IN THE HIGH COURT FOR ZAMBIA 2026/HP/EP014

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)

IN THE MATTER OF: ARTICLE 73 OF THE CONSTITUTION OF ZAMBIA

AND

IN THE MATTER OF: SECTIONS 81, 83, 84, 97, 98 & 100 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016

AND

IN THE MATTER OF: REGULATION 15 OF THE ELECTORAL CODE OF CONDUCT, 2016

AND

IN THE MATTER OF: THE HIGH COURT (ELECTION PETITION) RULES, 2026, S.I. NO. 31 OF 2026

AND

IN THE MATTER OF: THE PARLIAMENTARY ELECTION FOR CHONGWE EAST CONSTITUENCY DECLARED ON 15TH AUGUST 2026

BETWEEN:



SYLVIA TEMBO MASEBO PETITIONER

AND

ANITA KAMANGA FIRST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA SECOND RESPONDENT

PETITIONER'S REPLY TO THE FIRST RESPONDENT'S ANSWER

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1. Save where expressly admitted herein, the Petitioner joins issue with the First Respondent on her Answer and repeats the Election Petition as though the same were set out herein, subject to this Reply being confined to the matters raised in the First Respondent's Answer.

GROUND ONE

Violence, Intimidation and Undue Influence

2. In reply to paragraphs 3 to 7 of the Answer, the Petitioner denies that the Petition lacks material particulars. The Petition identifies the nature of the alleged misconduct, the dates and locations of the incidents, the persons involved, the vehicles concerned, the victims and the circumstances in which the misconduct occurred, together with the connection between the alleged conduct and the First Respondent's campaign.

3. In reply to paragraphs 8 to 11 of the Answer, the Petitioner maintains the allegations concerning Mr. Patrick Mudima and Mr. Phiri. The Petition identifies the motor vehicle bearing registration number ALE 3458, the person who drove the vehicle, the person who sustained injuries and the subsequent threats complained of. The Petitioner further states that the said motor vehicle was used in connection with the First Respondent's campaign and maintains the allegations pleaded in the Petition concerning its use.

4. Whether Mr. Phiri was a formally appointed agent is not determinative if the evidence establishes that he was acting in connection with the First Respondent's campaign and with her requisite knowledge, consent or approval. The Petitioner further denies the First Respondent's contention that the allegations are only capable of being maintained against a person who was formally appointed as an election or polling agent.

5. The Petitioner denies paragraphs 12 to 16 of the Answer. The Petitioner's agents and supporters did not initiate the alleged conflicts. The Petitioner maintains that the conflicts were caused by people supporting and/or acting in connection with the First Respondent's campaign.

6. The First Respondent's allegation that the Petitioner or her supporters initiated the violence is denied. The Petitioner joins issue with the First Respondent on the said allegation.

7. The First Respondent has not identified in her Answer any particular person on the Petitioner's campaign team who allegedly entered into or caused the alleged commotion. The Petitioner, on the other hand, has identified the people involved, the people who sustained injuries and the motor vehicle bearing registration number ALE 3458, which was used in connection with the First Respondent's campaign. The Petitioner further states that the First Respondent admits that she and persons associated with her campaign were present at the relevant time when the incidents complained of occurred.

8. The Petitioner did not conduct campaigns in contradiction of the Second Respondent's campaign timetable but maintains that the First Respondent deliberately conducted a political rally behind the Petitioner's constituency office on 17th July 2026 and the First Respondent and persons associated with her campaign blocked the Petitioner's campaign vehicle on 23rd July 2026 resulting in the commotions complained of and injuries to the Petitioner's supporters and campaign team.

9. In reply to paragraphs 17 and 18 of the Answer, the Petitioner denies any allegation that she or people acting on her behalf intended to disrupt the First Respondent's campaign activities. The First Respondent does not deny knowing Mr. Oliver, but states that she did not duly appoint him as an agent. The Petitioner maintains the allegations concerning Mr. Oliver as pleaded in the Petition.

GROUND TWO

Bribery and Vote Buying

10. In reply to Paragraph 17 to 21 of the Answer, the Petitioner denies all allegations. The Petition identifies the material inducements, including cash, food items and other benefits, and specifies dates and actual recipients.

11. Additionally, the Petitioner also identifies Queen Semu, Samson Phiri and Aaron Mwambi who received the sum of K50.00, each on 2nd August 2026, and Mr. Mushashu Zulu who collected the bundle of cash on 12th August 2026 with a request that if he votes for the First Respondent and more money will be given to him. The fact that some recipients were supporters of the Petitioner does not contradict the allegation of bribery.

12. Further, the Petitioner does not allege that the mere display of a plate bearing the First Respondent's election symbol was unlawful. The Petitioner's allegation concerns the distribution of plates and other material benefits in the circumstances pleaded in the Petition.

13. The First Respondent's explanation concerning the use of the plate as her election symbol is denied to the extent that it is relied upon to answer the allegation concerning the distribution of the plates during the campaign period. The Petitioner maintains that the plates were distributed to members of the public, who predominately reside in rural areas, during the campaign period.

14. Paragraph 22 of the Answer is denied. The people who sustained the injuries complained of are different from the people identified in the Petition as having received or picked up the alleged payments.

15. In reply to paragraphs 24 to 26 of the Answer, the Petitioner denies that the First Respondent's purported history of charitable activities answers the allegations concerning distributions made before and during the election campaign.

16. The First Respondent admits having conducted charitable activities before the campaign period. The Petitioner maintains that some of the activities relied upon by the First Respondent occurred during or in close proximity to the campaign period which had the effect of inducing the voters when making a decision.

17. The Petitioner denies that the Petition misled the Court in relation to the said charitable activities and joins issue with the First Respondent on the matters raised in paragraphs 24 to 26 of the Answer.

GROUND THREE

False And Defamatory Statements

18. The Petitioner denies paragraphs 28 to 36 of the Answer. The Petitioner relies upon the Electoral Code of Conduct and the Electoral Process Act in support of the allegations pleaded under this Ground. The Petitioner denies the First Respondent's contention that the allegation complained of does not fall within the alleged requirements of the law merely because it did not concern an illness, death or withdrawal of the Petitioner from the election.

19. The Petitioner maintains that the First Respondent and people associated with her campaign alleged that the Petitioner was a thief who stole or hid 61 containers of medicine was made during the election campaign. The Petitioner further states that the First Respondent's campaign manager, Mr. Amos Malubila, admitted before the Second Respondent's Conflict Management Committee that he had made the statement complained in the form of a video which was published online.

20. The First Respondent's reliance on the Conflict Management Committee record is incomplete. The said record identifies both Mr. Amos Malubila and the First Respondent as respondents to the complaint of character assassination against the Petitioner.

21. The Petitioner further states that following the mediation before the Conflict Management Committee, substantially the same allegation that the Petitioner had stolen or hidden 61 containers of medicine appeared on three Facebook pages, namely Soli TV, Chongwe "Youth Advocate" and Limited Media TV.

22. The said social media outlets have consistency promoted the First Respondent's candidature. The Petitioner therefore denies the First Respondent's assertion that she had no knowledge of the said social media outlets and maintains the matters pleaded in the Petition concerning the dissemination of the said publications. The impugned publications were disseminated during the election campaign through multiple social media outlets and were capable of being viewed by people beyond those who were physically present at the campaign events.

23. In reply to paragraph 37 of the Answer, the Petitioner denies that the margin of victory answers the allegations pleaded in the Petition. The conduct complained of which includes *inter alia* violence and intimidation in different parts of Chongwe East, distributions to campaign supporters, marketers and members of the public, and online publications capable of circulation beyond a physical rally.

24. The Petitioner denies that she engaged in bribery, vote buying or the distribution of envelopes for the purpose of procuring votes and maintains the matters pleaded in the Election Petition.

25. The Petitioner accordingly joins issue with the First Respondent on the matters raised in her Answer and maintains the reliefs sought in the Election Petition.

Dated at Lusaka this ----------day of ----------2026.

THE PETITIONER

Drawn and filed by:

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BETWEEN:



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AND

ANITA KAMANGA FIRST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA SECOND RESPONDENT

PETITIONER'S REPLY TO THE SECOND RESPONDENT'S ANSWER

---

1. Save where expressly admitted herein, the Petitioner joins issue with the Second Respondent on its Answer and repeats the Election Petition as though the same were set out herein, subject to this Reply being confined to the matters raised in the First Respondent's Answer.

2. In reply to paragraphs 3 and 4 of the Second Respondent's Answer, the Petitioner maintains the averments contained in paragraphs 5 and 6 of the Election Petition. The Petitioner states that the campaign conducted by the First Respondent leading to the election was characterised by conduct

which the Petitioner contends was contrary to the provisions of the Electoral Process Act and the Electoral Code of Conduct contained in the Schedule thereto.

3. The Petitioner further states that the alleged misconduct pleaded in the Election Petition was, in part, brought before the Second Respondent's Conflict Management Committee, including the complaint concerning the statements made by the First Respondent and her campaign manager, Mr. Amos Malubila.

4. The Petitioner maintains that the matters raised before the Conflict Management Committee form part of the factual matters relied upon in the Election Petition.

5. Paragraph 5 of the Answer is denied. The Petitioner maintains that the reliefs sought in the Election Petition arise from the matters pleaded therein concerning the conduct during the campaign period and the alleged contraventions of the Electoral Process Act and the Electoral Code of Conduct and accordingly maintains that she is entitled to the reliefs sought.

6. The Petitioner accordingly joins issue with the Second Respondent on the matters raised in its Answer and maintains the reliefs sought in the Election Petition

Dated this ---------- day of ---------- 2026

Signed by: ----------

THE PETITIONER

Drawn and filed by:

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BETWEEN:

SYLVIA TEMBO MASEBO — PETITIONER

AND

ANITA KAMANGA — FIRST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA — SECOND RESPONDENT

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
07 SEP 2026
PRINCIPAL REGISTRY 4
P.O. BOX 50067, LUSAKA

2ND RESPONDENT'S SKELETON ARGUMENTS

MAY IT PLEASE THIS HONOURABLE COURT, we tender hereunder the 2nd Respondent's Skeleton Arguments.

My LORD/ LADY This legal challenge arises from the General Election for the Chongwe East Constituency held on 13th August 2026.

The Petitioner, SYLVIA TEMBO MASEBO has petitioned this Honourable Court seeking to invalidate and nullify the declared election

The 2nd Respondent maintains that the election in Chongwe East Constituency was conducted in substantial compliance with the principles of a democratic, free, fair, and transparent electoral system as mandated by ***Article 45 of the Constitution of Zambia***. The 2nd Respondent contends that the declaration of the results was lawful, accurate, and truly reflective of the democratic will of the electorate in Chongwe East Constituency.

MY LORD/ LADY We humbly submit that the central issues for determination by this Honourable Court are:

i. Whether the Chongwe East Constituency election was conducted by the 2nd Respondent in substantial compliance with the Constitution of Zambia, the ***Electoral Process Act No. 35 of 2016***, and the Electoral Code of Conduct.
ii. Whether the Petitioner has discharged the legal burden of proof to establish the alleged non-compliance, irregularities, or malpractices

Presumption of Electoral Validity and Substantial Compliance

There is a strong legal presumption that an election conducted by a constitutional body, such as the 2nd Respondent, has been conducted in accordance with the law and is prima facie valid. ***Article 45(1) of the Constitution of Zambia*** outlines the guiding principles of the electoral system, emphasizing that elections must be free, fair, transparent, and administered in an impartial manner. We argue that the 2nd Respondent's officials and agents executed their mandate in Chongwe East constituency independently, transparently, and in strict adherence to these constitutional imperatives.

The electoral processes of voting, counting, and tallying are heavily regulated by statutory guidelines. Specifically, the 2nd Respondent's officers acted in accordance with ***Sections 61, 84, 86, 87,*** and ***89 of the Electoral Process Act No. 35 of 2016***. These provisions govern the meticulous handling of ballots, polling station operations, and the subsequent declaration of results. The Petitioner's blanket assertion of non-compliance fails to demonstrate any systemic deviation from these statutory boundaries.

The Burden and Standard of Proof on the Petitioner

It is a foundational principle of election petition jurisprudence that he who alleges must prove. The legal burden of proving allegations of electoral non-compliance, irregularities, or malpractices rests squarely and continuously on the Petitioner .

To displace the presumption of electoral validity and set aside the democratic choice of the Chongwe East electorate, the Petitioner must adduce cogent, precise, and highly convincing evidence. General, speculative, or unsubstantiated assertions do not suffice in law to invalidate an election. The petitioner has failed to demonstrate in detail the manner in which ECZ fell outside the ambit of free and fair elections.

As set out under Zambian law and reflected in similar petitions within this electoral cycle, a petition that discloses no constitutional, statutory, or factual basis upon which an election can be annulled must fail. The Petitioner's reliance on general allegations of non-compliance, without establishing specific, material facts that directly implicate the 2nd Respondent in illegal conduct or fatal irregularities, is insufficient in law to void the election.

Materiality of Non-Compliance

Under Zambian electoral laws, an election will not be declared void by reason of non-compliance with the provisions of the Electoral Process Act if it appears to the Court that the election was conducted in accordance with the principles laid down in the Constitution, and that such non-compliance did not materially affect the final result.

We submit that the Chongwe East election was conducted in a manner that gave the electorate a free and fair opportunity to elect their representative. Even if the Petitioner were to demonstrate minor administrative or procedural discrepancies (which is denied), such lapses are legally insufficient to void an entire election unless they are proven to have directly altered or corrupted the final declared outcome.

CONCLUSION AND PRAYER

In light of the foregoing, the 2nd Respondent submits that the election of Constituency was conducted lawfully, transparently, and in accordance with the principles of the Constitution and the Electoral Process Act.

The Petitioner has failed to place before this Honourable Court any factual, statutory, or constitutional basis capable of supporting the reliefs sought or justifying the nullification of the election.

WE THEREFORE PRAY that this Honourable Court dismisses the Petition with costs to the 2nd Respondent.

We Humbly Submit.

Dated the_____ day of _____2026.

Per: Messrs. Nsapato & Co. Advocates
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PETITIONER'S SKELETON ARGUMENTS IN REPLY TO THE FIRST RESPONDENT'S SKELETON ARGUMENTS

May it please this Honourable Court.

BACKGROUND

1. On 28th August 2026, the Petitioner filed her Petition and accompanying documents.

2. On 7th September 2026, the First Respondent reacted by filing her answer, skeleton arguments and affidavit in opposition.

ARGUMENTS

Burden of Proof

3. The First Respondent contends that both the legal and evidential burden rests on the Petitioner throughout the case. It is our submission in response that while the legal burden rests throughout on the Petitioner, who has a duty to prove her claims with a fairly high degree of convincing clarity, the evidential burden however may shift from party to party.

4. In Malanji v Mulenga and ECZ[1], the Constitutional Court guided as follows—

> *Philpson explains at pages 56 to 57 that:* ***while the persuasive burden is always stable, the evidential burden may shift constantly, as one scale of evidence or other preponderates. The onus probandi in this sense rests upon the party who would fail if no evidence at all, or no more evidence, as the case maybe, were given on either side-i.e. it rests before evidence is gone into, upon the party asserting the affirmative of the issue; and it rests, after evidence is gone into, upon the party against whom the tribunal, at the time the question arises, would give judgment if no further evidence were adduced.*** (Emphasis Ours)

5. The Court went on to state—

> ***The fact that the evidential burden shifts back and forth, is well settled in common law jurisdictions including Zambia. We are fortified in so saying by the holding of the Supreme Court of Kenya, in the case of Raila Odinga and Others v Independent Electoral and Boundaries Commission and Others at paragraph 195, that: There is, apparently, a common***

[1] (CCZ/A 21 of 2021) [2022] ZMCC 14

thread in the foregoing comparative jurisprudence on burden of proof in election cases. Its essence is that an electoral cause is established much in the same way as a civil cause: the legal burden rests on the petitioner, but, depending on the effectiveness with which he or she discharges this, the evidential burden keeps shifting. Ultimately of course it falls to the Court to determine whether a firm and unanswered case has been made... (Emphasis Ours)

6. Quite clearly therefore, once evidence is adduced tending to establish a particular fact, the evidential burden shifts to the party seeking to displace it. In the present case, the Petitioner has made certain allegations capable of establishing a fact, the First Respondent's affirmative assertions in answer must themselves be supported by evidence and tested at trial.

7. We accordingly submit that the First Respondent has the duty to discharge the evidential burden arising from the factual assertions made in the Petition. The First Respondent cannot merely state that the Petitioner has the onus to prove both the legal and evidential burden.

Violence, intimidation and undue influence

8. The First Respondent repeatedly contends that the alleged perpetrators must first be established to have been her duly appointed election or polling agents before any liability can attach to her. It is respectfully submitted in reply that the First Respondent's approach misconstrues section 97(2)(a) of the Electoral Process Act[2] (the "Act"). The provision does not establish formal appointments as an election or polling agent as a precondition of the operation of the statutory provision.

9. Section 97(2)(a) of the Act states as follows—

[2] No. 35 of 2016

(2) The election of a candidate as a Member of Parliament, mayor, council chairperson or councillor shall be void if, on the trial of an election petition, it is proved to the satisfaction of the High Court or a tribunal, as the case may be, that—

(a) a corrupt practice, illegal practice or other misconduct has been committed in connection with the election—

(i) by a candidate; or

(ii) with the knowledge and consent or approval of a candidate or of that candidate's election agent or polling agent; and the majority of voters in a constituency, district or ward were or may have been prevented from electing the candidate in that constituency, district or ward whom they preferred; (Emphasis Ours)

10. Clearly, section 97(2)(a) of the Act expressly contemplates misconduct committed "by a candidate" as one of the circumstances in which section 97(2)(a) may be engaged. It is therefore not correct to approach the present case on the premise that the alleged perpetrator must necessarily have been a formally appointed election or polling agent of the First Respondent. The alternative limb of the provision concerns misconduct committed by another person where the requisite knowledge, consent or approval of the candidate or the relevant election or polling agent is established.

11. This distinction is particularly material to the events at Bunda Bunda on 23rd July 2026. The First Respondent herself admits that she was present in Bunda Bunda on the material date and that a confrontation occurred involving people associated with her campaign and supporters of the Petitioner. The Petitioner's evidence is not found merely upon the fact of the confrontation. The Petitioner contends that the First Respondent personally supplied pepper spray to Mr. Oliver, immediately before the same was used against members of the Petitioner's campaign team. The First Respondent does not deny knowing Mr. Oliver. Her contention is that she did not duly appoint him as an election agent.

12. The First Respondent further contends that the absence of the assailants' names in the police medical reports shows that they were ambiguous. In response, we submit that the medical reports were not produced for the purpose of identifying the perpetrators. The medical reports are intended to prove the injuries sustained by the people who complained of being assaulted by the First Respondent's supporters. The question of attribution is to be determined from the totality of the evidence, including the evidence of the victims, eyewitnesses, the circumstances surrounding the incident, the presence of the First Respondent, the vehicles involved and the evidence connecting the persons involved to the respective campaign teams.

13. The Petitioner has also produced evidence connecting the vehicle bearing registration number ALE 3458 with the First Respondent's campaign team. The vehicle is identifiable in the campaign material relied upon by the Petitioner, including the campaign video published by SOLI TV. The evidence concerning the vehicle is therefore not relied upon in isolation but forms part of the circumstances from which the Court is invited to determine the connection between the people and activities complained of and the First Respondent's campaign.

14. Further, First Respondent has relied on the campaign timetable to suggest that she could have been in the same area as the Petitioner's supporters. The campaign timetable may establish the locations at which the respective candidates were scheduled or entitled to conduct campaign activities. It does not however determine who initiated a confrontation or whether misconduct occurred during a campaign activity. In the present case, the First Respondent's presence at the relevant location, insofar as established by the evidence and the campaign timetable, is a matter which the Court may consider together with the other evidence concerning the events of 23rd July 2026. Additionally, the Petitioner further relies upon the events of 17th July 2026, when the First Respondent conducted a political rally behind the Petitioner's constituency office and a confrontation subsequently occurred.

15. Further, the First Respondent contends that the Petitioner relies on hearsay and speculation and has failed to produce sworn statements from individuals who witnessed the incidents. It is our submission in response, that Rule 9(3)(a) of the High Court (Election Petition) Rules,[3] which the Petitioner relies upon, requires an election petition to be accompanied by an affidavit verifying facts. The provision does not require a separate sworn affidavit from every trial witness at the filing stage. In addition, Rule 11(2) of the Rules expressly contemplates oral evidence at the trial. Accordingly, the contention that the Petitioner did not file separate witness affidavits from every victim or recipient is therefore not a procedural basis for rejecting their evidence before trial.

Bribery And Vote Buying

16. The First Respondent contends that the Petitioner has failed to provide evidence showing that any person alleged to have distributed money or gifts was a duly appointed election or polling agent of the First Respondent as defined under section 2 of the Act. She further contends that, even if the distributions occurred, there is no evidence that they influenced the electoral choice of the recipients.

17. In response to the foregoing, the Petitioner reiterates that the evidence led demonstrate the specific distributions pleaded in the Petition, namely: payments of K50.00 made on 2nd August 2026 to Queen Semu, Samson Phiri and Aaron Mwambi; the distribution of cash and rice to marketeers witnessed by Goldwin Malanda; and the cash bundle collected by Mushashu Zulu on 12th August 2026, accompanied by the inducement, "If you vote for me, I will give you anything you want," from which Queen Semu and Samson Phiri were paid K250.00 each and Sunday Mwanza was paid K350.00, respectively.

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[3] 2026

18. The Petitioner further submits that the absence of a receipt or written record of the payment is not, of itself, fatal to the allegation of bribery under section 81 of the Act. The relevant question is whether money or a benefit was given, offered or promised for the purpose of inducing electoral conduct. Such purpose has been established by direct evidence and the surrounding circumstances.

19. As to whether the alleged conduct influenced the electorate, the Petitioner submits that the use of the word "may" in section 97(2)(a) does not require proof that every voter was actually influenced. The Court is required to consider whether the misconduct was such that the majority of voters were or may have been prevented from electing the candidate whom they preferred, requiring the Court to assess the potential for voter distortion on an objective, hypothetical basis.

20. In the present case, the alleged payments of K50.00 to members of the electorate, the distribution of cash and rice to marketeers, and the payment of K250.00 and K350.00 to identified recipients pursuant to the express inducement to vote for the First Respondent occurred during the election period. The Petitioner submits that, taken in the circumstances in which they occurred, these acts were capable of affecting the electoral choice of voters and fall within the statutory consideration of whether voters may have been prevented from electing the candidate whom they preferred.

False Campaign publications

21. The First Respondent contends that the complaint before the Conflict Management Committee was lodged by Fred Shakonti and not the Petitioner, and that the First Respondent and Mr. Amos Malubila agreed to retract the statement. The First Respondent argues that the Petitioner has failed to prove that the alleged publications were widespread enough to affect the majority of voters.

22. The Petitioner's response is that the Conflict Management Committee minutes list both the First Respondent and Mr. Malubila as respondents and record Mr. Malubila's admission that he was the speaker in the video in his capacity as the First Respondent's campaign manager. The resolution further required the retraction and deletion of the video from social media.

23. The significance of the Conflict Management Committee record is therefore not that it, standing alone, proves the alleged misconduct, but that it provides a contemporaneous link between the impugned publication and the First Respondent's campaign. The same allegation concerning the alleged theft or concealment of 61 containers of medicine was subsequently repeated through the pleaded Facebook publications. This repetition, together with the electronic and witness evidence, demonstrate a continuing malicious campaign against the Petitioner's integrity.

24. The First Respondent further contends that the ownership or administration of the Facebook pages has not been established. The Petitioner's affidavit evidence, however, shows a connection between the relevant publications, the persons associated with the First Respondent's campaign and the repeated "61 containers" allegation.

25. The Petitioner also notes the majoritarian requirement and will prove widespread effect of the publications on 'Soli language and its people', a public group composed of approximately 28,000 members, 'Chongwe "youth Advocate"' has 16,000 followers and 'SOLI TV' has 20,000 followers, respectively. The Petitioner will demonstrate, to the required fairly high degree of convincing clarity, both the attribution of corrupt or illegal practices and other misconduct to the First Respondent and their sufficiently widespread effect upon free electoral choice in Chongwe East Constituency.

26. In this regard, the Petitioner will invite the Court to assess the evidence cumulatively rather than isolating each incident and asking whether that incident alone may have prevented electorates from electing their preferred candidate in Chongwe East constituency.

27. The Petitioner also urges the Court to consider the publications together with the other pleaded acts of misconduct during the election period. The violence, monetary inducements and repeated publications operated through different means but are relevant to the overall question whether the conduct interfered, or may have interfered, with the free electoral choice of voters.

28. The First Respondent's margin of **9,260 votes** does not, of itself, dispose of that question. The Court is therefore respectfully invited to determine the Petition upon the full oral, documentary and electronic evidence and to reject the First Respondent's invitation to dismiss the Petition.

CONCLUSION

29. We, in conclusion, would submit that the Petition has merit as it has demonstrated that the First Respondent did participate in electoral misconduct which affected the people of Chongwe East constituency and thus the results of the Parliamentary election of 13th August 2026 for Chongwe East constituency ought to be nullified with costs to the Petitioner.

We beg to submit.

Dated at Lusaka this ---------- day of ----------2026.

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IN THE HIGH COURT FOR ZAMBIA 2026/HP/EP014

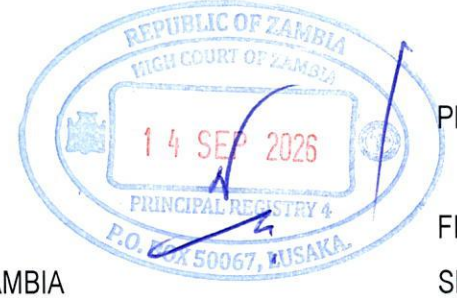
AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)

IN THE MATTER OF:	ARTICLE 73 OF THE CONSTITUTION OF ZAMBIA
AND IN THE MATTER OF:	SECTIONS 81, 83, 84, 97, 98 & 100 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016
AND IN THE MATTER OF:	REGULATION 15 OF THE ELECTORAL CODE OF CONDUCT, 2016
AND IN THE MATTER OF:	THE HIGH COURT (ELECTION PETITION) RULES, 2026, S.I. NO. 31 OF 2026
AND IN THE MATTER OF:	THE PARLIAMENTARY ELECTION FOR CHONGWE EAST CONSTITUENCY DECLARED ON 15TH AUGUST 2026

BETWEEN:



SYLVIA TEMBO MASEBO	PETITIONER
AND	
ANITA KAMANGA	FIRST RESPONDENT
ELECTORAL COMMISSION OF ZAMBIA	SECOND RESPONDENT

SKELETON ARGUMENTS IN REPLY TO THE SECOND RESPONDENT'S ANSWER

May it please this Honourable Court.

BACKGROUND

1. The Petitioner filed her Petition challenging the election of the First Respondent as Member of Parliament for Chongwe East Constituency. Consequently, on 7th September 2026, the Second Respondent reacted by filing its answer.

2. Tendered hereunder are the Petitioner's skeleton arguments in reply to the Second Respondent's opposition.

ARGUMENTS

3. The Second Respondent contends that polling, counting, totalling and declaration were conducted in compliance with the Constitution of Zambia[1] and the Electoral Process Act[2] and that the Petitioner has not shown any administrative irregularity attributable to the Second Respondent.

4. It is our submission in response that the Second Respondent has misconceived the Petitioner's case. The Petition is primarily founded on Section 97(2)(a) of the Electoral Process Act, namely corrupt or illegal practices and other misconduct committed by the First Respondent or with her requisite knowledge, consent or approval, coupled with the statutory effect of such conduct upon the electorate. The Petitioner does not rely on Section 97 (2) (b), which is merely one of the grounds upon which a petition may be founded.

5. The above distinction is critical because even if the GEN20 form accurately records 16,058 votes for the First Respondent and 6,798 votes for the Petitioner, it does not answer whether the electoral choice represented by those figures was affected by bribery, violence, intimidation or other prohibited campaign conduct. Thus, a correct count can still be the product of an election influenced by bribery, violence and such other prohibited conduct and thus liable to avoidance under Section 97 (2) (a).

[1] The Constitution of Zambia (Amendment) Act No
[2] No. 35 of 2016

6. The Second Respondent's reliance on substantial compliance is therefore misplaced. Section 97(4) of the Act, which protects an election from being avoided merely by reason of an election officer's non-compliance where the election was otherwise conducted in accordance with the governing principles and the result was not affected, does not provide a defence to corrupt or illegal practices by a candidate falling under section 97(2)(a) of the Act.

7. The Petitioner does not ask the Court to infer liability merely because the Second Respondent is joined to the proceedings as the Second Respondent is the constitutional body that administered the election and declared the result. Rule 24 of the High Court (Election Petition) Rules[3] expressly recognizes that the Second Respondent may be cited as a Respondent. The reliefs sought concern the declaration made by the Second Respondent if the Court finds the First Respondent's election invalid.

8. The Second Respondent does not even remotely demonstrate that the election was free and fair. It does not rebut the specific evidence concerning violence, payments to named recipients, the campaign-period distributions or the impugned publications.

9. Notably, relevant campaign evidence includes records emanating from the Second Respondent itself. The Conflict Management Committee minutes record a complaint concerning character assassination, identify the First Respondent among the Respondents and records that Mr. Amos Malubila acknowledged that he spoke in the video as campaign manager for the First Respondent, and record a resolution that the statement be retracted and the video deleted from social media.

[3] SI No. 31 of 2026

These records demonstrate why a bare assertion that the campaign was simply 'free and fair' cannot determine the factual issues raised by the Petition.

10. The campaign timetable relied upon by the First Respondent is also a document issued by the Second Respondent. It may establish that the First Respondent was entitled to campaign in particular wards on particular dates; it cannot determine whether misconduct occurred while she was present. The timetable does not further rebut any of the assertions made by the Petitioner nor is it proof that the said time table was strictly followed by the candidates and their Agents/Supporters.

11. The Second Respondent also contends that there is a presumption of electoral validity. It is our submission in response that the Petitioner accepts the elevated evidential burden in election petitions. However, section 97 of the Act is the statutory mechanism by which that presumption is displaced. Once the Petitioner proves, to a fairly high degree of convincing clarity, candidate-attributable misconduct and its widespread effect upon the electorate, the Court is required to give effect to the statute notwithstanding the administrative regularity of the count.

12. The Constitutional Court's decisions in Nkandu Luo v Mwamba[4] and Mwanakatwe v Scott[5] demonstrate the distinction between misconduct attributable to a candidate under section 97(2)(a) of the Act and administrative non-compliance under the separate limbs of section 97 of the Act. The Second Respondent's proper performance of polling and totalling functions does not erase candidate misconduct if the requirements for avoidance under section 97(2)(a) are independently established.

[4] Selected Judgment No. 51 of 2018
[5] Selected Judgment No. 50 of 2018

13. In the present case, the Petitioner's case is supported by identified victims and recipients, contemporaneous medical evidence, the Second Respondent's Conflict Management Committee record, preserved electronic publications, specified dates and locations, and direct evidence concerning the First Respondent's presence and alleged participation in material incidents. Those matters, not merely the GEN20 form, are the evidence by which the Court will determine whether the election reflected a genuinely free electoral choice for the parliamentary candidates.

14. Accordingly, the Second Respondent's Answer and Skeleton Arguments is devoid of any basis for dismissing the Petition. The Answer from the Second Respondent establishes the declared result and assert administrative compliance, but they do not answer the substantive issue raised by the Petitioner against the Second Respondent.

CONCLUSION

15. We, in conclusion would respectively submit that this is a proper case for the Court to avoid the Chongwe East parliamentary elections held on 13th August 2026 and order a re-run with costs to the Petitioner.

We beg to submit.

Dated at Lusaka this ---------- day of ---------- 2026

Drawn and filed by:

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