioner's favour by "undue influence, violence and threats" (Answer, paragraphs 4, 8, 9 and 10). Similarly, the Returning Officer himself, on behalf of the 2nd Respondent, alleges that he declared the Petitioner under duress Affidavit, paragraph 13; Answer, paragraph 5). We contend alleged violence, duress and/or undue influence inherently improbable given the continuous presence of uniformed, armed police and security personnel, at the totalling centre as shown the various video evidence exhibited by both the 1st and the 2nd Respondent. Especially given that the polling and party agents and monitors present at the totalling centre numbered no more than approximately ten (10) persons. A fact which can also be descended from the video evidence. We contend that, it is therefore not a credible account that so small and unarmed group could overbear the security detail present so as to exert violence upon an electoral officer of the Returning Officers standing.

20. My Lady, what the video evidence shows in fact is a vocal and emotional protest — not violence — at the spectacle of the Returning Officer appearing to depart from an already correctly tallied result. My Lady, we shall contend that any reasonable person acting and participating in such a highly contested election and subjected to similar conditions would react in the same manner and fashion to thwart any such attempt by a returning officer.

D. THE ELECTION RESULTS ARE CORROBORATIVE

21. My Lady, the Declaration of the Results of the Poll (Form GEN 20a) and the Record of Proceedings at the Totalling of Votes (Form ECZ 19) for the Presidential election in Lupososhi Constituency are each dated 16th August 2026, signed by the same Returning

Officer, Mr Oscar Kafunda, and witnessed by the same persons who witnessed the Petitioner's own Parliamentary declaration.

22. It is submitted that the result of the presidential election of that of the parliamentary election are themselves corroborative. The same officer, before the same independent witnesses, on the same day, at the same totalling centre, declared both results.

CONCLUSION AND PRAYER

23. For the reasons set out above and, the Petitioner submits that the 1st and 2nd Respondent's Answers disclose no defence capable of disturbing the declaration of 16th August 2026, and they are, on their own respective terms, self-defeating. The Petitioner prays that this Honourable Court dismisses the matters raised in the Answers and grants the reliefs sought in the Petition.

Dated the ..... day of 2026

Drawn by **Messrs Joseph Chirwa and Company,** Advocates for the Petitioner herein, whose address for service is Plot No. 10426 Manda Hill Road, Behind Manda Hill Mall, Olympia Park, Lusaka.

TO:
Messrs VN Michelo & Partners
2nd Floor, Afcom House, Room 81
P.O Box 21103
KITWE
(Advocates For the 1st Respondent)

TO:
Messrs Chanza Sikazwe Advocates
Plot 1721M/H, Main Street, Ibex Hill
LUSAKA
(Advocates for the 2nd Respondent)

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/033**
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, 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

SHADRICK MWANSA **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

REPUBLIC OF ZAMBIA HIGH COURT OF ZAMBIA 16 SEP 2026 PRINCIPAL REGISTRY P.O. BOX 50067 LUSAKA

AFFIDAVIT IN SUPPORT OF PETITIONER'S REPLY TO THE 1ST RESPONDENT'S ANSWER

I, **LAZAROUS CHUNGU BWALYA**, a Zambian national and the Petitioner herein, whose address for service is c/o Messrs Joseph Chirwa and Company, Plot No. 10426 Manda Hill Road, Behind Manda Hill Mall, Olympia Park, Lusaka, do hereby make oath and say as follows:

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

2. That I am the Petitioner in this matter and am therefore competent to depose to this Affidavit from facts and matters that are within my own knowledge and belief.

3. That I have read the 1st Respondent's Answer to the Election Petition, filed on or about 10th September 2026, together with his Affidavit in Verification of Facts, and I make this Affidavit in support of my Reply thereto filed herewith and wish to state as follows:

4. That the contents of paragraphs 1 to 3 of the 1st Respondents Affidavit in Support of Answer (the **1st Respondent's Affidavit**) are within his peculiar knowledge thus require no reply.

5. That in response to paragraph 4 of the 1st Respondent's Affidavit, I deny that the 1st Respondent was at any time duly declared elected Member of Parliament for Lupososhi Constituency, and that while the 1st Respondent was sworn into office as Member of Parliament for Lupososhi, the same was based on the unlawful declaration made by the returning officer on 18th August 2026 and exhibited to the 1st Respondents own Affidavit as SM1.

6. That in furtherance of the above, I shall further state that I remain the duly elected member of parliament for the said Lupososhi constituency having had been duly declared as such on 16th August 2026 having had polled 9,533 votes against the 1st Respondent's 6,890 votes as shown by the declaration and the record of proceedings exhibited to my Affidavit in support of Petition. In further support of this, I shall produce the Announcement of the Results of the Poll (Form Gen20a) in respect of the Parliamentary election from the 65 polling stations in the constituency which results upon tallying were recorded and captured on ECZ Form 19 being the Record of Proceedings at the totalling centre and following which process Form Gen20b (Declaration of Results of the Poll) was generated for purposes of declaring me as duly elected.

7. That in reply to paragraph 5 of the 1st Respondent's Affidavit, I shall reiterate and contend that while intended to supersede and to override my declaration of 16th August 2026, the declaration exhibited as SM1 by the 1st Respondent does not, at law, affect my own in any way. I shall further state that the said exhibit marked SM1 is the result of a continued attempt to manipulate the election following through from earlier attempts as made, first by the Returning Officer, Mr. Oscar Kafunda on 16th August 2026, who attempted to announce and declare manipulated and transposed results, but whose effort was thwarted (as shown in the 1st Respondents video evidence exhibited as SM3 and as shall be expounded later herein), and second by the 1st Respondent's political party, on 17th August 2026, who through its official Facebook page, published my Gen20b Form but manipulated to transpose the results in favour of 1st Respondent, which effort also failed as some of the election monitors/agents whose names were maintained as having witnessed the it promptly called out the effort by publicly disowning the purported document by way of commenting on the said Facebook publication and promptly reporting the alleged manipulation for investigation (I highlighted this issue in my Affidavit in Support of Petition at its paragraph 8 but which I shall, for

comprehensiveness evidence herein). A copy of the same was produced in my Affidavit Verifying Facts which accompanied my Petition and was marked therein as **LCB5**.

8. That in response to paragraph 6 and 7 of the 1st Respondent's Affidavit, I shall reiterate that there was an attempt on the part of the Returning Officer acting in concert with and on behalf of the 1st Respondent to declare the 1st Respondent as winner of the Lupososhi Constituency parliamentary election, notwithstanding that the votes lawfully cast and counted showed me to be the winner by a margin of 2,643 votes, and that this attempt was promptly identified and successfully thwarted by alert polling and party agents, monitors and together with other stakeholders present at the totalling centre resulting in the emotionally charged protest and objection as seen in the video exhibited as SM3 in the 1st Respondent's affidavit.

9. That in response to paragraph 8 of 1st Respondent's Affidavit, I shall state that, as can be seen from the video evidence submitted by the 1st Respondent, the attempt to declare the 1st Respondent duly elected was objected to and the proceedings were disrupted, and as admitted in his own paragraph 7 thus never took place. I shall contend that any such purported declaration of the 1st Respondent exists only in his imagination and that any such effort was successfully thwarted by alert and diligent monitors and stakeholders.

10. That paragraph 9 of the 1st Respondent's Affidavit is within the 1st Respondent's peculiar knowledge thus requires no comment or reply.

11. That in response to paragraph 10 and 11 of the 1st Respondent's Affidavit, I have been advised by my advocates, which advise I believe to be true, that Mr. Oscar Kafunda's actions taken after the close of elections on 16th August 2026, including the video recording exhibited as SM4 are of no lawful consequence to that election and the same can be said of any further purported reports authored by him and/or any subsequent purported declaration made by him.

12. That in response to paragraph 11 of the 1st Respondent's Affidavit, I shall repeat the content of my paragraph 9 and I shall also repeat the contents of paragraph 11 above.

13. That in response to paragraph 12 to 13 of the 1st Respondent's Affidavit, I shall state that my declaration of 16th August 2026 of whose knowledge the 1st Respondent admits was the only declaration made on that date. I shall repeat the contents of my paragraph 9 herein and in relation to the video exhibited as SM5 of the 1st Respondent's Affidavit, I shall repeat the contents of my paragraph 11 herein and reiterate that the said video depicting Mr. Kafunda is of no legal consequence to my election.

14. That in response to the allegations of violence, undue influence, or duress set out in paragraph 13 of the 1st Respondent's Affidavit, I am advised by my advocates, which advice I believe to be true, that this is not the proper forum for determining such allegations. To the extent that they seek to challenge my election, they are incompetently before this Court, as they ought to have been brought in the manner and form prescribed by law. I therefore contend that, although I may briefly address them herein, the said allegations can have no lawful effect on my election in the circumstances and I shall be ready to comprehensively defend against them once competently brough against me.
15. That in light of the above, I shall briefly state that no violence of the kind alleged by the 1st Respondent, or of any kind, was committed by me, my agents or my supporters, at any stage of the counting, totalling or declaration process, and that the 1st Respondents own evidence supports this my position.

16. That in response to paragraph 14 of the 1st Respondent's Affidavit, I shall state that his own evidence does not support his alleged election and shall maintain that I remain the only duly elected member of parliament for Lupososhi Constituency. In so far as the 1st Respondents admits that *"..only one declaration is valid under the law."*, I shall stand in total agreement and insist that the one such declaration is my own of 16th August 2026.

17. In response to paragraph 15 of the 1st Respondent's Affidavit, I am advised by my advocates, which advise I believe to be true, that the 1st Respondents allegation of fraud on my part is incompetent and unsubstantiated as it is not particularised. In relation to the allegations of undue influence and duress, I shall repeat the contents of paragraph 14 and 15 herein. I shall instead call into question the circumstances through which the 1st Respondent procured his purported declaration on 18th August 2026 well after the election, close of the totalling centre, and in the absence of duly deployed security intended to man a totalling centre.

18. That in response to the allegations of violence and intimidation contained in paragraph 16 of the 1st Respondent's Affidavit, I wish to state in brief that whatever reaction occurred among those present at the totalling centre was no more than a normal emotionally charged protest at the attempt by the Returning Officer to announce manipulated results and more importantly an attempt to declare the 1st Respondent as duly elected contrary to the tallied results. This could not, by any normal measure (especially of such a contested election) be alleged to amount to violence, a threat to life, or undue influence of any kind as alleged especially given the following circumstances:

    a. That a similar pattern of manipulation was evident in the Presidential poll for Lupososhi Constituency. The same Returning Officer announced irregular figures that

did not correspond with the votes actually tallied and counted, stating that the NRPUP Presidential candidate had polled 4,200 votes while the UPND candidate had polled 9,500 votes. The correct tallied and counted results were instead 15,607 votes for NRPUP and 6,425 votes for UPND, the runner-up. Now produced and shown to me, contained in a flash drive is video footage showing the Returning Officer, Mr Oscar Kafunda, announcing the manipulated Presidential poll results while visibly reading from a separate document, rather than from the Form GEN 20a, in respect of the affected candidates the same is marked **"LCB1"**. The flash drive also contains video footage of the 2nd Respondent's official announcement at the national totalling centre on 17th August 2026 of the Presidential poll results for Lupososhi Constituency, confirming that the correct results had been duly transmitted to the 2nd Respondent after the close of elections in the constituency on 16th August 2026 the same is marked **"LCB2"**. Further produced and shown to me, collectively marked **"LCB3"**, are copies of ECZ Form 19, being the Record of Proceedings at the Totalling of Votes for the Presidential Election in Lupososhi Constituency, and Form GEN 20a, being the Announcement of the Results of the Poll at the Totalling for the Presidential election in this regard.

16. That I depose to the above believing the same to be true to the best of my knowledge, information and belief.

SWORN by the said)
LAZAROUS CHUNGU BWALYA)
the ..... day of ..... 2026)

.....
DEPONENT

BEFORE ME: .....

COMMISSIONER FOR OATHS

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
16 SEP 2026
COMMISSIONER FOR OATHS
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	
SHADRICK MWANSA	**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 **LAZAROUS CHUNGU BWALYA** marked **'LCB1-2'**.

Dated at Lusaka the 16 day of Sept 2026.

BEFORE ME: .....

COMMISSIONER FOR OATHS

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
16 SEP 2026
COMMISSIONER FOR OATHS
P.O. BOX 50067, LUSAKA