IN THE HIGH COURT FOR ZAMBIA

2026/HP/EP/024

AT THE DISTRICT REGISTRY

HOLDEN AT LUSAKA

(CIVIL JURISDICTION)

IN THE MATTER OF: AN ELECTION PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR ZAMBEZI EAST CONSTITUENCY IN THE ZAMBEZI DISTRICT OF THE NORTH-WESTERN PROVINCE



AND

IN THE MATTER OF: ARTICLES 45, 48, 49, 54, 72 AND 73 OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA, AS AMENDED BY ACT NO. 2 OF 2016

AND

IN THE MATTER OF: SECTIONS 29, 55, 81, 82, 83, 86, 89, 96, 97, 98, 99,100, 106, 107, AND 108 OF THE ELECTORAL PROCESSES ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA

AND

IN THE MATTER OF: RULE 15(1) (C) OF THE ELECTORAL PROCESS (GENERAL) REGULATIONS 206 OF THE LAWS OF ZAMBIA

BETWEEN:

BRIAN KAMBITA PETITIONER

AND

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
02 SEP 2026
PRINCIPAL REGISTRY 1
P.O. BOX 50067, LUSAKA.

JONATHAN MWENDELEMA **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

AFFIDAVIT IN SUPPORT OF EX PARTE SUMMONS FOR AN ORDER FOR SUBSTITUTED SERVICE PURSUANT TO RULE 14 SUBRULE 3 OF THE ELECTORAL PROCESS ACT S.I NO. 31 OF 2026 OF THE LAWS OF ZAMBIA

I, **Chiwala Boniface** of Chiwala Boniface Legal Practitioners, Lusaka in the Republic of Zambia, Legal Practitioner for the Petitioner herein, MAKE OATH and state as follows:

1. **THAT** my full names and address are as stated above.

2. **THAT** I am a Legal Practitioner having conduct of this matter on behalf of the Petitioner and I am therefore competent and duly authorised to depose to the matters herein.

3. **THAT** the facts deposed to herein are within my personal knowledge and/or have come to my knowledge in the course of conducting this matter on behalf of the Petitioner and are true and correct to the best of my knowledge and belief.

4. **THAT** on the **28th day of August, 2026**, the Petitioner filed an Election Petition before this Honourable Court challenging matters arising from the Parliamentary Elections for **Zambezi East Constituency in Zambezi District of the North-Western Province**.

5. **THAT** the 1st Respondent to the said Election Petition is **Jonathan Mwendelema**, who is required to be served with the Election Petition and accompanying court process in accordance with the High Court (Election Petition) Rules, 2026.

6. **THAT** following the filing of the Election Petition, the Petitioner, through his Legal Practitioners, on 31st August, 2026 in afternoon took immediate steps to locate the 1st Respondent for purposes of effecting personal service upon him.

7. **THAT** an attempt to serve the respondent on the ECZ registered mail/address was made but to no avail as we were informed that he had travelled to Lusaka for registration.

8. **THAT** the Petitioner and his Legal Practitioners have, however, been unable to ascertain a physical address at which the 1st Respondent can readily be located and personally served.

9. **THAT** in an effort to facilitate personal service, the 1st Respondent was contacted on his known personal mobile telephone number on three occasions, namely **+260 977 522 539**. Produced and shown marked **CB1** are screen shots.

10. **THAT** during the said telephone communication, the 1st Respondent was informed of the need to obtain his physical address for purposes of effecting service of the court process upon him.

11. **THAT** the 1st Respondent acknowledged the communication and **undertook to send and/or provide his physical address** to enable the Petitioner to effect personal service upon him.

12. **THAT** notwithstanding the said undertaking, the 1st Respondent has to date **not provided or sent the promised physical address**.

13. **THAT** consequently, despite reasonable efforts on the part of the Petitioner and his Legal Practitioners, personal service of the Election Petition and accompanying process upon the 1st Respondent has not been possible.

14. **THAT** I am aware and I verily believe to be true, that **Rule 14(3) of the High Court (Election Petition) Rules, 2026, Statutory Instrument No. 31 of 2026**, permits a Petitioner who has failed to effect personal service of an election petition to make an application to the Court for substituted service.

15. **THAT** I am further aware and I verily believe to be true, that the Rules governing election petitions prescribe strict and abbreviated timelines and that an application for substituted service following failure to effect personal service is required to be made expeditiously and within the prescribed period.

16. **THAT** this application is accordingly being made at the earliest opportunity and within the applicable prescribed period following the Petitioner's inability to effect personal service upon the 1st Respondent.

17. **THAT** the inability to personally serve the 1st Respondent has not arisen from any want of diligence on the part of the Petitioner but from the practical inability to ascertain an address at which the 1st Respondent may presently be found and served.

18. **THAT** given that the 1st Respondent has been contacted through his known personal telephone number, I verily believe that service through an alternative mode authorised by this Honourable Court would be reasonably calculated to bring the Election Petition and accompanying process to his attention.

19. **THAT** in the circumstances, it is just and expedient that this Honourable Court grants the Petitioner leave to serve the Election Petition, Affidavit Verifying Facts, Skeleton Arguments, List of Authorities and all accompanying documents upon the 1st Respondent by way of **substituted service**.

20. **THAT** the Petitioner accordingly seeks an Order that substituted service upon the 1st Respondent be effected by such means as this Honourable Court may direct, including **publication in a newspaper of wide circulation in Zambia and/or such other mode as the Court considers appropriate**.

21. **THAT** granting the application will enable the Petitioner to comply with the strict timelines applicable to election petitions and facilitate the expeditious determination of the Petition on its merits.

22. **THAT** no prejudice will be occasioned to the 1st Respondent by the grant of the Order sought as the purpose of substituted service is to ensure that the proceedings are brought to his attention and that he is afforded an opportunity to respond thereto.

23. **THAT** on the other hand, the Petitioner stands to suffer substantial prejudice should the application not be granted because the Petitioner's inability to locate the 1st Respondent for personal service may prevent the Petition from progressing within the strict statutory timelines applicable to election petitions.

24. **THAT** this application is made **bona fide**, in the interests of justice and solely for purposes of ensuring proper and effective service of the Election Petition upon the 1st Respondent.

25. **THAT** I therefore humbly pray that this Honourable Court grants the Petitioner **leave to effect substituted service upon the 1st Respondent** in the manner directed by the Court.

26. **THAT** I depose to the foregoing facts as true and correct to the best of my knowledge and belief.

SWORN by the said)

Chiwala Boniface at Lusaka)

This 2 day of Sept 2026) .....

DEPONENT

Before Me:.....

COMMISSIONER FOR OATHS

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
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 Exhibits referred to in the Affidavit of **Chiwala Boniface** produced and marked "CB1".

Dated at Lusaka this 2 **day of** Sept **2026**

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COMMISSIONER FOR OATHS

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